

**HB**

**119**

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB119

Revision Date: \_\_\_\_\_  
Title: An Act exempting schools from certain fees  
Sponsor: Representative Kubina  
Requestor: Representative Kubina

Department Affected: Environmental Conservation  
BRU: Environmental Health  
Component: Seafood/Sanitation

COMPONENT SERIAL NO. 1936

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	25.0	25.0	25.0	25.0	25.0	25.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>25.0</b>	<b>25.0</b>	<b>25.0</b>	<b>25.0</b>	<b>25.0</b>	<b>25.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	25.0	25.0	25.0	25.0	25.0	25.0
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FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	25.0	25.0	25.0	25.0	25.0	25.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 25.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

HB119 exempts public and private schools for school age children from Department of Environmental Conservation user fees. Currently schools are being assessed fees for food service permits in schools. The fee includes issuance of a permit, routine and spot check inspections, technical assistance, plan review and training. The current fee structure pays a portion of the actual program costs. Providing an exemption from fees will result in a loss of Sanitation General Fund Program Receipts in the amount of approximately \$25,000. These program receipts are reflected in the FY95 budget and are necessary for the full conduct and meeting of statutory requirements in the inspection program.

Prepared by: Kit Ballentine  
Division: Acting Director, Environmental Health

Phone: 465-5280  
Date: 2/16/95

Approved by Commissioner: *Andrew Jones*  
Agency: Department of Environmental Conservation

Date: 2/16/95

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# HOUSE COMMITTEE REPORT

(7)  
Date Referred: January 25, 1995

FURTHER REFERRALS:

Finance

Date of Committee Action: 5/6/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 119

HOUSE BILL NO. 119

EXEMPT SCHOOLS FROM CERTAIN DEC FEES

"An Act exempting schools from certain fees charged by the Department of Environmental Conservation; and providing for an effective date."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  
 a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) DEC

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		

CHAIR'S SIGNATURE *[Signature]*

**HOUSE BILL NO. 119**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**NINETEENTH LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVES KUBINA, Davies, Ivan**

**Introduced: 1/25/95**

**Referred: Health, Education and Social Services, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act exempting schools from certain fees charged by the Department of  
2 Environmental Conservation; and providing for an effective date."

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

4 \* **Section 1.** AS 44.46.025 is amended by adding a new subsection to read:

5 (d) Notwithstanding (a) of this section, the department may not charge a fee  
6 for inspection, permit preparation and administration, plan review and approval, or  
7 other services provided by the department under AS 03.05 or AS 44.46.020(5) to a  
8 school. In this section, "school" means a public school or private school for children  
9 of school age, as defined in AS 14.03.070.

10 \* **Sec. 2.** This Act takes effect July 1, 1995.



**Alaska State Legislature**  
**Representative Eugene Kubina**  
*Minority Whip*

During Session:  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4859  
Fax (907) 465-3799

During Intermittent:  
P.O. Box 2463  
Valdez, Alaska 99686  
(907) 835-2111  
Fax (907) 835-2097

**Sponsor Statement**

**HB 119 Exempting Schools from DEC Health Inspection Fees**

AS 44.46.025 authorizes the Alaska Department of Environmental Conservation to charge user fees to help defray the costs of its inspections of public kitchens where food is prepared. This authority was granted to DEC in 1993, and the first user fees were assessed that year.

For the first two years, FY93 and 94, DEC did not charge schools for the inspections of their kitchens and food preparation facilities. It did not want to burden schools, already suffering under tight budgets, with an additional expense. In 1994, legal counsel informed DEC that it could not arbitrarily charge some facilities and not others. Consequently, in FY '95 DEC began charging for its annual inspections.

The charges are determined by the number of cafeteria (or equivalent) seats per school. For small school districts the total charge could be less than a hundred dollars, but for larger districts, it could be more than a thousand. These fees are an unfunded mandate to the schools. The legislature mandated the fees, but did not provide any additional funds to the schools with which to pay them.

It is important to note that the legislature did exempt charitable organizations (those with an IRS tax status of 501(c)(3)) from DEC user fees. Although our schools are not 501(c)(3) organizations, they certainly meet the intent of the exemption. School lunch programs provide a valuable service to many children who often could not otherwise afford a hot lunch. School lunches are often served at below a school's cost of production, even when aided by Federal Child Nutrition Programs.

HB 119, by relieving schools of DEC user fees, would ensure that more of their limited budgets would be devoted to improving our children's education.

Your support is appreciated.

Collateral references. — 61A Am. 39A C.J.S., Health and Environment.  
Jur. 2d, Pollution Control, § 1 et seq. § 61 et seq.

**Sec. 44.46.020. Duties of department.** The Department of Environmental Conservation shall

(1) have primary responsibility for coordination and development of policies, programs, and planning related to the environment of the state and of the various regions of the state;

(2) have primary responsibility for the adoption and enforcement of regulations setting standards for the prevention and abatement of all water, land, subsurface land, and air pollution, and other sources or potential sources of pollution of the environment, including by way of example only, petroleum and natural gas pipelines;

(3) promote and develop programs for the protection and control of the environment of the state;

(4) take actions that are necessary and proper to further the policy declared in AS 46.03.010;

(5) adopt regulations for

(A) the prevention and control of public health nuisances;

(B) the regulation of sanitation and sanitary practices in the interest of public health;

(C) standards of cleanliness and sanitation in connection with the construction, operation, and maintenance of a camp, cannery, food handling establishment, food manufacturing plant, mattress manufacturing establishment, industrial plant, school, barbershop, hairdressing or cosmetology establishment, soft drink establishment, beer and wine dispensaries, and for other similar establishments in which lack of sanitation may create a condition that causes disease;

(D) the regulation of quality and purity of commercially compressed air sold for human respiration. (§ 2 ch 120 SLA 1971; am E.O. No. 51, § 40 (1981))

#### NOTES TO DECISIONS

Approval of subdivision plans. — subdivision. *State v. Anderson*, 749 P.2d  
Department of environmental conserva- 1342 (Alaska 1988).  
tion can validly require its approval of po- Cited in *Noey v. Department of Envtl.*  
tential subdivision plans as a prerequisite Conservation, 737 P.2d 796 (Alaska  
to the recording and sale of any lots in the 1987).

**Sec. 44.46.025. Fees for services.** (a) The Department of Environmental Conservation may adopt regulations that prescribe reasonable fees, and establish procedures for the collection of the fees, to cover the applicable direct costs, not including travel, of inspections, permit preparation and administration, plan review and approval, and other services provided by the department relating to

(1) agriculture and animals under AS 03.05; food, drugs, and cosmetics under AS 17.20; and public accommodations and facilities under AS 18.35;

(2) certificates of inspection for motor vehicles under AS 46.14.400 or 46.14.510;

(3) sewerage system and treatment works and wastewater disposal systems, and drinking water systems, under AS 46.03.720;

(4) oil discharge financial responsibility under AS 46.04.040;

(5) oil discharge contingency plans under AS 46.04.030;

(6) water and wastewater operator training under AS 46.30;

(7) control of solid waste facilities under AS 46.03.020(10) and 46.03.100;

(8) certification of laboratories conducting environmental analyses of public drinking water systems or of oil or hazardous substances, or conducting other analyses required by the department;

(9) certification of federal permits or authorizations under 33 U.S.C. 1341, sec. 401 (Clean Water Act).

(b) The department may not charge a fee for a service that is provided by a municipality under a delegation by the department to the municipality.

(c) The department may adopt regulations that prescribe reasonable fees to cover the direct and indirect costs of air quality permit programs under AS 46.14 and may establish procedures for the collection of those fees. (§ 63 ch 36 SLA 1990; am §§ 76, 77 ch 63 SLA 1993; am §§ 12, 13 ch 74 SLA 1993)

*Revisor's notes.* — Section 77, ch. 63, SLA 1993 enacted a subsection (c) for this section that is almost identical to that enacted by § 13, ch. 74, SLA 1993 and set out above. The only difference between the two is that the latter contains the words "and indirect" after the word "direct". Because § 13, ch. 74, SLA 1993 was the later enactment and had an immediate effective date, the amendment made by ch. 63 will not be codified.

*Effect of amendments.* — The first

1993 amendment, effective January 1, 1993, rewrote subsection (a).

The second 1993 amendment, effective June 26, 1993, substituted the present language of paragraph (a)(2) for "air quality permits under AS 46.03.140 and 46.03.160" and added subsection (c).

*Editor's notes.* — Section 87, ch. 63, SLA 1993 provides "[i]f any section of this bill is found to violate the single subject rule it is severed from the rest of the bill."

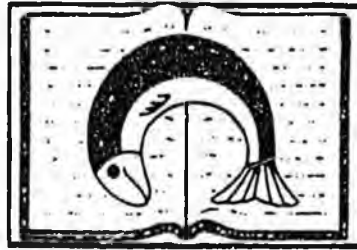
## Article 2. Environmental Advisory Board.

### Section

30. Environmental advisory board  
40. Expenses and per diem of board members

### Section

50. Functions of board



Lower  
Kuskokwim  
School  
District

Sue C. Hare  
*Superintendent*

P.O. Box 305 • Bethel, Alaska 99559  
907 543-4800 Ext. 810, 811

March 8, 1995

Representative Gene Kubina  
State Capitol  
Juneau AK 99801

RE: House Bill No. 119 exempting schools from DEC fees

Dear Representative Kubina:

I am writing to express my support for House Bill No. 119 exempting schools from DEC fees. I was very surprised to receive invoices for food service permits at all of our schools late last fall. We serve meals at 25 locations and the total of these invoices was nearly \$2000.

Our district is located in western Alaska, which is a rural part of the state with very high food and shipping costs. Currently the district subsidizes the school food service program in excess of \$400,000 per year in order to serve nutritious meals to our students. We simply cannot squeeze any more money out of our general education fund without seriously jeopardizing student instruction.

I urge you and your colleagues to pass this legislation. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Sue C. Hare". The signature is written in black ink and is positioned above the printed name and title.

Sue C. Hare  
Superintendent

cc: Senator Lyman Hoffman  
Representative Ivan M. Ivan

SUPPORT

VALDEZ CITY SCHOOLS  
BUSINESS OFFICE  
P. O. Box 398  
Valdez, Alaska 99686  
(907) 835-4968 / Fax: (907) 835-4964

February 14, 1995

The Honorable Eugene G. Kubina  
State Capitol  
Juneau, Alaska 99801

Dear Mr. Kubina,

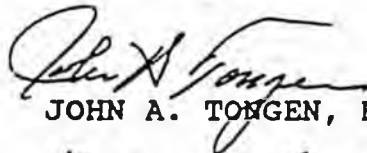
This letter is in support of House Bill No. 119 which would exempt schools from the D.E.C. charges for Food Service Permits.

These permit charges are ludicrous! There is no justification for one state agency (Department of Environmental Conservation) billing another state entity (school district). School kitchens should be exempt from the Food Service Permit charges. They are not operated "for profit" as are cafes or other public eating establishments.

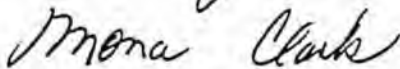
School budgets were established long before these charges appeared. We had no warnings that these were due; it was with great financial distress that we paid the charges. School districts should not have to budget for unreasonable charges so D.E.C. can profit.

House Bill No. 119 is logical, timely and necessary. Valdez City School District fully supports this measure.

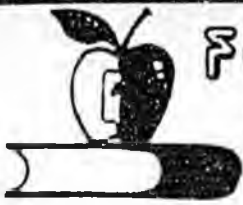
Sincerely,



JOHN A. TONGEN, BUSINESS MANAGER



MONA CLARK, ACCOUNTING



FOOD FOR  
THOUGHT, INC.

MATANUSKA-SUSITNA  
BOROUGH SCHOOL DISTRICT  
NUTRITION SERVICES

Linda R. Stoll, M.P.H.  
Carole L. Olsen, R.D.  
Suzanne Hermon

February 14, 1995

Representative Gene Kubina  
State Capitol  
Juneau, AK 99801

Dear Representative Kubina;

I am writing to you to let you know of my support for House Bill No. 119.

It was with a great deal of surprise that I began receiving bills for issuance of food service permits for all of my schools this year. We serve meals at 25 sights and the total billings received would amount to nearly \$5000.00. Needless to say, it would be an extreme hardship on this program to try to find an additional \$5000.00 in our budget. Our program is currently trying to maintain operating on a "break-even" budget, that is, a budget that brings in enough revenue to meet all direct expenditures of the program. The only possible source of money for these permits would be found if we were to cut back on food that we are serving to the children.

We currently receive no revenue from either state or local sources. We hope to be able to continue to be a support program without requiring input of state and local dollars into the program. The addition of expenses such as this one from D.E.C. could be the proverbial straw that breaks the camel's budgetary back.

I realize that state programs are searching for additional revenue sources to help with efforts to reduce state spending, but I additionally realize that an expense to this department which would necessitate our becoming dependent on state funds would merely take from one state source and give to another.

I urge you and your colleagues to pass this legislation.

cc: Rep. Vic Kohring  
Rep. Scott Ogan  
Rep. Beverly Masek  
Senator Rick Halford  
Senator Lyda Green

*Linda R. Stoll*

FEB 21 1995



# ST. MARY'S SCHOOL DISTRICT

P.O. Box 171 St. Mary's, Alaska 99658

(907) 438-2311 or (907) 438-2834

Accredited by Northwest Accreditation Association



16, February 1995

Representative Gene Kubina  
Capitol, Room 406  
Juneau, Alaska 99801

Dear Representative Kubina,

Thank you for support of House Bill # 119. It is refreshing to see that some one is trying to put a stop to the never ending billing of schools for one thing or another. The impression the public has of the schools is "they always pay their bills" otherwise known as the deep pocket theory.

I hope to see you in a week or so.

Sincerely,

*Gary C. Greseth*  
Gary C. Greseth

cc:

Eileen MacLean  
Irene Nicholia  
Jerry Mackie  
Carl Moses  
Jerry Sanders  
Cynthia Toohey  
Bill Williams  
Al Vezey  
Terry Martin  
Con Bunde  
Richard Foster  
Pete Kelly  
Ivan Ivan  
Joe Green  
Gene Terriault  
Scott Ogan  
Vic Kohring

GCG/pmg



# KENAI PENINSULA BOROUGH SCHOOL DISTRICT

139 East Park Avenue • Soldotna, Alaska 99669-7553 • Food and Nutrition Services (907) 262-9367  
FAX (907) 262-7165

March 1, 1995

Representative Gene Kubina  
State Capitol  
Juneau, AK 99801

Dear Representative Kubina:

Thank you for introducing House Bill 119, exempting schools from the Department of Environmental Conservation's "operator user fees".

This new billing procedure, which came into effect and to my attention during December 1994, did not allow my district to properly budget for this additional expense for the 94/95 school year or 95/96 school year. As you know most school districts are suffering from increased enrollment and less funding. If these fees are implemented they will cost the Kenai Peninsula Borough School District an additional \$6,000 dollars a year (approximately).

School food service does not function to make a profit and should be treated as a non-profit entity. As stated in the Code of Federal Regulations, chapter II, 210.14, "School food authorities shall maintain a non-profit school food service. Revenues received by non-profit school food service are to be used only for the operation or improvement of such food service."

Thank you for your concern and efforts in this matter.

Sincerely,

Michael Lengenfelder  
Food and Nutrition Services Administrator

bjg

APR 18 1995



# FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

520 Fifth Avenue

Fairbanks, Alaska 99701-4756

(907) 452-2000

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Food and Nutritional Services

Rep. Gene Kubina  
State Capitol  
Juneau, AK 99801

April 11, 1995

Dear Representative Kubina:

I am writing to inform you that this department believes there has been an error in billing the Fairbanks North Star Borough School Lunch Program for Food Service permits from the Department of Environmental Conservation.

We are a non-profit program and this is required by USDA Federal Regulations Title 7:210.14. It would appear to me that our department meets the intent of the exemption. Although not truly a "charitable institution", over 68% of the meals that we served during the past school year were served to free and reduced price eligible children.

I am requesting exemption of our National School Lunch and Breakfast programs from the cost of these permits. We are operating on a very tight budget and are required by this district to break even with no assistance. This unbudgeted expense would cause a hardship for this department and would require adjustments to existing programs.

I want to thank you for introducing House Bill 119 and to let you know that we support all components of this proposed legislation.

Sincerely;

Lynn C. Tompkins  
Food Service Supervisor  
Fairbanks North Star Borough School District  
520 5th Ave, Fairbanks, AK 99701-4756



Alaska State Legislature  
 House of Representatives  
 COMMITTEE ON HEALTH, EDUCATION  
 AND SOCIAL SERVICES

PLEASE PROVIDE  
 ALL REQUESTED  
 INFORMATION.

SUBJECT OF MEETING:

HB 119: Exempt Schools  
 from Certain DEC  
 fees

DATE: MAY 2

PLACE: Capitol Room 106

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Kuc Bullentini	DEC	710 Wellboughy Rom 105, Juneau	99801		465-5280	<input checked="" type="radio"/>	N	HB119
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	