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SENATE COMMITTEE REPORT

10:30  
5/9

FURTHER

4/14/89

DATE TURNED INTO OFFICE 5/9/89

Mr. President:

Finance

Committee considered CSHB 37 (FIN) am

insurance for school facilities and equipment and state aid for school construction; division of duties between a borough and a borough school board; efd

and recommended

- replace with SCG CS HB 37 (Finance) )  same title
- or adopt \_\_\_\_\_ CS \_\_\_\_\_ )  new title
- attached amendment(s) and  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

- FISCAL NOTE(S)  <sup>DOE</sup> zero  fiscal impact  appropriation no FN
- new  updated  previous
- same as previous fiscal note(s) published \_\_\_\_\_

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bob Schaff No Rec -  
one Rec - no rec  
Paul Fink - no rec

Paul Schaff No Rec

Chairman signature and recommendation

Committee Backup attached

John [Signature] No Rec  
CO-CHAIR

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 37 (L&C)  
PUBLISH DATE: HOUSE 1/27/89

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Education  
Title: An Act relating to Insurance for BRU: \_\_\_\_\_  
School Facilities and State Aid for School  
Sponsor: Swackhammer Construction Components: CIP Capital Improvement  
Requestor: House L&C Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL		-0-	-0-	-0-	-0-	-0-
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REVENUE		-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME		-0-	-0-	-0-	-0-	-0-
TEMPORARY		-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary)

This bill will not result in increased administrative costs to the Department

Prepared by: Tom Ryan  
Division: Education Finance & Support

Phone: 465-2865  
Date: January 17, 1989

Approved by Commissioner: William G. Demmert  
Agency: Education

Date: January 17, 1989-

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Adopted

6-0083F  
Ford  
5/9/89

Original sponsors: Swackhammer, Navarre,  
C.Davis, and Zawacki

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 37 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to insurance for school facilities  
7 and equipment and state aid for school construction;  
8 division of duties between a borough and a borough  
9 school board; and providing for an effective date."

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

11 \* Section 1. AS 14.03 is amended by adding a new section to read:

12 Sec. 14.03.150. INSURANCE REQUIRED. (a) Each school district  
13 shall purchase and maintain or provide proof of adequate property  
14 insurance for the replacement cost of all school facilities and equip-  
15 ment. Insurance purchased to comply with this section may contain a  
16 deductible amount, if approved by the department. A school district  
17 may comply with this section by initiating and maintaining a program  
18 of self-insurance, if the department annually determines that the  
19 school district has submitted adequate evidence of the district's  
20 ability to self-insure for the replacement cost of all school facili-  
21 ties and equipment. A copy of the insurance policy or other informa-  
22 tion indicating compliance with this section shall be provided to the  
23 department.

24 (b) If the department determines that a school district is not  
25 insured as required under (a) of this section, the department shall  
26 notify the school district of the determination. Unless the school  
27 district obtains adequate insurance within 30 days after the school  
28 district receives notice under this subsection, the department shall  
29 purchase the insurance required by (a) of this section for that school

1 district.

2 (c) The department may not award a school construction grant  
3 under AS 14.11 to a municipality that is a school district or a re-  
4 gional educational attendance area that is not in compliance with (a)  
5 of this section. The department shall reduce the amount of state  
6 foundation aid under AS 14.17.021 for which a school district may  
7 qualify, by the amount, if any, paid by the department under (b) of  
8 this section.

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

10 (13) administer the grants awarded under AS 14.11 [AS 14.-  
11 11.020];

12 \* Sec. 3. AS 14.07.170 is amended by adding a new subsection to read:

13 (b) The board shall review grant applications recommended under  
14 AS 14.11.013 and may approve grant applications under AS 14.11.015.

15 \* Sec. 4. AS 14.08.101(7) is amended to read:

16 (7) recommend to the department projects for construction,  
17 rehabilitation, and improvement of schools and education-related  
18 facilities as specified in AS 14.11.011(b) [AS 14.11.010(a)], and  
19 plan, design, and construct the project when the responsibility for it  
20 is assumed under AS 14.11.020;

21 \* Sec. 5. AS 14.11 is amended by adding a new section to read:

22 Sec. 14.11.005. SCHOOL CONSTRUCTION GRANT ACCOUNT. There is  
23 created a school construction grant fund as an account in the general  
24 fund. The fund shall be used to make grants for the costs of school  
25 construction. Legislative appropriations for school construction  
26 shall be deposited in the fund, and the proceeds from the sale of  
27 general obligation bonds for school construction may be deposited in  
28 the fund.

29 \* Sec. 6. AS 14.11 is amended by adding new sections to read:

1           Sec. 14.11.011. GRANT APPLICATIONS. (a) A municipality that is  
2 a school district or a regional educational attendance area may submit  
3 a grant request to the department for a school construction grant.

4           (b) For a municipality that is a school district or a regional  
5 educational attendance area to be eligible for a school construction  
6 grant the district shall submit

7           (1) a six-year capital improvement plan that includes a  
8 description of the district's fixed asset inventory system and preven-  
9 tive maintenance program no later than September 1 of the fiscal year  
10 before the fiscal year for which the request is made; the six-year  
11 plan must contain for each proposed project a detailed scope of work,  
12 a project budget, and documentation of conditions justifying the  
13 project;

14           (2) evidence that the district has secured and will main-  
15 tain adequate property loss insurance for the replacement cost of all  
16 facilities for which state funds are available under AS 14.11.005 or a  
17 program of insurance acceptable to the department; and

18           (3) evidence acceptable to the department that the proposed  
19 project should be a capital construction project and not part of a  
20 preventive maintenance program or regular custodial care program.

21           Sec. 14.11.013. DEPARTMENT REVIEW OF GRANT APPLICATIONS. (a)  
22 With regard to projects for which grants are requested under AS 14.-  
23 11.011, the department shall

24           (1) annually review the six-year plans submitted by each  
25 district under AS 14.11.011(b) and recommend to the board a revised  
26 and updated six-year construction grant schedule that serves the best  
27 interests of the state and each district; in recommending projects for  
28 this schedule, the department shall verify that each proposed project  
29 qualifies as a project required to

1 (A) avert imminent danger or correct life-threatening  
2 situations;

3 (B) house students who would otherwise be unhoused;

4 (C) protect the structure of existing school facil-  
5 ities;

6 (D) correct building code deficiencies that require  
7 major repair or rehabilitation in order for the facility to  
8 continue to be used for the educational program;

9 (E) achieve an operating cost savings;

10 (F) modify or rehabilitate facilities for the purpose  
11 of improving the instructional program;

12 (G) meet an educational need not specified in (A) -  
13 (F) of this paragraph, identified by the department;

14 (2) prepare an estimate of the amount of money needed to  
15 finance each project;

16 (3) provide to the governor, by November 1, and to the  
17 legislature within the first 10 days of each regular legislative  
18 session, a revised and updated six-year construction grant schedule  
19 together with a proposed schedule of appropriations.

20 (b) In preparing the construction grant schedule, the department  
21 shall establish priorities among projects for which grants are re-  
22 quested and shall award school construction grants in the order of  
23 priority established. In establishing priorities the department shall  
24 evaluate at least the following factors:

25 (1) emergency requirements;

26 (2) priorities assigned by the district to the projects  
27 requested;

28 (3) new local elementary and secondary programs;

29 (4) existing regional, community, and school facilities,

1 and their condition; and

2 (5) alternate education program options for accomplishing  
3 the project's objectives.

4 (c) The department may reject project requests and omit them  
5 from the six-year schedule due to

6 (1) incomplete information or documentation provided by the  
7 district;

8 (2) a determination by the department that existing facili-  
9 ties can adequately serve the program requirements, or that alterna-  
10 tive projects are in the best interests of the state;

11 (3) a determination that the project is not in the best  
12 interest of the state.

13 (d) The department shall reduce a project budget by the cost of  
14 those portions of a project design that the department determines are  
15 for construction of student residential space, planetariums, hockey  
16 rinks, saunas, and other facilities for single purpose sporting or  
17 recreational uses that are not suitable for other activities. This  
18 subsection does not apply to funding for swimming pools that meet  
19 criteria established by the department.

20 (e) By November 5, the department shall provide public notice of  
21 the grant applications submitted under (a) of this section and the  
22 priorities established under (b) of this section. After public notice  
23 has been given, the department shall, not later than December 1, hold  
24 a public hearing on the priorities established under (b) of this sec-  
25 tion. In this subsection, "public notice" means notice published in a  
26 newspaper of general circulation and notice to every person who has  
27 requested notice about the grant application program from the depart-  
28 ment.

29 Sec. 14.11.015. APPROVAL OF GRANT APPLICATIONS. (a) The board

1 shall review grant applications that have been recommended by the  
2 department under AS 14.11.013, and may approve a grant application if  
3 the board determines that the project meets the criteria specified in  
4 AS 14.11.013(a)(1). The department may not award a school construc-  
5 tion grant unless the grant application is approved by the board.

6 (b) The department shall award grants approved under (a) of this  
7 section in the order of the projects' priority on the date the appro-  
8 priation bill funding the school construction grant fund is passed  
9 by the legislature, regardless of any appeal pending under AS 14.11.016.  
10 Appeals pending under AS 14.11.016 at the time that grants are awarded  
11 may not delay the funding of grants awarded under this section.

12 (c) If a project is assigned a new priority ranking under  
13 AS 14.11.016 after the date of passage by the legislature of the  
14 appropriation bill for the school construction grant fund, the project  
15 must be funded in accordance with the new priority ranking at the next  
16 time that school construction grants are awarded.

17 Sec. 14.11.016. ADMINISTRATIVE AND JUDICIAL REVIEW. (a) A  
18 district may request reconsideration of a decision of the department  
19 assigning a priority to the district's project, establishing the scope  
20 of the project, or establishing the budget for the project. The  
21 request must be in writing and must include a statement of the spe-  
22 cific changes desired, and a summary of the evidence supporting the  
23 district's claim that the department has erred in its review of the  
24 district's grant application. A request for reconsideration must be  
25 received by the department by the day of the public hearing held under  
26 AS 14.11.013(e). The department shall review its decision on the  
27 basis of the request by the district and determine whether its deci-  
28 sion should be changed. The department shall issue its determination  
29 in writing within 15 days after the last day of the public hearing

1 held under AS 14.11.013(e).

2 (b) A district may appeal an adverse decision of the department  
3 under (a) of this section by filing a written notice of appeal with  
4 the commissioner within 15 days after the date of the department's  
5 decision. The notice of appeal must state the legal and factual basis  
6 for the appeal and the precise relief sought. The failure of the  
7 district to include an issue in a notice of appeal constitutes a  
8 waiver of the right to have the issue considered. Not later than 10  
9 days after receipt of a notice of appeal, the commissioner shall  
10 appoint a hearing officer who is qualified under AS 44.62.350(c) to  
11 consider the appeal. If the hearing officer finds that the notice of  
12 appeal does not raise a reasonable issue of fact or law, the hearing  
13 officer shall issue a written decision denying the appeal. Denial of  
14 an appeal by a hearing officer is a final decision that may be ap-  
15 pealed under (d) of this section. If the hearing officer finds that  
16 the notice of appeal raises a reasonable issue of fact or law, the  
17 hearing officer shall conduct a hearing on those issues and recommend  
18 a decision to the board. The hearing officer shall issue a decision  
19 on the appeal not later than 60 days after being appointed. The board  
20 shall consider the recommended decision of the hearing officer at its  
21 next regularly scheduled meeting and may adopt all, part, or none of  
22 the recommended decision or may remand the issue to the hearing offi-  
23 cer for further hearings. The board shall issue its decision in  
24 writing within 10 days after consideration of the hearing officer's  
25 decision.

26 (c) The hearing officer may consolidate appeals under (b) of  
27 this section, if the notices of appeal raise related issues of fact or  
28 law.

29 (d) A district may appeal an adverse decision of a hearing

1 officer or the board under (b) of this section to the superior court  
2 in the manner provided by AS 44.62.560 - 44.62.570.

3 (e) The board shall adopt regulations governing procedures for  
4 the reconsideration and appeal of decisions under this section. The  
5 regulations adopted under this subsection are not required to conform  
6 to AS 44.62.330 - 44.62.630, but shall be consistent with minimum  
7 standards of due process.

8 (f) A district may not request reconsideration of or appeal a  
9 priority determination on the grounds that a revised priority assigned  
10 to another project, due to a reconsideration or appeal under this sec-  
11 tion, has resulted in a lower priority being accorded to the dis-  
12 trict's project.

13 Sec. 14.11.017. SCHOOL CONSTRUCTION GRANT CONDITIONS. (a) The  
14 department shall require in the grant agreement that a municipality  
15 that is a school district or a regional educational attendance area

16 (1) agree to construction of a facility of appropriate size  
17 and use that meets criteria adopted by the department;

18 (2) provide reasonable assurance by a means acceptable to  
19 the department, that the cost of the project will be uniform with the  
20 costs of the most current construction projects in the area;

21 (3) agree to limit equipment purchases to that required for  
22 the approved school construction plan and account for all equipment  
23 purchased for the project under a fixed asset inventory system ap-  
24 proved by the department;

25 (4) submit project budgets for department approval and  
26 agree that the grant amount may, at the discretion of the department,  
27 be reduced or increased by amounts equal to the amounts by which  
28 contracts vary from the budget amounts approved by the department; and

29 (5) submit to the department for approval, before award of

1 the construction contract, a plan for school construction that in-  
2 cludes educational specifications, final construction drawings, and  
3 contract documents.

4 (b) The cost of any school construction activity encompassed by  
5 the definition of "costs of school construction" under AS 14.11.135 is  
6 payable under a grant awarded under AS 14.11.015 without regard to  
7 whether the costs were incurred prior to the

8 (1) award of the grant;

9 (2) approval of the grant application by the board; or

10 (3) effective date of an appropriation to the school con-  
11 struction grant account for the year in which the grant is funded.

12 Sec. 14.11.019. SCHOOL CONSTRUCTION GRANT APPROPRIATIONS.  
13 Within the general appropriation bill submitted to the legislature  
14 under AS 37.07.020, the governor shall include an appropriation for  
15 school construction grants in the succeeding fiscal year as determined  
16 by the six-year construction grant schedule prepared under AS 14.-  
17 11.013.

18 \* Sec. 7. AS 14.11.100(a)(5) is amended to read:

19 (5) subject to (h), (i), and (j) of this section, 80 per-  
20 cent of

21 (A) payments made by the municipality during the  
22 fiscal year for the retirement of principal and interest on

23 (i) outstanding bonds, notes or other indebted-  
24 ness authorized by the qualified voters of the municipality  
25 after June 30, 1983, but before November 1, 1989, to pay  
26 costs of school construction, additions to schools, and  
27 major rehabilitation projects that exceed \$25,000 and are  
28 approved under AS 14.07.020(11);

29 (ii) outstanding bonds, notes, or other

1           indebtedness authorized by the qualified voters of the  
2           municipality before July 1, 1989, and reauthorized before  
3           November 1, 1989, to pay costs of school construction,  
4           additions to schools, and major rehabilitation projects that  
5           exceed \$25,000 and are approved under AS 14.07.020(11); and

6           (B) cash payments made after June 30, 1983, by the  
7           municipality during the fiscal year two years earlier to pay  
8           costs of school construction, additions to schools, and major  
9           rehabilitation projects that exceed \$25,000 and are approved by  
10          the department before July 1, 1990, under AS 14.07.020(11).

11 \* Sec. 8. AS 14.11.100(c) is amended to read:

12           (c) The school construction account is established. Funds to  
13           carry out the provisions of this section shall be included within the  
14           general appropriation bill submitted to the legislature under AS 37.-  
15           07.020 and may be appropriated annually by the legislature to the  
16           account. If amounts in the account are insufficient for the purpose  
17           of providing the share to which a borough or city is entitled under  
18           this section, those funds that are available shall be distributed pro  
19           rata among the eligible local governments except that the legislature  
20           may direct that additional debt service on refunding bonds that ex-  
21           ceeds the total debt service on the refunded bonds be disregarded in  
22           whole or in part.

23 \* Sec. 9. AS 14.11.102 is amended to read:

24           Sec. 14.11.102. ALLOCATION REQUESTS. [EVALUATION OF PROJECTS.  
25           THE DEPARTMENT SHALL EVALUATE PROJECTS FOR WHICH RETIREMENT OF SCHOOL  
26           CONSTRUCTION DEBT IS REQUESTED BY SCHOOL DISTRICTS IN ACCORDANCE WITH  
27           THE PROCEDURES SET OUT IN AS 14.11.010.] A request for an allocation  
28           of funds under AS 14.11.100 must be submitted to the department by the  
29           school district not [NO] later than October 15 of the fiscal year

1 before the fiscal year for which the request is made.

2 \* Sec. 10. AS 14.11.130 is repealed and reenacted to read:

3 Sec. 14.11.130. CONSTRUCTION OF CHAPTER. This chapter may not  
4 be construed to prevent a municipality that is a school district or a  
5 regional educational attendance area from using other revenue to  
6 include additional or expanded facilities as part of approved school  
7 construction projects.

8 \* Sec. 11. AS 14.11.135(3) is amended to read:

9 (3) "costs of school construction" means the cost of ac-  
10 quiring, constructing, enlarging, repairing, remodeling, equipping or  
11 furnishing of public elementary and secondary schools that are owned  
12 or operated by the state, a municipality, or a district [SCHOOL BUILD-  
13 INGS] and includes the sum total of all costs of financing and carry-  
14 ing out the project; these include, but are not limited to, the costs  
15 of all necessary studies, surveys, plans and specifications, architec-  
16 tural, engineering or other special services, acquisition of real  
17 property, site preparation and development, purchase, construction,  
18 reconstruction and improvement of real property and the acquisition of  
19 machinery and equipment as may be necessary in connection with the  
20 project; an allocable portion of the administrative and operating  
21 expenses of the grantee; the cost of financing the project, including  
22 interest on bonds issued to finance the project; and the cost of other  
23 items, including any indemnity and surety bonds and premiums on insur-  
24 ance, legal fees, fees and expenses of trustees, depositaries, finan-  
25 cial advisors, and paying agents for the bonds issued as the issuer  
26 considers necessary;

27 \* Sec. 12. AS 14.11.135 is amended by adding a new paragraph to read:

28 (5) "district" means the districts described in AS 14.12.-

29 010.

1 \* Sec. 13. AS 14.14.060 is amended by adding a new subsection to read:

2 (i) Notwithstanding (e) and (f) of this section, a borough  
3 assembly and a borough school board may divide the duties imposed  
4 under (e) and (f) of this section by agreement between the borough  
5 assembly and borough school board.

6 \* Sec. 14. AS 46.11.900(8) is amended to read:

7 (8) "state financial assistance" means a loan, grant,  
8 guarantee, insurance, payment, rebate, subsidy, or other form of state  
9 assistance other than aid under AS 05.35.010 - 05.35.070, AS 14.11,  
10 [AS 14.11.100 - 14.11.135,] and AS 29.60, including the purchase by a  
11 state agency of a loan to finance the construction of a new resi-  
12 dential, commercial, or industrial building;

13 \* Sec. 15. AS 14.11.010, 14.11.105, 14.11.110, 14.11.115, 14.11.120,  
14 and 14.11.125 are repealed.

15 \* Sec. 16. Notwithstanding AS 14.11.013(b), added by sec. 6 of this  
16 Act, the Department of Education shall award school construction grants in  
17 the following order:

18 (1) projects required to avert imminent danger or correct life-  
19 threatening situations;

20 (2) projects that are in their final phase as of January 1,  
21 1989, and that have received more than \$2,500,000 in school construction  
22 grant funds;

23 (3) projects that are:

24 (A) approved by the Department of Education before July 1,  
25 1989;

26 (B) approved for reconstruction or renovation by the qual-  
27 ified voters before July 1, 1989; and

28 (C) designed to remedy conditions determined by a federal  
29 or state agency to be a threat to the welfare of the public; and

1 (4) other projects approved under AS 14.11.015, added by sec. 6  
2 of this Act.

3 \* Sec. 17. This Act takes effect July 1, 1989.  
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*Distributed  
4/19/89*

A M E N D M E N T

OFFERED IN THE SENATE

BY FISCHER

TO CSHB 37(Finance) am

Page 2, line 22:

Delete "and"

Page 3, lines 23 - 24:

Delete all material.

Insert new paragraphs to read:

"(3) projects that are:

(A) approved by the Department of Education before  
*W. Nov*  
July 1, 1989;

(B) approved for reconstruction or renovation by the  
qualified voters before *W. Nov*  
~~July~~ 1, 1989; and

(C) designed to remedy conditions determined by a  
federal or state agency to be a threat to the welfare of the  
public; and

(4) other projects approved under AS 14.11.015, added by  
§ 6 of this Act."

REPRESENTATIVE  
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



House of Representatives

DIFFERENCES BETWEEN CS for HB 37 (FIN) AM & CS for SB 100 (HESS)

There are three differences between CS for HB 37 (FIN) am and CS for SB 100 (HESS):

1. SB 100 contains provisions for allowing the number of students to be considered when ranking projects within the different priorities. These provisions are found on page 4, line 27 and page 5, line 29. These were eliminated in HB 37 during House Finance Committee hearings.
2. SB 100 sunsets on July 1, 1995. House Bill 37 was amended on the floor of the House to remove any reference to the sunset provisions.
3. Section 18 of SB 100, page 13, line 6-12, creates a temporary priority for schools that are approved by the Dept. of Education and the voters prior to July 1, 1989 and determined by a federal or state agency to be a threat to the welfare of the public. This change was not considered by the House.

4/19/89  
Swackhammer

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BOX V  
JUNEAU, ALASKA 99811  
(907) 465-2689

REPRESENTATIVE  
C.E. "SWACK" SWACKHAMMER

# Alaska State Legislature



## House of Representatives

### MEMORANDUM

TO: Sen. Rick Uehling, Co-Chairman  
Sen. John Binkley, Co-Chairman  
Senate Finance Committee

FROM: Rep. C.E. Swackhammer *Swack*

DATE: April 17, 1989

RE: CS for HB 37 (FIN) am

---

Please consider this request to hear CS for HB 37 (FIN) am at your earliest possible convenience.

CS for HB 37 (FIN) am is the companion bill to CS for Senate Bill 100 (HESS), sponsored by Sen. Sturgulewski, which is scheduled to be heard by the Senate Finance Committee this Wednesday, April 19, 1989.

Attached are related materials pertaining to CS for HB 37 (FIN) am. If you have any questions, please contact Tom Wright of my staff or myself.

Thank you for your consideration.

CES/tw

Attachments

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REPRESENTATIVE  
C.E. "SWACK" SWACKHAMMER

# Alaska State Legislature



House of Representatives

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## SUMMARY OF CS for HOUSE BILL 37 (FIN) AM

The inequity in Alaska's school construction policy is not new. The current law requires the state to pay up to 80% of the bond debt created by municipalities for school construction. But in the past, the state has funded at less than the 80% level, which leaves the balance to the local taxpayers. Also, the state has little control over the projects funded by bond issues. At the same time, school districts that do not have the ability to bond rely on direct grants from the legislature for new school construction.

The total statewide debt created by school bond issues is \$965,036,714, which extends through the year 2008. Reimbursement to school districts for the last five years has averaged 94.17% of full entitlement. The figures for the last four years have declined from 100% in FY85 to 91.98% in FY 89. Those figures are likely to decrease on a year to year basis due to declining oil revenues, thus putting the burden of repaying the debt back on local taxpayers.

There is another problem with the current system. Neither the Governor nor the legislature is inclined to follow the priority list submitted by the Department of Education for new school construction needs. State funding of schools has been formulated on political decisions rather than needs-based priorities.

Approximately \$261,355,200 was appropriated for school construction over the past five years. The requests for priority one projects, addressing life and safety needs, was \$165,209,900. Only 21.8% of the total funds were appropriated to priority one projects; the remaining \$204,315,100 was spent on projects of either lower priority or no priority ranking at all. In other words, only 34.5% of the priority one requests during this five year period received funded.

CS for House Bill 37 (FIN) am addresses both the accountability and equity issues in school construction.

The proposed legislation will:

- \* Require districts to submit a six year plan for school construction to the state, updated on an annual basis.

- \* Require DOE to review, evaluate and recommend projects for approval by the State Board of Education. Each project would be assigned a priority. Top priority would be given to projects required to avert imminent danger or correct life-threatening situations. A single, prioritized list would be approved by the State Board. An appeals process is also established for districts contesting the priority assigned to a project. (The priority criteria is currently under review by a subcommittee of the Alaska Coalition for Education).
- \* Establish a new school construction grant fund to hold legislative appropriations for school construction. The legislature would appropriate funds to the grant fund, but not for individual projects. Projects would then be funded in priority order to the extent of the funding.
- \* Require all districts to maintain property insurance for replacement cost of all school facilities and equipment. An uninsured loss could jeopardize the system by catapulting a replacement project to the top of the list.
- \* Fund all the state's new school construction by this process. The state would not reimburse municipalities for bonds sold after passage of the bill. When the bonds which have been previously sold are retired, all state funding for school construction would be by direct appropriation through the grant account. This does not preclude a municipality from selling bonds to finance school construction, but the state would not be responsible for any of the debt incurred through a reimbursement program.

The uncertainty of oil revenues and the ability "to get a handle on school bond debt reimbursement" are the predominant driving forces behind this bill. It is in everyone's best interest statewide to tackle this problem in order to develop the most equitable policy.

REPRESENTATIVE  
C.E. "SWACK" SWACKHAMMER

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## SECTIONAL ANALYSIS OF GS FOR HOUSE BILL 37 (FIN) am

SECTION ONE REQUIRES A SCHOOL DISTRICT OR MUNICIPALITY TO PURCHASE AND MAINTAIN PROPERTY INSURANCE FOR THE REPLACEMENT COST OF ALL SCHOOL FACILITIES AND EQUIPMENT. THE POLICY MAY CONTAIN A DEDUCTIBLE AMOUNT WITH DEPARTMENT APPROVAL. A SCHOOL DISTRICT MAY MAINTAIN A SELF-INSURANCE PROGRAM IF THE DEPARTMENT DETERMINES THAT ADEQUATE EVIDENCE HAS BEEN SUBMITTED TO INSURE THAT THE POLICY COVERS ALL FACILITIES AND EQUIPMENT. THE DEPARTMENT IS REQUIRED TO PURCHASE INSURANCE WITHIN THIRTY DAYS AFTER NOTIFICATION BY THE DEPARTMENT SHOULD A SCHOOL DISTRICT FAIL TO MAINTAIN ADEQUATE COVERAGE. A SCHOOL CONSTRUCTION GRANT MAY NOT BE AWARDED TO A MUNICIPALITY OR SCHOOL DISTRICT THAT DOES NOT HAVE ADEQUATE COVERAGE. THE AMOUNT OF STATE FOUNDATION AID FOR WHICH A SCHOOL DISTRICT MAY QUALIFY MAY BE REDUCED BY ANY AMOUNT PAID BY THE DEPARTMENT FOR INSURANCE COVERAGE.

SECTION TWO OFFERS A TECHNICAL CHANGE TO INCLUDE RESPONSIBILITY FOR THE NEW GRANT PROGRAM AMONG THE DUTIES OF THE DEPARTMENT UNDER AS 14.11.

SECTION THREE ESTABLISHES BOARD OF EDUCATION REVIEW OF GRANT APPLICATIONS AND FINAL APPROVAL FOR GRANTS.

A TECHNICAL CHANGE IS ADDRESSED IN SECTION FOUR WHICH PROVIDES AUTHORITY FOR A REGIONAL SCHOOL BOARD TO RECOMMEND SCHOOL CONSTRUCTION PROJECTS TO THE DEPARTMENT OF EDUCATION AS SPECIFIED IN NEW LANGUAGE UNDER AS 14.11.011 (B).

A NEW SCHOOL CONSTRUCTION GRANT ACCOUNT IS ESTABLISHED IN SECTION FIVE. LEGISLATIVE APPROPRIATIONS FOR SCHOOL CONSTRUCTION WOULD BE DEPOSITED IN THE FUND AND GENERAL OBLIGATION BOND SALE PROCEEDS MAY ALSO BE DEPOSITED. GRANTS FOR SCHOOL CONSTRUCTION MAY BE MADE FROM THIS ACCOUNT BY THE DEPARTMENT.

SECTION SIX ADDS NEW SECTIONS TO AS 14.11.

1: THE FIRST NEW SECTION (AS 14.11.011) OUTLINES THE APPLICATION PROCESS. PROJECT APPLICATIONS WOULD BE REQUIRED FOR ALL REQUESTS AS PART OF A SIX YEAR CAPITAL IMPROVEMENT PLAN. INCLUDED IN THE SIX YEAR PLAN IS A DESCRIPTION OF THE DISTRICT'S FIXED ASSET INVENTORY SYSTEM AND PREVENTIVE MAINTENANCE PROGRAM. (A FIXED ASSET WOULD BE ANYTHING OVER A FIXED AMOUNT OF MONEY WHOSE LIFE IS MORE THAN X NUMBER OF YEARS. A REQUIREMENT IS ADDED THAT ALL FACILITIES IN THE DISTRICT BE INSURED FOR REPLACEMENT COST). EVIDENCE MUST ALSO BE SUBMITTED THAT THE PROPOSED PROJECT IS A CAPITAL CONSTRUCTION PROJECT AND NOT A PREVENTIVE MAINTENANCE OR REGULAR CUSTODIAL CARE PROGRAM.

2: THE NEW SECOND SECTION AS DESCRIBED IN AS 14.11.013 ASSIGNS TO THE DEPARTMENT OF EDUCATION THE RESPONSIBILITY FOR REVIEWING, EVALUATING AND RECOMMENDING PROJECTS FOR APPROVAL TO THE STATE SCHOOL BOARD. THE DEPARTMENT WILL VERIFY THAT EACH PROJECT QUALIFIES AS A PROJECT REQUIRED TO:

- AVERT IMMINENT DANGER OR TO CORRECT LIFE THREATENING SITUATIONS;
- HOUSE STUDENTS THAT WOULD OTHERWISE NOT HAVE HOUSING;
- PROTECT THE STRUCTURE OF EXISTING SCHOOL FACILITIES;
- CORRECT BUILDING CODE DEFICIENCIES THAT REQUIRE MAJOR REPAIR OR REHABILITATION;
- ACHIEVE A MAJOR COST SAVINGS;
- MODIFY OR REHABILITATE FACILITIES TO IMPROVE INSTRUCTIONAL PROGRAMS; OR,
- MEET ANOTHER EDUCATIONAL NEED.

THE REVISED AND UPDATED SIX YEAR SCHEDULE WILL BE SUBMITTED TO THE GOVERNOR BY NOVEMBER 1 AND TO THE LEGISLATURE WITHIN THE FIRST 10 DAYS OF EACH REGULAR LEGISLATIVE SESSION WITH A PROPOSED SCHEDULE OF APPROPRIATIONS.

THE DEPARTMENT WOULD PLACE ALL PROJECTS ON ONE LIST, ELIMINATING THE TWO SEPARATE PRIORITIZED LISTS; ONE FOR R.E.A.A.'S, THE OTHER FOR MUNICIPAL SCHOOL DISTRICTS. THE DEPARTMENT IS DIRECTED TO CREATE SIX LISTS, ONE FOR EACH FISCAL YEAR AS PART OF A SIX YEAR PLANNING CYCLE FOR SCHOOL CONSTRUCTION PROJECTS. THESE LISTS WOULD CONTAIN ONLY THOSE PROJECTS WHICH HAVE MET QUALIFICATIONS ESTABLISHED BY THE NEW STATUTE AND THE DEPARTMENT. THE STATE BOARD WOULD HAVE THE DISCRETION TO SCHEDULE OR PHASE PROJECTS AS DEEMED NECESSARY. GRANTS ARE TO BE AWARDED IN THE PRIORITIES AS ESTABLISHED BY THE DEPARTMENT. AT LEAST ONE OF THE FOLLOWING FACTORS WILL BE EVALUATED BY THE DEPARTMENT WHEN ESTABLISHING PRIORITIES:

- EMERGENCY REQUIREMENTS;
- PRIORITIES ASSIGNED BY THE SCHOOL DISTRICT TO THE PROJECTS REQUESTED;
- NEW LOCAL ELEMENTARY AND SECONDARY PROGRAMS;
- EXISTING REGIONAL, COMMUNITY AND SCHOOL FACILITIES AND THEIR CONDITION;
- AND,
- ALTERNATE EDUCATION PROGRAM OPTIONS FOR ACCOMPLISHING THE PROJECT'S OBJECTIVES.

THE CRITERIA AND DETERMINATIONS THAT WERE OUTLINED ARE ESSENTIALLY THE SAME AS THOSE CURRENTLY USED BY D.O.E. THE PRIORITY SYSTEM IS NOW A PART OF STATUTE RATHER THAN REGULATIONS.

PROJECT REQUESTS MAY BE REJECTED AND OMITTED FROM THE SIX YEAR PLAN DUE TO

- INCOMPLETE INFORMATION OR DOCUMENTATION PROVIDED BY THE DISTRICT;
- EXISTING FACILITIES CAN ADEQUATELY SERVE PROGRAM REQUIREMENTS OR THAT ALTERNATIVE PROJECTS ARE IN THE BEST INTERESTS OF THE STATE; OR,
- THE PROJECT IS NOT IN THE BEST INTEREST OF THE STATE.

THIS ALLOWS D.O.E. TO PROVIDE A CREDIBLE LIST TO THE GOVERNOR AND THE LEGISLATURE. THE BOARD WILL ALSO BE IN POSITION TO ACCELERATE PROGRAMS AS DEEMED NECESSARY BASED UPON AVAILABILITY OF FUNDS AND SUPPORTIVE EVIDENCE.

PROJECT BUDGETS WOULD BE REDUCED BY THE COST OF THOSE PORTIONS OF THE PROJECT THAT THE DEPARTMENT DETERMINES ARE FOR CONSTRUCTION OF STUDENT RESIDENTIAL SPACE OR OTHER FACILITIES FOR SINGLE PURPOSE SPORTING OR RECREATION USES NOT DEEMED SUITABLE FOR OTHER ACTIVITIES.

PUBLIC NOTICE OF GRANT APPLICATIONS SHALL BE PROVIDED BY NOVEMBER 5TH. PUBLIC HEARINGS WILL THEN BE HELD BY DECEMBER 1ST REGARDING THE PRIORITIES ESTABLISHED AMONG PROJECTS FOR WHICH GRANTS ARE REQUESTED.

3: UNDER AS 14.11.015, THE DEPARTMENT CANNOT AWARD A GRANT UNLESS THE APPLICATION IS APPROVED BY THE BOARD. GRANTS WILL BE AWARDED IN THE ORDER OF THE PROJECTS' PRIORITY ON THE DATE THE APPROPRIATION BILL IS PASSED BY THE LEGISLATURE, REGARDLESS OF PENDING APPEALS. IN THE EVENT A PROJECT IS ASSIGNED A NEW PRIORITY RANKING AFTER GOING THROUGH THE APPEAL PROCESS, THE PROJECT MUST BE FUNDED IN ACCORDANCE WITH THE NEW PRIORITY RANKING AT THE NEXT TIME SCHOOL CONSTRUCTION GRANTS ARE AWARDED. THIS WILL OCCUR IF THE LEGISLATURE HAS ALREADY PASSED THE APPROPRIATION BILL FUNDING THE ACCOUNT.

4: ESTABLISHES AN ADMINISTRATIVE AND JUDICIAL REVIEW PROCESS UNDER AS 14.11.016 AND AS OUTLINED UNDER THE ADMINISTRATIVE PROCEDURES ACT (AS 44.62). AN OUTLINE FOR THE APPEALS PROCESS IS ATTACHED.

5: ADDS AS 14.11.017 WHICH PROVIDES AUTHORITY TO THE DEPARTMENT TO ESTABLISH GUIDELINES FOR SCHOOL CONSTRUCTION GRANTS. THE MUNICIPALITY OR DISTRICT IS REQUIRED TO:

- AGREE TO CONSTRUCTION OF FACILITY OF APPROPRIATE SIZE AND USE MEETING DEPARTMENTAL CRITERIA;
- PROVIDE ASSURANCE THAT THE COST OF THE PROJECT IS COMPARABLE WITH COSTS OF CURRENT CONSTRUCTION PROJECTS IN THE AREA;
- ACCOUNT FOR ALL EQUIPMENT PURCHASED FOR THE PROJECT UNDER A FIXED ASSET INVENTORY SYSTEM APPROVED BY THE DEPARTMENT. (MANY SCHOOL DISTRICTS HAVE ALREADY ADOPTED THIS SYSTEM TO CONTROL AND MAINTAIN INVENTORY PURCHASED UNDER THIS GRANT).
- SUBMIT PROJECT BUDGETS AND AGREE THAT THE GRANT AMOUNT MAY BE REDUCED OR INCREASED DUE TO CONTRACT VARIANCE FROM BUDGET AMOUNTS APPROVED BY THE DEPARTMENT;
- SUBMIT A PLAN FOR SCHOOL CONSTRUCTION WHICH INCLUDES EDUCATIONAL SPECIFICATIONS, FINAL CONSTRUCTION DRAWINGS AND CONTRACT DOCUMENTS. THIS MUST BE ACCOMPLISHED PRIOR TO THE AWARDED OF THE CONSTRUCTION CONTRACT.

THE COST OF ANY SCHOOL CONSTRUCTION ACTIVITY IS PAYABLE UNDER A GRANT WITHOUT REGARD TO COSTS INCURRED PRIOR TO AWARDED OF THE GRANT, APPROVAL OF THE GRANT APPLICATION BY THE BOARD OR EFFECTIVE DATE OF THE APPROPRIATION TO THE CONSTRUCTION GRANT ACCOUNT FOR THE YEAR IN WHICH THE GRANT IS FUNDED.

6: ADDS AS 14.11.019 WHICH REQUESTS THE GOVERNOR TO INCLUDE AN APPROPRIATION FOR SCHOOL CONSTRUCTION GRANTS IN THE GENERAL APPROPRIATION BILL SUBMITTED TO THE LEGISLATURE.

SECTION SEVEN ESTABLISHES A JULY 1, 1989, TERMINATION DATE FOR REIMBURSEMENT ELIGIBILITY OF DEBT SERVICE PROJECTS AND A NOVEMBER 1, 1989, TERMINATION DATE FOR REAUTHORIZATION BY THE VOTERS FOR BONDS THAT HAVE BEEN PREVIOUSLY APPROVED FOR DIFFERENT PROJECTS. THIS SECTION ALSO ESTABLISHES A JULY 1, 1990, TERMINATION DATE FOR THE CASH PAYMENT REIMBURSEMENT PROGRAM. THE LATTER PROVIDES A YEAR'S GRACE DURING THE PHASE IN OF THE NEW STATUTE.

SECTION EIGHT AMENDS AS 14.11.100 (C). THIS SECTION PROVIDES THAT FUNDS FOR THE SCHOOL CONSTRUCTION ACCOUNT (SCHOOL BOND DEBT REIMBURSEMENT) SHALL BE INCLUDED WITHIN THE GENERAL APPROPRIATION BILL SUBMITTED TO THE LEGISLATURE UNDER AS 37.07.020.

SECTION NINE CHANGES AS 14.11.102 TO REMOVE REFERENCE TO EVALUATION OF PROJECTS REQUESTED BY SCHOOL DISTRICTS THAT MAY BE ELIGIBLE FOR DEBT REIMBURSEMENT.

SECTION TEN EXPLAINS THAT A SCHOOL DISTRICT IS NOT PROHIBITED FROM USING OTHER REVENUES TO EXPAND OR ADD FACILITIES AS PART OF APPROVED SCHOOL CONSTRUCTION PROJECTS.

SECTION ELEVEN MODIFIES THE DEFINITION OF SCHOOL CONSTRUCTION. THE REIMBURSABLE COSTS FOR SCHOOL CONSTRUCTION PRIOR TO JULY 1, 1989, ARE OUTLINED.

A NEW PARAGRAPH TO AS 14.11.135 IS ADDED IN SECTION TWELVE. THIS ENSURES THE DEFINITION OF DISTRICT CONFORMS TO THE DEFINITION REFERENCED IN AS 14.12.010.

AS 14.14.060 IS AMENDED IN SECTION THIRTEEN BY ADDING A NEW SUBSECTION. THIS ALLOWS THE MUNICIPALITY AND THE SCHOOL DISTRICT TO DIVIDE DUTIES IMPOSED UNDER AS 14.14.060 (e) AND (f). SUBSECTION (e) DEFINES THE RESPONSIBILITY FOR THE DESIGN CRITERIA OF SCHOOL BUILDINGS. SUBSECTION (f) REFERS TO THE RESPONSIBILITY FOR CUSTODIAL SERVICES AND ROUTINE MAINTENANCE.

SECTION FOURTEEN ADDS STATUTORY REFERENCE OF AS 14.11 FOR THE SCHOOL CONSTRUCTION GRANT ACCOUNT TO THE DEFINITION OF STATE FINANCIAL ASSISTANCE IN AS 46.11.900 (8).

SIX SECTIONS ARE REPEALED IN SECTION FIFTEEN.

- AS 14.11.010 RELATING TO RECOMMENDATION AND EVALUATION OF PROJECTS IS REPLACED BY THE NEW SECTION FOUR WHICH ADDRESSES GRANT APPLICATIONS.
- AS 14.11.105, THE PUBLIC SCHOOL FACILITIES CONSTRUCTION ADVANCE ACCOUNT, IS NO LONGER NECESSARY.
- AS 14.11.110, ELIGIBILITY, IS REPEALED BECAUSE IT APPLIES TO APPROVAL OF PROJECTS PROPOSED FOR DEBT RETIREMENT.
- THE LAST THREE REPEALED SECTIONS RELATE TO STATE AID, APPLICATION FOR AID AND CONDITIONS OF STATE AID APPLY TO FUNDING THROUGH THE PUBLIC SCHOOL FACILITIES CONSTRUCTION ADVANCE ACCOUNT AND ARE NO LONGER NECESSARY.

A NEW SECTION IS ADDED IN SECTION SIXTEEN WHICH REQUIRES THE DEPARTMENT OF EDUCATION TO AWARD GRANTS TO SCHOOLS THAT WERE IN THEIR FINAL PHASE OF CONSTRUCTION PRIOR TO JANUARY 1, 1989, AND HAVE RECEIVED MORE THAN \$2.5 MILLION IN SCHOOL GRANT FUNDS. THREE SCHOOLS - GLENLLEN, THORNE BAY AND MOUNTAIN VILLAGE - FIT THIS CRITERIA. THIS PRIORITY FOLLOWS PROJECTS REQUIRED TO AVERT IMMINENT DANGER OR CORRECT LIFE THREATENING SITUATIONS.

SECTION SEVENTEEN ESTABLISHES JULY 1, 1989 AS THE EFFECTIVE DATE.

CS for HB 37 (FIN) APPEALS PROCESS

STATUTORY TIME FRAME	APPROX. DATE	ACTION
November 5		DOE provides public notice of approved grant applications
By December 1		DOE holds public hearing on established priorities
By December 1		Request for reconsideration must be received by DOE
15 days	December 16	DOE decision due
15 days	December 31	District may appeal DOE's decision to Commissioner
10 days	January 11	Commissioner appoints a hearing officer
60 days after appt.	March 13	Hearing officer issues decision
	Board meeting	Board of Education considers hearing officer findings
10 days	*April 20	Board of Education decision due in writing
		District may appeal to Superior Court

\* April 20th date is contingent upon the date the Board meets.