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SB 354 TITLE & SPONSOR SUMMARY
 AMENDED TITLE: HCS CSSB 354(RLS)
 AN ACT RELATING TO THE REGULATION OF PRIVATE SCHOOLS

PRIME SPONSOR: FAI
 CO-SPONSORS: KERTTULA, BENNETT, RAY, MOSS, PETTYJOHN, HALFORD, FISCHER, P.,
 GILMAN, KELLY.
 CURRENT STATUS: 3/08/84 CHAPTER 0011 SLA 84

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/13/84	01	1765	FIRST READING -- COMMITTEE REPORTS
01/17/84	02	1782	HESS COMM REFERRAL ADDED BY UNAN CONSENT
01/19/84	03	1798	JUD -- CS02, NR02
01/24/84	04	1835	HESS -- DP01, OTHER03
01/24/84	05	1835	HESS F/NOTE EQUALS ZERO
01/24/84	06	1835	RLS -- OTHER04 TAKEN UP IMMEDIATELY
01/24/84	07	1838	SECOND READING
01/24/84	08	1839	JUD CS ADOPTED BY UNAN CONSENT
01/24/84	09	1839	AM TO AM01 ADOPTED BY UNAN CONSENT
01/24/84	10	1839	AM01 ADOPTED BY DIV 14-02-04
01/24/84	11	1840	AM02 ADOPTED BY UNAN CONSENT
01/24/84	12	1840	AM03 ADOPTED BY UNAN CONSENT
01/24/84	13	1840	AM04 ADOPTED BY UNAN CONSENT
01/24/84	14	1840	AM05 WITHDRAWN
01/24/84	15	1841	AM06 ADOPTED BY UNAN CONSENT
01/24/84	16	1841	ADVANCED TO 3RD READING BY UNAN CONSENT
01/24/84	17	1841	THIRD READING
01/24/84	18	1841	PASSED BY DIV 15-01-04
02/29/84	39	2208	CONCURRED IN HOUSE AMS BY DIV 15-03-02

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/01/84	40	2232	TRANSMITTED TO GOVERNOR
03/08/84	41	2303	SIGNED BY GOVERNOR-CH0011, EFF 06/06/84
***	**	**	*** ** *

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/24/84	19	2348	FIRST READING -- COMMITTEE REPORTS
02/01/84	20	2411	HESS -- CS04, OTHER03
02/16/84	21	2617	RLS -- CS06
02/20/84	22	2644	RLS -- TAKEN UP IMMEDIATELY
02/20/84	23	2644	POSTPONED UNTIL 02/22/84 BY UNAN CONSENT
02/22/84	24	2677	SECOND READING
02/22/84	25	2677	RLS CS ADOPTED BY UNAN CONSENT
02/22/84	26	2678	AM01 NOT ADOPTED BY DIV 16-23-01
02/22/84	27	2679	AM02 NOT ADOPTED BY DIV 13-26-01
02/22/84	28	2680	AM03 NOT ADOPTED BY DIV 17-22-01
02/22/84	29	2681	AM04 NOT ADOPTED BY DIV 18-21-01
02/22/84	30	2682	AM05 NOT ADOPTED BY DIV 18-21-01
02/22/84	31	2682	ADVANCED TO 3RD READING BY UNAN CONSENT
02/22/84	32	2682	THIRD READING
02/22/84	33	2682	PASSED BY DIV 30-09-01
02/22/84	34	2683	NOTICE OF RECONSIDERATION GIVEN
02/23/84	35	2703	POSTPONED UNTIL 02/27/84 BY UNAN CONSENT
02/27/84	36	2726	POSTPONED UNTIL 02/28/84 BY UNAN CONSENT
02/28/84	37	2742	RETN 2ND READING FLD BY DIV 17-23-00

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/28/84	38	2742	PASSED ON RECONSIDERATION BY DIV 32-08-00
***	**	**	*** ** *

RE: HCS CSSB 354(Rules)

The purpose of this Committee meeting is to consider a Rules Committee substitute for HCS CSSB 354(Hess). The differences between the proposed Rules CS and the House HESS Version are primarily technical, and include:

(1) on page 2, line 19, the word "private" before "pre-elementary" has been deleted to make clear that the subject regulations apply to both public and private pre-schools.

(2) on page 2, lines 23 & 24, DOE's general authority over pre-elementary schools has been broadened to include any pre-school that receives direct State or federal funding, conforming to the general intent of the bill to eliminate regulation of totally privately funded schools. The House HESS version limited DOE's supervisory authority to only public pre-schools.

(3) line 21, page 3. The definition of "Pre-elementary schools" included in the body of the House HESS version has been moved here to a separate definition section.

(4) line 18, page 7. The definition of "Private schools" for the purpose of exemption of schools from State regulation is moved to the definitions section and reworded slightly to clarify that any school receiving direct state or federal funding is not exempt from regulation. The HESS version included the definition of private schools in the body of an earlier section (see line 20, page 5 of the House HESS version).

Representative Tischer can answer questions that the Committee may have on the proposed Rules CS.

Open the meeting to public testimony at this time?

JACK - FOR YOUR INFORMATION The main public concern is that both the House and Senate versions limit DOE's authority to regulate private pre-schools in terms of square footage/child or child/teacher ratios. The House rules version eliminates DOE program supervision over any totally private funded preschool. The Senate version eliminates DOE program supervision over any private pre-school that is part of an elementary school.

NOTE: DOE does not give up its authority to regulate pre-schools in regard to health and safety in either the House or Senate versions. An opinion to this effect from Keith Levy, LAA Legal Services, is included as item #6 in the Committee packet.

AMENDMENTS TO HOUSE RULES CS FOR SB 354

Sec. 2, part 8 (pg. 2, lines 24-25)

delete: that receive direct state or federal funding

insert: and private pre-elementary schools that are not in facilities associated with an elementary school that operates grades one through three

Sec. 2, part 8 (pg. 2, lines 25-29)

restore: and over the educational component of nurseries as defined in AS 47.35.080(4); pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

Insert after above: and the program operates for four or fewer hours per day.

Article 2, Sec. 14.45.100 (pg.5, line 25)

insert: A facility which serves children under the age of six years and which receives state payments or subsidies is not eligible for the exemption provided by this section.

Pre-Elementary

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Article 2, Sec. 14.45.100 (pg.5, line 25)

✓ insert: A facility which serves children under the age of six years and which receives state payments or subsidies is not eligible for the exemption provided by this section.

Testimony given Jan. 30, 1983
for House Hess Comm.

My name is Mary Asper and I am the Chairperson of the Alaska Assoc. for the Education of Young Children. Our assoc. represent ^{about} 350-400 people involved in the care and interest of young children in this state. We have affiliate groups in Anchorage, Girdwood, Fairbanks, Bethel, Sitka, Barrow and the Kenai Peninsula.

We strongly feel that ^{early childhood} regulation is necessary and long overdue. In this country we have a public expectation of safety for all. We expect to be safe on the streets, and we have public policies to insure that right. We expect to have quality control over the food we eat, and we have public regulations to insure food safety. We also expect the state to protect our young children by developing sound public policy to insure their safety and education.

daycare

~~Thousands~~ ^{Hundreds} of Alaskan children are ^{now} in unregulated situations. Some of these are good, but some are far from ^{providing} safe, ~~let alone~~ ^{any} educational ^{sound,} environments for children.

We believe that all children have a right to quality care which is both safe, and educationally sound and that the proposed ^{Senate} Bill # 359, with the amendments is a step in the right direction.

Without ~~amendment~~ ^{the amendments, particularly for the 4 hour time limit} ~~8~~, however, we feel that many children will slip through the cracks, so they will be covered by neither health & soc. services ^{or DOE} regulations. We oppose the bill w/o the Senate amendments on the grounds that it avoids the problems. We strongly feel that avoidance of the problem will not make them go away ~~but rather will put them~~ and will be a great disservice to young children in our state.

calling themselves preschools, but are operating under daycare laws.

Mae Fisher - wants a list schools w/ high child student ratios

The two changes ^{in regulation} under the heaviest attack at present are both concerned with the safety of young children. The first is the teacher-child ratio. The DOE wants to change the existing ratio of one teacher for each 20 3 and 4 year olds to one teacher for every 10. They do not stipulate that these must be certified teachers, only that they be adults available to interact with children.

Anyone spending anytime with 3 and 4 year olds can testify to the fact that 20 is far too many to safely supervise, let alone try and teach. ~~The~~ The proposed regulations stipulate the ratios as 1-15 for 5 year olds which we also are able to professionally support.

The second change under attack is the square footage requirement. It would require 35 square feet per child as opposed to 20 sq. feet per child. 35 square feet is about the size of a queen size bed. 20 sq. feet is about twin bed size.

Anyone spending anytime with young children know, they need space in which to move and grow. A program allowing each child only 20 square feet ~~is~~ allows ~~such~~ too little space for adequate growth and development. Our goal (if not immediate then soon) should be to provide our young children with enough space to move, grow & learn. They are much too young to be confined to tables and chair activities for the greater part of each day.

These regulations are aimed at making life a little better for children in this state. The efforts are the result of multiple complaints. Little children can't speak for or protect themselves. While the regulations are still less than adequate, they at

To: House Rules Committee

From: Marjorie V. Fields, Ed.D.
National Governing Board Member
National Association for the Education of Young Children

Re: Legislation exempting private and denominational pre-elementary schools from Dept. of Education regulation: amendment proposal.

Although I sympathize with the expressed concern for church-state separation, this legislation virtually eliminates any regulation of pre-elementary schools in Alaska since so few public pre-elementary programs exist. This removes any standards for quality preschool programs and may leave the welfare of young children at the mercy of economic factors.

Although most programs for young children are sponsored by caring and altruistic persons who wish to provide the best for their students, financial burdens can cause pressure to cut back on services. Quality programs require sufficient numbers of adults (1:4 or 1:8 depending on age of children) to provide for the unique emotional-cognitive needs of young children. Quality programs require sufficient amounts of space (35 sq. ft. per child minimum) to provide for the unique physical-cognitive needs of young children. Quality programs cost more money.

Worse yet, this legislation does not define pre-elementary schools in such a way as to distinguish them from child care programs. This means that a full-day program can avoid regulation by simply stating an educational intent. Not only does this pose a threat to the quality of Alaskan preschools, it also threatens the existence of quality child care. When child care can be provided through a "school" which saves money on space and teachers, such programs compete unfairly with those programs which must meet basic Health and Social Services guidelines for licensed child care.

Therefore I encourage the adoption of an amendment to the bill exempting private and denominational preschools from regulation. The amendment would define preschools as those programs operating 4 hours per day or less. True preschool programs are half day programs and allow children other types of environments for the other half of the day. This means that a limited or restricted environment would be less damaging. It also would eliminate the unfair economic advantage of preschool programs over child care programs.

Levy
2/8/84 ✓

Original sponsors: Faiks, Kerttula,
Bennett, et al

1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 354 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of private
7 schools."

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

9 * Section 1. PURPOSE. In conformity with the fundamental right to
10 freedom of religion guaranteed by the constitutions of the United States
11 and the State of Alaska and in recognition of the right of parents to
12 choose to have their children educated in private schools, it is the pur-
13 pose of this Act

14 (1) to ensure that in matters of education by religious organ-
15 izations the state shall not control or interfere with the rights of con-
16 science and religious liberty;

17 (2) to further the state's legitimate interest in ensuring the
18 quality of all education, including private education; and

19 (3) to allow diversity in education by encouraging private
20 education.

21 * Sec. 2. AS 14.07.020 is amended to read:

22 Sec. 14.07.020. DUTIES OF THE DEPARTMENT. (a) The department
23 shall

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

26 (2) study the conditions and needs of the public schools of
27 the state and adopt or recommend plans for the improvement of the
28 public schools;

29 (3) provide advisory and consultative services to all

public school governing bodies and personnel;

(4) prescribe by regulation a minimum course of study for the public schools;

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

(6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house;

(7) prescribe by regulation, after consultation with the state fire marshal and the state sanitarian [DEPARTMENT OF HEALTH AND SOCIAL SERVICES], standards that will assure healthful and safe conditions in the public and private schools of the state including a requirement of physical examinations and immunizations in pre-elementary schools; the standards for private schools may not be more stringent than those for public schools;

(8) [IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES,] exercise general supervision over ~~(PUBLIC AND PRIVATE)~~ ^{deleted} pre-elementary schools that receive direct state or federal funding ^{Adds phrase to conform to definition on last page.} AND OVER THE EDUCATIONAL COMPONENT OF NURSERIES AS DEFINED IN AS 47.35.080(4); PRE-ELEMENTARY SCHOOLS IN THIS PARAGRAPH MEANS SCHOOLS FOR CHILDREN AGES THREE THROUGH FIVE YEARS WHEN THE SCHOOLS' PRIMARY FUNCTION IS EDUCATIONAL]; ^{4 or fewer hours}

(9) provide accredited elementary and secondary

1 correspondence study programs available to any Alaskan through a
2 centralized office of correspondence study;

3 (10) accredit private [ELEMENTARY AND SECONDARY] schools
4 which request accreditation and which meet accreditation standards
5 prescribed by regulation by the department; nothing in this paragraph
6 authorizes the department to require religious or other private
7 schools to be licensed;

8 (11) review plans for construction of new public elementary
9 and secondary schools and for additions to and major rehabilitation of
10 existing public elementary and secondary schools and, in accordance
11 with regulations adopted by the department, determine and approve the
12 extent of eligibility for state aid of a school construction project
13 begun after July 1, 1978; for the purposes of this paragraph, "plans"
14 include educational specifications, schematic designs, and final
15 contract documents;

16 (12) provide educational opportunities in the areas of
17 vocational education and training, basic education, and fire-service
18 training to individuals over 16 years of age who are no longer attend-
19 ing school.

20 (13) administer the grants awarded under AS 14.11.020

21 (b) In this section "pre-elementary school" means a school for
22 children ages three through five years if the school's primary func-
23 tion is educational.

24 * Sec. 3. AS 14.30.010(b) is amended to read:

25 (b) This section does not apply if a child

26 (1) is provided an academic education comparable to that
27 offered by the public schools in the area, either by

28 (A) attendance at a private school in which the teach-
29 ers are certificated according to AS 14.20.020;

*Summed up
around
to new location*

1 (B) tutoring by personnel certificated according to
2 AS 14.20.020; or

3 (C) attendance at an educational program operated in
4 compliance with AS 14.45.100 - 14.45.140 by a religious or other
5 private school [ATTENDANCE AT A PRIVATE SCHOOL IN WHICH THE
6 AVERAGE STUDENT PROFICIENCY IS NOT LESS THAN THE AVERAGE PROFI-
7 CIENCY FOUND IN THE PUBLIC SCHOOLS IN THE AREA AS MEASURED BY
8 NATIONAL ACHIEVEMENT TESTS; THE DEPARTMENT WITH ASSISTANCE FROM
9 REPRESENTATIVES OF THE PRIVATE SCHOOLS SHALL PROMULGATE REGU-
10 LATIONS DEFINING THE SUBJECT AREAS TO BE TESTED AND THE MINIMUM
11 AVERAGE SCORES TO BE ACHIEVED];

12 (2) attends a school operated by the federal government;

13 (3) has a physical or mental condition which a competent
14 medical authority determines will make attendance impractical;

15 (4) is in the custody of a court or law enforcement author-
16 ities;

17 (5) is temporarily ill or injured;

18 (6) has been suspended or denied admittance according to
19 AS 14.30.045;

20 (7) resides more than two miles from either a public school
21 or a route on which transportation is provided by the school authori-
22 ties, except that this subsection does not apply if the child resides
23 within two miles of a federal or private school which the child is
24 eligible and able to attend;

25 (8) is excused by action of the school board of the dis-
26 trict at a regular meeting or by the district superintendent subject
27 to approval by the school board of the district at the next regular
28 meeting;

29 (9) has completed the 12th grade;

1 (10) is enrolled in a full-time program of correspondence
 2 study approved by the department; in those school districts providing
 3 an approved correspondence study program, a student may be enrolled
 4 either in the district correspondence program or in the centralized
 5 correspondence study program;

6 (11) is equally well-served by an educational experience
 7 approved by the school board as serving the child's educational inter-
 8 ests despite an absence from school, the request for excuse is made in
 9 writing by the child's parents or guardian, and approved by the prin-
 10 cipal or administrator of the school that the child attends.

11 * Sec. 4. AS 14.45.030 is amended to read:

12 Sec. 14.45.030. NON-EXEMPT SCHOOLS [ATTENDANCE AND ANNUAL RE-
 13 PORTS REQUIRED]. Teachers and others in charge of religious or other
 14 private [OR DENOMINATIONAL] schools not operated in compliance with
 15 AS 14.45.100 - 14.45.140 are not exempt from laws and regulations
 16 relating to education. Non-exempt schools shall make regular monthly
 17 attendance reports and annual reports to the commissioner in the same
 18 manner as teachers and superintendents in the public schools.

19 * Sec. 5. AS 14.45 is amended by adding new sections to read:

20 ARTICLE 2. EXEMPT RELIGIOUS AND OTHER PRIVATE SCHOOLS.

21 Sec. 14.45.100. EXEMPTION. A religious or other private school
 22 that complies with AS 14.45.100 - 14.45.140 is exempt from other
 23 provisions of law and regulations relating to education except law and
 24 regulations relating to physical health, fire safety, sanitation,
 25 immunization, and physical examinations. ~~[phrase deleted]~~ ^{changed & moved to definition}

26 Sec. 14.45.110. REQUIREMENTS OF EXEMPT SCHOOLS. (a) The parent
 27 or guardian of a child of compulsory school age enrolled in a reli-
 28 gious or other private school that complies with AS 14.45.100 -
 29 14.45.140 shall file an annual notice of enrollment in the school for

1 the child with the local public school superintendent for the area in
2 which the child resides on a form provided by the department. The
3 form shall be signed by the parent or guardian and the chief adminis-
4 trative officer of the school and returned to the local public school
5 superintendent by the parent or guardian. The school shall notify the
6 local public school superintendent within a reasonable time if the
7 child is no longer enrolled in or attending the school.

8 (b) A religious or other private school that elects to comply
9 with AS 14.45.100 - 14.45.140 shall maintain monthly attendance re-
10 cords for each student enrolled in the school, shall operate on a
11 regular schedule, excluding reasonable holidays and vacations, during
12 at least 180 days of the year, and shall make an annual report to the
13 commissioner of the number of students in each grade and the school
14 calendar.

15 Sec. 14.45.120. STANDARDIZED TESTING REQUIREMENTS. (a) A
16 religious or other private school that elects to comply with AS 14.-
17 45.100 - 14.45.140 shall administer a nationally standardized test
18 selected by the chief administrative officer of the school to all
19 students enrolled in grades four, six and eight at least once each
20 school year.

21 (b) The nationally standardized test must measure achievement in
22 English grammar, reading, spelling, and mathematics.

23 (c) A religious or other private school that elects to comply
24 with AS 14.45.100 - 14.45.140 shall maintain records of the results of
25 the nationally standardized tests and the records shall be made avail-
26 able to the parent or guardian of the student. Each school shall make
27 composite test results for the school available annually to an autho-
28 rized representative of the department. The composite test results of
29 a religious or other private school operated in compliance with

1 AS 14.45.100 - 14.45.140 are not public information unless each public
2 school

3 (1) is also required to administer a nationally standard-
4 ized test that measures achievement in English grammar, reading,
5 spelling, and mathematics; and

6 (2) the composite test results for each public school are
7 public information.

8 Sec. 14.45.130. RECORDS. (a) A religious or other private
9 school that elects to comply with AS 14.45.100 - 14.45.140 shall
10 maintain permanent student records reflecting immunizations, physical
11 examinations, standardized testing, academic achievement, and courses
12 taken at the school.

13 (b) The chief administrative officer of a school that elects to
14 comply with AS 14.45.100 - 14.45.140 shall certify to the department,
15 under oath or by affirmation, that the records required under (a) of
16 this section are being maintained.

17 Sec. 14.45.140. DEFINITIONS. In this chapter

18 *new definition* (1) "private school" means a school that does not receive
19 direct state or federal funding;

20 *new definition, drawn from Mess version, sec. 14.45.100. Clarifies definition per advice from MG.*
21 (2) "religious school" means a private school operated by a
22 church or other religious organization that does not receive direct
23 state or federal funding.

24 * Sec. 6. AS 14.45.020 is repealed.
25
26
27
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29



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

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Juneau, Alaska 99811

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(907) 465-3764
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HOUSE RULES COMMITTEE MEETING

FEBRUARY 15, 1984

AGENDA: CSSB 354(Jud) am

COMMITTEE FILE INDEX

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* Glen: Attached are copies
of a memo from A.G.'s Office
with problems that led to
Rules C.S.

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, Staff *lv*
DATE: February 12, 1984

RE: Analysis of Proposed HCS CSSB 354 (Rules)

I have worked with Keith Levy of the Division of Legal Services to prepare the following analysis of the proposed House Rules Committee Substitute for Committee Substitute for Senate Bill 354, "[a]n Act relating to the regulatio.. of private schools."

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion or with the right of parents to choose to have their children attend private schools while at the same time ensuring the quality of all education in the state and encouraging diversity in education.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.0. The bill creates a new subsection (a) in the law, including language currently in AS 14.07.020, except for the repositioning of the definition of "pre-elementary schools" and other changes indicated below. New language provides that the department will consult with the state fire marshal and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It states that the department must require physical examinations and immunizations in pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is authorized to supervision only those pre-elementary schools which receive direct state or federal funding. Supervision of pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Finally, section 2 makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is not authorized to require private schools to be licensed (AS 14.07.020(10)). A new subsection (b) defines pre-elementary schools, as used in this section, as schools for children ages three through five years when the schools are primarily educational in purpose.

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS

14.45 (see section 5 below) satisfies compulsory attendance requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100).

The parent or guardian of a child of compulsory school age enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the school calendar and the number of students enrolled in each grade (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades four, six, and eight at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the tested student's parent or guardian. The school is required to make composite test results available annually to an authorized representative of the Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the results of which are also public information (AS 14.45.120(c)).

The exempt schools are also required to maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school. The administrator of the school must certify to the department, under oath or affirmation, that these records are being maintained (AS 14.45.130). "Private school," as used in these sections, is defined as a school that does not receive direct state or federal funding. (AS 14.45.140 (1)). Finally, "religious school," as used in these sections, is defined as a private school operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140(2)).

It should be kept in mind that these provisions are not mandatory unless

Analysis of Proposed HCS CSSB 354 (Rules)
February 12, 1984
Page 3

the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

KBL:WTL:cas

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, Staff *LOVELL*
DATE: February 12, 1984

RE: Comparison of Proposed HCS CSSB 354 (Rules) and CSSB 354
(Judiciary) am

I have prepared the following comparison of the Proposed House Rules Committee Substitute for Committee Substitute for Senate Bill 354 and the version passed by the Senate, Judiciary Committee Substitute for Senate Bill 354, amended.

Section 1 of the proposed House Rules Committee Substitute contains no variations from the Senate version.

Section 2 of the proposed House Rules Committee Substitute contains seven variations from the Senate version. On the page and line(s) indicated, the proposed House Rules Committee Substitute makes the following changes:

Page 1, line 22, creates a new subsection (a), including language currently in AS 14.07.020, except for the repositioning of the definition of "pre-elementary schools" and other changes indicated below. This change is only technical, allowing the definition of "pre-elementary schools" to be included in a new subsection (b) described below.

Page 2, line 19, deletes "private" before the phrase "pre-elementary schools" on lines 19 and 20. This change is basically technical. Since the law already mandates that standards for private schools may not be more stringent than those for public schools, it follows that similar physical examinations and immunizations must be required of both public and private pre-elementary schools. Deleting the word "private," as indicated above, clarifies this intent.

Page 2, line 23, deletes "public" after the phrase "supervision over." This change becomes basically technical when taken in conjunction with the next change in this paragraph as explained on page 2 of this analysis.

Page 2, line 24, inserts "that receive direct state or federal funding" after the phrase "pre-elementary schools." This change extends Department of Education supervisory authority to include, not only public pre-elementary schools, but all pre-elementary schools, public or private, that receive any direct state or federal funding.

Page 2, line 23, deletes "and private pre-elementary that are not in facilities associated with an elementary school that operates grades one through three" after the phrase "pre-elementary schools." This deletion removes language that would have had a substantial negative effect on many private schools, especially small schools which are actually now advised by national private educational organizations to start their schools with a kindergarten and then add one grade with each advancing class. Other expert testimony supported deletion of the statement indicated above.

Page 2, lines 26 - 28, deletes the definition of "pre-elementary schools." This definition is contained substantively in the new subsection (b) below.

Page 3, lines 21 - 23, creates a new subsection (b) that includes the definition of "pre-elementary schools" previously contained substantively in AS 14.07.020 (8), except that the definition in (b) now applies to all of AS 14.07.020, where it had previously applied only to paragraph (8).

Section 3 of the proposed House Rules Committee Substitute contains no variations from the House HESS version.

Section 4 of the proposed House Rules Committee Substitute contains no variations from the House HESS version.

Section 5 of the proposed House Rules Committee Substitute contains six variations from the House HESS version. On the page and line(s) indicated, the House Rules Committee Substitute makes the following changes:

Page 5, line 25, deletes "A facility that serves children under the age of six years and receives state payments or subsidies is not eligible for the exemption provided by this section." In his review of the House HESS Committee Substitute for CSSB 354, Assistant Attorney General Rick Robertson advised that the sentence indicated above was ambiguous and should be substantively modified, or deleted with subsequent changes to other related sections of the bill. Briefly, Mr. Robertson noted that the bill did not at that

time authorize the Department of Education to supervise any private pre-elementary schools, beyond basic health and safety; therefore, there were no regulations from which private pre-elementary schools could be exempt. The proposed Rules Committee Substitute deletes the indicated statement, adds a new definition of private schools which prohibits exemption by pre-elementary schools that receive direct state or federal funding; and explicitly extends Department of Education authority to include pre-elementary schools that receive direct state or federal funds. Also, the phrase "or subsidies" could have been interpreted to include the tax-exempt status allowed for non-profit corporations, and could therefore have prevented any religious or other non-profit school from being exempt from supervision by the Department of Education.

Page 5, line 27, inserts "of compulsory school age" after the phrase "The parent or guardian of a child." This change becomes technical when taken in conjunction with the next change indicated below.

Page 6, line 1, deletes "of compulsory school age" after the phrase "the child." Deleting this clause here and inserting it in the place indicated above clarifies the sentence, and places the modifying clause closer to the object being modified, thus making the intent clearer.

Page 6, line 19, substitutes "grades four, six, and eight" for the Senate language "grades two, four, six, and ten." The new language in the House Rules Committee Substitute makes requirements for standardized testing in private schools more in line with requirements that public schools give student assessments in the fourth and eighth grades. The mandatory standardized test in the sixth grade is designed to act as additional assurance to effected parents that their children are progressing relatively satisfactorily, while minimizing cost to schools and parents.

Page 7, line 14, inserts "to the department" after the phrase "shall certify." This change makes it clear that administrators of private schools must certify to the Department of Education that their school is complying with the provisions of AS 14.45.100 - 14.45.130.

Page 7, lines 18 - 19, inserts a definition of "private school" for these sections. This definition effectively prohibits a school that receives any direct state or federal funding from being exempt from Department of Education regulation. The addition of this definition requires the drafter to put the definition of "private school" into a new paragraph (1) and the definition of "religious

Comparison of Proposed HCS CSSB 354 (Rules) and CSSB 354 (Judiciary) am
February 12, 1984
Page 4

school," also contained in the House HESS version, into a new
paragraph (2).

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Section

56. Alaska School Activities Association
59. Alaska school activities fund

Section

60. Regulations
70. Withholding state funds

Collateral references. — 68 Am. Jur.
2d Schools, §§ 5-7, 37-55.
78 C.J.S. Schools and School Districts,
§§ 83-91.

Modern status of doctrine of sovereign
immunity as applied to public schools and
institutions of higher learning. 33 ALR3d
703.

Sec. 14.07.010. Department of Education. The Department of
Education includes the commissioner of education, the state Board of
Education, and the staff necessary to carry out the functions of the
department. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

Quoted in *Begich v. Jefferson*, Sup. Ct.
Op. No. 481 (File No. 894), 441 P.2d 27
(1968).

Anchorage School Dist., Sup. Ct. Op. No.
2160 (File Nos. 4796, 4797, 4826), 617 P.2d
490 (1980).

Cited in *Tunlay v. Municipality of*

Sec. 14.07.020. Duties of the department. The department shall

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

(2) study the conditions and needs of the public schools of the state
and adopt or recommend plans for the improvement of the public
schools;

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

(4) prescribe by regulation a minimum course of study for the public
schools;

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

(6) accredit those public schools which meet accreditation standards
prescribed by regulation by the department; these regulations shall be
adopted by the department and presented to the legislature during the
first 10 days of any regular session, and become effective 45 days after
presentation or at the end of the session, whichever is earlier, unless
disapproved by a resolution concurred in by a majority of the members
of each house;

(7) prescribe by regulation, after consultation with the Department
of Health and Social Services, standards that will assure healthful and
safe conditions in the public and private schools of the state; the stan-
dards for private schools may not be more stringent than those for
public schools;

COMMITTEE REPORT

(7)

HOUSE

FURTHER:

Date: 2 - 15 - 1984

Mr. Speaker:

The Committee on Rules has had CSSB 354(Jud)am

"An Act relating to the regulation of private schools"

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^{HCS} ~~XXX~~ for CSSB 354(Rules) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Barbara Palmer
George E. Pardo, Jr. Pass
John D. Tish
Paul Tucker
Jim Fuller
Mr. H. Miller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Jim Fuller
 CHAIRMAN

