

LEG. FINANCE - BILLS 1983 - 1984 1811

SSHB 56 cont. - SSHB 58

1811



1 enforced is very relevant. This is, after all, a civil  
2 rights lawsuit and the reason for why the public official's  
3 enforcing the law is very relevant.

4 MR. MAYNARD: Could we go off record for  
5 a second? Off record for a second?

6 MR. ZOBEL: Yeah.

7 (Discussion off the record.)

8 THE WITNESS: Do you want to restate your  
9 question?

10 BY MR. ZOBEL:

11 Q. Is the reason why you and the Commission enforce  
12 the durational residency requirement, to eliminate the  
13 possibility of people coming to Alaska for the sole purpose  
14 of applying for a graduate student loan?

15 A. No.

16 Q. Is that consistent with what you just said to  
17 the newspapers?

18 A. Yes.

19 Q. Ex -- If I recall, you stated that the -- the  
20 statement in the newspaper that the "elimination of the  
21 residency rule would draw large numbers of loan seekers  
22 to Alaska from the Lower 48," was an accurate statement.

23 A. That's correct.

24 Q. And if that is an accurate statement, then how  
25 is that consistent with your statement that you do not enforce



1 that rule for that reason?

2 A. The reason we enforce the two year residence,  
3 the durational residency requirement, the reason that I  
4 do, administratively, and the reason the Commission does,  
5 is that it is State Statute and it is legislative intent; that  
6 we have not been told that it's unconstitutional. We've  
7 been told that it might be difficult to defend. We've never  
8 been told that it's unconstitutional. We have no reason  
9 to believe that it's unconstitutional. In fact, I have  
10 no reason to believe that it is. As long as there is nothing  
11 wrong with it in terms of the legality, and it's what the  
12 legislature wants and it's what they're funding, it's our  
13 duty to enforce it.

14 Q. You have been told that it will be difficult to  
15 defend?

16 A. We were told it would be more difficult to --  
17 In fact, if you want to know exactly what we've been told,  
18 we've been told it would be two years -- and I can't give  
19 you the exact -- but two years would be less defensible  
20 than one year, for instance. That's what we were told.  
21 We were told that, the Commission was told that; less easily  
22 defended. Again, the reason we enforce it has nothing to  
23 do with what the result would be if it's eliminated. Those  
24 two things don't necessarily have to -- one doesn't necessarily  
25 have to follow the other.



1

(Recess taken.)

2

(Ms. Fedor left the deposition

3

at this time.)

4

BY MR. ZOBEL:

5

Q. Let's take another look at Exhibit 1, which you  
6 have in front of you.

7

A. M-hm.

8

Q. You'll see where it says in these guidelines,  
9 "Termination of Alaska resident status for loan purposes  
10 results when the person, colon"; you see that statement?

11

A. Yes.

12

Q. And do you see the sentence or phrase that is  
13 labeled no. 2?

14

A. (Witness nods head.)

15

Q. Would you read that for us, please?

16

A. To give continuity, let me start with "Termination  
17 of Alaska resident status for loan purposes results when  
18 the person: Pays resident tuition at a public institution  
19 outside" of "Alaska." I stuck in "of."

20

"Exception: Payment of resident tuition is a  
21 courtesy extended by the institution under special circumstances.  
22 Institution must provide written proof that this courtesy  
23 does not qualify the student as a State resident and in  
24 no way interferes with the student's Alaska residence."

25

Q. If an applicant for a student loan had paid resident



1 tuition at the University of Washington for the purposes  
2 of this program, you would consider them to be a resident  
3 of Washington.

4 A. That's correct. And I need to explain. It's  
5 been our advice that a person can be domiciled in only one  
6 state at a time. You can have residence in many, but you  
7 can be domiciled in only one. When you accept in-state  
8 tuition at an institution of higher education, on that admissions  
9 form, at least with every institution that I'm aware of,  
10 it says right on there that you are, when you're accepting  
11 that tuition in-state rate, that you are a resident of that  
12 state and that is a document that the person knowingly signs  
13 and dates. If they do that, then we say that they have  
14 given up Alaska residence. And let me say, we have had  
15 a number of cases where students have been on our student  
16 loans for a couple of years have absolute -- maybe lifelong  
17 Alaskans, and decided they could get a break by changing  
18 and getting that in-state tuition rate, particularly in  
19 the State of California where you can get it easily. As  
20 soon as they sign that they're a resident of that state  
21 and take the tuition at an in-state rate, we stop the student  
22 loan and it's unfortunate but it does happen.

23 Q. The reason you do that is because by paying resident  
24 tuition at the University of Washington, for example, you  
25 would consider them to be -- they claimed Washington residency;



1 isn't that correct?

2 A. We do it exactly -- if they are claiming to be  
3 a resident of that state and at that time, disavowing their  
4 continued intent to remain a resident of the State of Alaska,  
5 that's correct.

6 Q. So if a person went to the University of Nebraska  
7 and paid resident tuition at the University of Nebraska,  
8 you would consider them to be a resident of Nebraska?

9 A. We would consider them not to be a resident of  
10 the State of Alaska for these loan purposes. There may  
11 be a fine difference there and I don't want to be -- to  
12 lead you astray.

13 Q. I have some xeroxes here of what I want out of  
14 this.

15 (Discussion off the record.)

16 (Exhibit No. 3 was marked  
17 for identification.)

18 BY MR. ZOBEL:

19 Q. I'll show you -- I'll just give you this to look  
20 at.

21 A. M-hm.

22 Q. Would you please tell us what that document is  
23 I have just given you?

24 A. This is the catalog for the University of Alaska,  
25 Anchorage, it's the 1982-'83 catalog that's given to students.



1 Q. And are you familiar with the educational system  
2 at the University of Alaska?

3 A. Yes.

4 Q. Would you turn to page 33, please?

5 A. All right.

6 Q. Would you tell us what's on that page, please?

7 A. This is the beginning of the section of the catalog  
8 that deals with fees, charges and tuitions. The first portion  
9 states: "Residency for Purposes of Tuition"; the second  
10 portion on this page is the "Summary of Semester Charges."

11 Q. Are you familiar with how long my client has been  
12 a resident of the State of Alaska?

13 A. I only have the document that she submitted for  
14 a student loan and at that time, she indicated that the  
15 date it was signed, it was one year and one month. What  
16 it is today, I'd have to compute backwards.

17 Q. And if my client -- if the plaintiff in this lawsuit  
18 could attend the University of Alaska and get a legal  
19 education, she would be charged what kind of tuition?

20 A. Depending on -- Are you asking me, would it be  
21 resident or non-resident?

22 Q. Well, what does it say on that page?

23 A. All right. Well, that's another question, then.  
24 On this question it says, "For purposes of nonresident tuition,  
25 a resident is any person who has been physically present



1 in Alaska for one year," except vacations, and then it goes  
2 on from there. So what you're asking is, would your client  
3 be considered to be a resident for tuition purposes at the  
4 University of Alaska, and the answer is yes, in accordance  
5 with the policy stated on page 33 of the catalog.

6 Q. So if I understood your previous answers, if a  
7 person paid resident tuition at the University of Washington,  
8 for the purposes of this program they'd be considered to be a  
9 resident of Washington. My client, the plaintiff in this  
10 lawsuit is eligible, as you stated, for in-state tuition  
11 at the University of Alaska.

12 MR. MAYNARD: Mr. Zobel, I think you  
13 mischaracterized his testimony in his previous answer. If  
14 you want it read back, you may.

15 BY MR. ZOBEL.

16 Q. Well, correct me. What did I say that was inaccurate?

17 A. You asked me, specifically in reference to --  
18 you used the example of the University of Nebraska, and  
19 you said, would I consider them a Nebraska resident. I  
20 said, "No, I'd consider them not an Alaska resident."

21 Q. So for the purposes of the University of Alaska,  
22 University of Alaska would accord my client residence tuition;  
23 is that correct?

24 A. That's correct.

25 Q. And the University of Alaska does not purport



1 to give in-state tuition to non-state residents, does it?

2 A. It defines residency as we saw on page 33, for  
3 tuition purposes.

4 Q. Let me restate the question. I don't think you've  
5 answered it. The University of Alaska is not giving  
6 in-state tuition to people who are non-residents.

7 A. By their definition, correct.

8 Q. Why is it that the Alaska Commission on  
9 Postsecondary Education is not satisfied that my client  
10 is a resident of the State of Alaska for purposes of the  
11 loan program if the University of Alaska would consider  
12 her to be a resident for tuition purposes?

13 MR. MAYNARD: I'm going to have to object  
14 to that question. You're still saying, is the Commission,  
15 they have a two year statutory requirement. You may ask  
16 the legislature or the Commissioner why he feels, in his  
17 opinion as an expert in whatever may be his knowledge of  
18 the legislature, why the legislature believed it was necessary,  
19 but it's a statutory requirement there.

20 MR. ZOBEL: I think I've qualified him as  
21 an expert in higher education, and I'm asking him what  
22 educational reason would justify the difference.

23 THE WITNESS: I would say that there's no  
24 reason to believe that the two are related, any more than --  
25 you know and I know that there are many tests for residency,



1 in this state and in many other states. There's a different  
2 test for tuition; there's a different test for whether you  
3 can hunt or fish; there's a different test for voting. We're  
4 simply saying, there'a also a different test for whether  
5 or not you can qualify for a student loan, and the fact  
6 that these two seem to be different, I don't think is  
7 surprising.

8 BY MR. ZOBEL:

9 Q. Were you involved in the 1981 amendments to the  
10 Statute that's now being challenged?

11 A. I testified at hearings for them.

12 Q. And you were familiar with the legislative history  
13 relating to those amendments?

14 A. Yes.

15 Q. Would you tell me in what way you are familiar  
16 with that history? You said you testified. Were you --

17 A. Anytime any bill comes up dealing with the student  
18 loan program, I'm invited to go over and testify and I always  
19 have, we -- if we have a position on a particular program.  
20 I don't have the luxury of having a position. On behalf  
21 of the Commission. I will refer it to the Commission and  
22 they will take a formal action whether or not they'll support  
23 or not support certain kinds of legislation. But I will  
24 testify and I serve as the expert witness, the expert in  
25 the field of higher education and in student loans, to give



1       them advice as to whether or not a certain piece of legislation  
2       is worded correctly or whether or not I think that it's  
3       appropriate.

4               I should also hasten to say, quite often the  
5       legislature does not take my advice.

6               MR. ZOBEL: I'd like to have this marked  
7       as Exhibit 4.

8               BY MR. ZOBEL:                               (Exhibit No. 4 was marked  
9   for identification.)

10       BY MR. ZOBEL:

11               Q. I've just shown you what we have marked as Exhibit  
12       No. 4. Are you familiar with that document?

13               A. Yes.

14               Q. Would you tell us in what way you're familiar  
15       with it?

16               A. This is a letter from Bruce Botelho, who is an  
17       Assistant Attorney General and also serves as counsel for  
18       our agency, for the Commission, and it's a letter from Mr.  
19       Botelho to Representative -- State Representative Don Clocksin  
20       and it deals with the constitutionality of durational residency  
21       requirement for student loans, and he even has a file number,  
22       J-66-727-31.

23               Q. What is the date of that document?

24               A. May 5, 1981.

25               Q. Do you know, from your personal knowledge, what



1 the position of Don Clocksin at that time was?

2 A. His position?

3 Q. Yes.

4 A. With regard to this, or do you mean his position  
5 in terms of the legislature or --

6 Q. I mean, his position in the legislature.

7 A. At that time, he was chairman of the House HESS  
8 Committee.

9 Q. Which was dealing with the amendments to the 19 --  
10 the 1981 amendments to this Statute?

11 A. That's correct. They were looking at the student  
12 loan program in general.

13 Q. Would you tell us what the -- Would you please  
14 read for us the -- this paragraph here?

15 A. The paragraph reads -- again, this is to  
16 Representative Clocksin from Bruce Botelho. It says, "It  
17 is our view," "our" meaning the Department of Law, I would  
18 assume in this case, since it's on Department of Law  
19 stationery, "It is our view that the two-year durational  
20 residency requirement could not withstand constitutional  
21 scrutiny under either state or federal standards."

22 Q. Were you familiar with this letter at the time  
23 that it was written?

24 A. I was familiar with the letter when I got a copy  
25 of it.



1 Q. Which was when?

2 A. Which was shortly after it was written. Don Clocksin  
3 sent me a copy, as did Bruce.

4 Q. You said Bruce Botelho was the Attorney General  
5 who advises the Commission?

6 A. That's correct.

7 Q. Has he advised you that this is unconstitutional  
8 act?

9 A. No.

10 Q. That letter indicates that he had advised Representative  
11 Clocksin that it was unconstitutional. He gave you contrary  
12 advice?

13 A. He's never advised us whether it was constitutional  
14 or not, as a matter of fact. He's indicated that it might  
15 be difficult to defend, but even at times after this, I've  
16 got documentation from him where he was clarifying language  
17 for our regulations that refers directly to the two year  
18 residency. That was, 24 month physical presence. That  
19 was not struck down. So, no, he has never advised us. And  
20 I should add, nor has the Commission ever asked him for  
21 that advice. We haven't said, "Is this a constitutional  
22 provision?" The question has not been raised. Apparently,  
23 Don Clocksin raised it.

24 Q. Wouldn't you think that that would be a logical thing  
25 for you to do if you were aware of this letter?



1 MR. MAYNARD: Objection. What's the relevance  
2 of this, Ron? I mean, I'm not --

3 MR. ZOBEL: The relevance is, that --

4 MR. MAYNARD: I mean, we'll be glad to stipulate  
5 that Bruce, you know -- the public record speaks for itself  
6 in terms of his advice to the legislature before they passed  
7 the Statute and, you know, it's -- any -- you know, it speaks  
8 for itself. I mean -- and for purposes of the constitutionality  
9 of two years, we'll see whether or not Bruce's opinion is  
10 right or not. But I'm curious as to where you're going  
11 with regard to, you know, whether or not the Commission  
12 had a duty to affirmatively ask Bruce, you know, about something  
13 when they never asked before or, you know -- or whatever.  
14 I mean, I just -- I'm curious. I mean, I don't see the  
15 relevance to --

16 MR. ZOBEL: I think it's relevant to notice  
17 and knowledge of the unconstitutionality of the Statute.

18 MR. MAYNARD: For what purposes in your Complaint?  
19 I mean, I --

20 MR. ZOBEL: The unconstitutionality of it  
21 as applied. It is the duty of public officials not to enforce  
22 unconstitutional acts. And if they're on notice that they  
23 are unconstitutional, then that is very relevant in a civil  
24 rights case.

25 MR. MAYNARD: It's relevant to punitive damages



1 actions perhaps. That's where I'm having some problem.  
2 We are stipulating we are going to go ahead and give her  
3 the money and we will be doing so, and it was on the  
4 understanding that --

5 MR. ZOBEL: I think it goes beyond the issue  
6 of punitive damages.

7 I would like -- would you read back the question  
8 that I asked now?

9 (Record read by the reporter  
10 as follows:)

11 "Question: Wouldn't you think that that  
12 would be a logical thing for you to do if  
13 you were aware of this letter?"

14 MR. MAYNARD: Answer the question.

15 THE WITNESS: I don't want you to think I  
16 am being flippant or hostile or anything when I answer this,  
17 Mr. Zobel. But you're asking me a question of logic, and  
18 my logic may differ from yours. My logic tells me, and  
19 you asked for my logic so I'm going to give it to you, my  
20 logic tells me that the court determines the constitutionality  
21 on an issue like this and if we were challenged, that we  
22 would have to find out what the court said and that, apparently,  
23 in Bruce's opinion, it would be very difficult to defend.  
24 But did that mean we should ask for his opinion? No.

25 \*\*\*



1 BY MR. ZOBEL:

2 Q. You don't regard it as your duty as a public official  
3 to inquire if the constitutionality of a statute is raised  
4 by the attorney that advises you?

5 MR. MAYNARD: I object, 'cause you're assuming  
6 that he has raised the two year requirement to Kerry.

7 MR. ZOBEL: He stated that he saw the letter.  
8 He's certainly on notice as to the opinion of the attorney  
9 that advises him.

10 THE WITNESS: My answer to you is, then,  
11 no. I don't feel that being copied -- receiving a copy  
12 of a letter from the attorney that happens to advise us,  
13 as well as other people, to an individual in the legislature  
14 who asked him a specific question, commits us to anything.  
15 In fact, if it did, I would think that that attorney --  
16 again, we're talking logic and I would ask -- you know,  
17 I'm not in a position to ask you, but I would think logic  
18 would say that that attorney, if he truly felt it were  
19 unconstitutional and could not withstand any test, that  
20 he would advise us not to enforce that Statute and he never  
21 has done so.

22 (Discussion off the record.)

23 BY MR. ZOBEL:

24 Q. You stated that you were familiar with my client's  
25 application?



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A. Yes.

Q. For an Alaska student loan?

A. Yes.

Q. Is there anything on that application that would indicate that she is not a resident of the State of Alaska, other than the durational period?

A. No. There's no question we ask other than the durational period. We ask if they're registered to vote and where, and she said she's registered in Alaska to vote here. That's really the only other question. We don't say, "Do you have a driver's license? Do you have these other things?"

Q. And she, because of the durational residency requirement, is ineligible solely because of that durational period?

A. That's correct.

Q. Is the durational period enforced so as to deny someone like my client, who has come to Alaska and, as you said, has every other indicator of residency, a graduate student loan so that people will not come here to get those loans?

A. No, I'm going to differ with you two places. One, I didn't say she had every other indicator, 'cause you said did she have any on that application. The answer I gave you was no, another application, and I haven't really pursued



1 with her whether or not she has the other ones. I assume  
2 she does. I think you're probably right. But you said --  
3 but the real question you're asking is, are we enforcing  
4 it to keep people like that from getting loans. I'm saying,  
5 we enforce it to make sure that people who do get the loans  
6 meet the requirements. And again, I'm just rephrasing it,  
7 putting it in a positive approach. We want to make sure  
8 that whoever receives a loan, in fact, is eligible to receive  
9 that loan and meets the requirements as set forth by the  
10 legislature. We're not out to deny loans to anybody. We're  
11 out to insure that those that get them are eligible for  
12 them. And I think there is a distinction.

13 Q. Is there any reason for you to believe that my  
14 client is one of those persons that you have described earlier  
15 as having come to Alaska for the purpose of getting a graduate  
16 student loan?

17 A. No. No reason whatsoever.

18 Q. But the durational residency requirement will  
19 deny her a loan.

20 A. She is ineligible, that's correct.

21 Q. And if the durational residency requirement did  
22 not exist or was reduced to one year, for example, such  
23 as the University of Alaska uses, in your opinion, would  
24 that attract people to Alaska such as my clients?

25 MR. MAYNARD: That's two questions there.



1 One, attract to Alaska, and the second one, such as your  
2 client. Do you want to ask both of them or -- I object  
3 that it's a compound question.

4 MR. ZOBEL: I'll see if I can rephrase it  
5 so as to just not have any trouble with the objection. It  
6 seems like they go together but --

7 MR. MAYNARD: Well, I'll explain my objection,  
8 Ron. We are not -- from Kerry's answer, he's not denying  
9 that she would get a student loan or that she may be a bona  
10 fide resident, but I think his prior answers have always  
11 said that, you know, we're not trying to stop people like  
12 Judith Andress; they're trying to stop people who come up  
13 who don't intend to remain, who come up here solely for  
14 the student loan. He has just answered he does not believe  
15 Judith Andress came up here solely for the student loan, and  
16 I think there's a distinction between the two. And that's  
17 where my objection is. You're not -- you're asking two  
18 separate questions, or a compound question on that.

19 BY MR. ZOBEL:

20 Q. Is the durational residency requirement designed  
21 to stop someone such as my client from coming to Alaska,  
22 taking up residency here and applying for a graduate student  
23 loan?

24 A. No. I think the intention of the durational residency,  
25 and I believe I gave you this before, my understanding is,



1 the intention of that residency is to insure that the people  
2 that get the loans are bona fide residents, true Alaskans,  
3 two year residents. That means it's -- yes, it does exclude  
4 people that come up here for only those purposes and  
5 unfortunately, it may exclude some very eligible people,  
6 people who would be otherwise eligible, such as your client.  
7 But the purpose of that is to insure that whoever gets it  
8 meets this test. You have to cut somewhere and that's where --  
9 that's where the legislature has chosen to cut. But if  
10 you say --

11 Q. Mr. Romesburg, I think we could always say that  
12 a requirement is imposed to make sure that they meet the  
13 requirement. I'm not -- that's very circular. That's not  
14 the question I'm asking. The question I'm asking is, is  
15 the durational residency requirement aimed at making people  
16 such as my client ineligible?

17 A. It is aimed at making anyone that is not a two  
18 year resident ineligible, yes.

19 Q. You've stated that you have no reason to believe  
20 that my client came to Alaska for the purpose, the sole  
21 purpose of participating in the loan program.

22 A. Correct.

23 Q. Is it designed to make persons such as my client,  
24 who is a -- You've said, am I not correct, that she is  
25 a bona fide resident?



1 A. I said, I have no reason to believe she's not.

2 Q. Okay.

3 And you said you have no reason to believe that  
4 she came to Alaska solely for the purpose of participating  
5 in the graduate student loan program?

6 A. Correct.

7 Q. Is the durational residency requirement designed  
8 to deter persons such as my client from coming to Alaska?

9 A. No.

10 Q. But it will deny her a loan.

11 A. Yes.

12 Q. And for what reason? What -- what purpose does  
13 the classification, the requirement serve in that instance?

14 A. If you're asking, is your client a victim of a  
15 two year residency requirement, when for all purposes she  
16 might otherwise be eligible, the answer would be yes, she  
17 is a victim of that residency requirement. When you impose  
18 any kind of a requirement -- I m not a legislature --  
19 legislator -- when you impose any kind of a requirement  
20 on a class of people you're going to treat all those people  
21 within that class as if they're the same, and I think quite  
22 often the outcome can be unfortunate. In her case it may  
23 be unfortunate. Eut if the legislature says we have to  
24 pick -- somehow -- again, let's go back to the beginning.  
25 We have a very mcbile class of people, students, very mobile.



1 Look at the age of them. Look at the income. It's a mobile  
2 group of people. We know they shop. We know they shop  
3 in the Northwest, I know they do. I can give you testimony  
4 from other states that students shop. They shop loan programs;  
5 they shop WICHI support; they shop tuitions; they'll move  
6 around. But we're saying, in this state what the legislature's  
7 been saying for years is, "We are willing to support our  
8 students. We want to support them to pursue their educational  
9 goals and we want to have an educated populace." The State  
10 of Washington, the State of Oregon, Idaho, don't support  
11 their students at the level we do. They don't. They don't  
12 have the same kind of program, and they seem to be unwilling  
13 to, or maybe unable to, but the point is, they don't. So  
14 the Alaska legislature says, "We want to do this for our  
15 people."

16 Now we have to make sure, though, that they are,  
17 indeed, our people. We don't want to create a loan program  
18 and give -- and by all means, when you're talking five percent  
19 you're talking about a subsidized program. We don't want  
20 to have a five percent program for Washington students,  
21 residents of Oregon, we want it for Alaskans. And we think  
22 two years is reasonable. That's what the legislature has  
23 said through statute to us. Now if you're asking me if  
24 I think it's reasonable, that's a whole other question.  
25 I think it's defensible and I think it's their intention.



1 Q. I'm trying to get at -- it's irrelevant what I'm  
2 trying to get at. Let me just ask the the questions.

3 You just stated that the purpose of this program  
4 was to make sure that it aids, quote, "our people," unquote.  
5 Isn't that what you just said?

6 A. Did I say that? The true Alaskan; if that means  
7 our people.

8 Q. And a true Alaskan is not someone who has been  
9 here less than two years.

10 A. That's not true. The true Alaskan is -- depending  
11 on what program you're talking about. In this case, the  
12 Alaskan is the person that has been here, physically present  
13 for two years that hasn't just come up here for the purpose  
14 of the student loan, that's been here two years. That's  
15 what the legislature has defined it as. Now if you ask  
16 me to define a true Alaskan --

17 Q. And you don't want the people to come from the  
18 State of Washington, move to the State of Alaska and apply  
19 for a student loan.

20 A. I don't think that's a correct statement.

21 Q. Well, correct it then.

22 A. If I were going to try to correct it, I would  
23 say, the legislature does not want a person to come from  
24 another state for the sole purposes of obtaining a student  
25 loan and be able to obtain it without putting in some time



1 in Alaska, and that time being 24 months. I would say that's  
2 the purpose.

3 Q. What's the purpose of that time period?

4 A. Again, I'm interpreting the legislative intent  
5 and I sat there, so I would say the purpose of that is  
6 to insure that they are reaching the group of people that  
7 they intend to reach, and that is, the Alaskan citizen,  
8 the Alaska resident, and understand, resident for educational  
9 purposes is different than the resident for hunting purposes  
10 or resident for voting purposes.

11 Q. And for the purposes of this program -- Strike  
12 that.

13 The purpose of this student loan program is to  
14 aid, I believe you said, the true Alaskan; is that correct?

15 A. That's correct. Defined by them, understand.  
16 Don't ask me to define --

17 Q. And a true Alaskan --

18 A. -- true Alaskan.

19 Q. And a true Alaskan under this program cannot be  
20 someone who has been here less than two years.

21 A. They are not in that group that it's aimed -- it's  
22 directed at, that's right, and if you --

23 Q. They're not true Alaskans.

24 A. Well, now you're playing games.

25 Q. No, I'm not playing games. I'm trying to find



1 out who the Commission regards as a true Alaskan.

2 A. Oh. Oh, that's a different question entirely.  
3 If you ask --

4 Q. What are the Al -- Strike -- Let's --

5 What is the Alaskan who has lived here between  
6 one and two years and wishes to attend a law school or medical  
7 school or any of the other graduate programs that you said  
8 were not available in Alaska, what is that Alaskan supposed  
9 to do?

10 A. They either have to borrow from federal sources,  
11 they have to pay their own way or they'll have to put in  
12 additional time until they have their two years to qualify  
13 for this. Now understand, we're not saying to that person,  
14 "You are not a true Alaskan. You're not an Alaska resident."  
15 We're saying, "You're not a resident for this loan program.  
16 You're not a true Alaskan," if you want to use the phrase  
17 and I did use it, "for this program, but that doesn't mean  
18 you're not an Alaskan. It doesn't mean you're not a resident  
19 'cause clearly, you can vote. Clearly you can have property.  
20 You can pay taxes." We're not denying that --

21 Q. You can participate in many other parts of Alaska  
22 society --

23 A. That's correct.

24 Q. -- you can be employed here?

25 A. (Witness nods head.)



1 Q. Is that correct?

2 A. That's correct.

3 Q. Have people benefit from your skills?

4 A. Absolutely.

5 Q. But you can -- you will not be eligible to be  
6 assisted in your education by the State of Alaska.

7 A. Until you've been here 24 months.

8 Q. In your opinion, do you have any estimates of  
9 the number of persons that will come to the State of Alaska  
10 if the durational residency requirement were reduced to  
11 one year?

12 A. Yes. Can I refer to a table that I have?

13 Q. Yes.

14 A. We were asked to put some of this stuff together.  
15 I don't want to give you something and then have something  
16 else appear later.

17 We -- and I'll tell you where I got my estimate  
18 so you'll understand. Right now, we know that ten point  
19 four percent of the applicants are exactly two year residents  
20 so we have -- they're applying. They are two but less than  
21 three, all right? We have no reason to believe that there  
22 aren't that many people sitting in the state right now that  
23 are one year resident but less than two. There may be,  
24 in fact, more; they're may be less, but we assume it's the  
25 same, assume it's stable 'cause two to three is pretty stable,



1 too. So that would be ten point four percent. So for the  
2 first year it would mean as many as 1500 to 1600 loans the  
3 first year. Those are people that are here now that meet  
4 this class, that are between one and two years. The impact  
5 of people coming in from outside obviously couldn't be  
6 felt this first year, and in effect, couldn't be felt the  
7 next year. We'd have to come down the line.

8 Q. So, if I may interrupt at the moment --

9 A. 1500 to --

10 MR. ZOBEL: Can I ask a follow-up question  
11 to what he's just testified to?

12 MR. MAYNARD: I don't think he was done yet.  
13 Or if he was done, it's fine.

14 THE WITNESS: I'm done.

15 MR. MAYNARD: All right. That's fine.

16 BY MR. ZOBEL:

17 Q. I just want to clarify what this 1500 figure is,  
18 whatever the figure you gave us.

19 A. That's our best guess as to how many people right  
20 now would be in the state 12 months but less than 24 that  
21 would potentially borrow --

22 Q. Those are people who are residents now who are  
23 not eligible

24 A. Those are people, that's correct, that are in  
25 that -- that have been in the state 12 months but less than



1 24. That's our best guess; 1500 to 1600.

2 Q. Okay. Go ahead with what you were saying then.

3 I'd like to make that a part of the record.

4 MR. MAYNARD: Sure.

5 THE WITNESS: I've got little pencil marks  
6 on it.

7 Well, that's really -- I also have one for six  
8 months down here, too, where we guessed that. What I was  
9 saying in terms of the impact of reducing the residency,  
10 the next year there would be a number -- there would be  
11 an increase, and we figured that there would be an influx  
12 of people coming in to meet that residency requirement.  
13 It wouldn't affect anything this year. It couldn't. It  
14 could start affecting next year. You'd probably have a  
15 bulge and then it would level out and continue on a percentage  
16 basis from then on, and so we have projections forward through  
17 1988-'89, and it gets up to be -- amount to quite a bit  
18 of money; six million the first year up to as much as 42  
19 million in the -- in eight, nine years from now. But I'm  
20 glad to give you this.

21 BY MR. ZOEBEL:

22 Q. And this cost that you're talking about is cost  
23 that would occur by migrants, new migrants coming to Alaska  
24 and applying for this loan program?

25 A. Well, the initial cost is not by new migrants.



1 Those are people that are already here.

2 Q. I understand that.

3 A. And there would be --

4 Q. The latter figure.

5 A. The latter figure, that's correct, that's correct.

6 Now what percentage of those would be attracted solely because  
7 of the student loan, we don't know but we've got some figures  
8 in here where -- like I say, we have a bulge in here for  
9 about, they kicked it up to where it would be about a five  
10 percent increase over the previous year. Those are guesses.

11 Q. The residency requirement keeps those -- keeps  
12 that from happening; keeps people from coming to Alaska  
13 to apply for this loan.

14 A. Oh, I think it does keep people from coming to  
15 Alaska solely to apply for a loan on a 12 month basis. If  
16 people want to come here and sit for two years and apply  
17 for the loan, they can do that. It doesn't keep them from  
18 doing that. We know they're doing it now. Some are. They  
19 tell us they are, anyway.

20 MR. ZOPEL: I think I'm through.

21 (Exhibit No. 5 was marked  
22 for identification.)

23 (Proceedings concluded at  
24 11:45 a. m.)

25

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KERRY ROMESBURG

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VICE-CHAIRMAN  
HOUSE RESOURCES COMMITTEE  
HOUSE LABOR AND COMMERCE COMMITTEE  
MEMBER  
JOINT GAS PIPELINE COMMITTEE  
HOUSE FINANCE SUBCOMMITTEE ON  
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AND THE GOVERNOR'S OFFICE

Alaska State Legislature



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MEMORANDUM

TO: Representative Rick Uehling  
FROM: William Lovell, Staff *Wheeler*  
DATE: April 13, 1983

RE: Loans Committee Substitute for House Bill 56

The Loans Committee Substitute for House Bill 56 includes the following elements:

Section 1 raises the fixed interest rate on student loans from the present level of 5% to 8%.

Section 2 limits the existing deferment on repayment of student loans due to military service to a first enlistment period of up to four years and to enlisted personnel only.

Section 3 unifies the current scholarship loan program eligibility requirements under the following criteria:

- (1) the borrower must be enrolled as a full-time student in a career education or associate, baccalaureate, or graduate degree program;
- (2) the borrower must be a graduate of a high school or scheduled for graduation within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university;
- (3) the borrower must be a resident of the state at the time of application for the loan and must qualify for said residency under the conditions described in the following:
  - (a) physically present for at least two years,
  - (b) dependent upon a parent or guardian who has been physically present in the state for at least two years, or
  - (c) has been physically present in the state for at least

Committee substitute for House Bill 56  
April 13, 1983  
Page two

two years immediately before becoming absent from the state and the absence is due solely to:

- (i) military service,
- (ii) volunteer service in the Peace Corps,
- (iii) volunteer service under the Domestic Service Volunteer Service Act of 1973,
- (iv) attendance at school as a full-time student, or
- (v) full-time employment by the state or its congressional delegation.

Section 4 eliminates unconstitutional elements of the existing loan selection criteria by eliminating the preference given to those Alaskans with longer in-state residency.

Section 5 encourages scholarship loans to be federally insured whenever possible.

Section 6 sets a July, 1984 effective date.

/wtl

cc: Representative John Lindauer  
Finance Committee staff

**Article 3. Free Tuition and Fees for Dependents.**

**Section**

80. Free tuition and fees at state-supported educational institutions

Revisor's notes. — This article derived from AS 14.40.920 and was renumbered by the revisor of statutes under AS 01.05.031. Collateral references. — 15A Am.Jur.2d Colleges and Universities, §§ 19, 20. 14 C.J.S. Colleges and Universities, §§ 27, 28.

**Sec. 14.43.080. Free tuition and fees at state-supported educational institutions.** (a) Any dependent of a bona fide Alaska resident who, while serving during the hostilities involving the United States forces in Southeast Asia, was listed by the United States Department of Defense as a prisoner of war or missing in action in Southeast Asia may attend any state-supported educational institution without payment of tuition and fees.

(b) As used in this section, "dependent" means a dependent spouse or child. (§ 1 ch 176 SLA 1972; AS 14.40.920)

**Article 4. Scholarship Loan Program.**

**Section**

90. Scholarship revolving loan fund  
95. Financial aid committee  
100. Applications  
105. Administration of program  
110. Undergraduate loans  
115. Graduate loans  
120. Conditions of loans

**Section**

125. Eligibility of students  
130. Selection criteria  
135. Discrimination prohibited  
140. Enforceability of certain contracts with minors  
160. Definitions

Revisor's notes. — This article derived from AS 14.40.751 — 14.40.806 and was renumbered by the revisor of statutes under AS 01.05.031.

Collateral references. — 15A Am.Jur.2d Colleges and Universities, §§ 19, 20.

14 C.J.S. Colleges and Universities, §§ 27, 28.

Absence from, or inability to attend, school or college as affecting liability for, or right to recover back payments on account of, tuition or board. 69 ALR 714.

Validity and application of provisions governing determination of residency for purposes of fixing fee differential for out-of-state students in public college. 56 ALR3d 641.

Increase in tuition as actionable in euit by student against college or university. 99 ALR3d 885.

Absence from, or inability to attend, school or college as affecting liability for, or right to recover back payments on account of, tuition or board. 69 ALR 714.

**Sec. 14.43.090. Scholarship revolving loan fund.** (a) There is created a scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.090 — 14.43.160. All repayments of principal and interest on scholarship loans shall be paid into the scholarship revolving fund shall be used to make new scholarship loans. If estimated funds available from scholarship repayments are inadequate to fully fund estimated scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) Repealed by § 31 ch 59 SLA 1982.

(c) Repealed by § 31 ch 59 SLA 1982. (§ 1 ch 98 SLA 1971; am § 1 ch 156 SLA 1972; am §§ 1, 2 ch 136 SLA 1974; am § 1 ch 136 SLA 1975; am § 31 ch 59 SLA 1982; AS 14.40.751)

**Revisor's notes.** — In subsection (a), AS 14.43.090 — 14.43.160 was substituted for a reference to AS 14.40.751 — 14.40.806 to conform to the renumbering of those sections by the revisor of statutes under AS 01.05.031.

**Effect of amendments.** — The 1982 amendment repealed subsection (b), which provided for a tuition grant fund, and sub-

section (c), which provided for the transfer of unobligated funds in the tuition grant fund to the scholarship revolving loan fund.

**Legislative history reports.** — For report on ch. 98, SLA 1971 (CSHB 415 [Finance] am S), see 1971 House Journal, p. 935.

**Sec. 14.43.095. Financial aid committee.** (a) The student financial aid committee is composed of the members of the Alaska Commission on Postsecondary Education. The commission may delegate its functions under AS 14.43.090 — 14.43.160 to a committee of its members, with augmented membership as the commission considers appropriate. The executive officer of the commission is the executive secretary of the committee. The Alaska Commission on Postsecondary Education shall administer the program established by AS 14.43.090 — 14.43.160.

(b) Members of the committee serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions.

(c) The committee shall make an annual report reviewing the work of the committee to the governor, the legislature and the private colleges and universities where students receiving tuition grants are enrolled.

(d) The committee shall meet at least once a year. The meetings shall be held at the call of the chairman or upon petition by two members. (§ 1 ch 98 SLA 1971; am § 2 ch 156 SLA 1972; am § 5 ch 78 SLA 1974; am § 3 ch 136 SLA 1974; AS 14.40.753)

**Revisor's notes.** — The amendments of AS 14.43.095(a) by § 5, ch. 78, SLA 1974 and § 3, ch. 136, SLA 1974, are in conflict, the first act rewriting the subsection to provide that the Alaska Commission on Postsecondary Education will act as the financial aid committee, the second act changing the name and term of members of the existing financial aid selection committee. It is considered, on the basis of the legislative history, apparent legislative intent, and later effective date of the first

act, that the re-enactment by ch. 78, SLA 1974 should prevail.

The last part of subsection (c) of this section is obsolete since the tuition grant program was repealed by Chapter 94, SLA 1980 and Chapter 59, SLA 1982.

In subsection (a), AS 14.43.090 — 14.43.160 was substituted for a reference to AS 14.40.751 — 14.40.806 to conform to the renumbering of those sections by the revisor of statutes under AS 01.05.031.

**Sec. 14.43.100. Applications.** (a) Applications shall be submitted to the executive secretary of the committee.

(b) A person whose loan or grant application is not recommended or presented to the committee by the executive secretary may appeal to the committee through the chairman of the committee and the committee shall consider the application. (§ 1 ch 98 SLA 1971; am § 3 ch 156 SLA 1972; am § 4 ch 136 SLA 1974; AS 14.40.755)

**Revisor's notes.** — The reference to "grant application" in subsection (b) of this section is obsolete in light of the repeal of

the tuition grant program by Chapter 94, SLA 1980 and Chapter 59, SLA 1982.

**Sec. 14.43.105. Administration of program.** The executive secretary shall administer the programs subject to review by the committee and in accordance with the regulations prescribed by the committee. The promulgation of these regulations is subject to the Administrative Procedure Act (AS 44.62), and a summary of the regulations shall be distributed to each applicant. (§ 1 ch 98 SLA 1971; am § 5 ch 136 SLA 1974; AS 14.40.757)

**Sec. 14.43.110. Undergraduate loans.** The committee may make a loan, not to exceed \$6,000 in any one school year, to an undergraduate student eligible under AS 14.43.125. (§ 1 ch 98 SLA 1971; am § 6 ch 136 SLA 1974; am § 1 ch 153 SLA 1978; am § 1 ch 89 SLA 1981; AS 14.40.759)

**Revisor's notes.** — AS 14.43.125 was substituted for AS 14.40.765 to conform to the renumbering of that section by the revisor of statutes under AS 01.05.031.

**Effect of amendments.** — The 1978 amendment increased the maximum

amount of the loan from \$2,500.00 to \$3,000.00.

The 1981 amendment substituted "\$6,000" for "\$3,000" following "not to exceed."

**Sec. 14.43.115. Graduate loans.** The committee may make a loan, not to exceed \$7,000 in any one school year, to a graduate student who is eligible under AS 14.43.125 and is pursuing an advanced degree. (§ 1 ch 98 SLA 1971; am § 7 ch 136 SLA 1974; am § 2 ch 89 SLA 1981; AS 14.40.761)

Revisor's notes. — AS 14.43.125 was substituted for AS 14.40.765 to conform to the renumbering of that section by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1981 amendment substituted "\$7,000" for "\$5,000" following "not to exceed."

**Sec. 14.43.120. Conditions of loans.** (a) Proceeds from scholarship loans may only be used for books, tuition and required fees, and for room and board.

(b) The loans may only be used to attend a career education program or a college or university approved by the commission, and, if the loans are federally insured, by the United States Commissioner of Education.

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing in a career education program, college or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection.

(d) Scholarship loans may not be made to a student

(1) for more than five years of undergraduate study;

(2) for more than five years of graduate study;

(3) for more than a total of eight years of undergraduate and graduate study.

(e) Loans are interest bearing while a student is enrolled under (c) of this section or is receiving a deferment of payments under (k) of this section; however, a student is entitled to have a portion of the interest paid in accordance with (1) of this section.

(f) Interest on a loan given under AS 14.43.090 — 14.43.160 is at the rate of five per cent a year.

(g) Repayment of the principal and interest on the loan begins no later than one year after the borrower's studies are terminated. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment, except as provided in (k) and (m) of this section. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than required by this subsection.

(h) Security may not be required for the loans; however, provision shall be made for payment of attorney fees and costs of court if either or both are incurred in collection of the amount owed on the loan.

(i) If a loan is in default, the commission shall notify the borrower that repayment of the remaining balance is accelerated and due by sending the borrower a notice by registered or certified mail.

(j) A portion of a loan shall be paid on behalf of the borrower by the state if, upon completion of the course of study for which the loan was granted, the borrower is a resident of the state for at least two years. The portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 50 percent of the total loan:

- (1) two — three years residence in the state, 10 percent;
- (2) three — four years residence in the state, an additional 10 percent;
- (3) four — five years residence in the state, an additional 10 percent;
- (4) five — six years residence in the state, an additional 10 percent;
- (5) over six years residence in the state, an additional 10 percent.

(k) Periodic installments of principal shall be deferred, but interest shall accrue and be paid unless the student is eligible for interest payment benefits under (1) of this section during any of the following:

- (1) return to student status as provided in (c) of this section;
- (2) serving on active duty as a member of the armed forces of the United States;
- (3) serving, for up to three years, as a full-time volunteer under the Peace Corps Act;
- (4) serving, for up to three years, as a full-time volunteer under the Domestic Volunteer Service Act of 1973;
- (5) for a one-time period up to 12 months in which the borrower is seeking and unable to find employment in the United States; or
- (6) if the borrower becomes 50 percent or more disabled as certified by competent medical authority.

(l) The state will pay the interest on that portion of a loan that is not federally insured during

- (1) the period before the beginning of the repayment period of the loan; and
- (2) deferments under (k) of this section.

(m) In case of hardship, the committee may extend repayment of a loan for an additional period of up to five years in increments no longer than 12 months each.

(n) Repealed by § 11 ch 89 SLA 1981.

(o) The provisions of (j) of this section do not apply to a loan to a borrower named in a complaint as a defendant in an action by the state or by the commission to secure payment of the unpaid balance of a loan made under AS 14.43.110 or 14.43.115.

(p) For purposes of this section, a person qualifies as a resident if the person is physically present in the state with the intent to remain permanently in the state or, if not physically present in the state, the person intends to return to the state and is absent due to military service. (§ 1 ch 98 SLA 1971; am § 4 ch 156 SLA 1972; am § 6 ch 78 SLA 1974; am § 8 ch 136 SLA 1974; am §§ 1—4 ch 99 SLA 1977; am §§ 3 — 8 ch 87 SLA 1979; am §§ 3 — 9, 11 ch 89 SLA 1981; AS 14.40.763)

Revisor's notes. — In ch. 98, SLA 1971, AS 14.43.120(j)(2) read "four — five years ...." This was a typographical error occurring for the first time in the enrolled version of the bill (CSHB 415 [Finance am

SI] and has been corrected here.

Effect of amendments. — The 1979 amendment deleted "approved by the commission" following "career education program" and substituted the language

beginning "approved by the commission" for "accredited by the accreditation association for the region in which the college or university is located" in subsection (b), substituted "interest" for "non-interest" in subsection (e), added the language beginning "however, a student shall be entitled" to the end of subsection (e), rewrote subsection (g), and in subsection (j), substituted "paid on behalf of the borrower by the state" for "considered a grant," "borrower" for "grantee," and "three years" for "two years" in the first sentence, substituted "paid by the state" for "regarded as a grant" and "interest for up to a total of 40 percent" for "accrued interest" in the introductory language of the second sentence, and substituted "an additional 10 percent" for "20 percent" in paragraph (2), for "30 percent" in paragraph (3), and for "40 percent" in paragraph (4). The amendment also rewrote subsection (k) and added subsections (l), (m), and (n).

The 1981 amendment, added the second sentence of subsection (c). In subsection (d), the amendment added paragraphs (1) and (2) and in paragraph (3), substituted "a total of eight" for "six" preceding "years" and added "of undergraduate and graduate study" following "years." In subsection (i), the amendment substituted "shall" for "may" and "borrower" for "student." In subsection (m), the amendment substituted "12" for "six" preceding "months" and deleted "within the 15-year requirement of (g) of this section" following "months each." The amendment also rewrote subsections (g) and (j), added subsections (o) and (p) and repealed subsection (n) which read "Each year spent

attending a college or university in Alaska qualifies as a year of employment and residency under (j) of this section, if the borrower resides no less than three years in Alaska after completion of the course for which the loan was granted, and has a total Alaskan residency of ten years time."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.-5.031(c) and § 4, Chapter 58, SLA 1982.

Section 8, ch. 99, SLA 1977 provides: "The change in the repayment period of student loans set out in AS 14.40.763(g) [now 14.43.120(g)] as amended by sec. 3 of this Act and the additional basis for granting a deferment of repayment of a student loan set out in AS 14.40.763(k) [now 14.43.120(k)] as enacted by sec. 4 of this Act shall, upon request of the loan recipient, be applied retroactively to the outstanding balance of principal of and accrued interest on loans made under AS 14.40.751 — 14.40.806 [now 14.43.090 — 14.43.160] as they read before the effective date of this Act."

Section 12 of ch. 89, SLA 1981, provides: "The reenactment of AS 14.40.763(j) [now 14.43.120(j)] in sec. 7 of this Act applies to any student who has obtained a scholarship loan under AS 14.40.751 — 14.40.806 [now 14.43.090 — 14.43.160] since July 1, 1971."

Legislative history reports. — For a report of legislative intent concerning the loan forgiveness provisions of ch. 89, SLA 1981 (FCCSSB 120), see 1981 Senate Journal p. 1560, 1580; 1981 House Journal p. 2289.

**Sec. 14.43.125. Eligibility of students.** (a) A person may apply for and obtain a scholarship loan if the person

- (1) is a resident of the state at the time of application for a scholarship loan;
- (2) meets the requirements of (b) of this section; and
- (3) is
  - (A) enrolled as a full-time student in a career education or associate or baccalaureate or graduate degree program; or
  - (B) a graduate of a high school, or scheduled for graduation from a high school within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university.

(b) In addition to the requirements of (a) of this section, to obtain a scholarship loan a person must have been a resident of the state for at least two years at the time of application for the loan. For purposes of

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this subsection, a person qualifies as a resident of the state if at the time of application for the loan the person

(1) has been present in the state for at least two years unless an absence from the state during any part of the two years was due to military service; or

(2) is a person who is dependent on a parent or guardian for care, and the parent or guardian has been present in the state for at least two years. (§ 1 ch 98 SLA 1971; am § 10 ch 89 SLA 1981; AS 14.40.765)

Effect of amendments. — The 1981 amendment rewrote this section. remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA

Editor's notes. — This section was redrafted by the revisor of statutes to 1982.

Sec. 14.43.130. Selection criteria. (a) The selection committee shall grant loans based on total point accumulations under the subsection with priority going to those applicants with the highest point accumulations, except as provided in (b) of this section for loan applications completed before May 15 of each year. Points shall be awarded to applicants based upon student status and continuous Alaskan residency, according to the following schedule:

(1) student status:

- (A) continuing undergraduate and graduate students with existing Alaska scholarship loans . . . . . 4 points
- (B) continuing undergraduate and graduate students without existing Alaska scholarship loans . . . . . 3 points
- (C) freshmen . . . . . 2 points
- (D) new graduate students without existing Alaska scholarship loans . . . . . 1 point

(2) continuous Alaskan residency:

- (A) students with continuous Alaskan residency of 10 years or more . . . . . 3 points
- (B) students with continuous Alaskan residency of at least 5 years and less than 10 years . . . . . 2 points
- (C) students with continuous Alaskan residency of more than 2 years and less than 5 years . . . . . 1 point
- (3) students attending Alaska colleges or universities . . . 1 point

(b) In awarding loans the selection committee shall award loans to applicants based upon the earliest date of completed applications if

(1) the applicant has accumulated at least 5 points under (a) of this section; and

(2) the applicant has filed a completed application not later than May 15 of the year for which the loan is requested. (§ 1 ch 98 SLA 1971; am § 2 ch 87 SLA 1979; AS 14.40.767)

Effect of amendments. — The 1979 amendment rewrote this section. 1979 provides: "The legislature determines that

Editor's notes. — Section 1, ch. 87, SLA "(1) there are no incentives in the

student loan program for residents of Alaska to attend colleges and universities in Alaska as compared with colleges and universities outside Alaska;

"(2) the result of this lack of incentives is that 64.9 per cent of all undergraduate student loans and 92.9 percent of graduate student loans go to students attending colleges and universities outside Alaska;

"(3) the amount of the average loan to undergraduate students attending colleges and universities in Alaska is lower

than the average of similar loans in all but one of the 10 western states and the amount of the average loan for graduate students is the lowest in the West;

"(4) the funds spent on education in Alaskan colleges and universities go further than when the funds are spent out of state; and

"(5) it would be an aid to the Alaskan economy if the funds in the student loan program were spent for education in Alaskan colleges and universities."

**Sec. 14.43.135. Discrimination prohibited.** The student loan program shall be carried out without regard to the race, creed, sex, color, ancestry, national origin, or membership in fraternal or political organizations of the student applying for the loan. (§ 1 ch 98 SLA 1971; AS 14.40.769)

**Sec. 14.43.140. Enforceability of certain contracts with minors.** A written obligation entered into by a minor at least 16 years of age, evidencing a loan or other assistance received by the minor from any person for the purpose of furthering the minor's education in a career education program or an institution of higher learning, is enforceable against the minor with the same effect as if the minor were, at the time of its execution, 19 years of age, if the person making the loan has before making the loan a certification from the institution that the minor is enrolled in the institution or has been accepted for enrollment. (§ 1 ch 98 SLA 1971; AS 14.40.771)

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

**Sec. 14.43.160. Definitions.** In AS 14.43.090 — 14.43.160

(1) "career education" means a course or program in vocational-technical training or education approved by the commission;

(2) "full-time student" means an undergraduate or career education student who is enrolled and is in regular attendance at classes for at least 12 semester hours of credit or the equivalent during the semester or a graduate student who is enrolled and is in regular attendance at classes for at least nine semester hours of credit or the equivalent; any combination of semester hours of credit, or the equivalent, aggregating to the requisite number of semester hours and undertaken during a semester at two or more public or private institutions of higher education operating under a consortium constitutes full-time student status;

(3) "part-time student" means a student who is enrolled and is in regular attendance at classes for at least three but less than the semester hours of credit required for full-time student status under (2) of this section during the semester;

(4) Repealed by § 11 ch 89 SLA 1981.

(5) "school year" means the period from September 1 of one year through August 31 of the following year;

"commission" means the Alaska Commission on Postsecondary Education;

(7) Repealed by § 7 ch 246 SLA 1976.

(8) "federally insured" means a loan covered by the provisions of the Guaranteed Student Loan Program of Title IV, Part B, of the Higher Education Act of 1965 (P.L. 89-329), as amended. (§ 5 ch 156 SLA 1972; am § 8 ch 78 SLA 1974; am §§ 18 — 20 ch 136 SLA 1974; am § 5 ch 136 SLA 1975; am § 7 ch 246 SLA 1976; am §§ 5 — 7 ch 99 SLA 1977; am § 9 ch 87 SLA 1979; am § 11 ch 89 SLA 1981; AS 14.40.806)

Revisor's notes. — Part-time student is defined in paragraph (3) above but is not used in the statutes.

AS 14.43.090 — 14.43.160 was substituted for AS 14.40.751 — 14.40.806 to conform to the renumbering of those sections by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1979 amendment added paragraph (8).

The 1981 amendment repealed paragraph (4) which defined "resident."

Editor's notes. — Title IV, Part B of the Higher Education Act of 1965, referred to in paragraph (8), may be found in 20 U.S.C. §§ 1071 et seq.

**Article 5. Memorial Scholarship Revolving Loan Fund.**

**Section**

- 250. Declaration of purpose
- 255. Fund created
- 300. Limits on, conditions of loans
- 305. Repayment of loans

**Section**

- 310. Selection
- 315. Discrimination prohibited
- 320. Administering authority
- 325. Funding

Revisor's notes. — This article derived from AS 14.40.810 — 14.40.845 and was

renumbered by the revisor of statutes under AS 01.05.031.

**Sec. 14.43.250. Declaration of purpose.** (a) The legislature may pay tribute to the memory of Alaskans who, by the example of their lives, or by their distinguished contribution and service to this state, their community or their profession, exemplified the best that is the challenge of "The Great Land" by the creation of memorial scholarships as a part of a general memorial scholarship revolving loan fund, setting out the purpose for which each is created, and the conditions applicable to each scholarship.

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 29, 1983

SUBJECT: Scholarship loans  
(CSHB 56 (Finance))

TO: Representative Albert P. Adams  
Chairman, House Finance Committee

FR' : Keith B. Levy *KBL*  
Legislative Counsel

Enclosed is a Finance Committee Substitute for CSHB 56 (Loans). The request I received from your office included changes on page 2, lines 5 and 8 of the bill. The language of these changes was, in my opinion, redundant without adding substantively to the bill. Specifically, the additional language provides that a loan applicant must have been present in the state for two years "immediately prior to applying". However, page 2, line 2 of the bill already states that the residency requirements must be met "at the time of application". For this reason, I excluded the language from the text of the Finance Committee Substitute.

You also should be aware of a practical problem raised by another change made by the Finance Committee Substitute. By adding an exemption to the residency requirement for people that have been out of the state for "religious activities" and "medical needs", you are opening up a wide range of potential exemptions. Because this type of exemption is very difficult to verify and "religious activities" covers a broad spectrum of conduct, these exemptions may be subject to abuse.

If I may be of further assistance, please advise .

KBL:ljb

Enclosure  
17/007

ORIGINAL memo on proposed  
CS - CS work draft in  
your file represents changes  
made as a result of  
this memo.

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

Introduced: 2/25/83  
Referred: Health, Education and  
Social Services, House Special  
Committee on State Loans and Finance

1 IN THE HOUSE

BY LINDAUER

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 56  
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 scholarship loans."

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

8 \* Section 1. AS 14.43.110 is repealed and reenacted to read:

9 Sec. 14.43.110. UNDERGRADUATE LOANS. The committee may make a  
10 loan for a school year to an undergraduate student eligible under  
11 AS 14.43.125. A loan made under this section may not exceed \$6,000  
12 except when necessary to cover the actual cost of

- 13 (1) books;  
14 (2) tuition and required fees;  
15 (3) room and board; and  
16 (4) other necessary student expenses as determined by the  
17 committee.

18 \* Sec. 2. AS 14.43.115 is repealed and reenacted to read:

19 Sec. 14.43.115. GRADUATE LOANS. The committee may make a loan  
20 for a school year to a graduate student eligible under AS 14.43.125.  
21 A loan under this section may not exceed \$7,000 except when necessary  
22 to cover the actual cost of

- 23 (1) books;  
24 (2) tuition and required fees;  
25 (3) room and board; and  
26 (4) other necessary student expenses as determined by the  
27 committee.

28 \* Sec. 3. AS 14.43.120(a) is amended to read:

29 (a) Proceeds from scholarship loans may only be used for books,

1       tuition and required fees, [AND FOR] room and board, and other neces-  
2       sary student expenses as determined by the committee.

3       \* Sec. 4. AS 14.43.120(f) is amended to read:

4               (f) Interest on a loan given under AS 14.43.090 - 14.43.160 is  
5       at the rate of seven [FIVE] percent a year.

6       \* Sec. 5. AS 14.43.120(g) is amended to read:

7               (g) Repayment of the principal and interest on the loan begins  
8       [NO LATER THAN] one year after the borrower's studies are terminated.  
9       The loan shall provide for repayment of the total amount owed in  
10      periodic installments in not more than 10 years from the commencement  
11      of repayment, except as provided in (k) and (m) of this section. If  
12      the commission and the borrower agree to a different repayment sched-  
13      ule, the borrower shall repay the loan in accordance with the agree-  
14      ment. A borrower may make payments earlier than required by this  
15      subsection.

16      \* Sec. 6. AS 14.43 is amended by adding a new section to read:

17               Sec. 14.43.132. **FEDERALLY INSURED LOANS ENCOURAGED.** Whenever  
18      possible scholarship loans made under AS 14.43.090 - 14.43.160 shall  
19      be federally insured.

20      \* Sec. 7. AS 14.43.160 is amended by adding a new paragraph to read:

21               (9) "committee" means the student financial aid committee  
22      of the Alaska Commission on Postsecondary Education.

Offered: 4/4/83  
Referred: House Special  
Committee on State Loans  
and Finance

Original sponsor: Lindauer

1 IN THE HOUSE BY THE HEALTH, EDUCATION, AND  
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 56 (HESS) SOCIAL SERVICES COMMITTEE  
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 scholarship loans."  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
8 \* Section 1. AS 14.43.110 is repealed and reenacted to read:  
9 Sec. 14.43.110. UNDERGRADUATE LOANS. The committee may make a  
10 loan for a school year to an undergraduate student eligible under  
11 AS 14.43.125. A loan under this section may not exceed \$6,000 except  
12 when necessary to cover the actual cost of tuition, room, and required  
13 fees.  
14 \* Sec. 2. AS 14.43.115 is repealed and reenacted to read:  
15 Sec. 14.43.115. GRADUATE LOANS. The committee may make a loan  
16 for a school year to a graduate student eligible under AS 14.43.125.  
17 A loan under this section may not exceed \$7,000 except when necessary  
18 to cover the actual cost of tuition, room, and required fees.  
19 \* Sec. 3. AS 14.43.120(f) is amended to read:  
20 (f) Interest on a loan made [GIVEN] under AS 14.43.090 - 14.43.-  
21 160 is at the rate of eight [FIVE] percent a year.  
22 \* Sec. 4. AS 14.43.120(g) is amended to read:  
23 (g) Repayment of the principal and interest on the loan begins  
24 no later than 120 days [ONE YEAR] after the borrower's studies are  
25 terminated. The loan shall provide for repayment of the total amount  
26 owed in periodic installments in not more than 10 years from the  
27 commencement of repayment, except as provided in (k) and (m) of this  
28 section. If the commission and the borrower agree to a different  
29 repayment schedule, the borrower shall repay the loan in accordance

1 with the agreement. A borrower may make payments earlier than re-  
2 quired by this subsection.

3 \* Sec. 5. AS 14.43.120(j) is amended to read:

4 (j) A portion of a loan shall be paid on behalf of the borrower  
5 by the state if, upon completion of the course of study for which the  
6 loan was granted, the borrower is a resident of the state for at least  
7 two years. The portion of the loan that shall be paid by the state is  
8 the following percentages of the total loan received plus interest up  
9 to a total of 20 [50] percent of the total loan:

10 (1) two - three years residence in the state, 10 percent;

11 (2) over three [- FOUR] years residence in the state, an  
12 additional 10 percent [;

13 (3) FOUR - FIVE YEARS RESIDENCE IN THE STATE, AN ADDITIONAL  
14 10 PERCENT;

15 (4) FIVE - SIX YEARS RESIDENCE IN THE STATE, AN ADDITIONAL  
16 10 PERCENT;

17 (5) OVER SIX YEARS RESIDENCE IN THE STATE, AN ADDITIONAL 10  
18 PERCENT].

19 \* Sec. 6. AS 14.43 is amended by adding a new section to read:

20 Sec. 14.43.132. FEDERALLY INSURED LOANS ENCOURAGED. Whenever  
21 possible scholarship loans made under AS 14.43.090 - 14.43.160 shall  
22 be federally insured.

23 \* Sec. 7. AS 14.43.160 is amended by adding a new paragraph to read:

24 (9) "committee" means the student financial aid committee  
25 of the Alaska Commission on Postsecondary Education.

COMMITTEE REPORT  
HOUSE

(1120

FURTHER:

3/23/83

Date: 4-18-83

Mr. Speaker:

The Committee on FINANCE has had SSHB 58

an Act requiring certain prisoners to serve a full sentence.

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for SSHB 58 (Fin)  same title  
 new title
- and recommends NO 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

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

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CHAIRMAN

Original sponsors: Lindauer, Barnes,  
Abood, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 58 (Finance)

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 participation in counseling or  
7 treatment required by a court or the division of  
8 corrections."

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

10 \* Section 1. AS 12.55.080 is amended to read:

11 Sec. 12.55.080. SUSPENSION OF SENTENCE AND PROBATION. Upon  
12 entering a judgment of conviction of a crime, or at any time within 60  
13 days from the date of entry of that judgment of conviction, a court,  
14 when satisfied that the ends of justice and the best interest of the  
15 public as well as the defendant will be served thereby, may suspend  
16 the imposition or execution or balance of the sentence or a portion  
17 thereof, and place the defendant on probation for a period and upon  
18 the terms and conditions as the court considers best. The court may  
19 require available alcohol, drug, sex offender or other mental health  
20 treatment as a condition of probation, if the circumstances of the  
21 crime indicate that it is needed.

22 \* Sec. 2. AS 12.55.085(b) is amended to read:

23 (b) At any time during the probationary term of the person  
24 released on probation, a probation officer may, without warrant or  
25 other process, rearrest the person so placed in the probation offi-  
26 cer's [HIS] care and bring the person [HIM] before the court, or the  
27 court may, in its discretion, issue a warrant for the rearrest of the  
28 person and may revoke and terminate the probation, if the interests of  
29 justice require, and if the court, in its judgment, has reason to

1 believe that the person placed upon probation is violating the con-  
2 ditions of [EIS] probation, or engaging in criminal practices, or has  
3 become abandoned to improper associates, [OR] a vicious life, or who  
4 refuses to participate in treatment required by the sentencing judge.

5 \* Sec. 3. AS 12.55.100(a) is amended by adding a new paragraph to read:

6 (5) to participate in available alcohol, drug, sex offender  
7 or other mental health treatment.

8 \* Sec. 4. AS 12.55.110 is amended to read:

9 Sec. 12.55.110. NOTICE AND GROUNDS FOR REVOCATION OF SUSPENSION.

10 When sentence has been suspended, it shall not be revoked except for  
11 good cause shown. Good cause includes a refusal by a defendant to  
12 participate in available alcohol, drug, sex offender or other mental  
13 health treatment, if it is required by the court as a condition of  
14 probation. In all proceedings for the revocation of a suspended  
15 sentence, the defendant is entitled to reasonable notice and the right  
16 to be represented by counsel.

17 \* Sec. 5. AS 33.15.080 is amended to read:

18 Sec. 33.15.080. GRANTING OF PAROLE. If it appears to the board  
19 from a review that a prisoner eligible for parole will, in reasonable  
20 probability, live and remain at liberty without violating the laws, or  
21 without violating the conditions imposed by the board, and if the  
22 board determines that the prisoner's release on parole is not incom-  
23 patible with the welfare of society, and the prisoner has not refused  
24 alcohol, drug, sex offender or other mental health treatment recom-  
25 ended by the sentencing court and made available by the division of  
26 corrections, or determined appropriate and made available by the  
27 division of corrections, the board may authorize the release of the  
28 prisoner on parole. However, no prisoner may be released on parole  
29 who has not served at least one-third of the period of confinement to

1 which the prisoner has been sentenced.

2 \* Sec. 6. AS 33.30.250(g) is amended by adding a new paragraph to read:

3 (B) who refuses to participate in available alcohol, drug,  
4 sex offender or other mental health treatment required by the division  
5 of corrections.  
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STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: CS for SS for HB 58  
Title: ".prisoner..refusing..treatment"  
Sponsor: House Judiciary  
Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: Health & Social Services  
Program Category Affected: Justice  
BRU, Program of Subprogram(s) Affected:  
Adult Confinement

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 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

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

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376  
Division: Adult Corrections *Adult Corrections* Date: April 13, 1983  
Approved by Commissioner: *Robert Landon Smith M.D.* Date: 4/14/83  
Department: Health & Social Services

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Copy to Requestor (if different from Sponsor)

3/8/83

FISCAL NOTE

CS for SS for House Bill No. 58 (Judiciary)

Page 2

IV. ANALYSIS

The earlier fiscal note prepared on House Bill No. 58 assumed a loss of good time by inmates refusing to participate in counseling or treatment. Subsequent testimony at the House Judiciary Committee indicated that it was not the intent of the legislation to take away good time. This is also the opinion of the Office of the Attorney General. Therefore, enactment of this bill would have no fiscal impact on the Division of Adult Corrections.

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: CSSSHB 58 (Judiciary)  
 Title: "Probation revoked"  
 Sponsor: Repr. Lindauer  
 Requestor: House Finance Committee

II. FISCAL DETAIL

Agency Affected: Department of Law  
 Program Category Affected: Admin. of Justice  
 BRU, Program of Subprogram(s) Affected: Prosecution

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 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

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

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director  
 Division: Administrative Services Division

Phone: 465-3672

Date: April 12, 1983

Approved by Commissioner: Richard I. Pegues/for/  
Norman C. Gorsuch, Attorney General  
 Department: Department of Law

Date: April 12, 1983

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- Copy to Requestor (if different from Sponsor)

CSSSHB 58 (Judiciary)  
Fiscal Note  
Analysis

Violation of conditions for release on probation is already grounds for revocation of probation. Likewise, prisoners released on parole are not considered for parole until they have completed those rehabilitative and counseling programs deemed appropriate and made available by Corrections. Prisoners on work release furloughs also must participate in such rehabilitative programs, when appropriate, as a condition of work release. Consequently, this bill will not have a fiscal impact on the Department of Law.

HOUSE JOURNAL

LETTER OF INTENT  
FOR  
CS FOR SSHB 58 (Finance)

The House Finance Committee has considered CSSSHB 58 which was referred from the House Judiciary Committee.

The intent of this bill is not in any way to affect good time allowances as provided for in A.S. 33.20.010. Rather, the intent is that an offender who refuses to participate in available treatment would be ineligible for parole, furlough, or continued probation.

Respectfully Submitted,



---

AL ADAMS, Chairman  
House Finance Committee

The following individuals are expected to testify on  
CS SS HB 58 (Judiciary):

Representative John Lindauer, prime sponsor

Michael Stark, Office of the Chief Prosecutor,  
Department of Law

Roger Lang, Division of Corrections, DHSS may testify

POSITION PAPER  
Sponsor Substitute for House Bill No. 58

"An Act requiring certain prisoners to serve a full sentence."

House Bill No. 58 adds a new section to AS 30.30 which states that a prisoner who refuses to participate in counseling or other programs required or recommended by the sentencing judge may not be released, paroled, or furloughed until the prisoner's sentence is fully served.

State Statute 33.30.100 authorizes the Commissioner of Health and Social Services to designate the facility where a sentence is to be served. AS 33.30.120 authorizes the Commissioner to transfer prisoners from one facility to another. This provides Adult Corrections the flexibility to effectively manage prison population and to give consideration to prisoner needs.

It is the goal of Adult Corrections to provide a complete rehabilitative process for every prisoner; however, this is not always possible due to availability of certain types of programs, maintaining the integrity of programs, overcrowding, prisoner motivation, length of sentence, etc. At the time of sentencing, all of those factors are not known. It is the duty of the classification committee to identify and evaluate whatever factors may be relevant in each case; including the recommendations of the court. The placement of a prisoner reflects both the prisoner's needs and the needs/capabilities of the system. It should be recognized that factors of individual and system needs may conflict and that it is the responsibility of adult corrections to determine the most appropriate placement and programming.

Prisoners are classified within 30 days of admission to an institution and within 30 days following sentencing. The purpose of this classification is to work with each prisoner to develop a plan of incarceration to meet the prisoner's needs within the constraints of the correctional system. The classification committee addresses institutional placement, custody level, housing, work, program (including counseling) and furlough. Each prisoner's classification is reviewed a minimum of once every six months during the sentence.

The classification committee considers the availability of beds in correctional facilities in relationship to the type of security required for each prisoner; i.e. maximum, medium, minimum. The committee also considers the prisoner's program/counseling needs in relationship to the custody level. In some cases, prisoners cannot be placed in correctional facilities where specific program/counseling is available due to their custody level; i.e. a maximum custody prisoner would not be placed in a minimum/medium custody setting because of the risk to staff, prison population, and the public presented by the maximum security prisoner.

Alaska's prison system does not have the same programs/counseling available at every institution; therefore, we are required to consider security needs before program/counseling needs.

There are two portions of Sponsor Substitute for House Bill No. 58 which are unclear 1) Sec. 33:30.330(a) does not define "sentence is fully served." There is a question of whether good time would be granted to those who are ordered to serve a sentence in full. The attached fiscal note is based on the assumption that good time would not be awarded. 2) The bill does not provide a mechanism to return a prisoner who refuses to participate in counseling or programs to court.

The enactment of House Bill No. 58 would increase the length of time to be served for the certain group of prisoners. Alaska's already overburdened correctional facilities would have to provide additional and very costly new beds to house the prisoners required to serve their full sentences.

Although the intent of this legislative proposal is both positive and admirable, it is not clear that coercion will cause a cure. In fact, it appears that the cure may cost considerably more than the problem and may be constitutionally questionable mechanism to alleviate a relatively minor problem in terms of the small number of uncooperative prisoners. We believe that the correctional division already possesses sufficient resources to deal with this problem through better and more sound prisoner classification and management.

Because of the reasons stated, the Department of Health and Social Services does not support passage of House Bill No. 58.

Recommended by: *Roger C. Lange*  
*for* Roger V. Endell, Director  
Division of Adult Corrections

Date: March 21, 1983

Approved by: *Robert London Smith*  
Robert London Smith, Ph.D.  
Commissioner

Date: 3/22/83

STATE OF ALASKA  
FISCAL NOTE

Revision Date Mar. 21, 1983

I. REQUEST

Bill/Resolution No.: SS for HB No. 58  
Title: "An Act req. prisoners serve full  
Sponsor: Lindauer sentence"  
Requestor: Judiciary Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services  
Program Category Affected: Admin. of Just.  
BRU, Program of Subprogram(s) Affected:  
Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						55.5
200 TRAVEL						
300 CONTRACTUAL						6.8
400 COMMODITIES						11.1
500 EQUIPMENT						
600 LAND & STRUCTURES			438.0			
700 GRANTS, CLAIMS, ETC						.4
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	73.8
CAPITAL	-0-	-0-	438.0	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	438.0	-0-	-0-	73.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	1
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

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

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor of the bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376  
Division: Adult Corrections Date: March 21, 1983  
Approved by Commissioner: Roger London Smith Date: 3/22/83  
Department: Health & Social Services

Distribution:

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3/8/83

#### IV. ANALYSIS

##### A. Assumptions

Statistical data is not available regarding the number of inmates currently refusing to participate in to participate in counseling or other programs required or recommended by sentencing judges. It is, therefore, assumed that two (2) inmates per year with an average sentence length of six (6) years would refuse to participate in rehabilitation programs required or recommended by the sentencing judge. A prisoner who must fully serve his/her sentence loses all good time. The amount of good time earned during a six (6) year sentence is one and one-half ( $\frac{1}{2}$ ) years.

The fiscal impact in the State's correctional system would be three (3) additional beds (2 inmates per year for an additional  $1\frac{1}{2}$  years). It is assumed these individuals would require a medium security setting. It is assumed that the 3 beds will not be needed for  $4\frac{1}{2}$  years as that would be the normal release date for the first offenders affected by this legislation.

##### B. Program Summary

###### 1. Positions

One Correctional Officer II will be needed based on one staff positions for every  $2\frac{1}{2}$  beds in the correctional system. It is estimated the cost for this position, including overtime and shift differential, for FY 1988 will be \$55,500.

###### 2. Other Expenditures - FY 1988

- a. Contractual Services - \$6,800 is estimated to pay for medical services based on FY 1984 estimates of \$1,800 per inmate per year.
- b. Commodities - \$11,100 will be needed for food, clothing, bedding supplies, paper products, etc. This is based on the FY 1984 estimate of \$8.00 per inmate day with 6% annual inflation.
- c. Grants - \$400 is requested to pay gratuities for inmates working on kitchen or janitorial crews.
- d. Capital Expenditures - FY 1985  
It is estimated 3 beds will be needed. It is assumed that the capital cost will be \$146,000 per bed.  
Capital needs = 3 x \$146,000  
= \$438,000

##### C. Impact - There is no economic or local government impact anticipated if this legislation is enacted.

CATEGORY	Admin. of Justice
COVER PROGRAM	
AGENCY	Health & Social Services
DIVISION	Adult Corrections
BUDGET REQUEST UNIT	Adult Confinement
BUDGET COMPONENT	

REVISED PROGRAM  
REQUEST FOR NEW POSITION

FY 1988

POSITION TITLE Correctional Officer II		JUSTIFICATION:  To provide security and supervision of inmates in a correctional center. It is estimated that one position is needed for every 2 1/2 inmates. The proposed legislation will result in the need for an estimated 3 additional beds within the corrections system. Therefore, one additional correctional officer will be needed in FY 1988.
LOCATION Not determined		
TYPE (FULL OR PART-TIME) <u> PFT </u>		
NUMBER REQUESTED <u> 1 </u>		
RANGE 13	BARGAINING UNIT GGU	
MONTHLY SALARY 2899	<del>12</del> MONTHS (CY) 12	
DETAIL OF RELATED EXPENSES		
01 PERSONAL SERVICES	55,500	Salary 34,788 + Shift Diff. 652 + Overtime 5,408 + Variable Ben. 8,206 +
02 TRAVEL		SBS 2,504 + Peace Officer 3,942
03 CONTRACTUAL		
04 COMMODITIES		
05 EQUIPMENT		
06 OTHER		
TOTAL		
	55,500	
1002 FEDERAL		
1003 G/F MATCH		
1004 GENERAL FUND	55,500	
1005 I/A RECEIPTS		
1006 PROGRAM RECEIPTS		

*Amid*

POSITION PAPER

CS for SS for House Bill No. 58 (Judiciary)

"An Act relating to a prisoner serving a sentence in full or having probation revoked for refusing to participate in counseling or treatment required by the court."

Section I

AS 12.55.015 Authorized sentences sets forth the conditions a judge may impose, either singly or in combination, on a defendant at the time of sentencing. Section I of CSSHB 58 adds an additional condition "(9) provide for a sentence to be served in full by a defendant who refuses to participate in available alcohol, drug, sex offender or other mental health treatment required by the sentencing judge."

Section II

Sec. 12.55.080 Suspension of sentence and probation is amended by giving the court the authority to require available alcohol, drug, sex offender or other mental health treatment as a condition of probation.

Section III

AS 12.55.085 Suspending imposition of sentence (b) is amended by giving probation officers and the court the authority to re-arrest a person on probation status in instances of where the probationer refuses to participate in treatment required by the sentencing judge.

Section IV

AS 12.55.100 Conditions of probation (a) is amended by adding "(5) to participate in available alcohol, drug, sex offender or other mental health treatment" as a condition of probation which may be required.

Section V

AS 12.55.110 Notice and grounds for revocation suspension is amended to include refusal by a defendant to participate in available alcohol, drug, sex offender or other mental health treatment required by the court as a condition of probation as good cause for revocation of a suspended sentence.

Section VI

AS 33.15.080 Granting of parole is amended by including the provision that parole may not be granted to a prisoner who has refused available alcohol, drug, sex offender or other mental health treatment recommended by the sentencing judge.

Section VII

AS 33.30.250 Work Furlough (g) as amended would prohibit prisoners who refuse to participate in available alcohol, drug, sex offender or other mental health treatment required by the Division of Adult Corrections from being granted work furlough.

Summary

It is understood that the intent of this legislation is to help assure that offenders participate in treatment programs as determined by the court and professional correctional staff. It is noted that the purpose of section 1 of CS for SS for HB 58 is set out elsewhere in the bill and that the language contained in section 1 is unclear. Because the purpose of section 1 is carried throughout the other sections and is not necessary to ensure the intent of the bill is understood, it is recommended that section 1 be deleted.

Recommended by: *Roger C. Lunge*  
for Roger V. Endell, Director  
Division of Adult Corrections

Date: April 13, 1983

Approved by: *Robert London Smith*  
Robert London Smith, Ph.D.  
Commissioner

Date: 4/14/83

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST  
Bill/Resolution No.: CS for SS for HB 58  
Title: ".prisoner..refusing..treatment  
Sponsor: House Judiciary  
Requestor: House Finance

II. FISCAL DETAIL  
Agency Affected: Health & Social Services  
Program Category Affected: Justice  
BRU, Program of Subprogram(s) Affected: Adult Confinement

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 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

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

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376  
 Division: Adult Corrections Date: April 13, 1983  
 Approved By Commissioner: Robert London *Robert London* Date: 4/14/83  
 Department Health & Social Services

Distribution:

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FISCAL NOTE

CS for SS for House Bill No. 58 (Judiciary)

Page 2

IV. ANALYSIS

The earlier fiscal note prepared on House Bill No. 58 assumed a loss of good time by inmates refusing to participate in counseling or treatment. Subsequent testimony at the House Judiciary Committee indicated that it was not the intent of the legislation to take away good time. This is also the opinion of the Office of the Attorney General. Therefore, enactment of this bill would have no fiscal impact on the Division of Adult Corrections.

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Sponsor Substitute

Bill No: House Bill No. 58 Page 1 of 2 Date on Bill: January 18, 1983

Title: "An Act requiring certain prisoners to serve a full sentence."

Sponsor: Reps. Lindauer, Barnes, Abood, Pestinger, and Liska

Requestor: \_\_\_\_\_

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
Capital			438.0			
Operating			-0-			73.8
Total	-0-	-0-	438.0	-0-	-0-	73.8

b. Revenues:

Revenue	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
	-0-	-0-	-0-	-0-	-0-	-0-

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

The funding source to offset the fiscal impact of this bill was not identified by the sponsors.

3. Assumptions:

Statistical data is not available regarding the number of inmates currently refusing to participate in counseling or other programs required or recommended by sentencing judges. It is, therefore, assumed that two (2) inmates per year with an average sentence length of six (6) years would refuse to participate in rehabilitation programs required or recommended by the sentencing judge. A prisoner who must fully serve his/her sentence loses all good time. The amount of good time earned during a six (6) year sentence is one and one-half (1½) years.

The fiscal impact in the State's correctional system would be three (3) additional beds (2 inmates per year for an additional 1½ years). It is assumed these individuals would require a medium security setting. The cost for the beds, which would be needed in

Prepared By: Roger C. Lange  
Division: Adult Corrections

*Roger C. Lange*

Phone: 465-3376  
Date: Feb. 28, 1983

Approved by Commissioner: \_\_\_\_\_  
Department: AVSS

*Robert London Smith*

Date: 3/1/83

5. Distribution:

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2/8/83

3. Assumptions: (continued)

approximately four years, is calculated to be:

$$3 \times \$146,000 = \$ 438,000.$$

Based on an estimate of one staff position for every 2.5 inmates, one additional position would be necessary, beginning in FY 1988. Other costs include primarily food, clothing, and medical care, also beginning in FY 1988

4. Disclaimer:

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

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT



Bill No: SSHB 58 Date on Bill: 1/26/83  
 Title: "An Act requiring certain prisoners to serve a full sentence."  
 Sponsor: Representative Lindauer  
 Requestor: House Judiciary Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating		-0-	-0-	-0-
Total		-0-	-0-	-0-

b. Revenues:

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

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

No information provided.

3. Assumptions:

This bill requires that a prisoner who refuses to participate in court ordered counseling while incarcerated may not be released until he has served his full sentence. The bill is not expected to have an appreciable impact on prosecution functions, as the prisoner will have already been convicted and sentenced by the time the question of his release arises. The bill may require the commitment of additional corrections resources, however.

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: Daniel W. Hickey, Chief Prosecutor Phone: 465-3428  
 Division: Criminal Division Date: 1/28/83

Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: 3/2/83  
 Department: Department of Law

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
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- Copy to Requestor

2/15/83

POSITION PAPER  
House Bill No. 58

"An Act requiring certain prisoners to serve a full sentence."

House Bill No. 58 adds a new section to AS 30.30 which states that a prisoner who refuses to participate in counseling or other programs required or recommended by the sentencing judge may not be released, paroled, or furloughed until the prisoner's sentence is fully served.

State Statute 33.30.100 authorizes the Commissioner of Health and Social Services to designate the facility where a sentence is to be served. AS 33.30.120 authorizes the Commissioner to transfer prisoners from one facility to another. This provides Adult Corrections the flexibility to effectively manage prison population and to give consideration to prisoner needs.

- It is the goal of Adult Corrections to provide a complete rehabilitative process for every prisoner; however, this is not always possible due to availability of certain types of programs, maintaining the integrity of programs, overcrowding, prisoner motivation, length of sentence, etc. At the time of sentencing, all of those factors are not known. It is the duty of the classification committee to identify and evaluate whatever factors may be relevant in each case; including the recommendations of the court. The placement of a prisoner reflects both the prisoner's needs and the needs/capabilities of the system. It should be recognized that factors of individual and system needs may conflict and that it is the responsibility of adult corrections to determine the most appropriate placement and programming.

Prisoners are classified within 30 days of admission to an institution and within 30 days following sentencing. The purpose of this classification is to work with each prisoner to develop a plan of incarceration to meet the prisoner's needs within the constraints of the correctional system. The classification committee addresses insitutional placement, custody level, housing, work, program (including counseling) and furlough. Each prisoner's classification is reviewed a minimum of once every six months during the sentence.

The classification committee considers the availability of beds in correctional facilities in relationship to the type of security required for each prisoner; i.e. maximum, medium, minimum. The committee also considers the prisoner's program/counseling needs in relationship to the custody level. In some cases, prisoners cannot be placed in correctional facilities where specific program/counseling is available due to their custody level; i.e. a maximum custody prisoner would not be placed in a minimum/medium custody setting because of the risk to staff, prison population, and the public presented by the maximum security prisoner.

Alaska's prison system does not have the same programs/counseling available at every institution; therefore, we are required to consider security needs before program/counseling needs.

The enactment of House Bill No. 58 would increase the length of time to be served for the certain group of prisoners. Alaska's already overburdened correctional facilities would have to provide additional and very costly new beds to house the prisoners required to serve their full sentences.

Although the intent of this legislative proposal is both positive and admirable, it is not clear that coercion will cause a cure. In fact, it appears that the cure may cost considerably more than the problem and may be constitutionally questionable mechanism to alleviate a relatively minor problem in terms of the small number of uncooperative prisoners. We believe that the correctional division already possesses sufficient resources to deal with this problem through better and more sound prisoner classification and management.

Because of the reasons stated, the Department of Health and Social Services does not support passage of House Bill No. 58.

Recommended by: for Roger C. Lewis  
Roger V. Endell, Director  
Division of Adult Corrections

Date: FEB. 28, 1983

Approved by: Robert London Smith  
Robert London Smith, Ph.D.  
Commissioner

Date: 3/1/83

## POSITION PAPER

CS for SS for House Bill No. 58 (Judiciary)

"An Act relating to a prisoner serving a sentence in full or having probation revoked for refusing to participate in counseling or treatment required by the court."

Section I

AS 12.55.015 Authorized sentences sets forth the conditions a judge may impose, either singly or in combination, on a defendant at the time of sentencing. Section I of CSSHB 58 adds an additional condition "(9) provide for a sentence to be served in full by a defendant who refuses to participate in available alcohol, drug, sex offender or other mental health treatment required by the sentencing judge."

Section II

Sec. 12.55.080 Suspension of sentence and probation is amended by giving the court the authority to require available alcohol, drug, sex offender or other mental health treatment as a condition of probation.

Section III

AS 12.55.085 Suspending imposition of sentence (b) is amended by giving probation officers and the court the authority to re-arrest a person on probation status in instances of where the probationer refuses to participate in treatment required by the sentencing judge.

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AS 12.55.110 Notice and grounds for revocation suspension is amended to include refusal by a defendant to participate in available alcohol, drug, sex offender or other mental health treatment required by the court as a condition of probation as good cause for revocation of a suspended sentence.

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Section VII

AS 33.30.250 Work Furlough (g) as amended would prohibit prisoners who refuse to participate in available alcohol, drug, sex offender or other mental health treatment required by the Division of Adult Corrections from being granted work furlough.

Summary

It is understood that the intent of this legislation is to help assure that offenders participate in treatment programs as determined by the court and professional correctional staff. It is noted that the purpose of section 1 of CS for SS for HB 58 is set out elsewhere in the bill and that the language contained in section 1 is unclear. Because the purpose of section 1 is carried throughout the other sections and is not necessary to ensure the intent of the bill is understood, it is recommended that section 1 be deleted.

Recommended by: Roger C. Lunge  
for Roger V. Endell, Director  
Division of Adult Corrections

Date: April 13, 1983

Approved by: Robert London Smith  
Robert London Smith, Ph.D.  
Commissioner

Date: 4/14/83

SS-4B 5E

The Anchorage Times

# City / State

- The Blotter
- Obituaries
- Tell it to Bud

Nov. 1988

## Judges' sentences may be ignored

by Jeff Bertiner  
Times Staff Writer

Sentencing orders handed down by state judges may be ignored when a convict refuses to take part in rehabilitation programs in jail, according to Commissioner of Health and Social Services Helen Beirne.

Sentencing orders also may be ignored when the length of a sentence is too short to offer much promise for rehabilitation," Beirne wrote in a letter to assistant municipal prosecutor Mike Marsh, who questioned why the Division of Corrections — which is in Beirne's department — is able to ignore judges' recommendations.

Marsh focused his criticism on the case of Amos Singletary, convicted of rape crimes for enticing or luring a girl into his car. Singletary has a previous conviction and a sentence which ordered that he be enrolled in a sex offender program in jail.

Singletary was never enrolled in such a program following his Feb. 19 sentencing, and District Court

Judge John Mason released him after he had served 6½ months of a one-year sentence. Singletary was placed on probation and ordered to get professional counseling outside since he wasn't getting it in jail.

Two weeks after his release, Singletary was picked up for violating his probation by returning to a home where two of his earlier victims lived. Mason sentenced Singletary to another year in jail on Oct. 13, and again ordered that Singletary be placed in a prison sex offender treatment program.

Beirne said she had a staff member contact Singletary in jail, and that "Mr. Singletary continued to take the position that he is not guilty and that he does not wish to participate in sex offender treatment."

Singletary did not deny his guilt in court. And Marsh said prosecutors dropped night court sentencing charges in exchange for Singletary's accepting the evidence against him.

Mason had sentenced Singletary to a year in jail in February. In her letter, Beirne repeated Singletary's projected release date of July 6.

Because the sex offender program "is of a long-term nature," Beirne said there was no point in enrolling Singletary.

But according to Marsh, Singletary had 5½ months left to serve as of July 6.

"It would not be realistic to treat an individual over a period of less than a year," Beirne wrote Marsh, attributing that judgment to a staff psychiatrist.

Mason last month sentenced Singletary to another year in jail, and for the second time ordered that he be enrolled in the sex offender rehabilitation program.

Although the second one-year sentence came on Oct. 13, Beirne said Singletary's release date has been set for April 30.

Beirne, quoting another psychiatrist, wrote Marsh that "chronic offenders such as Mr. Singletary are not very amenable to treatment, and that an absolute minimum of nine months in treatment would be necessary to offer the faintest hope of having an effect on his behavior."

## Dei sent

Convicted perjurer sentenced to serve four years in the bribery of George Hohmann's estate.

State superior court handed down the sentence on the conclusion of the sentence-seeking drug counseling.

The 35-year old DeV... of seven counts of perjury. Carlson sentenced each count. But the... which means DeV... years in jail.

Canadian salesman used DeV... as a vouch... into securing state funds... aircraft from Canada.



INTO WILD BLUE GANDER

Waterfowl birds were sent a-flying as a low-flying helicopter... from their perch near the roof in the background.

This photo was taken in Wrangell before the gulls headed south for the winter.

## Alaskan to be reval

by Jeff Bertiner  
Times Staff Writer

The state plans to overhaul its court system to simplify civil litigation and to cut the time it takes to get a civil case to trial after it's filed.

Alaska will be the first state in the country to undertake a project of this magnitude. The doors of the court system will be opened to experts from the National Center for State Courts in January.

State Supreme Court Chief Justice Edmund Burke will appoint a task force to work with the center's consultants.

The 10 project will take a year to complete, but court system administrator Art Snowden said it will reduce costs for litigants and make Alaska's courts among the most efficient in the country.

It now takes 16 months for a civil suit to go to trial.

"Although our time frame is one of the best in the country, it can be improved," Snowden said.

The state has undertaken an examination of its litigation processes on the scale here proposed, according to a proposal from the court center's western regional office in Sacramento, Calif.

"The results should benefit litigants in Alaska and serve as a provocative example to other states."

The project will cover three areas.

## Honored Army officer dies

by Jeff Bertiner  
Times Staff Writer

James Martin, commander of the... died Sunday in Wrangell.

General Staff College and later, the Army War College.

He served in the staff of Headquarters, United States Southern Command in the early 1970s, and was... in the... branch in the...



## Budget issue tops ag

by Beth Barrett  
Times Staff Writer

The state will have a second... Tuesday... Mayor Tony Knowles... increased 3-4... pending order and has... said.

The Knowles spending... for the... for city... system... increased from \$30 to \$... the permit structure...

# Division ignores judge's order

by Jeff Lemmer

An assistant municipal prosecutor may ask a judge to haul Division of Corrections officials into court to explain why they are ignoring a judge's sentence of a convicted sex offender.

Anchorage District Court Judge John Mason echoed the concern expressed by prosecutor Mike Marsh over corrections officials' failure to place Amos Singletary in a sex offender treatment program.

And a prison official acknowledged that Singletary is not an isolated case — that others sentenced to jail have not been placed in the counseling programs selected by judges as part of their sentences.

"We can't force people to participate in a program," said Hiland Mountain prison superintendent Frank Sausser.

Sausser said that ignoring a judge's sentencing recommendation is not uncommon.

"It occurs not just with this (sex offender program), but with all kinds of treatment," he said.

Sausser said conditions of sentences handed down by judges are ignored when it involves a treatment program in which an inmate refuses to participate.

Mason and Marsh expressed dismay that the court does not have the power to order the Division of Corrections to carry out the sentence Mason imposed on Singletary almost

three weeks ago.

This is the second time Mason has sent Singletary to jail and asked that he be enrolled in a sex offender treatment program. The first time the request was ignored, Mason released Singletary so he could get counseling out of jail that was not provided in prison.

One day after the second sentencing, on Oct. 14, Marsh wrote Commissioner of Health and Social Services Helen Beirne asking her to intervene, because corrections responsibilities fall under her department. Copies of the letter also went to Division of Corrections director Robert Hatrack, Sausser, Mason, Gov. Jay Hammond and Attorney General Wilson Condon.

Marsh has not received a response to his letter. A spokesman for Beirne, Judy Shuler, said Beirne would "probably" respond this week. She didn't say what her response would be.

Short of hauling corrections officials into court, Mason said he may first try to get through to them by telephone and in writing.

Mason first sentenced Singletary to jail — recommending his placement in the sex offender program at Hiland Mountain — in February after Singletary pleaded no contest to nine crimes and had eight other charges dropped in exchange for his plea.

Singletary was sentenced to three years in jail — with two years suspended — on seven counts of trying to entice young girls into his

car and two counts of assault and battery for trying to force them into his car. Singletary also has a prior rape conviction.

When Mason learned that Singletary was not getting any psychological treatment, he ordered his release on supervised probation so he could get professional counseling.

But two weeks after his release, Singletary was picked up outside a foster children's home where two of his former victims lived. A condition of his probation had been that he have no contact with young girls.

In sentencing him to jail again, this time for another year, Mason again stressed that he wanted Singletary enrolled in the sex offender treatment program. Mason threatened to release Singletary again so he could get professional counseling if the state failed to give him the treatment in jail.

Marsh said Singletary is a danger to society and "the number one goal should be protection of society." He has urged Singletary be sent to jail for the full 4½-year maximum term.

Singletary has been in the Third Avenue jail for three-and-a-half weeks since his sentencing and the Division of Corrections has one more week under the law to classify him and respond to Mason's sentence.

"They may resist that," said Mason, "but there's nothing I can do. That's a corrections problem and corrections has a lot of problems now. We can't have the authority to order them to do it, only to recommend."

# Troop

by Cary Virtue

Alaska is one of the few states which does not have a full-time state police. But Alaska Trooper commander Tom Anderson will ask Gov. Hammond to set aside \$5 million in his proposed 1984-85 budget to build a fully equipped state police force. However, Anderson said up to the new governor to submit it to the legislature.

"In this day-and-age of scientific progress, it's more and more difficult to investigate a case without strong support from a state police force," Anderson said. "We can't operate without it."

State law enforcers here now send most of

# Court

Washington — The Supreme Court ruled on

Simple Eskimos today, to reopen their legal battle with the federal government: damages to their homes.

The court let stand its comment a U.S. Court decision that denied or to Inupiat Eskimos \$

# Subsidy

## spark

by A.J. McClanahan

Newspaper ads in Alaska, which depict dog heads, are an "intense resentment" of the contents of the ballot measure.

"The actual photographs waste," said a spokeswoman for the group, "by using the repeal ballot for Sustainable Fish management."

The photograph is old, she said, and heads for an entire year before they were displayed.

But a spokesman said, Alaskans for Side and Hunting Rights ad

The repeal effort "divisive substitution rights of Alaska mammals," said Sam Outspoken supporting rights and a leave drive.

The taking of mammals would not be direct: repeal of state law are managed and Marine Mammals.

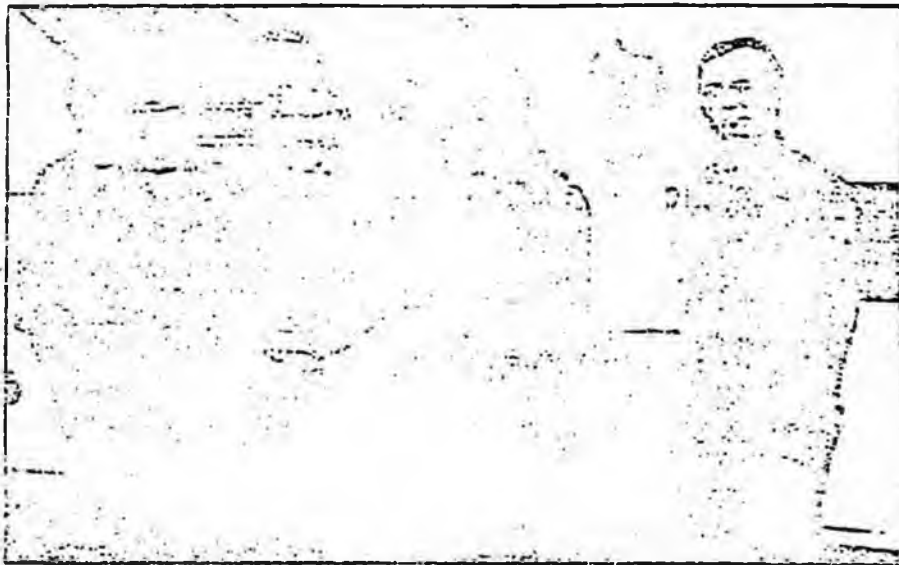
Angvik charged that the mammals is man: current state law.

"That's erroneous who put it in knew

# Collision high speed

## RESCUE TEAM

Eight veteran Anchorage firefighters recently completed 40 hours of intensive underwater rescue training for white water, lakes and rivers. Each member of the class already has five years experience in water rescue and recovery. From left, they are: firefighters Kent Bohac and Mike House; engineers Paul Burns, Claude Adams, Dean Fortain and Larry Tish; battalion chief and team leader Kent Anderson; and firefighter John Hickey.



# State extends funding for quake research

Fairbanks — State officials say they will continue to fund 30 early quake monitoring stations which were scheduled to close in December because of federal funding cuts.

The seismic stations are one of six University of Alaska projects which will receive state funding under the Legislature's plan to appropriate state funds to shore up programs affected by the tight federal budget.

The stations are located in the southern and central areas, monitoring areas of the most active earthquake activity in the state.

Dr. Robert L. Anderson, director of the University of Alaska Geophysical Institute, said the stations would be maintained by shutting down other monitoring stations.

The state will continue to fund 10 stations for the next two years. Anderson will underwrite the cost of the stations, less local contributions for maintenance, helicopter

not been found," he said. "If we don't get new money by the first of July, we are right back where we were two weeks ago."

Other state grants for university projects include:

- \$150,000 to the School of Mineral Industry for minerals research.
- \$50,000 to the Division of Life Sciences for continued research on the virus vaccine for controlling disease prevalent among reindeer.
- \$25,000 to the Institute of

Water Resources for studies of organic contamination of groundwater and streams near placer mining operations.

- \$25,000 for the Rural Education Health Careers Program.

# Anchorage police promote 2 officers



Two Anchorage police corporals — Mark Marsh and Gary Russell — have been promoted to sergeant, according to Police Chief Brian S. Porter.

Marsh, who will be supervisor of the Crisis Intervention Response Team, joined the department in 1977 as a reserve officer.

After becoming a full-time officer in 1978, he worked in the warrants section, the domestic center on traffic patrol and trained new recruits. He is now enrolled at Anchorage Community College where he is studying for a degree in police administration.



Alaska Court System  
State of Alaska

KARLA L. FORSYTHE  
General Counsel

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street  
Anchorage, AK 99501

M E M O R A N D U M

March 2, 1983

To: Representative Charlie Bussell  
Chairman, House Judiciary Committee

Representative John Liska  
Vice-Chairman, House Judiciary Committee

Representative Joe Hayes  
Representative Ramona Barnes  
Representative Hugh Malone  
Representative Don Clocksin  
Representative Ron Wendte

From: Karla L. Forsythe *Karla L. Forsythe*  
General Counsel  
Alaska Court System

Subject: SSHB 58

Thank you for this opportunity to comment on SSHB 58.

This bill amends existing law to preclude the release, parole or furlough of any prisoner who refuses to participate in programs recommended or required by the court, unless the prisoner at a court hearing shows good cause for failure to participate. The prisoner is entitled to be represented by counsel.

Since the length of prisoners' sentences will be at stake, and since prisoners can be expected to raise the issue of lack of available programs, the bill will result in increased contested hearings. Any new hearings add to the already considerable workload of the courts. Although this bill taken by itself does not require additional manpower, continued caseload increases will require additional judicial resources.

In Anchorage alone, the police force has increased 169% since 1976, from 174 officers covering 31 square miles to 294 officers covering 110 square miles in 1983. DWI arrests have increased by 276% from 1977, from 651 to 1797. Small claims in Anchorage are

up 172% from 1977. Search warrant requests have also increased, up 538% from 1975 (99 search warrants in 1975; 532 in 1982). In-court deputies for the Anchorage district court accrued a total of 787 hours of overtime last year. Alcohol screening statistics point to a 34% increase in new cases since 1977. These cases are a continuing responsibility for the court, because non-compliance affidavits are filed in about 25% of the cases, requiring court hearings and bench warrants.

In general, as legislative action continues to increase penalties, attorneys litigate longer and harder to protect their clients' interest.

The effectiveness of legislation which involves the justice system is directly related to the ability of the courts to process cases efficiently. As with other bills which provide for additional court hearings, the benefits of SSHB 58 should be analyzed in this context.

KLF:smh

# Alaska State Legislature

## House of Representatives

Al Adams

Chairman

Committee on Finance

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  
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Official Business

April 14, 1983

### MEMORANDUM

TO: House Finance Committee Members

FROM: Al Adams, Chair *AAA*

SUBJ: CS SS HB 58 (Judiciary), An Act relating to a prisoner serving a sentence in full or having probation revoked for refusing to participate in counseling or treatment required by the court.

Section 1. Provides that a court may impose a full sentence if the defendant refuses to participate in alcohol, drug, sex offender or other mental health treatment required by the sentencing judge.

Section 2. If the court suspends a person's sentence, it may require alcohol, drug, sex offender or other mental health treatment as a condition of probation.

Section 3. Provides that parole can be revoked if the parolee refuses to participate in treatment required by the sentencing judge.

Section 4. Provides that treatment may be a requirement of probation.

Section 5. Allows for revocation of a suspended sentence if treatment is refused.

Section 6. Provides that parole will not be granted if a judge requires treatment that a prisoner refuses.

Section 7. Provides that a work furlough will not be granted if a prisoner refuses treatment required by a judge.

Since there is no effective date clause, the Act would go into effect 90 days after passage.

SUMMARY OF COMMITTEE SUBSTITUTE FOR SSB 56

Denial of Parole or Furlough

Section 7 - The Parole Board may not parole a prisoner who refuses to participate in alcohol, drug, sex offender or other mental health treatment.

Section 8 - The Division of Corrections may not furlough a prisoner who refuses to participate in treatment.

Revocation of Suspension of Sentence

Sections 2, 3 and 5 - A judge may impose available alcohol, drug, sex offender or other mental health treatment as a condition of probation.

Section 6 - A sentence will be revoked if the defendant refuses to participate in treatment that is required by the judge.

# Alaska State Legislature

Representative John Lindauer  
District 10-A  
3933 Geneva Place  
Anchorage, AK 99508



Mail in Juneau  
Pouch V  
Juneau, AK 99811  
465-3709

## House of Representatives

April 12, 1983

TO: House Finance Committee

FROM: Representative John Lindauer *John*

RE: House Bill #58: "An Act requiring certain prisoners to serve full sentence."

The purpose of this Act is to motivate convicts to accept counseling or other rehabilitation programs required or recommended by the sentencing judge.

Presently, convicts may refuse to accept counseling or rehabilitation and then may be released early by the Commissioner on the premise that the convict will not be rehabilitated if he or she stays in jail.

Introduced: 1/26/83  
Referred: Judiciary and Finance

1 IN THE HOUSE

BY LINDAUER, BARNES, ABOOD,  
PESTINGER, LISKA AND UEHLING

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 58

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act requiring certain prisoners to serve a full

7

sentence."

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

9

\* Section 1. AS 33.30 is amended by adding a new section to read:

10

Sec. 33.30.330. SERVICE OF FULL SENTENCE. (a) Notwithstanding

11

any other provision of this title, a prisoner who refuses to par-

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ticipate in counseling or other programs required or recommended by

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the sentencing judge may not be released, paroled, or furloughed until

14

the prisoner's sentence is fully served.

15

(b) If the court orders a sentence to be served in full, good

16

cause shall be shown in all proceedings under this section. The

17

prisoner is entitled to be represented by counsel and may not be

18

released, paroled, or furloughed pending any proceeding.