

LEG. FINANCE - BILLS 1983 - 1984 1915

CSHB 498 - HB 504 1915

# MEMORANDUM

# State of Alaska

TO: Ray Gillespie  
Legislative Assistant  
Governor's Office

DATE: January 17, 1984

FILE NO: 377-002-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch  
Attorney General

SUBJECT: HB 498 (military  
retirement benefits)

By: Arthur H. Peterson  
Assistant Attorney General

As you requested this morning, I have compared HB 498, sponsored by Representatives Fuller and Martin, with the bill on the same subject that we delivered to the governor December 21, 1983. HB 498 is based on a November 14, 1983 draft of this bill that I prepared. There are minor differences in wording, and the amendment of AS 26.05.224(a)(2), in sec. 1 of the bill, uses a slightly different amendment style; it sets out all of subsec. (a) rather than just para. (2) of that subsection.

In our December 21, 1983 version, sec. 1 is identical to our November 14 version, and thus contains the same insignificant wording difference from HB 498. The main difference between HB 498 and our December 21 version is in sec. 2, but even that difference is merely in the means chosen to achieve the same end.

The biggest problem for the drafter was setting out the relationship between the existing death benefit for the beneficiary of a 20-year active or former member and the new provision on the death benefit for the beneficiary of an active member with only five years service. HB 498 combined with the new provision a cross-reference to the existing subsec. (d) and to 20 years of service in the armed forces of the United States. Our December 21 version, on the other hand, locates the new provision in subsec. (d) and rewrites the current first sentence of that subsection, for clarification. There should be no difference in substance. The benefit for the survivors of the five-year people is succinctly distinguished from the benefit for the survivors of the 20-year people. I think that the December 21 version is an improvement, especially since it clarifies the existing AS 26.-05.224(d). //

I can think of no reason why the December 21 version should not be offered to, and would not be accepted by, the House State Affairs Committee (where HB 498 now resides) and Representatives Fuller and Martin to use as a committee substitute for HB 498. If they prefer the slightly different sec. 1 of HB 498,

Ray Gillispie  
377-002-84

January 17, 1984  
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that is certainly acceptable to us. But sec. 2 of our version seems preferable.

AHP/jb

cc: Charles D. Borg  
Chief of Staff  
Department of Military Affairs  
3601 C Street, Suite 620  
Anchorage, AK 99503

Richard Rountree  
Director  
Administrative Services Division  
Department of Military Affairs  
Juneau

Ken Humphries  
Director  
Division of Retirement and Benefits  
Department of Administration

Position Paper

HB 498

The passage of this bill would provide for a lump-sum death benefit in the Alaska National Guard and Alaska Naval Militia Retirement System (NGRS) for those members having five or more years of service. The Department of Administration, like the Department of Military Affairs, supports this bill. This bill would help to <sup>eliminate</sup> ~~alleviate~~ an inequity in the system without a substantial fiscal impact.

J. K. Humphreys

J.K. Humphreys, Director, Division of Retirement & Benefits

1/23/84

Date

Lisa Rudd

Lisa Rudd, Commissioner, Department of Administration

1/24/84

Date



STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

*CE*

REQUEST FISCAL DETAIL  
Bill/Resolution No.: CSHB 498(SA) Agency Affected: Dept. of Military Affairs  
Title: An act relating to Military Program Category Affected: NGRS  
Benefits  
Sponsor: Fuller and Martin BRU, Program or Subprogram(s) Affected:  
Requestor:  
Date of Request:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts		79.3	79.3	79.3	79.3	79.3
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	79.3	79.3	79.3	79.3	79.3

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

General Fund	-0-	79.3	79.3	79.3	79.3	79.3
Federal Funds						
Other						
Total						

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

Analysis: The passage of this bill will provide for a lump-sum death benefit in the Alaska National Guard and Alaska Naval Militia for those members having five or more years of service. The passage of this bill will increase the cost of the National Guard Retirement System by \$79,309.00 each year over the next 25 years. The present value of the unfunded liability is \$441,396.00.

Prepared By: J. K. Humphreys *J. K. Humphreys* Phone: 465-4460  
 Division: Retirement & Benefits Date: \_\_\_\_\_  
 Approved by Commissioner: Lisa Rudd *Lisa Rudd* Date: 2/9/84  
 Agency: Administration

Offered: 2/14/84  
Referred: Finance

Original sponsors: Fuller, Martin  
and Furnace

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR HOUSE BILL NO. 498 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to military retirement benefits; and  
7 providing for an effective date."

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

9 \* Section 1. AS 26.05.224(a) is amended to read:

10 (a) An active member of the Alaska National Guard, or a former  
11 member who was an active member on or after January 1, 1969, or a  
12 member of the Alaska Naval Militia on or after July 1, 1980, is eligi-  
13 ble for a retirement pension

14 (1) upon voluntary retirement from the Alaska National  
15 Guard or Alaska Naval Militia after a total of 20 years or more of  
16 satisfactory service in the Alaska National Guard, Alaska Naval Mili-  
17 tia, or the armed forces of the United States, and the reserves of  
18 them, or any combination of service in these components if at least  
19 five years of the service is in the Alaska National Guard or Alaska  
20 Naval Militia; or

21 (2) upon involuntary separation [RETIREMENT] because of  
22 federal standards imposed on the Alaska National Guard or Alaska Naval  
23 Militia, regardless of length of service, unless the separation occurs  
24 as a result of the member's own misconduct, misrepresentation, or  
25 unwillingness to satisfy established standards for continued partici-  
26 pation.

27 \* Sec. 2. AS 26.05.224(d) is amended to read:

28 (d) Upon the death of an active member who has at least five  
29 years service in the Alaska National Guard or Alaska Naval Militia or

1 a combination of these components, the member's designated beneficiary  
2 is entitled to a lump sum benefit calculated in accordance with (b) of  
3 this section. Upon the death of a former member who has at least 20  
4 years service, the former member's designated beneficiary is entitled  
5 to a lump sum benefit calculated in accordance with (b) of this sec-  
6 tion less any retirement benefits previously paid. A [A RETIREMENT  
7 BENEFIT PAYABLE TO A MEMBER AT THE TIME OF THE DEATH OF THE MEMBER

8 SHALL BE PAID IN A LUMP SUM TO THE DESIGNATED BENEFICIARY OF THE MEM-

9 BER. THE] member may change or revoke the designation of a benefi-

10 ciary without notice to the beneficiary at any time. If a member

11 designates more than one beneficiary, each shall share equally unless

12 the member specifies a different allocation. The designation of a

13 beneficiary and a change or revocation of a beneficiary shall be made

14 on a form provided by the Department of Military Affairs and is not

15 effective until filed with the Department of Military Affairs. If a

16 member fails to designate a beneficiary or if no designated benefi-

17 ciary survives the member, the death benefit under this subsection

18 shall be paid to the member's [HIS] estate.

19 \* Sec. 3. This Act takes effect July 1, 1984.

Offered: 5/24/84  
Referred: Finance

Original sponsors: Fuller, Martin  
and Furnace

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 498 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

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13 ble for a retirement pension

14 (1) upon voluntary retirement from the Alaska National  
15 Guard or Alaska Naval Militia after a total of 20 years or more of  
16 satisfactory service in the Alaska National Guard, Alaska Naval Mili-  
17 tia, or the armed forces of the United States, and the reserves of  
18 them, or any combination of service in these components if at least  
19 five years of the service is in the Alaska National Guard or Alaska  
20 Naval Militia; [OR]

21 (2) upon involuntary separation [RETIREMENT] because of  
22 federal standards imposed on the Alaska National Guard or Alaska Naval  
23 Militia, regardless of length of service, unless the separation occurs  
24 as a result of the member's own misconduct, misrepresentation, or  
25 unwillingness to satisfy established standards for continued partici-  
26 pation; or

27 (3) upon involuntary separation for any reason if the  
28 member has at least 20 years of satisfactory service in the Alaska  
29 National Guard, Alaska Naval Militia, or the armed forces of the

1 United States, and the reserves of them, or any combination of service  
2 in these components if at least five years of the service is in the  
3 Alaska National Guard or Alaska Naval Militia.

4 \* Sec. 2. AS 26.05.224(d) is amended to read:

5 (d) Upon the death of an active member who has at least five  
6 years service in the Alaska National Guard or Alaska Naval Militia or  
7 a combination of these components, the member's designated beneficiary  
8 is entitled to a lump sum benefit calculated in accordance with (b) of  
9 this section. Upon the death of a former member who has at least 20  
10 years service, the former member's designated beneficiary is entitled  
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13 BENEFIT PAYABLE TO A MEMBER AT THE TIME OF THE DEATH OF THE MEMBER  
14 SHALL BE PAID IN A LUMP SUM TO THE DESIGNATED BENEFICIARY OF THE MEM-  
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16 ciary without notice to the beneficiary at any time. If a member  
17 designates more than one beneficiary, each shall share equally unless  
18 the member specifies a different allocation. The designation of a  
19 beneficiary and a change or revocation of a beneficiary shall be made  
20 on a form provided by the Department of Military Affairs and is not  
21 effective until filed with the Department of Military Affairs. If a  
22 member fails to designate a beneficiary or if no designated benefi-  
23 ciary survives the member, the death benefit under this subsection  
24 shall be paid to the member's [HIS] estate.

25 \* Sec. 3. This Act takes effect July 1, 1984.

COMMITTEE REPORT  
SENATE

FURTHER:

FINANCE

3/6/84

Date May 23, 1984

Mr. President

The Committee on STATE AFFAIRS considered CSHB 498(SA)  
military retirement benefits; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CSHB 498 (SA)
- new title
- same title and recommends do pass
- and attached a "LETTER OF INTENT" ~~NEW FISCAL NOTE~~
- reports it back without recommendation NO
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING

DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING

OTHER RECOMMENDATIONS

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]

Chairman

do pass

Chairman recommendation

# COMMITTEE REPORT

## HOUSE

FURTHER:

Date: 2-30-84

Mr. Speaker:

The Committee on FINANCE has had ISHB 503

"An Act relating to the Alaska Pioneers' Home".

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for SHB 503 (CA)  same title  
 new title
- and recommends do pass
- AND attaches a "Letter of Intent"  New Fiscal Note 133.0
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

\_\_\_\_\_  
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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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\_\_\_\_\_

Albert P. ...  
CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: February 15, 1984

Page 1 of 2

REQUEST

Bill/Resolution No.: CSSSHB 503 (State Affairs)  
Title: Residents of the Alaska Pioneers' Homes

FISCAL DETAIL

Agency Affected: Administration  
Program Category Affected: Social Servcs

Sponsor: Uehling  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

BRU, Program of Subprogram(s) Affected:  
Pioneers' Homes

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		133.0	133.0	133.0	133.0	133.0
800 MISCELLANEOUS						
TOTAL OPERATING	0	133.0	133.0	133.0	133.0	133.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	133.0	133.0	133.0	133.0	133.0
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	0	133.0	133.0	133.0	133.0	133.0

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not indicated by sponsor.

ANALYSIS: Attach a separate page for any analysis

Prepared By: E. Louis Keller, Director  
Division: Pioneers' Benefits

Phone: 465-4400  
Date: February 15, 1984

Approved by Commissioner: Lisa Ruda  
Department: ADMINISTRATION

Date: 2/16/84

FISCAL NOTE/BDGSF2

Distribution:  
Legislative Finance  
Legislative Sponsor  
Registrar  
Office of Management and Budget  
Impacted Agency(ies)

12/1/83

CSSSHB 503 (State Affairs)  
Fiscal Note Analysis  
Prepared by Division of Pioneers' Benefits  
Department of Administration  
February 15, 1984

ASSUMPTIONS

1. The bill will become effective on July 1, 1984.
2. The Pioneers' Home populations will remain stable, but the total number of residents receiving the stipend will increase from 154 to 165 due to inclusion of the persons who have less than \$100 monthly income.
3. The stipend payments will continue to be paid from the General Fund.
4. The rates for cost of care will remain at the present level of \$425 per month for residential care and \$525 per month for skilled nursing care.

Original sponsors: Uehling, Furnace,  
Ringstad, et al

IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 503 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Pioneers' Home."

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

\* Section 1. AS 47.25.020(b) is amended to read:

(b) Every person admitted to the Pioneers' Home, except a person admitted under AS 47.25.030, who receives income from any source in excess of \$100 per [\$35 A] month may be required by the Department of Administration to pay the excess to the Department of Administration immediately upon receipt of the money in payment, or part payment, of the cost of the person's [HIS] maintenance.

\* Sec. 2. AS 47.25.020(c) is amended to read:

(c) At the end of each month the payments made under (b) of this section shall be transmitted to the commissioner of revenue together with the names of the persons making them and the amount paid by each. The Department of Administration may pay [THE SUM OF \$35 A MONTH] to a resident without funds the sum of \$100 per month.

\* Sec. 3. AS 47.25.030 is amended by adding new subsections to read:

*In people  
not  
destitute*  
(b) The Department of Administration shall adopt regulations establishing a daily or monthly rate for the compensation a resident is to be charged under (a) of this section. The commissioner of administration shall review the rate each year.

(c) The Department of Administration shall provide to all residents of the Pioneers' Home written notice of any proposed increase in the rate charged for care and support of persons at the home. Notice under this section shall be given not less than 60 days before an

increase is adopted. The notice shall include the time, date, and place of a hearing to be held by the Department of Administration under (d) of this section.

(d) Not less than 30 days before a proposed rate increase is adopted, the Department of Administration shall conduct a hearing at which interested persons shall be given the opportunity to submit written or oral testimony, statements, arguments or contentions relating to the proposed rate increase. The department shall consider all relevant matter presented to it before adopting a rate increase.

\* Sec. 4. AS 47.25.070 is repealed and reenacted to read:

Sec. 47.25.070. INDEBTEDNESS OF PIONEERS' HOME RESIDENT TO STATE. (a) The following expenses incurred for a pioneers' home resident under AS 47.25.010 - 47.25.110 and not recoverable from a collateral source are a debt of the resident to the state and may be recovered during the life of the resident:

(1) costs of standard or nursing care provided in the Pioneers' Home each month to the resident not exceeding the rate established by the Department of Administration under AS 47.25.030, with credit given for any amounts paid by or collected from the resident;

(2) allowances paid under AS 47.25.020(c);

(3) costs of hospitalization and medical treatment provided outside the Pioneers' Home;

(4) arrearages in fees for television and telephone services provided in the Pioneers' Home;

(5) prescription medicine; and

(6) burial and related expenses.

(b) The debt is a first, prior and preferred claim against the estate of the Pioneers' Home resident after the resident's death, and

1 after all claims for food, clothing, fuel, shelter, medical aid, or  
2 burial expenses are paid. Heirlooms without regard to value are  
3 exempt from a claim by the state under this section.

4 (c) Money left in charge of the Department of Administration by  
5 a deceased resident of the Pioneers' Home may be used for the burial  
6 and funeral expenses of the resident and for the improvement of the  
7 burial plot of the Pioneers' Home. <sup>[Alaska]</sup>

8 (d) The clothing and other personal effects left by a deceased  
9 Pioneers' Home resident <sup>[of the home]</sup> may be used for the benefit of other resi-  
10 dents, or may be given to relatives or to persons designated by the  
11 resident, or sold and the proceeds applied in the manner provided for  
12 money left by a deceased resident.

13 (e) In this section, "heirloom" means personal property of  
14 sentimental value to a Pioneers' Home resident that has been in the  
15 possession of the resident's <sup>[beneficiary]</sup> family, or was a gift to the <sup>[beneficiary]</sup> resident.  
16

17 [for 10 years or more]

POSITION PAPER

CSSSHB 503

This bill increases the monthly stipend paid to certain qualified residents (who are otherwise without funds) of Alaska's Pioneers' Homes from the current \$35 to \$100. The current \$35 stipend is clearly too little and therefore, an increase is indicated.

AS 47.25.020(b)(c)

Sixty-one residents, or just under 10% of all residents of the Pioneers' Home system presently receive the \$35 stipend. However, the full effect of the recent monthly rate increase to residents has not yet been felt, and it is anticipated that the estimates of stipend costs for FY 85 are more accurately reflected in the operating budget which includes funds for 154 persons (\$63,000). The Division of Pioneers' Benefits estimates that, should this bill become law, the number of residents who would qualify for the monthly stipend would be increased to as many as 165 residents, due to more people having less than \$100 in monthly income. \$100 is a 286% increase over the current \$35.

AS 47.25.030(b)(c)(d)

This bill also amends the statutes by requiring the Department of Administration to "adopt regulations establishing a daily or monthly rate for compensation a resident is to be charged." The Commissioner of the Department of Administration is moreover required to "review the rate each year." The Department supports the portion of the bill mandating the adoption of regulation establishing the "rate for compensation," but believes that an annual review may be too confining. The Department prefers that the rates be reviewed biannually.

AS 47.25.030(c)(d)

This bill would require all residents of the Pioneers' Homes to be notified in writing of any proposed increase in the rate charged not less than sixty days before increase is adopted. This bill would allow rate increases only, following public hearings. The Department supports a sixty-day notification period. The Department feels that an annual review process, as mandated by this bill, could involve more frequent public hearings (conceivably as often as annually). We know the actual costs of care in Pioneers' Homes increase over time. We are not confident that in public hearings residents would encourage rate increases. Regular public forums on costs of care could also raise the question of relative costs compared to care in private settings.

AS 47.25.070(a)

This bill reforms the language of the statute concerning "indebtedness of Pioneers' Home resident(s) to the State." Whereas the Department in general supports such reforms, we suggest the use of the words "ancillary charges" in lieu of the following language:

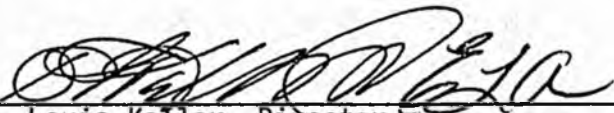
- (2) allowances paid under AS 47.25.020(c);
- (3) costs of hospitalization and medical treatment provided outside the Pioneers' Home;

- (4) arrearages in fees for television and telephone services provided in the Pioneers' Home;
- (5) prescription medicine; and
- (6) burial and related expenses.

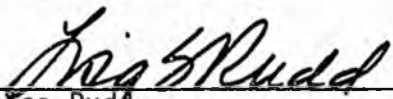
AS 47.25.070(b)

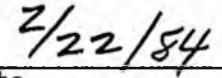
This bill would also amend the statute by removing an existing six percent (6%) interest penalty on unpaid expenses incurred at a Pioneers' Home by a resident, and collectible from the beneficiary(s) of a resident's estate. This bill would moreover establish an exemption for "heirlooms without regard to value." The word "heirloom" is also defined.

The Department generally supports this bill and is on record specifically supporting an increase in the monthly stipend.

  
\_\_\_\_\_  
E. Louis Keller, Director  
Division of Pioneers' Benefits

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Commissioner Lisa Rudd  
Department of Administration

  
\_\_\_\_\_  
Date

CHAIRMAN  
HOUSE SPECIAL COMMITTEE  
ON STATE LOANS

VICE-CHAIRMAN  
HOUSE RESOURCES COMMITTEE  
HOUSE LABOR AND COMMERCE COMMITTEE

MEMBER  
JOINT OIL & GAS COMMITTEE  
HOUSE FINANCE SUBCOMMITTEE ON  
ADMINISTRATION, REVENUE  
AND THE GOVERNOR'S OFFICE

## Alaska State Legislature

### House of Representatives

Representative  
RICK UEHLING

ANCHORAGE  
DISTRICT 12-SEAT A  
1634 JUNEAU DRIVE  
ANCHORAGE, ALASKA 99501  
(907) 274-4256

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4821

Date: January 17, 1984

To: Representative Mitch Abood  
Chairman, State Affairs Committee

From: Representative Rick Uehling *R. Uehling*

Subject: HB503 - An Act relating to income, allowances  
and debts of residents of the Alaska  
Pioneers' Home.

FILE COPY

The purposes of HB503 are twofold:

During the last session the Legislature, in a letter of intent to last years' budget, required that the Department of Administration raise the fees charged to the residents of the Pioneer Home.

These rent increases were from \$225.00 to \$425.00 for regular residents and from \$275.00 to \$525.00 for residents who receive skilled nursing care.

At the time of the rent increase the residents met with members of the Legislature and representatives of the Department of Administration to request, first, that the increase be delayed, and secondly, that the amount of the monthly stipend (discretionary income) allowed residents be increased from \$35.00 to \$100.00.

Needless to say the rent increase was not delayed. However, the increase in rent, from \$225.00 to \$425.00, took up what additional money many of the residents had left each month leaving them to receive only the \$35.00 monthly allowance.

There had not been an increase in the stipend in thirteen years. I do not believe that \$35.00 a month is sufficient for the residents of the Pioneer Home to purchase necessities such as prescription drugs, clothing, and personal items like shampoo, and toothpaste as well as an occasional splurge for a trip to the barber or beauty shop. Therefore, this legislation increases the allowance amount from \$35.00 to \$100.00 a month.

Memo of 1-17-84 (Continued)

Page 2

The second portion of the bill addresses a large concern of many of the elderly at the Pioneer Home.

When a person cannot afford to pay the full amount of their rent to the Pioneer Home and also receives a stipend, they incur a debt to the State, which accrues six percent interest. This debt is then recovered by the State from the estate of the individual.

The residents of the Pioneer Home worry that they will be unable to pass on to their children personal possessions, such as wedding rings, coin collections, and other heirlooms which might have special meaning to the family.

In reality, this clause is seldom if ever used, because when a resident dies and owes a debt to the State, he rarely has an estate from which the debt may be recovered.

However, with the large increase in rents, many residents are concerned that they will in the future incur a debt to the State and therefore be unable to pass to their families personal possessions.

This legislation deletes the interest charge from the debt owed to the State, and allows for up to \$10,000 worth of personal possessions to be passed on to the family.

It is important to remember that this section is currently almost never used, and that the changes are primarily for the peace of mind of the residents of the Pioneer Home.

CHAIRMAN  
HOUSE SPECIAL COMMITTEE  
ON STATE LOANS

VICE-CHAIRMAN  
HOUSE RESOURCES COMMITTEE  
HOUSE LABOR AND COMMERCE COMMITTEE

MEMBER  
JOINT OIL & GAS COMMITTEE  
HOUSE FINANCE SUBCOMMITTEE ON  
ADMINISTRATION, REVENUE  
AND THE GOVERNOR'S OFFICE

# Alaska State Legislature



## House of Representatives

Representative  
**RICK UEHLING**

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POUCH V  
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(907) 465-4821

Date: February 10, 1984

To: Rep. Mitch Abood  
Chair, State Affairs Committee

From: Rep. Rick Uehling *RU*

Subject: CS HB503 (State Affairs)

The Committee Substitute addresses the two major concerns of the original bill:

1. Raising the monthly allowance from \$35.00 to \$100.00.
2. Allows personal property of the resident to be passed on to the family in the event the resident incurs a debt to the state. The Committee Substitute deletes the \$10,000 exemption and replaces it with an exemption for heirlooms without regard to value, and defines heirlooms as personal property of sentimental value to a Pioneer resident that has been in the family for ten years or more, or was a gift to the resident.

Additionally, the Committee Substitute addresses several concerns of the Pioneer Home residents and attempts to clarify in statute, procedures for establishing and raising of rates, and specifies which expenses the state is allowed to recover as debts to the state. Furthermore, the Committee Substitute makes technical changes to clarify whom the statute pertains to. The Committee Substitute also addresses a request by the residents to allow them to designate a person, other than a relative, to handle their clothing and other personal effects after they are deceased.

Original sponsors: Uehling, Furnace,  
Ringstad, et al

IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 503 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Pioneers' Home."

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

\* Section 1. AS 47.25.020(b) is amended to read:

(b) Every person admitted to the Pioneers' Home, except a person admitted under AS 47.25.030, who receives income from any source in excess of \$100 per [\$35 A] month may be required by the Department of Administration to pay the excess to the Department of Administration immediately upon receipt of the money in payment, or part payment, of the cost of the person's [HIS] maintenance.

\* Sec. 2. AS 47.25.020(c) is amended to read:

(c) At the end of each month the payments made under (b) of this section shall be transmitted to the commissioner of revenue together with the names of the persons making them and the amount paid by each. The Department of Administration may pay [THE SUM OF \$35 A MONTH] to a resident without funds the sum of \$100 per month.

\* Sec. 3. AS 47.25.030 is amended by adding new subsections to read:

*In people not destitute*  
(b) The Department of Administration shall adopt regulations establishing a daily or monthly rate for the compensation a resident is to be charged under (a) of this section. The commissioner of administration shall review the rate each year.

(c) The Department of Administration shall provide to all residents of the Pioneers' Home written notice of any proposed increase in the rate charged for care and support of persons at the home. Notice under this section shall be given not less than 60 days before an

increase is adopted. The notice shall include the time, date, and place of a hearing to be held by the Department of Administration under (d) of this section.

(d) Not less than 30 days before a proposed rate increase is adopted, the Department of Administration shall conduct a hearing at which interested persons shall be given the opportunity to submit written or oral testimony, statements, arguments or contentions relating to the proposed rate increase. The department shall consider all relevant matter presented to it before adopting a rate increase.

\* Sec. 4. AS 47.25.070 is repealed and reenacted to read:

Sec. 47.25.070. INDEBTEDNESS OF <sup>[BENEFICIARY]</sup> PIONEERS' HOME RESIDENT TO STATE. (a) The following expenses incurred for a <sup>[person]</sup> pioneers' home resident under AS 47.25.010 - 47.25.110 and not recoverable from a collateral source are a debt of the resident to the state and may be recover during the life of the <sup>[beneficiary]</sup> resident:

(1) costs of standard or nursing care provided in the Pioneers' Home each month to the <sup>[beneficiary]</sup> resident not exceeding the rate established by the Department of Administration under AS 47.25.030, with credit given for any amounts paid by or collected from the <sup>[beneficiary]</sup> resident;

(2) allowances paid under AS 47.25.020(c);

(3) costs of hospitalization and medical treatment provided outside the Pioneers' Home;

(4) arrearages in fees for television and telephone services provided in the Pioneers' Home;

(5) prescription medicine; and

(6) burial and related expenses.

(b) The debt is a first, prior and preferred claim against the estate of the <sup>[beneficiary]</sup> Pioneers' Home resident after the resident's death, and

1 after all claims for food, clothing, fuel, shelter, medical aid, or  
2 burial expenses are paid. Heirlooms without regard to value are  
3 exempt from a claim by the state under this section.

4 (c) Money left in charge of the Department of Administration by  
5 a deceased resident of the Pioneers' Home may be used for the burial  
6 and funeral expenses of the resident and for the improvement of the  
7 burial plot of the Pioneers' Home. <sup>[Alaska]</sup>

8 (d) The clothing and other personal effects left by a deceased  
9 Pioneers' Home resident <sup>[of the home]</sup> may be used for the benefit of other resi-  
10 dents, or may be given to relatives or to persons designated by the  
11 resident, or sold and the proceeds applied in the manner provided for  
12 money left by a deceased resident.

13 (e) In this section, "heirloom" means personal property of  
14 sentimental value to a Pioneers' Home resident that has been in the  
15 possession of the resident's family <sup>[beneficiary]</sup> or was a gift to the resident. <sup>[beneficiary]</sup>

16  
17 [for 10 years or more]

POSITION PAPER

H.B. 503


This bill increases the monthly stipend paid to certain qualified residents (who are otherwise without funds) of Alaska's Pioneers' Homes from the current \$35 to \$100. The current \$35 stipend is clearly too little and therefore, an increase is indicated.

This bill would also amend the statutes by removing an existing six percent (6%) interest penalty on unpaid expenses incurred, at a Pioneers' Home by a resident, and collectable from the beneficiary(s) of a resident's estate. This bill would moreover establish an exemption for personal property of a value of not more than \$10,000 from any claim, by the State, against a resident's estate for unpaid expenses incurred at a Pioneers' Home.

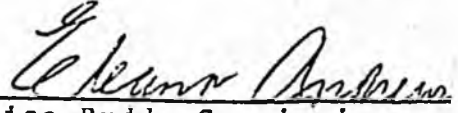
Sixty-one residents, or just under 10% of all residents of the Pioneers' Home system presently receive the \$35 stipend. However, the full effect of the recent monthly rate increase to residents has not yet been felt, and it is anticipated that the estimates of stipend costs for FY 85 are more accurately reflected in the operating budget which includes funds for 154 persons (\$63,000). The Division of Pioneers' Benefits estimates that, should this bill become law, the number of residents who would qualify for the monthly stipends would be increased to as many as 165 residents, due to more people having less than \$100 in monthly income. \$100 is a 286% increase over the current \$35.

The Department of Administration is opposed to the language eliminating the six percent (6%) interest against unpaid expense incurred at Pioneers' Homes and is also opposed to a \$10,000 exemption to personal property. The department would prefer language expressly exempting certain types of personal property without regard to value. Such personal property may have a value beyond any monetary consideration to the beneficiary(s) of the resident.

The department supports increasing the monthly stipend to somewhere between \$75 to \$100.

  
\_\_\_\_\_  
E. Louis Keller, Director  
Division of Pioneers' Benefits

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
for Lisa Rudd, Commissioner  
Department of Administration

  
\_\_\_\_\_  
Date

Stepend - (FY 85)

FY 85 Budget (Govt. Allowance)		C.S.S. H. B. 503 <del>Stepend</del> ② \$100/wk.		Amount of Increase
No. Persons	Amount	No. Persons	Amount	
Auch. 56	\$ 23,700	60	\$ 72,000	\$ 48,300
Ebx. 25	10,500	27	32,400	21,900
Ketch. 8	3,500	9	10,800	7,300
Palmer 40	16,800	42	50,400	33,600
Sitta 25	10,500	27	32,400	21,900
<b>Totals 154</b>	<b>\$ 65,000</b>	<b>165</b>	<b>\$ 198,000</b>	<b>\$ 133,000</b>

Introduced: 2/6/84  
Referred: State Affairs and  
Finance

BY UEHLING, FURNACE,  
RINGSTAD, BARNES, GOLL,  
CLOCK SIN AND LINDAUER

1 IN THE HOUSE

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 503

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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11 excess of \$100 per [\$35 A] month may be required by the Department of  
12 Administration to pay the excess to the Department of Administration  
13 immediately upon receipt of the money in payment, or part payment, of  
14 the cost of the person's [HIS] maintenance.

15 \* Sec. 2. AS 47.25.020(c) is amended to read:

16 (c) At the end of each month the payments made under (b) of this  
17 section shall be transmitted to the commissioner of revenue together  
18 with the names of the person; making them and the amount paid by each.  
19 The Department of Administration may pay [THE SUM OF \$35 A MONTH] to a  
20 resident without funds the sum of \$100 per month.

21 \* Sec. 3. AS 47.25.030 is amended by adding new subsections to read:

22 (b) The Department of Administration shall adopt regulations  
23 establishing a daily or monthly rate for the compensation a resident  
24 is to be charged under (a) of this section. The commissioner of  
25 administration shall review the rate each year.

26 (c) The Department of Administration shall provide to all resi-  
27 dents of the Alaska Pioneers' Home written notice of any proposed  
28 increase in the rate charged for care and support of persons at the  
29 home. Notice under this section shall be given not less than 60 days

1 before an increase is adopted. The notice shall include the time,  
2 date, and place of a hearing to be held by the Department of Adminis-  
3 tration under (d) of this section.

4 (d) Not less than 30 days before a proposed rate increase is  
5 adopted, the Department of Administration shall conduct a hearing at  
6 which interested persons shall be given the opportunity to submit  
7 written or oral testimony, statements, arguments or contentions relat-  
8 ing to the proposed rate increase. The department shall consider all  
9 relevant matter presented to it before adopting a rate increase.

10 \* Sec. 4. AS 47.25.070 is repealed and reenacted to read:

11 Sec. 47.25.070. INDEBTEDNESS OF BENEFICIARY TO STATE. (a) The  
12 following expenses incurred for a person under AS 47.25.010 - 47.25.-  
13 110 are a debt to the state and may be recovered during the life of  
14 the beneficiary:

15 (1) costs of standard or nursing care provided each month  
16 to the beneficiary in the Pioneers' Home not exceeding the rate estab-  
17 lished by the Department of Administration under AS 47.25.030, with  
18 credit given for any amounts paid by or collected from the benefi-  
19 ciary;

20 (2) allowances paid under AS 47.25.020(c);

21 (3) costs of hospitalization and medical treatment provided  
22 outside the Pioneers' Home;

23 (4) arrearages in fees for television and telephone ser-  
24 vices provided in the Pioneers' Home;

25 (5) prescription medicine; and

26 (6) burial and related expenses.

27 (b) The debt is a first, prior and preferred claim against the  
28 estate of the beneficiary after the beneficiary's death, and after all  
29 claims for food, clothing, fuel, shelter, medical aid, or burial

1 expenses are paid. Heirlooms without regard to value are exempt from  
2 a claim by the state under this section.

3 (c) Money left in charge of the Department of Administration by  
4 a deceased resident of the Pioneers' Home may be used for the burial  
5 and funeral expenses of the deceased resident and for the improvement  
6 of the burial plot of the Alaska Pioneers' Home.

7 (d) The clothing and other personal effects left by a deceased  
8 resident of the home may be used for the benefit of other residents,  
9 or may be given to relatives or sold and the proceeds applied in the  
10 manner provided for money left by a deceased resident.

11 (e) For purposes of this section, "heirloom" means personal  
12 property of sentimental value to a beneficiary that has been in the  
13 possession of the beneficiary's family for 10 years or more or was a  
14 gift to the beneficiary.



Original sponsors: Hayes, Hurlbert,  
Adams, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 504 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the teacher scholarship loan  
7 program; and providing for an effective date."

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

9 \* Section 1. AS 14.43 is amended by adding new sections to read:

10 ARTICLE 7. TEACHER SCHOLARSHIP LOAN PROGRAM.

11 Sec. 14.43.600. FINDINGS AND INTENT. (a) The legislature finds  
12 that there is a wide and unacceptable disparity between the distribu-  
13 tion of Native teachers and Native students in rural elementary and  
14 secondary schools in the state. Many rural schools have virtually no  
15 Native teachers and no non-Native students. The undesirable effects  
16 of this disparity include the following:

17 (1) there is a serious weakness in the ability of teaching  
18 staffs in rural schools to foster a sense of Native traditions and  
19 cultures in the Native students;

20 (2) many rural students are forced to exist in two entirely  
21 separate situations: the essentially traditional atmosphere of many  
22 Native homes, and the essentially modern atmosphere of the classroom;

23 (3) almost no Native students return to rural schools to  
24 teach, continuing the imbalance and exacerbating its effects; and

25 (4) there is an annual turnover of 40 percent among teach-  
26 ers in rural educational attendance areas in the state.

27 (b) The legislature further finds that existing programs have  
28 failed to increase the proportion of Natives teaching in rural  
29 schools. Therefore, it is the intent of the legislature to establish

1 the teacher scholarship loan program to encourage rural high school  
2 graduates to return to rural schools as teachers and relieve the  
3 conditions described in this section.

4 Sec. 14.43.610. PROGRAM ESTABLISHED. There is established the  
5 teacher scholarship loan program to provide an incentive for rural  
6 high school graduates to pursue teaching careers in rural elementary  
7 and secondary schools in the state.

8 Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There  
9 is created a teacher scholarship revolving loan fund. The fund shall  
10 be used to make scholarship loans to students selected under AS 14.-  
11 43.600 - 14.43.700. All repayments of principal and interest on  
12 teacher scholarship loans shall be paid into the teacher scholarship  
13 revolving loan fund and shall be used to make new teacher scholarship  
14 loans. If estimated funds available from teacher scholarship loan  
15 repayments are inadequate to fully fund estimated teacher scholarship  
16 loans for any fiscal year, additional funding from the general fund  
17 may be requested and appropriated for that year.

18 Sec. 14.43.630. ADMINISTRATION. (a) The teacher scholarship  
19 loan program shall be administered by the student financial aid com-  
20 mittee (AS 14.43.095) in accordance with regulations adopted by the  
21 committee. The committee shall

22 (1) allocate the loan awards available for teacher scholar-  
23 ship loans annually to local school boards giving a preference to  
24 rural school districts; and

25 (2) develop and distribute to the local school boards an  
26 application form for teacher scholarship loans; the form shall include  
27 a requirement that the applicant supply a high school academic trans-  
28 cript and a statement of intent to enter a teaching career at the  
29 elementary or secondary school level in the state.

1 (b) The local school boards shall select the recipients of the  
2 teacher scholarship loans according to the criteria in AS 14.43.650.

3 Sec. 14.43.640. CONDITIONS OF LOANS. (a) The conditions pro-  
4 vided in AS 14.43.120 apply to teacher scholarship loans except as  
5 otherwise provided in this section.

6 (b) If a borrower meets the conditions provided in (a) of this  
7 section and is employed as a teacher in a rural elementary or second-  
8 ary school, the portion of the loan that shall be paid by the state,  
9 notwithstanding AS 14.43.120(j), is the following percentages of the  
10 total loan received plus interest up to a total of 100 percent of the  
11 total loan:

- 12 (1) one year employment, 15 percent;
- 13 (2) two years employment, an additional 15 percent;
- 14 (3) three years employment, an additional 15 percent;
- 15 (4) four years employment, an additional 25 percent;
- 16 (5) over four years employment, an additional 30 percent.

17 (c) A loan may not exceed \$10,000 in a school year.

18 (d) Proceeds from a teacher scholarship loan may be used only  
19 for undergraduate expenses of books, tuition, required fees, room and  
20 board, and the transportation expense for two round trips between the  
21 loan recipient's home and school.

22 Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a  
23 teacher scholarship loan, a student must

24 (1) be a graduate of a public or private high school in the  
25 state, with sufficient credits to be admitted to an accredited college  
26 or university;

27 (2) be enrolled in or show evidence of intent to enroll in  
28 a degree program directed at a teaching career at the elementary or  
29 secondary school level;

1 (3) meet the conditions set by the student's local school  
2 board with respect to the district's requirements for teachers in  
3 particular subject areas; and

4 (4) submit to the local school board an application pro-  
5 vided by the student financial aid committee under AS 14.43.630(a)(3);  
6 an application may be submitted six months before graduation from high  
7 school.

8 (b) A local school board shall award teacher scholarship loans  
9 giving a preference to applicants from rural schools who meet the  
10 qualifications for a loan and taking into account the applicants'  
11 academic records.

12 (c) A student may not be awarded a scholarship loan under  
13 AS 14.43.090 - 14.43.150 and a teacher scholarship loan under AS 14.-  
14 43.600 - 14.43.700 for the same school year.

15 Sec. 14.43.700 DEFINITION. In AS 14.43.600 - 14.43.700, "rural"  
16 means a community in the state with a population of 4,500 or less.

17 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
18 10.070(c).

# HOUSE JOURNAL

HOUSE FINANCE COMMITTEE  
LETTER OF INTENT  
FOR  
COMMITTEE SUBSTITUTE FOR HOUSE BILL 504 (FINANCE)

It is the intent of the legislature that rural students who are/were displaced from their communities because of (a) inadequate school facilities, (b) by Division of Family and Youth Services (State of Alaska, Department of Health and Social Services), (c) health reasons, or (d) who have elected to or were required to attend a school in an urban setting, will be given the same preference as indicated in AS 14.43.650(b), added by Section 1 of this bill. The local school board shall select these students on a case-by-case basis.



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Al Adams, Chairman  
House Finance Committee

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 3-20-84

REQUEST

Bill/Resolution No.: CSHB504 (FIN)  
Title: Teacher Scholarship

FISCAL DETAIL

Agency Affected: Education  
Program Category Affected: Postsecondary  
Commission

Loans  
Sponsor: Hayes, Hurlbert, et. al.  
Requestor: House Finance  
Date of Request: 3-20-84

BRU, Program or Subprogram(s) Affected:  
Scholarship Loan Fund

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL	N.A.	164.5	348.8	554.6	783.7	830.8
REVENUE	N.A.	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	164.5	348.8	554.6	783.7	830.8
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kerry D. Romesburg, Executive Director Phone: 465-2854  
Division: Alaska Commission on Postsecondary Ed. Date: 3-20-84

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

12/1/83

FISCAL ANALYSIS  
CSHB504

March 20, 1984

1. Estimated number of teacher scholarship loans available:

FY85	80
FY86	160
FY87	240
FY88	320
FY89	320

2. Since a student may not borrow both a teacher loan and a standard student loan, much of the cost would be off-set. The only addition, other than travel, would be for those eligible costs exceeding \$6,000. This is estimated to be \$2,500 for 25 students in FY85, and then is carried forward with a 6% inflation in future years. The result for costs, other than travel are:

FY85	\$ 62.5	FY87	\$210.7	FY89	\$315.7
FY86	\$132.5	FY88	\$297.8		

3. Travel estimated costs are compiled upon the assumption that half the students each year will attend in-state, and half will attend out-of-state. Two roundtrip airline trips have been projected from various Alaska sites to the following locations: Anchorage, Fairbanks, Portland, Phoenix, and Los Angeles. The additional travel costs are:

FY85	\$102.2	FY87	\$343.9	FY89	\$515.1
FY86	\$216.3	FY88	\$485.9		

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

*Rec'd  
5-2-84*

Revision Date: 5/1/84

REQUEST

Bill/Resolution No.: SCSCSHB 504  
Title: Teacher Scholarship Loans

Sponsor: Hayes, Hurlbert, et. al.  
Requestor: Senate Finance  
Date of Request: 5/1/84

FISCAL DETAIL

Agency Affected: Education  
Program Category Affected: Postsecondary  
Education Commission

BRU, Program or Subprogram(s) Affected: Scholarship Loan Fund

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL	N.A.	90.1	191.0	310.2	439.9	466.3
REVENUE	N.A.	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
GENERAL FUND	N.A.	90.1	191.0	310.2	439.9	466.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kerry D. Romesburg, *[Signature]* Executive Director Phone: 465-2854  
Division: Alaska Commission on Postsecondary Ed. Date: 5/1/84

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
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12/1/83

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SCSCSHB504

May 1, 1984

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FY85	\$37.5	FY87	\$126.4	FY89	\$189.4
FY86	\$79.5	FY88	\$178.7		

3. Travel estimated costs are compiled upon the assumption that half the students each year will attend in-state, and half will attend out-of-state. Two roundtrip airline trips have been projected from various Alaska sites to the following locations: Anchorage, Fairbanks, Portland, Phoenix, and Los Angeles. The additional travel costs are:

FY85	\$ 52.6	FY87	\$183.8	FY89	\$276.9
FY86	\$111.5	FY88	\$261.2		

LETTER OF INTENT  
HB504

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16 of this disparity include the following:

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8 Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There  
9 is created a teacher scholarship revolving loan fund. The fund shall  
10 be used to make scholarship loans to students selected under AS 14.-  
11 43.600 - 14.43.700. All repayments of principal and interest on  
12 teacher scholarship loans shall be paid into the teacher scholarship  
13 revolving loan fund and shall be used to make new teacher scholarship  
14 loans. If estimated funds available from teacher scholarship loan  
15 repayments are inadequate to fully fund estimated teacher scholarship  
16 loans for any fiscal year, additional funding from the general fund  
17 may be requested and appropriated for that year.

18 Sec. 14.43.630. ADMINISTRATION. (a) The teacher scholarship  
19 loan program shall be administered by the student financial aid com-  
20 mittee (AS 14.43.095) in accordance with regulations adopted by the  
21 committee. The committee shall

22 (1) allocate the loan awards available for teacher scholar-  
23 ship loans annually to local school boards giving a preference to  
24 rural school districts; and

25 (2) develop and distribute to the local school boards an  
26 application form for teacher scholarship loans; the form shall include  
27 a requirement that the applicant supply a high school academic trans-  
28 cript and a statement of intent to enter a teaching career at the  
29 elementary or secondary school level in the state.

1 (b) The local school boards shall select the recipients of the  
2 teacher scholarship loans according to the criteria in AS 14.43.650.

3 Sec. 14.43.640. CONDITIONS OF LOANS. (a) The conditions pro-  
4 vided in AS 14.43.120 apply to teacher scholarship loans except as  
5 otherwise provided in this section.

6 (b) If a borrower meets the conditions provided in (a) of this  
7 section and is employed as a teacher in a rural elementary or sec-  
8 ondary school, the portion of the loan that shall be paid by the state,  
9 notwithstanding AS 14.43.120(j), is the following percentages of the  
10 total loan received plus interest up to a total of 100 percent of the  
11 total loan:

- 12 (1) one year employment, 15 percent;
- 13 (2) two years employment, an additional 15 percent;
- 14 (3) three years employment, an additional 15 percent;
- 15 (4) four years employment, an additional 25 percent;
- 16 (5) over four years employment, an additional 30 percent.

17 (c) A loan may not exceed \$10,000 in a school year.

18 (d) Proceeds from a teacher scholarship loan may be used only  
19 for undergraduate expenses of books, tuition, required fees, room and  
20 board, and the transportation expense for two round trips between the  
21 loan recipient's home and school.

22 Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a  
23 teacher scholarship loan, a student must

24 (1) be a graduate of a public or private high school in the  
25 state, with sufficient credits to be admitted to an accredited college  
26 or university;

27 (2) be enrolled in or show evidence of intent to enroll in  
28 a degree program directed at a teaching career at the elementary or  
29 secondary school level;

1 (3) meet the conditions set by the student's local school  
2 board with respect to the district's requirements for teachers in  
3 particular subject areas; and

4 (4) submit to the local school board an application pro-  
5 vided by the student financial aid committee under AS 14.43.630(a)(3);  
6 an application may be submitted six months before graduation from high  
7 school.

8 (b) A local school board shall award teacher scholarship loans  
9 giving a preference to applicants from rural schools who meet the  
10 qualifications for a loan and taking into account the applicants'  
11 academic records.

12 (c) A student may not be awarded a scholarship loan under  
13 AS 14.43.090 - 14.43.160 and a teacher scholarship loan under AS 14.-  
14 43.600 - 14.43.700 for the same school year.

15 Sec. 14.43.700 DEFINITION. In AS 14.43.600 - 14.43.700, "rural"  
16 means a community in the state with a population of 4,500 or less.

17 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
18 10.070(c).  
19  
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27  
28  
29

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 3/15/84

REQUEST

Bill/Resolution No.: CSHB 504 (LOANS)  
Title: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Education  
Program Category Affected: Postsecondary  
Commission  
BRU, Program or Subprogram(s) Affected:  
Scholarship Loans

Sponsor: Hayes, Hurlbert, et. al.  
Requestor: House Finance  
Date of Request: 3-14-84

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	62.5	132.5	210.7	297.8	315.7
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kerry D. Romesha  
Division: Commission on Postsecondary Education  
Phone: 465-2854  
Date: 3/15/84

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

12/1/83

CSHB 504 Fiscal Analysis

1. Estimated number of teacher scholarship loans available

FY 85	80
FY 86	160
FY 87	240
FY 88	320
FY 89	320

2. Since a student may not borrow both a teacher loan and a standard student loan, much of the cost would be off-set. The only addition would be for those eligible costs exceeding \$6,000. This is estimated to be an average of \$2,500 for 25 students in FY 85, and then this is carried forward with a 6% inflation for future years.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 3/15/84

REQUEST

Bill/Resolution No.: CSHB 504 (LOANS)  
Title: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Education  
Program Category Affected: Postsecondary  
Commission

Sponsor: Hayes, Hurlbert, et. al.

BRU, Program or Subprogram(s) Affected:

Requestor: House Finance

Scholarship Loans

Date of Request: 3-14-84

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	62.5	132.5	210.7	297.8	315.7
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kerry D. Romesburg

Phone: 465-2854

Division: Commission on Postsecondary Education

Date: 3/15/84

Approved by Commissioner: \_\_\_\_\_

Date: \_\_\_\_\_

Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

CSHB 504 Fiscal Analysis

1. Estimated number of teacher scholarship loans available

FY 85	80
FY 86	160
FY 87	240
FY 88	320
FY 89	320

2. Since a student may not borrow both a teacher loan and a standard student loan, much of the cost would be off-set. The only addition would be for those eligible costs exceeding \$6,000. This is estimated to be an average of \$2,500 for 25 students in FY 85, and then this is carried forward with a 6% inflation for future years.

## SECTIONAL ANALYSIS OF CS HB 504 (LOANS)

Title: "An Act establishing the teacher scholarship loan program"

Findings and Intent. Lays out the rationale for establishing a program of scholarship loans for prospective teachers for rural schools.

Program and Fund Established. Creates the teacher scholarship revolving loan fund consisting of appropriations from the legislature and loan repayments.

Administration. States that the program will be administered by the Alaska Commission on Postsecondary Education. Gives local school boards the authority to select the students, but leaves administration of the actual loans to the Commission.

Conditions of Loans (Forgiveness and Maximum Loan Amount. If a borrower returns to teach in a rural school, the borrower becomes eligible to receive up to 100% forgiveness instead of the 50% available through the regular student loan program. The schedule for forgiveness is: one year employment -- 15%; two years -- 30%; three years -- 45%; four years -- 70%; over four years -- 100%.

A loan may not exceed \$10,000 per school year.

Selection (Eligibility) Criteria. Establishes eligibility criteria for borrowers as follows: (1) the student must be a graduate of an Alaskan high school with enough credits for admittance to an accredited college or university; (2) show evidence of seeking a teacher's degree; (3) meet the conditions set by the student's local school board relative to teacher requirements; and (4) submit a loan application.

School boards are required to award loans giving a preference to applicants from rural schools and by taking into account the student's academic record.

A student cannot borrow through this program and the regular student loan program at the same time.

Definition of Rural. "Rural" is defined as a community in the 2nd, 3rd, or 4th judicial district with 4,500 or less population not connected by road or rail to Anchorage or Fairbanks or in the 1st judicial district if 4,500 or less population (no road or rail requirement).

*Loans C.S. (*  
*The ~~original~~ before us today is*  
*referred to in this memorandum*  
*as version #2.*  
*in House Finance*

**DEPARTMENT OF LAW**  
OFFICE OF THE ATTORNEY GENERAL

March 13, 1984

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600  
465-3603

The Honorable Rick Uehling  
Representative  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: Review of draft committee  
substitutes for HB 504

Dear Representative Uehling:

You have asked us to review two versions of draft committee substitutes for HB 504 and follow up on our memorandum of February 6 on the original HB 504.

In our memorandum of February 6, we identified three provisions of HB 504 that were subject to challenge under the equal protection clauses of the United States or Alaska constitutions. These were the provisions which (1) established a racial quota in the distribution of the loans; (2) excluded graduates of and teachers in private high schools from participation in the program; and (3) limited the availability of total forgiveness to teachers who teach in the district from which they graduated.

Both draft versions of the committee substitute we have reviewed eliminate the potential equal protection problems created by (2) and (3) above. Version #2 also eliminates the problem in (1). Version #1 is discussed below.

In our February 6 memorandum, we briefly discussed the analyses that the U.S. and Alaska Supreme Courts would apply in addressing legislation which makes a classification based on race or ethnicity. The critical step in either analysis is the determination of whether the ends sought to be achieved by the legislation could be achieved by any less discriminatory means. In HB 504, § 650 created a racial quota; that is, loans were required to be distributed strictly in proportion to the distribution of ethnic groups among eligible students. Version #1 has changed § 650 to eliminate the quota and require that

The Honorable Rick Uehling  
Representative  
Re: HB 504

March 13, 1984  
Page 2

loans be awarded "giving a preference to Natives" who are qualified. This is less restrictive than the original provision, in that it does not establish an inflexible rule of distribution on the basis of race, but only requires that a preference be given to Natives. However, courts have still found "preferences" to be discriminatory, 1/ and a racial preference would be subject to the same rigorous analysis as a racial quota, i.e., are there any less discriminatory means of achieving the legislation's identified goals? Only if the answer to that question is "no", will a racial preference be upheld. 2/

Please let us know if we can be of any further assistance.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By: *Linda Scoccia*  
Linda Scoccia  
Assistant Attorney General

LS:gmw

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1/ In a very recent case, United Bldg. & Constr. Trades Council v. Mayor and Council of the City of Camden, \_\_\_\_\_ U.S. \_\_\_\_\_, No. 81-2110, February 21, 1984, the United States Supreme Court examined an ordinance which originally required that at least 40% of contractors and subcontractors working on city construction projects be Camden residents. During the course of the appeal the ordinance was amended, and by the time the case was heard by the Supreme Court the 40% resident hiring requirement was changed from a strict quota to simply a "goal" with which good faith efforts of compliance were required. The court still found that the ordinance discriminates against out-of-state residents and remanded the case for determination of whether facts exist which would justify the discrimination.

2/ In Fullilove v. Klutznick, 448 U.S. 448, 100 S.Ct. 2758, 65 L.Ed. 2d 902 (1980), the Supreme Court upheld a law that provided a 10% preference for minority businesses in the award of certain public contracts. The Court found that the purpose of the law was to remedy the present effects of past discrimination which had denied minority businesses effective participation in public contracting opportunities, and that traditional procurement practices, without the requirement of minority preference, would perpetuate the effects of past discrimination.

# STATE OF ALASKA THE LEGISLATURE

## LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

February 24, 1984

SUBJECT: Affirmative action--teacher  
scholarship loan program  
(CSHB 504 (HESS))

TO: Representative Rick Uehling

FROM: Keith B. Levy *KBL*  
Legislative Counsel

You have requested an opinion on the constitutional issues raised by CSHB 504 (HESS). As you are aware, any legislation which creates classifications based on race or ethnic background will be subject to close judicial scrutiny if challenged in the courts. In establishing the teacher scholarship loan program, the bill creates a racial classification and could therefore be subject to challenge. Although I believe that the bill could withstand a constitutional challenge, it does raise a number of significant constitutional issues.

In University of California Regents v. Bakke, 438 U.S. 265, 57 L.Ed.2d 750 (1978) the United States Supreme Court issued a divided opinion on the subject of "affirmative action". While no five justices could agree on a single opinion, the opinion of the Court lends some guidance to future treatment of affirmative action programs.

Bakke, a white male, was denied admission to a medical school run by the state and he challenged the state's admission procedures as violative of the Equal Protection clause of the Fourteenth Amendment to the United States Constitution. The school accepted a quota of a certain percentage of minority students. Bakke claimed that this constituted unfair racial discrimination in violation of the federal constitution. The Court ruled that racial and ethnic distinctions are subject to strict scrutiny, but a preferential classification using race as a factor would not be unconstitutional. However, a preferential classification establishing a racial quota would be unconstitutional unless it is

precisely tailored to serve a compelling governmental interest. Moreover, the burden is on the state to prove that the quota meets this criterion.

Under this test, the Court struck down the school's admission procedure saying that the state had failed to establish a compelling interest on which to justify the racial quota. In doing so, the Court rejected several of the state's justifications for the program. Specifically, the medical school's racial quota could not be justified: (1) solely to insure that the school contained a certain percentage of racial minorities; (2) to increase the number of physicians practicing in underserved areas, since the state couldn't prove that the program was likely to have that result; or (3) to counter the effects of "social discrimination" generally. The only justification for such an affirmative action program would be to counter the effects of specific identified discrimination, the Court said.

In a more recent case, Fullilove v. Klutznick, 448 U.S. 448, 65 L.ED.2d 902 (1980), the United States Supreme Court upheld a racial quota in the Federal Public Works Employment Act of 1977. The "minority business enterprise" provision of the Act required a minimum of 10 percent of federal funds granted for local public works projects to be used to contract with businesses owned by "minority group members." As in Bakke, no five members of the Court in Fullilove could agree on a single opinion. But the opinion of the Court stated that Congress could use a racial quota to avoid perpetuation of the effects of prior discrimination. The decision indicates that the court is leaning toward approval of affirmative action programs aimed at relieving the effects of past discrimination.

There are two provisions in the teacher scholarship loan program which raise the "affirmative action" problem. AS 14.43.630, added by section 1 of the bill, provides that the funds available for the loans shall be distributed to the local school boards by "giving a preference to school districts with a high percentage of Native students and a low percentage of Native teachers.

AS 14.43.650(b), also added by the bill, requires the local school boards to award teacher scholarship loans "giving a preference to Native students that meet the qualifications for a loan." Since both of these provisions merely give a preference to Native students, rather than establishing a

Representative Rick Uehling  
Page 3  
February 24, 1984

quota, they stand a good chance of surviving a constitutional attack under the Bakke decision.

However even the Native preference provisions will be given strict scrutiny by the Court if challenged. To withstand the challenge, the legislature will have the burden of showing that the provisions are aimed at a compelling state interest, e.g., remedying past racial discrimination. The state would also have to prove that the provisions are precisely tailored to do this.

Under the apparent rationale of the Bakke decision, the legislature would have to show that the Native preference is aimed at relieving actual past discrimination in the hiring of Native teachers and that it would actually have the effect of relieving the results of that discrimination. Moreover, the court would probably not accept the legislature's mere claims of past discrimination; the state would have to show evidence of such discrimination. Assuming that the state can make this showing, however, the teacher scholarship loan program would probably survive judicial scrutiny.

If the legislature wishes to circumvent the potential constitutional problems altogether, I would recommend removing the Native preference and substituting a preference for rural areas, or something to that effect. Removing the racial classification would have the effect of changing the test the Court would use if the provisions were challenged. If the classification were rural rather than racial, the Court would only require that the classification have a "rational basis", rather than a "compelling state interest", required under the strict scrutiny test. The rational basis test requires only that the state show that the legislation is rationally related to some legitimate end. It is a very easy burden for the state to meet, as opposed to the compelling interest standard which is very difficult to satisfy.

In conclusion, CSHB 504 (HESS) presents some significant constitutional problems, which may or may not survive a legal challenge. To remove the constitutional issues altogether, the legislature could use some classification other than the present preference for Natives, such as a rural classification.

KBL:ojb  
J4/002



*Called and explained to him that there is no problem.*  
-L

Fortuna Ledge P. O.

(907) 679-6112

Marshall, Alaska 99585

February 23, 1984

The Honorable Representatives Hayes, Hurlbert, Adams, Abood, Barnes, Bussell, Cato, Cowdery, Davis, Fuller, Furnace, Grussendorf, Herrmann, Koponen, Lindauer, Liska, Malone, Martin, M.W. Miller, Ringstad, Shultz, Szymanski, Uehling, Ward, Zharoff, Fritz, Bettisworth and McBride  
House of Representatives  
State of Alaska  
Juneau, Alaska 99801

Dear Committee Members:

At our recent Advisory School Board Meeting we reviewed the proposed House Bill No. 504, regarding State educational loans. We found the findings and intent portion of the Bill to be not only true, but also stating concerns we have discussed often. As we continued with the reading of the Bill, however, we found that section 14.43.650, Selection Criteria, has restricted a group of highly desirable potential teachers from being eligible.

We are pleased that graduating students may have the financial help needed to continue their education and feel the State of Alaska is very generous in providing funds for them. However, we feel the Bill overlooks those former graduates who, for whatever reason, decided to put off going to college for a year or two. There are many capable and desirable people in this group who have worked other available jobs and now have the maturity and drive needed to continue their education. But then now find they lack adequate financial help.

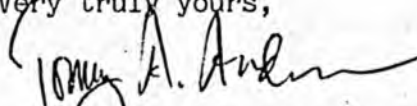
The most noteworthy group being excluded from House Bill 504, we feel, are those individuals who have gained experience working in our schools as classroom aides. Many are highly capable aides with high potential for making excellent teachers. House Bill 504 with its recent six month graduate restriction eliminates this highly desirable group.

Letter to House of Representatives  
House Bill No. 504  
Page two

It is our hope that the committee re-assess the Selection Criteria outlined in House Bill 504 and change the recent graduate requirement to allow for these highly desirable individuals.

Thank you for your time and consideration on this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tommy A. Andrew". The signature is written in a cursive style with a large, looped initial "T".

Tommy A. Andrew, Chairperson  
Advisory School Board

TAA:te

STATE OF ALASKA  
**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

February 6, 1984

**BILL SHEFFIELD, GOVERNOR**

REPLY TO:

1031 W 4th AVENUE  
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SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

465-3603

The Honorable Mae Tischer  
Alaska State House  
Pouch V  
Juneau, AK 99811

Dear Representative Tischer:

You have asked us to review HB 504, "[a]n Act establishing the teacher scholarship loan program." This bill raises several constitutional and legal questions which we briefly address below.

Several provisions of this proposed legislation are subject to challenge under the equal protection clauses of the United States or Alaska Constitutions. These concern (1) the establishment of racial quotas in loan distribution; (2) the exclusion of graduates of private high schools, and (3) the limitation of total forgiveness to teachers who teach in the district from which they graduated. Another constitutional issue raised by this bill concerns the prohibition against dedicated funds.

The United States Supreme Court has adopted a "two-tiered" analysis for evaluating most legislative classifications challenged under the federal equal protection clause. A classification which is "suspect" or impinges upon a "fundamental right" is subject to "strict scrutiny." A law that makes a classification based on race or ethnicity is "suspect" and, consequently, will be closely examined by the court to determine whether (1) it is supported by a compelling state interest, and (2) whether the racial or ethnic classification is necessary to promote that state interest. The first equal protection issue identified above would be analyzed under this test. The second and third do not involve suspect classifications or fundamental rights and, therefore, under federal law would be subjected to the less demanding standard of whether (1) the classification promotes a legitimate state interest, and (2) whether the means chosen to achieve that interest is rational.

The Honorable Mae Tischer  
Representative  
Re: HB 504

February 6, 1984  
Page 2

The Alaska Supreme Court has adopted a single standard of review for equal protection questions arising under the Alaska Constitution which is more rigorous than the federal "rational basis" test and, in areas involving suspect classifications and fundamental rights, is comparable to the federal standard. The Alaska Supreme Court would inquire as to the purposes of the statute and the circumstances surrounding it to determine whether those purposes are legitimate and fall within the police power of the state. Then the court would determine whether the means chosen "substantially furthers the goals of the enactment." Finally, the court would balance the state interest in the chosen means against the nature of the constitutional right involved. State v. Erickson, 574 P.2d 1, 12 (Alaska 1978); Isakson v. Rickey, 550 P.2d 359 (Alaska 1976).

Under section 650(b), the award of loans is to be "in direct proportion to the distribution of ethnic groups" among eligible students. This provision establishes a racial quota and would be subject to close examination under both federal and state law.

We have serious reservations regarding the ability of the bill to survive an equal protection challenge, under either the federal or state analyses described above, to the ethnic classification of § 650(b). Even if the court were to find the purposes of the bill, as expressed in sections 600 and 610 to be compelling ones, which cannot be assumed, the court would closely scrutinize the means chosen to achieve those ends. Since the means employ ethnic criteria, the bill would fall if the court were to find that the ends could be achieved by less discriminatory means. An example may be helpful. In a school district with 90 percent Alaska Natives, and 10 percent non-Natives, if there were 10 loans to be awarded, nine would be available for distribution to Alaska Native students and one for a non-Native student. If only eight Alaska Natives and two non-Natives applied for loans, the bill would require that only one non-Native get a loan, despite the shortage of Alaska Native applicants. The quota in § 650(b) is not expressed as simply a preference, but as an inflexible mandate, which may not be necessary to accomplish the stated objectives. <sup>1/</sup> Of course, if it could be shown that the means employed in this legislation are

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<sup>1/</sup> This example is for illustrative purposes only and is not meant to suggest that substituting a preference for the existing quota would necessarily render it constitutionally permissible.

The Honorable Mae Tischer  
Representative  
Re: HB 504

February 6, 1984  
Page 3

essential to remedy problems identified in § 600 and 610, or problems that could be identified, 2/ the provisions of § 650(b) could be upheld.

The second equal protection issue arises with respect to the restriction of this program to graduates of public high schools. Although § 610 states that the purpose of the bill is to provide an incentive "for graduates of Alaskan high schools ...", and § 600 identifies problems found in rural schools, § 640 and 650 restrict participation to graduates of public schools, and the forgiveness benefits are only available to those who teach in public high schools. If the preservation and pedagogical use of cultural heritage and traditions, through inducement of rural students to return and teach in rural areas, is the main objective of the bill, the restriction to graduates of and teachers in public high schools would not seem to further that goal. Consequently, this provision may also be subject to challenge under state, if not federal, law.

The forgiveness provision in § 640(2) also raises equal protection concerns. Under § 640(2), total forgiveness is available only to students who return to teach in the school districts from which they graduate. Assuming the main purpose of the bill is that stated above, it would seem that a return to the general area or culture in which the student was raised would suffice to achieve it. 3/ It appears unlikely that each school district is so culturally distinct as to justify such a restriction.

---

2/ In a recent case the United States Supreme Court upheld a law that employed racial and ethnic criteria. The case involved a federal law giving a 10 percent preference for minority businesses in the award of certain contracts, with the intent of remedying the present effects of past discrimination. Before a legislative body can predicate a race-conscious remedy on redressing past discrimination, however, findings of past discrimination sufficient to justify that remedy must be made. *Valentine v. Smith*, 654 F.2d 503 (8th Cir 1981). Our brief review has uncovered no cases which sanction the use of a racial or ethnic quota where there are not factual findings that the racial imbalance sought to be remedied is due to past discrimination.

3/ Additionally, it should be considered that many rural school districts will have a limited capacity to absorb new teachers,  
(Footnote Continued)

The Honorable Mae Tischer  
Representative  
Re: HB 504

February 6, 1984  
Page 4

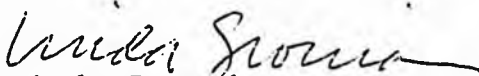
A constitutional problem of a different nature arises with respect to administration of the loan program under § 620. That section establishes the program as a revolving loan fund in which all repayments of principal and interest are put back into the fund and used to make new loans. This may contravene the constitutional prohibition against dedicated funds. Alaska Const., art IX, sec. 7. However, this department has indicated that it will defend such legislation until this issue is definitively resolved. 13 Op. Atty. Gen. Nov. 30, 1982.

We suggest, finally, that the term "ethnic minority" be defined to obviate questions of statutory interpretation that might arise as this program is implemented. For example, it is unclear whether each group in a community composed of Tlingits, Haidas, and Tsimpshians would be considered members of a single "Alaska Native" ethnic group, or whether each would be considered a distinct ethnic group.

If you have any other questions about this bill, please do not hesitate to contact us.

Sincerely yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:   
Linda Scoccia  
Assistant Attorney General

LS:jal

cc: Arthur H. Peterson

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(Footnote Continued)  
and a teacher who is unable to get a job in his or her school district of origin may be in effect penalized as a result, by being ineligible for forgiveness under § 640(b).

# MEMORANDUM

# State of Alaska

TO: The Honorable Mae Tischer  
Alaska State Representative  
Chairman, House Health  
& Social Services

DATE: February 2, 1984

FILE NO:

TELEPHONE NO: 465-2800

FROM: Harold Reynolds  
Commissioner  
Department of Education

SUBJECT: HB 504: Teacher Scholarship  
Loan Program

The State Board of Education addressed HB 504 during the State Board meeting in Juneau, January 31, 1984. The Board voted approval of the concept of a loan program to encourage Alaskan ethnic minorities to enter the teaching profession. There were several areas which they felt needed further clarification in consideration of the legislation:

1. The findings and intent focus on problems experienced in rural Alaska, but the bill would allow any ethnic minority student to be eligible, including those from the urban Alaskan districts, with forgiveness tied to that teacher returning to the district from which he came. The State Board expressed some confusion as to whether this is what was intended by the sponsors, or if the intent was to limit the loan program to just rural ethnic minority students. If it is to be limited to rural students a definition of rural students should be included in the legislation.

2. The State Board of Education felt the criteria for forgiveness was too restrictive by requiring that a student return to teach in the district from which he graduated. The district from which he graduated may have no openings when the teacher is ready to return to teach. If that student returns to teach in another Alaskan school district, other than the district from which he graduated, the State still receives the benefit of the ethnic minority in the teaching role. If it is the intent of the legislation to assure that students return to teach in rural Alaska, this might also be accomplished by expanding Sec. 14.43.640(2) to include "employed as a public school teacher in the district from which he graduated or another rural Alaskan school district." This amendment would also require that rural school district be defined in a definitions section.

3. The State Board of Education felt that the loan should be available to a student who, after completing an academic major (i.e. history, English, science), decides to return to college for a fifth year of study for the purpose of teacher training. As the legislation is currently drafted, it prohibits loans for graduate study.

4. The State Board of Education felt that the loan program should also be available to Alaskan ethnic minority students

The Honorable Mae Tischer  
February 2, 1984  
Page 2

attending high school outside the State who desire to enter the teaching profession and return to the State to teach.

The legislation appears to be an excellent step towards encouraging Alaskan ethnic minorities into the teaching profession and providing incentives to return Native Alaskans to rural areas to teach. Your consideration of the State Board of Education's recommendations is appreciated.

cc: Ernestine Griffin, President  
State Board of Education  
Rep. Joe L. Hayes  
Rep. Vernon L. Hurlbert  
Rep. Albert P. Adams  
Rep. Mitchell E. Abood, Jr.  
Rep. Ramona L. Barnes  
Rep. Charlie Bussell  
Rep. Bette Cato  
Rep. John Cowdery  
Rep. Mike Davis  
Rep. John G. "Jack" Fuller  
Rep. Walt Furnace  
Rep. Ben F. Grussendorf  
Rep. Adelheid Herrmann  
Rep. Nilo Koponen  
Rep. John Lindauer  
Rep. John L. Liska  
Rep. Hugh Malone  
Rep. Terry Martin  
Rep. Mike W. Miller  
Rep. John Ringstad  
Rep. Richard Schultz  
Rep. Mike Symanski  
Rep. Rick Uehling  
Rep. Jerry Ward  
Rep. Fred Zharoff  
Rep. Milo Fritz  
Rep. Robert H. Bettisworth  
Rep. Jack McBride

Offered: 3/14/84  
Referred: Finance

Original sponsors: Hayes, Hurlbert,  
Adams, et al

BY THE HOUSE SPECIAL  
COMMITTEE ON STATE LOANS

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 504 (Loans)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the teacher scholarship loan  
7 program."

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

9 \* Section 1. AS 14.43 is amended by adding new sections to read:

10 ARTICLE 7. TEACHER SCHOLARSHIP LOAN PROGRAM.

11 Sec. 14.43.600. FINDINGS AND INTENT. (a) The legislature finds  
12 that there is a wide and unacceptable disparity between the distribu-  
13 tion of Native teachers and Native students in rural elementary and  
14 secondary schools in the state. Many rural schools have virtually no  
15 Native teachers and no non-Native students. The undesirable effects  
16 of this disparity include the following:

17 (1) there is a serious weakness in the ability of teaching  
18 staffs in rural schools to foster a sense of Native traditions and  
19 cultures in the Native students;

20 (2) many rural students are forced to exist in two entirely  
21 separate situations: the essentially traditional atmosphere of many  
22 Native homes, and the essentially modern atmosphere of the classroom;

23 (3) almost no Native students return to rural schools to  
24 teach, continuing the imbalance and exacerbating its effects; and

25 (4) there is an annual turnover of 40 percent among teach-  
26 ers in rural educational attendance areas in the state.

27 (b) The legislature further finds that existing programs have  
28 failed to increase the proportion of Natives teaching in rural  
29 schools. Therefore, it is the intent of the legislature to establish

1 the teacher scholarship loan program to encourage rural high school  
2 graduates to return to rural schools as teachers and relieve the  
3 conditions described in this section.

4 Sec. 14.43.610. PROGRAM ESTABLISHED. There is established the  
5 teacher scholarship loan program to provide an incentive for rural  
6 high school graduates to pursue teaching careers in rural elementary  
7 and secondary schools in the state.

8 Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There  
9 is created a teacher scholarship revolving loan fund. The fund shall  
10 be used to make scholarship loans to students selected under AS 14.-  
11 43.600 - 14.43.700. All repayments of principal and interest on  
12 teacher scholarship loans shall be paid into the teacher scholarship  
13 revolving loan fund and shall be used to make new teacher scholarship  
14 loans. If estimated funds available from teacher scholarship loan  
15 repayments are inadequate to fully fund estimated teacher scholarship  
16 loans for any fiscal year, additional funding from the general fund  
17 may be requested and appropriated for that year.

18 Sec. 14.43.630. ADMINISTRATION. (a) The teacher scholarship  
19 loan program shall be administered by the student financial aid com-  
20 mittee (AS 14.43.095) in accordance with regulations adopted by the  
21 committee. The committee shall

22 (1) allocate the loan awards available for teacher scholar-  
23 ship loans annually to local school boards giving a preference to  
24 rural school districts; and

25 (2) develop and distribute to the local school boards an  
26 application form for teacher scholarship loans; the form shall include  
27 a requirement that the applicant supply a high school academic trans-  
28 cript and a statement of intent to enter a teaching career at the  
29 elementary or secondary school level in the state.

1           (b) The local school boards shall select the recipients of the  
2 teacher scholarship loans according to the criteria in AS 14.43.650.

3           Sec. 14.43.640. CONDITIONS OF LOANS. (a) The conditions pro-  
4 vided in AS 14.43.120 apply to teacher scholarship loans except that  
5 loans may not be made to graduate students.

6           (b) If a borrower meets the conditions provided in (a) of this  
7 section and is employed as a teacher in a rural elementary or second-  
8 ary school, the portion of the loan that shall be paid by the state,  
9 notwithstanding AS 14.43.120(j), is the following percentages of the  
10 total loan received plus interest up to a total of 100 percent of the  
11 total loan:

- 12                   (1) one year employment, 15 percent;
- 13                   (2) two years employment, an additional 15 percent;
- 14                   (3) three years employment, an additional 15 percent;
- 15                   (4) four years employment, an additional 25 percent;
- 16                   (5) over four years employment, an additional 30 percent.

17           (c) A loan may not exceed \$10,000 in a school year.

18           Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a  
19 teacher scholarship loan, a student must

20                   (1) be a graduate of a public or private high school in the  
21 state, with sufficient credits to be admitted to an accredited college  
22 or university;

23                   (2) be enrolled in or show evidence of intent to enroll in  
24 a degree program directed at a teaching career at the elementary or  
25 secondary school level;

26                   (3) meet the conditions set by the student's local school  
27 board with respect to the district's requirements for teachers in  
28 particular subject areas; and

29                   (4) submit to the local school board an application

1 provided by the student financial aid committee under AS 14.43.-  
2 630(a)(3); an application may be submitted six months before gradua-  
3 tion from high school.

4 (b) A local school board shall award teacher scholarship loans  
5 giving a preference to applicants from rural schools who meet the  
6 qualifications for a loan and taking into account the applicants'  
7 academic records.

8 (c) A student may not be awarded a scholarship loan under AS 14.  
9 43.090 - 14.43.160 and a teacher scholarship loan under AS 14.43.600 -  
10 14.43.700 for the same school year.

11 Sec. 14.43.700 DEFINITION. In AS 14.43.600 - 14.43.700, "rural"  
12 means

13 (1) a community in the second, third, or fourth judicial  
14 district of the state with a population of 4,500 or less that is not  
15 connected by road or rail to Anchorage or Fairbanks; or

16 (2) a community in the first judicial district of the state  
17 with a population of 4,500 or less.

Offered: 2/28/84  
Referred: House Special Committee  
on State Loans and Finance

Original sponsors: Hayes, Hurlbert,  
Adams, et al

1 IN THE HOUSE  
2  
3 CS FOR HOUSE BILL NO. 504 (HESS)  
4 IN THE LEGISLATURE OF THE STATE OF ALASKA  
5 THIRTEENTH LEGISLATURE - SECOND SESSION  
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8 program."  
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13 that there is a wide and unacceptable disparity between the distribu-  
14 tion of Native teachers and Native students in elementary and second-  
15 ary schools in the state. Particularly in rural areas, many schools  
16 have virtually no Native teachers and no non-Native students. The  
17 undesirable effects of this disparity include the following:  
18 (1) there is a serious weakness in the ability of teaching  
19 staffs, particularly in rural schools, to foster a sense of Native  
20 traditions and cultures in the Native students;  
21 (2) many rural students are forced to exist in two entirely  
22 separate situations: the essentially traditional atmosphere of many  
23 Native homes, and the essentially modern atmosphere of the classroom;  
24 (3) almost no Native students return to rural schools to  
25 teach, continuing the imbalance and exacerbating its effects; and  
26 (4) there is an annual turnover of 40 percent among teach-  
27 ers in rural educational attendance areas in the state.  
28 (b) The legislature further finds that existing programs have  
29 failed to increase the proportion of Natives teaching in rural  
schools. Therefore, it is the intent of the legislature to establish

1 the teacher scholarship loan program to encourage Natives to return to  
2 rural schools as teachers and relieve the conditions described in this  
3 section.

4 Sec. 14.43.610. PROGRAM ESTABLISHED. There is established the  
5 teacher scholarship loan program to provide an incentive for Native  
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7 secondary schools in the state.

8 Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There  
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10 be used to make scholarship loans to students selected under AS 14.-  
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15 repayments are inadequate to fully fund estimated teacher scholarship  
16 loans for any fiscal year, additional funding from the general fund  
17 may be requested and appropriated for that year.

18 Sec. 14.43.630. ADMINISTRATION. (a) The teacher scholarship  
19 loan program shall be administered by the student financial aid  
20 committee (AS 14.43.095) in accordance with regulations adopted by the  
21 committee. The committee shall

22 (1) allocate the loan awards available for teacher  
23 scholarship loans annually to local school boards giving a preference  
24 to school districts with a high percentage of Native students and a  
25 low percentage of Native teachers;

26 (2) designate the secondary and elementary schools that  
27 have a high percentage of Native students for the purposes of  
28 AS 14.43.640(b); and

29 (3) develop and distribute to the local school boards an

1 application form for teacher scholarship loans; the form shall include  
2 a requirement that the applicant supply a high school academic trans-  
3 cript and a statement of intent to enter a teaching career at the  
4 elementary or secondary school level in the state.

5 (b) The local school boards shall select the recipients of the  
6 teacher scholarship loans according to the criteria in AS 14.43.650.

7 Sec. 14.43.640. CONDITIONS OF LOANS. (a) The conditions pro-  
8 vided in AS 14.43.120 apply to teacher scholarship loans except that  
9 loans may not be made to graduate students.

10 (b) If a borrower meets the conditions provided in (a) of this  
11 section and is employed as a teacher in a school designated by the  
12 student financial aid committee as having a high percentage of Native  
13 students, the portion of the loan that shall be paid by the state,  
14 notwithstanding AS 14.43.120(j), is the following percentages of the  
15 total loan received plus interest up to a total of 100 percent of the  
16 total loan:

- 17 (1) one year employment, 15 percent;
- 18 (2) two years employment, an additional 15 percent;
- 19 (3) three years employment, an additional 15 percent;
- 20 (4) four years employment, an additional 25 percent;
- 21 (5) over four years employment, an additional 30 percent.

22 (c) A loan may not exceed \$10,000 in a school year.

23 Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a  
24 teacher scholarship loan, a student must

25 (1) be a graduate of, or scheduled for graduation within  
26 six months from, a public or private high school in the state, with  
27 sufficient credits to be admitted to an accredited college or  
28 university;

- 29 (2) be enrolled in or show evidence of intent to enroll in

1 a degree program directed at a teaching career at the elementary or  
2 secondary school level;

3 (3) meet the conditions set by the student's local school  
4 board with respect to the district's requirements for teachers in  
5 particular subject areas; and

6 (4) submit to the local school board an application pro-  
7 vided by the student financial aid committee under AS 14.43.630(a)(3).

8 (b) A local school board shall award teacher scholarship loans  
9 giving a preference to Native students that meet the qualifications  
10 for a loan and taking into account the students' academic records.

11 (c) A student may not be awarded a scholarship loan under  
12 AS 14.43.090 - 14.43.160 and a teacher scholarship loan under AS 14.-  
13 43.600 - 14.43.700 for the same school year.

14 Sec. 14.43.700. DEFINITION. In AS 14.43.600 - 14.43.700,  
15 "Native" means any person who is a descendant of a member of the  
16 aboriginal races inhabiting the state when annexed to the United  
17 States, or who is a descendant of an Indian or Eskimo who, since the  
18 year 1867 and prior to June 30, 1952, migrated into the state from  
19 Canada, and who is a descendant having at least one-quarter blood  
20 derived from these ancestors.

Introduced: 1/10/84  
Referred: Health, Education & Social  
Services, House Special Committee on  
State Loans and Finance

BY HAYES, HURLBERT, ADAMS, ABOOD,  
BARNES, BUSSELL, CATO, COWDERY, DAVIS,  
FULLER, FURNACE, GRUSSENDORF, HERRMANN  
KOPONEN, LINDAUER, LISKA, MALONE,  
MARTIN, M.W.MILLER, RINGSTAD, SHULTZ,  
SZYMANSKI, UEHLING, WARD, ZHAROFF,  
FRITZ, BETTISWORTH AND MCBRIDE

1 IN THE HOUSE

2

HOUSE BILL NO. 504

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act establishing the teacher scholarship loan  
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distribution of teachers and the ethnic distribution of students in

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the state public schools. Particularly in rural areas, many schools

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exacerbating its effects; and

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(4) there is an annual turnover of 40 percent among teach-

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ers in rural educational attendance areas in the state.

28

(b) The legislature further finds that existing programs have

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failed to increase the proportion of members of ethnic minorities

1 teaching in rural schools. Therefore, it is the intent of the legis-  
2 lature to establish the teacher scholarship loan program to encourage  
3 members of ethnic minorities to return to rural schools as teachers  
4 and relieve the conditions described in this section.

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7 of Alaska high schools who are from ethnic minorities to pursue teach-  
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23 teacher scholarship loans annually to local school boards giving a  
24 preference to school districts with a high percentage of students in  
25 ethnic minorities and a low percentage of teachers in ethnic  
26 minorities. The local school boards shall select the recipients of  
27 the teacher scholarship loans.

28 Sec. 14.43.640. CONDITIONS OF LOANS. Each school district shall  
29 award teacher scholarship loans subject to the following conditions:

1           (1) the conditions provided in AS 14.43.120 apply except  
2 that no loans may be made to graduate students and the state shall  
3 repay a portion of a teacher scholarship loan under AS 14.43.120(j)  
4 only if, in addition to the other criteria, the borrower is also  
5 employed as a public school teacher in the state during the period for  
6 which the loan is forgiven;

7           (2) if a borrower meets the conditions provided in para-  
8 graph (1) of this section and is employed as a public school teacher  
9 in the district from which the borrower graduated, the portion of the  
10 loan that shall be paid by the state is the following percentages of  
11 the total loan received plus interest up to a total of 100 percent of  
12 the total loan:

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- 16                   (D) four years employment, an additional 25 percent;
- 17                   (E) over four years employment, an additional 30 per-  
18 cent; and

19           (3) a loan may not exceed \$10,000 in a school year.

20           Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a  
21 teacher scholarship loan, a student must

22                   (1) be a graduate of, or scheduled for graduation within  
23 six months from, a state public high school, with sufficient credits  
24 to be admitted to an accredited college or university;

25                   (2) be enrolled in or show evidence of intent to enroll in  
26 a degree program directed at a teaching career at the elementary or  
27 secondary school level; and

28                   (3) meet the conditions set by the student's local school  
29 district with respect to the district's requirements for teachers in

1 particular subject areas.

2 (b) Each school district shall award teacher scholarship loans  
3 in direct proportion to the distribution of ethnic groups among the  
4 students eligible for graduation from the school district each year.

5 (c) A student may not be awarded a scholarship loan under  
6 AS 14.43.090 - 14.43.160 and a teacher scholarship loan under AS 14.-  
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