

1983-84
HOUSE RULES COMMITTEE
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JOINT HOUSE & SENATE RULES COMMITTEE
MEETING

UNIFORM RULES OF PUBLIC HEALTH

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HB 209

HB 325 (& SB 82)

HB 346

HB 357

HB 519

HB 558

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1983-84
HOUSE RULES COMMITTEE
LIST OF FILES (PAGE 2)

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Joint H.
& S. Rules

Comm

meeting



Senator Jalmar Kerttula
President of the Senate

January 11, 1984

Representative Joe Hayes
Speaker of the House

Mr. President and Mr. Speaker:

The Senate and House Rules Committees have considered the following adjustments to the salary policy for legislative employees and recommend they be adopted, retroactive to January 30, 1984.

SENATE RULES COMMITTEE

Jan Faiks
Sen. Jan Faiks, chairman

Frank Ferguson
Sen. Frank Ferguson

Don Bennett
Sen. Don Bennett

Bill Ray
Sen. Bill Ray

Tim Kelly
Sen. Tim Kelly

HOUSE RULES COMMITTEE

Jack Fuller
Rep. Jack Fuller, chairman

Joe Hayes
Rep. Joe Hayes

Ramona Barnes
Rep. Ramona Barnes

Mae Tischer
Rep. Mae Tischer

Randy Phillips
Rep. Randy Phillips

Michael W. Miller
Rep. M. W. Miller

Roni Larson
Rep. Roni Larson

Niilo Koponen
Rep. Niilo Koponen

M. M. Miller
Rep. M. M. Miller

Handwritten notes:
M.W.M.
M.W.M.
OK
25
JMT

SALARY SCHEDULE FOR TEMPORARY SESSION EMPLOYEES

POSITION	RANGE	DAILY
Senate Secretary/Chief Clerk	22A	\$130.00
Administrative Assistant Asst. Secretary/Asst. Clerk Sergeant-at-arms	19A	106.43
Legislative Researcher Asst. Engrosser Asst. Sgt.-at-arms Lounge Supervisor Xerox Supervisor	17A	92.37
Professional Secretary, session only	15A	80.33
Session Secretary Lounge Attendant Xerox Operator	14A	75.07
Page	10A	58.57

Longevity pay of \$2.00 per day, up to ten years.

All session employees are paid at a daily rate and are on duty seven days a week. No compensatory time, overtime, or leave time is allowed. Session employees are not compensated for transportation or moving expenses.

All session employees receive full medical benefits.

SALARY SCHEDULE FOR YEAR-ROUND EMPLOYEES

<u>POSITION</u>	<u>RANGE</u>	<u>MONTHLY</u>
Professional Assistant	21	\$3,649
Professional Secretary	15	\$2,410

All permanent employees receive full medical benefits. Permanent employees do not receive compensatory time or overtime, and are not compensated for transportation or moving expenses.

Longevity increases are determined according to the following criteria, with a limit placed at Step E:

- Step A - No prior legislative experience, or one legislative session (minimum 70 days) at a comparable level.
- Step B - Two legislative sessions, or one full year with the legislature at a comparable level.
- Step C - Three legislative sessions, or two full years with the legislature at a comparable level.
- Step D - Four legislative sessions, or three full years with the legislature at a comparable level.
- Step E - Five legislative sessions, or four full years with the legislature at a comparable level.

Permanent employees accrue leave time on the following basis:

- 0 - 2 years' service with the legislature in a position with authorized leave accrual: 15.0 hours per month;
- 2 - 5 years' service with the legislature in a position with authorized leave accrual: 16.875 hours per month;
- 5 - 10 years' service with the legislature in a position with authorized leave accrual: 18.750 hours per month;
- 10+ years' service with the legislature in a position with authorized leave accrual: 22.5 hours per month.



MEMORANDUM

DATE: June 29, 1983

TO: ALL LEGISLATORS

FROM: SENATOR JALMAR KERTTULA
President of the Senate

Senator Jan Faiks
Chairman, Senate Rules Committee

REPRESENTATIVE JOE HAYES
Speaker of the House

Representative Jack Fuller
Chairman, House Rules Committee

SUBJECT: Interim staffing policy



JH/207

107

We have met and agreed upon the following amendments to the joint staffing policy, effective for the FY 84 interim. It is our intention to incorporate these changes into a revised staffing policy during a joint Rules meeting when the legislature reconvenes and present a report to each body for its consideration.

1. Leave time will be granted to all permanent employees.
2. There will be no retroactive salary increase for session (temporary) employees, but effective July 1, 1983 these employees will be paid according to the salary schedule set forth in HCSSB 294 (Fin).
3. Professional Assistants will be limited to Range 21, Step E; Professional Secretaries will be limited to Range 15, Step E according to the criteria set out in the June 19, 1981 staffing policy.

JAN 10 1984

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

January 10, 1984

TO: THE HONORABLE JAN FAIKS
SENATE RULES CHAIRMAN

~~THE HONORABLE JACK FULLER~~
HOUSE RULES CHAIRMAN

FROM: Lauren Smith, Manager *LS*
Division of Administrative Services

SUBJECT: Cost of Daily Paid Session Employees

As requested, computations have been made for the cost of raising the daily paid session employees to the same salary schedule currently in effect for permanent employees of the Legislature.

The following costs have been computed using only the positions budgeted in the Session Component. The difference in cost represents the differences between the 01/01/81 salary schedule presently in effect for daily paid session employees and the 01/01/83 salary schedule presently in effect for permanent employees. Also included is a 28% benefits factor. The figures are based on a four-month session.

Senate	53 positions	\$ 83,938
House	100 positions	<u>\$ 157,598</u>
TOTAL additional cost		\$ 241,536

The increase in cost per day is \$2,012.80.

If you have any questions, please call me at 3850.

LS:mm

SESSION EMPLOYEE RECOMMENDED SALARY SCHEDULE

<u>Position Title</u>	<u>Current Daily Rate (\$)</u>	<u>Range</u>	<u>1984 Proposed Daily Rate (\$)</u>
Chief Clerk & Senate Secretary	116.47	22	130.00
Administrative Assistant	94.57	19	106.43
Assistant Senate Secretary/ Assistant Chief Clerk	94.57	19	106.43
Sergeant-at-Arms	94.57	19	106.43
Enrolling & Engrossing	88.00	18	99.33
Assistant Engrosser	81.83	17	92.36
Researcher	81.83	17	92.36
Assistant Sergeant-at-Arms	81.83	17	92.36
Lounge Supervisor	81.83	17	92.36
Xerox Supervisor	81.83	17	92.36
Machine Operator	71.16	15	80.33
Professional Secretary	71.16	15	80.33
Secretary	66.50	14	75.06
Lounge Attendant	66.50	14	75.06
Xerox Operator	66.50	14	75.06
Clerk	58.70	12	66.10
Messenger	52.13	10	58.56
Page	52.13	10	58.56
Chaplain	20.00		20.00

All temporary session employees receive full medical benefits.

Longevity pay of \$2.00 per day, up to 10 years.

All session employees on duty seven (7) days per week.

LAA/Admin Svcs
Personnel
10/12/83

Uniform

Rules &

Public

Health

FEB 7 1983

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 7, 1983

SUBJECT: Amendments to the Uniform Rules

TO: Representative John G. Fuller
Chairman, House Rules Committee

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

I have made some comments about rules which seemed to cause problems last year which are enclosed.

A matter that is not covered by the rules that I think it useful to deal with is sponsor substitutes. I am enclosing a memorandum Ed Hein sent you last year which illustrates the problem.

I am certain we will have problems with the requirement that the title of a bill may not be amended in the second house but this was adopted last year apparently with knowledge of the scope of the problems involved.

BGB:ljb

Enclosures

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 29, 1982

SUBJECT: Introduction of sponsor substitutes and
addition of co-sponsors (Work Order
No. 12-2333)

TO: Representative John G. Fuller
Chairman, House Rules Committee

FROM: Edward H. Hein
Legislative Counsel

You have asked four questions relating to legislative procedure. I will answer them in the order asked.

(1) Can a sponsor substitute be introduced at any time?

Neither the Uniform Rules nor Mason's Manual specifically address questions relating to sponsor substitutes. Rule 10, however, provides:

DRAFTING MANUAL. The legislative drafting manual prepared by the enrolling secretary of the legislature and the revisor of statutes and adopted by the Legislative Council is to be followed by all officers and employees of the legislature in the preparation, processing, and disposition of all legislative documents and records.

The 1982 Manual of Legislative Drafting, page 53 provides:

When the sponsor submits a sponsor substitute, the original bill is replaced. The action has the effect of withdrawing the original bill.

Withdrawal of a bill is governed by Rule 27(b), which allows a bill or resolution to be withdrawn by the member introducing it, if consent is given by a majority vote of the full membership of the house.

January 29, 1982

Since a sponsor substitute is, in effect, a withdrawal of the original bill, a sponsor substitute arguably may be introduced at any time so long as the original bill is in the possession of the house of origin.

Introduction of a sponsor substitute is also an amendment to the original bill, similar to a committee substitute. Under Rule 35, an amendment cannot be made in the third reading. Thus, it is reasonable to conclude that a sponsor substitute can be introduced at any time until the bill is in third reading in the house of origin. Even then, the bill could be returned to second reading for introduction of a sponsor substitute.

A sponsor substitute is also a new bill, and when introduced, should be referred to committees by the presiding officer. The committee referrals may be different from the referrals made for the original bill, especially if the sponsor substitute represents a substantial change from the original bill.

Because introduction of a sponsor substitute is a withdrawal of the original bill, arguably a member may object to the introduction, in which case consent to the introduction by a majority of the full membership of the house would be required.

Notwithstanding the provisions of Rule 44, a sponsor substitute may be introduced after the 35th day of the second session, so long as the original bill was introduced within the time limit.

- (2) If the bill is already in a committee of reference, may the committee report out a sponsor substitute or must it be a committee substitute?

Under Rule 24(c), a committee of referral may report out a committee substitute but not a sponsor substitute. A sponsor substitute is "introduced", not "reported out".

- (3) May a co-sponsor be added at any time; and (4) What is the procedure for adding a co-sponsor?

A change of sponsor may be made at any time before enrollment of the bill. Consent of a majority of those present is required if the change is to be made in third

Representative John G. Fuller

Page 3

January 29, 1982

reading or after passage. Rule 35. A sponsor of the original bill may have his or her name removed from a committee substitute by objecting. Rule 24(c). A request for change of sponsor may be made by a member from the floor or informally with the chief clerk.

EHH:ljb

Proposed Alaska State
Legislative Health Promotion Program

Southeast Alaska Health Systems Agency
Marian Mann FHN, Health Educator
January 4, 1983

Proposed Alaska State
Legislative Health Promotion Program

I present the following proposed Health Promotion Program description for your consideration. Let me begin by telling you something about myself and the background of this program. I am a registered nurse. My previous work experience has been as a Public Health Nurse on the Navajo Indian Reservation in New Mexico and as an Itinerant Public Health Nurse here in Southeast Alaska. Presently I am employed as a Health Educator for Southeast Alaska Health Systems Agency (SEAHSA). SEAHSA is the federally designated Health Systems Agency for Southeast Alaska. SEAHSA is a non-profit corporation whose purpose is to improve the health of the residents of Southeast.

Some months ago SEAHSA's Board of Directors expressed concern for the apparent high stress levels intrinsic to the Alaska Legislature. The Board decided to direct resources towards increasing health awareness in the legislative work place. SEAHSA has assigned this task to me, to work with members of the Legislature and their staff to design and implement a Health Promotion Program for the 1983 Legislative Session. This program will be funded entirely by SEAHSA.

The Health Promotion Program will include a variety of ongoing activities throughout the session. These activities are designed to increase awareness and promote behavioral changes that are conducive to improving health both on an individual basis and at an organizational level. I have selected seven major health topics on which to focus my educational efforts:

1. improving or maintaining wellness
2. reducing stress
3. increasing physical activity
4. modifying alcohol intake
5. stopping or reducing smoking
6. improving nutrition
7. controlling high blood pressure

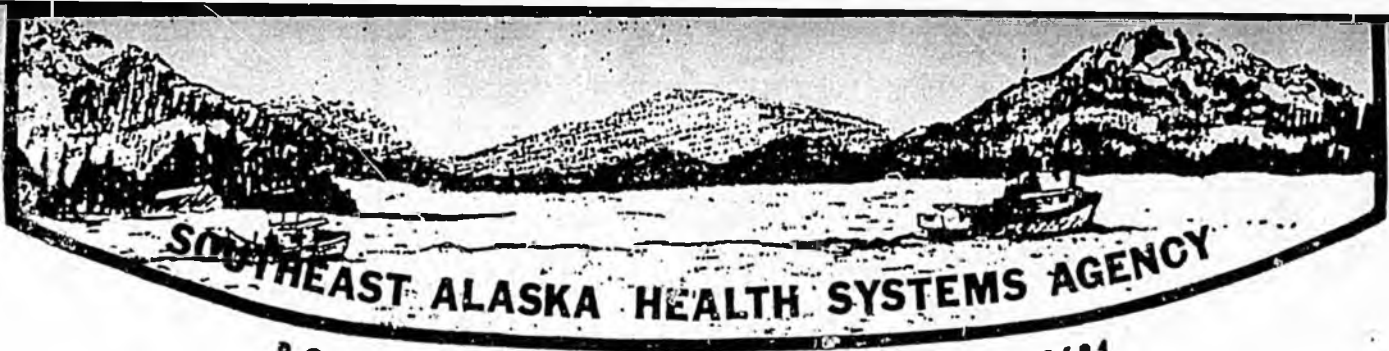
I propose to use the following mechanisms to educate:

1. distribute a letter to Legislators and staff introducing myself and the Health Promotion Program
2. distribute a printed "Wellness Assessment" to assist individuals in assessing their own health status
3. utilize display racks to distribute printed health education materials and printed service descriptions for Juneau's health related resources
4. utilize bulletin boards to highlight health educational

- offerings in the community and to present informative displays on health topics
5. periodically distribute a health newsletter featuring information on health topics
 6. given an appropriate private space, offer a counseling and referral service
 7. coordinate with in-house activities as appropriate, i.e. give a health presentation for the staff orientation program
 8. work to establish an in-house committee to determine and make recommendations regarding health risk factors in the legislative work place
 9. sponsor demonstrations, activities, and assessments relating to health risk detection, i.e. blood pressure screening, biofeedback

In summary, this Health Promotion Program is designed to help maximize individual and organizational potential by increasing health awareness and suggesting alternatives for leading a more positive lifestyle. I see myself as a facilitator and coordinator for this program. I welcome comments and suggestions regarding this program at any time.

Thank you for your consideration.



P.O. BOX 7015 KETCHIKAN, ALASKA 99901 907-225-9681

March 3, 1983

Dear Legislator and Staff:

Subject: An explanation of the Alaskan Legislative Health Promotion Program (ALHPP)

"ALHPP" is a voluntary health program open to legislators and staff. The program will focus on six health risk areas that are the cause of many chronic diseases prevalent in our society today. The six health risk areas are Stress, Physical Activity, Alcohol, Smoking, Nutrition, and High Blood Pressure.

"ALHPP" will be broken into components and you will be able to participate in any manner you choose. The different components and an explanation of each component follows:

A. Lifestyle Assessment Guide

This is a confidential personal survey you can use to assess your present health status in relation to the six health risk areas. This information is yours alone. Hopefully you will choose to use this information to stimulate healthy changes in your lifestyle.

B. "ALHPP" Bulletin

Every month a health information sheet will be sent to Legislators' offices. The bulletin will feature materials on the six health risk areas and provide a calendar of community health activities for the upcoming month.

C. Restroom Displays

Watch for pamphlet racks and poster art soon to appear in the Capitol and Behrends Buildings' restrooms. The racks will distribute a variety of printed health education materials focusing on the six health risk areas.

D. Counseling and Referral Service

Every Monday from 12:00-1:00 I will be available in the Behrends Lower Level Committee Room to talk with individuals who have questions relating to health. As a Registered Nurse, I am prepared to answer health questions and make local health referrals. Stop by, no appointment necessary.

E. Health Assessments

"ALHPP" will sponsor health assessments to determine health risk. Be sure to have your blood pressure checked regularly at the monthly blood pressure screening clinic, co-sponsored by Juneau Health Center and "ALHPP". Additional screening programs are being planned. Watch for announcements in the "ALHPP" Bulletin.

This has been an overview of the "ALHPP". If you have any questions or suggestions you can reach me by leaving a message in the Capitol Building Supply Room or by calling 789-9485. Thank you.

Sincerely,

Marian Mann

Marian Mann RN
Health Educator
Southeast Alaska
Health Systems Agency

HB

1

A M E N D M E N T

OFFERED IN THE HOUSE:

By: _____

To: _____ ss _____ HOUSE BILL No. 1

SENATE BILL No. _____

PAGE: 1

LINE: 19

AFTER SECTION 2, ADD A NEW SECTION TO READ:

*Section 3. AS 34.03.040 is amended by adding a new paragraph to read:

() A landlord may not insert in any rental agreement any provision that is contrary to any rights protected by the Constitution of Alaska or by the Constitution of the United States, including but not limited to the right to bear arms.

RENUMBER REMAINING SECTIONS ACCORDINGLY.

A M E N D M E N T

OFFERED IN THE HOUSE:

BY: _____

AFTER To: _____ SS _____ HOUSE BILL No. 1
SENATE BILL No. _____
PAGE: 1 LINE: 19

AFTER SECTION 2, ADD A NEW SECTION TO READ:

*Section 3. AS 34.03.040 is amended by adding a new paragraph to read;

(5) agrees to limit or prohibit the possession of firearms.

RENUMBER REMAINING SECTIONS ACCORDINGLY.

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§ 34.03.040

PROPERTY

§ 34.03.060

provides for a term longer than one year, it is effective only for one year. (§ 1 ch 10 SLA 1974)

Sec. 34.03.040. Prohibited provisions in rental agreements. (a) No rental agreement may provide that the tenant or landlord

(1) agrees to waive or to forego rights or remedies under this chapter;

(2) authorizes a person to confess judgment on a claim arising out of the rental agreement;

(3) agrees to the exculpation or limitation of any liability of the landlord or tenant arising under the law or to indemnify the landlord or tenant for that liability or the costs connected with it;

(4) agrees to pay the landlord's attorney fees.

(b) A provision prohibited by (a) of this section included in a rental agreement is unenforceable. If a landlord or tenant wilfully uses a rental agreement containing provisions known by him to be prohibited, the other party may recover the amount of his actual damages. (§ 1 ch 10 SLA 1974)

Sec. 34.03.050. Separation of rents and obligations to maintain property forbidden. A rental agreement, assignment, conveyance, trust deed, or security instrument may not permit the receipt of rent free of the obligation to comply with § 100(a) of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.060. Sublease and assignment. (a) Unless otherwise agreed in writing, the tenant may not sublet his premises or assign the rental agreement to another without the landlord's consent.

(b) The tenant's right to sublease his premises or assign the rental agreement to another shall be conditioned on obtaining the landlord's consent, which may be withheld only upon the grounds specified in (d) of this section; no further restrictions on sublease or assignment are enforceable.

(c) When the rental agreement requires the landlord's consent for sublease or assignment, the tenant may secure one or more persons who are willing to occupy the premises. Each prospective occupant shall make a written offer signed and delivered by him to the landlord, containing the following information on the prospective occupant:

(1) name, age and present address;

(2) marital status;

(3) occupation, place of employment, and name and address of employer;

(4) number of all other persons who would normally reside with the prospective occupant;

(5) two credit references, or responsible persons who will confirm the financial responsibility of the prospective occupant; and

(6) names and addresses of all landlords of the prospective occupant during the prior three years.

April 13, 1983

The Honorable Pat Rodey
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

The Honorable Charlie Bussell
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Handgun Ban

Dear Senator Rodey and Representative Bussell:

You have asked this office whether a landlord, through a leasehold agreement, may prohibit a tenant from possessing handguns. We conclude that in certain circumstances a landlord may restrict or prohibit the use and/or possession of handguns on property which is leased to another individual.

Our initial inquiry regarding this matter commenced with a review of relevant Alaskan Constitutional provisions. The Alaska Constitution directly addresses a citizens ability to bear arms at Article I, Section 19 which states:

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

The language embodied in Alaska's Constitution pertaining to arms is virtually identical, save for two changes in punctuation, to language found in Article II of the United States Constitution. Article II of the United States Constitution was proposed by the Congress on September 25, 1789 and became the law of the United States on December 15, 1791. During the one hundred and ninety two years since adoption of the Second Amendment to the United States Constitution and the twenty-four years since the Alaska Constitution has been in effect, numerous court cases have interpreted the constitutional language which establishes the right to bear arms.

We note the period since the adoption of the Second Amendment has witnessed an ever increasing issuance of opinions from the judiciary of the various states and the federal courts which place limits on an individual's ability to bear arms. Some commentators have theorized that the legislative and judicial limitations increased significantly with the availability of inexpensive surplus weapons following the American Civil War. ^{1/} According to this theory, the increase in restrictive gun control measures and corresponding judicial interpretations was associated with increasing acquisition of firearms by recently emancipated Black Americans and immigrants coupled with the increased availability of firearms in the post Civil War industrial America. The right of 'bearing arms' is not a right granted by the Constitution nor is it in any manner dependant upon that instrument for its existence. U.S. v. Cruikshank, 92 U.S. 553 (D.C.La. 1875).

While offering no judgment on the propriety or effectiveness of the restrictive legislative and judicial measures, we observe that the current state of the law pertaining to the constitutional language holds that:

[The] purpose of this amendment, guaranteeing that the right of the people to keep and bear arms, was to preserve the effectiveness and assure the continuation of the state militia. U.S. v. Oakes, 564 F.2d, cert. denied 98 S.Ct. 1493 (C.A. Kan. 1977).

The modern judicial view has increasingly found that the guaranteed right to keep and bear arms is not an individually protected right, but rather a collective right which allows the people of the various states to serve in a militia. The contemporary judicial view in the great majority of states interprets the constitutional language as posing no limitations on the legislature's power to regulate the ownership or control of firearms. Whatever the scope of any common-law or constitutional right to bear arms, it is not absolute and does not guarantee to individuals the right to carry weapons abroad at all times and in all circumstances. Application of Atkinson, 291 N.W.2d 396 (Minn. 1980). By analogy then, a landlord, too, could restrict

^{1/} Kates, Don B. Restricting Handguns, North River Press, pages 7-30 (1979)

the possession of handguns on property he or she owns and leases. If the State can restrict arms without running afoul of constitutional provisions, an individual almost certainly has similar abilities.

It is conceivable that a landlord's ban on handgun ownership could be challenged under constitutional doctrines which afford a right of privacy. The United States Constitution, while not containing an express provision guaranteeing privacy has been interpreted to afford an individual certain protections, Cf. Griswold v. Connecticut, 381 U.S. 479 (1965). "The Constitution extends special safeguards to the privacy of the home, including activities which might be prohibited in other contexts." Cf. U.S. v. Orito, 413 U.S. 137, 142 (1973).

While it is unlikely that a court would find that an individual's right to possess arms (for example a gun collection) is protected by the privacy shield of the U.S. Constitution, the argument could be maintained. We are unaware of this argument being successfully asserted in any anglo-american jurisdiction.

A more likely source of protection under the right to privacy doctrine may be afforded by the Alaska Constitution at Article I, Section 22 which states that:

The right of the people to privacy shall not be infringed. The legislature shall implement this section.

The Alaska Supreme Court has explicitly stated that the right of privacy guaranteed to Alaskans is broader in scope than that guaranteed by the federal constitution. Woods & Rohde, Inc., v. State, 565 P.2d 138 (1977). Even so, the meaning of privacy of necessity must vary depending on the factual context and the often compelling interests of society and the individual. State v. Glass, 583 P.2d 879 (1978). The test for what interests are protected under Alaska's constitutional right to privacy are, first, whether a person has exhibited an actual (subjective) expectation of privacy and, second, that the expectation be one that society is prepared to recognize as "reasonable". Hilbers v. Municipality of Anchorage, 611 P.2d 31 (1980).

The question of handgun ownership in Alaska and whether such ownership is "reasonable" in the context of a landlord tenant relationship is open ended. Probably the "expectation" and reasonableness of gun ownership in Alaska is different than the reasonableness of gun ownership in many other jurisdictions where actual firearm ownership and use is reduced. In any event,

absent specific language under the Alaska Uniform Residential Landlord and Tenant Act, AS 34.03.010 et seq., or other relevant Alaska law, prohibiting inclusion of provisions in a leasehold agreement, we believe a landlord can properly restrict the terms of the tenancy. ^{2/} In all probability, under existing Alaska law, a landlord can restrict possession of handguns for tenants in a manner not unlike a landlord's ability to prohibit tenants from possessing dogs, operating businesses in a residential leasehold or operating obnoxious stereo equipment.

While a landlord will probably be able to impose a restriction prohibiting future tenants from possessing handguns, an across-the-board ban applicable to tenants with existing leasehold agreements may be invalid. Under classic contract principles, neither party to an agreement may superimpose an additional term on a valid contract without the consent of each party to the contract. Consequently, a landlord may not prohibit handgun possession among tenants during the pendency of an existing lease. Conversely, where a landlord and tenant agree to a lease agreement which contains a restriction banning handguns, remedial legislative action interpreting Alaska's right to privacy law to permit such possession probably would not invalidate existing prohibitions.

Finally, concern was expressed regarding the state's liability with respect to landlord/tenant agreements which prohibit handgun ownership in buildings located on property owned by the State. This last point is conceivably problematic if the land on which the Panoramic View Apartments are located is conveyed to the state as a result of the current Alaska Railroad transfer negotiations. Attached is a copy of a memorandum by Assistant Attorney General Jack McGee which deals with this subject.

^{2/} In passing, we note that a landlord concerned with unjustified gun play need not necessarily prohibit gun ownership. Other remedies exist for controlling individual tenants with a propensity to abuse gun ownership. Cf. Osness v. Dimond Estates, Inc., 615 P.2d 605 (1980), where the landlord obtained a Forcible Entry and Detainer (F.E.D.) thereby removing a tenant that proved incapable of properly handling firearms.

Hon. Pat Rodey, Senator
Hon. Charlie Bussell, Representative

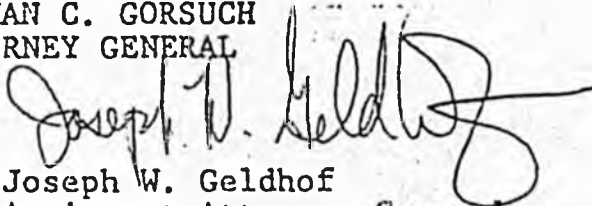
April 13, 1983
Page 5

We trust this response answers your inquiry. If you have any additional questions, please let me know.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Joseph W. Geldhof
Assistant Attorney General

JWG:vrb

cc: Norman C. Gorsuch
Attorney General

Ronald W. Lorensen
Deputy Attorney General

MEMORANDUM

State of Alaska

TO: Kevin Bruce
Special Assistant to the
Governor
Office of the Governor

DATE: February 16, 1983

FILE NO:

TELEPHONE NO: 465-3603

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Effect of Alaska
Railroad Transfer on
rental agreements
between tenants and
landlords who lease
railroad property

By:

Mark McGee *J.M.*
Assistant Attorney General
Transportation Section-Juneau

In reference to your letter of January 31, 1983 to Mr. Brock of Anchorage, it should be noted that section 604(d)(2)(A) of the Alaska Railroad Transfer Act of 1982 requires the State of Alaska to assume all existing obligations and leases of the Alaska Railroad. Thus, in the event the railroad is transferred to the state, the obligations of the railroad that are set out in the lease agreement between Mr. Brock's landlord and the railroad will be assumed by the state. The fact of the transfer will not, per se, change the conditions of the rental agreement relating to the prohibition of hand guns. If Mr. Brock's landlord now has the legal right to impose hand gun restrictions on tenants, a right which I believe the landlord presently has, this right will not be affected by the transfer. Accordingly, the transfer of the railroad to the state will not have any direct effect on the rental agreement between Mr. Brock and his landlord.

JM/ebc

April 13, 1983

The Honorable Pat Rodey
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

The Honorable Charlie Bussell
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Handgun Ban

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Our initial inquiry regarding this matter commenced with a review of relevant Alaskan Constitutional provisions. The Alaska Constitution directly addresses a citizens ability to bear arms at Article I, Section 19 which states:

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

The language embodied in Alaska's Constitution pertaining to arms is virtually identical, save for two changes in punctuation, to language found in Article II of the United States Constitution. Article II of the United States Constitution was proposed by the Congress on September 25, 1789 and became the law of the United States on December 15, 1791. During the one hundred and ninety two years since adoption of the Second Amendment to the United States Constitution and the twenty-four years since the Alaska Constitution has been in effect, numerous court cases have interpreted the constitutional language which establishes the right to bear arms.

We note the period since the adoption of the Second Amendment has witnessed an ever increasing issuance of opinions from the judiciary of the various states and the federal courts which place limits on an individual's ability to bear arms. Some commentators have theorized that the legislative and judicial limitations increased significantly with the availability of inexpensive surplus weapons following the American Civil War. ^{1/} According to this theory, the increase in restrictive gun control measures and corresponding judicial interpretations was associated with increasing acquisition of firearms by recently emancipated Black Americans and immigrants coupled with the increased availability of firearms in the post Civil War industrial America. The right of 'bearing arms' is not a right granted by the Constitution nor is it in any manner dependant upon that instrument for its existence. U.S. v. Cruikshank, 92 U.S. 553 (D.C.La. 1875).

While offering no judgment on the propriety or effectiveness of the restrictive legislative and judicial measures, we observe that the current state of the law pertaining to the constitutional language holds that:

[The] purpose of this amendment, guaranteeing that the right of the people to keep and bear arms, was to preserve the effectiveness and assure the continuation of the state militia. U.S. v. Oakes, 564 F.2d, cert. denied 98 S.Ct. 1493 (C.A. Kan. 1977).

The modern judicial view has increasingly found that the guaranteed right to keep and bear arms is not an individually protected right, but rather a collective right which allows the people of the various states to serve in a militia. The contemporary judicial view in the great majority of states interprets the constitutional language as posing no limitations on the legislature's power to regulate the ownership or control of firearms. Whatever the scope of any common-law or constitutional right to bear arms, it is not absolute and does not guarantee to individuals the right to carry weapons abroad at all times and in all circumstances. Application of Atkinson, 291 N.W.2d 396 (Minn. 1980). By analogy then, a landlord, too, could restrict

^{1/} Kates, Don B. Restricting Handguns, North River Press, pages 7-30 (1979)

the possession of handguns on property he or she owns and leases. If the State can restrict arms without running afoul of constitutional provisions, an individual almost certainly has similar abilities.

It is conceivable that a landlord's ban on handgun ownership could be challenged under constitutional doctrines which afford a right of privacy. The United States Constitution, while not containing an express provision guaranteeing privacy has been interpreted to afford an individual certain protections, Cf. Griswold v. Connecticut, 381 U.S. 479 (1965). "The Constitution extends special safeguards to the privacy of the home, including activities which might be prohibited in other contexts." Cf. U.S. v. Orin, 413 U.S. 137, 142 (1973).

While it is unlikely that a court would find that an individual's right to possess arms (for example a gun collection) is protected by the privacy shield of the U.S. Constitution, the argument could be maintained. We are unaware of this argument being successfully asserted in any anglo-american jurisdiction.

A more likely source of protection under the right to privacy doctrine may be afforded by the Alaska Constitution at Article I, Section 22 which states that:

The right of the people to privacy shall not be infringed. The legislature shall implement this section.

The Alaska Supreme Court has explicitly stated that the right of privacy guaranteed to Alaskans is broader in scope than that guaranteed by the federal constitution. Woods & Rohde, Inc., v. State, 565 P.2d 138 (1977). Even so, the meaning of privacy of necessity must vary depending on the factual context and the often compelling interests of society and the individual. State v. Glass, 583 P.2d 879 (1978). The test for what interests are protected under Alaska's constitutional right to privacy are, first, whether a person has exhibited an actual (subjective) expectation of privacy and, second, that the expectation be one that society is prepared to recognize as "reasonable". Hilbers v. Municipality of Anchorage, 611 P.2d 31 (1980).

The question of handgun ownership in Alaska and whether such ownership is "reasonable" in the context of a landlord tenant relationship is open ended. Probably the "expectation" and reasonableness of gun ownership in Alaska is different than the reasonableness of gun ownership in many other jurisdictions where actual firearm ownership and use is reduced. In any event,

absent specific language under the Alaska Uniform Residential Landlord and Tenant Act, AS 34.03.010 et seq., or other relevant Alaska law, prohibiting inclusion of provisions in a leasehold agreement, we believe a landlord can properly restrict the terms of the tenancy. 2/ In all probability, under existing Alaska law, a landlord can restrict possession of handguns for tenants in a manner not unlike a landlord's ability to prohibit tenants from possessing dogs, operating businesses in a residential leasehold or operating obnoxious stereo equipment.

While a landlord will probably be able to impose a restriction prohibiting future tenants from possessing handguns, an across-the-board ban applicable to tenants with existing leasehold agreements may be invalid. Under classic contract principles, neither party to an agreement may superimpose an additional term on a valid contract without the consent of each party to the contract. Consequently, a landlord may not prohibit handgun possession among tenants during the pendency of an existing lease. Conversely, where a landlord and tenant agree to a lease agreement which contains a restriction banning handguns, remedial legislative action interpreting Alaska's right to privacy law to permit such possession probably would not invalidate existing prohibitions.

Finally, concern was expressed regarding the state's liability with respect to landlord/tenant agreements which prohibit handgun ownership in buildings located on property owned by the State. This last point is conceivably problematic if the land on which the Panoramic View Apartments are located is conveyed to the state as a result of the current Alaska Railroad transfer negotiations. Attached is a copy of a memorandum by Assistant Attorney General Jack McGee which deals with this subject.

2/ In passing, we note that a landlord concerned with unjustified gun play need not necessarily prohibit gun ownership. Other remedies exist for controlling individual tenants with a propensity to abuse gun ownership. Cf. Osness v. Dimond Estates, Inc., 615 P.2d 605 (1980), where the landlord obtained a Forcible Entry and Detainer (F.E.D.) thereby removing a tenant that proved incapable of properly handling firearms.

Hon. Pat Rodey, Senator
Hon. Charlie Bussell, Representative

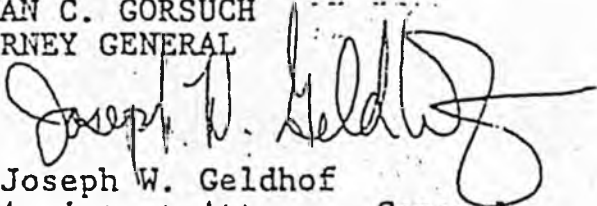
April 13, 1983
Page 5

We trust this response answers your inquiry. If you have any additional questions, please let me know.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Joseph W. Geldhof
Assistant Attorney General

JWG:vrb

cc: Norman C. Gorsuch
Attorney General

Ronald W. Lorensen
Deputy Attorney General

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MEMORANDUM

State of Alaska

TO: Kevin Bruce
Special Assistant to the
Governor
Office of the Governor

DATE: February 16, 1983

FILE NO:

TELEPHONE NO: 465-3603

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Effect of Alaska
Railroad Transfer on
rental agreements
between tenants and
landlords who lease
railroad property

By: Jack McGee *J.M.*
Assistant Attorney General
Transportation Section-Juneau

In reference to your letter of January 31, 1983 to Mr. Brock of Anchorage, it should be noted that section 604(d)(2)(A) of the Alaska Railroad Transfer Act of 1982 requires the State of Alaska to assume all existing obligations and leases of the Alaska Railroad. Thus, in the event the railroad is transferred to the state, the obligations of the railroad that are set out in the lease agreement between Mr. Brock's landlord and the railroad will be assumed by the state. The fact of the transfer will not, per se, change the conditions of the rental agreement relating to the prohibition of hand guns. If Mr. Brock's landlord now has the legal right to impose hand gun restrictions on tenants, a right which I believe the landlord presently has, this right will not be affected by the transfer. Accordingly, the transfer of the railroad to the state will not have any direct effect on the rental agreement between Mr. Brock and his landlord.

JM/ebc

ALASKA LANDLORD- TENANT LAW

This booklet is a June 1982 update of the 1980 publication prepared by the Cooperative Extension Service, with the assistance of Alaska Legal Services and the Consumer Protection Section of the Alaska Dept. of Law.

INTRODUCTION

In 1974, the Alaska Legislature passed the Uniform Residential Landlord and Tenant Act (A.S. 34.03.010-.380). The purpose of the Act was to simplify, clarify and modernize Alaskan law relating to the rental of dwellings. It was also intended to encourage both landlords and tenants to maintain and improve the quality of housing.

While the law does not cover every problem a landlord or tenant may have, it was written to protect the rights of both parties.

In addition to the Uniform Residential Landlord and Tenant Act, other laws which have application to the rental of dwellings include:

1. Alaska Statute 09.45.060-.160
Procedure for Recovering Possession
2. Alaska Statute 34.06.010-.060
Emergency Residential Rent Regulation and Control

This booklet was prepared directly from A.S. 34.03.010-.380. Where appropriate, we have cited the actual portion of the law that pertains so that if you need to go to court, you can either use this booklet or can refer directly back to the law. The reference will be the letters "A.S." (short for Alaska Statute) followed by some numbers (these are the title, chapter and article numbers of the law respectively); for example: (A.S. 34.03.330).

You can get a copy of the actual law at your nearest courthouse, public library or magistrate's office.



who is covered:

A dwelling, in this law, is a structure or part of a structure used as a home, residence or sleeping place by one or more persons, including the rental of mobile home space.

If you rent a house, apartment, mobile home, mobile home space, condominium, townhouse or duplex, this law applies to you!

the law does not cover:

1. residency in an institution (school dorm, jail, hospital, nursing home, etc.);
2. hotels, motels and other transient housing;
3. condominiums occupied by the owner;
4. occupancy under a contract of sale;
5. occupancy of a dwelling owned by a fraternal or social organization of which you are a member;
6. live-in employment (apartment managers, housekeepers, etc.);
7. occupancy when the premises are used primarily for agricultural purposes.

terminology

In this booklet, several terms are used that mean the same thing. Landlord means the owner or manager or rental agent for the dwelling.

Dwelling, unit, property and premises means the rental unit, whether it is a home, apartment, mobile home, etc.

Tenant means any of the people who rent a dwelling.

Other technical definitions may be found in A.S. 34.03.360—Definitions.

written notices

Putting things in writing does not mean the landlord and tenant are enemies or do not trust each other. It is simply a good way to do business. Oral agreements are legal; however, under the law, a written notice or agreement may be your only protection if something goes wrong. Some people hesitate to put agreements in writing because they don't know what to say. There are examples of various notices in the back of this booklet that may help.

Here are some things that should definitely be in writing:

1. receipts for payments of any kind;
2. promises to fix things;
3. rental agreements;
4. eviction or moving notices;
5. notices of repairs needed;
6. details of what needs to be done to get back a deposit.

It cannot be emphasized strongly enough how important this is:
GET IT IN WRITING!



BEFORE YOU MOVE IN rental agreements

Rental agreements may be either written or oral, but written is best. If any disagreement occurs later, both tenants and landlords will have evidence to back their claims.

If a tenant signs a rental agreement, moves in and begins paying rent, the agreement is still legal even if the landlord didn't sign the agreement.

If the landlord shows the tenant a rental agreement to which the tenant agrees, moves in and begins paying rent, the agreement is still legal even if the tenant did not sign it. It is critical that tenants and landlords review and discuss any rental agreements and rules before anyone moves in or money changes hands.

A lease is a rental agreement that tells how long the tenant will stay (usually four, six or twelve months). If there is a lease, the

landlord cannot raise the rent or evict the tenant unless promises in the lease are broken. If there is a lease but the tenant must move, the tenant is still responsible for the rent for the rest of the lease period, unless the dwelling can be re-rented.

Here are some things which should appear in a rental agreement:

1. name and address of the owner and his/her manager or agent as well as the tenant's name and address;
2. the amount of rent, when it is due, where and how it is to be paid;
3. if this is a month-to-month agreement or lease with time limits;
4. when the rent will be considered overdue and what penalty will be levied;
5. what is included in the rent (heat, lights, water, etc.) and what is provided (driveway, garage, furnishings, kitchen appliances, snow removal, storage, laundry, etc.);
6. total number of full-time occupants and pets allowed;
7. a list of prohibited equipment (snowmobiles, motorcycles, musical equipment, etc.);
8. the amount and type of deposit (cleaning, security, pets, etc.) and what has to be done to get it back;
9. a list of landlord and tenant repair and maintenance duties.

Rental agreements cannot:

1. force a tenant to waive any legal rights;
2. excuse the landlord from any legal responsibilities;
3. let the landlord sue the tenant without notice;
4. require the tenant to pay the landlord's attorney fees should you go to court;
5. allow the landlord to take a tenant's personal belongings (A.S. 34.03.040).

DO NOT SIGN A RENTAL AGREEMENT THAT HAS ILLEGAL WORDING.

If the rental agreement contains any of the things listed below, they should be removed before signing:

1. agreeing to let the landlord come into the dwelling whenever he/she wants;
2. agreeing to immediate eviction for nonpayment of rent;
3. agreeing that the tenant will make all repairs;
4. excusing the landlord from liability in case of accidents due to his/her neglect;
5. giving up rights to the deposit.

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change your mind?

Once an agreement to rent a place has been made, and all or part of the deposit and rent has been paid and then a tenant doesn't move in, he/she may not be able to have all his/her money returned. If this happens on a month-to-month agreement (written or oral), the tenant may have to pay for one month's rent or rent on a day-to-day basis until someone else rents the place, whichever is less. If a lease was signed, the tenant may owe rent until the place is re-rented or the lease period ends, whichever is less.

EXCEPTION: If the landlord lied about the place or deceived the tenant by not telling about important problems (for instance, no heat, the building is condemned, etc.) the tenant should get all the money back. In addition, the tenant could sue for fraud. If this situation comes up, see a lawyer.

illegal discrimination

It is illegal for landlords to refuse to rent to someone because of sex, age, race, religion, national origin, color, marital status, pregnancy or changes in marital status, unless the housing is specially designated for "singles only" in advance.

It is unlikely that a landlord will openly refuse to rent to someone for an illegal reason. There are some indications that a landlord may be practicing discrimination in renting when:

- the apartment the tenant called about is "suddenly" taken when the landlord sees the tenant.
- a place the tenant was told is "rented" remains vacant.
- the rent or deposit is much higher than advertised or charged for similar units.
- rules will be different for one tenant than for others in the same apartment house or court. (For example, others have pets, but you cannot. A landlord may decide to allow no more pets, but he/she must stick to the new rules as far as new tenants are concerned.)
- the tenant is not referred to a listing in a real estate office that fits his/her needs.
- a house or apartment in the tenant's area is rented with the intention of forcing others to leave (block-busting).
- an advertisement indicates a preference based upon race, color, religion, sex, age, marital status or national origin.

Everyone should have a free choice about where to live, and there are legal methods of fighting discriminatory practices. If you feel you have been discriminated against and want to do something about it, you can complain to the State Human Rights Commission. The Commission's investigation costs you nothing.

For more help on illegal discrimination, contact the Human Rights Commission in your town or:

State Human Rights Commission

204 East 5th

Anchorage, Alaska 99501

phone: 276-7474

disclosure

The law says that someone must be responsible for such things as decisions about maintenance, repairs, collecting rent and receiving notices from tenants or from the court. It is a requirement that when a tenant moves in, he/she must be told in writing the name and address of the owner (or who the owner wants his/her agent to be). This information must be kept up-to-date.

If this information is not provided, whoever made the rental agreement or receives the rent becomes the legally responsible person. Then, when the tenant is required to give a written notice or wants to sue, he/she should:

1. contact the owner or his/her agent, or
2. if that information was never officially given to the tenant, contact the person who made the original agreement or takes the rent. (A.S. 34.03.080)

deposits

Deposits are often collected for pets, children, cleaning or security before a tenant moves in. Sometimes the tenant will be asked to pay the last month's rent, too. The total amount collected for all deposits and pre-paid rent, except the first month's rent, cannot exceed two month's rent. (A.S. 34.03.070)

Deposits and pre-paid rent along with first month's rent can make total move-in costs high. Here are some examples of how these move-in costs might be set:

Legal Examples

#1: \$ 375 first month's rent
 \$ 375 last month's rent
 \$ 375 security deposit
 \$1125 total to move in

#2: \$ 325 first month's rent
 \$ 150 cleaning deposit
 \$ 175 security deposit
 \$ 325 last month's rent
 \$ 975 total to move in

Illegal Examples

#1: \$ 375 first month's rent
 \$ 375 last month's rent
 \$ 400 security deposit
 \$1150 total to move in

#2: \$ 325 first month's rent
 \$ 300 cleaning deposit
 \$ 200 security deposit
 \$ 325 last month's rent
 \$1150 total to move in

The deposit and any pre-paid rent must be deposited in a trust account in a bank, savings and loan association or with a licensed escrow agent. Exceptions are made for rural Alaska, if it is impractical to bank the money. When the deposit is collected, be sure to get a receipt. Also, it is a good idea to have the landlord write on the receipt the amount paid for each type of deposit and what has to be done to get the deposit back. (Always get and keep records for any money paid.)

If the tenant is renting a unit and the building is sold, there is often confusion as to which person, the old or new landlord, is responsible for the deposit and pre-paid rent money. The original landlord who accepted the money is the person responsible for returning the money to the tenant UNLESS the new owner receives the money from the old landlord and agrees to the responsibility of taking care of it.

When a tenant finds out the building is being sold, he/she should find out whether the old or new landlord will hold the deposit money. If the old landlord keeps the deposit, the tenant should get in writing the name of the bank where the deposit is kept and the new address of the old landlord.

Inspections

While the law does not specify that an inspection must be done, it is a good idea for the landlord and tenant to inspect the dwelling together before anyone moves in. Make a list of items needing repair and the date the work should be completed (10 days is standard). Make another list of damage that will not be changed or repaired. Both the landlord and the tenant should sign and date these lists. Each of you should keep a copy. These lists will be handy when the tenant is ready to move out.



WHILE RENTING

paying rent/rent increases

The landlord is not required to ask tenants each month for their rent before they are "required" to pay it. If a time and place for payment of rent was not agreed upon when the tenant moved in, it is assumed that the rent will be collected at the dwelling.

If the tenant rents monthly, the rent is due every 30 days, unless otherwise agreed. So, if the tenant moves in on the 8th, the rent is due on or before the 8th of every month.

If there is a signed lease, rent may not be increased during the lease period. Other rent increases may be levied as the landlord sees fit; however, the law is unclear regarding the notice period which the landlord is required to give.

The general interpretation is that a rent increase is either:

1. a termination by the landlord of the tenancy at the old rental rate and an offer to renew it at a higher rate or
2. a modification of a rule or regulation

In either case, tenants should be given a written notice 30 days before the next rental due date. If the tenant does not agree with the rent increase or cannot pay, he/she may give notice to move. Since the law is not clear, landlords and tenants should seek legal advice if they are unsure about a proposed rent increase. (A.S. 34.03.290b and A.S. 34.03.130b)

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rules and regulations

Almost every landlord has rules and regulations. Often these are not mentioned until after a tenant moves in or until the rule

has been broken. To avoid problems, the law requires the landlord to show his/her rules and regulations to the tenant before the tenant commits himself to a rental agreement (oral or written). The tenant may discover that he/she does not agree with them and decide not to move in. The rules and regulations must be reasonable and specific, or under the law, the landlord will not be able to enforce them.

Remember that once the tenant has seen the rules and moved in, he/she is agreeing to live by these rules. A copy must be posted by the landlord someplace at the dwelling where it can be easily seen.

Rules must apply to all tenants equally and fairly. Rules and regulations cannot be changed without first giving tenants reasonable notice. If tenants do not agree to the change, and it changes the original rental agreement a great deal, they may move after giving at least 30 days notice or they may refuse to accept the rule. Landlords may evict tenants who refuse to abide by a reasonable rule change. If the change does not apply to all tenants in the building equally, an eviction based on a tenant's breaking of a rule may be illegal. (A.S. 34.01.130)

subleasing

When a lease is signed, the tenant is promising to stay for a certain length of time (usually four, six or twelve months). The tenant is telling the landlord that each and every month, whether the tenant still lives in the apartment or not, he/she will be responsible for paying the rent. Unless the landlord signs a paper saying it's okay with him/her for someone else to move in if the tenant moves out, the tenant cannot just have someone else "take over" the place.

There are usually only two ways to get out of a lease:

1. If the landlord breaks his/her part of the bargain (what's written in the lease), the tenant can move after giving 30 days written notice.
2. Get the landlord to agree to let the tenant sublease the place. Under the law the landlord has a right to ask for certain information about the new tenants. The landlord can reject the new tenants only for certain reasons, and cannot unreasonably prevent subleasing.

The information the landlord can ask for **IN WRITING** about the new tenant includes:

1. name, age and present address;
2. occupation, present employment and name and address of employer;
3. marital status;
4. how many people will live in the apartment;
5. two credit references;
6. names and addresses of all landlords of this person for the last three years.

Once this information has been given to the landlord, he/she has 14 days to answer the request. No answer within 14 days is considered the same as consent, so go ahead and sublease. If the answer is "no", the landlord must give written reasons for the decision.

The only legal reasons for refusing to allow a sublease are:

1. bad credit record;
2. too many people;
3. too many children;
4. unwillingness of new tenant to accept rental agreement;
5. pets not acceptable;
6. proposed business activity;
7. bad report from former landlord.

If the landlord says "no" to the suggested new tenant, but doesn't give reasons in the list of acceptable rejection reasons, the law says the old tenant can go ahead and sublease or move out; however, to move out without subleasing, a thirty day **WRITTEN** notice must be given to the landlord. (A.S. 34.03.070)

privacy

A common problem landlords and tenants have is that of the tenant's right to privacy. Many landlords feel they can come and go from their property whenever they please. Some tenants feel they never have to let a landlord come in.

To clear up the confusion, the law says a landlord must give a tenant 24 hours notice that he/she would like to come for the purpose of making repairs, maintenance, an inspection or showing the place. The landlord may enter only with the tenant's consent and only at reasonable times.

TWO EXCEPTIONS: No such notice is required if it is not possible to contact the tenant by ordinary means within 24 hours, or if there is an emergency (smoke, water, explosion, etc.).

Landlords cannot abuse their right to request entry or harass tenants, and tenants cannot unreasonably keep a landlord from entering.

If a tenant has a nosy landlord who believes he/she can come and go as he/she pleases, it might be a good idea to get a copy of the law to show him/her: the section called ACCESS (34.03.140). If the landlord comes in and will not leave, call the police.

When a landlord does abuse his/her right to enter (by coming in without the tenant's permission, or when the tenant is gone or repeatedly without need), the tenant can ask a court to demand that the landlord stop (called an injunction). The tenant may also sue for actual damages or one month's rent, whichever is greater, court costs and attorney fees. If the tenant wishes to move because the landlord has abused the access privilege, a 10-day written notice is required.

If the tenant unreasonably refuses to allow the landlord in, the landlord can get an injunction. The landlord may also sue for actual damages or one month's rent, whichever is greater, or evict the tenant with a 10-day written notice.

absence/abandonment

Tenants must tell their landlord every time they plan to be gone for more than seven days. If the tenant plans to be gone only 2 or 3 days, then finds that for whatever reason he/she will actually be gone more than a week, they must notify the landlord as soon as possible.

This is to help protect the property from pipes freezing up, etc. While the tenant is gone, the landlord may go into the place only if there is an emergency or with 24 hours notice.

A landlord may assume the dwelling has been abandoned when:

1. the tenant is behind in rent, and
2. the tenant has been gone for more than 7 straight days and
3. the tenant did not notify the landlord that he/she would be gone.

The landlord may then enter the dwelling, store the tenant's belongings and re-rent the place. He must attempt to send the tenant a notice telling where the belongings are being kept and asking the tenant to remove his/her property, within 15 days. The notice must also tell whether the landlord is going to have a public sale to get rid of the belongings or is going to throw or give them away, if

they are not picked up within 15 days. A tenant's belongings cannot be thrown or given away unless they can be considered to have no value or are food. (A.S. 34.03.230 and 34.03.260)

fire/casualty damage

If the dwelling is damaged by a fire or other casualty (earthquake, flood, etc.), depending on the amount of damage, there are a couple of things the tenant can do.

1. Partial damage: When only a part of the dwelling is damaged and it is lawful for the tenant to stay (the place isn't condemned), move out of the damaged part. The rent can be reduced to an amount which reflects the fair value of the undamaged part of the dwelling.
2. Total destruction: If the tenant can no longer live in the place, he/she can move out, notify the landlord and stop paying rent. The rental agreement and responsibility to pay rent ends when the tenant moves.

After the tenant moves, the landlord must return any deposits and/or pre-paid rent to the tenant. Rent paid for the time the tenant didn't live in the dwelling must be returned (counted from the day of the casualty and including the day of the casualty) to the tenant. (A.S. 34.03.200)

housing codes

The primary objective of codes is the protection of the health and safety of the people who live in houses and apartments. A minimum standard of maintenance is set, making the landlord (not his tenants) responsible for keeping rental property in decent shape. (The section of this booklet called LANDLORD DUTIES explains what the landlord is expected to repair and maintain.)

The law protects tenants who use their right to report code violations. If they call to complain and ask for an inspection, the landlord cannot take revenge, by evicting or harassing the tenant. Alaska has a statewide fire code but does not have a statewide housing code.

The following places do have local housing codes. Report sub-standard conditions to:

- Anchorage - New Construction - Building Safety Division (264-6533)
- Existing Housing - Health & Environmental Protection (264-4666)

Fairbanks - Fairbanks Building Official (452-1881)
Juneau - Juneau-Douglas Borough Housing Inspector
(586-3300)
Ketchikan - City Building Inspector (225-3111)
Kodiak - City Building Inspector (486-5731)

condemned

Buildings inspected and found to be very unsafe may be condemned. The housing inspector will tell the landlord that he/she must repair the problems or he/she will be taken to court. If the problems are so serious that the inspector feels the building is beyond repair, the inspector will order that it be torn down.

The tenant may come home one day and find a sign posted on the building saying that the place is unsafe for anyone to live there. Tenants should immediately find out when the inspector and landlord expect all the tenants to move. They should also see an attorney before paying any more rent.

landlord duties

These are the things tenants can expect their landlords to do:

1. make all repairs to keep the dwelling in a livable condition;
2. keep all common areas (stairs, halls, yard, garbage area, etc.) clean and safe;
3. keep in safe and working condition all electrical, plumbing, toilet ventilating (fans, windows), air conditioning, kitchen and other appliances or facilities supplied by him/her;
4. provide garbage cans and arrange for removal service;
5. supply running water and reasonable amounts of hot water and heat at all times, unless there is a severe energy shortage or the furnace or hot water heater is in the complete control of the tenant (as in a house);
6. if requested by the tenant, supply locks and keys. If the lock can be easily broken, it does not provide enough protection. A tenant can demand that a proper lock be put on the door.

This is a check list of the main things the landlord should repair and maintain:

- doors, windows, roof, floors, walls, and ceilings that leak or have holes;

- plumbing fixtures (must work, not leak and provide a reasonable amount of running, hot and cold water at a reasonable water pressure level);
- a working and safe stove and oven;
- a reliable heating system which provides heat to all rooms in a reasonable amount;
- a safe electrical system (no loose or exposed wires, sockets that do not spark and enough power so the system does not blow fuses when used normally);
- windows (or fans) that provide fresh air when wanted;
- enough garbage cans to provide an adequate and safe trash removal service;
- extermination service if roaches, rats, mice or other pests infest the building, apartment or property;
- proper maintenance of vacuum cleaners, washing machines, dish washers, etc. supplied by the landlord (when not abused or broken by the tenant).

If the dwelling is in an isolated area where public sewer or water service is not available, the landlord does not have to provide those services; however, if the landlord privately provides these services at the beginning of the rental agreement, he/she must maintain the services. If there is a serious problem with something mentioned above that is not the tenant's fault, the law provides remedies for the tenant. The landlord must be given a reasonable chance to fix the problem first, but if he/she won't fix it, here is what the tenant can do:

1. **MOVE.** The tenant gives the landlord a written notice describing the problem and saying that if the problem is not fixed within 10 days, he/she will move within 20 days. If the problem is fixed within 10 days, but the tenant still wants to move, a regular 30-day notice is required.

2. **EMERGENCY REPAIR AND DEDUCT.** If heat, water, sewer or other essential service breaks down, the tenant may get the problem fixed and deduct the actual and reasonable expenses from the next month's rent. The tenant must give the landlord a written notice that this is what he/she plans to do, and if the problem is major, the tenant must provide the landlord with a copy of the estimated repair costs. However, once written notice is given, the tenant may immediately go ahead with repairs. If the cost is very great, it is advisable to contact a lawyer before proceeding with repairs. If the problem cannot be fixed right away and it

landlord duties

makes the dwelling unlivable, the tenant can give the landlord written notice that he/she is moving into substitute housing. The tenant is excused from paying rent until the problem is cured and may charge the landlord for the cost in excess of rent of staying in a hotel or other substitute housing until the problem is fixed. (A.S. 34.03.180)

3. **SUE FOR DAMAGES.** If the tenant or his family have suffered because the landlord failed to fix something, the tenant can sue. If the total amount is less than \$2,000, the tenant may sue in the state small claim court. For larger claims, the tenant should see a lawyer.

4. **WITHHOLD RENT.** In some cases where the problem is really serious, it may reduce the value of the dwelling. If this happens, tenants may give written notice to their landlord that they refuse to pay a part of their rent until the problem is fixed. However, landlords and tenants may not agree on what is a serious problem, so it is wise to see a lawyer before using this remedy.

If the tenant notified the landlord in writing of a problem, and the landlord fixed it within the time allowed, but through the landlord's negligence, virtually the same thing happens again within 6 months, the tenant may terminate the rental agreement with a 10-day written notice. The notice must specify the problem and the date of termination.

handyman agreements

In the renting of a house or duplex, the landlord and tenant may agree **IN WRITING** that the tenant will be responsible for (4), (5) and (6) of the **LANDLORD DUTIES**. Also, if it is done in good faith, the landlord and tenant of any dwelling may agree that the tenant will do specific repairs, remodeling or maintenance jobs in exchange for payment or reduction of rent, etc. The landlord cannot force a tenant to agree to this kind of arrangement to get out of his/her obligations as a landlord. It must be

made **IN WRITING**, signed by both parties and cannot be on the same paper as the rental agreement. Also, this agreement cannot be made if it will reduce or endanger the services to the other tenants. (A.S. 34.03.100)

tenant duties

These are the duties tenants must perform to keep their part of the rental bargain:

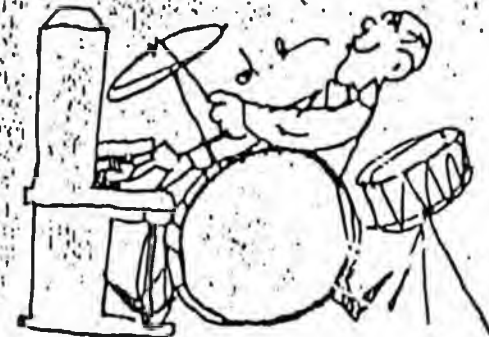
1. pay rent on time;
2. keep the place clean;
3. use the facilities properly (sinks, toilet, kitchen appliances, etc.);
4. do not disturb the neighbors;
5. do what is required by the lease, rental agreement or landlord's posted rules;
6. replace or fix anything damaged or broken because of an accident or carelessness;
7. do not destroy, damage or deface any part of the property.

If tenants do not uphold their end of the bargain, the landlord may be able to evict them. Eviction notices must be in writing and be specific about the problem in question. If the tenants were notified of a problem and remedied the problem within the time allowed, but the problem occurs again within 6 months, the landlord may evict the tenant using a 10-day written notice. The notice must specify the problem and the date of termination.

eviction

Landlords may evict tenants:

1. for failure to pay rent when it is due;
2. when the tenant has broken an important part of the rental agreement.



eviction

Many people think that tenants cannot be evicted in the winter in Alaska or if they have small children. This is not true.

A 10-day written notice is required when a landlord is evicting because the tenant is behind in his/her rent. If the rent is paid before the 10 days are up, the tenant may stay. The notice must tell tenants they have the choice of paying or moving. Ten days notice is also required when the landlord is evicting because the tenant has refused reasonable requests to enter the dwelling or has broken the rental agreement more than once in a 6-month period.

A 20-day written notice is required when the landlord is evicting because the tenant has broken an important part of the rental agreement, such as using the place illegally, etc. If the tenant fails to maintain the rental unit with the result that the health and safety of others are endangered, the landlord may deliver a written notice to correct the problem within 10 days of the receipt of the notice, or the tenant will have to move within 20 days. If the problem is corrected, the tenant may stay.

A 30-day written notice is required when the landlord wishes to evict for general reasons. This notice must be delivered 30 days before the next rental due date.

Eviction notices must be in writing, and the landlord cannot harass the tenant by:

- shutting off utilities
- changing the locks
- taking the tenant's belongings

If the tenant refuses to move at the end of the notice period (10, 20 or 30 days), the landlord must go to court to evict. The court calls most eviction suits "Forcible Entry and Detainer" (F.E.D.) cases. Here is how F.E.D. works.

The landlord files his/her claim with the court. The tenant will receive a complaint and summons to appear in court and give his/her side of the story. The trial will be scheduled 2-4 days after the summons is served. Tenants must act quickly if they don't want to be evicted. See a lawyer.

Tenants may have legal defenses or claims against the landlord which could prevent an eviction. Again, see a lawyer. If the tenant loses at the trial, the Judge will sign an order telling the State Troopers to remove the tenant from the dwelling. The tenant may also have to pay the landlord's attorney fees, but if the tenant prevails, the landlord may have to pay the tenant's attorney fees. F.E.D. cases are usually handled by district court. For more information on evictions, read A.S. 09.45.060, 160, Forcible Entry and

Detainer. Information on preparing an eviction suit may be found in the Alaska Rules of Court, volume 2 - Civil Rules (read rules 1-5, 10, 76 and 85). The Rules of Court are available at the Alaska Law Library or your local magistrate's office.

retaliation

IF THE TENANT

1. complains to the landlord about repairs or failing to make repairs; OR
2. uses his/her rights under the Alaska Landlord-Tenant Law; OR
3. joins a tenant union or organization; OR
4. complains to a government agency about code violations or rent eviction controls;

THEN, THE LANDLORD CANNOT

1. raise the rent; OR
2. decrease services (such as shutting off utilities, etc.); OR
3. evict the tenant.

If the tenants feel illegal retaliation has occurred against them, they can move out or stay and sue for as much as 1 1/2 times their actual damages.

An eviction is not considered illegal retaliation, if it is done because:

- the tenant is behind in the rent;
- the landlord must make repairs to meet code requirements or big changes that require a vacant dwelling;
- the tenant is using the place for illegal purposes;
- the landlord wants to use the place for something other than a rental dwelling for at least 6 months, or for personal purposes;
- the property is being sold.

Rent increases are not considered illegal retaliation if the landlord can show:

- a sizeable increase in taxes or cost of maintaining the property (not including the cost of repairing something because of a tenant's complaint);
- that similar dwellings are being rented for a higher rate, and in fact, the landlord has been undercharging;
- that the cost of major improvements made to the property are being passed on to all tenants fairly and equally. (A.S. 34.03.310)

MOVING OUT

proper notice

When a tenant wants to move, the law requires that he/she give a written notice 30 days before the next rental due date. For example, if rent is due on the 8th of each month and the tenant decides on January 20 that he/she wants to move, the soonest he/she could get out of the obligation would be March 8, providing the tenant gives a written notice on or before February 8.

(Tenants who rent by the week must give 14 days written notice.)

Tenants not giving proper written notice will be held responsible for rent up to that 30-day period or until the place is re-rented, whichever is less.

This does not include tenants who are moving because of serious problems which the landlord has not fixed (see the section under LANDLORD DUTIES).

Also, tenants who do not give proper written termination notice, the proper number of days before they move out, may have to wait 30 days after the move to get their security deposit refund (with proper notice, the refund must come back in 14 days).

cleaning and damages

Tenants should clean the dwelling completely before moving, including the refrigerator, bathtub, toilet and oven. Other cleaning responsibilities may have been spelled out in the rental agreement, lease or landlord's posted rules.

When the place has been cleaned, the tenant and landlord should inspect the place together, using the damage list prepared when the tenant first moved in as a guide. Tenants cannot be charged for ordinary wear and tear. But, since landlords and tenants sometimes disagree on what "ordinary wear and tear" is, here are some guidelines:

1. A family with children or pets will wear things out faster — this type of wear is the landlord's responsibility.
2. If something cannot be cleaned because of the landlord's act or negligence, it is the landlord's responsibility (non-washable paint on the walls, water leaks staining the walls, etc.).



3. Shampooing carpets and painting walls are usually considered landlord responsibilities, as these items are bound to get dirty through normal usage. Holes in the carpet or writing on the walls, however, are not normal wear and tear and are the tenant's responsibility to repair.

Damages caused by the tenant are the tenant's responsibility, even if they were caused by an accident. The damage deposit can be kept by the landlord in the amount needed to make repairs. If the tenant has purposely destroyed the landlord's property (throwing a rock through the window, writing on the walls, smashing furniture, etc.) the tenant may be guilty of a misdemeanor and face up to one year in prison, a \$500 fine or both and will still have to pay for the damage.

deposit return

After either the landlord or the tenant has given a proper written termination notice (see the section above, "Proper Notice"), then the landlord must return the security deposit to the tenant within fourteen (14) days after the tenant moves out, or the landlord must send a written notice telling the tenant why any or all of the deposit is being kept by the landlord.

If the tenant does not give proper written termination notice, then the landlord can take up to thirty (30) days after the tenant moves to send the tenant's deposit refund or a written notice about withholding refund.

The landlord is obligated to send the written notice plus the refund being returned to the tenant to the last known address of the tenant. Therefore, the tenant should be sure to give the landlord a good forwarding address, since the landlord has the duty only to make a "reasonable effort" to locate the tenant, and only if the landlord "actually, knows or has a reason to know" how to locate the tenant.

(These are some new amendments, effective 7/19/82.)

Deposits may be kept only if the tenant:

- causes damage;
- owes back rent;
- doesn't leave the place as clean as it was when he/she moved in (other than ordinary wear and tear that cannot be removed by cleaning);
- does not comply with previously agreed upon requirements of deposit return as specified in the lease, rental agreement or landlord's posted rules. (A.S. 34.03.070b)



SPECIAL RULES FOR MOBILE HOMES

rental agreements:

Rental agreements between mobile home park operators and mobile home park tenants may not:

1. prohibit the tenant from selling his mobile home (unless the mobile home is in violation of laws or ordinances, the proposed buyer doesn't agree with the terms of the existing rental agreement or the buyer does not have sufficient financial responsibility, and the park operator notifies the tenant of his/her objection in writing 30 days in advance);
2. require the tenant to provide permanent improvements to park property (the tenant may be required to maintain existing conditions);
3. require the tenant or prospective buyer to pay a fee to sell or transfer the mobile home (unless services were actually performed by the park operator to assist the sale or transfer, and the tenant was notified in writing of these charges before he/she moved into the park); or
4. require a fee to set up a mobile home in the park or to move an existing home out of the park (unless services were actually performed by the park, and the tenant was notified in writing of the charges before he/she moved in to the park).

capital improvements

Mobile home park operators must give prospective tenants a list of all capital improvements that will be required (skirting, utility hookups, tie-downs, etc.) before the tenant moves in. Even though park operators may specify the type of equipment, tenants cannot be required to buy their equipment from the park operator.

eviction

Mobile home park tenants may be evicted only if:

1. they are behind in the space rent; or
2. they are violating a law or ordinance, and the violation endangers the health, safety or welfare of others in the park; or
3. the tenant has substantially violated a reasonable term or provision of the initial written rental agreement; (new law, effective 8/18/82) or
4. there is to be a change in the use of the land on which the park is located. When there is to be a change in the use of the mobile home park land, landlords or park operators must give tenants a 90-day written notice, unless a longer period was specified in a previously signed lease.

For all other evictions, the same notices are required as for other types of tenants. (A.S. 34.03.040c, 34.03.080d, 34.03.130c and 34.03.225)

WHERE TO GO FOR HELP



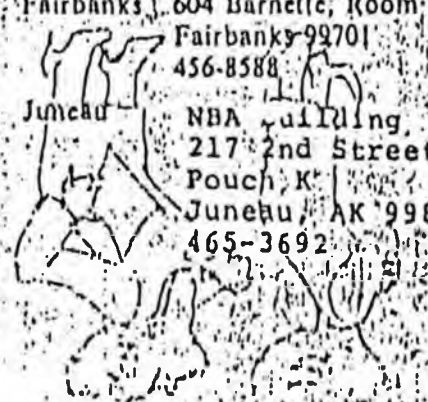
Both landlords and tenants can get help from the following agencies:

1. For copies of this publication and general assistance, contact the Cooperative Extension Service:

- Anchorage 277-1488
- Bethel 543-2503
- Fairbanks 456-6885
- Homer 255-8176
- Juneau 586-7105
- Ketchikan 225-3290
- Nome 443-2320
- Palmer 745-3360
- Soldotna 262-5824

2. To file a complaint on false advertising, chronic misuse of deposit money or fraud, see the Consumer Protection Section, Alaska Department of Law:

- Anchorage 1049 West 5th Avenue, Suite 101
Anchorage, AK 99501
279-0420
- Fairbanks 604 Barnette, Room 228
Fairbanks 99701
456-8588
- Juneau NBA Building,
217 2nd Street
Pouch K
Juneau, AK 99811
465-3692



3. Persons with low incomes may call Alaska Legal Services for attorney help. If your landlord tries to evict you, be sure you mention this when you call.

Anchorage	272-9431
Barrow	852-2311
Bethel	543-2237
Dillingham	842-5653
Fairbanks	452-5181
Juneau	586-6425
Ketchikan	225-6420
Kodiak	486-4178
Kotzebue	442-3398
Nome	443-2951

4. If you need a lawyer but don't qualify for Alaska Legal Services, see the low-cost legal clinics in your town or call the statewide Lawyer Referral Service at 272-0352 in Anchorage. They may be able to refer you to a lawyer in your town.

5. For complaints against state government officials, contact the State Ombudsman Office.

- Anchorage 840 K Street
Anchorage 99501
276-4011
- Fairbanks 613 Cushman
Fairbanks 99701
452-4001
- Juneau 525 Village Street
Juneau 99811
465-4970

6. For complaints against Municipality of Anchorage employees, contact the Municipal Ombudsman Office at 264-4461.

7. To file a claim for damages of \$2,000 or less, see the Alaska Court System and ask for their publication, "Alaska Small Claim Handbook".



SETTLING DISPUTES

When landlords and tenants disagree, sometimes tempers flare, and things may be said and/or done which are wholly outside the law. Sometimes the disagreement becomes just plain petty and small. It will only complicate matters if either party takes the issue to court.

If there is disagreement on any issue, remember that the court looks favorably on "good faith" action; that is, action taken in an honest, forthright manner. Try to remain calm. Gather your facts and **PUT THEM IN WRITING**. Be sure to pay attention to sections of the law that require written notices and that specify the number of days allowed for landlords or tenants to remedy disagreeable situations. Present your problem to the other party in writing, clearly stating what you want to change and what you will do if the situation doesn't change. The forms in the back of this booklet may help.

Generally speaking, the rental of dwellings is a business, and as in any other business, both parties should conduct themselves in a fair, honest manner. There are not many agencies that will mediate landlord/tenant disputes, and problems are frequently no serious enough to require a lawyer or go to court. Most landlord/tenant problems could be settled by both parties acting "in good faith".

If serious problems do arise, it is always advisable to see a lawyer. But first, give the other person a chance by trying to work it out together.

SAMPLE FORMS

The following notices were prepared as samples of what is necessary. These samples may not apply in all situations, but could be helpful.

NOTICE OF EVICTION FOR NON-PAYMENT OF RENT

(Date)

TO: _____

(Tenant)

(Address)

You are notified that you owe rent in the amount of \$_____.
If you do not pay this rent within TEN DAYS of the day you receive this notice, your tenancy is terminated and you must move. You must pay your rent in cash, money order or certified check.

If you have not paid the rent or moved within TEN DAYS, a lawsuit will be filed to evict you. If you pay your rent on or before the TEN DAY period, you may stay.

Signed, _____

(Landlord)

Receipt: _____

I received this notice on the _____ day of _____

19____ at _____ am/pm.

(Tenant)

KEEP A COPY OF THIS NOTICE

13

NOTICE OF TERMINATION OF TENANCY (BY TENANT)

(Date)

TO:

(Landlord)

(Address)

You are notified that I am terminating this tenancy effective on the rent due date which occurs at least 30 days from the date you receive this notice. My rent is due on the _____ of each month, so I will be gone by the _____ day of _____, 19____.

Please send my security deposit of \$ _____, or an explanation of how it was used, to _____

(address)

within 14 days of the date I move.

Signed _____

(Tenant)

(Address)

Receipt:

I received this notice on the _____ day of _____, 19____ at _____ am/pm.

(Landlord)

KEEP A COPY OF THIS NOTICE

NOTICE OF EVICTION FOR VIOLATION OF AGREEMENT AND/OR THE LAW.

(Date)

TO

(Tenant)

(Address)

You are notified that you have seriously violated your agreement with me and/or your duties under the law. The violation (s) are set out specifically as follows: _____

If you do not remedy the violation (s) listed above within TEN DAYS after the date you receive this notice, your tenancy will terminate in not less than TWENTY DAYS, and you must move. Failure to remedy the violation (s) listed above will mean you must leave by the _____ day of _____, 19____.

If you have not remedied the problem (s) and have not moved by the date listed above, a lawsuit will be filed to evict you. If you remedy the problem (s) within TEN DAYS, you may stay.

Signed _____

(Landlord)

Receipt:

I received this notice on the _____ day of _____, 19____ at _____ am/pm.

(Tenant)

KEEP A COPY OF THIS NOTICE

14

NOTICE OF DEFECTS IN ESSENTIAL SERVICES

NOTICE OF TERMINATION OF TENANCY
BY LANDLORD

(Date)

TO: _____
(Landlord)

(Address)

You are notified that you are failing to provide (water/hot water/heat/sewer service or other essential services) at the above address. The specific defect (s) is as follows:

If you do not fix this defect WITHIN 24 HOURS, I have a right to 1) have it fixed myself and deduct the cost from my rent, 2) sue you for damages, or 3) move out and hold you responsible for my expenses in doing so.

Signed, _____
(Tenant)

Receipt:
I received this notice on the _____ day of _____
19____ at _____ am/pm.

(Landlord)

TO: _____
(Tenant)

(Address)

You are notified that your tenancy is terminated and that you must move from the address listed above on the rent due date which occurs at least 30 days from the date you receive this notice.

Your rent is due on the _____ of each month, so you must be gone by the _____ day of _____ 19____.

The reason you are being evicted is as follows:

If you are not gone by that date, a lawsuit will be filed to evict you.

Signed, _____

Receipt:
I received this notice on the _____ day of _____
19____ at _____ am/pm.

(Tenant)

15

KEEP A COPY OF THIS NOTICE

KEEP A COPY OF THIS NOTICE

COMMON RENTAL PROBLEMS

Problem

Remedy

1. No written notice. 1. Written notices are required in many sections of the law; re-read this bulletin carefully to see when to use a written notice.
2. Landlord tells a tenant to move immediately or cuts off essential services without warning. 2. Evictions are controlled by specific sections of the law. Tenants do not have to move if these rules are not followed and may sue for 1 1/2 times actual damages.
3. Tenant refuses to move after receiving an eviction notice. 3. The landlord should go to court for an F.E.D. order; the State Troopers will carry out the order. In addition, the landlord may sue for 1 1/2 times the actual damages. See the section—EVICTIONS.
4. Deposit is not returned. 4. Tenants may sue for twice the amount kept; re-read the section—DEPOSIT RETURN.
5. Tenant is habitually late with rent or repeatedly breaks rules. 5. Late rent and other problems repeated within a 6-month period may be grounds for eviction; re-read section on EVICTIONS or see a lawyer.

RENT CONTROL

During the pipeline boom of the early 1970's, several Alaskan cities experienced a severe housing shortage, and the legislature passed an emergency rent control law, (A.S. 34.06.010, 050).

When emergency rent control is in force, the rules regarding rent increases and evictions change; however, the law expired in 1977, and if an emergency situation occurred again, a new law would have to be passed by the legislature.

THERE IS NO RENT CONTROL IN ALASKA AT THE CURRENT TIME.

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H B

3 6

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 36 (Rules)
 Title Longevity Bonuses
 Requested by House Rules Committee Date 6/26/83

II. FISCAL DETAIL

Agency Affected Department of Administration
 Program Category Affected Social Services
 BRU, Program, Or Subprogram(s) Affected Longevity Bonus Program
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		26.7				
200 TRAVEL						
300 CONTRACTUAL		26.0				
400 COMMODITIES		1.0				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		\$53.7				

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		53.7				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME		1				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The FY 84 House budget includes \$30,211,500 for longevity bonus payments. Under CS HB 36 (RULES), payments would be made from this general fund appropriation.

The funding provided here is for one position and other added costs of implementing the program to a larger group of recipients.

IV. DATE 6/26/1983 PREPARED BY Jack Fuller, Chair

Original: Legislative Finance AGENCY: House Rules Committee

cc: Budget and Management PHONE 465-3789

Prime Sponsor (First Legislator Named)

IS-001 (Rev. 12/82)

H B

158

~~COMMITTEE~~ COMMITTEE REPORT

COMMITTEE

HOUSE

HOUSE

(7)

FURTHER:

4/19/84

4/19/84

Date: 5-3-84

The Committee on RULES has had HB 158 ES

"An Act relating to the limitation of liquor licenses." The limitation

under consideration and recommends: ~~under consideration and recommends~~

do pass do not pass

do pass with attached amendments(s) same title

replace with CS for new title

and recommends

AM New Fiscal Note

reports it back without recommendation Zero Fiscal Note Attached

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Mr. Miller DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

RODD F. GARDNER No Rec.

John F. Zide DO NOT PASS

Carl K. ... NO REC

James B. ... NO REC

John Fuller NO REC

Mr. ... NO REC

John G. Fuller
CHAIRMAN

RULES COMMITTEE MEETING

THURSDAY, MAY 3, 1984

1. Call to order
2. Date and Time
3. Note members in attendance. (Hayes, Barnes, Liska, Miller, Phillips, Tischer)
4. The only item on today's agenda is a proposed Rules CS for CSHB 158(CRA) "An Act relating to the limitation of liquor licenses", which is in the committee packets. Although the Rules CS appears longer than the CRA version, the provisions of the two bills are identical except the proposed CS revises:
 - Page 1, line 26 to add reference to the new subsection (k);
 - and Page 2, lines 13 - 18, to reword the section to make clear that Sales of licenses of an existing facility are not included in the population limitations of this section. Only the issuance of new licenses or the relocation of a store or dispensary are covered.
5. Request Mr. Miller to move the adoption of CSHB 158(Rules) with individual recommendations, to bring the subject before the Committee for discussion.
6. Mr. Russ Josephson of Legislative Legal Services is available to testify on the proposed CS. Any public comment. Committee debate.
7. Place the question - "Shall the Rules Committee adopt CSHB 158(Rules) with individual recommendations" - before the Committee for a vote.
8. Adjourn

HB

180



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

RULES COMMITTEE MEETING

May 3, 1983

8:30 am, Butrovich Room

AGENDA

- HB 209 "An Act placing emergency guards employed by the department of public safety in the exempt service."
- HJR 36 Relating to the confirmation of justices and judges by the legislature.
- HB 180 "An Act relating to eligibility for veterans' interest rates on loans made under the special mortgage loan purchase program (AS 18.56.0^a8) by the Alaska Housing Finance Corporation."

Alaska State Legislature

House of Representatives



Official Business

While in Session
Pouch V
Juneau, Alaska 99811
(907) 465-3733

John J. Liska

Home - District 15
P.O. Box 421
Eagle River, Alaska 99577
(907) 688-2526

PROPOSED AMENDMENTS


House Bill 180

April 26, 1983

Because of the continuing legal questions about residency, and in keeping with the opinion presented by the Attorney General, I would like to offer the following amendments to House Bill 180:

- 1) On page 1, delete lines 19 through 29, Subsections (A) and (B)
- 2) On page 2, line 5, place a semicolon (;) after the word "state". Delete everything after the semicolon through the end of line 6.

These amendments would eliminate references to residency requirements which are now in question.

John J. Liska 
Representative - District 15

COMMITTEE REPORT

HOUSE

FURTHER:

FINANCE

2/9/83

Date: February 22, 1983

Mr. Speaker:

HOUSE SPECIAL COMMITTEE ON STATE LOANS

The ~~Committee~~ _____ has had HB 180

An Act relating to eligibility for veterans' interest rates on loans made under the special mortgage loan purchase program (AS 18.56.098) by the Alaska Housing Finance Corporation.

under consideration and reports it back as follows:

do pass do not pass

do pass with attached amendments(s)

replace with CS for _____ same title
 new title

and recommends _____

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation Zero Fiscal Note Attached

referred to the Finance Committee

MEMBERS SIGNING

DO PASS

Ben Walden

Neil Korman

Walter R. Furness

Rick Wehling

MEMBERS HAVING

OTHER RECOMMENDATIONS:

Rep. Rick Wehling
CHAIRMAN

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Rec'd
FEB 22 1983

Bill No: HB 180 Date on Bill: 2/9/83
Title: "An act relating to eligibility for Veteran's Interest Rates"
Sponsor: Liska et al
Requestor: House Special Committee on Loans

1. Estimated fiscal impacts on:

a. Expenditures:

		(Thousands of Dollars)			
		FY 83	FY 84	FY 85	FY 86
Capital		-0-			
Operating		-0-			
Total		-0-			

b. Revenues:

Revenue					
---------	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

On July 27, 1982, the Board of Directors of Alaska Housing Finance Corporation adopted a resolution doing away with the one year and five year residency requirement for veterans that is currently in the statutes. The resolution was based on an Attorney General's opinion dated July 14, 1982, which stated that the U.S. Supreme Court's decision in the Zobel case made the residency requirements in 18.56.101 constitutionally defective.

AHFC would suggest the AG's office be contacted regarding the definition and parameters of "resident" as used in 18.56.

It is difficult to measure the financial impact caused by the expansion of the group

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Mary Kelped spec. cont. Phone: 465-2300
Division: Comm. Affairs Date: 2/22/83
Approved by Commissioner: Robert D. Beth Date: 2/22/83
Department: Revenue

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Recuestor

2/15/83

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9

HB 209 An Act placing emergency guards employed by the department of public safety in the exempt service

Rep. Bussell has asked that a Rules CS be drafted which adds correctional superintendents I and II to the list of employees in the partially exempt category.

He is here to testify on the amendment.

After he testifies, someone should move to adopt the Rules CS.

Mary Halloran, of the Department of Natural Resources, has a proposed amendment, which would make a new section 1. The amendment would place youths employed by DNR in the youth employment-student intern program in the exempt service. This is proposed to insure that these people may be hired at minimum wage as proposed in the budget approved by House Finance, rather than at union wages. With the loss of federal funding, the payment set at the minimum wage is no longer guaranteed.

If the DNR amendment is adopted, the title needs to be changed to "An Act placing youth employed by the department of natural resources under the Youth Employment and Student Intern Program in the exempt service, and placing certain employees in the partially exempt service; and providing for an effective date."

POUCH V
JUNEAU, ALASKA 99811
465-4990
P.O. Box 4-1325
ANCHORAGE, ALASKA 99509
248-1515



Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE
MEMBER
SPECIAL COMMITTEE ON FISHERIES
MEMBER
LEGISLATIVE COUNCIL
MEMBER
ALASKA CODE REVISION COMMISSION

M E M O R A N D U M

DATE: May 2, 1983

TO: Representative Jack Fuller
Chairman, Committee on Rules

FROM: Representative Charlie Bussell *CB*

SUBJECT: Proposed Amendment to CSHE 209

Line 13 - Add
(20) correctional superintendents I and II employed by the Department of Health and Social Services.

The "Executive Head" of Corrections is ultimately responsible for all actions, or inactions, taken by his Correctional Superintendents who are responsible for direct management of correctional institutions.

Correctional Superintendents are responsible for the planning, general administration, operations, maintenance and logistics of correctional facilities with the distinctions of I and II being related to the size of the facility being managed. These personnel establish policies, procedures and programs within the institutions in conformity with agency and department regulations.

The intent of this amendment is not to infer the impression that the Superintendents who presently manage correctional institutions are not doing a good job. It is felt, however, if these positions are placed in the partially exempt service that timely implementation of new policies and directions will be assured.

On April 22, 1983 the Cleary vs Bierne law suit was expanded to encompass all correctional institutions in the state and any additional facilities which may open during this calendar year. The State has managed to continue the trial date until January 1983 and has until that time to show the court that the state is making a concerted effort to improve conditions in correctional facilities. During this time of critical observation by the court the smooth and continuous reorganization of the correctional system will be most advantageous to the state.

Placing Correctional Superintendents in the partially exempt service will enhance the coordination within Corrections and will contribute to an orderly and systematic implementation of new policies and directives leading to a comprehensive development of corrections within the state.

STATE OF ALASKA

Class Specification

CORRECTIONAL SUPERINTENDENT I *smaller facilities* 7664-19
CORRECTIONAL SUPERINTENDENT II *larger* 7657-21

Definition:

Under general direction is responsible for the management of an adult correctional institution, including planning, general administration, operations, maintenance and logistics. These are supervisory classes with substantial responsibility for the exercise of independent judgement in appointing, promoting, transferring, suspending, discharging and adjudicating grievances of subordinates.

Distinguishing Characteristics:

The classes of Correctional Superintendent I and Correctional Superintendent II are differentiated on such factors as: Size of physical plant, size of staff, scope, intensity and impact of correctional programs, and operating budgets. Correctional Superintendent II is in charge of a recognized major adult correctional facility equivalent to the Juneau, Fairbanks, and major Anchorage facilities. Correctional Superintendent I is in charge of those facilities with lesser inmate capacity, such as Ketchikan and Nome.

Example of Duties:

Establishes policies, procedures and programs within the institutions in conformity with agency and department regulations.

Selects personnel, conducts in-service training programs; assigns and supervises custodial, maintenance, clerical and other personnel; submits evaluations on work performance.

Reviews and monitors actions of inmate classification and other committees to evaluate the care and treatment program through custody classification, specific and general maintenance, work assignments, program changes, disciplinary actions, meritorious good time, and to consider any other problems which may arise.

Drafts and submits annual budget for institutions; authorizes and approves budget expenditures; supervises food service operations and all other institutional operations.

Supervises the maintenance of the booking, commitment, health, fingerprint, inmate personal fund accounts, disciplinary court, classification, release, fines, and other required records.

Responsible for preparation and submission of monthly reports on operations; submits a total fiscal report annually; may be responsible for maintaining a records and identification section within the Division of Corrections.

Makes recommendations on the planning and design of capital programs relating to correctional institutional facilities.

Maintains close relationships with civic clubs and organizations within the community to promote better understanding of institutional programs and responsibilities.

Maintains close working relationships with various federal, state and local agencies to advance the smooth operation of the facility.

Oversees, maintains and utilizes emergency equipment (gas masks, forced air administrators, restraint equipment) for emergency situations.

Knowledges, Skills and Abilities:

Knowledge of: Principles, practices, rules and regulations and legal implications and restraints of correctional administration; current theory and method of application of rehabilitation and discipline of persons under restraint; principles and practices of personnel supervision and training; methods and procedures involved in probation, parole, court evidence, and arrests; first aid; various departmental and division policies and procedures related to the operation and administration of correctional institutions; familiarity with state purchasing regulations and personnel rules, and methods of budget preparation.

Ability to: Plan, direct, instruct and supervise the work of others; control, direct, and instruct inmates individually and in groups; interpret and enforce institutional rules and regulations with firmness, tact, and impartiality; promote socially acceptable attitudes and behavior of inmates and rate their conduct accurately and impartially; establish and maintain close and cooperative working relationships with those contacted in the course of the work; analyze administrative problems and adopt and effective course of action; compile budget requests; prepare clear and comprehensive reports; participate effectively in conferences and interviews; maintain physical and health standards sufficient to meet job requirements.

Minimum Qualifications:

Three years of corrections experience as or above the level of Correctional Officer III, Training Officer I, Division of Adult Corrections or Unit Leader with the State of Alaska or the equivalent elsewhere.

Substitution: Two years of experience as a Probation Officer II, or Social Worker III with the State of Alaska or the equivalent elsewhere provided the experience was in a correctional setting;

. :AND

One-year as Assistant Correctional Superintendent with the State of Alaska or the equivalent elsewhere.

A Master's degree in Corrections, Criminal Justice, Correctional Administration or closely related area may substitute for one year of the required experience.

Rev: 07/01/72

Rev: 11/16/78 Supv. Statement; MQs

Rev: 01/01/82 Added C.S.I. level; Range Change; Def.; MQs

9/SPECV/L



Alaska Public
Employees Association **APEA**

State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

TO: Representative Jack Fuller
Chairman, Rules Committee

FROM: Cherie Shelley
Executive Director

DATE: May 3, 1983

SUBJECT: Correctional Superintendents and the Exempt Service

APEA is opposed to any amendment of HB 209 which would remove Correctional Superintendents, Department of Public Safety, from the Classified Service and place them in the Exempt Service.

EMPLOYMENT QUALIFICATIONS

Classified Service Employees - are covered by the Personnel Rules. Currently, Correctional Superintendents are required to have specific experience and/or education in the field of corrections. Stringent employment requisites should be mandatory in a career field that is hazardous and working conditions that are stressful. Furthermore, if the changing times reflect a need for a change in employment requirements then this can be done by the Division of Personnel with input from the Division of Corrections.

Exempt Service Employees - are not covered by the Personnel Rules. Appointees to exempt positions are not required to meet any standards of employment with regard to experience or education.

POLITICAL SPOILS SYSTEM

Correctional Superintendent positions could easily become political 'plum' appointments. Exempt Service employees can be hired and fired at will - or whim. This would put current superintendents in a very tenuous position. If terminated, they would not have recourse to due process which includes an objective review of the action.

CAREER LADDER

The career ladder would no longer reach from the level of corrections personnel to Correctional Superintendent. There would no longer be the opportunity for fair and equitable promotion for motivated and qualified staff personnel. The Corrections Master Plan, written in 1979, discussed the ongoing development of a career ladder for Division of Corrections personnel. The rungs on that ladder would be removed with the removal of Superintendents from the Classified Service.

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1888

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-8305

Memorandum
Representative Jack Fuller
Page 2
5/3/83

CRITERIA FOR EXEMPT POSITIONS

The majority of the Directors for the various Divisions within the State are in Range 26. They are political appointees, who, with...or without expertise...manage whole Divisions. They set and carry out policy, direct personnel and handle the responsibilities that are kindred to a top management position.

Correctional Superintendents are in Ranges 18 through 21. Unlike the Directors, they do have to answer to various levels of management above them. Their duties outlined in their job classification specifications do not meet the criteria expected from an employee in the Exempt Service.

The majority of the members of APEA's Supervisory Bargaining Unit fall between Ranges 18 and 22. It would make as much sense to move this group into the Exempt Service, as it would to move the Correctional Superintendents.

BLUE RIBBON COMMISSION RECOMMENDATIONS

In studying the State Personnel Act, the Blue Ribbon Commission has reviewed the issue of Exempt, Partially Exempt and Classified Service. It has expressed concern regarding agencies whose employees might be more appropriately placed in the Classified Service and subject to the merit principle of employment. The Commission has urged that employees be moved to the Classified Service whenever possible. The action contemplated by the Legislature is counter to the recommendations of the Commission.

CS/bg



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

RULES COMMITTEE MEETING

May 3, 1983

8:30 am, Butrovich Room

AGENDA

- HB 209 "An Act placing emergency guards employed by the department of public safety in the exempt service."
- HJR 36 Relating to the confirmation of justices and judges by the legislature.
- HB 180 "An Act relating to eligibility for veterans' interest rates on loans made under the special mortgage loan purchase program (AS 18.56.098) by the Alaska Housing Finance Corporation."

COMMITTEE REPORT

HOUSE

3/25
Rubs

(11)

FURTHER:

3/11/83

Date: 3/23/83

Mr. Speaker:

The Committee on FINANCE has had HB 209

An Act placing emergency guards employed by the Department of Public Safety in the exempt service.

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 209 (FIN) same title new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature] Lindauer

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
CHAIRMAN

COMMITTEE REPORT-
HOUSE

3/9

FINANCE

FURTHER:

2/17/83

Date: 3/10/83

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 209

An Act placing emergency guards employed by the department of public safety in the exempt service.

under consideration and reports it back as follows:

- do pass [] do not pass
- [] do pass with attached amendments(s)
- replace with CS for HB 209 (SA) same title new title
- and recommends _____
- [] AND attaches a "Letter of Intent" [] New Fiscal Note
- [] reports it back without recommendation Zero Fiscal Note Attached
- [] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Mike Hood as CS#B209

Walt Furnace

Ronald J. Larson

John J. Kennedy

Dick Shultz

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Anthony V. ...

W. M. Miller " "

Rep. Mike Hood
CHAIRMAN

MEMORANDUM

State of Alaska

TO: Rep. Charlie Bussell
Rep. Jack Fuller

DATE: May 2, 1983

FILE NO:

TELEPHONE NO:

FROM: Esther C. Wunnicke
Commissioner
Natural Resources

SUBJECT: Proposed Amendment
to CSHB 209

Esther C. Wunnicke

The Department of Natural Resources would appreciate the House Rules Committee's consideration of an amendment to CSHB 209.

The amendment is to add a subsection (22) to AS 39.25.110 which would place young people employed by DNR in the youth employment-student intern programs in the exempt service. The Department proposes this amendment to ensure that these programs may employ youths at minimum wage as proposed under the funding placed by House Finance in DNR's budget. Previously the Youth Conservation Corps program was basically federally funded and thus fell under federal wage restrictions provided for in AS 39.25.190.

cc: Lisa Rudd, Commissioner Admin.

PROPOSED AMENDMENT TO CS HB 209 (Finance)

Section ____ AS 39.25.110 is amended by adding subsection (22)
to read:

(22) youth employed by the Department of Natural Resources under
the Youth Employment and Student Intern programs.

H B

3 2 5

(SB82)

CS HB325 (Rules)

Repeals 25-year residency requirement in current longevity bonus law; retains requirements that recipients be 65 or over and have resided in Alaska before statehood; adds requirement that recipients be one-year residents at time of application

"Grandfathers" recipients so that no one can enter program after Jan. 3, 1984 who was not eligible as of that date

Uses General Fund monies to pay \$250 monthly bonus and prohibits the use of Permanent Fund income to pay longevity bonuses

Repeals non-severability provision in current law

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS HB 325 (RULES)
 Title Longevity Bonuses
 Requested by House Rules Committee Date 6/23/83

II. FISCAL DETAIL

Agency Affected Department of Administration
 Program Category Affected Social Services
 BRU, Program, Or Subprogram(s) Affected Longevity Bonus Program
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		26.7				
200 TRAVEL						
300 CONTRACTUAL		26.0				
400 COMMODITIES		1.0				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		\$53.7				

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		53.7				
FEDERAL FUNDS						
OTHER (Specify Source)						


POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME		1				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The FY 84 House budget includes \$30,211,500 for longevity bonus payments. Under CS HB 325 (RULES), payments would be made from this general fund appropriation.

The funding provided here is for one position and other added costs of implementing the program to a larger group of recipients.



IV. DATE 6/24/83 PREPARED BY Jack Fuller, Chair

AGENCY House Rules Committee

Original: Legislative Finance PHONE 465-3789

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OPENING REMARKS FOR HB 325:

The Rules Committee is hearing HB 325 in order that it may be used as a vehicle for a back-up plan for the longevity bonus program. In your files is a draft Rules CS, and a copy of the fiscal note, which is the same as that for SB 215, also in the Rules Committee. Also you will find a brief explanation of ~~the differences between the senate version (SB 215) and~~ this new House version. *There is an amendment to page 2, line 7 which clarifies the one-year residency requirement. (Neil can speak to the amendment)*

POSSIBLY TO TESTIFY:

Rep. Malone
Rep. Hayes
Rep. Miller (Juneau)
~~Chief Clerk, staffer for Malone~~

(Jack: the motion would be to adopt the Rules CS, then move it out of committee. There likely will be discussion of the section on grandfathering in people who are getting the bonus as of 1984; and depending on what Hayes and Malone work out, that section may or may not be left in.)

* The Committee also needs to move to adopt the fiscal note.

CS HB325 (Rules)

Repeals 25-year residency requirement in current longevity bonus law; retains requirements that recipients be 65 or over and have resided in Alaska before statehood; adds requirement that recipients be one-year residents at time of application

"Grandfathers" recipients so that no one can enter program after Jan. 3, 1984 who was not eligible as of that date

Uses General Fund monies to pay \$250 monthly bonus and prohibits the use of Permanent Fund income to pay longevity bonuses

Repeals non-severability provision in current law

AMENDMENT

Page 2, line 7, after "YEARS)", "

Insert: "and who has been a resident of the state
for at least one year immediately preceding
the application for a longevity bonus under
this chapter"

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS HB 325 (RULES)
 Title Longevity Bonuses
 Requested by House Rules Committee Date 6/23/83

II. FISCAL DETAIL

Agency Affected Department of Administration
 Program Category Affected Social Services
 BRU, Program, Or Subprogram(s) Affected Longevity Bonus Program
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		26.7				
200 TRAVEL						
300 CONTRACTUAL		26.0				
400 COMMODITIES		1.0				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		\$53.7				

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		53.7				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME		1				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The FY 84 House budget includes \$30,211,500 for longevity bonus payments. Under CS HB 325 (RULES), payments would be made from this general fund appropriation.

The funding provided here is for one position and other added costs of implementing the program to a larger group of recipients.

IV. DATE 6/24/83 PREPARED BY Jack Fuller, Chair
 AGENCY House Rules Committee
 Original: Legislative Finance PHONE 465-3789
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/82)

OPENING REMARKS FOR CSSB 82 (Fin):

The Rules Committee substitute for this bill makes just one change over the version passed out by the Finance Committee. On page 7, after line 19 a new section 26 is added which appropriates \$1 million to the Division of Elections for a 1984 presidential primary. The effective date clauses are adjusted accordingly.

This amendment is necessary because HB 430, which would have repealed the presidential primary, has not moved from the House State Affairs Committee and it is evident that it will not pass the legislature this year. Funds for the primary have not been included in the budget, and our Uniform Rules prohibit us from adding new items.

COMMITTEE REPORT

HOUSE

FURTHER:

(9)

Date: June 25, 1983

Mr. Speaker:

The Committee on RULES has had CSSB 82 (Fin)

"An Act making reappropriations, transfers among appropriations, miscellaneous supplemental appropriations; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^HCS for CSSB 82 - (Edson) (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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Handwritten signatures]

[Handwritten signature]

CHAIRMAN

Keith Levy

A M E N D M E N T

Offered on the HOUSE

xk TO: HCS CSSB 82 (Finance)

Page 7, following line 19, add a new section to read:

"* Sec. 26. The sum of \$1,000,000 is appropriated from the general fund to the Office of the Governor, division of elections for a 1984 presidential primary election."

Page 7, line 21, following "secs."

Delete "and 12"

Insert "12, 25, and 26"

Renumber remaining sections accordingly.

H B

3 4 6

RULES COMMITTEE MEETING

May 31, 1983
Butrovich Room
8:30 am

Agenda: SSB 346 "An Act exempting public utility income from the net income tax; and providing for an effective date."

I am offering amendments to this bill on behalf of the Finance chairman. I would like to see them included as a Rules Committee Substitute.

The amendment I am proposing would delete sections added to the bill in House Finance. Our legislative attorney has pointed out that these changes cause several problems for the bill. I refer you to the memo from Tom Sofo, dated May 24, in your files.

Mr. Sofo is here to testify

It is my feeling that we should delete the changes added in the Finance Committee so as not to jeopardize this bill.

RULES COMMITTEE MEETING

May 31, 1983
Butrovich Room
8:30 am

Agenda: SSB 346 "An Act exempting public utility income from the net income tax; and providing for an effective date."

I am offering amendments to this bill on behalf of the Finance chairman. I would like to see them included as a Rules Committee Substitute.

The amendment I am proposing would delete sections added to the bill in House Finance. Our legislative attorney has pointed out that these changes cause several problems for the bill. I refer you to the memo from Tom Sofo, dated May 24, in your files.

Mr. Sofo is here to testify.

It is my feeling that we should delete the changes added in the Finance Committee so as not to jeopardize this bill.

HEADING

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 27, 1983

8:49 a.m.

Members Present: Rep. Furnace, Chairman
Rep. Uehling, Vice-Chairman
Rep. Wendte
Rep. Cowdery
Rep. Ringstad

Members Absent: Rep. Koponen
Rep. Malone

CALENDAR HB 220

"An Act restricting cost items that may be allowed in public utility rates."

HB 246

"An Act relating to the deregulation of interest rates; and providing for an effective date."

WITNESS REGISTER

WITNESS:

Representative John Lindauer
Alaska State Legislature
Capitol Building, Room 503
Pouch V
Juneau, Alaska 99811
465-3709

Position Statement: Prime Sponsor of HB 220.

WITNESS:

Dave Hutchens
Alaska Rural Electric Cooperative Association
(No address given)
Anchorage, Alaska
276-3235

Position Statement: Testified on HB 220.

WITNESS:

Representative Bob Bettisworth
Alaska State Legislature
Capitol Building, Room 500
Pouch V
Juneau, Alaska 99811
465-4967

Position Statement: Prime Sponsor of HB 246.

WITNESS:

Gary Jenkins
Specialized Professional Services
P.O. Box 194
Auke Bay, Alaska 99821
586-4100

Position Statement: Testified on HB 246.

WITNESS:

Richard Hall
National Bank of Alaska
P.O. Box 600
Anchorage, Alaska 99510
(No phone number given)

Position Statement: Testified on HB 246.

WITNESS:

Don Magnusson
Alaska Retail Association
174 South Franklin Street, #205
Juneau, Alaska 99801
586-6706

Position Statement: Testified in support of HB 246 in its original form.

PREVIOUS ACTION

HB 220

02/23/83: HOUSE BILL NO. 220 by Lindauer, entitled:

"An Act restricting cost items that may be allowed in public utility rates."

was read the first time and referred to the Labor & Commerce Committee.

Statutory Reference: AS 42.05.381(a)

HB 246

03/11/83: HOUSE BILL NO. 246 by Bettisworth, entitled:

"An Act relating to the deregulation of interest rates; and providing for an effective date."

was read the first time and referred to the Labor & Commerce Committee.

See previous House Labor & Commerce Committee Meeting minutes from: March 30, and April 7, 1983.

Statutory Reference: AS 06.20.230(a); AS 06.40.120(c); AS 09.55.440(a); AS 45.10.120(k); AS 45.10.120(c); AS 45.45.010(a); and AS 06.20.230(b)

ACTION NARRATIVE

TAPE#61 (Side A)

Recording

Number 0000

The meeting was called to order by Chairman Furnace at 8:49 a.m. All members of the committee were present, Representatives Koponen and Malone arrived after roll call.

Number 0006

Chairman Furnace directed the committee's attention to HB 220. He stated the Chair's intent to hear testimony only at this time with final resolution tomorrow, April 28, 1983.

Number 0015

Representative John Lindauer, Prime Sponsor of HB 220, came before the committee. He discussed the intent of the legislation and explained why he felt the bill was necessary. He said that HB 220 would protect the public from illegitimate costs. He explained.

Number 0139

There was discussion by the committee and Rep. Lindauer concerning the bill.

Number 0160

Chairman Furnace shared with Rep. Lindauer written comments from the Chairman of the Alaska Public Utilities Commission. He asked him to review them and provide comment on them at tomorrow's meeting.

Number 0174

Rep. Lindauer responded to questions from the

Number 0368	committee concerning the bill. Dave Hutchens, Alaska Rural Electric Cooperative Association (AREA), said that the structure of the bill repeals Section 381 which applies to AREA and he explained. He expressed concern for flat prohibitions against advertising and suggested that 'advertising' on Line 16 of the bill be amended to 'promotional advertising'. Dave Hutchens asked that the bill be restructured in such a way that the present law that does apply to cooperatives continue to apply, and that the additional restrictions that the committee feels are appropriate apply to the investor-owned utilities be set up in a separate section.
Number 0401	Chairman Furnace called the committee's attention to the packet of information in their files. He asked them to review it before tomorrow's hearing.
Number 0414 Number 0417	The committee took up discussion on HB 246. Representative Bob Bettisworth, Prime Sponsor of HB 246, came before the committee. He said that he did not support the amendment putting a sunset clause in the bill.
Number 0448	Rep. Bettisworth said that the small borrows should have the right to make loans with banks, however with the usury laws, it is impossible.
Number 0461	There was discussion by the committee and Rep. Bettisworth concerning the bill.
TAPE#61 (Side B) Recording Number 0000 Number 0159	Continuation of the discussion. Gary Jenkins, Specialized Professional Services, cited some discrepancies in previous testimonies.
Number 0219	He said that there has been no specific testimony that would justify this legislation. He discussed the lending rates of banks throughout Alaska.
Number 0256	Richard Hall, National Bank of Alaska, stated opposition to the CS which allows for a sunset provision. He explained.
Number 0285	He urged the committee to pass the bill out in its original form.
Number 0298	There was discussion by the committee and Richard Hall concerning the bill.
Number 0328	Don Magnusson, Alaska Retail Association, expressed support of the bill in its original form.
Number 0335	There was discussion by the committee concerning various aspects of the bill.
Number 0372	Rep. Wendte moved and asked unanimous consent that the committee pass out the original version of HB 246 with individual recommendations.

Number 0374 Rep. Uehling objected and said that he would rather have the CS moved out.

Number 0377 Chairman Furnace called for a vote on the motion by a show of hands. The motion failed.

Number 0384 Rep. Uehling moved and asked unanimous consent to adopt the CS for HB 246 with individual recommendations.

Number 0389 Rep. Ringstad moved to amend 'Line 15, Page 6 of the bill: change 14th to 15th and change 1986 to 1987.'

Number 0398 Chairman Furnace called for a vote on the amendment. The amendment passed.

Number 0409 Rep. Ringstad made an additional motion to 'change in Line 23, 1986 to 1987'. There being no objection, it was so ordered.

Number 0413 Rep. Malone moved to delete from the proposed CS the sunset clause in Sec. 15.

Number 0417 He withdrew the amendment.

Number 0426 Rep. Ringstad moved and asked unanimous consent to adopt the CS for HB 246 with the amendments and pass it out of committee with individual recommendations.

Number 0429 Rep. Wendte objected and expressed the desire to consider another 24 hours to deliberate on the bill.

Number 0432 Chairman Furnace called for a vote on the motion by a show of hands. The motion carried.

Number 0433 The meeting was adjourned at 10:12 a.m. by Chairman Furnace.

HEADING

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 28, 1983
8:52 a.m.

Members Present: Rep. Furnace, Chairman
Rep. Uehling, Vice-Chairman
Rep. Cowdery
Rep. Ringstad

Members Absent: Rep. Koponen
Rep. Wendte
Rep. Malone

CALENDAR HB 220 "An Act restricting cost items that may be allowed in public utility rates."
SSHB 346 "An Act exempting public utility income from the net income tax; and providing for an effective date."
HB 131 "An Act relating to unlawful practices in the sale or rental of real property."

WITNESS REGISTER

WITNESS:

Carolyn Guess, Chairman
Alaska Public Utilities Commission
Department of Commerce & Economic Development
324 'L' Street, Suite 100
Anchorage, Alaska 99501
276-6222

Position Statement: Testified in opposition of HB 220 and provided information regarding SSHB 346.

WITNESS:

Robert Heath, Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811
465-2300

Position Statement: Testified that the Department was in opposition of SSHB 346.

WITNESS:

Edith Russell, Administrative Assistant
Representative Bette Cato's Office
Capitol Building, Room 128
Pouch v
Juneau, Alaska 99811
465-4858

Position Statement: Answered questions from the committee concerning SSHB 346.

PREVIOUS ACTION

HB 220 02/23/83: HOUSE BILL NO. 220 by Lindauer, entitled:
"An Act restricting cost items that may be allowed in public utility rates."
was read the first time and referred to the Labor & Commerce Committee.
Statutory Reference: AS 42.05.381(a)

SSHB 346 04/22/83: SPONSOR SUBSTITUTE FOR HOUSE BILL NO.

346 by Cato, entitled:

"An Act exempting public utility income from the net income tax; and providing for an effective date."

was read the first time and referred to the Labor & Commerce and Finance Committees.

Statutory Reference: AS 43.20.011(e); AS 43.20; AS 43.20.040; AS 43.20.072; and AS 43.20.340 01/28/83: HOUSE BILL NO. 131 by Hurlbert, entitled:

"An Act relating to unlawful practices in the sale or rental of real property."

was read the first time and referred to the Labor & Commerce and Judiciary Committees.

See previous House Labor & Commerce Committee Meeting minutes from: March 3, March 11, March 15, and March 17, 1983.

Statutory Reference: AS 18.80.240

HB 131

ACTION NARRATIVE

TAPE#62 (Side A)

Recording

Number 0000

The meeting was called to order at 8:52 a.m. by Chairman Furnace. Members present were: Representatives Furnace, Uehling, Cowdery and Ringstad. Representatives Koponen arrived after roll call; Wendte and Malone were absent.

Number 0018

Chairman Furnace opened discussion on HB 220.

Number 0128

Carolyn Guess, Chairman of the Alaska Public Utilities Commission of Anchorage, testified in opposition of the bill. She responded to questions from the committee via the Legislative Teleconference.

Number 0414

Chairman Furnace proposed to hear additional testimony and to entertain discussion by the committee concerning HB 220. He asked Carolyn Guess to stand-by.

Number 0423

Chairman Furnace assigned the committee to determine whether there were specific areas that should be included in the bill.

Number 0434

Rep. Koponen said that he did not see a demonstrated need for the bill.

Number 0457

Rep. Cowdery concurred with Rep. Koponen's opinion and said that the areas of concern indicated by the Sponsor have already been addressed in various court cases.

Number 0464

Rep. Cowdery moved and asked unanimous consent to hold the bill.

Number 0465

Chairman Furnace objected.

Number 0467

A vote was taken and the motion carried.

Number 0468

Chairman Furnace introduced SSHB 346 to the committee for consideration.

Number 0482

Robert Heath, Commissioner of the Department of Revenue, came before the committee. He said that the Department opposes the legislation. He

Number 0489 explained.
There was discussion by the committee and
Commissioner Heath concerning the bill.

TAPE#62 (Side B)
Recording
Number 0000 Continuation of the discussion.
Number 0018 Carolyr. Guess provided comments concerning
revenue requirements and consumer rates.
Number 0125 Edith Russell, Administrative Assistant to
Representative Bette Cato, was available to
answer questions from the committee.

Number 0140 Rep. Cowdery moved and asked unanimous consent
to advance SSHB 346 to the next committee of
referral with individual recommendations. There
being no objection, SSHB 346 was passed from
the House Labor and Commerce Committee.

Number 0176 The committee took up discussion on HE 131.
Number 0179 Rep. Ringstad moved and asked unanimous consent
to hold the bill. There being no objection, it
was so ordered.

Number 0190 There being no further items to come before the
committee at this time, Chairman Furnace
adjourned the meeting at 9:50 a.m.

HEADINGS TITLE 42.
Public Utilities and Carriers.
CHAPTER 05.
Alaska Public Utilities Commission Act.
ARTICLE 5.
Rates and Rate Schedules.

CITATION Sec. 42.05.381.

CATCH LINE

RATES TO BE JUST AND REASONABLE.

TEXT

(a) All rates demanded or received by a public utility, or by any two or more public utilities jointly, for a service furnished or to be furnished shall be just and reasonable; however, no rate may include an allowance for costs of political contributions, or public relations except for reasonable amounts spent for

(1) energy conservation efforts;

(2) public information designed to promote more efficient use of the utility's facilities or services or to protect the physical plant of the utility;

(3) informing shareholders and members of a cooperative of meetings of the utility and encouraging attendance; or

(4) emergency situations to the extent and under the circumstances authorized by the commission for good cause shown.

(b) In establishing the revenue requirements of a municipally owned and operated utility the municipality is entitled to include a reasonable rate of return.

(c) No utility, whether subject to regulation by the commission or exempt from regulation, may charge a fee for connection to, disconnection from, or transfer of services in an amount in excess of the actual cost to the utility of performing the service plus a profit at a reasonable percentage of that cost not to exceed the percentage established by the commission by regulation.

(d) A utility shall provide for a reduced fee or surcharge for standby water for fire protection systems approved under AS 18.70.081 which use hydraulic sprinklers.

HISTORY

(Sec. 6 ch 113 SLA 1970; am sec. 1 ch 86 SLA 1976; am sec. 5 ch 106 SLA 1977; am sec. 4 ch 45 SLA 1980)

COMMITTEE REPORT

HOUSE

5/25
Rules

(11)

FURTHER:

4/29/83

Date: 5/23/83

Mr. Speaker:

The Committee on FINANCE has had SSHB 346

"An Act exempting public utility income from the net income tax; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SSHB 346 (FIN) same title
 new title
- and recommends NO RECOMMENDATION
- AND attaches a "Letter of Intent" New Fiscal Note *Sup 68*
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Joseph W. ...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Sam ... (No Rec)

Paul ... (No Rec)

Jim ... (No Rec)

John ... (No Rec)

W.B. ... (No Rec)

Robert ... (No Rec)

Terry ... No Rec

Robert ...

CHAIRMAN

FISCAL NOTE

Revised Date: 5/24/83

I. REQUEST ^{CS}
Bill/Resolution No: SS HB 346 (FIN)
Title: Exempting public utility income
Sponsor: Cato
Requestor: State Affairs and Finance

II. FISCAL DETAIL
Agency Affected: Department of Revenue
Program Category Affected: Rev Coll & Mgt
BRU, Program of Subprogram(s) Affected: Audit Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL						
	-	-	-	-	-	-
REVENUE	-	(2000)	(2000)	(2000)	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. Analysis

The fiscal note is based on data extracted from returns as filed for tax year 1981 and adjusted for anticipated increases in tax liabilities.

Prepared By: Robert R. Kessel
Division: Audit Division

Approved by Commissioner: Joseph K. Dineen
Department: Revenue

Phone: 62-2770
Date: May 24, 1983

Date: _____

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

SSH3_346

SSH3_346 - An Act exempting public utility income from the net income tax.

Chairman Adams read a statement prepared by the sponsor of the legislation, Representative Bette Cato (see attachment #2).

COMMISSIONER BOB HEATH, DEPARTMENT OF REVENUE, stated that the department is opposed to the bill. He said they object to a specific subsidy which will not effect all communities with any degree of similarity. Commissioner Heath said this would be a windfall for cable t.v. systems in as much as they are not regulated and would not be required to pass on savings and not pay taxes.

Representative Lindauer asked if it is not true that in some communities people are not facing rates which contain state taxes where in others they do. He said some communities are being taxed to support the state of Alaska. He said this bill would equalize the burden. Representative Lindauer asked Commissioner Heath if the bill would be more palatable if it did not include those utilities whose rates were not regulated or those which have been designated public utilities for the purpose of getting a certificate of convenience and necessity. Commissioner Heath said this would help.

Representative Zharoff asked what the negative financial impact of the legislation will be. Commissioner Heath anticipated that it will be \$2.5 million in the first full year and \$2 million a year thereafter. There was discussion of the department's fiscal note dated April 26, 1983. Representative Zharoff asked if the utilities will receive a rebate or a credit. Commissioner Heath said since they would have no tax liability he presumed a direct refund would be made. Representative Zharoff asked what would be a reasonable amount of time should the legislature "sunset" this legislation. Commissioner Heath did not know what a "sunset" would do and reaffirmed the Department's opposition to the legislation.

Representative Lindauer asked if a portion of the tax reduction will in fact result in an increase in federal taxes. Commissioner Heath said roughly 46 per cent.

Representative Duncan asked if approximately 30 per cent of the actual loss to the state in revenue of 2.5 million in FY 84 would go to ALASCO. Commissioner Heath said it would be the assumption that the largest book reporting tax payers would receive the largest break. Representative Duncan said a number of smaller utilities would not benefit or receive rebates under this legislation. There was discussion of how the consumer would benefit under the legislation.

(Representative Martin arrived at this time.)

Representative Lindauer proposed an amendment saying it would assist Revenue in the completion of tax forms and aid to offset tax reductions by assuring that costs not normally accepted by public utilities would not be accepted by the Alaska regulatory commission. Representative Lindauer MOVED AND ASKED UNANIMOUS CONSENT that amendment number 1 be approved (see attachment #3). Chairman Adams OBJECTED saying this is the same amendment offered in House Labor and Commerce and turned down by that committee. Representative Lindauer said it was not turned down and this is a standard practice to avoid taxes by shifting funds into a non-taxable or non-regulated entity.

(Tape Change 83-72, Side 2)

There was discussion concerning the amendment. The QUESTION was called for.

IN FAVOR: Bettisworth, Lindauer, Martin, Pestinger, Ward,
Znaroff

OPPOSED: Adams, Duncan

The MOTION PASSED. (6-7)

Representative Lindauer MOVED AND ASKED UNANIMOUS CONSENT that amendment number 2 be approved (see attachment #4). There being NO OBJECTION, it was so ordered.

Representative Bettisworth MOVED AND ASKED UNANIMOUS CONSENT that section 7, line 6, page 3 be deleted and section 8 be renumbered and read "this Act takes effect July 1, 1983". There being NO OBJECTION, it was so ordered.

Representative Bettisworth MOVED AND ASKED UNANIMOUS CONSENT that he be exempted from a vote on the issue since he owns some stock in a utility company in Fairbanks. Chairman Adams OBJECTED.

Representative Lindauer MOVED that a committee substitute be drafted incorporating the amendments approved by the committee and reported out of committee. There being NO OBJECTION, it was so ordered and CSSSB 346 (Finance) was reported out of committee with "no recommendation".

ADJOURNMENT

The meeting adjourned at 2:25 p.m.

(Tape HFC 83-72, Side 1, #001-end)
(HFC 83-72, Side 2, #001-144)

SPONSOR STATEMENT

SS.B 346

PUBLIC UTILITY TAX EXEMPTION

MR. CHAIRMAN,

I AM APPEARING TODAY TO TESTIFY IN SUPPORT OF MY SPONSOR SUBSTITUTE FOR HOUSE BILL 346. THIS BILL, IF ENACTED, WILL EXEMPT PUBLIC UTILITY INCOME IN THE STATE FROM ALASKA STATE CORPORATE INCOME TAX. MY SPONSOR SUBSTITUTE FURTHER REQUIRES THAT THE TAX SAVINGS RESULTING FROM THIS EXEMPTION BE PASSED DIRECTLY TO THE CONSUMER IN THE FORM OF RATE REDUCTIONS.

CONSUMERS THROUGHOUT THE STATE HAVE EXPERIENCED INCREASING UTILITY BILLS. IT IS A GROWING CONCERN THAT AFFECTS NEARLY EVERY HOUSEHOLD; BOTH RURAL AND URBAN. UTILITIES ARE BASIC TO THE NEEDS OF OUR PEOPLE. EACH MONTH A PORTION OF THEIR TELEPHONE, GAS, AND ELECTRIC BILLS CONTAIN A CHARGE TO REIMBURSE UTILITIES FOR ANY CORPORATE TAXES UTILITIES ARE REQUIRED TO PAY. THIS BILL WILL ELIMINATE THESE UNSEEN TAXES AND REDUCE RATES.

I UNDERSTAND THAT THE IMPACT ON STATE REVENUES WILL BE MINIMAL, AND I BELIEVE THAT THE EFFECT OF THIS BILL IS PROPER PUBLIC POLICY FOR THE STATE. I URGE YOUR FAVORABLE ACTION, TODAY.

H B

3 5 7



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

LETTER OF INTENT

HB 357 "An Act relating to the regulation of religious schools."

The Rules Committee recognizes that operating a church school is an integral part of the free expression of religion and that schools operated by religious bodies are quite different from other private schools. Therefore, the committee's purpose in sending HB 357 to the floor and in urging its passage is to prevent possible church-state constitutional conflicts by protecting the fundamental rights of religious freedom of parents, children, and church schools in Alaska and, at the same time, to balance the state's interest in assuring that each child receives a good education. The committee specifically intends to exempt pre-elementary and nursery programs operated by religious organizations from the general supervision of the Departments of Education and of Health and Social Services.

The committee only intends to exclude from the purview of this bill those church schools that receive direct federal or state funds. This would not affect those schools that receive incidental benefits from government, such as fire or police protection, health care or other benefits to which all citizens are entitled.

Any church school that satisfies all the requirements of AS 14.45 would be exempt from any additional provision of law relating to education except those requirements of law relating to fire, health, and safety. While each church school would be subject to reasonable fire, health, and safety regulation, the Rules Committee intends to specifically limit health regulation to that regulation that is reasonably related to the state's interest in preventing and curing physical diseases. For example, the committee does not intend for the state to regulate minimum space requirements (except as it directly relates to the fire code), hours of attendance, or reasonable methods of discipline.

In summary, the Rules Committee Substitute for HB 357 balances the state's interest in ensuring that each child receives a good education with the constitutional right to religious freedom.

Respectfully submitted,

Rep. Jack Fuller
Rules Committee chairman

Levy
5/20/83

Original sponsors: Fritz, Tischer,
Pestinger, et al

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 357 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. AS 14.07.020(8) is amended to read:

10 (8) in cooperation with the Department of Health and Social
11 Services, exercise general supervision over public and private pre-
12 elementary schools and over the educational component of nurseries as
13 defined in AS 47.35.080(4) ~~excluding pre-elementary schools and nur-~~
14 series operated by a church or other nonprofit religious organization
15 that is exempt from federal taxation and does not receive direct state
16 or federal funding; pre-elementary schools in this paragraph means
17 schools for children ages three through five years when the schools'
18 primary function is educational;

CS deletes
"the educational
component of"

19 * Sec. 2. AS 14.30.010(b)(1) is amended to read:

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

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

24 (B) tutoring by personnel certificated according to
25 AS 14.20.020; [OR]

26 (C) except as provided in (D) of this paragraph,
27 attendance at a private school in which the average student
28 proficiency is not less than the average proficiency found in the
29 public schools in the area as measured by national achievement

1 tests; the board of education [DEPARTMENT] with assistance from
2 representatives of the private schools shall adopt [PROMULGATE]
3 regulations defining the subject areas to be tested and the
4 minimum average scores to be achieved; or

5 (D) attendance in an educational program operated in
6 compliance with AS 14.45 by a church or other nonprofit religious
7 organization that is exempt from federal taxation and does not
8 receive direct state or federal funding;

9 * Sec. 3. AS 14.45 is amended by adding a new section to read:

10 Sec. 14.45.025. EXEMPTION FROM EDUCATION LAWS. A religious
11 school that complies with this chapter is exempt from other provisions
12 of state law and regulations relating to education except laws and
13 regulations relating to health, fire safety, sanitation, immunization,
14 and physical examinations.

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

16 Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a)
17 Except as provided in (b) and (c) of this section, teachers [TEACHERS]
18 and others in charge of private or denominational schools shall make
19 regular monthly attendance reports and annual reports to the commis-
20 sioner in the same manner as teachers and superintendents in the
21 public schools.

22 * Sec. 5. AS 14.45.030 is amended by adding new subsections to read:

23 (b) The parent or guardian of a child enrolled in a religious
24 school that complies with this chapter shall file an annual notice of
25 enrollment in the religious school for the child with the public
26 school superintendent for the area in which the child resides on a
27 form provided by the public school superintendent. The form shall be
28 signed by the parent and the chief administrative officer of the
29 religious school and returned to the public school superintendent by

1 the parent. The religious school shall notify the public school
2 superintendent immediately if the child is no longer enrolled in or
3 attending the religious school.

4 (c) A religious school that elects to comply with this chapter
5 shall maintain monthly attendance records for each student enrolled in
6 the school, shall operate on a regular schedule, excluding reasonable
7 holidays and vacations, during at least 180 days of the year, and
8 shall make an annual report to the commissioner of the number of
9 students in each grade and the school calendar.

10 * Sec. 6. AS 14.45 is amended by adding new sections to read:

11 Sec. 14.45.035. STANDARDIZED TESTING REQUIREMENTS. (a) A
12 religious school that elects to comply with this chapter shall admin-
13 ister a nationally standardized test selected by the chief administra-
14 tive officer of the religious school to all students enrolled in
15 grades one, three, six, and nine at least once each school year.

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

18 (c) A religious school that elects to comply with this chapter
19 shall maintain records of the results of the nationally standardized
20 tests and the records shall be made available to the parent or guar-
21 dian of the student and to authorized representatives of the state.

22 Sec. 14.45.040. RECORDS. A religious school that elects to
23 comply with this chapter shall maintain adequate student records,
24 including records of immunizations, physical examinations, testing,
25 and courses taken at the religious school.

26 Sec. 14.45.045. DEFINITION. In this chapter, "religious school"
27 means a school operated by a church or other nonprofit religious
28 organization that is exempt from federal taxation and does not receive
29 direct state or federal funding.

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* Sec. 7. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education or an educational program operated in compliance with AS 14.45 b a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding;

* Sec. 8. AS 14.45.020 is repealed.

CHERI C. JACOBUS
ATTORNEY AT LAW
134B CRESCENT AVENUE
ANCHORAGE, ALASKA 99504

Representative Milo Fritz, M.D.
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Re: Draft Letter of Intent for CSHB 357 -- Regulation of
Religious Schools

Dear Dr. Fritz:

Attached is a draft Letter of Intent to accompany CSHB 357. I have attempted to cover all the issues which might arise in the state's later interpretation of this legislation. If you or your staff have any questions or think that it can be clarified, please feel free to call me. I especially enjoyed our short meeting together.

In carefully reviewing the draft CSHB 357 a few minor problems came to my attention. The Legislative Affairs Assistant Counsel added some language and left out other language which would have made the committee substitute more clear, without changing its meaning.

Pursuant to discussions with the representative of the Department of Education, Steve Hole, the following sentence should be added to page 2, line 21 to make it clear that religious schools are treated in the sub-sections that follow:
This sub-section does not apply to religious schools as defined in AS 14.45.040 which comply with this chapter.

Since it is clearly not practical for the parents to provide daily attendance records, that requirement should be deleted from the committee substitute. Section 5 found on page 2, beginning on line 23, would then read:

(b) The parent or guardian of a child enrolled in a religious school that complies with this chapter shall file annual enrollment [and attendance records] for the child with the public school superintendent for the area in which the child resides on a form provided by the public school superintendent. . .
(bracketed part is deleted.)

As I testified in the teleconference, the last sentence of that section should also read differently to protect the state's interest in assuring compliance with the state's compulsory education law. Since this is more practical, the change would require the church school to notify authorities if a child leaves the church school. Line 29 on page 2 and lines 1 and 2 on page 3 should read as follows:

The religious school [parent] shall notify

the public school superintendent immediately if the child is no longer in or attending the religious school.

As I was leaving Juneau, it came to my attention that the Administration was considering lengthening the school year. Therefore, with that in mind, the following language change is suggested to ensure that religious schools operate for similar lengths of time. Line 6 on page 3 should read:

. . . [during at least nine calendar months of the year] for at least the same number of days that the public schools operate.

Finally, to avoid an interpretation that would require intrusive regulations, it is suggested that the following language be added to Section 6, beginning at line 19. That subsection would then read:

(c) A religious school shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student and to authorized representatives of the state in the school office.

Thank-you for all your help on this important issue. If Alaska can avoid all the problems that have occurred in the lower 48 states, it will be worth the effort. I look forward to working with you again.

Sincerely yours,

Cheri C. Jacobus
Cheri C. Jacobus

attachment

LETTER OF INTENT
HB 357

The House Health, Education and Social Services Committee recognizes that operating a church school is an integral part of the free expression of religion and that schools operated by religious bodies are quite different from other private schools. Therefore, the Committee's purpose in referring HB 357 to the floor and in urging its passage is to prevent possible church-state constitutional conflicts by protecting the fundamental rights of religious freedom of parents, children, and church schools in Alaska and, at the same time, to balance the state's interest in assuring that each child receives a good education. The Committee specifically intends to exempt pre-elementary and nursery programs operated by religious organizations from the general supervision of the Departments of Education and of Health and Social Services.

The Committee only intends to exclude from the purview of this bill those church schools that receive direct federal or state funds. This would not affect those schools that receive incidental benefits from government, such as fire or police protection, health care or other benefits to which all citizens are entitled.

Any church school that satisfies all the requirements of AS 14.45 would be exempt from any additional provision of law relating to education except those requirements of law relating to fire, health, and safety. While each church school would be subject to reasonable fire, health, and safety regulation, the House Health, Education and Social Services Committee intends to specifically limit health regulation to that regulation that is reasonably related to the state's interest in preventing and curing physical diseases. For example, the Committee does not intend for the state to regulate minimum space requirements (except as it directly relates to the fire code), hours of attendance, or reasonable methods of discipline.

In summary, the House Health, Education and Social Services Committee Substitute for HB 357 balances the state's interest in ensuring that each child receives a good education with the constitutional right to religious freedom.

Respectfully submitted,
/s/

COMMITTEE REPORT
HOUSE

(9)

FURTHER:

Date: May 23, 1983

Mr. Speaker:

The Committee on RULES has had HB 357

An Act relating to the regulation of religious schools

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 357 (RULES) same title
 new title
- and recommends 1. A
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

M.W. Miller Do Pass

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]
CHAIRMAN

HOUSE RULES
STANDING COMMITTEE
May 23, 1983
8:30 a.m.

BELTZ ROOM

Members Present: Rep. Fuller, Chairman
Rep. Phillips, Vice-Chair
Rep. Hayes
Rep. Barnes
Rep. Tischer
Rep. M.M. Miller
Rep. M.W. Miller
Rep. Koponen
Rep. Larson

COMMITTEE CALENDAR

HP 357 "An Act relating to the regulation of religious schools."
HJR 42 "Relating to the establishment of a sister state relationship with Taiwan."

WITNESS REGISTER

HB 357

Steve Hole

Department of Education

Pouch F

Juneau, Alaska 99811 - Phone 465-2890

Position Statement: Will testify if necessary,

Ed Essa, Aide

Representative Pestinger

Pouch V

Juneau, Alaska 99811 - Phone 465-3712

Position Statement: Made a comment on HB 357

Representative Peter Goll

Alaska State Legislature

Pouch V

Juneau, Alaska 99811 - Phone 465-4925

Position Statement: Concerned about health & safety in pre-elementary schools.

HJR 42

Representative Mitch Abood

Alaska State Legislature

Pouch V

Juneau, Alaska Phone 465-4947

(Previous Action)
Attached (on HB357)
HJR 42

HB 357 TITLE & SPONSOR SUMMARY
AMENDED TITLE:
AN ACT RELATING TO THE REGULATION OF RELIGIOUS SCHOOLS

12:30 5/23/83 PAGE 1 OF 2

PRIME SPONSOR: FRITZ.

CO-SPONSORS: TISCHER, PESTINGER, FURNACE, WARD, FLOOD.

CURRENT STATUS: 5/19/83 IN (N) RULES

HB 357 HOUSE ACTION

12:30 5/23/83 PAGE 2 OF 2

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/14/83	01	0861	FIRST READING -- COMMITTEE REPORTS
05/19/83	02	1426	HESS -- CS05
05/19/83	03	1427	HESS F/NOTE EQUALS ZERO RULES
****	**	**	*** ** *

HJR 42 TITLE & SPONSOR SUMMARY
AMENDED TITLE:
RELATING TO THE ESTABLISHMENT OF A SISTER STATE RELATIONSHIP
WITH TAIWAN

12:31 5/23/83 PAGE 1 OF 2

PRIME SPONSOR: HAYES.

CO-SPONSORS: COWDERY.

CURRENT STATUS: 5/12/83 IN (H) RULES
HJR 42 HOUSE ACTION

12:31 5/23/83 PAGE 2 OF 2

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/07/83	01	0766	FIRST READING -- COMMITTEE REPORTS
05/12/83	02	1295	S.A. -- CS01, NR05
			RULES
****	**	**	*** *** ***

ACTION NARRATIVE

TAPE #1
Recording
Number 0002

Chairman Fuller called the meeting to order at 8:30 a.m. in the Beltz Room and indicated members present. Not present at the beginning of the meeting but arriving later were: Rep. Joe Hayes, Rep. Ramona Barnes and Rep. M.M. Miller. Rep. Fuller Announced agenda (HB 357 and HJR 42) and stated first on agenda was HB 357 - and that the prime sponsor Mae Tischer had an amendment to offer.

Tischer:
0042

The amendment to the Bill, HB 357 on Page 1, Line 16; would be the CS for 357 HESS - Each of these 4 is the same - after receive, insert direct. Mr. Hole just talked to me and indicated that he preferred a different language - if I may, Mr. Chairman, I would ask that he repeat that language.

Hole:

Introduces self and goes on to state that rather than using the word direct, to insert "and does not receive payments from the State or Federal Government."

Larson:

Why not does not receive "any"?

Tischer:

It is not as clear because in instances where, and I will give you an example that was brought up in our ~~committee~~ committee - in the Fairbanks School Districts the school district has a private school student leaving on a regular public school transportation route who asked if they could ride that school bus to the public school, get off, walk to the private school from there, so in other words that was an indirect assistance and the school district of Fairbanks has allowed that and if we say ~~all~~ we are not clarifying the word or the intent of this amendment. Being direct - meaning direct payment for pre-schooler and so forth.

Larson:

Maybe I could find what word "direct" is in order for a direct payment?

Tischer:
. 0132

In lay terms - direct payment means exchange of money from one hand to another.

Koponen:
0147

The situation is just not in Fairbanks. I think it has been found legal in that there is no payment, it is conceived of as a service which is available to all children, that is transportation, however, putting direct payments in place of any payments - I think would open it up to litigation because you have the cases where the state does provide tuition or similar payments to parents who can then use the money for day care assistance or the equivalent, or special ed. schools or classes of different kinds. It would then be transferred to the school and that would be a much more direct payment. I am sure we would see a suit which may tie up the entire intent of the bill. I would second Rep. Larson's motion to make it "any" payment form because the transportation is a separate issue and there is no transfer of payment.

- Tischer: I don't think Mr. Larson made a motion; just a suggestion.
- Larson: Maybe you are not familiar with the question - Community and Regional Affairs day care assistance - the person who is under this could probably qualify for day care assistance. Of course, the money goes to the parent then to the institution, is that considered direct or indirect payment?
- Hole: Any financial assistance flows from either the state or federal government to the school and that school would not be exempt or would not be covered by this provision, and would be subject to other existing regulations.
- Phillips:
0206 So if a parent receives a certain amount of money for day care assistance that would not be considered a direct payment then?
- Hole: The parent receives day care assistance - the money does not flow directly to the school and I don't see that that would impact the standing of that facility under this.
- Phillips: Would this affect private schools such as Montessori Schools?
- Hole: Mr. Chairman, No.
- Phillips: Why are they so different - why aren't they included in here? They are under the same regulations.
- Hole: I can't answer that, Mr. Chairman.
- Essa: The crux of this legislation is the separation of church and state and that is why Montessori School doesn't fall under this. The bill directly addresses religious.
- Larson: The only motion we had was put to Rep. Fuller by Rep. Tischer to insert the word direct. And of course, at that time, I suggested the word "any" but I did not make a motion to amend.
- Tischer: In response to Randy's one about day care assistance, I believe the regulations at this time as far as day care payments are concerned - the municipal pay for day care of a child directly to the day care center - not to a parent.
- Hayes: I just want to find out where we are on this bill.
- Fuller:
0250 Rather than have the amendments - we have prepared a Rules Committee Substitute to speed it up.

Koponen:

I have been on the board of a religious school. There are currently only 3 sections that deal with religious schools - the old section that did require teachers to be certified was deleted in 1966. There is essentially one section that is permissive that allows the commissioner to give 8th grade diplomas. That is a matter of negotiation between school and commissioner. The section allowing the the transportation of pupils to non-public schools which makes no distinction between religious and other schools which I think is the crucial point that all pupils regardless of where they are going have a right to ride on transportation and the section that allows students to be in attendance at non-public schools not to be counted as absent. The current section is rather permissive - this legislation actually works into statutes a great many more restrictions into religious schools while freeing them under some. I think I would be afraid of the distinction between religious schools that are religious non-profit associations that are exempt from federal taxation and all other private schools. In other words, I feel that we are on shaky grounds on constitutional matters and we actually may be laying a greater burden on religious schools by attempting in this manner to deregulate them without deregulating other schools of the same class. That is the other private non-proprietary schools. I feel we should have had some opinions from constitutional attorneys, the Attorney General before we pass this legislation. I

Fuller: I will entertain a motion to accept a committee substitute,

Tischer: I move that the committee accept the Rules Committee Substitute for HB 357 and ask unanimous consent.

Fuller: Hearing no objection - moved.

Tischer: If you look at the language in this bill and insert the word "any" before word "direct" it would read that pre-elementary schools and nurseries operated by churches or other non-profit religious organizations that is exempt for federal taxation and doesn't receive any direct tax or state or federal funding means the same as does not receive direct state or federal funding so "any" if you will would be superfluous. I don't see any reason for putting it in there.

0373

Goll: There are two points in here I think need to be addressed. It is very nice that the bill will help to facilitate religious schools activities - I think that is a well intentioned thing but I do not believe they would want to jeopardize public safety or health and I don't believe you want to create inconsistencies. In the Hess, CS, in this first section

continuing the departments authority and jurisdiction and endorsing the department. The Departments interest in the health life, safety, aspects of these facilities is that we would consider the language on Page 2 beginning at Line 10 as all the authority we need to make sure that those facilities meet applicable codes and that they receive proper physical examinations.

Phillips: So, in other words, [educational component] is not necessary because it is covered on this section you just cited right?

Hole: As long as that language remains on Page 2, we would see that the legislature does not intend the Dept. to cease this operation with respect to those particular aspects.

Fuller: On Line 13, does fire safety take care of Mr. Goll's fire safety apprehension about this?

Hole: I think so, but the Dept. is not responsible for enforcing fire safety codes so I can't speak for the fire marshall. But if they perceive it in the same fashion we do.

Goll: If this works out that way I would be happy. My concern is Page 1, Line 13, he refers to the fire marshall - the fire marshall is not a product of the DOE - its a separate institution. Here we have the Dept. of Health & Social Svcs. who supervise these schools, they are not supervising educational components, they are supervising other things like health and safety and we have specifically excluded pre-elementary schools, they are not included. As I say, if it is the feeling of the departments involved that they can enforce health and safety with this as is, I am perfectly happy. My concern is that the Department of Education does not have the ^{statute} ~~statute~~ responsible to deal with health and safety in preschools. I believe that is why the Dept. of Health and Social Services is in the statutes. I would like to be corrected if I am wrong. If the DOE has statute authority to oversee health and safety in preschool, or am I going to call my school a day care center - who is going to make the decision? I am just concerned that health and safety in pre-elementary is covered.

Larson: That was my concern too - preschools.

Fischer: Those regulations for health and safety and building codes and so forth are enforced on a local level by municipalities and boroughs and assemblies and councils - so as far as health and safety and building is concerned those are local rather than state jurisdictions and the policing is done by local fire departments and so forth.

Koponen: True in Anch. and Juneau where boroughs have accepted by popular vote the power - in Fairbanks it does not - they do not wish to exercise health and welfare power and therefore it goes to the state.

XXXXXXXXX
Goll: In the case of Haines, Klukwan or most of other communities in my district there is no co-op agreement between the fire department and public schools.

Tischer:

That was not what I was trying to say, where local doesn't cover state does. I ask for correction.

Koponen:

CS HB 357 - I would like to move a series of amendments - on Page 1, Line 15, Page 2, Line 8, Page 3, Line 29, Page 4, Line 10 - delete direct and insert any. And ask unanimous consent.

Fuller:

After the vote - motion fails. Further amendments?

Koponen:

~~For the purpose of inserting after operated (on Page 1, Line 14, Page 2, Line 6, Page 3, Line 27, Page 4, Line 8 delete word a church or other non-profit organization that is exempt for state and federal taxation and insert private non-profit organization organized under Alaska law.~~ I would like to move to insert after operated (on Page 1, Line 14, Page 2, Line 6, Page 3, Line 27, Page 4, Line 8 delete word a church or other non-profit organization that is exempt for state and federal taxation and insert private non-profit organization organized under Alaska law.

Tischer:

I believe that language would violate title of bill which speaks to regulation of religious schools only, and therefore, does not apply. We would have to change to many other things.

Phillips:

I will amend the motion to include change of title which would include non-proprietory private schools and I think it would still be germane.

Fuller:

Are you amending the amendment?

Phillips:

Yes.

0038

Objection voiced by Tischer and Barnes.

Barnes:

This bill, I believe makes a constitutional challenge as it is written and I think you can make the bill unconstitutional by adding words to it and I believe that this bill specifically deals with schools that are exempt under the church and other non-profit statutes - Fed. tax code, because of religious affiliations and I believe that by adding to it you have left some out and it would be discriminating against some schools.

Phillips:

With just only religious or non-profit religious organizations schools and leaving out other private schools, that are not necessarily religious nature I just think that if you are going to set rules it should go across the board for everybody - not just select group of people. I am not a lawyer but we may have the affect the former speaker just talked about.

Phillips:

Amendment to amendment would on Page 1, Line 6 after word 'the' put the regulations of, non-proprietory private schools that way you would not only include religious schools. under same rules and regulations and statutes would be exempt from state law. I move adoption of amendment.

Fuller:

After the vote, ~~motion~~ amendment to amendment fails.

0110

Fuller:

That brings us back to the original amendment - do you want to state your amendment Mr. Koponen.

Koponen:

I move to insert after operated - (Page 1, Line 14, Page 2, Line 6, Page 3, Line 27, Page 4, Line 8 delete word a church or other non-profit organization that is exempt for state and federal taxation and insert private non-profit organization organized under Alaska law and ask unanimous consent.

0131

After a vote, amendment fails.

Phillips:

Question to Steve Hole, DOE - on Page 4, Line 11, Sec. 8. AS 14.45.020 which we are repealing. ~~XXXXXXXXXXXXXXXXXXXX~~
Does Dept. have any position on this?

Hole:

The Dept. has not issued diplomas under that section since I have been with the Dept. No problems.

Hayes:

I would like to make a motion that the Rules CS HB 357 be moved out with individual recommendations and ask unanimous consent.

0193

HJR 42

Fuller:

Hearing none, so moved. We will move to the next item on agenda, HJR 42. Here to testify is Rep. Mitch Abood.

Abood:

Identifies self for record...I would like to offer an amendment to it if I may, on Line 11, Page 1,...

Hayes:

I move and ask that Rules CS be adopted and ask unanimous consent, with individual recommendations.

Abood:

The State Affairs Committee was in contact with Senator Stevens, Congressional delegation and state department and this is in such a way it does not affect the Aisle of China or Taiwan, this covers all the people this way, ~~not all people of Alaska~~ ~~to Alaska~~

Larson:

Proposed motion that Alaskans be changed to WHEREAS the people of Alaska".

Fuller:

After a vote, motion fails.

Rules CS HJR 42 is then moved out of Committee with individual recommendations.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 18, 1983

SUBJECT: Regulation of religious schools
(CSHB 357 (HESS))

TO: Representative Mae Tischer
Chairman, House Health, Education and
Social Services Committee

FROM: Keith B. Levy *KBL*
Legislative Counsel

You have asked for an opinion as to the effect of the amendment made to sec. 1 of CSHB 357 (HESS) at the Health, Education and Social Services Committee meeting of May 17, 1983. Before the committee amendment, sec. 1 amended AS 14.07.020(8) to provide that certain religious schools are excluded from the general supervision of the Department of Education and the Department of Health and Social Services. The committee amendment makes it clear that only the educational component of those schools is exempt from departmental supervision.

More specifically, before the committee amendment, sec. 1 provided that the departments would exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries, excluding pre-elementary schools and nurseries run by religious organizations. In other words, religious pre-elementary schools would be exempt from any supervision whereas religious nurseries would only be exempt from supervision of their educational component. This would leave the religious nurseries open to regulation as to such matters as health and safety, but not curriculum. The amendment made in the committee meeting added the words "educational component" to the exemption from departmental supervision. The effect of the amendment is to make it clear that the departments can regulate both religious pre-elementary schools and nurseries only in regard to matters other than education, e.g., health and safety.

KBL:ljb
20/024

H

B

5

1

9

Comparison of HB 519 (Fin) and the proposed Rules CS.

Section 1. AS 35.27.010 Same as Finance version.

Section 2. AS 35.27.020(a) Changes the approval on the inclusion of artwork in a project from the building owner to the governing body of a community or a school board, as applicable. Also adds language requiring a local public meeting or consultation with local residents prior to the approval decision.

Section 3. AS 35.27.020(b) Changes the consultation requirements on the department in charge of the project from the "owner" to the "governing body or school board", as applicable.

Section 4. AS 35.27.020(c) Changes the term "rural" school facility to "REAA" school facility. Also changes the authority to approve the inclusion of art in a project from the "owner" to the local "governing body" or "school board", as applicable.

Section 5. AS 35.27.020(e) Adds a cross reference to the following subsection (f), and changes the term "owner" to "governing body of a community", in keeping with previous changes.

Section 6. AS 35.27.020(f) Clarifies that the superintendent of both school districts and regional educational attendance areas have the authority to select artists involved in projects.

Section 7. AS 35.27.020(g) Deletes the term "resident", as the requirement that the artists be a resident may restrict otherwise acceptable choices.

Section 8. AS 35.27.030(1) Added section which changes the existing definition of "department" from 'DOT/PF' to any department that has the authority to build a facility.

Section 9. AS 35.27.030(4) Added section which changes the existing definition of "Commissioner" to reflect the new definition of department on section 8.

Section 10. AS 35.27.030(5) Adds a new definition of "governing body" to reflect the changes made in the Rules CS.

Section 11. Same as section 8 in the Finance bill

Section 12. Same as section 9 in the Finance bill.

COMMITTEE REPORT

HOUSE

3/23

FURTHER:

Date: 3-22-84

Mr. Speaker:

The Committee on Rules has had HB 519

An Act relating to art works in public buildings and facilities

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with HCS for HB 519 (Rules) same title
- new title
- and recommends Individual Recommendations as Pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mr. Killip Do NOT PASS

[Signature]

[Signature]

CHAIRMAN

COMMITTEE REPORT

HOUSE

FURTHER: ✓

Date: 3-22-84

Mr. Speaker:

The Committee on Rules has had HB 519

An Act relating to art works in public buildings and facilities"

under consideration and reports it back as follows:

[] do pass [] do not pass

[] do pass with attached amendments(s)

[X] replace with HCS for HB 519 (Rules) ~~[]~~ same title [X] new title

and recommends Individual Recommendations

[] AND attaches a "Letter of Intent" [] New Fiscal Note

[] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Mike Kelly, DO NOT PASS
ROD E. BRADY, No Rec.

[Signature]
CHAIRMAN

PRIME SPONSOR: ADAMS. GENERAL DOLLARS: \$0 (F. NOTE)
 OTHER DOLLARS: \$0
 CO-SPONSORS: WARD, SZYMANSKI.
 CURRENT STATUS: 2/01/84 IN (H) RULES

HB 519	HOUSE	ACTION		12:44	3/21/84	PAGE	2 OF	2
DATE	SEQ	PAGE	LEGISLATIVE ACTION					
01/16/84	01	2270	-----					
01/27/84	02	2372	FIRST READING -- COMMITTEE REPORTS					
01/27/84	03	2373	S.A. -- DP04, DNP02, NR01					
02/01/84	04	2414	S.A. F/NOTE EQUALS ZERO					
02/01/84	05	2414	FIN -- DNP03, CS04, NR02					
02/01/84	06	2414	FIN F/NOTE EQUALS ZERO					
			ANALYSIS HSE SUPPL #88					
			RULES					
****	**	**	*** ** *					

3/22

= Changes between
Finance + Rules CS

Original sponsors: Adams, Ward
and Szymanski

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 519 (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 art works by Alaska artists in
7 public buildings and facilities; and providing for an
8 effective date."

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

10 * Section 1. AS 35.27.010 is amended to read:

11 Sec. 35.27.010. PURPOSE. The state recognizes its responsibil-
12 ity to foster culture and the arts and the necessity for the viable
13 development of Alaska [ITS] artists and craftsmen. The legislature
14 declares it to be a state policy that a portion of appropriations for
15 capital expenditures may be set aside for the acquisition of works of
16 art by Alaska artists to be used for state buildings and other public
17 facilities.

18 * Sec. 2. AS 35.27.020(a) is amended to read:

19 (a) If the governing body of the community where the building or
20 facility is constructed or the school board of a school district or a
21 regional educational attendance area where a public school is con-
22 structed approves, a [A] building or facility constructed after
23 June 30, 1975, or remodeled or renovated after June 30, 1975, shall
24 include works of art by Alaska artists, including but not limited to
25 sculptures, paintings, murals or objects relating to Native art. The
26 governing body of the community or a school board of a school district
27 or a regional educational attendance area shall hold a public meeting
28 or otherwise consult with the residents of the community or regional
29 educational attendance area before deciding to approve or disapprove

1 the inclusion of art works under this chapter.

2 * Sec. 3. AS 35.27.020(b) is amended to read:

3 (b) The department, before preparing plans and specifications
4 for a building or facility, may [BUILDINGS AND FACILITIES, SHALL]
5 consult with the Alaska State Council on the Arts and shall consult
6 with the the governing body of the community or the school board of a
7 school district or a regional educational attendance area regarding
8 the desirability of inclusion of works of art.

9 * Sec. 4. AS 35.27.020(c) is amended to read:

10 (c) Not more than [AT LEAST] one percent or, in the case of a
11 regional educational attendance area [RURAL] school facility, not more
12 than [AT LEAST] one-half of one percent, of the construction cost of a
13 building or facility approved for construction by the legislature
14 after September 1, 1977, may [WILL] be reserved for the following
15 purposes: the design, construction, mounting and administration of
16 works of an Alaska artist [ART] in a school, office building, court
17 building, vessel of the marine highway system, or other building or
18 facility which is subject to substantial public use. If the governing
19 body of the community, or the school board of a school district or a
20 regional educational attendance area, approves the use of funds for
21 art works under this subsection, then the work of art must be that of
22 an Alaska artist.

23 * Sec. 5. AS 35.27.020(e) is amended to read:

24 (e) Except as provided in (f) of this section, the Alaska [THE]
25 artist who executes these works of art shall be selected by the archi-
26 tect for the department with the approval of the department, after
27 consultation with the Alaska State Council on the Arts and the govern-
28 ing body of the community where [PRINCIPAL USER OF] the public build-
29 ing or facility is constructed [BUILDINGS OR FACILITIES].

1 * Sec. 6. AS 35.27.020(f) is amended to read:

2 (f) The Alaska artist who executes these works of art in a [THE]
3 public school [SCHOOLS] shall be selected by the superintendent of the
4 [A] school district or regional educational attendance area in which
5 the [A] public school is to be built with the approval of the school
6 board. Should the department find in the best interest of the state
7 that the superintendent's selection of an Alaska [THE] artist who
8 executes these works of art [BY THE SUPERINTENDENT] may result in a
9 cost overrun to the state or delay of construction, the department
10 shall make the selection of the Alaska artist in consultation with the
11 superintendent.

12 * Sec. 7. AS 35.27.020(g) is amended to read:

13 (g) The architect, superintendent, department, and the Alaska
14 State Council on the Arts shall encourage the use of state cultural
15 resources in these art works and require the selection of Alaska
16 [RESIDENT] artists for the commission of these art works.

17 * Sec. 8. AS 35.27.030(1) is amended to read:

18 (1) "department" means the department responsible for the
19 planning and construction of a building or facility [DEPARTMENT OF
20 TRANSPORTATION AND PUBLIC FACILITIES];

21 * Sec. 9. AS 35.27.030(4) is amended to read:

22 (4) "commissioner" means the commissioner of a department
23 responsible for the planning and construction of a building or facili-
24 ty [TRANSPORTATION AND PUBLIC FACILITIES].

25 * Sec. 10. AS 35.27.030 is amended by adding a new paragraph to read:

26 (5) "governing body" means, as appropriate, a city council,
27 a borough assembly, or one of the following in an unincorporated
28 community: a village council organized under 25 U.S.C. 476 (Indian
29 Reorganization Act), or a traditional village council recognized under

1 43 U.S.C. 1618(a) (Indian Self Determination Act), or a board of
2 directors of a community nonprofit corporation.

3 * Sec. 11. AS 35.27.020(d) and AS 44.27.060 are repealed.

4 * Sec. 12. This Act takes effect immediately in accordance with AS 01.-
5 10.070(c).

PROPOSED LANGUAGE FOR SECTION 6 FROM REPRESENTATIVE ADAMS

* Sec. 6. A.S. 35.27.020(f) is amended to read:

(f) The Alaska artist who executes these works of art in a [THE] public school shall be ~~recommended~~ ^{recommended} by the superintendent of the [A] school district or regional education attendance area in which the [A] public school is to be built after final [WITH THE] approval by [OF] the school board. In selecting an artist under this section, the school board shall approve an artist who will execute a work of art without a cost overrun or delay in school construction.

It may also be desirable to insert similar language regarding cost overruns and delays into section 5. An additional sentence could be added to section 5 as follows: "In selecting an artist under this section, the department shall approve an artist who will execute a work of art without a cost overrun or delay in construction of the public building or facility."

page 2 line 25

RULES COMMITTEE MEETING

WEDNESDAY, MARCH 21, 1984

1. Call to order, date and time.
2. Note attendance
3. AGENDA:

HB 519 - relating to art work in public buildings and facilities.

4. The Committee packets include:
 1. The sectional analysis prepared by Rep. Adams.
 2. The proposed rules CS.
 3. a copy of CSHB 51^o(Fin)
 4. a copy of HB 519 as introduced
 5. a copy of Title 27, the existing art in public places statute.
5. Rep. Adams will testify on the proposed Rules CS.

(Jack - The sectional analysis done by Rep. Adam's office explains the bill, but does not compare the Finance and Rules versions. A comparison of the Finance and Rules bills is shown on the following page, in case there are questions specifically on how they are different. In general, the Rules CS inserts language authorizing the 'Governing body' or 'school district' in a community to make the decision on having art work in a facility rather than the project owner, and amends the definitions section to reflect this change in authority.)

6. Open the meeting to public testimony, if applicable? Bob Greene of the Assoc. of Alaska School Boards may want to speak - see 3rd page

7. Open the meeting to debate.

for his language

8. After debate subsides, take a motion on moving the Rules CS, with individual recommendations?

Comparison of HB 519 (Fin) and the proposed Rules CS.

Section 1. AS 35.27.010 Same as Finance version.

Section 2. AS 35.27.020(a) Changes the approval on the inclusion of artwork in a project from the building owner to the governing body of a community or a school board, as applicable. Also adds language requiring a local public meeting or consultation with local residents prior to the approval decision.

Section 3. AS 35.27.020(b) Changes the consultation requirements on the department in charge of the project from the "owner" to the "governing body or school board", as applicable.

Section 4. AS 35.27.020(c) Changes the term "rural" school facility to "REAA" school facility. Also changes the authority to approve the inclusion of art in a project from the "owner" to the local "governing body" or "school board", as applicable.

Section 5. AS 35.27.020(e) Adds a cross reference to the following subsection (f), and changes the term "owner" to "governing body of a community", in keeping with previous changes.

Section 6. AS 35.27.020(f) Clarifies that the superintendent of both school districts and regional educational attendance areas have the authority to select artists involved in projects. THIS IS THE SECTION FOR WHICH BOB GREEN MAY SUGGEST NEW LANGUAGE - See next page.

Has

Section 7. AS 35.27.020(g) Deletes the term "resident", as the requirement that the artists be a resident may restrict otherwise acceptable choices.

Section 8. AS 35.27.030(1) Added section which changes the existing definition of "department" from 'DOT/PF' to any department that has the authority to build a facility.

Section 9. AS 35.27.030(4) Added section which changes the existing definition of "Commissioner" to reflect the new definition of department on section 8.

Section 10. AS 35.27.030(5) Adds a new definition of "governing body" to reflect the changes made in the Rules CS.

Section 11. Same as section 8 in the Finance bill

Section 12. Same as section 9 in the Finance bill.

Per Bob Green ³

* Sec. 6. AS 35.27.020 (f) is amended to read:

(f) The Alaska artist who executes these works of art in a (THE) public school (SCHOOLS) shall be recommended (SELECTED) by the superintendent of the (A) school district or regional education attendance area in which the (A) public school is to be built with the final approval by (of) the school board. A school board, under the provisions of this section, may not approve the selection of an Alaskan artist to execute a work of art if such execution would result in a cost overrun or a delay in school construction.

HB 519 - RULES CS

1) Basically-rewrites existing law to require "Alaskan" art, to make program optional, and to make each department responsible for construction in charge of implementing program.

POSSIBLE PROBLEMS

2) SECTION 2 - requires a positive action by a community body to include art work. if no action, no artwork. Requiring each department to be responsible for the implementation of art program will just allow more opportunities for confusion in the program.

3) SECTION 2 - also puts decision on artwork in community. May cause questions on:

a) appropriateness of a community making decisions on artwork in state facilities.

b) definition of "governing body" includes IRA traditional council and non-profit entity. Although this may not cause problems, perhaps a better phrase would be "representative community body"

4) By making each department responsible, program is badly fragmented. If they had problems before, with positive implementation, they will really have problems with this.

5) Evidence suggests that program has worked pretty well, and is predominately Alaskan/former Alaskan. Problem with present program seems to be holding costs of artwork in line.

6) A.S.C.A. has been fairly heavy handed/inflexible in its demeanor and has irritated communities and staff. RULES CS cuts A.S.C.A. completely out of program, and eliminates "Art in Public Places" fund.

7) "Alaskan" artist is not defined. The term "resident" is deleted, but there is no additional guidance on the term "Alaskan". LAA Legal

not
a
problem

thinks term is OK, leaving discretion up to each project supervisor

Alaska State Legislature
House of Representatives



Official Business

Al Adams
Chairman
Committee on Finance

March 14, 1984

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

MEMORANDUM

TO: Members of the House Rules Committee

FROM: Representative Al Adams *APA*

SUBJ: HB 519 - Relating to Art Works by Alaskan Artists
in Public Buildings and Facilities

Background

I am the prime sponsor of the above captioned bill. The primary purpose of the bill is to make the so called "1% For Art" program optional instead of mandatory. Under the proposed Rules C.S., art work would only be purchased through the program if the community in which the building or facility is located approved the expenditure. Another change the bill makes to present law is that art work purchased through the program must be that of an Alaskan artist.

There are two main reasons that I think the program should be optional. The first and most important reason is that the first priority for rural capital projects is basic need. The cost of construction in my district is so high that funding provided by the state barely covers the total price tag of a capital project. It is important that we have enough funding for the proper building materials and construction design before we fund art work. I do not mean to imply that art is unimportant; only that when funding is limited, the building itself must come first.

The second reason I would like to make the program optional is that under the current mandatory language of the statute, many projects are built in Alaska without spending the required percentage on art work. When I researched the program this interim, I found that some school districts and state agencies do not routinely reserve a percent for art. Moreover, the program has not been well administered, probably because of the confusing language of the statute. My bill would clean up the statute and provide a clear mandate regarding when and how art will be included in future CIP projects.

Bill History

The original bill had only one purpose: to make the program optional.

The House Finance Committee substitute attempted to clarify who would decide whether or not art work would be included by giving this responsibility to the building or facility owner. In other words, it attempts to define who will exercise the option regarding inclusion of art work. The CS also includes language to ensure that art work paid for by the program will be that of an Alaskan artist.

Today, I am proposing a Rules Committee substitute for your consideration. The proposed CS attempts to further refine language regarding who will decide on the inclusion of art work since the language of the Finance Committee substitute has been criticized for being too vague and, in some instances, inappropriate. Under the proposed CS, the community in which the building or facility is located would decide whether or not art work will be included in the total project. The proposed CS also makes other changes as described in the following sectional analysis of the bill.

Sectional analysis of proposed CS HB 519 (Rules)

Section 1. Changes the purpose section of the statute to reflect the optional nature of the program and the fact that art work will be that of Alaskan artists, only. *pend. may be set aside for works of art.*

Section 2. States that art work shall be included if approved by the "governing body" of the community where the building or facility will be constructed. (See section 10 for the definition of "governing body".) The purpose of this change is to ensure local control of the program. Before deciding on inclusion of art work, the governing body is required to hold a public hearing or otherwise consult with the residents of the community. School boards are also required to go through the same process for school projects. Art work must be that of an Alaskan artist.

Section 3. Requires the department, before preparing building plans, to consult with the appropriate governing body or school board regarding inclusion of art work. (See section 8 for new definition of "department".) Makes consultation with the Alaska State Council on the Arts optional.

Section 4. States that not more than one percent, or in the case of an REAA school not more than one half of a percent of the construction cost of a building or facility may be reserved for Alaskan art work. The permissive language is included in this section because the art work is only included if the appropriate governing body or school board approves. If approval is secured, then the art work must be that of an Alaskan artist.

Section 5. States that the artist shall be selected by the department after consulting the governing body of the community.

Section 6. States that a school district superintendent shall select the artist after consultation with the school board.

Section 7. Requires the selection of Alaskan artists. Removes the requirement for resident Alaskan artists due to the fact that many Alaskan artists live outside for part of their careers.

Section 8. Changes definition of "department" from DOT/PF to any department responsible for the planning and construction of a building or facility. This is due to the fact that some agencies, such as the Court system and the University of Alaska, do not always go through DOT/PF for building construction. This change will ensure that the percent for art law applies to all capital construction not just that of DOT/PF.

Section 9. Changes definition of "commissioner" for the same reasons stated in the description of section 8.

Section 10. Defines "governing body" to mean, as appropriate, a city council, borough assembly, or one of the following entities that functions like a governing body in unincorporated communities: an IRA Council, a traditional village council, or a nonprofit community organization. The language for the definition was developed in consultation with the Department of Community & Regional Affairs. It will ensure local control of the program. In other words, the appropriate governing body decides whether or not art work will be included.

Section 11. Repeals the parts of existing law that provide for an exemption from the program and where the funding goes if the exemption applies. Since the bill creates an optional program, there is no longer need for an exemption.

Section 12. Provides for an immediate effective date.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
 Bill/Resolution No.: CS HB 519 (Rules)
 Title: Art in Public Places

FISCAL DETAIL
 Agency Affected: ALL
 Program Category Affected: _____

Sponsor: Adams
 Requestor: Adams
 Date of Request: 3/13/84

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Representative Al Adams *AAA* Phone: 465-3706
 Division: Sponsor, HB 519 Date: 3/13/84

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

§ 35.25.020

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§ 35.27.010

PUBLIC BUILDINGS AND WORKS

§ 35.27.020

Effect of amendment. — The 1977 "Department of Public Works" in amendment substituted "Department of Transportation and Public Facilities" for paragraphs (2) and (6).

Chapter 27. Art Works in Public Buildings and Facilities.

Section

10. Purpose

20. Art requirements for public buildings and facilities

30. Definitions

Sec. 35.27.010. Purpose. The state recognizes its responsibility to foster culture and the arts and the necessity for the viable development of its artists and craftsmen. The legislature declares it to be a state policy that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for state buildings and other public facilities. (§ 1 ch 54 SLA 1975)

Legislative history report. — For (Finance), see 1975 Senate Journal, p. report on ch. 54, SLA 1975 (CSHB 133 939).

Sec. 35.27.020. Art requirements for public buildings and facilities.

(a) A building or facility constructed after June 30, 1975, or remodeled or renovated after June 30, 1975, shall include works of art, including but not limited to sculptures, paintings, murals or objects relating to Native art.

(b) The department, before preparing plans and specifications for buildings and facilities, shall consult with the Alaska State Council on the Arts regarding the desirability of inclusion of works of art.

(c) At least one percent or, in the case of a rural school facility, at least ~~one-half of one percent of the construction cost of a building or facility approved for construction by the legislature after September 1, 1977,~~ will be reserved for the following purposes: the design, construction, mounting and administration of works of art in a school, office building, court building, vessel of the marine highway system, or other building or facility which is subject to substantial public use.

(d) A building or facility with an estimated construction cost of less than \$250,000 is exempt from the requirements of this chapter unless inclusion of works of art in the design and construction of the building or facility is specifically authorized by the department.

(e) The artist who executes these works of art shall be selected by the architect for the department with the approval of the department, after consultation with the Alaska State Council on the Arts and the principal user of the public buildings or facilities.

(f) The artist who executes these works of art in the public schools shall be selected by the superintendent of a school district in which a public school is to be built with the approval of the school board. Should the department find in the best interest of the state that the selection of the artist who executes these works of art by the superintendent may result in a cost overrun to the state or delay of construction, the department shall make the selection of the artist in consultation with the superintendent.

(g) The architect, superintendent, department, and the Alaska State Council on the Arts shall encourage the use of state cultural resources in these art works and the selection of Alaska resident artists for the commission of these art works. (§ 1 ch 54 SLA 1975; am §§ 1, 2 ch 96 SLA 1977; am §§ 1 — 4 ch 176 SLA 1980)

Cross reference. — For the responsibilities of the Alaska State Council on the Arts in the management of the Art in Public Places Fund, see AS 44.27.060.

Effect of amendments. — The 1977 amendment substituted "or, in the case of a rural school facility, at least one-half of one percent of the construction cost" for "of the overall construction cost" in subsection (c) and added subsections (f) and (g).

The 1980 amendment rewrote

subsections (a) and (d), substituted "buildings" for "public works" in subsection (b), and in subsection (c), substituted "September 1, 1977" for "the enactment date of this chapter," "a school, office building, court building, vessel of the marine highway system, or other" for "the public," deleted "public" preceding "facility" near the end of the subsection, and added "which is subject to substantial public use" at the end of the subsection.

Sec. 35.27.030. Definitions. In this chapter

(1) "department" means the Department of Transportation and Public Facilities;

(2) "building" or "facility" means a permanent improvement constructed by the department; the term

(A) includes, but is not limited to,

(i) schools, office buildings, and court buildings;

(ii) other buildings which the commissioner determines are designed for substantial public use;

(iii) boats and vessels of the marine highway system;

(iv) transportation facilities which accommodate traveling passengers;

(B) excludes other transportation facilities.

(3) "construction cost" is that cost expended for the actual construction of the facility, exclusive of the costs of land acquisition, site investigation, design services, administrative costs, equipment purchases and any other costs not specifically incurred within the construction contract or contracts awarded for the construction of the facility.

(4) "commissioner" means the commissioner of transportation and public facilities. (§ 1 ch 54 SLA 1975; am §§ 3, 4 ch 96 SLA 1977; am Executive Order No. 39, § 11 (1977); am §§ 5, 6 ch 176 SLA 1980)

§ 35.27.030

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§ 35.30.010

PUBLIC BUILDINGS AND WORKS

§ 35.30.010

Effect of amendments. — The first
1977 amendment inserted "schools, office
buildings, court buildings and other
facilities which are designed for
substantial public use" in paragraph (2)
and added paragraph (3).

The second 1977 amendment

substituted "Department of
Transportation and Public Facilities" for
"Department of Public Works" in
paragraph (1).

The 1980 amendment rewrote
paragraph (2), and added paragraph (4).

Chapter 30. Consistency with Local Government Plans and Ordinances.

Section	Section
10. Review and approval by local planning authorities	30. Waiver
20. Compliance with municipal ordinances	40. Definitions

Cross reference. — As to construction
procedures, see AS 35.15.010 et seq.

Sec. 35.30.010. Review and approval by local planning
authorities. (a) Except as provided in (b) of this section, before
commencing construction of a public project,

(1) if the project is located in a municipality, the department shall
submit the plans for the project to the planning commission of the
municipality for review and approval;

(2) if the project is located within two miles of a village, the
department shall submit the plans to the village council for review and
comment.

(b) Prior approval by a municipal planning commission may not be
required before the commencement of construction of a highway or
local service road if

(1) the Department of Transportation and Public Facilities and the
municipality have entered into agreement for the planning of the
project under AS 19.20.060 or 19.20.070 and the plans for the project
are completed in accordance with the terms of that agreement;

(2) the municipality has adopted a municipal master highway plan
under AS 19.20.080 and the highway or local service road is consistent
with the plan adopted; or

(3) the Department of Transportation and Public Facilities has
entered into agreement with the municipality for the planning of
transportation corridors under AS 19.10.280 and the plans for the
project are completed in accordance with the provisions of that
agreement.

(c) If final disapproval by resolution of the governing body of the
affected municipality or village is not received within 90 days from the

Secs. 44.25.030 — 44.25.038. Loan provisions generally; expiration of program.

Repealed by § 72 ch 113 SLA 1982, effective June 25, 1982.

Editor's notes. — The repealed article derived from § 1, ch. 190, SLA 1972.

Chapter 27. Department of Education.

Articles

2. Alaska State Council on the Arts (§ 44.27.060)

Article 2. Alaska State Council on the Arts.

Section

60. Art in public places fund

Editor's notes. — As enacted by § 4 of Executive Order No. 44 (1980), AS 44.27.041 — 44.27.058 were designated as AS 44.27.050 — 44.27.140 but were redesignated by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 44.27.060. Art in public places fund. (a) The art in public places fund is established. The council shall manage the fund.

(b) The commissioner of a department responsible for the design and construction of a building or facility shall deposit into the art in public places fund one percent of the construction cost of a building or facility if the building or facility is exempt from the requirements of AS 35.27 and the exemption is because

(1) the estimated construction cost of the building or facility is less than \$250,000; or

(2) the building or facility is not designed for substantial public use.

(c) The council may use the money in the art in public places fund

(1) to commission or purchase a work of art which is to be made a permanent part of, or placed on loan in, a building or facility owned or leased by the state which has substantial public use; and

(2) to meet expenses for a commissioned work of art for a building or facility which has substantial public use if the cost of the work of art exceeds the amount reserved under AS 35.27.020(c).

(d) In (c) of this section, "building" or "facility" means

(1) a building or facility of the state, as defined by AS 35.27.030(2), which is designed for and which is subject to substantial public use; and

(2) a building or facility which is leased by the state and subject to substantial public use. (§ 8 ch 176 SLA 1980; am § 97 ch 59 SLA 1982)

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June 25, 1982.

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Effect of amendments. — The 1982 "which" in the introductory language of
amendment, effective May 28, 1982, sub- subsection (b).
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Article 3. Alaska Historical Commission.

Editor's notes. — This article was was renumbered by the revisor of statutes
enacted as AS 44.27.040 — 44.27.120 but pursuant to AS 01.05.031(b).

Chapter 29. Department of Health and Social
Services.

Article

1. Organization (§ 44.29.020)

Article 1. Organization.

Section

20. Duties of department

Sec. 44.29.020. Duties of department. The Department of Health
and Social Services shall administer the state programs of public
health and social services, including:

- (1) maternal and child health services;
- (2) preventive medical services;
- (3) public health nursing services;
- (4) (repealed)
- (5) nutrition services;
- (6) health education;
- (7) laboratories;
- (8) mental health treatment and diagnosis;
- (9) management of state institutions;
- (10) medical facilities;
- (11) adult public assistance;
- (12) aid to families with dependent children;
- (13) Repealed by § 7 ch 138 SLA 1982;
- (14) child welfare services;
- (15) general relief;
- (16) licensing and supervision of child care facilities; and
- (17) probation and parole supervision. (§ 12 ch 64 SLA 1959; am § 3
ch 104 SLA 1971; am § 47 ch 71 SLA 1972; am Executive Order No.
51, § 41 (1981); am § 98 ch 59 SLA 1982; am § 7 ch 138 SLA 1982)

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RULES COMMITTEE MEETING

TUESDAY, APRIL 17, 1984

1. Call to order
2. Date and Time
3. Note members in attendance
4. The only bill on the agenda is HB 558, relating to the Local Service Roads and Trails Program.

The proposed Rules Committee CS for CSHB 558(CRA) amends the definition found on Page 3, lines 15 and 16. The Rules CS adds the words urban and interstate to the definition after the word "primary" to further clarify which federally designated highways are not eligible for local service roads and trails money.

When this bill left the C&RA Committee, a question was raised of whether the definition clearly excluded these types of federally designated routes. To avoid any future complication, the DOT/PF requested that the definition be clarified.

5. Mr. Charles Carrela of DOT/PF will be able to answer questions on the Rules Committee amendment.
6. Public comment. ~~Committee debate.~~ Request a motion to adopt CSHB 588(Rules).
7. Adjourn.

COMMITTEE REPORT

HOUSE

(7)

FURTHER:

4/4/84

Date: 4/17/84

The Committee on RULES has had HB 558

"An Act relating to local service roads and trails; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with HCS for HB 558 (Rules) same title
- and recommends Individual Recommendations new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Roll E. Bell D. Pass

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MEMBERS HAVING
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CHAIRMAN

HCR

32

HCR 32 TITLE & SPONSOR SUMMARY

11:38 4/26/83 PAGE 1 OF 2

AMENDED TITLE:

PROPOSING AMENDMENTS TO THE UNIFORM RULES CONCERNING COMMITTEE
MEETINGS AND SPONSOR SUBSTITUTES;
AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: FULLER.

CC-SPONSORS:

CURRENT STATUS: 4/20/83 IN (H) RULES

HCR 32 HOUSE ACTION

11:39 4/26/83 PAGE 2 OF 2

<u>DATE</u>	<u>SEQ</u>	<u>PAGE</u>	<u>LEGISLATIVE ACTION</u>
04/20/83	01	0945	FIRST READING -- COMMITTEE REPORTS RULES
*****	**	**	*** ** *

SECTIONAL ANALYSIS OF HCR 32, proposing amendments to the uniform rules concerning committee meetings and sponsor substitutes; and providing for an effective date.

SECTION 1: Amends Rule 23, regarding notification of meetings of standing committees.

23 (a) is amended to read that the weekly committee schedule is to be turned into the chief clerk or secretary by 3:00 pm rather than 4:00 pm each Thursday. This change is proposed to mesh with print shop deadlines.

The five-day notification for the first hearing on a bill or resolution is changed to 72 hours. This takes care of the problems experienced with giving adequate notice for a first hearing held on a Monday or Tuesday when the committee schedule is made up on the preceding Thursday.

Both the written notice in the weekly committee schedule and the new 72-hour first notification may be waived by a motion of the committee chairman if concurred in by a majority of the members. There currently is no workable provision in Rule 23 for waiving the notice in the weekly schedule turned in on Thursdays, so that there is no way to include new subject matter in a committee's weekly schedule.

23 (b) is amended to provide that changes in the time or place of a meeting shall be made either orally from the floor or in writing to the chief clerk or secretary. Written notice shall be given to the clerk or secretary at least 24 hours before the meeting. The rules would then provide that subject matter changes require a waiver, but time and place changes only require 24 hours written notice.

23 (c) is amended to state that a meeting may be postponed as well as cancelled at any time, consideration of the subject matter may be postponed or cancelled at any time, and notice of a postponement as well as a cancellation shall be given in the same manner as above if possible.

23 (d) is deleted. This provision has caused much confusion over when it actually is in effect. It states that, after a conference committee has been chosen on the budget, the above notification requirements do not apply, and committees need only give 24 hours notice for meetings. HCR 32 provides for the faster pace at the end of the session by allowing the chairman to move and ask unanimous consent that the notification under 23 (a) be waived, while at the same time requiring adherence as much as possible to standard notification requirements. This deletion keeps notification requirements consistent throughout the session.

23 (e) is amended to state that the above notification requirements do not apply during a special session, when time constraints may make it impractical to comply with the weekly schedule requirement.

23 (f) (4) is amended to state that committees shall, rather than may, make their minutes available to LAA for entry onto the state's computer system. This is consistent with present practice.

SECTION 2: Adds a new subsection to Rule 37 regarding sponsor substitutes. This was added to clear up confusion on the introduction of a sponsor substitute and its effect on the original bill or resolution.

37 (c) is added which states that the member who introduced a bill or resolution, or the prime sponsor of there are co-sponsors, may introduce a sponsor substitute any time before the measure is reported from the first committee of referral. The effect of introduction of a sponsor substitute is to withdraw the original measure. Introduction does not require consent of the members. Subject matter must be the same.

SECTION 3 provides for an immediate effective date.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
FD-425 (8-73)

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 8, 1983

SUBJECT: Notice requirements of Rule 23 of the Uniform Rules

TO: Senator Jan Faiks
Chairman, Senate Rules Committee

FROM: Billy G. Berrier
Director
Division of Legal Services

You have requested an analysis of the notice requirements under Rule 23 of the Uniform Rules of the Alaska State Legislature.

The relevant part of the Rule, paragraphs (a) through (e) provides:

"RULE 23. COMMITTEE MEETINGS. (a) Written notice of the time, place and subject matter of all meetings of standing, special, and joint committees during a week shall be provided by the person who chairs the committee to the chief clerk or secretary by 4:00 p.m. on the preceding Thursday. The person who chairs the committee to which a bill or resolution is first referred shall provide to the chief clerk or secretary written notice of the time and place of the first public hearing on the bill or resolution at least five days before the hearing. However, this requirement may be waived by motion of the person who chairs the committee to which a bill or resolution is first referred if concurred in by majority vote of the full membership of the house. The chief clerk or secretary shall publish and distribute copies of the weekly schedule of committee meetings and of the five-day notice of hearing.

"(b) The person who chairs a standing, special, or joint committee shall provide the chief clerk or secretary written notice of the change in the time, place or subject matter of a meeting. At the next daily

legislative session, notice of the schedule change shall be announced by the chief clerk or secretary and published as a notice in the journal of the house.

"(c) A scheduled meeting of a standing, special, or joint committee may be cancelled at any time. If possible, notice of the cancellation shall be given in the same manner as provided for notice of change in (b) of this rule.

"(d) The provisions of (a) and (b) of this rule do not apply to a standing, special, or joint committee meeting scheduled after the date a conference committee has been chosen to consider amendments to or differences between versions of the general appropriation act. However, a person who chairs a standing, special, or joint committee shall post written notice of the time, place and subject matter of a meeting at least 24 hours before the meeting.

"(e) The provisions of (a) - (d) of this rule do not apply to meetings of

(1) the Rules Committee when it meets for the purpose of preparing the daily calendar;

(2) the Committee on Committees referred to in Rule 1(e); or

(3) standing, special, or joint committees when the committee meets during the interim between sessions."

Paragraph (a) has two distinct notice requirements.

The first requirement is the written notice provided to the clerk or secretary by the Thursday preceding the meeting of the time, place and subject matter of all committee meetings during the succeeding week. This applies to all committee meetings and there is no provision for waiver of the requirement.

There is an additional requirement when the committee is the committee of first referral of a bill or resolution. In addition to the preceding Thursday notice, the person who chairs the committee must provide the clerk or secretary with a written notice of the first public hearing at least five days in advance. This rule would normally apply only

in the house of origin of the bill or resolution since normally the bill or resolution will go through the committee process before going to the second house. In my opinion the rule would apply to the next committee of referral if the committee of first reference waives referral since this waiver negates the reference in effect. The focus of the rule is the committee that holds the first public hearing, otherwise the rule would be meaningless. The five-day notice requirement may be waived by a majority vote of the full membership of a house.

Paragraph (b) requires the person chairing a committee to provide the clerk or secretary written notice of a change in the time, place or subject matter of a meeting. The change must be announced at the next legislative session and be published in the journal of the house. This paragraph would not allow the introduction of new subject matter since that would supersede the notice requirement of (a).

Paragraph (e) allows cancellation of a committee meeting at any time and provides, that where possible, the notice provisions in (b) relating to a change be followed.

Once a conference committee on a version of the general appropriation act has been chosen the notice requirements of (a) and (b) no longer apply. At that time the notice requirement in (d) comes into effect. This requires posting of written notice of the time, place and subject matter of a committee meeting 24 hours in advance of the meeting.

Paragraph (e) provides the notice requirements of the Rule do not apply to the Rules Committee when it meets for the purpose of preparing the daily calendar, to the Committee on Committees or to any committee meeting during the interim. The exception as to the Rules Committee would not apply where that committee was acting as a substantive committee of reference or otherwise acting on matters other than the calendar.

In summary Rule 23 has three distinct notice requirements. These are:

- (1) The written previous Thursday notice given to the clerk or secretary;

Senator Jan Faiks

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March 8, 1983

(2) The five-day notice which applies only to the first public hearing in the committee of first reference; and

(3) The 24-hour posting requirement which comes into effect only when the conference committee on the budget is chosen and which then supersedes the other requirements.

Each has specific application and distinct requirements as discussed above.

BGB:ljb

1/008

HJR

36

HOUSE RULES
STANDING COMMITTEE
May 3, 1983
8:30 a.m.

Members Present: Rep. Fuller, Chairman
Rep. Phillips, Vice-Chair
Rep. Hayes
Rep. Barnes
Rep. Tischer
Rep. M.M. Miller
Rep. M.W. Miller
Rep. Koponen
Rep. Larson

COMMITTEE CALENDAR

HB 209: "An Act placing emergency guards employed by the Department of Public Safety in exempt service."
HJR 36: Relating to the confirmation of justices and judges by the legislature.
HB 180: "An Act relating to eligibility for veterans' interest rates on loans made under the special mortgage loan purchase program (AS 18.56.098) by the Alaska Housing Finance Corporation."

WITNESS REGISTER

Rep. Bussell
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-4990/4991
Position Statement: Sponsor of HB 209; in favor of proposed amendment CS for HB 209 (Rls).

Cherie Shelley
Executive Director
Alaska Public Employees Association
340 N. Franklin St.
Juneau, Alaska 99801
586-2334
Position Statement: Against amendment placing Correctional Superintendents into exempt service.

Frank Rye
Director
Division of Personnel

Pouch C
Department of Administration
Juneau, Alaska 99811
465-4430
Position Statement: Against amendment placing Correctional
Superintendents into exempt service.

William H. Houston
Superintendent
Juneau Correctional Center
P.O. Box 309
Juneau, Alaska 99802
586-2871
Position Statement: Against amendment placing Correctional
Superintendents into exempt service.

Mary Halloran
Director
Division of Administration and Management
Pouch M
Juneau, Alaska 99811
465-2400
Position Statement: Proposed amendment to HB 209 placing youths
employed by Department of Natural Resources
in the youth employment - student intern
program in the exempt service.

Rep. Ward
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-4939/4985
Position Statement: Sponsor of HJR 36.

Rep. Liska
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-3732/3733
Position Statement: Sponsor of HB 180.

Michael Gay
Professional Assistant
Rep. Liska
Pouch V
Juneau, Alaska 99811
465-3732
Position Statement: Researched HB 180.

PREVIOUS ACTION

HB 209: 2/17/83 - First Reading.

Committee referrals - State Affairs, Finance and Rules Committees.

3/11/83 - Page 452 of House Journal:

State Affairs Committee Report; recommends it be replaced with CSHB 209 (SA); (placing emergency guards employed by the Department of Public Safety in the partially exempt service; eff. date) and reports it back as follows: Abood, Furnace, Larson, Cowdery and Shultz recommend do pass; Vaska and M.M. Miller have no recommendation.

A zero fiscal note was attached.

HB 209 was referred to the Finance Committee.

3/25/83 - Page 625 of House Journal:

Finance Committee Report; recommends it be replaced with CSHB 209 (Fin); (placing guards employed by the Department of Public Safety for emergencies in the partially exempt service; eff. date) and reports it back as follows: Adams, Pestinger, Flood, Lindauer, Ward, Duncan, Zharoff and Bettisworth recommends do pass.

A zero fiscal note was attached.

HB 209 was referred to the Rules Committee.

No previous action in Rules Committee.

HJR 36:

3/11/83/ - First Reading.

Committee Referrals - Judiciary and Rules Committees.

3/31/83 - Page 693 of House Journal:

Judiciary Committee Report; reports it back as follows: Bussell, Liska, Hayes and Barnes recommend do pass. Malone and Clocksin recommend do not pass. Wendte had no recommendation.

A zero fiscal note was attached.

HJR 36 was referred to the Rules Committee.

No previous action in Rules Committee.

HB 180:

2/9/83 - First Reading.

Committee Referrals - Loans, Finance and Rules Committee.

2/23/83 - Page 322 of House Journal.

Special Committee on State Loans Committee Report; recommends it do pass. Concurring; Uehling, Wendte, Koponen and Furnace.

A zero fiscal note was attached.

HB 180 was referred to the Finance Committee.

4/12/83 - Page 821 of House Journal.

Finance Committee Report; reports it back as follows; Adams, Pestinger, Flood, Ward, Hurlbert, Grussendorf, Martin and Bettisworth recommend do pass; Zharoff and Duncan have no recommendation.

HB 180 was referred to the Rules Committee.

No previous action in Rules Committee.

ACTION NARRATIVE

TAPE#1
Recording
Number 0002

Chairman Fuller called the meeting to order at 8:30 a.m. in the Butrovich and indicted the members present. Not present at the beginning of the meeting were Representatives Tischer, M.M. Miller and M.W. Miller, however, they arrived after the meeting started. Chairman Fuller announced the agenda for the meeting; HB 209, HJR 36 and HB 180. Rep. Bussell was called to testify on the first bill to be heard; HB 209.

Number 0041

Rep. Bussell explained his proposed amendment to CSHB 209. The "Executive Head" of Corrections is ultimately responsible for all actions, or inactions, taken by his Correctional Superintendents who are responsible for direct management of correctional institutions. The intent of this amendment is not to infer the impression that the Superintendents who

presently manage correctional institutions are not doing a good job. It is felt, however, if these positions are placed in the partially exempt service that timely implementation of new policies and directions will be assured. He felt that by placing Correctional Superintendents in the partially exempt service will enhance the coordination within Corrections and will contribute to an orderly and systematic implementation of new policies and directives leading to a comprehensive development of corrections within the state.

Rep. Phillips; does the Department of Health & Social Services support this amendment?

Rep. Bussell; I'm not sure, however, it is supported by Roger Endell, Director, Division of Adult Corrections. I can assure they are in complete compliance.

Chairman Fuller asked for any more witnesses.

Frank Raye, Director of the Division of Personnel, stated he had a quarrel with goals in terms of the desired end are having good employees. We are talking about Range 19 and 21 employees. You are removing a career ladder and allowing public employees to replace career employees. We need professionally trained qualified people. I talked with Mr. Endell about this, in regards to establishing minimum qualifications. Partially exempt removes requirements of professional qualifications.

Number 0241

Cherie Shelley, Executive Director of Alaska Public Employees Association, identified herself for the record. APEA is opposed to any amendments of HB 209 which would remove Correctional Superintendents, Department of Public Safety, from the Classified Service and place them in exempt service. She raised the following concerns regarding the proposed amendments:

Classified Service Employees are covered by Personnel Rules.

Correctional Superintendents currently are required to have specific employment requisites, this amendment would take away

employment requisites in a career field that is hazardous and working conditions that are stressful.

Exempt service employees are not covered by the Personnel Rules.

Appointees to exempt positions are not required to meet any standards of employment with regard to experience or education.

Ms. Shelley raised concerns about the positions becoming part of the political spoils system, they could then be hired or fired at will. If terminated they would not have recourse to due process which includes an objective review of the action. The career ladder would no longer reach from the level of corrections personnel to Correctional Superintendent. There would no longer be the opportunity for fair and equitable promotion for motivated and qualified staff personnel. In studying the State Personnel Act, the Blue Ribbon Commission has reviewed the issue of exempt, partially exempt and classified service. It has expressed concern regarding agencies whose employees might be more appropriately placed in the Classified Service and subject to the merit principle of employment. The Commission has urged that employees be moved to the Classified Service whenever possible.

The action contemplated by the Legislature is counter to the recommendations of the Commission. If there were problems within an institution the first person to go would be the Superintendent. This makes the opportunity to get qualified people hard.

Rep. Tischer; why are we calling this a political selection or appointment?

Ms. Shelley; because these positions now have to meet minimum qualifications to be hired. If an exempt service, no qualifications are needed to be hired. By making these positions exempt you are putting them in a political arena with Directors and Commissioners.

Rep. Tischer; I don't understand why a person would be fired unless they did not do their job.

Cherie Shelley; the superintendent is open for firing when he isn't the source of the problem at all. Mr. Houston can answer better, he is the Superintendent of Juneau Correctional Center.

Mr. Houston identifies himself for the record and stated that he had been involved in corrections for the past 23 years; as a Superintendent for 18 years and as Director of Corrections for 3. When I heard about this partially exempt service I became extremely concerned. These jobs are very demanding and require much experience.

Partially exempt service allows administration to place people in this position without experience. This could be detrimental to the public. He expressed concerns over the problems in overcrowding, etc., and when you look at the problems existing and the decisions made by these position are not always popular, they would always have been terminated hanging over their heads.

Number 0416

Rep. Tischer; I frankly don't see that it makes any difference at all if you are superintendent and you make an error and you and the boss can't work it out. Corrections is going to undergo tremendous change and has tremendous problems. I think the new director needs this latitude to align the appointment. This is just an additional tool to give him to make it better.

Number 0457

Mr. Houston; I feel this is a great mistake, this is a very tough and demanding job and you can't feel like your head is on the block after you make a decision. His retirement would be in jeopardy. Those people won't move up who are qualified. You can terminate people when they aren't doing their job, just document and take action if necessary.

Rep. Phillips to Rep. Bussell; who requested this? How did it get here?

Rep. Bussell; Rep. Tischer and I sat on budget committee to put together budget for Department of Corrections and we came up with this to try to make things better for them.

Rep. Phillips; I don't see an official request from the Department saying this is a good idea or group of people or personnel.

Number 0529

Rep. Barnes; legislation isn't always requested from someone. Its a fact that Anchorage has had very serious problems with escapes and in each instance the superintendents were someplace else.

Mr. Houston; institutions are boiling pots and I'm amazed there isn't a riot.

Rep. Barnes; someone isn't doing their job when there's a problem.

Mr. Houston; you can't be all things to all people. I have 46 staff I have to rely on getting work done through others. When there is negligence I can investigate but I can't be everywhere at once and I must rely on staff to a degree. I will be leaving the State and I am only here to give you my ideas.

Mr. Raye; if there is a need for positions to be put from one class to partially exempt service, there is a method individually, there are administrative procedures where it can be done on an individual basis.

Chairman Fuller; what's the pleasure of the committee for CSHB 209?

Number 0620

Rep. Tischer moved and asked unanimous to adopt CSHB 209.

Chairman Fuller; any objections? Hearing none, so moved. Any more witnesses?

Mary Halloran, Department of Natural Resources, Director, Division of Administration and Management. She wanted to add a new amendment which would place youths employed by DNR in the youth employment, student intern program in the exempt service. Without this amendment, she stated that the young people would be non-permanent employees. This amendment is proposed to insure that these people may be hired at minimum wage as proposed in the budget approved the House Finance, rather than at union wages. With the loss of federal funding, the payment set at the

minimum wage is no longer guaranteed.

Rep. Tischer; what age group are we talking about?

Ms. Halloran; ages 15 through 23.

Mr. Raye; I support this amendment, current statutes make it impossible to maintain state funding.

Chairman Fuller; what is the pleasure of the committee?

Rep. Hayes moved and asked unanimous consent that CSHB 209 (R1s) as amended be moved from Rules Committee.

Number 0695

Chairman Fuller; any objections? Hearing none, so moved.

Number 0699

HJR 36 was moved down on the agenda since the prime sponsor was not present to testify.

Number 0709

HB 180; relating to eligibility for veterans' interest rates on loans made under the special mortgage loan purchase program (AS 18.56.098) by the Alaska Housing Finance Corporation, was heard by the committee.

Number 0721

Rep. Liska, sponsor of the bill stated they found that under Alaska Housing Finance Corporation, non-veterans could qualify for a loan with no residency requirement and in our deal we submitted earlier not noted that the veterans interest rates on loans for veterans' widows required her to be a resident for one year. So, to bring it into line we have requested that on Page 1, delete Lines 19-29, Subsections (A) and (B) and on Page 2, Line 5, place a semicolon (;) after the word "state". Delete everything after the semicolon through the end of Line 6.

Rep. Phillips; you don't think one year residency will withstand a constitutional test?

Rep. Liska; we probably would lose it, a non-veteran doesn't need any residency requirement. We wanted to clean the bill up so veteran could be on the same status as

non-veterans.

Number 0790

Rep. M.M. Miller; a person comes up from the Lower '48 can qualify for the most generous loan in the country with no residency requirement. The state ends up putting more money into it than the person. Any veteran is already eligible for the most generous program in the United States. I would support the widow situation, but I question whether we want to give additional subsidy to anyone who steps off the plane. Anyone could come in, buy, sell out and get out two months later.

Number 0836

Rep. Liska; until we get residency problem solved we are going to have this problem. It is a very generous program. I would like to see 5 years as it used to be. Now we have a 30-day requirement in order to vote, so many things are on the chopping block now. This is one step until tested in courts.

Number 0903

Rep. Barnes; when military comes to get resident hunting and fishing licenses they have to be here a year. I don't believe you need to put amendments in this bill. You can defend a year in everything but voting. I think we can defend a year.

Rep. Hayes; I agree with Rep. Barnes.

Michael Day, Assistant to Rep. Liska stated they had a legal opinion from Attorney General's Office, one year residency requirement would not hold up in court. Thirty day requirement would be very difficult as well. That is why we came up with this date, the date of opinion, February 22, 1983.

Number 0964

Rep. Barnes; I would like to challenge this opinion, the Attorney General's Office is going too far even if we have to go to court on it.

Rep. Koponen; a year is not asking too much for this, I worry if we go to court and our Attorney General has those opinions we are in trouble.

Rep. Tischer; we don't have an Attorney General as yet, we do have that problem and give credence to opinion that comes from an

individual that doesn't hold a job yet.
Residency decisions get another opinion.

Rep. Hayes; I think a one year residency is supportable. I would not want to see legislature given in to anything less than one year.

Tape 1, Side B
Recording
Number 0001

Rep. Barnes; I would like to ask Rep. Liska to withdraw his amendment to this bill and keep the original and see if it won't stand up to a constitutional test.

Rep. Liska; we based our decision with the Attorney General's Office, I have no objection to withdrawing amendment.

Number 0118

Rep. Miller; I do not want it to go on the record that comments made by Rep. Tischer go unchallenged. We do have an Attorney General.

Rep. Phillips; if we go and pass as is without adopted amendments with no objection to it?

Number 0170

Chairman Fuller; if prime sponsor wishes to withdraw his amendments.

Rep. Phillips moved that HB 180 be passed out of committee with individual recommendations.

Number 0178

Chairman Fuller; no objections? Motion carried with individual recommendations.

Chairman Fuller announced HJR 36 and recognized Rep. Ward, sponsor of the resolution.

Rep. Ward; with this amendment we would have more public input. This legislation gives public input through confirmation in lieu of election of judges. Confirmation process would be able to put more validity into process of judicial system. I support this and think we need this and it is long overdue.

Rep. Ward said, recently the Supreme Court Judges may serve for three years with no input.

Number 0248

Rep. Hayes moved and asked unanimous consent that CSHJR 36 (Rls) be passed out of committee.

Rep. M.M. Miller; I object, Rules Committee Substitute is a slightly better way to go than previous bill, but I would not want anybody to think that I concur, I think it is in the worst public interest. Now I withdraw my objection.

Chairman Fuller; there is a motion before us to pass out Rules CSHJR 36.

Number 0250

No further objections, CSHJR 36 (Rls) was passed out of committee with individual recommendations.

No further business to come before the committee, Chairman Fuller adjourned the meeting at 9:34 a.m.



Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

Official Business

RULES COMMITTEE MEETING

May 3, 1983

8:30 am, Butrovich Room

AGENDA

- HB 209 "An Act placing emergency guards employed by the department of public safety in the exempt service."
- HJR 36 Relating to the confirmation of justices and judges by the legislature.
- HB 180 "An Act relating to eligibility for veterans' interest rates on loans made under the special mortgage loan purchase program (AS 18.56.098) by the Alaska Housing Finance Corporation."

COMMITTEE REPORT

HOUSE

3/31

Rules

(7)

FURTHER:

3/11/83

Date: 3-30-83

Mr. Speaker:

The Committee on JUDICIARY has had HJR 36

Relating to the confirmation of justices and judges by the legislature.

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

John J. Dwyer

Leo J. Hayes

Thomas J. Baker

Robert Russell

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Malone DO NOT PASS

Clarkin Do not pass

Ben Wendt NO REC.

Robert Russell
CHAIRMAN

HJR

42

COMMITTEE REPORT
HOUSE

(9)

FURTHER:

Date: May 23, 1983

Mr. Speaker:

The Committee on RULES has had HJR 42

Relating to the establishment of a sister state relationship
with Taiwan

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HJR 42 (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

Mr. Miller Do Pass
John Hayes
Frankie [unclear]
Tom Fuller
PROB & CLEO: D. [unclear]
Mr. [unclear]

MEMBERS HAVING
OTHER/RECOMMENDATIONS:

Attila [unclear] (6/26?)
Mr. [unclear] all REC

Tom Fuller
CHAIRMAN

HOUSE RULES
STANDING COMMITTEE
May 23, 1983
8:30 a.m.

BELTZ ROOM

Members Present: Rep. Fuller, Chairman
Rep. Phillips, Vice-Chair
Rep. Hayes
Rep. Barnes
Rep. Tischer
Rep. M.M. Miller
Rep. M.W. Miller
Rep. Koponen
Rep. Larson

COMMITTEE CALENDAR

HB 357 "An Act relating to the regulation of religious schools."
HJR 42 "Relating to the establishment of a sister state relationship with Taiwan."

WITNESS REGISTER

HB 357

Steve Hole

Department of Education

Pouch F

Juneau, Alaska 99811 - Phone 465-2890

Position Statement: Will testify if necessary.

Ed Essa, Aide

Representative Pestinger

Pouch V

Juneau, Alaska 99811 - Phone 465-3712

Position Statement: Made a comment on HB 357

Representative Peter Goll

Alaska State Legislature

Pouch V

Juneau, Alaska 99811 - Phone 465-4925

Position Statement: Concerned about health & safety in pre-elementary schools.

HJR 42

Representative Mitch Abood

Alaska State Legislature

Pouch V

Juneau, Alaska Phone 465-4947

(Previous Action)
Attached (on HB 357)
HJR 42

AMENDED TITLE:

AN ACT RELATING TO THE REGULATION OF RELICIOUS SCHOOLS

PRIME SPONSOR: FRITZ.

CO-SPONSORS: TISCHER, PESTINGER, FURNACE, WARD, FLOOD.

CURRENT STATUS: 5/19/83 IN (H) RULES

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/14/83	01	0861	FIRST READING -- COMMITTEE REPORTS
05/19/83	02	1426	HFSS -- CS05
05/19/83	03	1427	HESS F/NOTE EQUALS ZERO RULES
****	**	**	*** *** ***

AMENDED TITLE:

RELATING TO THE ESTABLISHMENT OF A SISTER STATE RELATIONSHIP WITH TAIWAN

PRIME SPONSOR: HAYES.

CO-SPONSORS: COWDERY.

CURRENT STATUS: 5/12/83 IN (H) RULES
HJR 42 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/07/83	01	0766	FIRST READING -- COMMITTEE REPORTS
05/12/83	02	1295	S.A. -- CS01, NR05
			RULES
****	**	**	*** *** ***

(17)

ACTION NARRATIVE

TAPE #1
Recording
Number 0002

Chairman Fuller called the meeting to order at 8:30 a.m. in the Beltz Room and indicated members present. Not present at the beginning of the meeting but arriving later were: Rep. Joe Hayes, Rep. Ramona Barnes and Rep. M.M. Miller. Rep. Fuller Announced agenda (HB 357 and HJR 42) and stated first on agenda was HB 357 - and that the prime sponsor Mae Tischer had an amendment to offer.

Tischer:
0042

The amendment to the Bill, HB 357 on Page 1, Line 16; would be the CS for 357 HESS - Each of these 4 is the same - after receive, insert direct. Mr. Hole just talked to me and indicated that he preferred a different language - if I may, Mr. Chairman, I would ask that he repeat that language.

Hole:

Introduces self and goes on to state that rather than using the word direct, to insert "and does not receive payments from the State or Federal Government."

Larson:

Why not does not receive "any"?

Tischer:

It is not as clear because in instances where, and I will give you an example that was brought up in our ~~committee~~ committee - in the Fairbanks School Districts the school district has a private school student leaving on a regular public school transportation route who asked if they could ride that school bus to the public school, get off, walk to the private school from there, so in other words that was an indirect assistance and the school district of Fairbanks has allowed that and if we say ~~well~~ we are not clarifying the word or the intent of this amendment. Being direct - meaning direct payment for pre-schooler and so forth.

Larson:

Maybe I could find what word "direct" is in order for a direct payment?

Tischer:
0132

In lay terms - direct payment means exchange of money from one hand to another.

Koponen:
0147

The situation is just not in Fairbanks. I think it has been found legal in that there is no payment, it is conceived of as a service which is available to all children, that is transportation, however, putting direct payments in place of any payments - I think would open it up to litigation because you have the cases where the state does provide tuition or similar payments to parents who can then use the money for day care assistance or the equivalent, or special ed. schools or classes of different kinds. It would then be transferred to the school and that would be a much more direct payment. I am sure we would see a suit which may tie up the entire intent of the bill. I would second Rep. Larson's motion to make it "any" payment form because the transportation is a separate issue and there is no transfer of payment.

Tischer: I don't think Mr. Larson made a motion; just a suggestion.

Larson: Maybe you are not familiar with the question - Community and Regional Affairs day care assistance - the person who is under this could probably qualify for day care assistance. Of course, the money goes to the parent then to the institution, is that considered direct or indirect payment?

Hole: Any financial assistance flows from either the state or federal government to the school and that school would not be exempt or would not be covered by this provision and would be subject to other existing regulations.

Phillips:
0206 So if a parent receives a certain amount of money for day care assistance that would not be considered a direct payment then?

Hole: The parent receives day care assistance - the money does not flow directly to the school and I don't see that that would impact the standing of that facility under this.

Phillips: Would this affect private schools such as Montessori Schools?

Hole: Mr. Chairman, No.

Phillips: Why are they so different - why aren't they included in here? They are under the same regulations.

Hole: I can't answer that, Mr. Chairman.

Essa: The crux of this legislation is the separation of church and state and that is why Montessori School doesn't fall under this. The bill directly addresses religious.

Larson: The only motion we had was put to Rep. Fuller by Rep. Tischer to insert the word direct. And of course, at that time, I suggested the word "any" but I did not make a motion to amend.

Tischer: In response to Randy's one about day care assistance, I believe the regulations at this time as far as day care payments are concerned - the municipal pay for day care of a child directly to the day care center - not to a parent.

Hayes: I just want to find out where we are on this bill.

Fuller:
0250 Rather than have the amendments - we have prepared a Rules Committee Substitute to speed it up.

Koponen:

I have been on the board of a religious school. There are currently only 3 sections that deal with religious schools - the old section that did require teachers to be certified was deleted in 1966. There is essentially one section that is permissive that allows the commissioner to give 8th grade diplomas. That is a matter of negotiation between school and commissioner. The section allowing the the transportation of pupils to non-public schools which makes no distinction between religious and other schools which I think is the crucial point that all pupils regardless of where they are going have a right to ride on transportation and the section that allows students to be in attendance at non-public schools not to be counted as absent. The current section is rather permissive - this legislation actually works into statutes a great many more restrictions into religious schools while freeing them under some. I think I would be afraid of the distinction between religious schools that are religious non-profit associations that are exempt from federal taxation and all other private schools. In other words, I feel that we are on shakey grounds on constitutional matters and we actually may be laying a greater burden on religious schools by attempting in this manner to deregulate them without deregulating other schools of the same class. That is the other private non-proprietary schools. I feel we should have had some opinions from constitutional attorneys, the Attorney General before we pass this legislation. X

Fuller:

I will entertain a motion to accept a committee substitute,

Tischer:

I move that the committee accept the Rules Committee Substitute for HB 357 and ask unanimous consent.

Fuller:

Hearing no objection - moved.

Tischer:

If you look at the language in this bill and insert the word "any" before word "direct" it would read that pre-elementary schools and nurseries operated by churches or other non-profit religious organizations that is exempt for federal taxation and doesn't receive any direct tax or state or federal funding means the same as does not receive direct state or federal funding so "any" if you will would be superfluous. I don't see any reason for putting it in there.

0373

Goll:

There are two points in here I think need to be addressed. It is very nice that the bill will help to facilitate religious schools activities - I think that is a well intentioned thing but I do not believe they would want to jeopardize public safety or health and I don't believe you want to create instructional In the Hess, CS, in this first section

continuing the departments authority and jurisdiction and endorsing the department. The Departments interest in the health life, safety, aspects of these facilities is that we would consider the language on Page 2 beginning at Line 10 as all the authority we need to make sure that those facilities meet applicable codes and that they receive proper physical examinations.

Phillips: So, in other words, [educational component] is not necessary because it is covered on this section you just cited right?

Hole: As long as that language remains on Page 2, we would see that the legislature does not intend the Dept. to cease this operation with respect to those particular aspects.

Fuller: On Line 13, does fire safety take care of Mr. Goll's fire safety apprehension about this?

Hole: I think so, but the Dept. is not responsible for enforcing fire safety codes so I can't speak for the fire marshall. But if they perceive it in the same fashion we do.

Goll: If this works out that way I would be happy. My concern is Page 1, Line 13, he refers to the fire marshall - the fire marshall is not a product of the DOE - its a separate institution. Here we have the Dept. of Health & Social Svcs. who supervise these schools, they are not supervising educational components, they are supervising other things like health and safety and we have specifically excluded pre-elementary schools, they are not included. As I say, if it is the feeling of the departments involved that they can enforce health and safety with this as is, I am perfectly happy. My concern is that the Department of Education does not have the ^{statute} responsible to deal with health and safety in preschools. I believe that is why the Dept of Health and Social Services is in the statutes. I would like to be corrected if I am wrong. If the DOE has statute authority to oversee health and safety in preschool, or am I going to call my school a day care center - who is going to make the decision? I am just concerned that health and safety in pre-elementary is covered.

Larson: That was my concern too - preschools.

Fischer: Those regulations for health and safety and building codes and so forth are enforced on a local level by municipalities and boroughs and assemblies and councils - so as far as health and safety and building is concerned those are local rather than state jurisdictions and the policing is done by local fire departments and so forth.

Koponen: True in Anch. and Juneau where boroughs have accepted by popular vote the power - in Fairbanks it does not - they do not wish to exercise health and welfare power and therefore it goes to the state.

XXXXXX
Goll: In the case of Haines, Klukwan or most of other communities in my district there is no co-op agreement between the fire department and public schools.

Tischer: That was not what I was trying to say, where local doesn't cover state does. I ask for correction.

Koponen: CS HB 357 - I would like to move a series of amendments - on Page 1, Line 15, Page 2, Line 8, Page 3, Line 29, Page 4, Line 10 - delete direct and insert any. And ask unanimous consent.

Fuller: After the vote - motion fails. Further amendments?

Koponen: ~~For the purpose of the bill~~ I would like to move to insert after operated (on Page 1, Line 14, Page 2, Line 6, Page 3, Line 27, Page 4, Line 8 delete word a church or other non-profit organization that is exempt for state and federal taxation and insert private non-profit organization organized under Alaska law.

Tischer: I believe that language would violate title of bill which speaks to regulation of religious schools only, and therefore, does not apply. We would have to change to many other things.

Phillips: I will amend the motion to include change of title which would include non-proprietory private schools and I think it would still be germane.

Fuller: Are you amending the amendment?

Phillips: Yes.

0038

Objection voiced by Tischer and Barnes.

Barnes: This bill, I believe makes a constitutional challenge as it is written and I think you can make the bill unconstitutional by adding words to it and I believe that this bill specifically deals with schools that are exempt under the church and other non-profit statutes - Fed. tax code, because of religious affiliations and I believe that by adding to it you have left some out and it would be discriminating against some schools.

Phillips: With just only religious or non-profit religious organizations schools and leaving out other private schools, that are not necessarily religious nature I just think that if you are going to set rules it should go across the board for everybody - not just select group of people. I am not a lawyer but we may have the affect the former speaker just talked about.

Phillips: Amendment to amendment would on Page 1, Line 6 after word 'the' put the regulations of, non-proprietory private schools that way you would not only include religious schools under same rules and regulations and statutes would be exempt from state law. I move adoption of amendment.

Fuller: After the vote, ~~motion~~ amendment to amendment fails.

0110

Fuller:

That brings us back to the original amendment - do you want to state your amendment Mr. Koponen.

Koponen:

I move to insert after operated - (Page 1, Line 14, Page 2, Line 6, Page 3, Line 27, Page 4, Line 8 delete word a church or other non-profit organization that is exempt for state and federal taxation and insert private non-profit organization organized under Alaska law and ask unanimous consent.

0131

After a vote, amendment fails.

Phillips:

Question to Steve Hole DOE - on Page 4, Line 11, Sec. 8. AS 14.45.020 which we are repealing. ~~XXXXXXXXXXXXXXXXXXXX~~
Does Dept. have any position on this?

Hole:

The Dept. has not issued diplomas under that section since I have been with the Dept. No problems.

Hayes:

I would like to make a motion that the Rules CS HB 357 be moved out with individual recommendations and ask unanimous consent.

0193

HJR 42

Fuller:

Hearing none, so moved. We will move to the next item on agenda, HJR 42. Here to testify is Rep. Mitch Abood.

Abood:

Identifies self for record...I would like to offer an amendment to it if I may, on Line 11, Page 1,...

Hayes:

I move and ask that Rules CS be adopted and ask unanimous consent, with individual recommendations.

Abood:

The State Affairs Committee was in contact with Senator Stevens, Congressional delegation and state department and this is in such a way it does not affect the Aisle of China or Taiwan, this covers all the people this way, ~~not all the people of Alaska~~ ~~of Alaska~~

Larson:

Proposed motion that Alaskans be changed to WHEREAS the people of Alaska".

Fuller:

After a vote, motion fails.

Rules CS HJR 42 is then moved out of Committee with individual recommendations.

Josephson
5/16/83-

Original sponsors: Paves and Cowdery

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE JOINT RESOLUTION NO. 42 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 Relating to the establishment of a
6 sister state relationship with Taiwan.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS the people of Taiwan have developed a prosperous and success-
9 ful free economy while surmounting great difficulties; and

10 WHEREAS Alaskans share the same spirit and economic goals as the
11 people of Taiwan; and [TAIWANESE]

12 WHEREAS the people-to-people program initiated by President Eisenhower
13 in 1956, was designed to bring the people of the world closer together in
14 the interest of peace; and

15 WHEREAS the City of Fairbanks has had a sister city relationship with
16 the City of Tainan, Taiwan since August 1982; and

17 WHEREAS the people of Taiwan have established themselves as great
18 producers of products sold in the world market; and

19 WHEREAS Alaska is the source of many of the raw materials required for
20 those products; and

21 WHEREAS a sister state relationship with strong economic ties is in
22 the mutual interest of Taiwan and Alaska;

23 BE IT RESOLVED by the Alaska State Legislature that an invitation be
24 extended to the people of Taiwan through their Provincial Legislature to be
25 a sister state with the State of Alaska, with strong social, educational,
26 economic, and cultural exchange programs; and be it

27 FURTHER RESOLVED that the people of Alaska and Taiwan should work
28 closely together to improve international goodwill and understanding.

29 COPIES of this resolution shall be sent to Mr. Teng-hui Lee, Governor

1 of Taiwan and to Yu-jen Kao, Speaker of the Provincial Legislature of
2 Taiwan; and to the Honorable Ted Stevens and the Honorable Frank Murkowski,
3 U.S. Senators, and the Honorable Don Young, U.S. Representative, members of
4 the Alaska delegation in Congress.
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SCHOOLS
RELIGIOUS SCHOOLS

HB 357/ Regulation of Religious Schools

SPONSORS: Fritz, Tischer, Pestinger, Furnace, Ward, Flood.

INTRODUCED: April 14; referred to HESS.

INTENT: Relates to the regulation of religious schools: Would require the Department of Education to exclude from general supervision pre-schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding (amends AS 14.07.020(8), Duties of the Department of Education). Compulsory attendance laws would not apply if a child is provided an academic education comparable to that offered by the public schools in the area, either by attendance in an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding (amend AS 14.30.010, Pupils and Educational Programs for Pupils. When Attendance Compulsory).

The Commissioner of Education may furnish exam questions for and grant diplomas to eighth grade pupils in private schools not operated by a church or other nonprofit organization that is exempt from federal taxation and does not receive state or federal funding (amends AS 14.45.020, Commissioner May Furnish Examination Question for and grant Diplomas to Eight Grade Pupils -- currently allow the commissioner to furnish exam questions and grant eight grade pupils in private and denominational schools).

Would require teachers and others in charge of private schools not operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding to make monthly attendance reports and annual reports to the commissioner of education in the same manner as teachers and superintendants in the public schools (amends AS 14.45.030, Private and Denomination Schools, Attendance and Annual Reports Required -- currently requires teachers and others in charge of private or denominational schools to make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.)

Would not require the Department of Education to administer the state's program of education for an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding (amends AS 44.27.020 Dept. of Education. Duties of the Department -- currently the Dept. is not responsible for administration of the state's program of education for degree programs of postsecondary education -- no mention of religious educational programs). No effective date.

**HESS Committee action???

Rules Committee meeting at 8:30 AM Monday, May 23 on this legislation prior to it being on House Floor. I have attached a copy of the Rules CS.

S

B

G

7



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

RULES COMMITTEE MEETING AGENDA

MARCH 28, 1984 8:30 a.m. Cap. Rm. 118

- CSSB 67(L&C)am - "An Act relating to the relocation of utility facilities incident to the construction of highway projects by a municipality; and providing for an effective date."
- CSHB 551(Fin) - "An Act relating to big game management; and providing for an effective date."



Official Business

Alaska State Legislature

House of Representatives

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Phone:
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FILE INDEX

CSSB 67(L&C)am

- I. Proposed Rules CS for CSSB 67(L&C)am
- II. House CS for CS for Senate Bill 67 (L&C)am
- III. Legislative Reporting Service

Utility
Facilities
(relocation of
by munic.)

SENATE BILL NO. 67, by the Labor & Commerce Committee.
Would grant municipalities the authority to order a utility to relocate its facility if necessary for construction of a highway project. Would allow a municipality to order relocation of utility facilities that are located "across, along, over, under, or within a right-of-way under its jurisdiction." The order must provide a reasonable time for compliance. Costs of relocation would be considered a cost of highway construction to be paid by the municipality.

The state is granted the power to relocate utility facilities under AS 19.25.020 (Relocation of utilities incident to highway projects). That section is amended by the bill to include municipalities.

Also amends AS 19.25.240 (Summary Removal) to allow municipalities to remove at any time from a highway or road under its jurisdiction an encroachment that obstructs or prevents the use of the highway or road by the public. Currently the section only grants that power to the state.

Sec. 5 of the bill states that a municipality is not obligated for utility facility relocation costs associated with a highway project for which general obligation bonds have been approved or for which state general fund appropriations have been received before the effective date of the bill.

Effective July 1, 1983.

Introduced January 25 and referred to Labor & Commerce and Community & Regional Affairs.

Utility
Facilities
(relocation of
by munic.)

SENATE BILL NO. 67, (see page 73). Reported back to the Senate on March 4 by Labor & Commerce with a majority of the committee recommending it be replaced with Labor & Commerce Committee Substitute and that it do pass. Concurring: Eliason (Chmn.), Mulcahy, Sackett and Rodey. To Community & Regional Affairs.

Labor & Commerce CS further amends AS 19.25.020(c) by adding the following language: "except that a municipality is not obligated to pay the cost of relocation of utility facilities that are not located in a municipal right-of-way under the conditions of a valid easement or permit." Remainder identical to original bill.

Utility
Facilities
(reloc. by
munic.)

SENATE BILL NO. 67, (see pages 73;243). Reported back to the Senate on March 30 by Community & Regional Affairs with the committee recommending as follows: Ferguson (Chmn.) and Sackett signed "no recommendation"; Halford signed "do pass." To Rules.

Utility
Facilities
(reloc. by
munic.)

CS FOR SENATE BILL NO. 67 (L&C)(AMENDED), (see pages 73;243;
408;538). On April 11 the Labor & Commerce CS was adopted.
Am. No. 1 by Gilman was adopted, 17-1-2. Nays: Ray.
The amendment adds new Sec. 5 to the bill:

* Sec. 5. A.S. 19.45.001(4) is amended to read:

(4) "cost of change, relocation, or removal" means the entire cost incurred by the utility properly attributed to the change, relocation, or removal of a facility, less any costs for improvements or upgrading over and above the cost of a functionally equal facility; if a facility is to be relocated and replaced with new equipment, there shall also be subtracted from the entire cost any salvage value derived from the old facility; if a facility's service life is extended by the work done to change or relocate it, a percentage equal to the percentage of extension of the facility's service life shall be subtracted from the cost;

Renumber the following sections accordingly.

The bill then passed, 17-1-2. Nays: Gilman. Absent: Josephson, Rodey. The effective date was adopted.

Utility
Facilities
(reloc. by
munic.)

CS FOR SENATE BILL NO. 67 (L&C)(AMENDED), (see pages 73;243;
408;519). Received in the House on April 12 and referred to
Community & Regional Affairs and Labor & Commerce.

Utility
Facilities
(reloc. by
munic.)

CS FOR SENATE BILL NO. 67 (L&C)(AMENDED), (see pages 73;243;
408;519;538). Reported back to the House on May 11 by
Community & Regional Affairs recommending it be replaced with
House Committee Substitute (C&RA) and reported back as follows:
Lacher, Chairman, recommended "do not pass, see letter"; Fritz and
McBride recommended do not pass; Clocksin recommended do pass;
Phillips and Tischer had no recommendation. To Labor & Commerce.
The Chairman's report is as follows:

A majority of the House Committee on Community and Regional Affairs oppose HCSCSSB 67 (C&RA). The provisions of HCSCSSB 67 (C&RA) changes the historical relationship between utility companies and municipalities in matters pertaining to the use of public rights-of-way and streets by various utility companies. Present Alaska Statutes require municipalities to allow utility companies to use the public right-of-way and thereby avoid the expense of securing easements from private property owners. The proposed legislation is designed to further benefit the utilities by requiring municipalities to pay the costs of relocating the utilities when the relocation is incident to a municipal street project. The requirement for municipalities to bear the burden of the relocation costs is contrary to practices established in common law and contrary to procedures used throughout the United States. Imposition of such costs would amount to a public subsidy of private profit-making ventures as well as for private non-profit utility companies.

Enactment of any legislation that would require municipalities to pay utility relocation costs will not, in the long run, reduce operating costs for utilities but in all probability will increase costs to the utilities. Municipalities will undoubtedly be highly restrictive in the conditions of future permits for the installation of utilities and will begin to charge maximum fees for the use of the public right-of-way as opposed to the general practice of providing use at no charge.

The Committee has found that municipalities are fair and reasonable in their relationships with utilities, and that the particular needs of each type of utility is considered when negotiations for the use of a public right-of-way are

costs is insured by the availability of arbitration and redress provided by the Alaska Public Utilities Commission. The considerable diversity of types and purposes of profitable private and of non-profit utility companies further reinforces the Committee's belief that the allocation of utility relocation costs can best be negotiated on the local governmental level, on a case by case basis.

In summary, the Committee believes that the proposed legislation is an unnecessary and unwarranted usurpation of local governmental authority which may have an adverse monetary effect on the utility consumer and the municipal tax payer. Therefore, any attempt to legislatively interfere with the existing relationships between municipalities and utility companies should not be favorably considered.

The House C&RA CS makes the following changes:

--Instead of amending portions of AS 19.25 to provide for assumption by municipalities of costs of moving utility facilities, the House C&RA version adds new sections to the Municipal Code (AS 29) which accomplish the same result.

--Changes effective date from July 1, 1983 to January 1, 1984.

--Changes wording of section on payment of the cost of moving utility facilities: "The cost of change, relocation, or removal . . . is a cost of road or highway construction to be paid by the (1) municipality or the utility according to the terms of a franchise, permit, or agreement in effect on January 1, 1984, if the facility is located under the conditions stated in the franchise permit or agreement; (2) municipality or the utility according to the terms of a permit issued by the municipality after January 1, 1984, for a new or existing facility if the facility is located under the conditions stated in the permit; or (3) utility if the facility is located without a permit or under a permit that does not provide for allocation of relocation costs, or if the location is not in accordance with the conditions stated in an applicable permit."

--Adds to definition of "cost of change, relocation, or removal": "the service life of a facility may be determined by the municipality and may be based on the utility depreciation schedule for taxation or rate-setting purposes." (If service life of facility is extended by relocation, a percentage equal to the percentage of extension of the facility's service life is subtracted from the cost payable by the municipality to move the facility.)

--Adds definition of "encroachment" (if utility not changed, relocated or removed in accordance with a municipal order, the facility becomes an unauthorized encroachment and may be disposed of by the municipality). States that encroachment means and includes "a tower, pole, pole line, pipe, pipeline, driveway, private road, fence, billboard, stand or building, or a structure or object of any kind that is or has been placed in, on, under or over a portion of a road or highway."

--Adds definition of "utility" to include: "railroads and all publicly, privately, or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, telecommunications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, and other similar commodities, including publicly owned fire and police signal systems and street lighting systems."

Utility
Facilities
(relocation by
municipality)

CS FOR SENATE BILL NO. 67 (L&C)(AM). (see pages 73;243;408; 519;538;754, 1983 report). Reported back to the House February 22 by Labor & Commerce recommending it be replaced with a House L&C substitute and that it do pass. Concurring: Cowdery (Chair), Ringstad, Furnace and Pestinger. Not concurring: Uehling had no recommendation. To Rules.

Labor & Commerce completely rewrites the bill, and their version would:

--amends state statutes relating to the protection and use of state highways and roads, relocation of utilities incident to highway projects (AS 19.25.020) to allow a municipality to order a utility facility that is located across, along, over, under, or within a right-of-way under its jurisdiction to be changed, relocated or removed (currently only the state is allowed to relocate utility facilities under this section). The municipality would have the authority to dispose of the utility facility if it is not changed, relocated or removed in accordance with the order, and the owner of the facility would be responsible for indemnifying the municipality for any amount the municipality may be liable to a contractor by reason of the encroachment. The cost of the change, etc., necessitated by highway construction, is a cost to be paid by the municipality, except that it would not be obligated to pay the cost of relocation of utility facilities that are located in a municipal right-of-way unless ". . . (1) the facilities have been placed in the municipal right-of-way under a valid easement or permit; or (2) the facilities were placed in the municipal right-of-way before the municipality had a system for granting easements or permits for utility facilities."

--Amends section of AS 19.25 relating to summary removal (sec. 240) to include municipalities: "The department or a municipality may at any time remove from a [state] highway or road under its jurisdiction an encroachment that [which] obstructs or prevents the use of the highway or road by the public."

--amends definition section of AS 19.45 (Highways and Ferries. Miscellaneous Provisions), definition of "cost of change, relocation, or removal" by adding language that states: ". . . if a facility's service life is extended by the work done to change or relocate it, a percentage equal to the percentage of extension of the facility's service life shall be subtracted from the cost."

--section 6 of the bill states "A municipality is not obligated for utility facility relocation costs associated with a highway project for which general obligation bonds have been approved or for which state general fund appropriations have been received before the effective date of this Act."

--provides Act takes effect July 1, 1984.



Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

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Official Business

FILE INDEX

CSHB 551 (Fin)

- I. Proposed Rules CS for CSHB 551 (Fin)
- II. CSHB 551 (Fin)
- III. CSHB 551 (Resources)

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8

(SB

152

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AGENDA

JUNE 18, 1983

BUTROVICH ROOM

CSSB 152 (Fin)

Creating the office of management
and budget.

CSSB 108 (Res)

Establishing the Tanana Valley
State Forest.

SB 108 Establishing the Tanana Valley State Forest and a program
 for the management of state forests and forest land

Our purpose in hearing this bill is to consider an amendment proposed by Rep. Hurlbert to be incorporated into a Rules committee substitute. The amendment reinserts into the bill language deleted in House Resources regarding forest land near Minto. When Resources heard the bill, it was thought that this land had high agricultural potential, but the department of natural resources has determined that it does not.

Along with the amendment, your files contain an explanation of the addition, a map of the proposed inclusion, and a letter from the commissioner of DNR regarding the agricultural potential of the area.

ALSO: Rep. Shultz has an amendment he would like to make.

Motion: Adopt the amendments (Hurlbert and Shultz) and incorporate them into a Rules committee substitute.

COMMITTEE REPORT

HOUSE

FURTHER:

(9)

Date: June 18, 1983

Mr. Speaker:

The Committee on RULES has had CSSB 108 (Res)

"An Act establishing the Tanana Valley State Forest and a program for the management of state forests and forest land of the state; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^HCS for CSSB 108 (RIS) 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

Alvin Korman

M.W. Miller Do Pass

John Miller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Roll & Bell No Rec

W. H. ... Do Pass if Amended

Ronald L. ... No Rec

... - No Rec

... No Rec

John B. ...
CHAIRMAN

Hurlbert

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Hurlbert

To: HCS CSSB 108 (Fin) HOUSE BILL No. _____

SENATE BILL No. 108

PAGE: _____

LINE: _____

Page 6, lines 28-29

Delete present language and insert, Sections 17-20

Page 7, lines 1-4

Delete present language and insert, Sections 29-34
Section 35, W1/2

Page 7, lines 6-7

Delete present language and insert, Sections 13-36

Page 7, lines 9-10

Delete present language and insert, Sections 13-36

Page 18, lines 11-16

Delete present language and insert, Sections 3-10
Sections 15-22
Sections 27-34

Page 18, lines 18-19

Delete present language and insert, Sections 1-6

Page 18, lines 21-24

Delete present language and insert, Sections 1-24
Sections 27-34

Page 20, lines 3-4

Delete present language and insert, Section 6

Page 20, lines 6-9

Delete present language and insert, Sections 1-24
Sections 27-34

Renumber remaining lines accordingly.

HCS CSSB 108 (Fin)
ESTABLISHING THE TANANA VALLEY STATE FOREST AND A PROGRAM FOR
THE MANAGEMENT OF STATE FORESTS AND FOREST LAND OF THE STATE.

PROPOSED AMENDMENT

RATIONALE:

THE AMENDMENT WOULD ADD APPROXIMATELY 55,000 ACRES OF LAND TO THE TANANA VALLEY STATE FOREST ALONG THE TANANA RIVER NEAR MINTO. THIS WOULD RESTORE THAT UNIT OF THE FOREST TO THE ACREAGE CONTAINED IN THE SENATE-PASSED BILL.

THIS SECTION OF THE STATE FOREST WAS REPORTEDLY DELETED FROM THE ORIGINAL SB 108 BECAUSE OF THE HIGH AGRICULTURAL POTENTIAL OF THE AREA. A SOILS SURVEY HAS BEEN COMPLETED FOR THIS AREA BY THE DIVISION OF AGRICULTURE AND THEY HAVE CONCLUDED THAT ALTHOUGH AG. SOILS ARE PRESENT (CLASS II AND III), THEY ARE PATCHY AND SHALLOW, PERMAFROST IS PRESENT, AND THE LANDS ARE SUBJECT TO ANNUAL FLOODING. THEY RECOMMENDED THAT THE AREA NOT BE CLASSIFIED FOR AGRICULTURE. THE WHITE SPRUCE IS OF COMMERCIAL VALUE AND THERE HAS BEEN A REQUEST FOR A LONG-TERM TIMBER SALE IN THE AREA. THE UNIT IS STRONGLY SUPPORTED BY LOCAL RESIDENTS FOR INCLUSION IN THE STATE FOREST.

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE: 465-2400

May 27, 1983

The Honorable Bettye Fahrenkamp
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

You requested information about the agricultural potential of the Minto deletion from SB 108.

As you know, this area of 73,760 acres is located near the proposed Nenana-Tochaket Agricultural Project. Based on the soils surveys which are now completed for this area, the Division of Agriculture does not recommend that this area be classified for agriculture. Although the soils surveys show some Class II and III soils present, they are patchy and shallow. In addition, it is a permafrost area and subject to annual flooding. On the other hand, the area sustains one of the better white spruce stands within the proposed Tanana Valley State Forest.

If you have any additional questions, please call my office.

Sincerely,



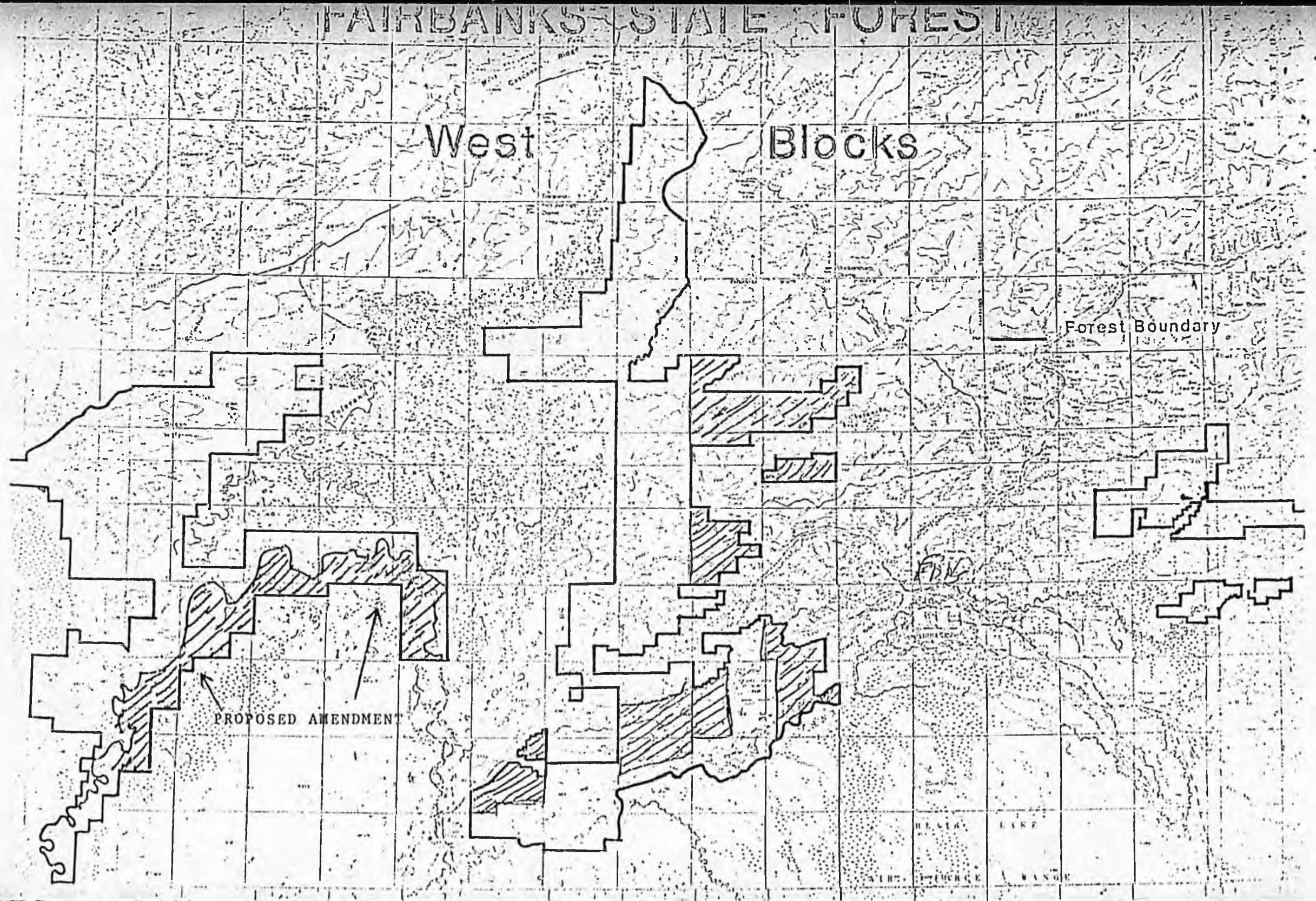
Esther C. Wunnicke
Commissioner

FAIRBANKS STATE FOREST

West Blocks

Forest Boundary

PROPOSED AMENDMENT



Koponen

HOUSE CS for CS for SB 108 ESTABLISHING THE TANANA VALLEY STATE FOREST AND A PROGRAM FOR THE MANAGEMENT OF STATE FORESTS AND FOREST LAND OF THE STATE.

PROPOSED AMENDMENT

In Section 3 in the appropriate place amend the legal descriptions to include the following state lands or waters:

Township 1 South, Range 3 West, Fairbanks Meridian

- ✓ Section 26, S $\frac{1}{2}$ south of Parks Highway
- Sections 27-28, south of Parks Highway
- Section 29, west of Old Nenana Highway and south of Parks Highway
- Sections 31-34, south of Parks Highway
- Section 35

Township 2 South, Range 3 West, Fairbanks Meridian

- ✓ Section 2, N $\frac{1}{2}$, Tract F, ASLS 80-118
- ✓ Sections 3-5
- Sections 8-10
- Section 13, Lots A and C
- Section 14, Lots 5-7, NE $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 15, west of left limit of Tanana River
- Sections 16-17

Township 2 South, Range 4 West, Fairbanks Meridian

- ✓ Section 4, S $\frac{1}{2}$, NE $\frac{1}{4}$
- Section 8, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$
- Section 9
- Sections 16-21
- Sections 28-33

Township 2 South, Range 5 West, Fairbanks Meridian

- ✓ Sections 23-36

Township 3 South, Range 5 West, Fairbanks Meridian

- ✓ Sections 2-5
- Section 6, S $\frac{1}{2}$ S $\frac{1}{2}$
- Sections 7-10
- Section 16
- Section 17, north of right limit of Tanana River, excl. SW $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 18, north of right limit of Tanana River, excl. SE $\frac{1}{4}$ SE $\frac{1}{4}$

Township 3 South, Range 7 West, Fairbanks Meridian

- Section 1
- Section 2, E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 3, SE $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 9, south of Parks Highway
- ✓ Section 10, that portion of NE $\frac{1}{4}$ which lies south of Parks Highway; SW $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 11, N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$
- Section 12, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$
- Section 13, SW $\frac{1}{4}$
- Section 14, S $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$
- Section 15
- Sections 16-17, south of Parks Highway
- Section 20, south of Parks Highway
- Sections 21-32

Nenana Ridge Amendment

The amendment would add back approximately 50,000 acres of state land which were included in the Senate-passed bill, but were deleted in the House Resources Committee.

The area lies generally along the Parks Highway west of Fairbanks in a subunit of the proposed Tanana Valley State Forest known as the Nenana Ridge. This area contains some of the best stands of both spruce and hardwoods in the proposed forest and is the most accessible forest area to the Fairbanks urban area.

Wood products in this area are estimated to be 600,000 board feet of sawtimber annually and 4,260 cut cords of hardwoods annually.

The area is also used as a popular hunting and recreation area.

The amendment does not include approximately 1500 acres of state land north of the Parks Highway and west of the Old Nenana Highway located nearest to Fairbanks. This area was not included as it is in the Senate-passed bill to permit possible disposal and development of this area for housing and other private uses.

West Blocks

Forest Boundary



DELETIONS MADE ON HOUSE RESOURCES

PROPOSED AMENDMENT
(ADD BASE LINES)

BROWN STATE FOREST

FAIRBANKS

NEVADA

Amendment to HCS CSSB 108 (Finance)

by Shultz

Add all state lands within the following townships:

Township 20 North, Range 10 East, Copper River Meridian

Township 21 North, Range 9 East, Copper River Meridian

Township 22 North, Range 9 East, Copper River Meridian






Township 23 North, Range 8 East, Copper River Meridian

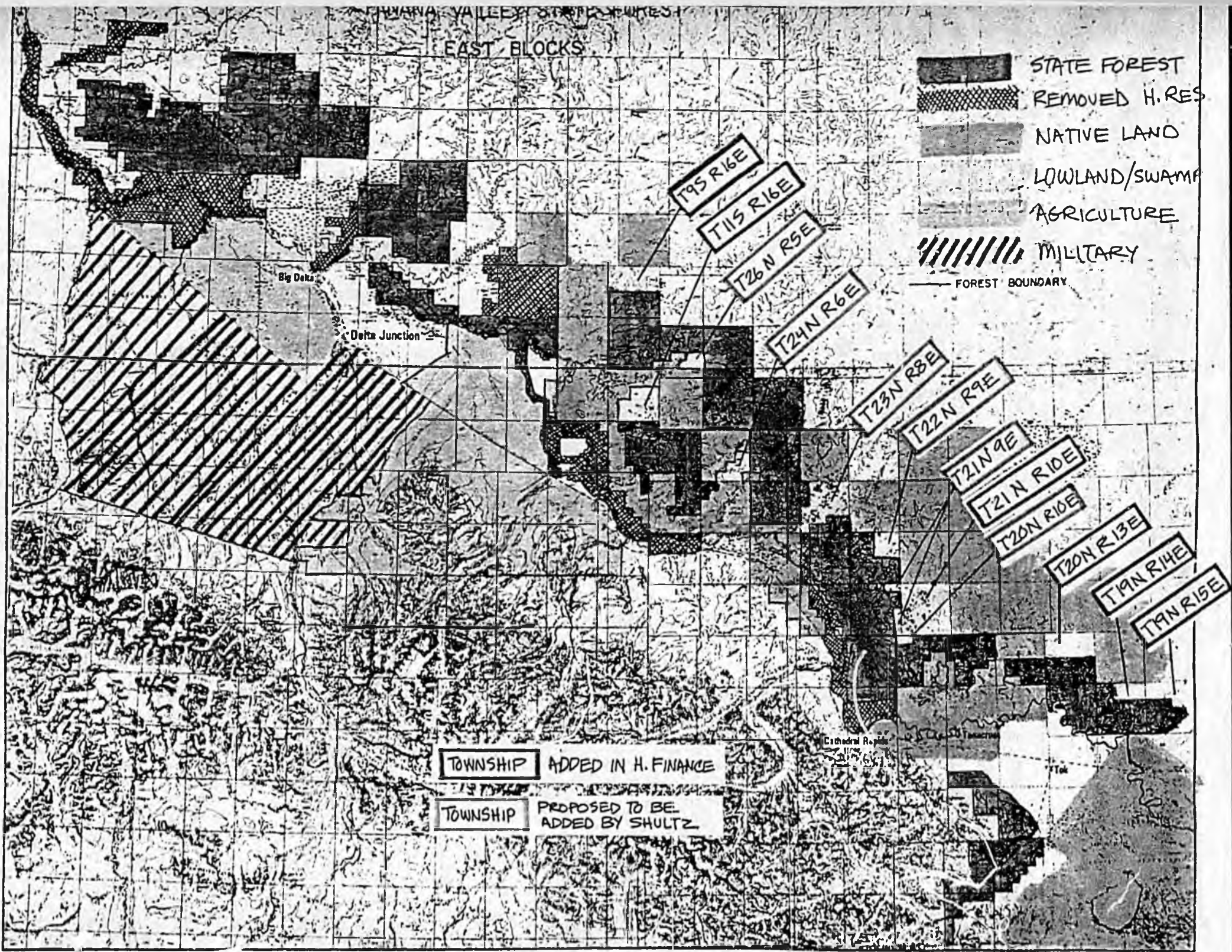
Township 24 North, Range 6 East, Copper River Meridian

Township 26 North, Range 5 East, Copper River Meridian

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY
TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT
IN THE ALASKA STATE ARCHIVES

EAST BLOCKS

-  STATE FOREST
-  REMOVED H. RES.
-  NATIVE LAND
-  LOWLAND/SWAMP
-  AGRICULTURE
-  MILITARY
-  FOREST BOUNDARY



T95 R16E

T115 R16E

T26 N R5E

T24N R6E

T23N R8E

T22N R9E

T21N 9E

T21 N R10E

T20N R10E

T20N R13E

T19N R14E

T19N R15E

TOWNSHIP ADDED IN H. FINANCE

TOWNSHIP PROPOSED TO BE ADDED BY SHULTZ

Big Delta

Delta Junction

Cathedral Rapids

AMENDMENT

OFFERED IN THE HOUSE:

By: Fuller

To: _____ HOUSE BILL No. _____

HCS CSSB SENATE BILL No. 152 (R13)

PAGE: _____

LINE: _____

Page 1, line 15: DELETE "the institute of social and
economic research,"

Page 1, line 21: DELETE ", as well as the institute
of social and economic research,"

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 28, 1983

SUBJECT: Office of Management and Budget
(CSSB 152 (Finance))

TO: Representative Albert P. Adams
Chairman, House Finance Committee

FROM: Keith B. Levy *KBL*
Legislative Counsel

Enclosed is the committee substitute you requested to CSSB 152 (Finance), relating to the office of management and budget. You should be aware that the amendments on page 1 regarding the Institute of Social and Economic Research do not really have the force of law since it only affects the purpose and intent clause of the bill. The Institute of Social and Economic Research does not exist by statute, it was created by the university under the authority of AS 14.-40.110. Consequently, the amendments can, at best, encourage cooperation between the office of management and budget and the Institute of Social and Economic Research. They will not have the effect of causing an actual merger of the two offices.

If you want to actually merge these two offices, you would have to create the Institute of Social and Economic Research within the office of management and budget by statute. You can not do this by way of an amendment to CSSB 152 (Finance), however, since such an amendment would require a title change which is prohibited in the second house by Rule 35 of the Uniform Rules of the Alaska State Legislature.

If I may be of further assistance, please advise.

KBL:ljb

Enclosure
11/015

COMMITTEE REPORT

HOUSE

(9)

FURTHER:

Date: June 18, 1983

Mr. Speaker:

The Committee on RULES has had CSSB 152 (Fin)

"An Act relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office, and providing for an effective date."

under consideration and reports it back as follows:

[] do pass [] do not pass

[] do pass with attached amendments(s)

[X] replace with HCS for CSSB 152 (2d Rules) [X] same title [] new title

and recommends DO PASS

[] AND attaches a "Letter of Intent" [] New Fiscal Note

[] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]
M.W. Miller Do Pass
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] No Rec
[Signature] No Rec

[Signature]
CHAIRMAN

SB 108 Establishing the Tanana Valley State Forest and a program
for the management of state forests and forest land

Our purpose in hearing this bill is to consider an amendment proposed by Rep. Hurlbert to be incorporated into a Rules committee substitute. The amendment reinserts into the bill language deleted in House Resources regarding forest land near Minto. When Resources heard the bill, it was thought that this land had high agricultural potential, but the department of natural resources has determined that it does not.

Along with the amendment, your files contain an explanation of the addition, a map of the proposed inclusion, and a letter from the commissioner of DNR regarding the agricultural potential of the area.

S

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HOUSE RULES
STANDING COMMITTEE
May 30, 1983
9:00 a.m.

Members Present: Rep. Fuller, Chairman
Rep. Phillips, Vice-Chairman
Rep. Hayes
Rep. Barnes
Rep. Tischer
Rep. M.M. Miller
Rep. Larson
Rep. Koponen

Members Absent: Rep. M.W. Miller

COMMITTEE CALENDAR

CSSB 152 (Fin): "An Act relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; and providing for an effective date."

WITNESS REGISTER

Peter McDowell
Director
Office of Budget and Management
Office of the Governor
Pouch AM
Juneau, Alaska 99811
465-3568

Position Statement: Representing the Governor; will testify if necessary.

PREVIOUS ACTION

SB 152: 2/25/83 - First Reading In Senate.

Committee Referrals - Finance Committee.

3/9/83 - Finance Committee Report - Page 350
of the Senate Journal:

The Finance Committee considered SB 152
(merging the division of budget and
management, the division of policy
development and planning, and the later's

office of coastal management into one office) and recommended it be replaced with CS for SB 152 (Fin), entitled:

"An Act relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; eff. date."

and do pass. The report was signed by Senators Bennett, Josephson, Mulcahy, Faiks, V. Fischer, Ferguson and Sackett.

SB 152 was referred to the Rules Committee.

3/15/82 - Page 392 of the Senate Journal;

The Rules Committee considered SB 152 (making the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office) and a majority of the committee recommended it be placed on the March 15 calendar with the Finance Committee Substitute. The report was signed by Senators Ferguson, Bennett and Faiks; Kelly signed "do pass before SSCR 1"; and Ray signed "no recommendation".

See Senate Journal on the following dates:

March 15, 1983 - Pages 394 -396,

March 16, 1983 - Pages 404 and 405.

March 17, 1983 - Pages 420 - 422.

CSSB 152 (Fin): 3/18/83 - First Reading In House.

Committee Referrals - Finance Committee.

Letter of Intent accompanied the bill - Page 532 of the House Journal.

3/28/83 - Page 651 of the House Journal:

The Finance Committee had CSSB 152 (Fin) (relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning,

and the latter's office of coastal management into one office; efd) under consideration and recommends it be replaced with HOUSE COMMITTEE SUBSTITUTE FOR CSSB 152 (Fin) (same title) and reports it back as follows: Pestinger, Flood, Ward, Lindauer, Martin and Bettisworth recommended do pass and Hurlbert signed "do pass if amended"; Adams, Grussendorf and Zharoff had no recommendation; and Duncan signed "no recommendation, should be amended".

A Zero Fiscal Note was attached.

CSSB 152 (Fin) was referred to the Rules Committee for placement on the calendar.

No previous action in the Rules Committee.

ACTION NARRATIVE

TAPE#1
Recording
Number 0002

Chairman Fuller called the meeting to order at 8:30 a.m., in the Butrovich Room and indicated the members present. Not present at the beginning of the meeting, but arriving late were: Representatives Koponen, Larson and M.M. Miller.

Chairman Fuller announced the agenda; CSSB 152 (Fin) and gave a brief description of the following proposed amendments:

Amendment No. 1:

Page 5, Line 6: Amend Section 6 to read:

*Sec. 6. AS 37.07.040 is amended by adding new paragraphs to read:

(8) prepare the proposed capital improvements budget for the coming fiscal year evaluating both state and local requests from the standpoint of need, equity and priorities of the jurisdiction. Other factors such as project amounts, population, local financial match, or federal funds being used for local match, municipality or unincorporated community acceptance of the facility and all associated costs of the

facility may be considered.

(c) promulgate regulations consistent with this section in accordance with AS 44.62 no later than August 1, 1983.

Amendment No. 2:

Page 9, Lines 19 - 22: Delete existing language in subsection (13) and insert:

(13) render, on behalf of the state, all federal consistency determinations and certifications authorized by Sec. 307 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. Sec. 1456, and a conclusive state consistency determination when a project requires two or more state or federal permits, leases or other authorizations.

Amendment No. 3:

Page 7, Lines 7 - 10: Delete existing language and insert:

(8) "capital projects" and "capital improvements" mean an allocation or appropriation item for an asset with an anticipated life in excess of one year and a cost of \$25,000, and includes land acquisition, construction, or structural improvements including engineering and design for the project, and equipment and repair costs.

Chairman Fuller asked for testimony.

Number 0057

Peter McDowell, Director, Office of Management and Budget, gave his opinion of Amendment No. 1. His office doesn't have any problems with Paragraph 8, added they were in the process of planning the 1985 capitol budget development processes and that they may very well take a little different cut at it because they were finding that, and he felt personally that the state has not carried out its obligation to the unorganized borough very well. They are thinking seriously for example of perhaps three capitol budget bills for next year; one strictly state agencies projects, one would be unorganized borough projects

which are clearly a state's responsibility under the constitution and the third would be municipal projects.

Paragraph 8 would not have any impact on what they were contemplating for the interim in terms of developing capitol projects for next year. Mr. McDowell commented on Paragraph 9, and did not think they (OMB) promulgated regulations for anything to date and that this would be their first and if it weren't necessary as discussed with Chairman Fuller earlier, they would just as soon not enter into the regulations business.

Number 0104

Chairman Fuller apologized and told Mr. McDowell they had tried to contact the Senate regarding this section (9) of the amendment, but he would pursue it further. Chairman Fuller asked about the date mentioned in section (9) and did it bother them?

Mr. McDowell stated that he had no problems with this and that their office would hope to have it done before August first of every year - in terms of budget instructions. In the budget preparation process the target date to have instructions out to agencies carrying 1985 budget is July 1, 1984. This is 11 months behind the beginning of the fiscal year.

Number 0190

Rep. Barnes stated she had problems with this part of the amendment, Section (9) that says another state agency must promulgate regulations; we have too many regulations already and the language shouldn't be left in there.

Rep. Hayes stated that he thought Amendment No. 1 was prepared by his staff and that it would be withdrawn as it wasn't intended for this particular bill.

Chairman Fuller entertained a motion to withdraw Section (9) out of Amendment No. 1.

Rep. Hayes stated the whole amendment should be withdrawn.

Chairman Fuller stated this was submitted by the Senate and pulled out in Finance - Section (8) and they rewrote it.

Rep. Hayes said this was prepared by his office as a substitute for the language in Section 6 in the Senate version and worked it out with Sen. Ferguson's office and changed the language in there as a compromise. House Finance took that section and he wanted to make it clear that it was not his amendment.

Chairman Fuller said as he understood this Section (8), was a compromise with Sen. Ferguson who had originally put it in.

Rep. Hayes said it was a compromise to the Senate version of SB 152 when it first came to the House Finance Committee, but in the meantime the House Finance Committee put out the House Committee Substitute which is this one here and we don't want it in there. His office is not interested in submitting Amendment No. 1, but that doesn't preclude someone else from submitting it.

Chairman Fuller stated he was now the sponsor of Amendment No. 1.

Rep. Tischer asked for clarification as to which bill they were dealing with, the HCS or the Senate bill?

Committee answered; House version.

Linda Wild, Assistant to Chairman Fuller stated that she had talked with Sen. Ferguson several times last week and he liked the language in Section (8) and wanted it in there.

Rep. M.M. Miller raised his ideas on regulations in regards to the reasons and positive aspects of regulations.

Rep. Barnes moved and asked unanimous consent that Section (9) be deleted. There was an objection.

Rep. Barnes stated that they had too many regulations and that the Director of OMB had said they had no problems meeting or getting these things done.

Chairman Fuller stated there was a motion to delete Section (9) of Amendment No. 1. Rep. Tischer stated as a correction; Subsection

(9); and Rep. Barnes said Section (8) in the bill.

There were no objections and the motion carried.

Chairman Fuller explained Amendment No. 2; having the OMB be the lead agency in the coastal land management determinations.

This amendment is proposed by the Rules Chairman and basically what it does; instead of having a whole bunch of agencies addressing these determinations we are giving the hammer to the Governor and Director of OMB and would be cutting out time it takes on determinations. Chairman Fuller asked Mr. McDowell to speak on this.

Mr. McDowell stated the objectives are those of the Governor in terms of the permit process. In the past 5-6 months there has been a joint effort between, OMB, Department of Fish & Game, Environmental Conservation and Natural Resources to reform permit process. The position of the working group of those four agencies to date is moving toward speeding up the process by reducing the number of agencies that do these consistency determinations. The Administration hasn't officially adopted this plan, we might not end up exactly doing it this way - the working group, but he would guess they were right now not that far off. The working group is still debating things like having a center in Fairbanks and another one in Anchorage and Juneau. It represents the same principal they are trying to achieve with permits and it may not end up to be exactly this way.

Number 0430

Rep. Barnes moved and asked unanimous consent that Amendment No. 2 be adopted. No objections and the amendment was adopted.

Chairman Fuller requested Rep. Barnes to move Amendment No. 1.

Rep. Barnes moved and asked unanimous consent that Amendment No. 1 as amended be adopted. No objections, so ordered.

Number 0439

Amendment No. 3 is now to be considered, re; definition of capitol projects.

Rep. Koponen stated he wondered about this and wanted to know if it would not be appropriate to use IRS definitions for capitol project for purpose of consistency, and said he was not objecting.

Mr. McDowell stated he could not say without study.

Rep. Barnes moved and asked unanimous consent that Amendment No. 3 be adopted. No objections, motion carried.

Chairman Fuller stated this was a compromise with Sen. Ferguson, Mr. McDowell and Senate/House Finance version.

Rep. Barnes moved that the Rules Committee Substitute with incorporated amendments be moved out of committee. There were no objections.

No further business to come before the committee, Chairman Fuller adjourned the meeting at 9:30 a.m.

(9)

FURTHER:

Date: May 30, 1983

Mr. Speaker:

The Committee on RULES has had CSSB 152(Fin)

An Act relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; and providing for an effective date.
under consideration and reports it back as follows:

[] do pass [] do not pass

[] do pass with attached amendments(s)

[XX] replace with ^HCS for CSSB 152(Rules) [X] same tit
[X] new titl
and recommends DO PASS

[] AND attaches a "Letter of Intent" [] New Fiscal Note

[] reports it back without recommendation [X] ~~Zero fiscal note attached~~

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

ROBERT PROUD Do Pass
Maxine
Barbara
John
John

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Walter (u.rec.)
Walter
Ronald

John
CHAIRMAN

AMENDMENT #1 TO HCS CSSB 152(Fin):

Page 5, line 6, amend Section 6 to read:

*Sec. 6. AS 37.07.040 is amended by adding new paragraphs to read:

(8) prepare the proposed capital improvements budget for the coming fiscal year evaluating both state and local requests from the standpoint of need, equity and priorities of the jurisdiction. Other factors such as project amounts, population, local financial match, or federal funds being used for local match, municipality or unincorporated community acceptance of the facility and all associated costs of the facility may be considered.

(9) promulgate regulations consistent with this section in accordance with AS 44.62 no later than August 1, 1983.

AMENDMENT #2 to HCSCSSB 152(Fin):

Page 9, lines 19 - 22: DELETE existing language in subsection (13) and INSERT:

(13) render, on behalf of the state, all federal consistency determinations and certifications authorized by Sec. 307 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. Sec. 1456, and a conclusive state consistency determination when a project requires two or more state or federal permits, leases or other authorizations.

May 24, 1983

The Honorable Jack Fuller
Chairman, House Rules Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

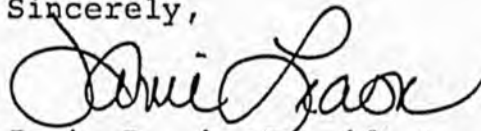
Re: HCS CSSB #152 (Finance)

Dear Chairman Fuller:

On behalf of the Alaska Federation of Natives, I am transmitting, for consideration by the Rules Committee, a proposed amendment to HCS CSSB #152 (Finance). That bill, which would create the Office of Budget and Management, is currently pending before the Rules Committee.

As explained in the analysis of the amendment, our proposed change to the bill would cure an existing and severe problem in the administration of the Alaska Coastal Management program. Because administration of that program is the responsibility of the Governor's Office, and because OMB's responsibilities under the ACMP are already addressed in both the title and body of the bill, we believe that SB 152 is the proper vehicle for solving this problem.

Sincerely,



Janie Leask, President
Alaska Federation of Natives

ANALYSIS OF PROPOSED AMENDMENT TO

HCSCSSB 152 (FINANCE)

The enclosed amendment to HCSCSSB 152 (Finance), which would change the wording of proposed AS 44.19.145(a)(13), (page 9, lines 19-22), is intended to cure a severe problem with administration of the Alaska Coastal Management program ("ACMP") which has existed for several years, but which to this date neither the Administration nor the Legislature has been able to solve.

Under current regulations, each state agency with permit jurisdiction over a project is required to find, in the course of its permit proceedings, that the project is "consistent" with the development standards and guidelines contained in the ACMP. Routinely, projects require several state permits from several agencies. Additionally, most significant projects require one or more federal permits, for which yet another "consistency determination" is required by federal law. As a result, precisely the same issue -- the consistency of the project with the ACMP standards -- is adjudicated time and time again by different agencies in different permit proceedings.

At a minimum, this redundancy threatens substantial delays in commencement of a project, and costs the applicant a great deal in both time and money. Moreover, the various agencies who currently conduct these determinations need not agree. Thus, it is entirely possible for one state agency to block a project,

even though most state agencies believe that the project is consistent with the ACMP.

There is no justification for this redundant and burdensome procedure. It has been recognized for several years that only one consistency determination should be performed for a project. Yet, although the problem is obvious, resolution has been elusive because of the in-fighting which has occurred between various state agencies, each of which believes that they should be the department which renders the consistency determination on behalf of the state.

As SB 152 already recognizes, to some degree, the Governor's Office should be ultimately responsible for making a consistency determination on behalf of the state. The Governor's Office is already primarily responsible for administration of the ACMP, and is uniquely suited to mediate disputes between the various resource agencies involved.

Under the Finance Committee substitute, OMB is given responsibility for rendering consistency determinations on federal permits. That does not go far enough, because it does not address the problem of multiple consistency determinations on state permits. The proposed amendment would solve both problems, by providing that OMB will render a single, conclusive consistency determination -- for both state and federal law purposes -- in any situation in which the applicant is faced with multiple permits.

The proposed amendment, therefore, provides a simple and workable solution to an aggravating problem which has persisted only because of inter-agency quarrels. Because of those quarrels, it is unrealistic to assume that the problem will be solved in the future short of legislation.

am # 3

CAPITAL PROJECTS AMENDMENT:

Page 7, lines 7 - 10. DELETE existing language and INSERT:

(8) "capital projects" and "capital improvements" mean an allocation or appropriation item for an asset with an anticipated life in excess of one year and a cost of \$25,000, and includes land acquisition, construction, or structural improvements including engineering and design for the project, and equipment and repair costs.

May 24, 1983

The Honorable Jack Fuller
Chairman, House Rules Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

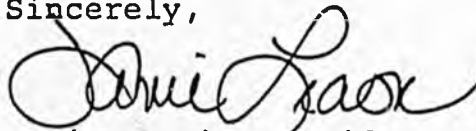
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Sincerely,



Janie Leask, President
Alaska Federation of Natives

Ferguson

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~~(9) promulgate regulations consistent with this section in accordance with AS 44.62 no later than August 1, 1983.~~

McDowell

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Jan 15 - Feb 15 = 1
Feb 15 - Mar 15 = 1
Mar 15 - Apr 15 = 1
Apr 15 - May 15 = 1
May 15 - Jun 15 = 1
Jun 15 - Jul 15 = 1
Jul 15 - Aug 15 = 1
Aug 15 - Sep 15 = 1
Sep 15 - Oct 15 = 1
Oct 15 - Nov 15 = 1
Nov 15 - Dec 15 = 1
Dec 15 - Jan 15 = 1
Total = 12

ANALYSIS OF PROPOSED AMENDMENT TO

HCSCSSB 152 (FINANCE)

The enclosed amendment to HCSCSSB 152 (Finance), which would change the wording of proposed AS 44.19.145(a)(13), (page 9, lines 19-22), is intended to cure a severe problem with administration of the Alaska Coastal Management program ("ACMP") which has existed for several years, but which to this date neither the Administration nor the Legislature has been able to solve.

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As SB 152 already recognizes, to some degree, the Governor's Office should be ultimately responsible for making a consistency determination on behalf of the state. The Governor's Office is already primarily responsible for administration of the ACMP, and is uniquely suited to mediate disputes between the various resource agencies involved.

Under the Finance Committee substitute, OMB is given responsibility for rendering consistency determinations on federal permits. That does not go far enough, because it does not address the problem of multiple consistency determinations on state permits. The proposed amendment would solve both problems, by providing that OMB will render a single, conclusive consistency determination -- for both state and federal law purposes -- in any situation in which the applicant is faced with multiple permits.

The proposed amendment, therefore, provides a simple and workable solution to an aggravating problem which has persisted only because of inter-agency quarrels. Because of those quarrels, it is unrealistic to assume that the problem will be solved in the future short of legislation.

COMMITTEE REPORT

HOUSE

(9)

FURTHER:

Date: May 30, 1983

Mr. Speaker:

The Committee on RULES has had CSSB 152(Fin)

An Act relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; and providing for an effective date. under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^HCS for CSSB 152(Rules) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero fiscal note attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Ross E. Proulx, D. Pass

Max F. ...

Demarcus ...

John ...

John ...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Alvin ... (no rec.)

...

Ronald ... No Rec.

John ...
CHAIRMAN

S

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HCS CSSB 168 Res.

Add the following

AS 44.83.092. Authority for Municipalities and Utilities to Enter into Power Sales Contracts. The Authority and any municipality or public or private entity operating an electric utility may enter into a contract providing for or relating to the sale of electric power by the Authority to the municipality or such entity. The contract may provide, ~~among other things,~~

(1) that the amounts payable under the contract are operating expenses of the utility and are valid and binding obligations of the municipality or other entity payable from the gross revenues of the utility;

(2) for one or more appropriations of the amounts payable under the contract;

(3) for the municipality or other entity to assume the obligations of another contracting party in the event of a default by that party;

(4) that after completion of a project the municipality or other entity is obligated to make payments notwithstanding a suspension or reduction in the amount of the power supplied by the project; or

(5) that payments under the contract are not subject to reduction by offset or otherwise.

SP 160/20

The Chemical Bank v. Washington Public Power Supply System case decided by the Washington Supreme Court on June 15, 1983 in which the court holds invalid power sales agreements supporting \$2.5 billion in public bonds will have a profoundly negative effect on public power financing. The court in the WPPSS case specifically said that the municipalities and the PUDs lacked statutory authority to enter into contracts with WPPSS which required the utilities to make payments regardless whether a project was completed and regardless of reduction or curtailment of project output. As well, the court stated that stepup provisions, i.e., provisions requiring payments on behalf of defaulting parties, were not authorized under Washington law.

In light of this decision, bond counsel deems it necessary that the authority of Alaska Power Authority to enter into power sales agreements with stepup and take-or-pay provisions must be absolutely clear. Bond counsel feel that such contracts are currently authorized by the statute; however, in order to make bonds secured by such contracts marketable, in light of the WPPSS case, it is felt necessary to further specify the contracting authority. It should be emphasized that this amendment does not authorize the APA to transfer to utilities the risk of non-completion of a project, as was attempted by WPPSS.

The effect of SB 168, by section, is as follows:

- Section 1. Clarifies the language of the statute by requiring that affirmative votes consist of the majority of the directors present.
- Section 2. Allows for meetings by electronic media. In the long run, this would decrease travel costs and time waste while allowing the APA Board to meet on short notice and despite climatic travel constraints.
Prevents directors from voting on leases or contracts if they have a conflict of interest, but exempts directors who are customers of electric co-ops, and therefore, by definition, are part owners.
- Section 3. Essentially makes it permissive rather than mandatory for APA to issue bonds and further clarifies the language of the statute
- Section 4. Provides for consistency between statutes
- Section 5. Provides for conformity with other pertinent statutes.
- Section 6. Provides for an independent cost estimate to be submitted with the feasibility study and a plan of finance. I believe that this section is redundant in view of 44.83.186, which requires an independent cost estimate after the legislature approves a project and allows for only a 7.5% increase before the project has to be recycled by the APA and reauthorized by the legislature. As a matter of policy, the APA has been obtaining independent cost estimates since last year and has hired an in-house estimator to provide further verification of cost estimates. The proposed procedure would further increase the cost of the studies especially since this section would apply to large and small projects equally.
- Section 7 Prohibits the use of wrap-up insurance requirements by the power authority. This provision was added in H. Resources.
- Section 8 Adds a requirement for sale contracts for transmission of electricity. The use of the term electrical power or energy is redundant. The section further clarifies that the contracts must be in compliance of AS 44.83.380 - 44.83.425 or AS 44.83.090.

- Sections 9&10 Insure that AS 44.83.361 does not violate the Alaska Constitution as alleged in a pending lawsuit.
- Sections 11&12 Clarify the provisions of existing statutes on the Rural Electrification Revolving Loan Fund program without making substantial changes to it.
- Section 13 Makes a project's expenditures dependent on a finding that the project is economically feasible. This section removes the redundancy under current statute, preserving the intent to ensure economic feasibility while eliminating the criteria in two places in the statutes.
- Section 14 Clarifies the existing statute on the use of the fund for federally owned projects.
- Section 15 Modifies the existing statute to allow APA to market bonds.
- Section 16 Provides for ownership of projects by the authority rather than the state and should make it easier to market bonds.
- Section 17 Provides for use of national and industrial standards in the APA's determination of whether a utility is qualified to operate a power project owned by APA.
- Section 18 & 20 Assure that power projects are operated in a manner consistent with the bonding agreements.
- Section 19 Amends the Susitna "Equity" Clause from \$5 billion by July 1, 1986 to \$3.5 billion by July 1, 1990.
- Section 21 Allows the authority to sell power at an industrial rate. This provision was added in H.Resources.
- Section 22 Allows APA to adjust the wholesale power rates to meet bonding requirements while still complying with the statutes on rate setting.
- Section 23 Clarifies that interties are not covered under the energy program for Alaska in the rate setting subsection. This clarifies the intent desired by the legislature when it passed HB9 last year.
- Section 24 Clarifies the definition of debt service thereby making it easier to secure bonds.

Section 25

Repeal of AS 44.83.195(b) is necessary in order to align it with other rate making provisions of the statutes.

Repeal of AS 44.83.382(b) (2) is required because any unencumbered revenues must go into the general fund.

Repeal of AS 44.83.398(b) (2) is desirable for two reasons. First, in a pending lawsuit *Trustee of Alaska v. State*, the constitutionality of this section is being challenged. Second, this section could result in a substantial increase in APA wholesale rates if the legislature does not appropriate a total of \$5 billion by July 1, 1986, into the power development fund. Since it appears almost certain that this level of appropriation can not be achieved, APA is experiencing problems in negotiating power sales contracts. Since providing lowest reasonable cost energy is the mandated goal of the program, it makes sense to minimize uncertainty and maximize marketability.

Repeal of AS 44.83.186. An additional requirement of an independent cost estimate immediately following project approval would serve no useful purpose and would involve additional costs. (An independent cost estimate is already required prior to submittal to the legislature for approval.)

Section 26

Provides for an immediate effective date.

*Finance added Chester Lake &
Senor Lake*

RULES COMMITTEE MEETING
AGENDA

JUNE 23, 1983

✓ HCSCSSB 168(Fin)

"An Act relating to the Alaska Power Authority; and providing for an effective date."

OPENING REMARKS FOR CSSB 168:

This bill makes a number of changes to the Alaska Power Authority statutes, most of them fairly technical, although necessary, dealing with the Authority's ability to market bonds. The bill also changes the "Susitna equity" clause from \$5 billion by 1986 to \$3.5 billion by 1990. The Finance Committee substitute adds authorization for the Chester Lake and Terror Lake projects.

Rules is hearing the bill today because of a court decision just handed down in the State of Washington dealing with contracts between utilities and a power authority. In light of this decision, bond counsel feels that amendments are necessary in our statutes this year. Amendments have been incorporated into a draft Rules Committee Substitute, and appear as Section 3, beginning on page 2, line 18.

AVAILABLE TO TESTIFY:

Sterling Gallagher

Laura Davis, attorney general's office

Ron Ripple, Department of Commerce and Economic Development

(Jack: Someone on the committee or Ron Ripple is likely to question what is now Section 23 of the bill, regarding giving industrial consumers a lower rate than residential consumers. This provision was added in House Resources and appears quite controversial; the Senate probably won't buy off on the bill because of it.)

SB 168 (Alaska Power Authority)

Delete Section ²~~21~~ (providing for industrial rates)

Reasons:

1. It's highly controversial and doesn't further the purpose of the bill, which is to assist the APA in selling revenue bonds for existing hydro projects. It's unwise to endanger the bill's passage.

This amendment was rejected by the Senate; it's inclusion will send the bill to conference committee, which may take more time than we have. Without section 21, the Senate will likely concur with the House changes. Failure to pass the bill this session will require a special session, or will prevent the marketing of bonds this fall and will, as a result, harm the APA's bond rating (which will in turn make it more difficult and more expensive to finance future projects).

2. It's a complex policy decision that has not had legislative scrutiny, that the APA is studying and wants time to make recommendations on, and that is not necessary this year.

This amendment was not proposed until late in the session and has not had careful consideration. It's contrary to existing law and policy, which should not be changed casually.

The legislature has a history of making major changes to the APA statutes at the last minute of the session, changes that have caused numerous problems for the state energy program and its financing. APA financial advisors have stated that the bond market watches these actions and reacts negatively when the legislature makes sudden policy changes. This image of "flakiness" has already hurt us.

The APA is already actively considering this issue and would like the chance to complete their study and make recommendations to the legislature. The Senate, in its letter of intent, has directed the APA to do this.

There's no need to act on this amendment this year. The industry most often mentioned as being a candidate for "dump rate" power is the Borax Quartz Hill mine will not be making its development decisions for another year. There may be alternative, and cheaper, methods of meeting their energy needs; the whole range of choices is being considered by the APA and utilities.

3. There are specific problems with the "dump rates" section.

It conflicts with current state policy that the large amount of state money that's being put into the energy program is to benefit residential Alaskans, not industry (which, it should be noted, will receive large subsidies from hydro projects even without the dump rates). Alaska's situation is different from elsewhere in the country where dump rates are common, because nowhere else does the state pay the

capital costs of the projects. If, in fact, a case can be made that allowing dump rates in particular cases would aid residential consumers, then the legislature could consider changing the policy.

Because the issue hasn't been studied, we don't know what the effect would be on individual project rates, on classes of consumers, or on the energy program as a whole. No analysis has been presented.

The "notwithstanding" portion of the language says that for utilities regulated by the APUC, there would be no requirement that residential users would have to benefit from the lower "dump rates." Because APUC statutes mandate their consideration of "cost of service," the APUC generally approves cheaper rates for larger users. In effect, for those utilities regulated by the APUC, the second part of the amendment negates the first part.

There is no provision for residential users to have "first claim" on power or that industrial use be on an interruptible basis. Should an industry be sold a block of what is initially excess power and the demand in the residential and commercial sectors grows, there would not be enough power to meet all demands. Residential users would then bear the burden of paying for additional power sources while industry reaped the benefits of the state-funded project.

The disincentive to overbuilding projects and having surplus power would be removed, as justification could be made to build projects larger than demand requires based on an assumption that industry would develop to make use of the excess power. Aside from arguments about the merits of industrial growth, the result would be that the state would have to pay more for larger projects, and this is something that we cannot afford.

Prepared by:
Nancy Lord
Aide to Sen. V. Fischer

OPENING REMARKS FOR CSSB 168:

This bill makes a number of changes to the Alaska Power Authority statutes, most of them fairly technical, although necessary, dealing with the Authority's ability to market bonds. The bill also changes the "Susitna equity" clause from \$5 billion by 1986 to \$3.5 billion by 1990. The Finance Committee substitute adds authorization for the Chester Lake and Terror Lake projects.

Rules is hearing the bill today because of a court decision just handed down in the State of Washington dealing with contracts between utilities and a power authority. In light of this decision, bond counsel feels that amendments are necessary in our statutes this year. ~~Amendments have been incorporated into a draft Rules Committee Substitute, and appear as Section 3, beginning on page 2, line 18.~~

The proposed amendment, to be incorporated into a Rules Committee Substitute, is in your files.

AVAILABLE TO TESTIFY:

Sterling Gallagher

Laura Davis, attorney general's office

Ron Ripple, Department of Commerce and Economic Development

(Jack: Someone on the committee or Ron Ripple is likely to question what is now Section 23 of the bill, regarding giving industrial consumers a lower rate than residential consumers. This provision was added in House Resources and appears quite controversial; the Senate probably won't buy off on the bill because of it.)

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Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

SB 186 am

"An Act relating to named recipient grants; and providing for an effective date.

I N D E X

- I. COMPARISON - Rules CS New Sections (d) - (g) & original sections (b) - (e)
- II. House CS for Senate Bill 186(Rules) - Proposed Committee Substitute
- III. Senate Passed version - SB 186 am

COMMITTEE REPORT

HOUSE

5/28
Rules

(7)

FURTHER:

5/23/84

Date: _____

The Committee on _____ RULES _____ has had _____ SB 186 am _____

"An Act relating to named recipient grants; and providing for an effective date."

under consideration and recommends:

[] do pass [] do not pass

[] do pass with attached amendments(s)

[] replace with ^{House} CS for SB 186 (Rules) [X] same title
[] new title

and recommends do pass

[] AND attaches a "Letter of Intent" [] New Fiscal Note

[] reports it back without recommendation [] Zero Fiscal Note Attached

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
Mr Miller
[Signature]
John B Fuller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

ROSE [Signature] No Rec

John B Fuller
CHAIRMAN

SB 186 COMPARISON

Rules CS New Sections (d) - (g)

^{VS}
ORIGINAL Sections (b) - (e)

New

(d) The department to which an appropriation or allocation is made for a grant to a named recipient may audit records of the named recipient.

Original

(b) The department to which the appropriation or allocation is made shall have the right to audit records of the named recipient for a grant made under this section.

o o o

New

(e) A named recipient shall be required to post a bond in an amount not to exceed the amount of the initial grant payment that is received from a department under this section.

ORIGINAL

(c) The named recipient shall be required to post a bond in the percentage of the amount of the grant which is received from the department.

o o o

New

(f) To qualify to receive a grant a named recipient must waive, in writing to the department to which an appropriation or allocation is made for the grant, immunity from legal actions that may arise as a result of the award of the grant or from the use made of money from the grant.

ORIGINAL

(d) The named recipient shall waive the right of immunity from legal action by the department for purposes of the grant made under this section.

o o o

New

(g) Only a nonprofit corporation that is exempt from taxation under 26 U.S.C. 501(c)(3) or (4) may receive a grant under this section.

ORIGINAL

(e) The named recipient shall qualify to receive state grants if they are certified under 26 U.S.C. 501(3)(4).

Introduced: 3/18/83
Referred: Community and Regional
Affairs and Finance

1 IN THE SENATE

BY SACKETT AND FERGUSON

2

SENATE BILL NO. 186 am

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 named recipient grants; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 37.05.316 is amended to read:

10 Sec. 37.05.316. GRANTS TO NAMED RECIPIENTS (a) When an amount
11 is appropriated or allocated to a department as a grant for a named
12 recipient which is not a municipality, the department to which the
13 appropriation or allocation is made shall promptly notify the named
14 recipient of the availability of the grant and request the named
15 recipient to submit a proposal to provide the goods or services speci-
16 fied in the appropriation act, or both, for which the appropriation or
17 allocation is made. At the same time, the department may issue a
18 request for proposals from other qualified persons to provide the same
19 goods or services, or both, in the same area. The department shall
20 contract with the named recipient unless the Office of the Governor,
21 with due regard for any local expertise or experience among those
22 making proposals, determines that an award of the contract to a dif-
23 ferent party would better serve the public interest. If the contract
24 is awarded to another party than that named by the legislature, the
25 basis of that action shall be stated in writing at the time the grant
26 is issued and a copy of the written statement shall be sent to the
27 Legislative Budget and Audit Committee. A contract shall be executed
28 within 60 days after the effective date of the appropriation or allo-
29 cation. The purchase of goods or services, or both, shall be in

1 accordance with AS 37.05.230(1)(C).

2 (b) The department to which the appropriation or allocation is
3 made shall have the right to audit records of the named recipient for
4 a grant made under this section.

5 (c) The named recipient shall be required to post a bond in the
6 percentage of the amount of the grant which is received from the
7 department.

8 (d) The named recipient shall waive the right of immunity from
9 legal action by the department for purposes of the grant made under
10 this section.

11 (e) The named recipient shall qualify to receive state grants if
12 they are certified under 26 U.S.C. 501(3)(4).

13 (f) The rural areas as defined by AS 44.47.560(5)(A) and (B) are
14 exempt from the requirements in subsection (a). (moved to section b)

15 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-

16 10.070(c).

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

09:17 3/12/84 PAGE 1 OF 5

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

SB 354 SENATE ACTION 09:18 3/12/84 PAGE 2 OF 5

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

SB 354 SENATE ACTION 09:18 3/12/84 PAGE 3 OF 5

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
***	**	**	*** ** *

SB 354 HOUSE ACTION 09:18 3/12/84 PAGE 4 OF 5

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

SB 354 HOUSE ACTION 09:18 3/12/84 PAGE 5 OF 5

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

AMENDMENTS TO HOUSE RULES CS FOR SB 354

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✓ 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.

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, ^{or DOE} as they will be covered by neither health & soc. services 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".

Mac 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 ^{deleted} ~~(PUBLIC AND PRIVATE)~~ 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

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

(1) is also required to administer a nationally standardized test that measures achievement in English grammar, reading, spelling, and mathematics; and

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

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

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

Sec. 14.45.140. DEFINITIONS. In this chapter

(1) "private school" means a school that does not receive direct state or federal funding;

(2) "religious school" means a private school operated by a church or other religious organization that does not receive direct state or federal funding.

* Sec. 6. AS 14.45.020 is repealed.

new definition

new definition, drawn from Mess version, sec. 14.45.100. Clarifies definition per advice from AG.

[Handwritten signature]



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

HOUSE RULES COMMITTEE MEETING

FEBRUARY 15, 1984

AGENDA: CSSB 354(Jud) am

COMMITTEE FILE INDEX

- I. HCS CSSB 354(Rules) - Proposed Rules Committee Substitute
- II. HCS CSSB 354(HESS)
- III. CSSB 354(Jud)am - Senate passed version
- IV. Analysis of Proposed HCS CSSB 354(Rules)
- V. Comparison of HCS CSSB 354(HESS) & Proposed HCS CSSB 354(Rules)
- VI. Legal Opinion - Health & safety regulation of private pre-elementary schools - (HCS CSSB 354(Rules))
- VII. Comparison of Proposed HCS CSSB 354(Rules) and CSSB 354(Jud)am
- VIII. Attorney General opinions - HCS CSSB 354(Rules)
- IX. Alaska Statutes / Sec. 14.07.020 Duties of Department of Education

* 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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EDUCATION

§ 14.07.020

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 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 pre-elementary schools 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;

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(10) accredit private elementary and secondary schools which request accreditation and which meet accreditation standards prescribed by regulation by the department;

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

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

(13) administer the grants awarded under AS 14.11.020. (§ 1 ch 98 SLA 1966; am § 2 ch 69 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 190 SLA 1975; am § 6 ch 50 SLA 1977; am §§ 1-3 ch 126 SLA 1978; am § 10 ch 147 SLA 1978; am § 1 ch 86 SLA 1979; am § 24 ch 59 SLA 1982; §§ 1, 2 ch 92 SLA 1982)

Revisor's notes. — A reference to AS 14.11.020 was substituted for a reference to AS 14.07.190 in paragraph (13) by the revisor of statutes under AS 01.05.031 to conform to the renumbering of that section.

Effect of amendments. — The first 1978 amendment deleted "private, non denominational" preceding "schools" near the beginning of paragraph (6), inserted "and private" preceding "schools" in paragraph (7), added the language beginning "the standards for private schools" to the end of paragraph (7), and added paragraph (10).

The second 1978 amendment added paragraph (11).

The 1979 amendment added paragraph (12).

The first 1982 amendment substituted "of" for "and" preceding "new public elementary" in paragraph (11).

The second 1982 amendment substituted "'plans' include" for "a 'plan' includes" in paragraph (11), inserted "and approve" and "the" preceding "purposes of this paragraph" in that same paragraph, and added paragraph (13).

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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. M. Miller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Jim Fuller

 CHAIRMAN

SIGN-IN SHEET

CS55 354(JAD)2M

Name (please print)	Address	Representing	yes or no TESTIFY (?)	Phone #
Gordon Brunton	Pouch N. Juneau	State Fire Marshal		465-4331
Mary Ager -	202 6th St. JNU	Alaska Ass. For Educ. off young child.	Yes	586-1589

S B

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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} ~~XCS~~ 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Barrett Barnes
John E. ...
John J. ...
Max ...
Jim ...
Mr. ...

Jim ...
CHAIRMAN

RULES COMMITTEE MEETING - WED. FEB. 15, 1984

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 only 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.

RULES COMMITTEE MEETING - WED. FEB. 15, 1984

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 only 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 proposed in
H Rules Comm. Mtg -
No Action taken

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.

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.



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

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Juneau, Alaska 99811

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HOUSE RULES COMMITTEE MEETING

FEBRUARY 15, 1984

AGENDA: CSSB 354(Jud)am

COMMITTEE FILE INDEX

- I. HCS CSSB 354(Rules) - Proposed Rules Committee Substitute
- II. HCS CSSB 354(HESS)
- III. CSSB 354(Jud)am - Senate passed version
- IV. Analysis of Proposed HCS CSSB 354(Rules)
- V. Comparison of HCS CSSB 354(HESS) & Proposed HCS CSSB 354(Rules)
- VI. Legal Opinion - Health & Safety regulation of private pre-elementary schools - (HCS CSSB 354(Rules))
- VII. Comparison of Proposed HCS CSSB 354(Rules) and CSSB 354(Jud)am
- VIII. Attorney General Opinions - HCS CSSB 354(Rules);
HCS CSSB 354(HESS)
- IX. Alaska Statutes - Sec. 14.07.020 Duties of Department of Education

Jack

RULES COMMITTEE MEETING - WED. FEB. 15, 1984

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 only eliminate regulation of totally privately funded schools. The House HESS version limited DOE's supervisory authority to only public pre-schools.

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AMENDMENTS TO HOUSE RULES CS FOR SB 354

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

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

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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;

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Jack



Official Business

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HOUSE RULES COMMITTEE MEETING

FEBRUARY 15, 1984

AGENDA: CSSB 354 (Jud)am

COMMITTEE FILE INDEX

- I. HCS CSSB 354(Rules) - Proposed Rules Committee Substitute
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HCS CSSB 354 (HESS)
- IX. Alaska Statutes - Sec. 14.07.020 Duties of Department of Education

Offered: 2/1/84
Referred: Rules

*Jack's file -
marked up copy*

Original sponsors: Faiks, Kerttula,
Bennett, et al

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

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

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. The department shall

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

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

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

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

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

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

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

*Rules CS -
deleted*

21 (8) [IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND
22 SOCIAL SERVICES,] exercise general supervision over public [AND ~~PRE-~~
23 ~~VOTE~~ *Rules CS - Add Qualifier* pre-elementary schools [AND OVER THE EDUCATIONAL COMPONENT OF
24 NURSERIES AS DEFINED IN AS 47.35.080(4)]; pre-elementary schools in
25 this paragraph means schools for children ages three through five
26 years when the schools' primary function is educational;

Rules - delete "public"

*Rule CS
Moved to
new definitions
Sec 14.07.020(b)*

27 (9) provide accredited elementary and secondary correspon-
28 dence study programs available to any Alaskan through a centralized
29 office of correspondence study;

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

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

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

18 (13) administer the grants awarded under AS 14.11.020.

19 * Sec. 3. AS 14.30.010(b) is amended to read: *(b) Rules CS moves definition of pre-school here from AS 14.07.020 (a)(8)*

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

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

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

25 (B) tutoring by personnel certificated according to
26 AS 14.20.020; or

27 (C) attendance at an educational program operated in
28 compliance with AS 14.45.100 - 14.45.140 by a religious or other
29 private school [ATTENDANCE AT A PRIVATE SCHOOL IN WHICH THE

1 AVERAGE STUDENT PROFICIENCY IS NOT LESS THAN THE AVERAGE PROFI-
2 CIENCY FOUND IN THE PUBLIC SCHOOLS IN THE AREA AS MEASURED BY
3 NATIONAL ACHIEVEMENT TESTS; THE DEPARTMENT WITH ASSISTANCE FROM
4 REPRESENTATIVES OF THE PRIVATE SCHOOLS SHALL PROMULGATE REGU-
5 LATIONS DEFINING THE SUBJECT AREAS TO BE TESTED AND THE MINIMUM
6 AVERAGE SCORES TO BE ACHIEVED];

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

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

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

12 (5) is temporarily ill or injured;

13 (6) has been suspended or denied admittance according to
14 AS 14.30.045;

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

20 (8) is excused by action of the school board of the dis-
21 trict at a regular meeting or by the district superintendent subject
22 to approval by the school board of the district at the next regular
23 meeting;

24 (9) has completed the 12th grade;

25 (10) is enrolled in a full-time program of correspondence
26 study approved by the department; in those school districts providing
27 an approved correspondence study program, a student may be enrolled
28 either in the district correspondence program or in the centralized
29 correspondence study program;

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

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

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

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

15 ARTICLE 2. EXEMPT RELIGIOUS AND OTHER PRIVATE SCHOOLS.

16 Sec. 14.45.100. EXEMPTION. A religious or other private school
17 that complies with AS 14.45.100 - 14.45.140 is exempt from other
18 provisions of law and regulations relating to education except law and
19 regulations relating to physical health, fire safety, sanitation,
20 immunization, and physical examinations. A facility that serves
21 children under the age of six years and receives state payments is not
22 eligible for the exemption provided by this section.

23 Sec. 14.45.110. REQUIREMENTS OF EXEMPT SCHOOLS. (a) The parent
24 or guardian of a child of compulsory school age enrolled in a reli-
25 gious or other private school that complies with AS 14.45.100 -
26 14.45.140 shall file an annual notice of enrollment in the school for
27 the child with the local public school superintendent for the area in
28 which the child resides on a form provided by the department. The
29 form shall be signed by the parent or guardian and the chief

*Rules CS-
Revised &
Moves to
Definitions
Sec 14.45.140.*

1 administrative officer of the school and returned to the local public
2 school superintendent by the parent or guardian. The school shall
3 notify the local public school superintendent within a reasonable time
4 if the child is no longer enrolled in or attending the school.

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

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

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

20 (c) A religious or other private school that elects to comply
21 with AS 14.45.100 - 14.45.140 shall maintain records of the results of
22 the nationally standardized tests and the records shall be made avail-
23 able to the parent or guardian of the student. Each school shall make
24 composite test results for the school available annually to an autho-
25 rized representative of the department. The composite test results of
26 a religious or other private school operated in compliance with
27 AS 14.45.100 - 14.45.140 are not public information unless each public
28 school

29 (1) is also required to administer a nationally stan-

1 dardized test that measures achievement in English grammar, reading,
2 spelling, and mathematics; and

3 (2) the composite test results for each public school are
4 public information.

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

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

14 Sec. 14.45.140. DEFINITION. In this chapter

15 (1) "religious school" means a private school operated by a
16 church or other religious organization that does not receive direct
17 state or federal funding.

18 * Sec. 6. AS 14.45.020 is repealed.

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN



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STATE CAPITAL
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(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, Staff *WML*
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 regulation 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 14.07.020). 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 supervise 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



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House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

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

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

I have prepared the following comparison of the HESS Committee version and the proposed Rules Committee version of a House Committee Substitute for Committee Substitute for Senate Bill 354, "[a]n Act relating to the regulation of private schools."

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

Section 2 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 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, 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 two 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 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 funding.

Page 7, lines 18 - 19, inserts a definition of "private school"

Comparison of HCS CSSB 354 (HESS) and Proposed HCS CSSB 354 (Rules)
February 12, 1984
Page 3

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

A copy of the proposed Rules Committee Substitute with highlighted changes is being provided to each member of the Rules Committee by the Rules Committee staff.

WTL:cas

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCHY STATE CAPITOL
JUNEAU ALASKA 99801
907 465 3800

MEMORANDUM

February 11, 1984

SUBJECT: Health and safety regulation
of private pre-elementary
schools (HCS CSSB 354 (Rules))

TO: Representative Mae Tischer
Chairman, House HESS Committee

FROM: Keith B. Levy *KBL*
Legislative Counsel

You have requested an opinion on the implication of HCS CSSB 354 (Rules) with respect to health and safety regulation of private pre-elementary schools. The bill, while removing the supervision of private pre-elementary schools from the Department of Education, in no way removes the power of the Department of Public Safety to regulate these schools with respect to fire safety or the Department of Health and Social Services to regulate with respect to health standards. In fact, several sections in the bill as well as other provisions of law make it clear that private pre-elementary schools may be regulated with respect to health and safety.

To begin with, AS 14.07.020(7), as amended by section 2 of the bill, provides that the Department of Education shall:

prescribe by regulation, after consultation with the state fire marshal and the state sanitarian, 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.

That section applies general health and safety standards to all the public and private schools in the state, including the pre-elementary schools. It also imposes a specific requirement of physical examinations and immunizations on pre-elementary schools. In other words, all pre-elementary

Representative Mae Tischer
Page 2
February 11, 1984

schools are subject to health and safety regulations generally under the bill.

Moreover, Title 18 of the Alaska Statutes sets out provisions for health and safety, all of which, if appropriate, apply to pre-elementary schools unless some specific exemption exists. There is no such exemption in HCS CSSB 354 (Rules). Specifically, AS 18.70.080 provides for the Department of Public Safety to adopt regulations for fire safety applicable to all public buildings. "Buildings" is defined very broadly in AS 18.70.300 and would clearly apply to pre-elementary schools.

In conclusion, HCS CSSB 354 (Rules), while providing that private pre-elementary schools are no longer subject to general regulation by the Department of Education, has no effect on the ability of that department and other departments to regulate these schools with respect to health and safety.

KBL:ojb
J3/079

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).

WTL:cas

BILL SHEFFIELD, GOVERNOR

REPLY TO:

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465-3603

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 6, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Re: HCS CSSB 354 (HESS)

Dear Representative Tischer,

You have asked whether HCS CSSB 354 (HESS) presents legal problems.

The line between legal issues and policy issues is often unclear in controversial areas of the law. We have reviewed HCS CSSB 354 (HESS) with an eye toward the former. Accordingly, we express no view on the overall wisdom of this legislation.

HCS CSSB 354 (HESS) is structurally similar to CSHB 514 (HESS) which we addressed in our letter to you of January 23, 1984. Each bill avoids the equal protection problems which we identified during our review of SCS CSHB 357 (RIs) am S.

Although we believe that HCS CSSB 354 (HESS) presents no significant constitutional problems, there are at least two questions of statutory interpretation which could arise as this legislation is implemented.

The first question is whether the definition of pre-elementary school contained in proposed AS 14.07.020(8) adequately distinguishes between pre-elementary education and child care. We are informed that these categories are factually very similar. Child care is subject to regulation by the Department of Health and Social Services under AS 47.35.

The second question concerns the meaning of the second sentence of proposed AS 14.45.100. This sentence states that certain private pre-elementary schools are not eligible for the general exemption from state regulation contained in the first sentence of AS 14.45.100. However, this exception appears to be

superfluous since, as a result of changes made in AS 14.07.020, regulation of private pre-elementary schools would be limited to health and safety matters which the first sentence of AS 14.45.100 does not affect.

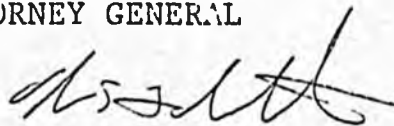
It appears that the second sentence of proposed AS 14.45.100 is intended, in part, to assure that the exemption is not available to private schools which receive public funds. If this is the case, an issue arises as to why it is limited to facilities which serve children under six years of age. We suggest that you consider deleting the phrase "which serves children under the age of six years and" or, alternatively, deleting this sentence in its entirety and adding to proposed AS 14.45.140 a definition of "private school" which addresses this issue.

We note that the addition of a definition of "private school" to AS 14.45.140 could also be used to limit coverage of AS 14.45 to elementary and secondary schools. This seems to be the intent of language which was added to proposed AS 14.45.110(a), the effect of which is limited to that subsection. As we have indicated, coverage of pre-elementary schools seems unnecessary since agency authority to regulate them is restricted by changes made in proposed AS 14.07.020.

We have previously discussed each of these questions with your staff. If you have additional questions, please do not hesitate to contact this office.

Very truly yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 

Thomas H. Robertson
Assistant Attorney General

THR:jal

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

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465-3603

February 10, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Re: HCS CSSB 354 (Rules)

Dear Representative Tischer:

You have asked that this office review the constitutionality of proposed HCS CSSB 354 (Rules).

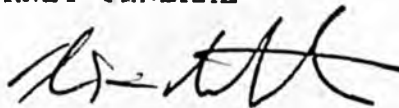
We believe that proposed HCS CSSB 354 (Rules) presents no significant constitutional problems. For a discussion of relevant constitutional principles, please refer to our July 19, 1983, review of SCS CSHB 357 (Rules) am S.

Please let us know if you have further questions in this regard.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:



Thomas H. Robertson
Assistant Attorney General

THR:jca

July 19, 1983

x

The Honorable Bill Sheffield
Governor
State of Alaska
Pouch A
Juneau, AK 99811

Re: SCS CSHB 357(R1s) am S --
state regulation of
religious schools
Our file: 388-095-83

Dear Governor Sheffield:

At the request of Emil Notti on your behalf, we have reviewed SCS CSHB 357(R1s) am S which addresses the degree to which certain religious schools are to be regulated by the state.

This bill diminishes the authority of executive agencies over all religious pre-elementary schools and over religious elementary and secondary schools which elect to comply with various requirements. The provisions of the bill, and the constitutional issues which they generate, are discussed below. We do not believe that the constitutional issues are sufficiently clear to require veto of this bill.

In order to qualify for the protections afforded by this bill, a school must be operated by a church or other non-profit religious organization that is exempt from federal taxation and does not receive direct state or federal funding. It is therefore possible that, except with respect to licensure of pre-elementary schools, executive authority over some religious schools would remain unchanged even if this bill becomes law.

Section 1 of the bill amends AS 14.07.020(8) which currently requires the Department of Education (DOE), in cooperation with the Department of Health and Social Services (DHSS), to "exercise general supervision" over public and private pre-elementary schools. The bill would delete reference to DHSS, would prohibit licensing of any pre-elementary schools, and would

eliminate authority to supervise the "educational component" of pre-elementary schools operated by a church or other qualifying religious organization.

Section 2 of the bill makes it clear that the system of voluntary accreditation of elementary and secondary schools established by AS 14.07.020(10) does not vest authority in DOE to "license" schools operated by a church or other qualifying religious organization.

Section 3 of the bill adds an exemption from compulsory public school attendance for children who attend an educational program operated by a church or other qualifying organization which meets the requirements set out in sections 4 -- 8 of the bill. The compulsory education statute, AS 14.30.010, which would be amended by sec. 3, currently exempts children who attend private schools which employ certificated teachers, who are tutored by certificated tutors, or who attend private schools in which the average student proficiency is not less than that found in nearby public schools, as measured by national achievement tests.

Sections 4 -- 8 of the bill would amend AS 14.45 to provide a means through which elementary and secondary schools operated by churches or other qualifying religious organizations can become partially exempt from state regulation. The exemption would not extend to laws relating to physical health, fire safety, sanitation, immunization, and physical examinations.

The requirements for exemption are set out in new AS 14.45.030 -- 14.45.040. New AS 14.45.030 requires that the religious school maintain monthly attendance records for each student, operate on a regular schedule for a school year of at least 180 days, and annually report to DOE the number of students in each grade and the school calendar. In addition, the parents of each child must file an annual notice of enrollment, signed by the parent and school administrator, with the local public school superintendent. The religious school must notify the superintendent if the child leaves school. New AS 14.45.035 requires that the religious schools administer at least one nationally standardized test, selected by the school from a list compiled by DOE, to children in grades 1, 3, 6, and 9. The test must measure achievement in English grammar, reading, spelling, and mathematics. The results must be maintained by the school and be made available to the child's parent or guardian and "authorized representatives" of the state. New AS 14.45.040 requires that the religious schools maintain "adequate" student records,

including records of immunizations, physical examinations, testing, and courses taken.

Finally, sec. 9 repeals AS 14.45.020 which authorizes DOE to provide final exam questions and diplomas for eighth graders in private and denominational schools. Apparently, this authority has not been exercised since well before statehood.

In general, SCS CSHB 357(R1s) am S would establish two categories of private schools, those which are operated by a church or other qualifying religious organization and those which are not. This gives rise to the legal question of whether or not the disparate treatment afforded each category is in keeping with the equal protection clauses of the state and federal constitutions.

Although courts have developed separate tests under each, the state and federal constitutions both require that there be reasons for treating these categories of private schools differently. The bill itself does not contain a statement of purpose. However, it has been characterized by supporters as an effort to accommodate the free exercise of religion.

The free exercise of religion is protected by the First Amendment to the United States Constitution and by art. 1, sec. 4, of the Alaska Constitution. Courts have developed a threefold test to determine whether state educational requirements impermissibly limit the free exercise of religion: (1) whether the regulated activity is motivated by and rooted in a legitimate and sincerely held religious beliefs; (2) the degree to which the parties' free exercise of religion has been burdened; and (3) whether the state has a compelling interest in the regulation which justifies the burden. Wisconsin v. Yoder, 406 U.S. 205, 32 L.Ed.2d 15, 92 S.Ct. 1526 (1972). The focus of this test is on the exercise of religion; "[t]he religious character of an organization does not provide a shield from regulation which no way affects religious beliefs or acts." In re Rabbinical Seminary Netzach Israel Ramailis, 450 F.Supp. 1078, 1081 (E.D. N.Y. 1978).

Unfortunately, the limits of permissible regulation have not been clearly established. On one hand, courts have acknowledged that religious schools combine religious and secular education and have invalidated state regulations which unreasonably interfered with the former. E.g., Lemon v. Kurtzman, 403 U.S. 602, 29 L.Ed.2d 745, 91 S.Ct. 2105, reh den 404 U.S. 876, 30 L.Ed.2d 123, 92 S.Ct. 24 (1971); State v. Whisner, 351 N.E.2d 750 (Ohio 1976). On the other hand, courts have acknowledged that

"if the state must satisfy its interest in secular education through the instrument of private schools, it has a proper interest in the manner in which those schools perform their secular educational function." Board of Education v. Allen, 392 U.S. 236, 247, 20 L.Ed.2d 1060, 88 S.Ct. 1923 (1968). For example, state regulations requiring certified teachers, a minimum curriculum, and state licensure have been approved. E.g., New Jersey State Board of Higher Education v. Board of Directors of Shelton College, 448 A.2d 988 (N.J. 1982); State v. Faith Baptist Church, 301 N.W.2d 571 (Neb. 1981), app. dismiss. 454 U.S. 803, 70 L.Ed.2d 72, 102 S.Ct. 75 (1982); State v. Shaver, 294 N.W.2d 883 (N.D. 1980). See also Pierce v. Society of Sisters, 268 U.S. 510, 69 L.Ed.2d 1070, 45 S.Ct. 571 (1925).

This is also an area in which courts may defer to the legislature. In State v. Rivinius, 328 N.W.2d 220, 231 (N.D. 1982), the Supreme Court of North Dakota, after approving a teacher certification requirement, indicated that "[w]e are not implying or intimating that the legislature may not work out a system that will be satisfactory to both sides -- meaning the state and the defendants -- and still accomplish the constitutional mandate." See also West Virginia State Board of Education v. Barnette, 319 U.S. 624, 638, 87 L.Ed. 1628, 63 S.Ct. 1178 (1943).

Because the United States Supreme Court has yet to resolve some of these issues, we cannot state with certainty that SCS CSHB 357(Rls) am S provides protections to religious schools beyond those which are constitutionally required. However, since it precludes various means of regulation which, at least for elementary and secondary schools, have been approved by lower courts, we believe this result to be likely. If this is true, the legislation would fall on equal protection grounds unless other reasons based on actual differences between the two categories of private schools could be found to support it. In addition, it would be subject to challenge as an aid to religion under the establishment clauses of the state and federal constitutions.

It is noteworthy that present regulatory requirements of DOE are minimal and that this bill is based on legislation, enacted in North Carolina in 1972, which has not been challenged in court. N.C. Gen. Stat. § 115-257.1, et seq. (Cum. Supp. 1979). We also acknowledge that substantial arguments can be made in its support. See generally "State Regulation of Private Religious Schools in North Carolina -- A Model Approach," 16 Wake Forest Law Review 405 (1980). Accordingly, we do not believe that veto on constitutional grounds is required.

The Honorable Bill Sheffield
Governor
388-095-83

July 19, 1983
Page 5

Except as noted, this bill presents no constitutional or other major legal problems. It is possible, however, that problems of statutory interpretation could arise as DOE attempts to exercise its remaining authority in this area.

Sincerely,

Norman C. Gorsuch
Attorney General

NCG:THR:jal

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EDUCATION

§ 14.07.020

Section

55. 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 *Tunley 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 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 pre-elementary schools 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;

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(10) accredit private elementary and secondary schools which request accreditation and which meet accreditation standards prescribed by regulation by the department;

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

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

(13) administer the grants awarded under AS 14.11.020. (§ 1 ch 98 SLA 1966; am § 2 ch 69 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 190 SLA 1975; am § 6 ch 50 SLA 1977; am §§ 1-3 ch 126 SLA 1978; am § 10 ch 147 SLA 1978; am § 1 ch 86 SLA 1979; am § 24 ch 59 SLA 1982; §§ 1, 2 ch 92 SLA 1982)

Revisor's notes. — A reference to AS 14.11.020 was substituted for a reference to AS 14.07.190 in paragraph (13) by the revisor of statutes under AS 01.05.031 to conform to the renumbering of that section.

Effect of amendments. — The first 1978 amendment deleted "private, and denominational" preceding "schools" near the beginning of paragraph (6), inserted "and private" preceding "schools" in paragraph (7), added the language beginning "the standards for private schools" to the end of paragraph (7), and added paragraph (10).

The second 1978 amendment added paragraph (11).

The 1979 amendment added paragraph (12).

The first 1982 amendment substituted "of" for "and" preceding "new public elementary" in paragraph (11).

The second 1982 amendment substituted "plans include" for "a plan includes" in paragraph (11), inserted "and approve" and "the" preceding "purposes of this paragraph" in that same paragraph, and added paragraph (13).

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Called:

✓ D. of Education - Steve Hoke

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✓ D. of Public Safety - Paul Conger

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
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House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, Staff *WHL*
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 regulation 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 14.07.020). 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 supervise 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.

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COMMITTEE REPORT
HOUSE

4/24
Rules

FURTHER:

(9)

Date: 4-24-84

4/19/84

The Committee on RULES has had CSSB 370(Trsp)am

"An Act authorizing the acquisition of the Alaska Railroad;
authorizing the governor to negotiate the transfer terms;
and providing for an effective date."

under consideration and recommends:

- do pass 4/individual Recs. [] do not pass
- [] do pass with attached amendments(s)
- [] replace with CS for _____ [] same title
[] new title

and recommends

- Adopts Senate AND ~~attaches a~~ "Letter of Intent" [] New Fiscal Note
- [] reports it back without recommendation [] Zero Fiscal Note Attached
- [] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Joe Z. Harris

ROSE E. GILL Do Pass

John D. Fisher

John Fuller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Mac Truckee. No Rec.

John Fuller
CHAIRMAN

SENATE LETTER OF INTENT

CSSB 370(Trsp) am

It is the intent of the Legislature that the Department of Transportation and Public Facilities shall hold a public hearing in each of the communities affected along the proposed right-of-way corridor established under 16 U.S.C. 410hh (4)(b)-(e) known as the Western (Kobuk River) unit of the Gates of the Arctic National Park, before proceeding with any proposed railroad into the Ambler Mining District.

Adopted by the Senate 3/15/84

RULES COMMITTEE MEETING

TUESDAY, APRIL 23, 1984

1. Call to order
2. Date and Time
3. Note members in attendance
4. The only item on the agenda is the Senate letter of intent on CSSB 370(TRSP)am, which is in the committee packets. This letter of intent, although adopted by the Senate, has not been formally acted on by any House committees. As a courtesy to the Senate, the Rules Committee has been requested to take action on the letter of intent.
5. Request a motion to adopt the Senate letter of intent, to bring the subject before the Committee for discussion.
6. will be able to answer questions on the Senate letter of intent.
7. Any other public comment. Committee debate.
8. Place the question - "Shall the Rules Committee adopt the Senate letter of intent to CSSB 370(Trsp)am" - before the Committee for a vote.
9. Adjourn

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RULES COMMITTEE MEETING

FRIDAY, MAY 11, 1984

1. Call to order
 2. Date and Time
 3. Note members in attendance. (Hayes, Barnes, Liska, Miller, Phillips, Tischner)
 4. The only item on today's agenda is a proposed Rules CS for HCS CSSB 371(Fin) "An Act relating to mining; and providing for an effective date" which is in the committee packets. The Rules CS makes three changes in the House Finance CS:
 - a) on page 6, line 7, the Rules CS substitutues the figure \$3 for the \$6 amount found in the Finance CS; and,
 - b) on page 7, line 2, the Rules CS again changes the \$6 lease fee to \$3.
 - c) in Section 12, page 8, line 5, deletes language "for the purpose of encouraging the greatest ultimate recovery of minerals under this section and in the interest of conservation" added in the Finance CS from a new subsection allowing DNR to suspend lease payments.
- The effect of these ^{first 2} changes is make the cost of the first two years of a submerged or tidelands exploration lease equal to one year's annual rent. As no activity typically takes place on these types of leases during the first year, due to the permitting requirements on offshore leases, reducing the lease fees for the first two-year period is more equitable to the lessee.
5. Request a motion to adopt of HCS CSSB371(Rules) with individual recommendations, to bring the subject before the Committee for discussion.
 6. Any testimony on the proposed CS. Any public comment. Committee debate.
 7. Place the question - "Shall the Rules Committee adopt HCS CSSB371(Rules) with individual recommendations" - before the Committee for a vote.
 8. Adjourn

COMMITTEE REPORT

5/10

HOUSE

(7)

FURTHER:

Ret Rules

5/2/84

Date: 5-11-84

The Committee on RULES has had CSSB 371(RES)

"An Act relating to mining; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^HCS for CSSB 371 (RES) same title
 new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
(do not mention)
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] No. 1

[Signature] NO REC

[Signature]

CHAIRMAN

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RULES COMMITTEE MEETING

MONDAY MAY 28, 1984

1. Call to order
2. Date and Time
3. Note members in attendance. (Hayes, Barnes, Liska, Miller, Phillips, Tischer)
4. There are two items on today's agenda.
5. The first item on today's agenda is a proposed Rules Committee CS for SB 186am. The Rules CS makes several technical changes in keeping with the original intent of the bill. Specific changes are:

Section 1. In the Rules CS, as 37.05.316 is broken into 3 subsections, (a) (b) and (c), and material from the original bill from page 2, lines 13 & 14 is inserted in the new subsection (b) to clarify the intent of the original language. The following subsections are re-alphabetized accordingly.

Section 2. A new section 2 is created, containing the new language from the original bill. New subsections (d) through (g) on page 2 of the Rules CS rewords (b) through (e) of the original bill primarily for technical purposes, while retaining the original intent. A comparison of these sections is included in the Committee folders. Subsection (f) of the original bill has been relocated to page 1, lines 18-19 of the Rules CS.

6. Request a motion to adopt HCS SB 186(Rules) in place of the original bill, to bring the subject before the Committee for discussion.
7. Mike Scott of Senator Ferguson's office can provide information on the proposed CS. Public comment? Committee debate?
8. Place the question -- "Shall the Rules Committee adopt HCS SB 186(Rules) with individual recommendations" - before the Committee for a vote.

SEE NEXT PAGE FOR SECOND ITEM ON THE AGENDA

9. The second item on the agenda is a proposed Rules Committee CS for HCS SB 376am. The Rules CS is identical to the 3rd. Finance CS, with two exceptions:

1. The Rules CS deletes material from the 3rd. Fin version, page 2, lines 18-27, dealing with adjustments to the power rate limitations; and

2. Amends Section 4, page 11, the effective date clause. The Rules CS amends section 4 to provide for a October 1, 1984 effective date, rather than an immediate effective date as in the 3rd. Fin version.

10. Request a motion to adopt HCS SB 376(Rules) in place of the original bill in order to bring the CS before the Committee for discussion.

11. Mike Scott from Senator Ferguson's office is available to answer questions on the proposed Rules CS. Any public testimony? Committee debate?

12. Place the question - Shall HCS SB 376(Rules) be adopted with individual recommendations - before the Committee for a vote.

13. Adjourn.

AMENDED TITLE: SB 186AM

AN ACT RELATING TO NAME RECIPIENT GRANTS; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SACKETT.
CO-SPONSORS: FERGUSON.
CURRENT STATUS: 5/23/84 IN (H) RULES

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/18/83	01	0434	FIRST READING -- COMMITTEE REPORTS
03/30/83	02	0538	C&RA -- DP02, NR01
05/03/84	03	2901	FIN -- DP05, NR01
05/15/84	04	3094	RLS -- OTHER04
TAKEN UP IMMEDIATELY			
05/15/84	05	3094	SECOND READING
05/15/84	06	3074	ADVANCED TO 3RD READING BY UNAN CONSENT
05/16/84	10	3115	AM01 ADOPTED BY UNAN CONSENT
05/16/84	11	3118	AM02 ADOPTED BY UNAN CONSENT
05/16/84	12	0000	ADVANCED TO 3RD READING BY UNAN CONSENT
05/15/84	07	3095	THIRD READING
05/15/84	08	3095	POSTPONED UNTIL 05/16/84 BY UNAN CONSENT
05/16/84	09	3115	RETURNED TO 2ND READING BY UNAN CONSENT
05/16/84	13	3118	PASSED BY DIV 14-06-00
05/16/84	14	3119	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** ** *

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/17/84	15	3889	FIRST READING -- COMMITTEE REPORTS
05/23/84	16	3981	S.A. -- DP04, OTHER01
RULES			
****	**	**	*** ** *

AMENDED TITLE: SB 376AM

AN ACT RELATING TO POWER COST ASSISTANCE; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SACKETT. GENERAL DOLLARS: \$0 (F. NOTE)
OTHER DOLLARS: \$0

CO-SPONSORS: FERGUSON.
CURRENT STATUS: 5/25/84 IN (H) RULES

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/25/84	01	1847	FIRST READING -- COMMITTEE REPORTS
02/08/84	02	1981	C&RA -- DP(AM)04
02/23/84	03	2154	FIN -- DP(AM)06, NR01
03/01/84	04	2223	RLS -- OTHER04
TAKEN UP IMMEDIATELY			
03/30/84	13	2537	FIN F/NOTE SEN SUPPL #37
03/01/84	05	2228	SECOND READING
03/01/84	06	2228	AM01 ADOPTED BY UNAN CONSENT
03/01/84	07	2228	ADVANCED TO 3RD READING BY UNAN CONSENT
03/01/84	08	2228	THIRD READING
03/01/84	09	2229	PASSED BY DIV 19-00-01
03/01/84	10	2229	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** ** *

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/02/84	11	2789	FIRST READING -- COMMITTEE REPORTS
03/09/84	12	2870	L&C -- DP04
05/08/84	14	3776	FIN -- CS11
05/08/84	15	3776	FIN F/NOTE HSE SUPPL #141
05/10/84	16	3789	RECOMMITTED TO FIN BY UNAN CONSENT
05/24/84	17	4005	FIN -- 2ND CS02, NR06
05/24/84	18	4005	FIN F/NOTE EQUALS ZERO
05/25/84	19	4041	RECOMMITTED TO FIN BY UNAN CONSENT
05/25/84	20	4042	FIN -- 3RD CS07, NR01
05/25/84	21	4042	FIN F/NOTE EQUALS ZERO
RULES			
****	**	**	*** ** *



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

HCSSB 376(3rd Finance) "An Act relating to power cost assistance; and providing for an effective date."

I N D E X

- I. House CS for Senate Bill 376(Rules) - Proposed Rules Committee Substitute
- II. House CS for Senate Bill 376(3rd Finance - House Finance version.

Offered: 5/25/84
Referred: Rules

Original sponsors: Sackett and Ferguson

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 HOUSE CS FOR SENATE BILL NO. 376 (3d Finance)
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 power cost assistance; and pro-
7 viding for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 44.83.162 is repealed and reenacted to read:
10 Sec. 44.83.162. POWER COST EQUALIZATION. (a) The power cost
11 equalization fund is established as a separate fund for the purpose of
12 equalizing power cost per kilowatt-hour statewide at a cost close or
13 equal to the mean of the cost per kilowatt-hour in Anchorage,
14 Fairbanks, and Juneau by paying money from the fund to eligible elec-
15 tric utilities in the state. The fund shall be administered by the
16 authority as a fund distinct from the other funds of the authority.
17 The fund is composed of money appropriated for the purpose of provid-
18 ing power cost equalization to eligible electric utilities.
19 (b) The costs used to calculate the amount of power cost equal-
20 ization for all electric utilities eligible under this section include
21 all allowable costs, except return on equity, used by the commission
22 to determine the revenue requirement for electric utilities subject to
23 rate regulation under AS 42.05.010 - 42.05.721. The costs used in
24 determining the power cost equalization per kilowatt-hour shall ex-
25 clude any other type of assistance that reduces the customer's costs
26 of power on a kilowatt-hour basis and that is provided to the electric
27 utility within 60 days before the commission determines the power cost
28 equalization per kilowatt-hour of the electric utility.
29 (c) An eligible electric utility is entitled to receive power

1 cost equalization

2 (1) for sales of power to local community facilities,
3 calculated in the aggregate for each community served by the electric
4 utility, for actual consumption of not more than 70 kilowatt-hours per
5 month for each resident of the community; and

6 (2) for actual consumption of not more than 750 kilowatt-
7 hours per month sold to each customer in all classes served by the
8 electric utility except to customers of the utility under (1) of this
9 subsection.

10 (d) The amount of power cost equalization provided per kilowatt-
11 hour under (c) of this section may not exceed 95 percent of the power
12 costs, or the average rate per eligible kilowatt-hour sold, whichever
13 is less, as determined by the commission. However,

14 (1) during the fiscal year that begins July 1, 1984 the
15 power costs for which power cost equalization may be paid to an elec-
16 tric utility are limited to minimum power costs of more than 8.5 cents
17 per kilowatt-hour and less than 22.5 cents per kilowatt-hour;

18 (2) during each following fiscal year, the power costs for
19 which power cost equalization may be paid to an electric utility are
20 limited to

21 (A) power costs of less than 52.5 cents per kilowatt-
22 hour specified in (1) of this subsection plus one cent per kilowatt-
23 hour for the fiscal year ending June 30, 1986, plus one cent per
24 kilowatt-hour for each fiscal year thereafter; and

25 (B) power costs that are greater than the minimum
26 power cost of 8.5 cents per kilowatt-hour specified in (1) of this
27 subsection; and

28 (3) during each following state fiscal year, the power
29 costs for which power cost equalization may be paid to an electric

1 utility shall be adjusted by the commission, considering the rate of
2 change in fuel cost and power demand; and

3 (4) the power cost equalization per kilowatt-hour may be
4 determined for a utility without historical kilowatt-hour sales data
5 by using kilowatt hours generated.

6 (e) An electric utility whose customers receive power cost
7 equalization under this section shall set out in its tariff the rates
8 without the power cost equalization and the amount of power cost
9 equalization per kilowatt-hour sold. The rate charged to the customer
10 shall be the difference between the two amounts. Power cost equaliza-
11 tion paid under this section shall be used to reduce the cost of all
12 power sold to local community facilities, in the aggregate, to the
13 extent of 70 kilowatt-hours per month per resident of the community,
14 and to reduce the cost of the first 750 kilowatt-hours per customer
15 per month for all other classes served by the electric utility.

16 (f) The power cost equalization program shall be administered by
17 the authority based on a determination by the commission under (b) and
18 (d) of this section of power cost equalization per kilowatt-hour for
19 each eligible electric utility.

20 (g) An eligible electric utility may not be denied power cost
21 equalization because complete cost information is not available. An
22 eligible electric utility that is exempt from rate regulation under
23 AS 42.05.010 - 42.05.721 shall be assisted by the commission to pro-
24 vide the cost information the commission considers necessary to comply
25 with the requirements of this section. Only power costs that are
26 supportable may be considered in calculating power cost equalization.
27 Each electric utility is responsible for keeping records that provide
28 the information necessary to comply with the requirements of this
29 section including, but not limited to, records of monthly kilowatt-

1 hour sales or generation, monthly fuel balances, fuel purchases, and
2 monthly utility fuel consumption

3 (h) For each eligible electric utility, the determination of the
4 cost of fuel by the commission shall be in accordance with the proce-
5 dure for approving fuel cost rate adjustments of electric utilities
6 subject to rate regulation under AS 42.05.010 - 42.05.721.

7 (i) Each electric utility receiving power cost equalization ap-
8 proved by the commission shall

9 (1) report monthly to the authority within the time and in
10 the form the authority requires; and

11 (2) use operational equipment designed to meter individual
12 utility customer power consumption and to determine and record the
13 utility's overall fuel consumption.

14 (j) The authority shall review the report required under (i)(1)
15 of this section and may submit the report to the commission for addi-
16 tional review before payment. After review and approval of the report
17 by the authority, the authority shall, subject to appropriation, pay
18 to each eligible electric utility an amount equal to the power cost
19 equalization per kilowatt-hour determined by the commission under (b)
20 and (d) of this section, multiplied by the number of kilowatt-hours
21 eligible for power cost equalization that were sold during the preced-
22 ing month to all customers of the utility in accordance with (c) of
23 this section. Payment shall be made by the authority within 30 days
24 after receipt from the utility of the report required under (i) of
25 this section. However, if there is a dispute between the authority
26 and the utility relating to the payment, the authority shall submit
27 the report to the commission for review within 30 days after its
28 receipt by the authority. When a report is submitted to the commis-
29 sion for review under this section, payment shall be made by the

1 authority within 30 days after submission, based on a commissio
2 determination. If appropriations are insufficient for payment in
3 full, the amount paid to each electric utility is reduced on a pro
4 rata basis.

5 (k) If an electric utility receives power cost equalization
6 under this section, the utility shall either

7 (1) give the following notice to its electric service
8 customers eligible under this program for each period for which the
9 payment is received:

10 NOTICE TO CUSTOMER

11 For the current billing period the utility will be paid under the
12 State of Alaska's power cost equalization program (AS 44.83.162) to
13 assist the utility and its customers in reducing the high cost of
14 generation of electric energy.

15	Your total electrical service cost	\$
16	Less state equalization	\$
17	Your charge	\$; or

18 (2) give to its electric service customers a notice ap-
19 proved by the authority, which notice provides electric service cus-
20 tomers the same information provided by the notice in (1) of this
21 subsection.

22 (1) In order to qualify for power cost equalization, each elec-
23 tric utility must make every reasonable effort to minimize administra-
24 tive, operating, and overhead costs, including using the best avail-
25 able technology consistent with sound utility management practices.
26 In reviewing applications for power cost equalization, the commission
27 has the authority to require the elimination of duplicative or other-
28 wise unnecessary operating expenses. Each eligible electric utility
29 shall cooperate with appropriate state agencies to implement cost-

1 effective energy conservation measures, and to plan for and implement
2 feasible alternatives to diesel generation.

3 (m) For purposes of (c) of this section, the number of residents
4 of the community equals the number of residents of the community
5 determined by the Department of Community and Regional Affairs in
6 accordance with AS 29.88.015.

7 (n) In this section

8 (1) "commission" means the Alaska Public Utilities Commis-
9 sion;

10 (2) "community facility" means a water and sewer facility,
11 public outdoor lighting, charitable educational facility, or community
12 building whose operations are not paid for by the state, the federal
13 government, or private commercial interests;

14 (3) "eligible electric utility" or "electric utility" means

15 (A) each corporation (whether public, cooperative, or
16 otherwise), company, individual, or association of individuals,
17 their lessees, trustees, or receivers appointed by a court, that
18 owns, operates, manages, or controls a plant or system for the
19 furnishing, by generation, transmission or distribution, of
20 electric service to the public for compensation; and

21 (B) during calendar year 1983 had a residential con-
22 sumption level of power eligible for power cost equalization
23 under this chapter of less than 7,500 megawatt hours or had a
24 residential consumption level of power eligible for power cost
25 equalization under this chapter of less than 15,000 megawatt
26 hours if the utility served two or more municipalities or unin-
27 corporated communities; and

28 (C) uses diesel-fired generators to produce more than
29 75 percent of the electrical consumption of the utility; or

1 (D) nothing in this section precludes a new or exist-
2 ting utility from applying for assistance if they meet the re-
3 quirements in (n)(1)(A)-(C).

4 (4) "energy conservation measures" include weatherization
5 and other insulating methods, utilization of waste heat, appropriate
6 sizing of new generating equipment, and other programs of the state or
7 federal government intended and available for the purpose of energy
8 conservation;

9 (5) "feasible energy projects" include projects that are
10 selected after a field reconnaissance study under AS 44.83.177 and
11 after completion of a feasibility study according to the criteria in
12 AS 44.83.181 to determine cost benefit in comparison to existing power
13 generating methods and other alternatives considered in reconnaissance
14 studies;

15 (6) "fund" means the power cost equalization fund estab-
16 lished under (a) of this section;

17 (7) "power costs" means costs used in determining power
18 cost equalization in accordance with (b) and (d) of this section.

19 (o) If the authority receives a petition requesting power cost
20 equalization, signed by at least 25 percent of the customers of an
21 electric utility that is subject to rate regulation under AS 42.05 and
22 that has not applied for power cost equalization under this section,
23 the authority shall require the utility to submit a power cost equali-
24 zation application. Upon a determination of eligibility for power
25 cost equalization, the utility, as a part of its service, shall re-
26 ceive power cost equalization and pass power cost equalization bene-
27 fits to its customers in accordance with this section.

28 * Sec. 44.83.163 is amended to read:

29 Sec. 44.83.163. ADJUSTMENTS TO POWER COST EQUALIZATION

1 [ASSISTANCE]. (a) The power cost equalization [ASSISTANCE] per
2 kilowatt-hour determined under AS 44.83.162 payable to an electric
3 utility that is subject to rate regulation under AS 42.05 may be
4 adjusted by the commission if

5 (1) an increase or decrease in the electric utility's cost
6 of fuel has resulted in the approval of a fuel cost rate adjustment by
7 the commission;

8 (2) a permanent or interim rate increase or decrease has
9 been approved by the commission, thereby establishing a higher or
10 lower power cost;

11 (3) an adjustment is required after the authority has
12 discovered discrepancies in its review of monthly data submitted by
13 the electric utility; or

14 (4) the authority determines that appropriations are insuf-
15 ficient to finance full payments to eligible electric utilities.

16 (b) An electric utility that is eligible to receive power cost
17 equalization [ASSISTANCE] under this section and that receives power
18 cost equalization [ASSISTANCE] per kilowatt-hour approved by the
19 commission shall report monthly to the authority within the time and
20 in the form the authority requires. An electric utility shall report

21 (1) the power cost equalization [ASSISTANCE] per kilowatt-
22 hour approved by the commission;

23 (2) the total kilowatt-hours sold to each class of customer
24 during the preceding month;

25 (3) the total kilowatt-hours eligible for power cost equal-
26 ization [ASSISTANCE] under this section sold to each class of customer
27 during the preceding month;

28 (4) the total kilowatt-hours generated during the preceding
29 month, if available;

1 (5) any commission-approved amendments to the schedule of
2 rates in effect during the preceding month; and

3 (6) an increase or decrease in the current unit price of
4 fuel from the base price used by the commission in the determination
5 of power costs which may be expected to result in a subsequent power
6 cost equalization [ASSISTANCE] adjustment.

7 (c) The provisions of AS 44.83.162 relating to the determination
8 of the amount of power cost equalization [ASSISTANCE] and payment of
9 the equalization assistance apply to equalization assistance under
10 this section.

11 * Sec. 3. AS 44.83.164 is amended to read:

12 Sec. 44.83.164. EQUALIZATION ASSISTANCE TO UTILITIES NOT REGU-
13 LATED BY PUBLIC UTILITIES COMMISSION. (a) An electric utility that
14 is not subject to rate regulation by the commission may receive power
15 cost equalization [ASSISTANCE] if the utility is otherwise eligible
16 for equalization assistance under AS 44.83.162 and if the utility

17 (1) files with the commission financial data necessary to
18 determine the power cost equalization [ASSISTANCE] per kilowatt-hour
19 as prescribed by the commission and that [WHICH] is in compliance with
20 AS 44.83.162;

21 (2) reports monthly to the authority, within the time and
22 in the form the authority requires, the information required in (b) of
23 this section;

24 (3) sets rates

25 (A) that consider the power cost equalization [ASSIST-
26 ANCE] provided under AS 44.83.162 by subtracting from its revenue
27 requirements for electric services the power cost equalization
28 [ASSISTANCE] per kilowatt-hour that it is eligible to receive;
29 and

1 (B) under which the power cost equalization [ASSIST-
2 ANCE] provided in AS 44.83.162 is applied as a credit only
3 against the cost of kilowatt-hours eligible for equalization
4 assistance under AS 44.83.162 that are consumed by each customer
5 in any month;

6 (4) allows audits that the commission determines are neces-
7 sary to ensure [INSURE] compliance with this section; and

8 (5) furnishes its electric service customers eligible under
9 this program a notice as specified in AS 44.83.162(k).

10 (b) An electric utility that is eligible to receive power cost
11 equalization [ASSISTANCE] under this section shall report in accor-
12 dance with (a)(2) of this section

13 (1) the power cost equalization [ASSISTANCE] per kilowatt-
14 hour approved by the commission;

15 (2) the total kilowatt-hours sold to each class of customer
16 during the preceding month;

17 (3) the total kilowatt-hours eligible for power cost equal-
18 ization [ASSISTANCE] under this section sold to each class of customer
19 during the preceding month;

20 (4) the total kilowatt-hours generated during the preceding
21 month, if available;

22 (5) any amendments to the schedule of rates in effect
23 during the preceding month; and

24 (6) an increase or decrease in the current unit price of
25 fuel from the base price used by the commission in the determination
26 of power costs that [WHICH] may be expected to result in a subsequent
27 equalization assistance level adjustment.

28 (c) An electric utility that is eligible to receive power cost
29 equalization [ASSISTANCE] under this section may have its power cost

1 equalization [ASSISTANCE] per kilowatt-hour determination changed by
2 the commission if

3 (1) an increase or decrease in the electric utility's cost
4 of fuel has been verified by the commission;

5 (2) an increase in rates has occurred based on an increase
6 in costs and has been verified by the commission;

7 (3) an adjustment is required after the authority has
8 discovered discrepancies in its review of monthly data submitted by
9 the electric utility; or

10 (4) the authority determines that appropriations are insuf-
11 ficient to finance full payments to eligible electric utilities.

12 (d) The provisions of AS 44.83.162 relating to the determination
13 of the amount of power cost equalization [ASSISTANCE] and payment of
14 the equalization assistance apply to equalization assistance under
15 this section.

16 (e) An application for power cost equalization [ASSISTANCE] by
17 an electric utility that is eligible to receive power cost equaliza-
18 tion [ASSISTANCE] under this section does not extend the jurisdiction
19 of the commission beyond that established by AS 42.05.010 - 42.05.721.

20 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).

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COMMITTEE REPORT

HOUSE

(7)

FURTHER: —

4/24/84

Date: April 30, 1984

Mr. Speaker:

The Committee on _____ RULES _____ has had CSSB 490(Fin)

"An Act making supplemental appropriations; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Roll E. P. De Pass
Mac Truckers
Mr. W. Hill
Paul J. Fisher
John D. Fuller
Joe F. Hayes

MEMBERS HAVING
OTHER RECOMMENDATIONS:

John D. Fuller
 CHAIRMAN

SENATE
JOURNAL SUPPLEMENT

4/25/84

No. 76

HB
717 am

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST Bill/Resolution No.: <u>HB717am</u> Title: <u>Longevity Bonus Program</u> Sponsor: _____ Requestor: _____ Date of Request: _____	FISCAL DETAIL Agency Affected: <u>Administration</u> Program Category Affected: <u>Social Serv</u> BRU, Program or Subprogram(s) Affected: _____
--	--

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	11.8	120.0				
200 TRAVEL		113.9				
300 CONTRACTUAL	10.2	110.9				
400 SUPPLIES	1.0	3.0				
500 EQUIPMENT	3.0					
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	2750.5	15,350.0				
800 MISCELLANEOUS						
TOTAL OPERATING	2,776.5	15,697.8				

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	2,776.5	15,697.8				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3.0				
PART-TIME	3	1.0				
TEMPORARY		0				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Senator Sackett, CoChairman
 Division: Senate Finance Committee

Phone: _____
 Date: April 25, 1984

RULES COMMITTEE MEETING

MONDAY APRIL 30, 1984

1. Call to order
2. Date and Time
3. Note members in attendance. (Hayes, Barnes, Liska, Miller, Phillips, Tischer)
4. The only item on today's agenda is Senate Bill CSSB 490(Fin), which is in the committee packets. The House Rules CS adds a new Section 3, which is a supplemental appropriation of ~~\$1,776,000~~ ^{2,776,500} for the Department of Administration to fund the Longevity Bonus program to the end of this fiscal year - June 30, 1984. This amount represents that portion of the fiscal note on HB 717 that will be required for added recipients during the remainder of this fiscal year.
5. Request a motion to pass HCS CSSB 490(Rules) with individual recommendations, to bring the subject before the Committee for discussion.
7. Any public comment. Committee debate.
8. Place the question - "Shall the Rules Committee adopt HCS CSSB 490(Rules) - before the Committee for a vote.
9. Adjourn

*
2,776.5

SENATE
JOURNAL SUPPLEMENT

1/25/84

No. 76

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

HB
717 am

REQUEST Bill/Resolution No.: <u>HR717am</u> Title: <u>Longevity Bonus Program</u> Sponsor: _____ Requestor: _____ Date of Request: _____	FISCAL DETAIL Agency Affected: <u>Administration</u> Program Category Affected: <u>Social Serv</u> BRU, Program or Subprogram(s) Affected: _____
--	--

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	11.6	120.0				
200 TRAVEL		113.9				
300 CONTRACTUAL	10.2	110.9				
400 SUPPLIES	1.0	3.0				
500 EQUIPMENT	3.0					
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	2750.5	15,350.0				
800 MISCELLANEOUS						
TOTAL OPERATING	2,776.5	15,697.8				

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	2,776.5	15,697.8				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3.0				
PART-TIME	3	1.0				
TEMPORARY		0				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Senator Sackett, CoChairman
 Division: Senate Finance Committee

Phone: _____
 Date: April 25, 1984

S

B

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RULES COMMITTEE MEETING

TUESDAY MAY 29, 1984

1. Call to order
2. Date and Time
3. Note members in attendance. (Hayes, Barnes, Liska, Miller, Phillips, Tischer)
4. The only item on today's agenda is a proposed Rules Committee CS for CSSB 496(Fin) - "An Act relating to loans for commercial fishing and agriculture; and providing for an effective date." The Rules CS makes several technical changes to ensure that provisions relating to Yukon-Kuskokwim fisheries fall under the existing funding and loan guarantee provisions found in other statutes. The Rules CS is identical to the House Fin CS except that:
 - Subparagraph (D) of the House Finance version, page 2, lines 14-28, is deleted, and the provisions contained in (D) are incorporated into existing Subparagraphs (A)-(C) in the House Rules CS. This language is incorporated in the Rules CS on page 1, lines 16, 20, and 23-28, and on page 2, lines 5-8, 11-12 and 22-24.
5. Request a motion to adopt HCS CSSB 496(Rules) in place of the original bill, to bring the subject before the Committee for discussion.
6. Anyone from Sen Mulcahy's or Rep. Herrmann's office?
Public comment? Committee debate?
7. Place the question - "Shall the Rules Committee adopt HCS CSSB 496(Rules) with individual recommendations" - before the Committee for a vote.
8. Adjourn



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

RULES COMMITTEE MEETING

MAY 29, 1984

-AGENDA-

HCS CSSB 96(Finance)

"An Act relating to loans for commercial fishing and agriculture; and providing for an effective date."



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

RULES COMMITTEE MEETING

MAY 29, 1984

-AGENDA-

HCS CSSB 496(Finance)

"An Act relating to loans for commercial fishing and agriculture; and providing for an effective date."

Hein
5/28/84 ✓

Original sponsor: Rules/Governor

Fuller

1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 496 (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 loans for commercial fishing and
7 agriculture; and providing for an effective date."

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

9 * Section 1. AS 16.10.310(a) is amended to read:

10 (a) The department may

11 (1) make loans to

12 (A) individual commercial fishermen who have been

13 state residents for a continuous period of two years immediately

14 preceding the date of application for a loan under AS 16.10.300 -

15 16.10.370 and have had a crewmember or commercial fishing license

16 under AS 16.05.480 or a permit under AS 16.43 for the year imme-

17 diately preceding the date of application and any other two of

18 the past five years, and who actively participated (i) in commer-

19 cial fishing in the fishery during those periods or (ii) in

20 subsistence fishing in a fishery in the drainage system of the

21 Yukon and Kuskokwim Rivers during those periods, for the purchase

22 of entry permits;

23 (B) an individual who has been a state resident for a

24 continuous period of two years immediately preceding the date of

25 application for a loan under AS 16.10.300 - 16.10.370, who (i)

26 because of lack of training or lack of employment opportunities

27 in the area of residence does not have occupational opportunities

28 available other than commercial fishing; or (ii) is economically

29 dependent on subsistence fishing in the drainage system of the

A-C
D Deleted in
H Fin version

1 Yukon and Kuskokwim Rivers or on commercial fishing for a liveli-
2 hood and for whom subsistence fishing in the drainage system of
3 the Yukon and Kuskokwim Rivers or commercial fishing has been a
4 traditional way of life for the individual in Alaska; [,] for the
5 repair, restoration or upgrading of existing vessels and gear,
6 for the purchase of entry permits and gear, for the purchase of
7 shore fisheries leases, and for the construction and purchase of
8 vessels;

9 (C) corporations, partnerships, or joint ventures, 100
10 percent of which are owned by individual commercial fishermen who
11 have been state residents for a continuous period of two years
12 immediately preceding the date of application for a loan under
13 AS 16.10.310(a)(1)(B) and have had a crewmember or commercial
14 fishing license under AS 16.05.480 or a permit under AS 16.43 for
15 the year immediately preceding the date of application and any
16 other two of the past five years, and who actively participated
17 (i) in commercial fishing in the fishery during that period or
18 (ii) in subsistence fishing in a fishery in the drainage system
19 of the Yukon and Kuskokwim Rivers during that period, for the
20 repair, restoration or upgrading of existing vessels and gear,
21 for the purchase of gear, and for the construction and purchase
22 of vessels;

23 (2) designate agents and delegate its powers to them as
24 necessary;

25 (3) adopt regulations necessary to carry out its functions;

26 (4) establish amortization plans for repayment of loans,
27 which may include extensions for poor fishing seasons or for adverse
28 market conditions for Alaskan products;

29 (5) enter into agreements with private lending

1 institutions, other state agencies, or agencies of the federal govern-
2 ment, to carry out the purposes of AS 16.10.300 - 16.10.370;

3 (6) enter into agreements with other agencies or organiza-
4 tions to create an outreach program to make loans under AS 16.10.300 -
5 16.10.370 in rural areas of the state;

6 (7) allow an assumption of a loan if the applicant has been
7 a state resident for a continuous period of two years immediately
8 preceding the date of the request for an assumption.

9 * Sec. 2. AS 16.10.320(a) is amended to read:

10 (a) A loan under AS 16.10.310 - 16.10.370

11 (1) may not exceed a term of 15 years, except for exten-
12 sions granted under AS 16.10.310(a)(4);

13 (2) may not bear interest exceeding 10-1/2 percent;

14 (3) shall be secured by a first priority lien and appropri-
15 ate security agreement; and

16 (4) may not exceed 90 percent of the appraised value of the
17 collateral used to secure the loan, except that a loan granted under
18 AS 16.10.333 for the purchase of an Alaska limited entry permit may
19 not exceed an amount determined in accordance with (f) or (h) of this
20 section.

21 * Sec. 3. AS 16.10.320(d) is amended to read:

22 (d) The total of balances outstanding on loans [LOANS] made to a
23 borrower under AS 16.10.310(a)(1)(A) may not exceed [A TOTAL OF]
24 \$300,000. Loans made to a borrower under AS 16.10.310(a)(1)(B) or (C)
25 may not exceed a total of \$100,000. A loan to an associate of the
26 borrower is considered to be a loan to the borrower. For the purposes
27 of this section, "associate of the borrower" means

28 (1) a corporation or other organization of which the bor-
29 rower is an officer, director or partner, or is, directly or in-

1 directly, the beneficial owner of 10 percent or more of any class of
2 equity securities;

3 (2) a person who is, directly or indirectly, the beneficial
4 owner of 10 percent or more of any class of equity securities of the
5 borrower;

6 (3) a trust or other estate in which the borrower has a
7 substantial beneficial interest or as to which the borrower serves as
8 trustee or in a similar fiduciary capacity.

9 * Sec. 4. AS 16.10.320(e) is amended to read:

10 (e) Two or more individual commercial fishermen who each satisfy
11 the requirements specified in AS 16.10.310(a)(1)(B) may jointly obtain
12 a commercial fishing loan for the construction of a fishing vessel or
13 the purchase of an existing fishing vessel. Loans granted under this
14 subsection

15 (1) may not exceed the amount specified in (d) of this
16 section multiplied by the number of qualified commercial fishermen
17 applying for the loan;

18 (2) may not exceed a term of 15 years, except for exten-
19 sions granted under AS 16.10.310(a)(4);

20 (3) shall be secured by a first priority lien and appropri-
21 ate security agreement;

22 (4) may not bear interest exceeding 10-1/2 percent; and

23 (5) may not exceed 90 percent of the appraised value of the
24 collateral used to secure the loan.

25 * Sec. 5. AS 16.10.335 is amended to read:

26 Sec. 16.10.335. DEFAULT AND FORECLOSURE. (a) If the debtor
27 defaults upon a note for which a limited entry permit has been pledged
28 as security under AS 16.10.333 or [UNDER AS] 16.10.338, the commis-
29 sioner shall provide the debtor, by both [REGISTERED OR] certified and

1 first class mail sent to the debtor's last known address on file with
2 the commissioner, with a notice of default that [WHICH] includes

3 (1) a description of the security given for the note in-
4 cluding the number assigned to the pledged permit by the commission;

5 (2) the date upon which the default occurred;

6 (3) the amount of arrearages as of the date of the notice,
7 the total amount remaining on the note less unearned interest, and the
8 amount of daily interest;

9 (4) a statement that the debtor may, within 15 days after
10 [OF] the postmark date of the notice, request a hearing to submit
11 evidence showing the debtor has not defaulted;

12 (5) a statement that the note may be reinstated if brought
13 current within 60 days after [FROM] the postmark date of the notice;

14 (6) a statement that the note may be paid in full less
15 unearned interest within 120 days after [FROM] the postmark date of
16 the notice;

17 (7) the place where reinstatement or payment in full may be
18 made; and

19 (8) a notice in at least 10-point bold type stating:
20 "IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE
21 DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT
22 AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

23 (b) In each case of a limited entry permit being pledged as
24 security under AS 16.10.333 or 16.10.338, the debtor shall maintain on
25 file with the department an address where notice of default is to be
26 sent, if necessary, and where that notice will be timely received by
27 the debtor.

28 (c) Upon presentation of evidence of mailing in accordance with
29 (a) of this section, the receipt of the notice of default by the

1 debtor will be presumed for all purposes. This presumption is re-
2 buttable by presentation of evidence sufficient to demonstrate lack of
3 receipt of notice through no fault of the debtor. Upon presentation
4 of evidence sufficient to prove lack of receipt of notice through no
5 fault of the debtor, the notice is a nullity.

6 (d) Upon good cause shown, the commissioner may waive any of the
7 time limits in (a) of this section, if the department receives from
8 the debtor or the debtor's representative a request for the waiver
9 before the expiration of the time limit for which the waiver is
10 sought.

11 (e) Except as otherwise provided in (c) and (d) of this section,
12 upon [UPON] the debtor's failure to satisfy the note within the time
13 specified in (a)(6) of this section, the debtor's interest in the
14 permit is terminated by operation of law without further notice. Any
15 entry permit cards issued to the debtor under the permit shall be
16 cancelled immediately upon receipt by the commission of a certificate
17 of termination containing a copy of the notice required by (a) of this
18 section issued by the commissioner.

19 * Sec. 6. AS 16.10 is amended by adding a new section to read:

20 Sec. 16.10.336. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
21 FORECLOSURE. The department shall dispose of property acquired
22 through default or foreclosure of a loan made under AS 16.10.300 -
23 16.10.370. Disposal shall be made in a manner that serves the best
24 interests of the state and may include the amortization of payments
25 over a period of years, but may not be by lease.

26 * Sec. 7. AS 44.81.210(a) is amended by adding a new paragraph to read:

27 (23) make a loan to a person, regardless of residency, if
28 the board of directors of the bank determines that the loan is neces-
29 sary to preserve the value of property held by the bank as security

1 for a loan that was made under (a)(1) of this section and that is in
2 default.

3 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
4 10.070(c).
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500

COMMITTEE REPORT
HOUSE

5/22
Rules

(9)

FURTHER:

5/21/84

Date: 5-22-84

The Committee on RULES has had CSSB 500(SA) am

"An Act relating to the reduction of litter and the recovery of materials and energy from litter; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^{MC}S for CSSB 500(Rules) same title
- new title
- and recommends Ind. Rec.
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

ROD E. PELL Do Pass

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] NO REC

[Signature]
CHAIRMAN

Jack

RULES COMMITTEE MEETING

TUESDAY MAY 21, 1984

1. Call to order
2. Date and Time
3. Note members in attendance. (Hayes, Barnes, Liska, Miller, Phillips, Tischer)
4. There are 2 items on today's agenda: SCR 48 and HB 500.
5. The first item on the agenda is the proposed Rules Committee substitute for SCR 48 - "Suspending Uniform Rule 41(b) of the Alaska State Legislature concerning House Bill No. 575." The proposed Rules Committee CS adds language on page 1, lines 11-13 of the Resolution to reflect the Senate's exact title change to HB 575.
6. Request a motion to adopt HCS SCR 48(Rules) with individual recommendations, to bring the subject before the Committee for discussion. (Jack - No action needs to be taken until after Committee debate.)
7. Any testimony on the proposed CS. Any public comment. Committee debate.
8. Place the question - "Shall the Rules Committee adopt HCS HCS SCR 48(Rules) with individual recommendations" - before the Committee for a vote.
9. The 2nd item on the agenda is the proposed Rules Committee CS for HCS CSSB 500(Res) - "An Act relating to the reduction of litter and the recovery of materials and energy from litter; and providing for an effective date."

The Rules CS amends page 4, lines 21-22 of the bill to include the phrase "or other extraction processes" in the definition of those primary industrial activities that are exempted from the definition of "litter." Although this language is in current law, the original version of SB 500 deleted this phrase. Restoring this language will make clear that oil and gas extraction are included in this exemption.
10. Request a motion to adopt HCS CSSB 500(Rules) with individual recommendations for the purpose of discussion. (Jack - No action taken until debate is over.)
11. Any public testimony? Committee debate?
12. Place the Question - "Shall the Rules Committee adopt HCS CSSB 500(Rules) with individual recommendations" - before the Committee for a vote.
13. Adjourn

COMMITTEE REPORT
HOUSE

5/22
Rules

(9)

FURTHER:

5/21/84

Date: 5-22-84

The Committee on RULES has had CSSB 500(SA)am

"An Act relating to the reduction of litter and the recovery of materials and energy from litter; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^{MCS} for CSSB 500(Rules) same title
- and recommends Ind. Rec. new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
ROSS E. [Signature] Do Pass
[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] NO REC

[Signature]
 CHAIRMAN

SCR

1

COMMITTEE REPORT

JOINT SENATE & HOUSE RULES COMMITTEE

Date 3/9/83

Mr. President:
Mr. Speaker:

The Joint Senate and House Rules Committee has had SPECIAL SENATE CONCURRENT RESOLUTION NO. 1 (Disapproving Executive Order No. 53 - Office of Management and Budget) under consideration and: ~~recommends~~ Reports it back with individual recommendations, with Finance amendments.

SENATE MEMBERS
RECOMMENDATIONS:

Sen Faiks NO REC
Senator Faiks, Chairman

Sen Ferguson DO PASS
Senator Ferguson

Sen Bennett DO PASS
Senator Bennett

Kelly - Do Not Pass At This Time
Senator Kelly

Sen Ray NO REC
Senator Ray

HOUSE MEMBERS
RECOMMENDATIONS:

Rep. Fuller DO PASS
Rep. Fuller, Chairman

Rep. Phillips DO PASS
Rep. Phillips

Rep. Hayes DO PASS
Rep. Hayes

Rep. Barnes DO PASS
Rep. Barnes

Rep. Tischer DO PASS
Rep. Tischer

Rep. M. Miller DO PASS
Rep. M. Miller

Rep. Larson NO REC.
Rep. Larson

Rep. M. M. Miller NO REC.
Rep. M. M. Miller

Rep. Koponen

SCR

33



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

F I L E I N D E X

SCR 33am

- I. Memo from Rep. Adams with opinion from Legal Services attached.
- II. Proposed House CS for SCR 33 (Ru s)
- III. Senate Passed Version - SCR 33 am
- IV. Original Bill - SCR 33

Alaska State Legislature

House of Representatives

Al Adams

Chairman

Committee on Finance

WHILE IN SESSION
Pouch V
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Juneau, Alaska 99811
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OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
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1024 W. 6th
Anchorage, Alaska 99501
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Official Business

February 28, 1984

MEMORANDUM

TO: Senator Kertulla
Senator Faiks
Senator Bennett
Senator Sackett
Representative Hayes
Representative Barnes

FROM: Representative Adams, Chair
House Finance Committee

SUBJ: SCR 33 am

Enclosed you will find a memorandum from Billy Berrier, Director, Division of Legal Services, regarding the amendment made in SCR 33 am to the uniform rule on the power of a budget conference committee.

My concern is that under the proposed bill, we will not be able to zero out an item that should be so reduced. For example, in the Department of Health and Social Services budget, the Hepatitis B program is funded in several different places when only one appropriation is really necessary.

Mr. Berrier, at my request, has suggested language to alleviate my concern. I would be interested to know your opinion of the suggested language. Please contact me at your convenience.

Enclosure

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 28, 1984

SUBJECT: Conference Committee power under
Uniform Rules (SCR 33 am)

TO: Representative Al Adams

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

You have asked whether the language added to Rule 42(a) of the Uniform Rules in SCR 33 am is broad enough to allow deletion of an item contained in each version of a bill before a conference committee.

In my opinion it is not.

The relevant language reads:

If the committee reaches agreement on previously adopted amendments to a bill adopted by either house, or on an appropriation measure reaches agreement on an amount equal to the amount previously adopted by a house or between the amounts previously adopted by either house, the committee then submits an identical report to each house.

The language is quite specific and deletion of an item found in both versions is neither the amount previously adopted by a house nor is it between the amounts since the effect is to make a zero appropriation for that item.

You have also asked for suggested language if, in our opinion the existing language will not allow deletion. I would suggest an adaptation of the provision relating to Free Conference Committees and Conference Committees with limited powers of free conference. The new language would read:

or on an appropriation measure reaches agreement on an amount appropriated by an item that does not exceed the

Representative Al Adams
Page 2
February 28, 1984

higher amount appropriated by that item in a version of
the bill adopted in third reading by a house,

as a substitute for the new language added by the resolution.

BCB:ojb
J4/012
Attachment



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Alaska State Legislature

House of Representatives

Committee on Rules

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Juneau, Alaska 99811

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465-3765

F I L E I N D E X

SCR 33am

- I. Memo from Rep. Adams with opinion from Legal Services attached.
- II. Proposed House CS for SCR 33 (Rules)
- III. Senate Passed Version - SCR 33 am
- IV. Original Bill - SCR 33



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HOUSE RULES COMMITTEE MEETING

TUESDAY, MARCH 20, 1984

AGENDA

HB 519 - "Re: Art works in Public Buildings and Facilities."

SCR 33 - "AM Rule 42/Uniform Rules/Conference Committees."

Jack. 17

RULES COMMITTEE MEETING

TUESDAY, MARCH 20, 1984

1. Call to order, date and time.
2. Note attendance
3. AGENDA:
 - SCR 33 - relating to the powers of Conference Committees.
 - ✓ HB 519 - relating to art work in public buildings and facilities.
4. The first item on the agenda is SCR 33. The proposed Rules CS inserts the following language, which is shown on Page 1, Lines 21-24 of the Rules CS;
"or on an appropriation measure reaches an agreement on an amount appropriated by an item that does not exceed the higher amount appropriated by that item in a version of the bill adopted in third reading by a house,"
5. Elmer Lindstrom of Rep. Adams' office MAY be present to testify. Any other people present wishing to testify?
6. Accept motion to adopt HCS SCR 33 (Rules) in place of SCR 33am.
7. The second item on the agenda is HB 519. Relating to art works by Alaskan artists in public buildings and facilities. LouAnn Cutler, representing Rep. Adams' office, will explain the proposed rules CS.
8. The Committee packets include:
 1. The sectional analysis prepared by Rep. Adams.
 2. The proposed rules CS.
 3. a copy of CSHB 519(Fin)
 4. a copy of HB 519 as introduced
 5. a copy of Title 27, the existing art in public places statute.
9. Call on LouAnn at this point?

(Jack - LouAnn's sectional analysis explains the bill, but does not compare the Finance and Rules versions. A comparison of the Finance and Rules bills is shown on ~~the~~ following page, in case there are questions specifically on how they are different. In general, the Rules CS inserts language authorizing the 'Governing body' or 'school district' in a community to make the decision on having art work in a facility rather than the project owner, and amends the definitions section to reflect this change in authority.)

2

10. Open the meeting to public testimony, if applicable?

11. Open the meeting to debate.

12. After debate subsides, take a motion on moving the Rules CS, with individual recommendations? (Rep. Miller will be strongly opposed to the bill.)

SCR

48

AMENDED TITLE:

SUSPENDING UNIFORM RULE 41(B) OF THE ALASKA STATE LEGISLATURE
CONCERNING HOUSE BILL NO. 575

PRIME SPONSOR: SENATE JUDICIARY COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 5/21/84 IN (H) RULES

SCR 48 SENATE ACTION

13:49 5/22/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/19/84	01	3168	FIRST READING -- COMMITTEE REPORTS
05/19/84	02	3168	SECOND READING
05/19/84	03	3168	PASSED BY DIV 15-00-05
****	**	**	*** ** *

SCR 48 HOUSE ACTION

13:50 5/22/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/21/84	04	3943	FIRST READING -- COMMITTEE REPORTS RULES
****	**	**	*** ** *

SB 500 TITLE & SPONSOR SUMMARY

13:50 5/22/84 PAGE 1 OF 3

AMENDED TITLE: CSSB 500(S.A.)AM

AN ACT RELATING TO THE REDUCTION OF LITTER AND THE RECOVERY
OF MATERIALS AND ENERGY FROM LITTER;
AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SENATE RULES COMMITTEE

CO-SPONSORS:

CURRENT STATUS: 5/05/84 IN (H) RULES

SB 500 SENATE ACTION

13:50 5/22/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/14/84	01	2084	FIRST READING -- COMMITTEE REPORTS
02/14/84	02	2084	F/NOTE EQUALS ZERO
02/14/84	03	2084	GOV TRANSMITTAL LETTER
03/12/84	04	2326	S.A. -- CS04
03/26/84	05	2462	RLS -- S.A. CS04, OTHER04 TAKEN UP IMMEDIATELY
03/26/84	06	2463	SECOND READING
03/26/84	07	2464	S.A. CS ADOPTED BY UNAN CONSENT
03/26/84	08	2464	POSTPONED UNTIL 03/27/84 BY DIV 00-00-00
03/27/84	09	2479	AM01 ADOPTED BY UNAN CONSENT
03/27/84	10	2479	ADVANCED TO 3RD READING BY UNAN CONSENT
03/27/84	11	2479	THIRD READING
03/27/84	12	2479	PASSED BY DIV 18-00-02
03/27/84	13	2480	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** ** *

SB 500 HOUSE ACTION

13:50 5/22/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/28/84	14	3082	FIRST READING -- COMMITTEE REPORTS
05/05/84	15	3671	RES -- CS04, NR05 RULES
****	**	**	*** ** *

COMMITTEE REPORT
HOUSE

5/22
rule

(9)

FURTHER:

5/21/84

Date: 5-22-84

The Committee on RULES has had SCR 48

Suspending Uniform Rule 41(b) of the Alaska State Legislature concerning House Bill No. 575.

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^{HCS} for SCR 48 (Rules) same title
 new title
- and recommends Ind. Rec.
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

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[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] Do Not Pass
Bill Stripping of Hitting

[Signature] No Rec

[Signature]

[Signature]

[Signature]

[Signature]
CHAIRMAN

Glen

RULES COMMITTEE MEETING

TUESDAY MAY 21, 1984

1. Call to order
2. Date and Time
3. Note members in attendance. (Hayes, Barnes, Liska, Miller, Phillips, Tischer)
4. There are 2 items on today's agenda: SCR 48 and HB 500.
5. The first item on the agenda is the proposed Rules Committee substitute for SCR 48 - "Suspending Uniform Rule 41(b) of the Alaska State Legislature concerning House Bill No. 575." The proposed Rules Committee CS adds language on page 1, lines 11-13 of the Resolution to reflect the Senate's exact title change to HB 575.
6. Request a motion to adopt HCS SCR 48(Rules) with individual recommendations, to bring the subject before the Committee for discussion. (Jack - No action needs to be taken until after Committee debate.)
7. Any testimony on the proposed CS. Any public comment. Committee debate.
8. Place the question - "Shall the Rules Committee adopt HCS HCS SCR 48(Rules) with individual recommendations" - before the Committee for a vote.
9. The 2nd item on the agenda is the proposed Rules Committee CS for HCS CSSB 500(Res) - "An Act relating to the reduction of litter and the recovery of materials and energy from litter; and providing for an effective date."

The Rules CS amends page 4, lines 21-22 of the bill to include the phrase "or other extraction processes" in the definition of those primary industrial activities that are exempted from the definition of "litter." Although this language is in current law, the original version of SB 500 deleted this phrase. Restoring this language will make clear that oil and gas extraction are included in this exemption.
10. Request a motion to adopt HCS CSSB 500(Rules) with individual recommendations for the purpose of discussion. (Jack - No action taken until debate is over.)
11. Any public testimony? Committee debate?
12. Place the Question - "Shall the Rules Committee adopt HCS CSSB 500(Rules) with individual recommendations" - before the Committee for a vote.
13. Adjourn



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May 22, 1984

RULES

Capitol 118
465-3789

8:30 a.m.
Tuesday

Tuesday, May 22

HCSCSSB 500 (Res)

"An Act relating to the reduction of litter and the recovery of materials and energy from litter; and providing for an effective date."

SCR 48

"Suspending Uniform Rule 41(b) of the Alaska State Legislature concerning House Bill No. 575."

Asper
5/21/84 ✓

Original sponsor: Judiciary Committee

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IN THE SENATE

BY THE RULES COMMITTEE

HOUSE CS FOR SENATE CONCURRENT RESOLUTION NO. 48 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

Suspending Uniform Rule 41(b) of the
Alaska State Legislature concerning
House Bill No. 575.

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

That under Rule 54 of the Uniform Rules of the Alaska State Legisla-
ture the provisions of Rule 41(b) of the Uniform Rules are suspended in the
consideration of House Bill No. 575 to allow the title of that bill to be
changed to: "An Act relating to satisfaction of orders of restitution from
permanent fund dividends; and providing for an effective date."

S J R

Z 9



Official Business

Alaska State Legislature

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HOUSE RULES COMMITTEE

January 30, 1984 8:30 a.m.

AGENDA: CSSJR 29(Res)

COMMITTEE FILE INDEX:

- I. Proposed Rules CS
- II. Senate version of bill
- III. Explanation of SJR 29 by Senate Resources staff
- IV. Governor Sheffield's testimony before the EPA - November 7, 1983
- V. Testimony of Richard Neve', Commissioner - Dept. of Env. Cons.
- VI. U.S. Forest Service presentation to House Resources Committee
- VII. Statement of W. E. Fischer, Ward Cove Operations
- VIII. Reprint of article from Washington Viewpoint

Supporting variance requests by pulp mills in
Southeast Alaska

This resolution urges the Environmental Protection Agency to grant effluent discharge variances to Southeast Alaska pulp mills.

The Alaska Lumber and Pulp Company in Sitka and Louisiana-Pacific/Ketchikan have requested the waiver from the national water pollution standards of the Clean Water Act. In 1974 both mills received waivers allowing them to discharge greater amounts of effluent than pulp mills nationwide.

When the permits expired in 1979, the mills requested a continued variance to allow discharge at the levels allowed in 1974. EPA regulations provide that upon finding factors relating to a particular discharge that are "fundamentally different" from the factors considered by EPA in establishing the national standards, alternative limitations may be established. The mills based their arguments on four factors which are outlined in the material in your files.

In August, 1983 the EPA made a tentative decision to deny the Fundamentally Different Factors variance request. A public comment period on the decision ended last December and a final decision by EPA is pending.

The Rules Committee Substitute for this resolution makes no policy changes whatsoever; it merely adds technical and clarifying language to the second resolved clause on page 2. The language changes are highlighted on the draft in your folders.

CSSJR 29(Res) Supporting variance requests by pulp mills in
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When the permits expired in 1979, the mills requested a continued variance to allow discharge at the levels allowed in 1974. EPA regulations provide that upon finding factors relating to a particular discharge that are "fundamentally different" from the factors considered by EPA in establishing the national standards, alternative limitations may be established. The mills based their arguments on four factors which are outlined in the material in your files.

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Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

TO: Senate Resources Committee

FROM: Senate Resources Committee Staff

RE: Hearing on SJR 29, Supporting variance requests by pulp mills in Southeast Alaska.

DATE: January 13, 1984

On Monday, January 16, 1984 at 2:30 pm in the Beltz Room, the Senate Resources Committee will hear SJR 29, Supporting variance requests by pulp mills in Southeast Alaska.

The Alaska Lumber and Pulp Company (ALP), near Sitka, and Louisiana-Pacific/Ketchikan (LP/K), near Ketchikan, both engaged in the production of dissolving sulfite pulp, have requested a waiver from the national water pollution standards. These standards are to be met by all point source dischargers pursuant to the Clean Water Act.

In 1972, standards were established to limit the effluent discharge from pulp mills nationwide. Because of the "peculiar land, energy, and logistic constraints" which the Environmental Protection Agency (EPA) associated with ALP and LP/K, in 1974 they applied for and were granted permits allowing greater effluent discharge than pulp mills nationwide. [75 lbs./ton daily average, as compared to 60 lbs./ton nationwide.] In 1977, national standards were changed to limit discharge to 46.8 lbs./ton.

When the ALP and LP/K permits expired in 1979, the pulp mills requested a continued variance from EPA to allow discharge at the level determined in 1974 (75 lbs./ton). EPA regulations provide that upon finding factors relating to a particular discharge that are "fundamentally different" from the factors considered by EPA in establishing the national standards, alternative effluent limitations may be established for that discharge. The basis of ALP and LP/K's variance request centered around four factors:

- 1) Lack of land for disposal of wastewater solids.
- 2) Non-water quality environmental impacts, particularly the unavailability of external power sources.
- 3) The cost of compliance with the standards.
- 4) The lack of effect compliance would have on water quality.

In August, 1983, EPA made a tentative decision to deny the Fundamentally Different Factors variance request, based on the following findings:

- 1) The wastewater solids can be incinerated rather than landfilled.
- 2) ALP and LP/K have the capability of generating sufficient electricity.
- 3) Costs of compliance would not be disproportionate to the costs used in the guidelines.
- 4) According to EPA regulation, water quality is not a factor on which a variance can be granted.

Public comment was accepted on the tentative decision through December; a final decision by EPA is pending.

SJR 29 urges EPA to grant the variances requested by the mills, citing the economic impact of compliance with the national standard, the air pollution problem that would be created if the wastewater solids were burned, and the finding by the Alaska Department of Environmental Conservation that continued discharge will not violate state water quality standards.

GOOD AFTERNOON. MY NAME IS BILL SHEFF'ELD, AND I AM THE GOVERNOR OF THE STATE OF ALASKA. I AM HERE TO DISCUSS THE STATE'S POSITION IN REGARD TO THE ENVIRONMENTAL PROTECTION AGENCY'S PROPOSED DENIAL OF WAIVERS TO CERTAIN WATER POLLUTION CONTROL REQUIREMENTS REQUESTED BY TWO PULP AND PAPER MILLS IN SOUTHEAST ALASKA.

I HAVE RECEIVED MANY, MANY LETTERS OF CONCERN LATELY FROM CITIZENS OF MY STATE ABOUT EPA'S TENTATIVE DECISION. THEREFORE I AM PRESENTING IN MY TESTIMONY THE STATE'S SENTIMENTS -- WHICH ARE SHARED BY MY CONSTITUENTS -- ABOUT THE SOLID REASONS WHICH WE BELIEVE SHOULD BE CAUSE FOR EPA TO REVIEW AND HOPEFULLY GRANT THE REQUEST FOR WAIVERS.

I SHOULD ADD THAT DUE TO THE IMPORTANCE OF THIS ISSUE TO THE STATE, I HAVE REQUESTED COMMISSIONER NEVE' OF THE STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND COMMISSIONER LYON OF THE STATE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT TO WORK WITH EPA AND OTHER RELEVANT PARTIES TO ACHIEVE A RESOLUTION OF THIS ISSUE THAT WILL BE REASONABLE, FAIR AND JUST.

THEY WILL BE TESTIFYING SEPARATELY ABOUT THE DETAILS OF THE MILLS' SITUATION, SO I WILL CONFINE MY REMARKS TO THE BROADER POLICY ISSUES. MY HOPE TODAY IS TO MAKE A CONVINCING CASE FOR EPA TO ACCEPT OUR OFFER OF TAKING ANOTHER LOOK AT THE PULP MILLS' REQUEST, AND TO WORK WITH THE STATE TO DEVELOP A EQUITABLE DECISION FOR THE MILLS.

THE CRUX OF OUR CONCERNS IS THAT EPA'S PROPOSED ACTION WILL HAVE SIGNIFICANT NEGATIVE ECONOMIC EFFECTS ON THE MILLS. EPA'S ACTION WILL BE TAKEN MERELY TO ACHIEVE WASTE DISCHARGE REDUCTIONS WHICH ARE NOT NECESSARY IN TERMS OF ENVIRONMENTAL PROTECTION.

I RECOGNIZE THAT THE ENVIRONMENTAL PROTECTION AGENCY AND THE TWO PULP MILLS HAVE BEEN IN DISCUSSIONS OVER THIS ISSUE FOR A LONG TIME. I ALSO UNDERSTAND THAT THE THRUST OF EPA'S CASE SUPPORTING ITS PROPOSED ACTION DOES NOT FUNDAMENTALLY HAVE TO DO WITH THE EFFECT OF THE MILLS' DISCHARGE ON LOCAL WATER QUALITY. RATHER, IT CENTERS AROUND THE CONCLUSION THAT THE COSTS OF INSTALLING ADDITIONAL POLLUTION CONTROL EQUIPMENT ARE NOT EXCESSIVE, ACCORDING TO EPA'S CURRENT INTERPRETATION OF LAW.

OUR DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS MONITORED THE TWO SITES IN QUESTION EXTENSIVELY FOR A NUMBER OF YEARS. WE CONCLUDE, CATEGORICALLY, THAT THERE IS NO APPRECIABLE ADVERSE EFFECT ON WATER QUALITY BY THE MILLS AT THE CURRENT LEVEL OF DISCHARGE. THEREFORE THE EPA DECISION, IF SUSTAINED, MAY WELL BE A CLASSIC EXAMPLE OF IMPOSING ADDITIONAL POLLUTION CONTROL REQUIREMENTS FOR THEIR OWN SAKE, AND NOT FOR ANY IDENTIFIABLE AND NEEDED ENVIRONMENTAL PROTECTION.

I AM SURE EPA IS SUBJECT TO LEGAL AND POLICY CONSTRAINTS WHICH HAVE CONTRIBUTED TO THE TENTATIVE DECISION. BUT I MUST BELIEVE THERE IS FLEXIBILITY TO ENABLE THE AGENCY TO REACH A DIFFERENT CONCLUSION BASED ON ALASKA ENVIRONMENTAL CONDITIONS OR ON THE RESULTANT COSTS TO THE MILLS.

AS GOVERNOR, I CANNOT STAND BY WHILE UNNECESSARY COSTS AND SEVERE ECONOMIC HARDSHIP TO MANY OF OUR CITIZENS IN SOUTHEAST ALASKA ARE LOOMING AS A RESULT OF WHAT APPEARS TO BE EPA'S DETERMINATION TO PREVAIL IN THIS MATTER, DESPITE THE MERITS.

WE ARE ASKING EPA TO AVOID A NEEDLESS THREAT TO THE VIABILITY OF THE TWO PULP MILLS AND TO THOUSANDS OF PRIMARY AND ASSOCIATED JOBS IN OUR STATE. WE ARE NOT ASKING EPA TO

18 matter, despite the merits.

19 We are asking EPA to avoid a needless threat to
20 the viability of the two pulp mills and to thousands of
21 primary and associated jobs in our State. We are not
22 asking EPA to avoid this threat at the risk of degrading
23 the environment or abandoning their official responsi-
24 bilities.

25 In EPA's effort to develop our nation's water
1 quality program, it has an obligation to consider the
2 effects of its controls on specific geographical areas
3 and in light of other environmental impacts. In the case
4 of Alaska's two pulp mills, EPA must consider this.

5 The two mills, in Sitka and Ketchikan, are
6 still reeling from the effects of a nation-wide depres-
7 sion, as is the nation's entire timber and pulp industry.
8 The mills are being told to spend millions of dollars for
9 an environmental improvement that cannot be measured in
10 terms of appreciable or significantly improved water
11 quality, and which may result in discernible air quality
12 degradation.

13 In the past, when we faced the question of how
14 to achieve the mutually-shared goal of cost effective
15 environmental protection, the Federal EPA and the State
16 Department of Environmental Conservation have always
17 worked closely together to obtain a satisfactory resolu-
18 tion. Usually, everyone has engaged in some give-and-
19 take and then concluded an agreement. In order to con-
20 tinue this history of cooperation, I hope these hearings
21 do not serve to start a confrontation. They must be the
22 beginning of a new attempt at dialogue. A fresh effort
23 focused on reaching an agreement acceptable to the State
24 and to EPA is of crucial importance to me. I commit
25 myself and my Administration to this goal and ask that

1 EPA do the same.

2 At my request, Commissioner Nevé has developed
3 options available to the State to deal with EPA's tenta-
4 tive decision, including a review of the State's respon-
5 sibilities and obligations under Section 401 of the Clean
6 Water Act, and the Coastal Zone Management Act. They
7 have been provided to me and we are assessing these op-
8 tions carefully. To allow time to work together with EPA
9 and to explore collectively these options, I would like
10 to request that EPA extend the public comment period on
11 the proposed water discharge permits.

AND THE COASTAL ZONE MANAGEMENT ACT. THEY HAVE BEEN PROVIDED TO ME, AND WE ARE ASSESSING THESE OPTIONS CAREFULLY. TO ALLOW TIME TO WORK TOGETHER WITH EPA AND TO EXPLORE COLLECTIVELY THESE OPTIONS, I WOULD LIKE TO REQUEST THAT EPA EXTEND THE PUBLIC COMMENT PERIOD ON THE PROPOSED WATER DISCHARGE PERMITS.

TO BE SURE THAT THE PUBLIC DOCKET IS COMPLETE, I WOULD ALSO LIKE TO SUBMIT AS WRITTEN TESTIMONY THE LETTER I SENT LAST MONTH WITH ATTACHMENTS TO EPA ADMINISTRATOR RUCKELSHAUS. THE ATTACHMENTS INCLUDE THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION'S TESTIMONY AT THE PREVIOUS HEARING ON THE ISSUES BEING DISCUSSED TONIGHT AND VARIOUS LETTERS FROM ALASKA RESIDENTS WHICH DISCUSS THESE ISSUES.

IN CONCLUSION, I WOULD SIMPLY LIKE TO REITERATE THAT DENIAL OF THESE WAIVERS, IF IT WERE TO OCCUR, WILL HAVE A SIGNIFICANT ADVERSE IMPACT ON MY STATE -- BOTH ECONOMICALLY AND ENVIRONMENTALLY. THUS, I URGE EPA TO RE-EXAMINE ITS POSITION AND ASK WHETHER THESE IMPACTS ARE REALLY NECESSARY -- ON GROUNDS OF ENVIRONMENTAL BENEFITS, ECONOMIC CONSEQUENCES, OR AS A MATTER OF SOUND PUBLIC POLICY. THE STATE OF ALASKA REMAINS HOPEFUL THAT EPA WILL CONCLUDE THAT A DIFFERENT COURSE OF ACTION SHOULD BE TAKEN.

THANK YOU.

TESTIMONY OF
THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BEFORE
THE U. S. ENVIRONMENTAL PROTECTION AGENCY
CONCERNING EPA'S PROPOSED DECISIONS
REGARDING
THE TWO ALASKA PULP MILLS

MY NAME IS DOCTOR RICHARD A. NEVE', COMMISSIONER OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION. I AM HERE TODAY TO TESTIFY ON THE ENVIRONMENTAL PROTECTION AGENCY'S PROPOSED DENIAL OF THE FUNDAMENTALLY DIFFERENT FACTORS VARIANCE REQUEST FROM THE ALASKA LUMBER AND PULP COMPANY, INCORPORATED, FOR THEIR SITKA MILL, AND THE LOUISIANA PACIFIC CORPORATION, KETCHIKAN DIVISION, FOR THEIR KETCHIKAN MILL.

THE EPA'S TENTATIVE DECISION TO DENY THE MILLS' REQUEST FOR A VARIANCE IS THE RESULT OF YEARS OF COMPLEX STUDY AND TECHNICAL WORK BY BOTH THE MILLS AND THE EPA. THE EPA'S FINAL DECISION WILL SUBSTANTIALLY CHANGE OUR VIEW OF BOTH MILLS' DRAFT NPDES PERMITS AND THE STATE OF ALASKA'S CLEAN WATER ACT SECTION 401 CERTIFICATION. BOTH THE PUBLIC AND THE STATE OF ALASKA NEED ADEQUATE TIME TO EVALUATE THE RELEVANT VERBAL AND WRITTEN COMMENTS PRESENTED AT THESE HEARINGS BEFORE PROVIDING MEANINGFUL INPUT ON THE EPA DRAFT NPDES PERMIT FOR THE MILLS. THEREFORE, I PETITION THE EPA TO EXTEND THE PUBLIC HEARING COMMENT PERIOD ON THE DRAFT NPDES PERMIT UNTIL IT HAS REACHED A FINAL DECISION ON THE VARIANCE REQUEST AND THE PROPOSAL FOR A SEPARATE SUB-CATEGORY FOR ALASKA.

OUR COMMENTS ON THE ESTABLISHMENT OF A SEPARATE ALASKA SUBCATEGORY OF THE PULP, PAPER, AND PAPERBOARD INDUSTRY WILL BE SENT TO ROBERT W. DELLINGER AS REQUESTED IN THE EPA'S PUBLIC NOTICE OF SEPTEMBER 23, 1983. I WILL MAIL YOU A COPY OF THAT LETTER FOR INCLUSION AS PART OF MY TESTIMONY HERE TODAY.

MY TESTIMONY, WITH THE ATTACHED WRITTEN DOCUMENTS, IS INTENDED TO HELP THE EPA AND THE ALASKAN MILLS SATISFACTORILY RESOLVE QUESTIONS SURROUNDING THE VARIANCE REQUEST. THESE WRITTEN DOCUMENTS IDENTIFY THE ITEMS WHICH MY DEPARTMENT BELIEVES NEED ADDITIONAL ATTENTION BEFORE THE EPA REACHES ITS FINAL DETERMINATION. THEY INCLUDE THE DEPARTMENT'S ANALYSIS OF THE EPA'S DECISION ON RESTORATION OF EXISTING COSTS THAT CONTRIBUTE TO ACHIEVING BEST PRACTICABLE TECHNOLOGY EFFLUENT LIMITATIONS AND A DISCUSSION OF COST ESTIMATES OF EXPANDED TREATMENT SYSTEMS THAT MAY BE NEEDED TO ACHIEVE BPT EFFLUENT LIMITATIONS.

THE EPA'S DECISION DOCUMENT DATED AUGUST 24, 1983, INDICATED THE NEED FOR BETTER QUANTIFICATION OF ADVERSE IMPACTS ON AIR QUALITY THAT WOULD RESULT FROM THE BURNING OF ADDITIONAL WASTEWATER SLUDGE. THE DOCUMENT ALSO POINTED OUT A LACK OF SUFFICIENT DATA TO IDENTIFY THE NON-WATER QUALITY ENVIRONMENTAL IMPACTS WHICH MAY RESULT IF THE VARIANCE REQUEST IS DENIED. MY STAFF HAS REVIEWED THE DECISION DOCUMENT WHICH SET THE STAGE FOR THE EPA'S PRELIMINARY DECISION TO DENY THE VARIANCE. OUR REVIEW OF THE EPA'S ANALYSIS REVEALED SOME AREAS THAT NEED FURTHER EXAMINATION BEFORE A FINAL DECISION IS MADE.

A PORTION OF THE COSTS INCURRED BY THE INITIAL EXPANSION OF THE WASTEWATER TREATMENT SYSTEMS IN THE LATE SEVENTIES HAS BEEN ESTIMATED BY THE INSTALLATION OF AN OIL BOILER. WHILE THIS MAY BE VALID TO ACCOUNT FOR THE POWER REQUIRED TO OPERATE THE WASTEWATER TREATMENT SYSTEM, THERE IS NO CREDIT ALLOWED FOR AN INCINERATOR TO BURN THE SLUDGE, THE POWER LOST IN EVAPORATING THE SLUDGE, AND, MOST IMPORTANTLY, THE COST OF CONTROLLING THE AIR POLLUTION FOR THE EMISSIONS FROM SLUDGE BURNING.

INCINERATION OF THE SLUDGE GENERATED BY OPERATION OF EXISTING SECONDARY WASTEWATER TREATMENT CONTROLS HAS DELAYED BOTH MILLS' PROGRESS TOWARD COMPLIANCE WITH AIR QUALITY REGULATIONS. EXTENSIVE STUDIES AND THE INSTALLATION OF ADDITIONAL PROCESS CONTROLS HAVE BEEN NEEDED TO MINIMIZE THE SIGNIFICANT INCREASE IN AIR POLLUTANT EMISSIONS. ADDITIONAL CONTROLS ARE STILL NEEDED AT BOTH MILLS TO COMPLETELY CONTROL THE INCREASED AIR POLLUTION CREATED SINCE THE WASTEWATER TREATMENT PLANT SYSTEMS WERE INSTALLED IN THE LATE SEVENTIES.

THE COSTS OF THESE CONTROLS MUST BE CONSIDERED IN THE ANALYSIS OF WHETHER THE MILLS ARE BEING ASKED TO SPEND CONSIDERABLY MORE DOLLARS THAN EPA'S MODEL MILL.

A SECOND AREA THAT IS UNCLEAR IS THE ELIMINATION OF A LARGE PORTION OF CREDIT FOR THE REVISED SOLIDS HANDLING FACILITIES AT BOTH MILLS. THE REVISIONS PERFORMED AFTER THE INSTALLATION OF THE SECONDARY TREATMENT FACILITY ARE A RESULT OF THE WATER DISCHARGE REQUIREMENTS, AND SHOULD BE ALLOWED.

FINALLY, IN THE EVALUATION FOR THE COSTS OF WHAT WILL BE NEEDED TO BE INSTALLED TO MEET THE GUIDELINES TREATMENT, IT IS NOT CLEAR HOW THE ADDITIONAL SLUDGE GENERATED WILL BE HANDLED AND BURNED. IT IS POSSIBLE, HOWEVER, THAT THE ONLY VIABLE OPTION IS THE REPLACEMENT OF A POWER BOILER. IF THIS PROVES TO BE THE CASE, THEN THE COSTS TO MEET GUIDELINE LIMITS WILL NEED TO REFLECT THIS POSSIBILITY.

ALSO, THE COSTS OF ANY NEW PERMITS REQUIRED BY THE INSTALLATION OF A NEW BOILER OR SLUDGE INCINERATOR OR BY THE MODIFICATION OF AN EXISTING WOODWASTE BOILER MUST BE INCLUDED. ADDITIONAL SLUDGE BURNING WILL PROBABLY FALL INTO THE REQUIREMENTS OF A PREVENTION OF SIGNIFICANT DETERIORATION AIR QUALITY

PERMIT. THESE PERMITS CAN REQUIRE UP TO ONE YEAR OF BACKGROUND METEOROLOGICAL AND AIR QUALITY MONITORING DATA AND EXTENSIVE COMPUTER MODELING TO SHOW VIOLATIONS OF AIR QUALITY REGULATIONS WILL NOT OCCUR ON THE NEARBY HILLSIDES. THIS ANALYSIS CAN BE VERY EXPENSIVE.

OTHER PORTIONS OF THE DECISION DOCUMENT ARE UNCLEAR BUT IT IS MORE APPROPRIATELY DISCUSSED BY THE PULP MILLS. I REQUEST THE PULP MILL REPRESENTATIVES PROVIDE SPECIFIC INFORMATION REGARDING THE ADDITIONAL COSTS IN THESE AREAS ALONG WITH PROOF OF NON-WATER QUALITY ENVIRONMENTAL IMPACTS AS REQUESTED BY THE EPA.

SINCE THE EXPANSION OF THE SLUDGE HANDLING AND DISPOSAL SYSTEM IS A DIRECT RESULT OF THE EPA'S PROPOSED DENIAL OF THE VARIANCE, PROOF THAT THE PROPOSED SOLUTION TO SLUDGE DISPOSAL WILL NOT IMPACT AIR QUALITY IS NEEDED BEFORE THE VARIANCE REQUEST IS RESCINDED. WE DO NOT WANT TO BE IN THE POSITION WE WERE IN, IN 1980, OF COPING WITH AN AIR POLLUTION PROBLEM CAUSED BY WATER DISCHARGE CONTROLS. IN FACT, THAT PROBLEM STILL EXISTS TODAY.

MY DEPARTMENT IS COMMITTED TO REQUIRING THAT BOTH ALASKA LUMBER & PULP AND LOUISIANA-PACIFIC, KETCHIKAN DIVISION, MEET THE AIR QUALITY REGULATIONS FOR THEIR PULP MILLS. WERE THERE NO WASTEWATER SLUDGE TO INCINERATE IT IS PROBABLE THE MILLS WOULD ALREADY BE MEETING AIR QUALITY REQUIREMENTS. MY DEPARTMENT IS ALSO ON RECORD AS STATING THAT WATER QUALITY NEAR THE PULP MILLS, SIGNIFICANTLY IMPROVED OVER EARLIER YEARS, WOULD NOT BE MEASURABLY BETTER AS A RESULT OF EPA'S REQUIREMENTS. THE ADDITIONAL END-OF-PIPE TREATMENT TO REMOVE BIOLOGICAL OXYGEN DEMAND BY 28 POUNDS PER TON OF PULP PRODUCED WOULD NOT RESULT IN A MARKED IMPROVEMENT OF THE WATERS NEAR THE PULP MILLS.

THE PROPOSED VARIANCE WOULD ALLOW THE PULP MILLS TO MAINTAIN A WASTEWATER DISCHARGE WITH A BOD₅ LEVEL OF 75 POUNDS PER TON OF PULP PRODUCED. BASED ON OUR WATER QUALITY SURVEY IN 1980, IT IS OUR OPINION THAT THE EXISTING LEVEL OF BOD₅ CONTROL IS NOT CAUSING AN ADVERSE IMPACT ON THE RECEIVING WATERS.

EVEN THE AMOUNT OF CONTROL REALIZED BY THE DENIAL OF THE VARIANCE IS MISLEADING. UNDER THE PROPOSED GUIDELINES FOR BOD₅ CONTROL THE MILLS WOULD LOWER THEIR BOD₅ DISCHARGE BY ABOUT 28 POUNDS PER TON OF PULP PRODUCED. THE GUIDELINES, HOWEVER, WOULD ALSO ALLOW THE MILLS TO RAISE THEIR WASTEWATER EMISSIONS OF TOTAL SUSPENDED SOLIDS IN THE WASTEWATER DISCHARGE BY ABOUT 12 POUNDS PER TON OF PULP PRODUCED. THIS OCCURS BECAUSE THE VERY ACT OF TREATMENT TO REMOVE BOD₅ FROM THE WASTEWATER STREAM CREATES SLUDGE AND SUSPENDED SOLIDS.

PREVIOUS COMMISSIONERS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAVE VOICED THIS SAME CONCERN, THAT THE REDUCTION OF BOD FROM THE EFFLUENT RESULTS IN SLUDGE TO BE BURNED AND ADDITIONAL SUSPENDED SOLIDS TO BE DISCHARGED. OUR OBJECTIONS TO PERMITS PROPOSED IN 1973 AND 1980 WERE BASED ON THAT VERY SAME POINT.

WE AS REGULATORS IN AN EFFORT TO PROTECT THE ENVIRONMENT HAVE AN EQUAL RESPONSIBILITY TO REALIZE AND CONSIDER THE EFFECTS THESE REGULATIONS WILL HAVE IN OTHER PARTS OF THE ENVIRONMENT AND ON THE PEOPLE FOR WHOM THE ENVIRONMENT WAS CREATED. IN THIS CASE, IT APPEARS TO BE A MATTER OF MINIMAL GAIN IN ONE AREA FOR AGGRAVATED LOSSES IN OTHERS. IF THE PULP MILLS WERE PROVEN TO BE DESTROYING THE WATER QUALITY NEAR THE MILLS AND IF THE SECONDARY TREATMENT HAD NOT AND WILL NOT IMPACT THE AIR QUALITY OF THE AREA, YOUR DECISION WOULD MORE THAN LIKELY BE EASIER.

IN CONCLUSION, I WOULD LIKE TO STATE THAT THE DEPARTMENT DOES NOT PRESENTLY SUPPORT THE EPA'S TENTATIVE DECISION TO DENY THE PULP MILLS' REQUEST FOR A VARIANCE. IT APPEARS TO US THAT RECENT, UPDATED INFORMATION ON THE ECONOMIC FACTORS AFFECTING THE MILLS' VARIANCE REQUESTS IS VITAL TO THE FINAL DECISION AND MUST BE GIVEN SERIOUS ATTENTION. I URGE THE EPA TO CAREFULLY CONSIDER THE TESTIMONY BEING PRESENTED HERE, AND I LOOK FORWARD TO CONTINUING OUR COOPERATIVE EFFORT TO ACHIEVE A REALISTIC RESOLUTION OF THE ISSUE OF WASTEWATER CONTROL FOR THE PULP MILLS.

THANK YOU FOR THIS OPPORTUNITY TO PRESENT MY DEPARTMENT'S VIEWS.

Forest Service Presentation to the House Resources Committee,
Alaska Legislature, Regarding
HJR 54 -- "Supporting Variance Requests
by Pulp Mills in Southeast Alaska"

3:00 p.m., January 23, 1984, Room 118, Alaska Capitol Building
Konrad B. Reinke, Director, Office of Information

The Forest Service is pleased to provide testimony on House Joint Resolution 54 relating to EPA's decision to deny the Fundamentally Different Factor Variance for secondary treatment of effluent from Alaskan pulp mills. James S. Watson, former Ketchikan Area Forest Supervisor, presented testimony on this matter to the EPA at a hearing in Ketchikan on May 11, 1976, concerning secondary treatment for the Ketchikan Pulp Company. Forest Service Supervisors Gee and Green also provided testimony to EPA on the subject at two hearings in November, 1983.

The significance of the timber industry to the economy of Alaska is fully recognized by the Forest Service. At the same time, the Forest Service is in full agreement with objectives of the Clean Water Act. We believe that a healthy timber-based economy can exist within the framework of this Act.

The value of the pulp industry to the economy of Southeast Alaska has been recognized since near the turn of the century. The efforts of many Alaskans during the first half of the century were instrumental in the development of the pulp industry in Alaska during the early 1950's. Some of the original and still valid objectives are: (1) encouraging the development of Alaska, (2) the establishment of new industry with a commercially sound and permanently economical basis while providing due regard for the protection of the natural resources of Alaska, and (3) specifically for the establishment of the pulp mill industry for the efficient utilization of forest products.

The nature and composition of the commercial forests of Southeast Alaska along with Pacific Rim markets dictate the type of industry needed to efficiently utilize the timber. Most of the timber stands are mature and overmature western hemlock with considerable defect. The optimal market for these stands is pulpwood. Without the pulp market, less than one-half of these stands would be marketable. There is no feasible economical opportunity to harvest saw logs only with such operations being silviculturally or environmentally acceptable. Integrated and balanced markets for both pulpwood and saw logs are key to sustaining the timber base economy of Southeast Alaska.

The Sitka and Ketchikan pulp mills provide the only economic outlet for pulpwood in Southeast Alaska. The plants have a total capacity of 392,000 short tons of pulp annually. Approximately 334 MMBF of logs are required each year for this production level. The material comes from National Forest, State of Alaska, and Alaska Native Corporation lands.

Closure of one or both mills will have a significant impact on Southeast Alaska and reverse decades of effort on the part of many to strengthen and diversify the economy. Well over 2,500 jobs could be lost to the Regional economy with the closure of these pulpmills.

We have recently evaluated the effects of closure of both pulp mills upon the economy of Alaska. A conservative estimate of the direct and indirect reduction in income as a result of the closure of both mills is \$147.6 million annually. This estimate assumes no alternative market for pulp logs and hemlock cant production can continue independent of pulp production.

This was derived by using the Alaska Interactive Policy Analysis Simulation System developed by the Forest Service (Pacific Northwest Forest and Range Experiment Station) in cooperation with the University of Minnesota.

Indirectly, the pulp industry has also provided benefits to Alaska and the country as a whole that exceeded the original objectives. These benefits relate to the continuing development of a critically needed ground transportation network in Southeast Alaska and the balance of payments through heavy export of timber products from Alaska.

An example of the benefits to the transportation network is the approximately 70 miles of State highway system on Prince of Wales Island which links several island communities to the Alaska Marine Highway system. These State highways were developed by improving existing roads that were originally constructed for the harvest of timber. Currently there are about 300 miles of State highways in Alaska that were developed in this fashion, and more are planned.

Since most of Alaska's wood products are exported, indirect benefits may be more significant than the direct contribution to the Nation's economy. Alaska has historically exported many of its resource-based products in raw or semi-processed form. Logs, lumber, dissolving pulp, minerals, fish, and natural gas are the primary exports. Alaska major trading area is the Pacific Rim, accounting for nearly two-thirds of Alaska's domestic and foreign trade. Japan is Alaska's principal trading partner, representing more than 90 percent of Alaska's foreign import/export trade. The value of forest products exported has increased roughly 65 percent since 1976, with the greatest growth in round log and pulp exports. Forest exports represent approximately one-quarter of the total value of exports from Alaska, or about \$190 million dollars in 1983.

However, Alaska is supplying less than 1 percent of the total volume of wood being used in Japan, South Korea, the Peoples Republic of China, and Taiwan. Competition from Canada and other exporting countries is keen. Purchasers of National Forest timber in Alaska must meet much higher utilization, environmental practices, and primary manufacturing requirements than those required by these competing countries. These requirements add to the cost of production, and with the current poor market situation both the long-term pulp

timber sales are at or near "base rates" with little room to absorb additional production costs. Under present markets, these two pulpmills may not be able to operate if these requirements are to be imposed at this time.

Although we foresee some improvement in markets for the next rate redeterminations on the long-term sales, there is little chance that markets will improve to the point of absorbing the construction and operating costs of the additional secondary treatment requirements being considered. To date the mills have spent approximately \$49 million for environmental protection measures.

In our statement we have avoided making judgments on the impacts of effluent discharge on water quality. We recognize that the law simply does not provide for consideration of effects on receiving waters as the criterion for granting a variance. However, requiring sizeable expenditures if there is no improvement in water quality would seem inconsistent with the objective of environmental protection as well as the efforts to improve the competitive position of the United States in world markets.

STATEMENT
OF
W. E. FISHER
MANAGER
WARD COVE OPERATIONS
ON BEHALF OF
KPC EMPLOYEES
ESOT STUDY
COMMITTEE
AND
LOUISIANA-PACIFIC CORPORATION
IN SUPPORT OF
HOUSE JOINT RESOLUTION NO. 54

JANUARY 23, 1984
Before the Alaska
State Legislature
House of Representatives
Resources Committee

Honorable Members of the House Resources Committee:

My name is Ed Fisher and I am manager of the Ward Cove operations of Louisiana-Pacific Corporation, Ketchikan Division. I am here not only on behalf of Louisiana-Pacific Corporation but also on behalf of the approximately 800 employees who have been offered the opportunity to purchase the Ketchikan Division which includes a pulp mill, three sawmills and various logging facilities. On behalf of those employees, I would like to thank this committee for the opportunity to be here today.

As you are aware, the Environmental Protection Agency is presently considering the requests of Louisiana-Pacific in Ketchikan and Alaska Lumber and Pulp in Sitka for a Fundamentally Different Factors Variance from the Clean Water Act guideline limitations on waste stream effluents applicable to the Pulp and Paper Industry. Many of the criteria in assessing the applicability of the variance provisions are quite technical and perhaps boring in nature, however this procedure was provided as a mechanism to enable the Agency to tailor the requirements of the Clean Water Act to individual mills which exhibit significant differences from those contemplated by the agency in establishing National Water Effluent Guidelines.

Both Alaskan Mills qualify for this tailoring under the FDF variance procedures. The mills requests have been before the Agency since the Carter Administration over 3 1/2 years ago. It is clear that the Agency has the power to grant the variances and the legal basis to exercise that power. The constraints placed

on the Alaskan mills compared to the mills in the Lower 48 are fundamentally more adverse than those considered in the guideline development documents. These constraints are common to Southeast Alaska. The mills are faced with geographical limitations preventing landfilling of waste materials. They are also required to generate their own power. There is limited space for plant expansion and construction costs are significantly greater. At the same time the dilution and buffering effects of twenty foot tides even further reduce the minimal effects of the present effluent levels on receiving waters.

LPK has spent \$52.5 million in 1980 dollars on pollution control projects to date which has reduced BOD₅ pollutants to a discharge level of 75 lb of pollutant/ton of pulp produced thus eliminating 93% of the total discharge. The total annual cost to operate this equipment amounts to \$55,000/day. If the mills were required to go to BPT or Best Practicable Treatment Levels of 46.8 lb of pollutant/ton of pulp produced, this would be an incremental reduction of 3.0% and has been estimated to cost \$35 million.

It should be noted that in reaching our present level, we have used up much of our margin of safety in our energy system and must therefore replace that energy by burning greater quantities of oil. These additional costs in energy restoration if required to go to BPT are included in the \$35 million dollar figure. The total annual operating cost associated with this 3% reduction is an additional \$28,000/day. This represents a 50% increase over present environmental operating costs for a very

insignificant improvement in total mill discharges and according to our own Department of Environmental Conservation will result in no perceptible improvement in Ward Cove water quality.

LPK produces specialty dissolving pulp marketed world wide. 85% of our production over the last 3 years was sold in the Export Market bringing \$50 million a year into the United States and thus improving the United States balance of payments. The industry also has a major impact on Southeast Alaska as indicated by the USFS testimony at a Senate Resources Committee hearing on January 17. The United States Forest Service indicated that the two mills were responsible for injecting \$147.6 million into the Southeast Economy each year. There is a need for an integrated Forest Products Industry in Alaska. Without a Pulp Mill to consume the 30 to 40% of the Tongass which is too low in quality to saw, the Timber industry will cease to exist as we know it now. If the Ketchikan Division were to close, the impacts would be devastating. LPK's annual payroll is \$23 million and benefits are \$7 million. LPK injects additional money into the economy of Southern Southeast Alaska through Towing (\$3 million), Local purchases (\$25 million including contracts with loggers), and Road Building (\$15 million).

Although the markets have suffered through the last 3 years recession, LPK has managed to aggressively maintain sales volumes. Volume was maintained at great costs to the company's profitability, with the expectation that when markets returned to more normal levels, LPK would have managed to develop a steady long term customer base and thus ensure that the company would be

able to take full advantage of an economic recovery. In spite of extensive cost savings and attempts to reduce the average delivered cost of logs to our manufacturing facilities, LPK has continued to lose money. LP has in fact decided to leave Alaska. After attempting unsuccessfully to market the Alaskan operations worldwide, Louisiana-Pacific offered to sell the facilities to the Employees.

The KPC Employees ESOT Study Committee was formed as a representative employee group to study the feasibility of continued operations under Employee ownership. Although it may seem presumptuous for an Employee owned company to believe that it can do what LP and ALP have failed to do over the last 3 years, ie., show a profit, the group presently feels it is possible if certain events occur. Our present plans if we are successful in purchasing the operations include cost savings through modernization of the equipment, decreasing labor costs, increasing productivity and decreasing the cost of raw materials by working with the United States Forest Service.

If an additional capital investment which has no return is forced upon the company for pollution control then the result would be that much more savings which necessarily must be found elsewhere. The task is extremely difficult and risky at best and would be almost impossible if an extra layer of cost were added by the EPA. Please support the attempt to make our company an All Alaskan year round industry to provide jobs in Alaska and money for further investment in Alaska's Future. Thank you on behalf of all the Employees and their families.



Luke Popovich is contributing editor-national affairs for Pulp & Paper.

Treatment for its own sake

Press reports last month confirmed our doubts about the future of the Administration's dwindling effort to deregulate business. Officials at the Office of Management & Budget (OMB) told reporters the effort for now was dead—"ended," as they delicately put it. Since OMB was the locus maximus of the deregulation effort, sadly we must take these officials at their word that little will be done to discourage environmental regulation until after the 1984 election, assuming the home team wins.

Vice President Bush chaired the President's Task Force on Regulatory Relief, which closed down this summer, leaving to OMB the day-to-day vigilance over unnecessary rules. In signaling an end to the much-touted deregulatory effort, the Administration has borrowed liberally from the Vietnam antiwar strategy propounded by former Vermont Senator George Aiken: simply declare a victory, allow a self-satisfied smile, and withdraw. But if a thumping victory has been won against environmental regulation, the paper industry has yet to be informed.

AN ALASKAN CASE. Battlefield conditions still suggest that the war against treatment for treatment's sake is far from over. A story from Alaska illustrates the enemy's tenacity. Ketchikan Paper Co. and Alaska Lumber & Pulp Co. of Sitka applied to the Environmental Protection Agency for variances from secondary-treatment requirements under the Clean Water Act in December 1981. The companies had good reasons for asking a waiver from compliance with costly best practicable technology (BPT) requirements beyond the secondary treatment they had already employed.

First, the companies cited insufficient sites for installing sludge disposal facilities. Second, alternative power sources were not available to run generators during installation of control technology. Third, the additional treatment would harm other, nonwater values. Together, they said, additional requirements to treat then-nonhazardous wastes would cost more than EPA's model for similar reductions in the lower 48 states had suggested was proper. Nor would the treatment result in cleaner water.

Their case looked persuasive. The state's Department of Environmental Conservation and congressional delegation okayed the variance. So too did EPA's then-Region X administrator John Spencer on Dec. 28, 1981 recommend that the variance be approved. Again on May 10, he wrote to his EPA superiors in Washington for a variance, citing EPA's own view, dating back to 1974, that "the Alaska

mills are entitled to different treatment . . . because of peculiar land, energy, and logistical constraints." Not only were the companies entitled to a variance, he said, but since EPA staff thought the BPT rule for the sulfite pulp category was "too stringent," the rule ought to be reviewed for immediate suspension.

So it was somewhat surprising that on Aug. 29, EPA announced it had tentatively decided to deny the variance, citing the absence of "fundamentally different factors" in the Alaskan case that would justify suspension of the additional secondary treatment requirements. "We did a thorough economic test and didn't find that their costs were out of line" with those facilities in the lower 48, said one EPA official in Washington.

INSIDE EPA. But an internal EPA memo from the Washington staff to EPA's acting water chief dated Feb. 3, 1982 suggests a different motivation for the denial. "A variance based on these problems does not appear to be entirely foreclosed," conceded EPA staff. "Nevertheless," the memo continued, "this [approval] could present a legal problem" because the "Natural Resource Defense Council has been closely following" the case. Worse, the memo alluded to the many other variance applications EPA would be forced to answer if it granted this one, thus upsetting its priorities for approving industrial permits.

Instead of granting the variance, EPA staff suggested the agency grant the two firms a temporary suspension of the BPT rules for the pulp category. And what of the quality of receiving water in all this decision making? It seems that consideration was irrelevant; water quality per se is expressly forbidden to bear on the issue of BPT compliance, and so it is irrelevant to the approval or disapproval of a variance. "If what these companies must do doesn't affect water quality one bit, they still have to install [BPT technology]," said EPA water effluent expert Bob Dellinger in Washington, D.C.

Treatment for treatment's sake is not only pointless but expensive. If the tentative decision isn't overturned after the Nov. 1, comment period expires, officials of Alaska Lumber & Pulp claim they'll be forced to spend \$51 million to achieve mandated reductions of 28 lb/ton. That's in addition to the \$45 million they've already spent to get from 275 lb to 75 lb/ton. "We don't have \$51 million to dump into this project," complained one company spokesman. Too bad money, like environmental quality, has nothing to do with the issue.

MEMORANDUM

to contact for Rules meeting Monday. Say we are making technical wording changes only to the second Resol's clause, no policy changes. May review proposed Rules CS at our office.

Run 118

TO: Sandra
 FM: Edie
 RE: individuals contacted for SJR 29 hearing
 DT: January 13, 1983

NAME	ASSOCIATION	#	COMMENTS
<i>Wally Koble</i> ✓ Jim Clark	LPK ALP	586-3340	will be in Japan with BF
✓ Billie Trent	Leg. Liason for DEC	2600	someone else from Dept. will be there
✓ Alex Viteri	Water Quality Mngmt/DEC	2653	provided Neve with testimony in Sitka; Ketchikan; Seattle. is preparing agency response; will attend and submit written testimony
✓ Ray Gillespie	Leg. Liaison/Gov's office	2300 3500	contacted
✓ Lennie Boston	S.A./Resources/Gov's office	2300	contacted
✓ Fran Ulmer	Juneau Mayor	586-5257	contacted; may or may not be there
✓ Kevin Ritchie	Asst. Mayor of Juneau	" "	will attend as an observer
<i>Wally</i> ✓ Lindsey "Wally" Scarborough <i>Scarborough</i>	EPA Office/JNO	586-7619	may or may not be there/contacted
✓ John Sanders	US Forest Service/JNO	586-7263	will attend as an observer
✓ Jay Nelson	AK Environ'l Lobby	(586-2345)	will attend
✓ George Kruze	AK Chamber of Commerce		contacted
Dan Bodēin	EPA, Seattle	(206) 442-1531	
Ernesta Paines	Reg. Admin. EPA, Seattle	(206) 442-1220	

✓ Called for Rules meeting on SJR 29
 1/30/84
 Jean Smith

