

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

HB 318 cont thru HB 323 333

HOUSING PHYSICAL CONDITION BASED ON INSULATION

In the following table, percentages of houses with attics and walls of different R-values are listed by region. R-values refer to the level of insulation. One inch of batt insulation is approximately equal to R-3. For example, R-38 is equivalent to 12 inches of batt, and R-19 is equivalent to 6 inches of batting.

Insulation Levels in Percentages:

	-----Attic-----					---Walls---		Can't Maint 70 deg F
	R<R11	R<R19	R<R22	R<R30	R<R38	R<R11	R<R19	
Ahtna	15%	51%	78%	80%	96%	22%	69%	56%
Aleut	23%	36%	50%	65%	76%	23%	45%	16%
Arctic Slope	0%	6%	19%	36%	56%	1%	18%	37%
Bering Sts	14%	29%	89%	94%	97%	11%	41%	67%
Bristol Bay	14%	39%	76%	78%	90%	19%	52%	22%
Calista	3%	34%	68%	77%	77%	11%	78%	41%
Chugach	16%	26%	47%	56%	71%	20%	52%	15%
Cook Inlet	7%	22%	52%	71%	77%	10%	62%	12%
Doyon	4%	18%	47%	74%	79%	11%	65%	40%
Koniag	2%	11%	17%	18%	20%	3%	63%	27%
NANA	25%	25%	50%	50%	50%	1%	26%	72%
Sealaska	12%	55%	93%	95%	97%	15%	81%	41%
TOTAL	9%	29%	58%	69%	76%	12%	57%	36%

According to the 1986 Energy Conservation Standard For New Residential Buildings published by the State DCRA Office of Energy Programs, the minimum prescribed insulation requirement for ceilings is R-38, except in Arctic Slope where the ceiling requirement is R-52. The minimum prescribed insulation requirements for walls are R-21 in Sealaska; R-18 in Aleut, Chugach, Cook Inlet, and Koniag; R-25 in Ahtna, Bristol Bay, Calista, and Doyon; R-30 in Bering Straits and NANA; and R-35 in Arctic Slope.

Houses with attic R-values less than R-38 range from 71% to 97% in nine of the regions, and more than half of the houses in two more regions. Houses with wall R-values less than R-19 range from 41% to 81% in all but two region.

ANALYSIS OF CSHB 318 (L & C)

AND PROPOSED FINANCE COMMITTEE PROVISIONS

CSHB 318:

Section 1. findings section.

Section 2. amends AS 18.55.998(a) relating to the supplemental housing development grant fund. This fund is used to pay supplemental costs of building HUD homes in Alaska. Use of this fund is currently limited to supplementing the cost of on-site sewer and water facilities, road construction to project sites, and extension of electrical distribution facilities to individual residences. This section of the bill adds "energy efficient design features in homes" to the list of existing uses. (Current statute attached.)

This amendment was suggested by the Department of Community and Regional Affairs. (See Hoffman letter to Brown, Tab D)

Section 3. Creates the energy efficient home grant fund within the Department of Community and Regional Affairs. Authorizes the commissioner to grant funds from the fund to "agencies of the state or federal government, individuals, or businesses that retrofit existing single family dwellings or build new single family dwellings that meet criteria adopted by the commissioner."

PROPOSED FINANCE COMMITTEE PROVISIONS:

Section 4. amends existing A.S. 45.88.030(d) relating to repayments of Alternative Energy Revolving Loan Fund (AERLF) loans to reflect the transfer of assets and future receipts of the AERLF to the energy efficient home grant fund established herein.

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Report outlines poor housing of rural Alaska

Ry Sue Cross
Associated Press

JUNEAU — State officials hope a new report calling for \$1.5 billion in rural housing improvements will forestall further cuts in federal housing funds and spotlight poor living conditions in many Alaska villages.

The report, commissioned by the Department of Commerce and Regional Affairs, says rural Alaskans need 6,740 new houses to replace those in too bad of shape to be rebuilt and those sheltering three or more generations.

More than 20,000 other homes should be replaced or expanded to relieve overcrowding, the study found.

"The condition of rural housing is, generally it's pretty sad. We work on houses that are falling down around people. But the state doesn't have a cohesive rural housing policy," said Glenn Colver, weatherization director for the Rural Alaska Community Action Program, or RurALCAP.

Colver's staff cataloged 1,549 homes in 40 communities, recording their condition, size, availability of water and sewer and similar factors.

Among their findings:

- Rural homes allow each occupant an average 333 square feet, equivalent to a floor space roughly 18 feet square. The average Anchorage resident has almost twice as much room.

- In the Callista and NANA regions where housing is most crowded, almost a third of the houses allow each occupant 100 square feet or less — a space about 10-by-10.

- Despite the smaller size of rural homes, more people live in each dwelling. The number of people in an Anchorage home averages 2.7; in the bush the household size averages 3.7.

- Many rural homes are old and deteriorating. In the Bristol Bay regions, 43 percent of the house foundations needed major repair. Foundation heaving causes door and window frames to separate, often reversing efforts to seal houses against the cold, Colver said.

Surveyors found ice coating of interior walls and windows, snow-filled attics and damaged roofs.

One old couple was trapped in a home because moisture leaked out and sealed the door shut with frost, Colver said.

Lack of insulation is one of the worst problems, he said.

"I've seen houses out there that are 600 square feet that cost \$3,500 a year to heat," Colver said.

RurALCAP gets federal and state funds to weatherize homes, and has worked on about 1,500 in



Sen. Willie Hensley
... 'this state needs housing'

the last four years. The agency has cut back its efforts since state funding was reduced last year, Colver said.

"The \$1.5 billion price tag on improvements suggested in the report was based on the average cost of housing financed by the state and the U.S. Housing and Urban Development Department.

A replacement home costs an average \$118,000, with about \$92,000 of that paid for by HUD and managed by regional housing authorities in Alaska.

Colver said there are less expensive alternatives, but the agency was reluctant to recommend them because RurALCAP isn't sure they'd work in Alaska's cold weather conditions.

Sen. Willie Hensley, who convinced his colleagues to appropriate \$91,000 last year for the study, said he hopes it will prompt people to find less costly repair techniques and replacement homes.

"I know we aren't going to come up with a billion-and-a-half dollars, but the report shows the extent of the problem," the Kotzebue Democrat said.

He said he requested the report because he was afraid publicity about a glut of housing in Anchorage would make people forget the Alaskans who live in poor conditions.

"The impression might be we didn't need housing in this state," and that is not true, Hensley said.

Community and Regional Affairs Deputy Commissioner Bob Brean said the report will be distributed in Washington D.C., with hopes it will inspire HUD to increase its housing subsidies for Alaska.

HUD had been financing construction of about 500 housing units a year in Alaska until 1987, when the number was cut to 197 because of federal budget reductions.

Anch Times 4/2/88

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

④ HB 318

STEVE COWPER, GOVERNOR

- P.O. BOX B
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January 18, 1988

POSITION PAPER

RE: House Bill 318: "An Act Establishing the Alaska Energy-Efficient Home Equity Fund".

SPONSOR: Representative Ellis

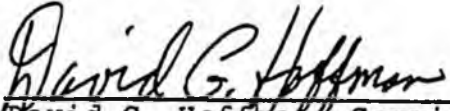
Program Effects of Bill

House Bill 318 would create in the Department of Community and Regional Affairs an Alaska Energy-Efficient Home Equity Fund which would be a revolving loan fund to finance the incremental costs to builders to construct superinsulated homes.

Comments

The Department strongly supports the concept of superinsulation. Superinsulated homes can reduce the heating costs of a home by 50 to 80 percent, while costing only an additional 5 to 10 percent to construct. Superinsulation is a technology that is practical, economical, and available now. The Department has sought to foster quality construction through the Alaska Craftsman Home Training Program. With \$200,000 from its share of the Exxon oil overcharge settlement, the Department has supported the Cooperative Extension Service's voluntary program of educating builders on this method of construction.

The Department, however, does not have a position on this legislation. While it supports the construction of superinsulated homes, it has questions regarding state subsidizing the construction of new homes in the light of the current housing glut and with the current state revenue situation.



David G. Hoffman, Commissioner

STATE OF ALASKA

STEVE COWPER, GOVERNOR

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February 11, 1988

The Honorable Kay Brown
Alaska State House of Representatives
P. O. Box V
Juneau, AK 99811

FEB 2

Dear Rep. ^{CAF} Brown:

This is in response to your inquiry as to what options are available to address the energy concerns on this year's HUD housing standards that will not be covered by the new residential energy standard because of the nine-month moratorium.

According to Marlin Knight, Alaska's HUD representative, 277 single-family residences will be constructed in rural Alaska with HUD financing. Of that number, 190 will receive some form of State financial assistance. According to Mr. Knight, HUD will not know until May in which communities the projects will be located, but it will be in all of the rural regions. As a guide, the following are the locations of HUD projects this past year:

<u>Housing Authority</u>	<u>Location</u>	<u>No. Units</u>
Tlingit-Haida	Hydaburg	25
Northwest Inupiat	Kotzebue	25
Bering Straits	Unalakleet	15
	White Mountain	15
AVCP	Nunapitchak	15
	Aniak	24
	Tununak	11
	Pitkas Point	9
Bristol Bay	Ekwok	20
Aleutian	Unalaska	15
Metlakatla	Metlakatla	15
	Total	189

Regarding options to address the energy-efficiency of the 190 HUD homes that will be constructed with State financial assistance, the following are options that can be considered:

1. Education - This option would represent the status quo, except that education on energy-efficient conservation is being provided to the housing authorities through the Alaska Craftsman Training Program. While the housing authorities have been receptive to the information provided, their actions are limited by HUD's restriction of \$92,000 per home.

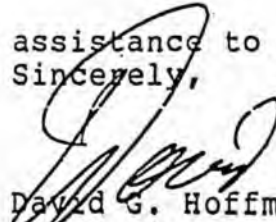
February 11, 1988

2. Amend AS 18.55.997 - The Supplemental Housing Development Grant Program matches HUD funding with State funds. Currently, the law allows the program to fund only the cost of on-site sewer and water facilities, road construction to project sites, and extension of electrical distribution facilities to individual residences. The law could be amended to include energy-efficiency in the allowable activities without necessarily needing an increase of State funding. If additional State funds are not earmarked for energy efficiency, however, this category must compete with the present categories which have been using up the funds.
3. Support the Incremental Costs of Building to the State Standard - According to our calculations, depending on the region in which the homes will be built, it will cost from \$1,279 to \$3,307 to build to the State standard over HUD's minimal standard. This would annually save \$209 to \$470, respectively, in energy costs to the low-income consumers. In FY89, this would have cost the State \$400,000 initially, and save an estimated \$94,000 annually in fuel costs (a 4.2-year payback).
4. Pay the Incremental Cost of Making the Homes Superinsulated - For an additional \$4,000, the homes could be built to reduce this energy consumption by at least 50%. This would cost the State an additional \$760,000 in 1988, but would have saved, conservatively, an estimated \$134,000 in fuel costs in the first year. (A 5.6-year paybook)

I agree with your concern regarding the energy-efficiency of new low-income rural housing. That is why we have made it a priority to work with the housing authorities on providing them technical assistance, and have adopted the residential energy standard.

I hope that the information is of assistance to you.

Sincerely,



David G. Hoffman
Commissioner

cc: Steve Baden
Program Coordinator
Conservation Programs
Department of Community and
Regional Affairs

State energy conservation programs for the homeowner and builder

How does one build a home in Alaska? Alaska's climate varies from relatively mild maritime environments swimming in humidity with 7,000 heating degree days to wind swept arctic deserts with 22,000 heating degree days. Housing failures are immediate and dramatic in Alaska. The problem is how to build correctly in the various environments considering both the laws of physics and economics. And the solution is different for each climatic zone.

In most Alaskan communities, the demand for energy is placing a serious strain on the local economy. This is particularly true in rural communities which are subsistence based. The cost of energy is a constant drain on the local economy with money being sent out to petroleum suppliers rather than being circulated within the community. The burden that energy cost places upon the family is illustrated by the fact that rural Alaskans spend between 16% and 37% of their incomes on energy bills. It is clear that conservation has a key role to play in the state's economic development strategy as well as energy policy.

In Alaska, Government is taking a three program approach to the shelter industry regarding residential energy efficiency. The state provides a stick, a carrot and a vision.

Energy conservation works, the question becomes how to get the conservation technology adopted into the mainstream of the shelter industry. In government the natural tendency is to hammer the message home with codes. Observing the efforts in other states and the heavy industry resistance, Alaska decided to involve the private sector in the actual development of a state thermal code.

The state initiated the process by establishing an advisory committee with members representing builders, contractors, architects, engineers, bankers, code officials, and government. The committee made the key decisions in developing the standards. This allowed Alaska to find the fatal flaws prior to implementation and develop a constituency. The committee broke the state into geographically determined regions and developed though computer analysis determined the most cost effective insulation strategies for each region. The committee then determined what was economically and politically the minimal standards for each region. The committee also chose to apply the codes only to state subsidized finance programs. Objections were minimized since the state is subsidizing mortgage programs and it could be argued that the state has a 30 year interest in the homes being financed. The state programs finance nearly 75% of all home mortgages in the state so the codes will certainly impact the industry. This was the stick to move the industry forward toward conservation building practices. Yet the state wanted to win those opposed to the codes over as well.

Next the state embraced the Energy Rated Home Program. This is a program that qualifies home buyers for a larger percentage of their gross income for home mortgages on energy efficient homes. The program can increase the debt ratio up to 4 percentage points. This allows the buyer to purchase a more expensive home. This is the carrot of the energy conservation program.

The state used the same industry partnership approach to develop the program. An advisory committee was established with representatives of the appraisers, bankers, Realtors, utilities, local governments as well as the state mortgage bankers association. Energy Extension Service and Energy Conservation Program funds were

used to develop rating sheets, train bankers and appraisers, and provide the first years generic marketing of the program. The computer program that was developed and used to analyze the thermal codes was used to establish the incentive breaks for the Energy Rated Homes program. Energy Rated Homes provides a valuable and consistent measure of the efficiency of a home.

Both the carrot and stick have moved the industry with their own help forward, but where does everyone want to go?

The Alaska Craftsman Home Program is the way we have unleashed the creativity of our progressive builders and designers and at the same time created a method to share the knowledge they will gain. This program provides the vision of the industry.

Within the bureaucracy this program presents the most difficult challenges and the greatest opportunities. To carry out an ambitious program such as the Alaska Craftsman Home Program it was clear that more resources and support were necessary than one agency could provide. The Department of Community and Regional Affairs had the experience and data base as a result of the efforts of putting together the thermal standards and participation in the energy rated homes program. The Cooperative Extension Service had the education background and an unbiased and technically sound reputation. The Cooperative Extension Service also had the trust of both the industry and private citizens alike, bridging an important gap there. The Alaska state Homebuilders Association had the political clout and network with the home builders across the state.

At first glance the relationships were not clear and some lingering suspicions from the regulatory experience had to be dispelled. Common ground was found with leadership provided by the neutral Cooperative Extension Service. The Cooperative Extension Service put together the program to achieve each of the groups interests. The state wanted to encourage energy efficient construction, the Cooperative Extension Service wanted to initiate a statewide builder education program, and the Home builders wanted a stimulus for the ailing building industry, state-of-the-art information and a way to mitigate the apparent economic damage of new thermal regulation.

a great deal of effort has gone into establishing the program. Some credit has to be given to a convenient recession, and the right people in the right place at the right time for successes to date.

The thermal standards now establishes the minimal thermal levels, the Energy Rated Home Program initiates a graduated incentive program to reward people for pursuit of the state-of-the-art with the optimum being the Alaska Craftsman home. The education program for each of the three programs is based around the state-of-the-art Alaska Craftsman Home.

The Alaska Craftsman Home Program is designed to change their standard as new information is gathered, to assure that this optimal voluntary program remains state-of-the-art. The three programs are all based on the 2 1/2 years of research the Department of Community and Regional Affairs, and Institute of Social and Economic Research did to establish the thermal standards and analysis through the AKWARM computer program. The minimal thermal standards and Alaska Craftsman are the lower and upper limits of economically viable thermal performance in Alaska. The Energy Rated Home Program measures any and all homes to see how they rate in comparison to the two standards (minimal and optimal) that have been established.



Alaska Craftsman Home program

Research, demonstration and development around the world has changed the way homes are being built in Northern climates. So many technical changes have taken place that an educational network is needed to keep the building industry in Alaska informed of the advancements. With such a network the Alaska building industry can stay abreast of advancements in other parts of the world as well as other parts of the state. The Alaska Craftsman Home Program is that educational network.

The Alaska Craftsman Home Program provides a voluntary education service which today can inform homebuilders of the methods to reduce the thermal requirements of a residence. The energy savings that can be achieved is only one benefit of an education network allowing research and field application experience to be systematically exchanged within the Alaska housing industry. The program is designed to provide:

- . technical information for the industry
- . a forum for the industry to help determine objectives for the State Finance and University Research Community.

GOAL:

The immediate goal of the Alaska Craftsman Home Program is to:

- . build thermal efficiency into the shelter industry in Alaska through education.

The long range goal of the program is to:

- . assist the Alaska shelter industry in providing the best, most appropriate and affordable shelter available.

In order to achieve these goals and to make the Alaska Craftsman Home Program work there will be a coordinated and visible effort on the part of the Alaska State Government, the University of Alaska and building industry trade associations in Alaska. The program will be a voluntary program that will establish an educational network for the shelter industry in Alaska.

DESCRIPTION:

PHASE 1

The Cooperative Extension Service and State Division of Community Development jointly initiated the program in 1986. A pilot series of building seminars were held March of 1986 in Juneau, Anchorage, and Fairbanks. One hundred three shelter industry people were introduced to the "superinsulation" building techniques through the Super Energy Efficient Home Workshop Series taught by internationally acclaimed experts. The reviews from the industry were very favorable. The program achieved its first goal, that being to secure the backing of the shelter industry in Alaska for a high quality builder education program on energy efficient building techniques.

PHASE 2

The second phase of the Alaska Craftsman Home Program began with the development of the first edition of the Alaska Craftsman Home Building Manual. The manual was developed by the Cooperative Extension Service with funding provided by the

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



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U.S. Department of Energy, State Department of Community and Regional Affairs
Office of Energy Programs and Chugach Electric Association.

November of 1986 a select group of Alaskans associated with the shelter industry met with the Cooperative Extension Service and the manual contractor to complete the content of the Alaska Craftsman Home Building Manual. The first edition of the manual was completed March of 1987. This manual is the written guide for the Alaskan homebuilder concerning the energy efficient building technology.

The Cooperative Extension Service began to solicit and find 24 people from around the State to take part in the educational effort November of 1986. These people have since become the backbone of the Alaska Craftsman Building Program and are the industry educators for Alaska. These 24 people represent all regions of the State and are divided into 12 training teams. They came to the program with a vast amount of expertise on building homes in Alaska.

The 12 training teams have been given the knowledge, audiovisuals, materials, manuals, inspiration and a mandate to teach two day workshops on the Alaska Craftsman Building Program superinsulation building technology in their respective regions.

PHASE 3

Phase three activities will continue the educational effort through field workshops introducing the Alaska Craftsman techniques to the builders and interested people throughout Alaska. These workshops will be taught independently by the 12 Alaska training teams.

At the end of one year the training teams will come together again to critique the program. Materials, experiences and techniques will be reviewed. If necessary, the materials and program will be modified to the needs of the training teams and the clientele they serve. Techniques and experiences on retrofitting to Alaska Craftsman standards will be added to the program at this meeting and there is a possibility of rewriting the manual if warranted.

Marketing:

A marketing campaign will be developed and initiated during the phase three activities. The marketing effort will lead to the development of a specific clientele for the Alaska Craftsman Home. Successful promotion and sale of the Alaska Craftsman home will depend on communicating the benefits inherent to them. The marketing campaign will focus on six primary benefits:

- . significantly reduced energy bills
- . increased comfort
- . reduced noise from outside sources
- . improved indoor air quality
- . more durable
- . improved re-sale value

PHASE 4

The future of the program is now being developed. The goal is to establish an educational network that feeds new technology and research information to the builders in the Alaska and practical application experience and field needs to the research and product development community.

FROM DON MARKLE, Program
Director

The Alaska Craftsman Home Program is about better built homes and people's health, safety, and comfort. The Consumer Federation of America estimates that poor indoor air pollution costs this country \$100 billion annually. Clearly, with estimates as high as 20,000 radon induced deaths a year nationally, the mitigation methods for indoor air pollution taught in the Alaska Craftsman workshops and embodied in the voluntary standards are sorely needed. Radon is only one of over 100 indoor pollutants found in homes that cost people money and affect health.

Rural Alaskans spend between 16% and 37% of their incomes on energy bills. In many cases the government pays those costs. A superinsulated Alaska Craftsman Home saves the home owner (or government) from 50% to 80% of the heating costs and could eventually reduce Alaska's home heating bill \$80,000,000 annually.

The Alaska Craftsman Home Program is designed to provide, technical information for the shelter industry and citizens of Alaska through an information network of people and publications. The program has its roots in the very successful \$50,000,000 Canadian R-2000 program and is closely tied to it. ACHP has trained 24 volunteer Alaskans to conduct workshops on the technology detailed in the new Alaska Craftsman Home Building Manual.

The program is a partnership of The Department of Community and Regional Affairs, University of Alaska Cooperative Extension Service, Energy Rated Homes of Alaska, and Alaska State Homebuilders Association.

The ACHP has set a voluntary performance standard based on the latest technology. Building this way results in significantly reduced energy bills, reduced home maintenance, increased comfort, reduced noise from outside sources, and improved indoor air quality. Plans are evaluated and homes are tested to assure compliance with the standards.

Legislation is pending to appropriate ~~some~~ \$1,721,000 to the program by HB 318, 319 and SB 308. Funding is needed in the areas of program support for administration, training activities, monitoring (22%), public education (19%), and incentives (59%). All activities, including the incentives, are educational in nature and approximately 25 jobs will be created as a result of this appropriation.

The program needs state support to revitalize our housing industry and allow Alaska to compete in the international housing market. Many political, economic development, and environmental groups recognize the potential of this program and support it. A growing listing of these include:

The Alaska Municipal League -	Northwest Arctic Mayors Conference -
The Matanuska Susitna Borough -	The Kenai Peninsula Borough -
The Kodiak Island Borough -	The Municipality of Anchorage -
Fairbanks North Star Borough -	City of Kodiak
City of Wasilla -	City of Fairbanks -
City of Anderson -	City of Kenai -
Housing Authorities -	City of Soldotna -
North Slope Borough Utilities -	Association of
Alaska Center for the Environment -	The Joint Energy Task Force of Utilities -
Alaska State Homebuilders Association -	The American Lung Association -
Mat-Su Homebuilders Association -	Interior Economic Development Council -
The Anchorage Daily News -	Interior Homebuilders Association -
	Building Industry Association of Anchorage -
	The Frontiersman

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

October 19, 1987

The Honorable Alfonse D'Amato
Ranking Minority Member
Subcommittee on Housing and
Community Development
United States Senate
520 Hart Building
Washington, DC 20510

Dear Senator D'Amato:

RE: SECTION 128 OF S.825, THE 1987 HOUSING ACT

We are strongly in support of the inclusion of \$4.7 million for a demonstration project of energy efficient housing in the above referenced Act recently passed by the U.S. House of Representatives.

As you may be aware, Alaska has had more than 500 public housing units for which low-income residents/purchasers have refused to make payments because of gross deficiencies in the design and construction. This has resulted in millions of dollars spent by the federal government to settle lawsuits and also to attempt to correct these deficiencies. This has been a real problem in Alaska due to high energy costs and low-income housing built at inadequate standards.

The state is currently working with Housing and Urban Development (HUD) to provide training to Alaska housing authorities and their staff on the latest building techniques, designs, and products for the extreme Alaska climates. This program, called the Alaska Craftsman Home Program, is strongly supported by the Alaska Homebuilders Association, and the National Center for Appropriate



CITY OF ANDERSON

P.O. Box 3100 • Anderson, AK 99744 • Phone (907) 582-2500

In Reply
Refer To:

April 20, 1987

The Honorable Steve Cowper
Governor
State of Alaska
Pouch
Juneau, Alaska 99811

Dear Governor Cowper:

On behalf of the City I am writing in support of the Alaska Craftsman Home Program, (ACHP). ACHP's efforts to promote residential energy efficiency in home building construction has been impressive.

The reduction in housing costs and maximization of thermal efficiency should be a major component in any attempt to develop Alaska's rural economy(s).

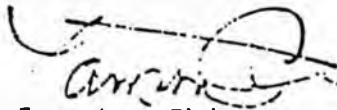
Local economic development efforts, currently underway in communities such as the City of Anderson, would be positively enhanced through the state's support of the ACHP.

Your support of programs such as the Alaska Craftsman Home Program, can help to ensure for the successful development of both rural and urban Alaska alike.

Thank you.

Sincerely,

THE CITY OF ANDERSON


Lanston Chinn
City Administrator

LC/eh

cc: Philip G. Loudon ✓

CITY OF PALMER, ALASKA

RESOLUTION NO. 765

RECORDED 27-23-1987
FEB 8 1988

A RESOLUTION SUPPORTING THE ALASKA CRAFTSMAN HOME PROGRAM.

WHEREAS, high quality energy efficient building technology developed by the Alaska Craftsman Home Program would substantially reduce home energy consumption, improve the health and safety of the occupants, improve indoor air quality, reduce the contributions of dwellings to outdoor air pollution, increase home durability, reduce home maintenance needs, and increase the economic stability of the owner, and

WHEREAS, Alaska State lawmakers have introduced legislation in the form of Senate Bill 308 and House Bill 318 and 319 which supports the Alaska Craftsman Home Program, and

WHEREAS, these bills will help improve and stimulate the homebuilding industry in Alaska through incentives and education and thereby improve the local economy of the State, and

WHEREAS, the citizens of the State of Alaska and City of Palmer will benefit substantially from the building of energy efficient homes as developed by the Alaska Craftsman Home Program,

NOW, THEREFORE BE IT RESOLVED that the City of Palmer encourages the building of homes to the energy efficiency standards of the Alaska Craftsman Home Program.

BE IT FURTHER RESOLVED that the City of Palmer supports Alaska State Senate Bill 308 and House Bill 318 and 319 to establish similar State policy and State support for the Alaska Craftsman Home Program.

Approved and adopted by the Palmer City Council this 27th day of October, 1987.



GEORGE W. CARTE, MAYOR



S. WELLS WILLIAMS, ACTING CITY CLERK

FEB 9 1988

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 88-36

A RESOLUTION SUPPORTING ENERGY EFFICIENCY OF HOMES.

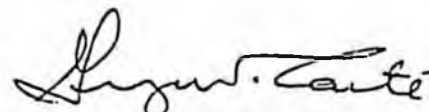
WHEREAS, high-quality energy-efficient building technology developed by the Alaska Craftsman Home Program would substantially reduce home energy consumption, improve the health and safety of the occupants, improve indoor air quality, reduce the contribution of dwellings to outdoor air pollution, increase home durability, reduce home maintenance needs, and increase the economic stability of the owner, and

WHEREAS, Alaska state lawmakers have introduced legislation which supports efficiency in homes that support the Alaska Craftsman Home Program and this legislation will help improve and stimulate the home building industry in Alaska through incentives and education and, thereby, improve the local economy of the State, and

WHEREAS, the citizens of the State of Alaska will benefit substantially from the building of energy-efficient homes as developed by the Alaska Craftsman Home Program;

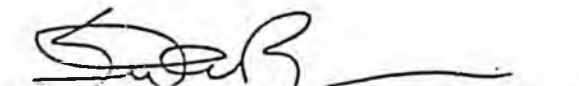
NOW, THEREFORE, BE IT RESOLVED that it is the policy of the Alaska Municipal League to encourage the building of homes to the energy-efficient standards of the Alaska Craftsman Home program and further that the Alaska Municipal League supports legislation to establish similar state policy and state support for the Alaska Craftsman Home Program.

Adopted this 13th day of November 1987.



George W. Carte, President

ATTEST:


Scott A. Burgess, Executive Director

AMERICAN  LUNG ASSOCIATION of ALASKA

Dedicated to the prevention and control of lung disease

FEB 14 1988

RECEIVED OCT 26 1987

October 22, 1987


Governor Steve Cowper
P.O. Box A
Juneau, Alaska 99811

Dear Governor Cowper:

Indoor air quality is a pressing issue in Alaska. Two pending bills, HB 318 and 319, help address indoor air quality in a very practical manner through the Alaska Craftsman Home Program. Building energy efficient homes that also have healthful air quality is an important and achievable goal.

We urge your support of the Alaska Craftsman Home Program and other measures that promote indoor air quality.

Sincerely,


Deborah Williams
Executive Director

cc. Dan Markle

DW/cc

Introduced by: Sewall, Glick
Date: September 1, 1987
Action: Adopted
Vote: Unanimous

file

RECEIVED SEP 8 1987

KENAI PENINSULA BOROUGH
RESOLUTION 87-81

IN SUPPORT OF THE ALASKA CRAFTSMAN HOME PROGRAM FOR REDUCED HOME ENERGY CONSUMPTION

WHEREAS, high quality energy efficient building technology developed by the Alaska Craftsman Home Program would substantially reduce home energy consumption, improve health and safety of the occupants of dwellings, improve indoor air quality, reduce the contributions of dwellings to outdoor air pollution, increase home durability, reduce home maintenance needs, and increase the economic stability of the owner; and

WHEREAS, the citizens of the Kenai Peninsula Borough will benefit substantially from the construction of energy efficient homes following the guidelines developed by the Alaska Craftsman Home Program;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That it is the policy of the Kenai Peninsula Borough to encourage the construction of homes to the energy efficient standards of the Alaska Craftsman Home Program.

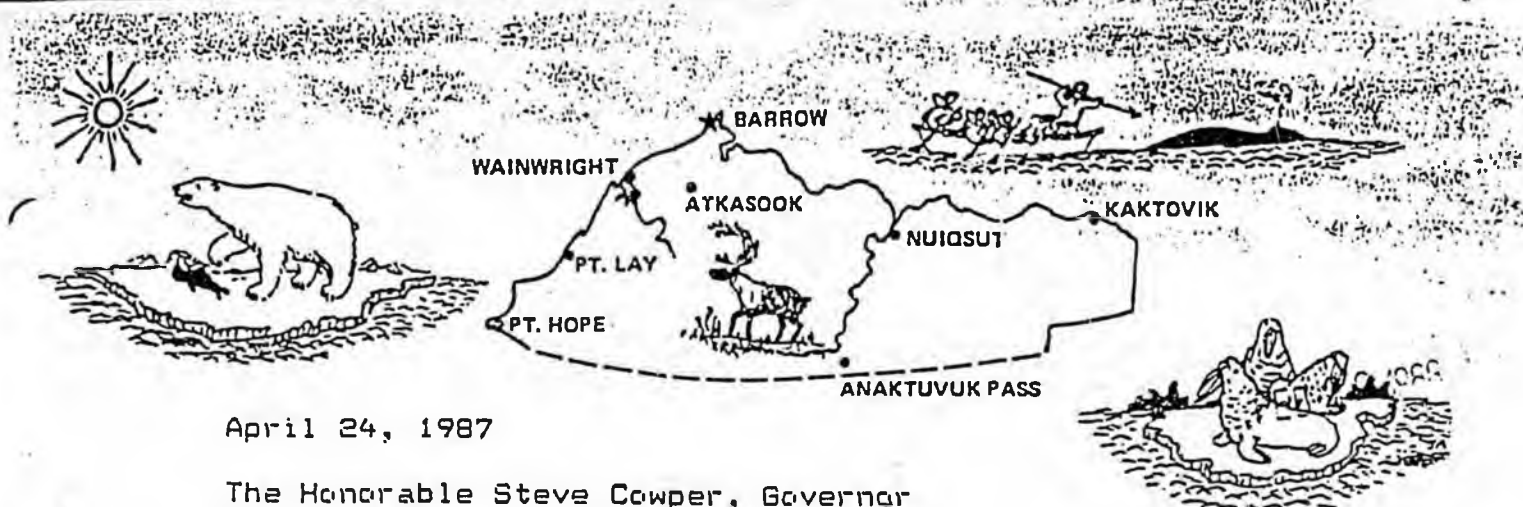
ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 1 DAY OF September, 1987.

ATTEST:

Jonathan W. Sewall
Jonathan W. Sewall, Assembly President

Joanne Brundage
Borough Clerk

Catherine J. DeLoe, Rep. (11)



April 24, 1987

The Honorable Steve Cowper, Governor
State of Alaska
P.O. Box A
Juneau, Alaska
99811

file

Dear Governor,

Recently we have received information regarding the Alaska Craftsman Home Program regarding education and implementation of efforts towards promoting high levels of energy efficiency for Alaskan Homes. Benefits to building super-insulated homes are far reaching encompassing home owners and the building industry, as well as having long range positive effects to community savings which assist in stimulating local economies, especially important to rural communities.

Here on the North Slope with communities paying the highest in the nation for heating fuel it is of the utmost importance to find and implement alternatives to insure our financial security for the years to come. Education for this generation and generations to come is very important. A recent state survey pointed out that the least likely way individual home owners learned about home energy efficiency was through the schools. With this in mind it is very important to establish a foundation on which to develop awareness for all alternatives available and capitalize on those alternatives that work.

The Alaska Craftsman Home Program Incentive Proposal is an idea which time has come, not for just our communities, but for all who call Alaska their "home". Development of the State of Alaska's Residential Thermal Standards brought us a long ways to promote the ideals of resource efficiency. Promotion on the commercial, community, and individual home owner level with it,s development committed to education is indeed a worthwhile venture.

As Energy Planner for the North Slope Borough Utilities Dept. I support the Alaska Craftsman Home Program.

Best Regards

[Signature]
Energy Planner
N.S.B Utilities

NORTH SLOPE BOROUGH

Dept. of Public Utilities • P.O. Box 69, Barrow, AK 99723 • Phone (907) 852-2511

By: Juanita Helms
Introduced: 01/14/88
Adopted: 01/21/88

RESOLUTION NO. 88-008

A RESOLUTION SUPPORTING ENERGY EFFICIENCY OF HOMES

FEB 25 1988

WHEREAS, high-quality energy-efficient building technology developed by the Alaska Craftsman Home Program would substantially reduced home energy consumption, improve the health and safety of the occupants, improve indoor air quality, reduce the contribution of dwellings to outdoor air pollution, increase home durability, reduce home maintenance needs, and increase the economic stability of the owner, and

WHEREAS, Alaska state lawmakers have introduced legislation which supports efficiency in homes that support the Alaska Craftsman Home Program and this legislation will help improve and stimulate the home building industry in Alaska through incentives and education and thereby, improve the local economy of the State, and

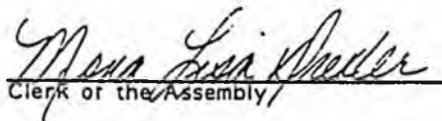
WHEREAS, the citizens of the borough will benefit substantially from the building of energy-efficient homes as developed by the Alaska Craftsman Home Program.

NOW, THEREFORE, BE IT RESOLVED that it is the policy of the Fairbanks North Star Borough to encourage the building of homes to the energy-efficient standards of the Alaska Craftsman Home Program and further that the borough assembly supports legislation to establish similar borough policy and borough support for the Alaska Craftsman Home Program.

PASSED AND APPROVED THIS 21ST DAY OF JANUARY, 1988.


Presiding Officer

ATTEST:


Clerk of the Assembly

file

17 1987

FEB 1 1988

CITY OF KODIAK
RESOLUTION NUMBER 51-87

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK SUPPORTING
THE ALASKA CRAFTSMAN HOME PROGRAM

WHEREAS, high quality energy efficient building technology developed by the Alaska Craftsman Home Program would substantially reduce home energy consumption, improve the health and safety of the occupants, improve indoor air quality, reduce dwellings' contribution to outdoor air pollution, increase home durability, reduce home maintenance needs, and increase the economic stability of the owner; and

WHEREAS, the Alaska State Legislature has introduced legislation in the form of Senate Bill 308 and House Bills 318 and 319 that support the Alaska Craftsman Home Program with the expectation that these bills will help improve and stimulate the homebuilding industry in Alaska through incentives and education and thereby improve the local economy of the City of Kodiak; and

WHEREAS, the citizens of Kodiak will benefit substantially from the building of energy efficient homes as developed by the Alaska Craftsman Home Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, the City of Kodiak encourages the building of homes to the energy efficient standards of the Alaska Craftsman Home Program and further that the City of Kodiak supports Alaska State Senate Bill 308 and House Bills 318 and 319 to establish similar state policy and state support for the Alaska Craftsman Home Program.

PASSED AND APPROVED this 14TH day of DECEMBER, 1987.

CITY OF KODIAK

Robert Brodie
MAYOR

ATTEST:

Marcelle Dalke
CITY CLERK

MAR 04

Introduced by: Mayor Jones
Introduced: 06/02/87
Drafted by: G.L.S.

MATANUSKA-SUSITNA BOROUGH

Resolution Serial No. 87-66

A RESOLUTION SUPPORTING THE ALASKA CRAFTSMAN HOME PROGRAM FOR REDUCED HOME ENERGY CONSUMPTION.

WHEREAS, high quality energy efficient building technology developed by the Alaska Craftsman Home Program would substantially reduce home energy consumption, improve health and safety of the occupants of dwellings, improve indoor air quality, reduce the contributions of dwellings to outdoor air pollution, increase home durability, reduce home maintenance needs, and increase the economic stability of the owner, and

WHEREAS, in the First Session of the Fifteenth Alaska Legislature, Senate Bill 308 and House Bill 318 supporting the Alaska Craftsman Home Program were introduced, and

WHEREAS, the adoption of said bills would improve and stimulate the home building industry in Alaska through incentives and education, thereby contributing to the overall economy of the state and the Matanuska-Susitna Borough, and

WHEREAS, the citizens of the Matanuska-Susitna Borough will benefit substantially from the construction of energy efficient homes following the guidelines developed by the Alaska Craftsman Home Program;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE

1. That it is the policy of the Matanuska-Susitna Borough to encourage the construction of homes to the energy efficient standards of the Alaska Craftsman Home Program.

2. That the Assembly supports the concepts as set out in Senate Bill 308 and House Bill 318 as introduced in the First Session of the Fifteenth Alaska Legislature to establish such a state policy and to provide support for the Alaska Craftsman Home Program.

PASSED AND APPROVED by the Assembly of the Matanuska-Susitna Borough this 2nd day of June, 1987.

Dorothy A. Jones
Dorothy A. Jones, Mayor

ATTEST:
Chris Seagraves
Chris Seagraves, Borough Clerk
(SEAL)

BERING STRAITS REGIONAL HOUSING AUTHORITY

Regular Meeting
of the
Board of Commissioners
April 14, 1987

Resolution 87-07

WHEREAS, high heating bills remain the greatest drain on income for Rural Alaska Residents, and

WHEREAS, programs such as the Low Income Household Energy Assistance Program (LIHEAP) and Power Cost Equalization (PCE) help Rural Alaska residents pay energy bills, and

WHEREAS, even with these programs, many low income Rural Alaska residents must use large amounts of their limited cash to buy heating oil, and

WHEREAS, new high efficiency heating equipment could reduce oil consumption in thousands of rural homes by 30 - 50% , and

WHEREAS, these high efficiency units cost \$500 to \$1,000 and most Rural Alaska residents do not have sufficient capital to purchase these units,

NOW THEREFORE, be it resolved that the Board of Commissioners of the Bering Straits Regional Housing Authority support the idea of the State of Alaska establishing a Low Interest Revolving Loan Fund that would enable people to reduce their heating oil consumption and save money;

Passed and approved by the Board of Commissioners of the Bering Straits Regional Housing Authority this 14 day of April, 1987.

Harold D. Bell
Chairman (Harold Bell)

SEAL

Attest: Robert Amarok
Secretary (Robert Amarok)

FEB 29 1988

Sponsored by: Gieseler

CITY OF SEWARD, ALASKA
RESOLUTION NO. 87-079

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SEWARD, ALASKA, IN SUPPORT OF THE ALASKA CRAFTSMAN
HOME PROGRAM FOR REDUCED HOME ENERGY CONSUMPTION

WHEREAS, high quality energy efficient building technology developed by the Alaska Craftsman Home Program would substantially reduce home energy consumption, improve health and safety of the occupants of dwellings, improve indoor air quality, reduce the contributions of dwellings to outdoor air pollution, increase home durability, reduce home maintenance needs and increase the economic stability of the owner; and

WHEREAS, in the First Session of the Fifteenth Alaska Legislature, Senate Bill 308 and House Bill 318 supporting the Alaska Craftsman Home Program were introduced; and

WHEREAS, the adoption of said bills would improve and stimulate the home building industry in Alaska through incentives and education, thereby contributing to the overall economy of the state and the city of Seward; and

WHEREAS, the citizens of the city of Seward will benefit substantially from the construction of energy efficient homes following the guidelines developed by the Alaska Craftsman Home Program;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, that:

Section 1. It is the policy of the city of Seward to encourage the construction of homes to the energy efficient standards of the Alaska Craftsman Home Program.

Section 2. The City Council supports the concepts as set out in Senate Bill 308 and House Bill 318 as introduced in the First Session of the Fifteenth Alaska Legislature to establish such a state policy and to provide support for the Alaska Craftsman Home Program. ..

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, this 14 day of September, 19 87.

FEB 25 1988

By: Juanita Helms
Introduced: 01/14/88
Adopted: 01/21/88

RESOLUTION NO. 88-008

A RESOLUTION SUPPORTING ENERGY EFFICIENCY OF HOMES

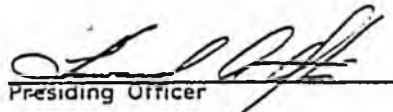
WHEREAS, high-quality energy-efficient building technology developed by the Alaska Craftsman Home Program would substantially reduced home energy consumption. improve the health and safety of the occupants, improve indoor air quality, reduce the contribution of dwellings to outdoor air pollution, increase home durability, reduce home maintenance needs, and increase the economic stability of the owner, and

WHEREAS, Alaska state lawmakers have introduced legislation which supports efficiency in homes that support the Alaska Craftsman Home Program and this legislation will help improve and stimulate the home building industry in Alaska through incentives and education and thereby, improve the local economy of the State, and

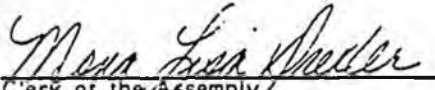
WHEREAS, the citizens of the borough will benefit substantially from the building of energy-efficient homes as developed by the Alaska Craftsman Home Program.

NOW, THEREFORE, BE IT RESOLVED that it is the policy of the Fairbanks North Star Borough to encourage the building of homes to the energy-efficient standards of the Alaska Craftsman Home Program and further that the borough assembly supports legislation to establish similar borough policy and borough support for the Alaska Craftsman Home Program.

PASSED AND APPROVED THIS 21ST DAY OF JANUARY, 1988.


Presiding Officer

ATTEST:


Clerk of the Assembly

International Conference of Building Officials

Alaska Southeast Chapter

POSITION PAPER SB-303 HB-313 ENERGY EFFICIENT BUILDING TECHNOLOGY

Our members support this bill and all efforts to achieve affordable well built housing in Alaska.

The standards of the Alaskan Craftsman Home Program represent the latest in scientific technology adapted to our unique climatic and economic conditions. Homes built to these standards will be healthier, less expensive to maintain and more durable than other housing units.

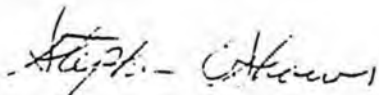
Creation of this fund will provide needed employment in the construction industry. This program could dramatically reduce the energy consumption of both new and existing dwellings in the State.

Local economies will benefit from the increase in disposable income which these energy savings will provide. Increased employment and improved general health of the population will contribute to long term economic stability.

These housing units are the legacy we will leave to future generations. Our innovations and courage will be appreciated now and for many years to come.

We request your continued support in this effort.

Sincerely,



Stephen O. Shows
President

FEB 16 1988

ASSOCIATION OF ALASKA HOUSING AUTHORITIES

RESOLUTION NO. 87-9

A RESOLUTION SUPPORTING THE ALASKA CRAFTSMAN HOME PROGRAM.

WHEREAS, high quality energy efficient building technology developed by the Alaska Craftsman Home Program would substantially reduce home energy consumption, improve the health and safety of the occupants, improve indoor air quality, reduce the contributions of dwellings to outdoor air pollution, increase home durability, reduce home maintenance needs, and increase the economic stability of the owner, and

WHEREAS, Alaska State lawmakers have introduced legislation in the form of Senate Bill 308 and House Bill 318 and 319 which supports the Alaska Craftsman Home Program, and

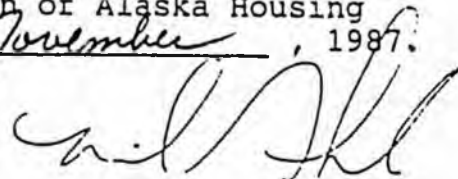
WHEREAS, these bills will help improve and stimulate the homebuilding industry in Alaska through incentives and education and thereby improve the local economy of the State, and

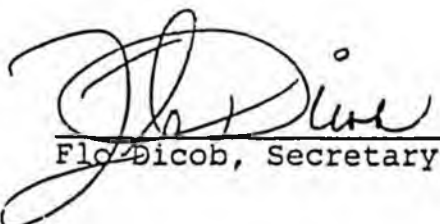
WHEREAS, the citizens of the State of Alaska will benefit substantially from the building of energy efficient homes as developed by the Alaska Craftsman Home Program,

NOW THEREFORE BE IT RESOLVED that the Association of Alaska Housing Authorities encourages the building of homes to the energy efficiency standards of the Alaska Craftsman Home Program.

BE IF FURTHER RESOLVED that the Association of Alaska Housing Authorities supports Alaska State Senate Bill 308 and House Bill 318 and 319 to establish similar State policy and State support for the Alaska Craftsman Home Program.

Approved and adopted by the Association of Alaska Housing Authorities this 24 day of November, 1987.


Mike Shuler, President


Flo Dicob, Secretary

FEB 23 1988

RECEIVED FEB 18 1987

Suggested By: City Council

CITY OF KENAI

RESOLUTION 87-57

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, SUPPORTING THE ALASKA CRAFTSMAN'S HOME PROGRAM FOR REDUCED HOME ENERGY CONSUMPTION CONCEPT.

WHEREAS, in the first session of the Fifteenth Alaska Legislature, SB 308 and HB 318 supporting the Alaska Craftsman's Home Program were introduced, and

WHEREAS, the adoption of said bills would improve and stimulate the home building industry in Alaska through incentives and education thereby contributing to the overall economy of the state, the Kenai Peninsula Borough and the City of Kenai, Alaska, and

WHEREAS, the Alaska Craftsman's Home Program will be benefitted economically by reducing home energy consumption, they will also be benefitted by improved health and safety of such constructed dwellings, the indoor air quality will be improved and their home maintenance needs will be decreased.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, that said Council supports the concepts as set out in SB 308 and HB 318 as introduced in the first session of the Fifteenth Alaska Legislature to establish a state policy and to provide support for the Alaska Craftsman's Home Program.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 2nd day of September, 1987.

John J. Williams

JOHN J. WILLIAMS, MAYOR

ATTEST:

Janet Whelan

Janet Whelan, City Clerk

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§ 18.55.998

HEALTH AND SAFETY

§ 18.55.998

(B) a community in the first judicial district of the state with a population of 4,500 or less. (§ 11 ch 167 SLA 1978; am § 14 ch 113 SLA 1982)

Effect of amendments. — The 1982 amendment in subsection (a), substituted "division of housing assistance in the Department of Community and Regional Affairs" for "board of directors of the Alaska Housing Finance Corporation" in the first and second sentences, added the language beginning "other than in an area" to the end of the first sentence, and substituted the language beginning "the

interest rate on a loan" for "an interest rate approved by the board of directors of the Alaska Housing Finance Corporation" at the end of the subsection. In subsection (b), the amendment added the subparagraph (A) designation, substituted "a community in the second, third, or fourth judicial district" for "any community" and added "or" to the end, in that subparagraph, and added subparagraph (2)(B).

Sec. 18.55.998. Supplemental housing development grants. (a) There is created in the Department of Community and Regional Affairs a supplemental housing development grant fund. Subject to the availability of appropriations for the purpose, the department shall make grants to regional housing authorities established under AS 18.55.996 for the cost of on-site sewer and water facilities, road construction to project sites, and extension of electrical distribution facilities to individual residences.

(b) A grant may be made only for residential housing for which federal loan or grant approval has been obtained from the United States Department of Housing and Urban Development and which will be made available to the public on a nondiscriminatory basis. A grant may not be used to retire or repay obligations or debts of the grant recipient. A grant may only be for the difference between the maximum amount available under federal law or regulation for construction of the residential housing for which the grant is made and the actual costs of the construction. A grant may not exceed 20 percent of the United States Department of Housing and Urban Development total development cost per unit in effect at the time the grant is made.

(c) Grant money may be used only for the purposes specified in (a) of this section. No part of the grant money may be used for administrative or other costs of a regional housing authority whether the costs are directly associated with the construction or general costs of the authority.

(d) The department shall adopt regulations to carry out the purposes of this section. The provisions of the Administrative Procedure Act (AS 44.62) apply to regulations adopted under this section. (§ 7 ch 36 SLA 1981)

BY ELLIS, KOPONEN, MENARD,
ULMER, DAVIDSON, LARSON
AND DAVIS

1 IN THE HOUSE

2

HOUSE BILL NO. 318

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act establishing the Alaska energy efficient home
7 equity fund."

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

9 * Section 1. FINDINGS AND POLICY. (a) The legislature finds that

10 (1) high quality energy efficient building technology developed
11 by the Alaska Craftsman Home Program would substantially reduce home energy
12 consumption, improve the health and safety of the occupants, improve indoor
13 air quality, reduce the contributions of dwellings to outdoor pollution,
14 increase home durability, reduce home maintenance needs, and increase the
15 economic stability of the home owner;

16 (2) state money now being spent to subsidize energy bills, to
17 weatherize and repair poorly constructed homes, and to improve the health
18 of people affected by poor indoor air quality would be reduced or eliminat-
19 ed as existing homes are replaced by homes that are built to Alaska Crafts-
20 man Home Program standards;

21 (3) state money now used to finance and repair homes would be
22 invested more wisely in homes that are built to the Alaska Craftsman Home
23 Program standards;

24 (4) local economic benefits are achieved when money being spent
25 on energy, home repair, and health are reduced because of building to the
26 improved building standards of the Alaska Craftsman Home Program;

27 (5) the principal responsibility for development of housing
28 rests with the private sector;

29 (6) research and development of energy efficient housing will

1 create new jobs, provide technology that can be exported, develop new
2 business opportunities, and increase the stability of the state's economy.

3 (b) It is the policy of the state to encourage the building of homes
4 to the energy efficient standards of the Alaska Craftsman Home Program and
5 to assist in the education, planning, and development of this standard of
6 building in cooperation with the building industry.

7 * Sec. 2. AS 44.47 is amended by adding a new section to read:

8 Sec. 44.47.378. ALASKA ENERGY EFFICIENT HOME EQUITY FUND. (a)

9 There is established in the department, as a revolving loan fund, the
10 Alaska energy efficient home equity fund consisting of money appropri-
11 ated to it by the legislature and repayments of principal received by
12 the fund under (c) of this section. The commissioner shall administer
13 the Alaska energy efficient home equity fund in accordance with the
14 provisions of this section.

15 (b) The commissioner may issue equity sharing funds from the
16 Alaska energy efficient home equity fund to individuals or businesses
17 that retrofit or build new single family dwellings to criteria estab-
18 lished by the commissioner.

19 (c) Funds received by the commissioner as repayments of princi-
20 pal and from the sale or refinancing of a dwelling shall be deposited
21 in the Alaska energy efficient home equity fund. Funds received by
22 the commissioner as payments of interest shall be deposited in the
23 general fund. The commissioner of administration shall separately
24 account for payments of interest deposited in the general fund under
25 this subsection. The annual estimated balance in the account may be
26 used by the legislature to make appropriations to carry out the pur-
27 poses of this section.

28 (d) The commissioner shall exempt the first 250 homes to receive
29 equity funds from the repayment of the amount issued by the

1 commissioner under (b) of this section if the home serves as a demon-
2 stration home. Low income housing equity funds given to federal or
3 state housing programs are exempt from repayment provisions.

4 (e) The commissioner shall prepare guidelines and procedures for
5 the fund in consultation with the board of directors of the Alaska
6 Craftsman Home Program.

H B

S 19

HOUSE COMMITTEE REPORT

(11)

Date referred: 3/28/88

FURTHER REFERRALS:

DATE: 4/26/88

The Finance Committee has considered HB 319

"An Act making special appropriations for the Alaska energy efficient home program; and providing for an effective date."

RECOMMENDS:

- replace with CS HB 319 (Fin.) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

ADAMS Al Adams

LARSON Ray Larson

RIEGER Steve Rieger

WALLIS Way Wallis

BROWN Tal Brown

DAVIS Mich Davis

SWACK Steve Swack

POURCHINI Pat Pourchini no rec

GOLL Ken Goll " "

BOYER Mark Boyer no rec

FRANK John Frank

Al Adams
Chairman's signature

Original sponsors: Ellis, Koponen,
Menard, et al.

Funding Information

General Fund	\$1,040,000
Other Funds	-0-
	<u>\$1,040,000</u>

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 319 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making special appropriations for the Alaska
7 energy efficient home program, for mitigation of the
8 effects of radon in homes, and for energy efficient
9 homes; and providing for an effective date."

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

11 * Section 1. The sum of \$100,000 is appropriated from the general fund
12 to the University of Alaska, cooperative extension service, for preparation
13 and implementation of the Alaska energy efficient home program and for
14 instrumentation and data base development for the program.

15 * Sec. 2. The sum of \$100,000 is appropriated from the general fund to
16 the Alaska energy efficient home fund in the Department of Community and
17 Regional Affairs for grants to homeowners to mitigate the effects of radon
18 on owner-occupied residential property.

19 * Sec. 3. The sum of \$760,000 is appropriated from the general fund to
20 the Department of Community and Regional Affairs for grants to pay the
21 incremental cost of constructing 190 rural housing and urban development
22 project homes to the standards of the Alaska Craftsman Home Program.

23 * Sec. 4. The sum of \$80,000 is appropriated from the general fund to
24 the Alaska energy efficient home fund in the Department of Community and
25 Regional Affairs for grants to construct at least one model home in each of
26 the urban regions established by the Department of Community and Regional
27 Affairs for the development of residential energy conservation standards
28 for new buildings.

29 * Sec. 5. The appropriations made by this Act lapse into the general

1 fund June 30, 1990.

2 * Sec. 6. This Act takes effect on the effective date of an Act passed
3 by the Fifteenth Alaska State Legislature that establishes the Alaska
4 energy efficient home fund.

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New Income

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Deleted language

5-1191P
Utermohle
4/18/88

Original sponsors: Ellis, Koponen,
Menard, et al.

Funding Information	
General Fund	\$1,040,000
Other Funds	-0-
	<u>\$1,040,000</u>

Deleted [Sec(2)] pg 1 lines 14-17
\$35,000 to U of A for research.

[Sec 5] pg 1 lines 27-29
pg 2 line 1
\$85,000 to U of A for TRAVEL

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 319 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making special appropriations for the Alaska
7 energy efficient home program, for mitigation of the
8 effects of radon in homes, and for energy efficient
9 homes; and providing for an effective date."

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

11 * Section 1. The sum of ^[261,000] \$100,000 is appropriated from the general fund
12 to the University of Alaska, cooperative extension service, for preparation
13 and implementation of the Alaska energy efficient home program and for
14 instrumentation and data base development for the program.

15 * Sec. ^[3] 2. The sum of ^[330,000] \$100,000 is appropriated from the general fund to
16 the Alaska energy efficient home ^[grant] fund in the Department of Community and
17 Regional Affairs for grants to homeowners to mitigate the effects of radon
18 on owner-occupied residential property.

19 * Sec. ^[4] 3. The sum of \$760,000 is appropriated from the general fund to
20 ^[the AK energy efficient home grant fund in] the Department of Community and Regional Affairs for grants to pay the
21 incremental cost of constructing 190 rural housing and urban development
22 project homes to the standards of the Alaska Craftsman Home Program.

23 * Sec. ^[6] 4. The sum of ^[250,000] \$80,000 is appropriated from the general fund to
24 the Alaska energy efficient home ^[grant] fund in the Department of Community and
25 Regional Affairs for grants to construct at least one model home in each of
26 ^[15] the urban regions established by the Department of Community and Regional
27 Affairs for the development of residential energy conservation standards
28 for new buildings.

29 * Sec. 5. The appropriations made by this Act lapse into the general

1 fund June 30, 1990.

2 * Sec. 6. This Act takes effect on the effective date of an Act passed
3 by the Fifteenth Alaska State Legislature that establishes the Alaska
4 energy efficient home fund.
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ANALYSIS OF CSHB 319 (L & C)
AND PROPOSED FINANCE COMMITTEE PROVISIONS

CSHB 319:

Section 1. appropriates \$271,000 to the University of Alaska cooperative extension service.

As proposed by the Alaska Home Craftsman program Board of Directors, the break-down of this appropriation amount is as follows:

Preparation of Educational material for shelter industry:	<u>\$ 21,000</u>
- Brochure for Realtors & Appraisers	\$8,000
- Brochure for Bankers	4,000
- 18 training workshops	9,000
Development of Energy Budget Computer Program:	<u>\$ 60,000</u>
Support Training Teams:	<u>\$ 70,000</u>
- Annual conference with full slate training	\$20,000
- Travel and Per Diem expenses	30,000
- Workshop fees	40,000
Program Evaluation and Monitoring:	<u>\$110,000</u>
	<u>-----</u>
	<u>\$261,000</u>

Section 2. appropriates \$35,000 to the University of Alaska, Cooperative Extension Service.

As proposed by the Alaska Home Craftsman program Board of Directors, the break-down of this appropriation amount is as follows:

Trade, High School, and college curriculum development and implementation:	\$20,000
Incremental funding for demonstration homes:	\$15,000
	<u>-----</u>
	<u>\$ 35,000</u>

Section 3. appropriates \$330,000 to the Department of Community and Regional Affairs.

As proposed by the Alaska Home Craftsman program Board of Directors, the break-down of this appropriation is as follows:

TV and Radio Air Time, Newspaper Inserts	\$270,000
Direct Mailing (2 mailings x 30,000)	60,000
	<u>-----</u>
	\$330,000

Section 4. appropriation to the Alaska energy efficient home grant fund for the incremental cost of design and construction of 190 HUD homes to the program standards \$760,000

Section 5. appropriation to DC&RA for the cost of on-site supervision of the first home in each area 85,000

Section 6. appropriation to the Alaska energy efficient home grant fund for the cost of construction of 50 model demonstration homes 250,000

\$1,095,000

PROPOSED FINANCE COMMITTEE AMENDMENTS:

Section 7. Transfers "all right, title, and interest in alternative energy loans...together with assets and fund equities" of the Alternative Energy Revolving Loan Fund to the Alaska energy efficient home grant fund.

This amendment creates a recurring funding source for the grant fund. Only the grants will be funded by this source.

Section 8. Lapses appropriations from sections 1-6 into the General Fund 6/30/90.

Section 9. States that Section 7 (which transfers the assets of the Alternative Energy Revolving Loan Fund to the Alaska energy efficient home grant fund) does not lapse.

Section 10. Provides for an effective date.

Rep. Davis
April 11, 1988

AMENDMENT TO CSHB 319

On page 2 line 8, add the following section:

Sec. 5 The sum of \$100,000 is appropriated from the Alaska energy efficient home grant fund to the Department of Community and Regional Affairs for grants to homeowners to mitigate the effects of radon on property used as the homeowner's residence. To be eligible for a grant the homeowner must have applied for a loan to mitigate the effects of radon from a state chartered or federally chartered lending institution, and been rejected.

Offered: 3/29/88
Referred: Finance

5-1191L

Original sponsors: Ellis, Koponen,
Menard, et al.

Funding Information
General Fund \$1,721,000
Other Funds -0-
\$1,721,000

1 IN THE HOUSE BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 319 (C&RA)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making special appropriations for the Alaska
7 energy efficient home program; and providing for an
8 effective date."

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

10 * Section 1. The sum of \$261,000 is appropriated from the general fund
11 to the University of Alaska, cooperative extension service, for preparation
12 and implementation of the Alaska energy efficient home program and for
13 instrumentation and data base development for the program.

14 * Sec. 2. The sum of \$35,000 is appropriated from the general fund to
15 the University of Alaska, cooperative extension service, for research
16 activities of the Alaska energy efficient home program that have been
17 approved by the board of directors of the Alaska Craftsman Home Program.

18 * Sec. 3. The sum of \$330,000 is appropriated from the general fund to
19 the Department of Community and Regional Affairs to develop and distribute
20 educational information for the general public regarding the Alaska energy
21 efficient home program.

22 * Sec. 4. The sum of \$760,000 is appropriated from the general fund to
23 the Alaska energy efficient home grant fund in the Department of Community
24 and Regional Affairs for grants to pay the incremental cost of constructing
25 190 rural housing and urban development project homes to the standards of
26 the Alaska Craftsman Home Program.

27 * Sec. 5. The sum of \$85,000 is appropriated from the general fund to
28 the University of Alaska, cooperative extension service, for travel and
29 on-site supervision of the construction of the first home built in each of

1 the housing projects funded under sec. 4 of this Act.

2 * Sec. 6. The sum of \$250,000 is appropriated from the general fund to
3 the Alaska energy efficient home grant fund in the Department of Community
4 and Regional Affairs for grants to construct at least one model home in
5 each of the 15 regions established by the Department of Community and
6 Regional Affairs for the development of residential energy conservation
7 standards for new buildings.

8 * Sec. 7. The appropriations made by this Act lapse into the general
9 fund June 30, 1990.

10 * Sec. 8. This Act takes effect on the effective date of an Act passed
11 by the Fifteenth Alaska State Legislature that establishes the Alaska
12 energy efficient home grant fund.

Funding Information
General Fund \$7,965,000
Other Funds -0-
\$7,965,000

BY ELLIS, KOPONEN, MENARD,
ULMER, DAVIDSON, LARSON
AND DAVIS

1 IN THE HOUSE

2

HOUSE BILL NO. 319

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act making special appropriations for the Alaska
7 energy efficient home program; and providing for an
8 effective date."

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

10 * Section 1. The sum of \$1,615,000 is appropriated from the general
11 fund to the University of Alaska, cooperative extension service, for prepa-
12 ration and implementation of the Alaska energy efficient home program and
13 for instrumentation and data base development for the program.

14 * Sec. 2. The sum of \$1,400,000 is appropriated from the general fund
15 to the University of Alaska for development of a portable, instrumented
16 test shelter and for research activities of the Alaska energy efficient
17 home program that have been approved by the board of directors of the
18 program.

19 * Sec. 3. The sum of \$450,000 is appropriated from the general fund to
20 the Department of Community and Regional Affairs to develop and distribute
21 educational information for the general public regarding the Alaska energy
22 efficient home program.

23 * Sec. 4. The sum of \$4,500,000 is appropriated from the general fund
24 to the Alaska energy efficient home equity fund (AS 44.47.370) in the
25 Department of Community and Regional Affairs for the purposes of the fund.

26 * Sec. 5. The appropriations made by this Act lapse into the general
27 fund June 30, 1992.

28 * Sec. 6. This Act takes effect on the effective date of an Act passed
29 by the Fifteenth Alaska State Legislature that establishes the Alaska

1 energy efficient home equity fund.

HB

323

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Law
 Title: "An Act relating to testimony of children in certain criminal proceedings..." BRU: Prosecution
 Sponsor: House Judiciary Components: First, Second, Third, and Fourth Judicial Districts
 Requestor: Representative Swackhammer

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL SUPPLIES	-0-	82.2	82.2	82.2	82.2	82.2
EQUIPMENT	-0-	58.6	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	140.8	82.2	82.2	82.2	82.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	140.8	82.2	82.2	82.2	82.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: March 15, 1988
 Approved by Commissioner: Grace Berg Schaible, Atty. Gen. Date: March 15, 1988
 Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 323 (Jud.)

This bill adds new sections to AS 12.45 that provide for alternative methods for taking the testimony of a child in certain criminal proceedings (AS 11.41) in which that child was the victim or is to be a witness. The bill provides that closed circuit television, one-way mirrors or other spatial arrangements may be used in these proceedings so that a child's testimony may be viewed by the defendant, the court, and the finder of fact, but which also provides that the child does not have visual contact with the defendant and jurors.

The Department of Law believes that alternative methods for taking the testimony of a child, in those cases where normal court procedures would result in the child's inability to reasonably communicate, can be accomplished in three ways. One, closed circuit television would be used routinely at Anchorage, Fairbanks, and Juneau, when isolation of the child is required. If necessary, a modified closed circuit televised method would be used only occasionally at other locations. Two, a one-way mirror or perforated one-way screen method could be used routinely at most other locations when isolation of the child witness from the defendant or jurors is required. Three, use of child-size furniture for the child witness would be appropriate at all locations when it becomes necessary to schedule the proceeding in a room that provides adequate privacy, freedom from distractions, informality, and comfort appropriate to the child's developmental age.

Use of closed circuit television at Anchorage, Fairbanks and Juneau would be contracted out to private vendors. Video/audio communications from the victim/witness to the defendant, the court and the trier of fact would be required. Private audio communication between the defendant and the defendant's counsel would also be required. The department estimates that about four hours of testimony will occur at each pretrial or trial proceeding. The department also estimates that a total of two hours of setup/takedown time will also be required for each proceeding, including vendor's chargeable travel time. It is estimated that contracted costs for operator(s), audio/visual equipment, and cabling will be \$300 per hour, at these three locations.

Occasional use of a modified audio/visual method at other locations, using video recordings of testimony, and involving rental of a video camcorder and monitors, is estimated to \$600 per year at each of the department's other locations. This cost is based upon three days rental, at \$200 per day, of one camcorder, defense audio equipment, and monitors at each location. Operation of the equipment would be handled by existing Department of Law paralegals.

Use of one-way mirrors or some other method that provides one-way sight so that the witness may be viewed by the defendant and the jurors, but which prevents the witness from viewing the defendant and

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 323 (Jud.)

the jurors, will require the manufacture or fabrication of freestanding (or attachable) portable, safe, and easily stored viewing/ screening devices. Thus far, the department has not been able to locate regularly manufactured devices of this nature. However, freestanding partitions providing a 96" x 96" "L" barrier, with two plexiglass 48" x 48" view areas retail for \$1,890. Substitution of a one-way mirror, or other device, would probably cost \$2,000 at a minimum. Devices of this type are not easily nor safely transported between locations by air carrier. For this reason, the cost for one-way screening devices at each of our district attorney office locations is included in this fiscal note request.

The cost of child furniture, at \$150 for a table and chair, is included for each location, except Anchorage costs are for three sets, and Fairbanks costs are for two sets.

During FY 1987, 346 child sexual assault cases were referred to the department. Of this number, 125 cases, or 36% of the total number of cases referred, were declined. It is estimated that about 40% of the declined cases, or 51 complaints, would have been accepted for prosecution had the alternative child testimony methods, contained in this bill, been available to prosecutors. Moreover, due to the obvious trauma experienced by some child witnesses, it would have been appropriate to use the bill's alternate testimony methods on twenty or more occasions in cases that were accepted for prosecution.

A schedule is attached that details the cost of contractual services and equipment that will be necessary for the department to implement this bill.

Fiscal Note Analysis CSHB 323 (Jud.)

Court Room Close Circuit/Screening
Criminal Division

---One-Time---

Office	Type	#cases	Screen Jury	Screen Defendant	Furniture	Rental/ Contractual	Annual ccst	73000 Contractual	75000 Equipment
Juneau DAO	CC	6	2000	2000	150	10800	14950		
Ketchikan DAO	SC	2	2000	2000	150	600	4750		
Sitka DAO	SC	2	2000	2000	150	600	4750		
First Judicial:		10	6000	6000	450	12000	24450	12000	12450
Barrow DAO	SC	3	2000	2000	150	600	4750		
Kotzebue DAO	SC	1	2000	2000	150	600	4750		
Noaa DAO	SC	2	2000	2000	150	600	4750		
Second Judicial:		6	6000	6000	450	1800	14250	1800	12450
Anchorage DAO	CC	24	2000	2000	450	43200	47650		
Bethel DAO	SC	3	2000	2000	150	600	4750		
Dillingham DAO	SC	2	2000	2000	150	600	4750		
Kenai DAO	SC	4	2000	2000	150	600	4750		
Kodiak DAO	SC	3	2000	2000	150	600	4750		
Palmer DAO	SC	5	2000	2000	150	600	4750		
Valdez DAO	SC	2	2000	2000	150	600	4750		
Third Judicial:		43	14000	14000	1350	46800	76150	46800	29350
Fairbanks DAO/4th	CC	12	2000	2000	300	21600	25900	21600	4300
Grand Total:		71	28000	28000	2550	82200	140750	32200	58550

CC = Closed circuit: 1200 Per case
 SC = Screen: 2000 One-Time
 Rental \$ 200 per day 600 based on three day average
 Furniture/set 150 Children size

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: Bill Version: CSHB 323
Publish Date:
Revision Date: 03/14/88 Agency Affected: Alaska Court System
Title: An act relating to testimony BRU: Trial Courts
of children in certain criminal cases
Sponsor: Swackhammer Components:
Requestor:

EXPENDITURES/REVENUES:	(Thousands of Dollars)					
OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL

REVENUE

FUNDING:	(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	.	.	.	.	.	.
Other	.	.	.	.	.	.
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:
Full-time
Part-time
Temporary

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact. See attached analysis.

Prepared by: *Jan Strandberg* General Counsel Phone: 264-8228
Division: Alaska Court System Date: 03/14/88
Approved by: *Stephanie Cole, for* Arthur H. Snowden, II, Administrative Director Date: 03/14/88
Agency: Alaska Court System

- Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management & Budget
Impacted Agency(ies)
Senate Secretary

ALASKA COURT SYSTEM
CSHB 323 - FISCAL ANALYSIS

Because the video equipment and operators necessary to implement this bill are to be provided by the Department of Law, the court system's fiscal note for this committee substitute is zero.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 323 (Jud)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: An Act relating to testimony of children in certain... proceedings... BRU: Council on Domestic Violence and Sexual Assault
 Sponsor: Swackhammer Components: _____
 Requestor: House Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

[Empty box for analysis]

Prepared by: Barbara Miklos, Executive Director Phone: 465-4356
 Division: Council on Domestic Violence and Sexual Assault Date: 3/9/88
 Approved by Commissioner: Walter A. Horvath, Dep. Comm. Date: 3-10-88
 Agency: Public Safety

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

Original sponsor: Swackhammer

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 323 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to testimony of children in certain
7 criminal proceedings; and providing for an effective
8 date."

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

10 * Section 1. PURPOSE. It is the purpose of this Act that, in providing
11 alternative methods for taking the testimony of a child in certain criminal
12 proceedings in which that child was the victim or is to be a witness, the
13 legislature is acting

14 (1) to balance the need for the victim's or witness's testimony
15 against the right of the defendant to confront witnesses;

16 (2) to mitigate the mental and emotional distress that may arise
17 as the child is required to testify; and

18 (3) to minimize possible victim harassment by limiting the
19 opportunities for unnecessary examination of the child by the parties'
20 counsel.

21 * Sec. 2. AS 12.45 is amended by adding a new section to read:

22 Sec. 12.45.046. TESTIMONY OF CHILDREN IN CRIMINAL PROCEEDINGS.

23 (a) In a criminal proceeding under AS 11.41 involving the prosecution
24 of an offense committed against a child under the age of 13, or wit-
25 nessed by a child under the age of 13, the court

26 (1) may appoint a guardian ad litem for the child;

27 (2) on its own motion or on the motion of the party presenting
28 the witness or the guardian ad litem of the child, may order that the
29 testimony of the child be taken by closed circuit television or

1 through one-way mirrors if the court determines that the testimony by
2 the child victim or witness under normal court procedures would result
3 in the child's inability to effectively communicate.

4 (b) In making a determination under (a)(2) of this section, the
5 court shall consider factors it considers relevant, including

- 6 (1) the child's chronological age;
- 7 (2) the child's level of development;
- 8 (3) the child's general physical health;
- 9 (4) any physical, emotional, or psychological injury ex-
10 perienceed by the child; and
- 11 (5) the mental or emotional strain that will be caused by
12 requiring the child to testify under normal courtroom procedures.

13 (c) If the court determines under (a)(2) of this section that
14 the testimony by the child victim or witness under normal court proce-
15 dures would result in the child's inability to effectively communi-
16 cate, the court may order that the testimony of the child be taken in
17 a room other than the courtroom and be televised by closed circuit
18 equipment in the courtroom to be viewed by the defendant, the court,
19 and the finder of fact in the proceeding. If the court authorizes use
20 of closed circuit televised testimony under this subsection,

21 (1) each of the following may be in the room with the child
22 when the child testifies:

- 23 (A) the prosecuting attorney;
- 24 (B) the attorney for the defendant; and
- 25 (C) operators of the closed circuit television equip-
26 ment;

27 (2) the court may, in addition to persons specified in (1)
28 of this subsection, admit a person whose presence, in the opinion of
29 the court, contributes to the well-being of the child.

1 (d) When a child is to testify under (c) of this section, only
2 the court and counsel may question the child. The persons operating
3 the equipment shall do so in as unobtrusive a manner as possible. If
4 the defendant requests, the court shall excuse the defendant from the
5 courtroom, shall permit the defendant to attend in another location,
6 and shall afford the defendant a means of viewing the child's testi-
7 mony and of communicating with the defendant's attorney throughout the
8 proceedings. Upon request of the defendant or the defendant's attor-
9 ney, the court shall permit a recess to allow them to confer. The
10 court shall provide a means of communicating with the attorneys during
11 the questioning of the child. Objections made by the attorneys to
12 questions of a child witness may be resolved in the courtroom if the
13 court finds it necessary.

14 (e) If the court determines under (a)(2) of this section that
15 the testimony by the child victim or witness under normal court proce-
16 dures would result in the child's inability to effectively communi-
17 cate, the court may authorize the use of one-way mirrors in conjunc-
18 tion with the taking of the child's testimony. The attorneys may pose
19 questions to the child and have visual contact with the child during
20 questioning, but the mirrors shall be placed to provide a physical
21 shield so that the child does not have visual contact with the defen-
22 dant and jurors.

23 (f) If the court does not find under (a)(2) of this section that
24 the testimony by the child victim or witness under normal court proce-
25 dures will result in the child's inability to effectively communicate,
26 the court may, after taking into consideration the factors specified
27 in (b) of this section, supervise the spatial arrangements of the
28 courtroom and the location, movement, and deportment of all persons in
29 attendance so as to safeguard the child from emotional harm or stress.

1 In addition to other procedures it finds appropriate, the court may
2 (1) allow the child to testify while sitting on the floor
3 or on an appropriately sized chair;
4 (2) schedule the procedure in a room that provides adequate
5 privacy, freedom from distractions, informality, and comfort appropri-
6 ate to the child's developmental age; and
7 (3) order a recess when the energy, comfort, or attention
8 span of the child warrants.
9 * Sec. 3. AS 44.21.410(a) is amended by adding a new paragraph to read:
10 (6) provide guardian ad litem services in proceedings under
11 AS 12.45.046.
12 * Sec. 4. AS 12.45.047 and 12.45.048 are repealed.
13 * Sec. 5. AS 12.45.046, enacted by sec. 2 of this Act, is retroactive
14 and applies in criminal proceedings involving the prosecution of an offense
15 committed before the effective date of this Act.
16 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

SECTIONAL ANALYSIS

SECTION 1: States the purpose of the act when providing alternative methods for taking testimony from children in certain criminal proceedings. The main purpose is to minimize a child's trauma or emotional stress when facing the defendant in a criminal proceeding under AS 11.41, particularly sexual abuse cases.

SECTION 2: Adds a new section to Title 12 (AS 12.45.046) regarding the testimony of children in criminal proceedings. In criminal proceedings involving the prosecution of an offense committed under AS 11.41 against a child under the age of 13. or witnessed by a child under the age of 13, the court

- (1) may appoint a guardian ad litem for the child;
- (2) on its own motion, the motion of the party presenting the witness or the guardian ad litem may order the testimony of the child be taken by closed circuit television or through one way mirrors if the court determines the child's testimony would result in the child's inability to effectively communicate.

When making a determination whether or not to use closed circuit television testimony, the court must consider relevant factors including

- (1) the age of the child;
- (2) the child's level of development;
- (3) the general physical health and any emotional, physical or psychological injury the child may have experienced; and
- (5) the mental or emotional strain caused by the child having to testify under normal court proceedings.

If the court decides to use closed circuit television, it may order that testimony be taken in a room other than the courtroom and be televised by closed circuit equipment to be viewed by the defendant, the court and the finder of fact in the proceeding. If the court authorizes the use of closed circuit television testimony, only the prosecuting attorney, the defendant's attorney and operators of the closed circuit equipment may be present when the child testifies. In addition, the court may allow a person whose presence contributes to the well being of the child to be in the room when the child testifies.

Only the court and counsel may question the child if closed circuit testimony is used. The persons operating equipment must do so in as unobtrusive manner as possible. The defendant, upon request, will be excused from the courtroom and have the ability to view the child's testimony in another location and have the means to communicate with the defense attorney throughout the proceedings. A recess will be permitted, upon request of the defendant's attorney or the defendant, to allow them to confer. During the questioning of the child, the court will provide a means of communications with the defendant's attorney. Objections made by the attorneys to questions imposed on the child may be resolved in the courtroom if the court finds it necessary.

The court may also authorize the use of one way mirrors while taking the child's testimony. The attorneys may question the child and have visual contact during the questioning but the mirrors will be placed in such a way that a shield is situated so the child does not have visual contact with the defendant.

In the event the court does not allow the use of closed circuit television or one way mirrors, it may supervise the spatial arrangements of the courtroom and the location, movement and deportment of all persons in attendance to safeguard the child from emotional harm or stress. The court may make other appropriate arrangements it deems necessary during the questioning of the child.

SECTION 3: A technical amendment that cross references in Title 44, the use of a guardian ad litem in proceedings under section 2 of the bill.

SECTION 4: Repeals two statutes, AS 12.45.047 and AS 12.45.048, that provided for videotaping of testimony and the exclusion of the public during testimony of young victims of sexual abuse.

SECTION 5: Makes section two retroactive and applies in criminal proceedings involving the prosecution of an offense committed before the effective date of this bill.

SECTION 6: Provides the bill takes effect immediately.

BILL NO:CS for HB323 (Judiciary)

DATE: March 15, 1988


TITLE: An Act relating to testimony of children in certain criminal proceedings; and providing for an effective date.

CONTACT: Barbara Miklos
Executive Director
Council on Domestic
Violence and
Sexual Assault

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CS for HB323 (Judiciary) has a very important purpose: to provide alternative methods for taking the testimony of child victims or witnesses in certain criminal proceedings. It is recognized that testifying in court can be very traumatic for a child unless modifications are made to current court procedures.

The 3/11/88 draft of this bill has addressed the concerns the Council on Domestic Violence and Sexual Assault had about earlier versions of this bill. Therefore, The Council on Domestic Violence and Sexual Assault supports CS for HB323 (Judiciary).


Arthur English
Commissioner

EVIDENTIARY AND PROCEDURAL TRENDS IN STATE LEGISLATION AND OTHER EMERGING LEGAL ISSUES IN CHILD SEXUAL ABUSE CASES

A paper by the
**National Legal Resource Center
for Child Advocacy and Protection**

**Child Sexual Abuse
Law Reform Project**



**American Bar Association
Young Lawyers Division
Washington, D.C. - April, 1985**

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Evidentiary and Procedural Trends in State
Legislation and Other Emerging
Legal Issues in Child Sexual Abuse Cases

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General Discussion of Trends

Since the early 1980's, a number of states have undertaken statutory reform efforts to improve the handling of child sexual abuse cases in the legal system. Legislative reform in a few areas had begun earlier, including a trend to abolish the corroboration requirement and to abolish competency tests for children.¹ For example, in 1981, a dozen states had eliminated competency qualifications of child witnesses; by 1985, almost half of the states had made this change, nearly twice the number of states in a four year period. The reasons motivating the recent reform movement seem to be the greater awareness and reports of child sexual abuse, the increasing number of cases being prosecuted and children who must be witnesses in court, and wide circulation of the ABA's Recommendations for Improving Legal Intervention in Intrafamily Child Sexual Abuse Cases with a range of suggestions regarding state legislative action and other innovations in legal intervention. An additional reason for some of the reforms relates to changes in attitudes regarding children and their abilities.

The new legislation is designed to serve three basic purposes - to modify legal procedures to be more sensitive to child victims, to improve prosecution and conviction rates, and to provide treatment in special programs for the offender, child and family. The literature is replete with documentation by mental health clinicians, child welfare professionals, prosecutors, children's attorneys, and other legal experts that children suffer additional psychological harm by insensitive legal procedures.² Moreover, until recent years, criminal proceedings often were not initiated (particularly in incest cases) due to a variety of reasons, including lack of eyewitnesses or physical evidence and perceptions that children were not credible witnesses.³ Finally, since the 1970's a number of specialized incest treatment programs have developed around the country, some of which were funded for several years

by the National Center on Child Abuse and Neglect to provide training to professionals in other jurisdictions. These programs vary in terms of treatment philosophy and their involvement with the legal system. Although the effectiveness of programs that provide alternative dispositions for offenders and their families should be explored, this paper only deals with reforms to minimize trauma and improve prosecutions.

This paper will deal with two areas that have generated a significant amount of legislative activity -- special hearsay exceptions for complaints of sexual abuse by child victims and videotaping or closed-circuit television procedures for taking a child's testimony outside the courtroom. Legislative efforts in other areas, such as videotaped interviews, competency, expert testimony, civil protective orders or many other ideas outlined in the ABA's Recommendations are not examined here. These and other areas will be analyzed at the ABA's March, 1985 National Policy Conference on Legal Reforms in Child Sexual Abuse Cases and in the Conference report. Appendix A, however, contains a list of states that have adopted statutes in the following areas: videotaped testimony, closed-circuit television testimony, videotaped interviews, special hearsay exceptions, and abolishment of competency requirements.

As some researchers suggest, new research relating to children in the legal system would be helpful in a number of areas.⁴ These include the effects of pretrial investigation and the trial itself on the child's performance as a witness; determining what factors may make some children more vulnerable, e.g., age, type of abuse, relationship of child to perpetrator, threats, young age, sex; determining what aspects of the legal process (such as repeated pretrial questioning, delays, testifying in open court, or in front of the defendant) cause greatest trauma, inhibit reporting, or contribute to a child's retraction or refusal to testify; and what if any are the long term effects of legal intervention on children. Nevertheless, the experience of numerous professionals throughout the country who have frequent contact with children is sufficient to justify the recent legislative reform movement.

In 1981, the National Center on Child Abuse and Neglect (NCCAN) reported that the average age of a child victim of sexual abuse was between 11 and 14 years of age; however, it also was noted that more recent program information showed a higher percentage of children under age 12, and one program showed that 1/3 of the victims were under age six.⁵ Recent revelations about sexual abuse of pre-school age children in child care forces us to accept the fact that very young children are at risk. Further, it must now be acknowledged that in addition to parental sexual abuse, a significant amount of sexual abuse is committed by adults outside of the home.

These new problems also raise new legal concerns. In cases involving offenders who are not parents, such as teachers, day care providers, or babysitters, the criminal justice system is more likely to be involved than when the offender is a parent. Although more incest cases also are being prosecuted in many jurisdictions, a juvenile court child protection proceeding sometimes is the only legal intervention in an incest case. Even if criminal prosecution occurs in an incest case, a special program may exist for offenders who plead guilty, where they may obtain specialized treatment along with the child and family under a sentence of work-release or probation.⁶ The child in a non-incest case therefore probably has a greater chance of having to testify in a criminal proceeding, since more prosecutions and fewer guilty pleas are likely. Further, in cases with young victims, there may be greater problems in proving the abuse and greater trauma to the child.

Although one may accept the need to reform laws and legal procedures, the assumptions and purposes underlying proposals need to be examined, and the legal and practical consequences should be analyzed thoroughly before states adopt innovative approaches. It is wise to proceed with caution in order to protect against reversals of convictions by appeals courts based on a statute's unconstitutionality, to prevent backlash and failure of legislatures to enact reforms for fear they will be found unconstitutional by the judiciary, and to ensure that reforms are narrowly drawn to apply only in cases where it has been shown that a particular child would be injured by a particular legal procedure.

Generally speaking, therefore, a state may want to consider adopting a range of legislative alternatives that permit a court to "decide" on a case-by-case basis whether the state's legitimate concern for the well-being of the minor victim necessitates⁷ the use of a particular approach. As the U.S. Supreme Court stated in Globe Newspaper Co. v. Superior Court, a case-by-case determination "ensures that the constitutional right of the press and public to gain access to criminal trials will not be restricted except where necessary to protect the State's interest."⁸ In addition to avoiding constitutional challenges, whether they involve the first amendment or the rights of a defendant in criminal trials, a statute that provides "a narrowly tailored means of accommodating the state's asserted interest"⁹ also assures that an approach is used only when clearly necessary. In Globe Newspaper, mandatory closure of the courtroom during the testimony of child sexual abuse victims in a criminal trial was held to be overly broad, since it would apply whether or not the victim sought to have closure and even if the victim would not suffer injury if the proceeding was open to the press or public.

Indeed, research and clinical evidence suggests that children, like adults, react differently to being victimized and react differently to the aftermath and the judicial process.¹⁰ In addition, mandating an approach for all children could be interpreted as degrading. Although efforts should be made to protect children, efforts also should be directed to treating them equally as adults, where appropriate. For example, reform laws abolishing competency requirements for children reflect such an attitude.

Another issue relating to the development of reforms for child sexual abuse victims is whether it might be wiser to enact them as part of a broader package of special procedures for any victim of crime who is shown to have specific vulnerabilities or who is likely to be psychologically harmed by particular legal procedures. On the one hand, concern for safeguarding the well-being of young victims may justify special treatment; on the other hand, many other potentially vulnerable populations, such as elderly persons, adult persons who have a history of psychiatric problems, or adult persons who were victimized in an extremely traumatic crime also may deserve special procedures to reduce the trauma they experience in the criminal justice system.

Although it might be better for states to develop a comprehensive legislative scheme for all vulnerable crime victims, this approach seems unlikely to happen. First, legislatures tend to deal with single issues and to consider laws that address a specific current problem. Second, it seems improbable that the reforms proposed in child sexual abuse cases could be justified for a much larger category of all vulnerable crime victims. Still, the idea of developing special procedures by statute only for young victims may lead other groups to lobby for similar reforms.

Moreover, perhaps a more significant issue for research involves the need to study and compare the effects of victimization and legal intervention on a variety of crime victims. One risk with establishing special approaches for child witnesses without procedures available for other witnesses is that a social policy of special treatment for a particular group necessarily excludes other potentially eligible groups in society. If children do not suffer greater harm than certain other crime victims, or if other criminal cases are equally difficult to prove, it seems unwise to develop approaches solely for children. Thus, for example, in the area of special hearsay exceptions, it may be questioned whether initial statements of young victims should receive special evidentiary status more than statements of other victims in cases which are difficult to prove.

A final suggestion for future development of innovations is to consider limiting their use to young victims, such as children under ten years of age. Many statutes that provide for testimony by videotape or television cover children up to 16, 17 or 18 years of age.¹¹ This would eliminate a lot of children who may be traumatized, but it may be one method of ensuring that special approaches are used only in the most serious cases or extraordinary circumstances.

State Legislation Creating a Special Hearsay Exception for a Child's Complaint of Sexual Abuse

One evidentiary reform attracting attention by state legislatures is the creation of a special exception to the hearsay rule to permit a child victim's complaint of sexual abuse to be admitted into evidence. Traditionally, such a statement is hearsay and may not be admitted to prove the truth of the assertion unless it falls within an existing hearsay exception. State codes include a variety of exceptions for admitting these statements, including the following: (1) excited utterances or res gestae; (2) statements to physicians; (3) statements of present bodily feelings or symptoms or present sense impressions; (4) necessity exception; (5) prior consistent statements (if the child is available to testify); and (6) residual exception.¹² A child's prompt complaint also may be admitted not as proof of the truth of the statements but to corroborate the child's in-court testimony to rebut an inference of silence inconsistent with the abusive act.¹³ Nevertheless, some states have not adopted all the above exceptions¹⁴, and even with a range of traditional exceptions, a child's statement may not meet the strict requirements of a particular exception.

Because of the need for such statements as evidence, since direct evidence or other circumstantial evidence may be minimal, and because a statement may not fit within an existing exception, ten states have adopted by statute a special hearsay exception. (See Appendix A for list of States). Although the language and organization of the provisions vary, most statutes allow a child victim's statement to be admitted if: (1) either the child testifies or is found to be unavailable; and (2) the court finds the statement to be reliable. Illinois only allows such statements to corroborate the child's in-court testimony. Iowa allows statements to be admitted only in juvenile court child abuse adjudication proceedings and does not require unavailability or reliability.

Four statutes (Indiana, Minnesota, South Dakota, and Washington) require corroboration or other evidence of the act, in addition to requiring unavailability of the child and reliability of the

statement before the statement may be admitted. The purpose of requiring other evidence in addition to the statement when the child victim's testimony is not available is to prevent a conviction based upon evidence of the child's statement's alone. The appropriate statutory language should be that after a court finds both unavailability and reliability, and admits the statement into evidence, there may not be a conviction unless other evidence exists in addition to the child's statement. As discussed below, this may not be necessary, since a prosecution is unlikely to be commenced with only the child's statement. On the other hand, a state may want to include this requirement to ensure that defendants receive a fair trial.

Under the new exceptions, if the child testifies at trial, the prior statement can be admitted as substantive evidence; however, the child's testimony is sufficient to convict without the statement, and the statement merely serves to corroborate the in-court testimony. In cases where the child cannot testify, the necessity for these statements is much greater. Situations where the child may not be able to testify include cases involving extremely young victims (such as two or three-year olds) who may not be able to communicate or remember what happened to them, or other children who would be highly traumatized emotionally from testifying or intimidated by the defendant into not testifying.¹⁵ As noted above, the problem with these cases, is that if the child does not testify and the sole evidence is the victim's out-of-court statement, it is unlikely that the state would bring a case. But where circumstantial evidence in addition to the statement is available, a prosecutor could decide that there is sufficient evidence to convict the defendant beyond a reasonable doubt.

Despite the hope that these new exceptions bring toward increasing the number of prosecutions and convictions, in cases where the child does not testify and is not subject to cross-examination, admissibility of statements under the new exceptions may be jeopardized under the confrontation clause of the sixth amendment. The confrontation clause has been interpreted as a rule of preference for "face-to-face confrontation at trial," requiring the "personal presence of the witness at trial, enabling the trier to observe his demeanor as an aid in evaluating his credibility and making false accusation more unlikely because of the presence of the accused and the solemnity of the occasion."¹⁶ If, however, the declarant's live testimony in court cannot be obtained, principles of necessity and public policy have been invoked to admit some hearsay statements.¹⁷

It would be not enough, however, for the prosecutor simply not to call or produce the child victim to testify at trial. Indeed, the U.S. Supreme Court in the 1980 decision of Ohio v. Roberts held that to satisfy the confrontation clause, the "prosecution must

either produce, or demonstrate the unavailability, of the declarant whose statement it wishes to use against the defendant."¹⁸ Thus as noted earlier, if the child is available and testifies at trial, the statement may be admitted under a special exception as a prior consistent statement with no further inquiry. When the child is not produced as a witness, however, two requirements must be met under Ohio v. Roberts. In addition to unavailability the statement must possess indicia of reliability, which is discussed in greater detail later.

Most of the new hearsay exceptions require a showing of the declarant's unavailability before the statement may be admitted. Traditional categories of unavailability include death, absence, physical disability, mental infirmity or insanity, failure of memory, refusal to testify, privilege, or supervening disqualification.¹⁹ Unavailability of the witness at trial also is a requirement for admitting hearsay under certain traditional exceptions, including dying declarations, statements against interest, and former testimony. (Most exceptions allow hearsay to be admitted even if the declarant does not testify at trial).

There is, however, a higher standard of unavailability for constitutional purposes. The Supreme Court has addressed the issue only in the context of a declarant's absence from the jurisdiction, holding that the prosecution must make a "good faith effort" to obtain the presence of the witness at trial.²⁰ The Court also has indicated that the "lengths to which the prosecution must go to produce the witness is a question of reasonableness."²¹ Until the Supreme Court decides the issue, this is the only guide for courts in deciding what is a sufficient showing of unavailability to satisfy the confrontation clause.

In child sexual abuse cases, a child is likely to be unavailable under the categories of mental infirmity (psychological harm),²² failure of memory²³, refusal to testify (based on threats of harm to the child by the defendant)²⁴, and incompetency.²⁵ Courts also sometimes have established a special type of unavailability for very young child sexual abuse victims who cannot be meaningfully cross-examined although they are present at trial and take the witness stand.²⁶ Thus, prosecutors may be able to obtain admission of statements both in cases where the child does not take the witness stand at all, or where the child "freezes up" on the stand, and becomes unavailable because of failure of memory, inability to continue testifying, or inability to communicate. Showing unavailability, however, may not always be easy. One court held that the evidence established that the witnesses' mental, emotional, and physical condition rendered her ability to testify merely inconvenient and not relatively impossible.²⁷

One special exception statute in Indiana specifically defines unavailability of a child sexual abuse victim, providing that a child is unavailable if:

(i) A psychiatrist has certified that the child's participation in the trial would be a traumatic experience; (ii) a physician has certified that the child cannot participate in the trial for medical reasons; or (iii) the court has determined that the child is incapable of understanding the nature and obligation of an oath.

States that have adopted or are considering special exceptions should include definitions or refer to other sections of their code regarding unavailability.²⁸ How unavailability should be shown also should be specified, including the requirement of a hearing on the issue and the making of trial record. A hearing should be held, for example, on a child's incompetency if that is the basis of unavailability alleged by the prosecutor. Holding a hearing ensures factual support for the trial court's finding and for an appeals court to uphold the trial court's determination.

In one state, California, courts also have held that unavailability due to psychological harm can be established only by an expert, not a lay witness.²⁹ Thus, when seeking to admit statements when the child is alleged to be unavailable due to severe psychological harm from testifying, a mental health professional who has had direct experience with the child should testify to emotional problems of the child and that such problems would be seriously exacerbated by testifying in court. Indiana's statute is a good example of specifying a requirement for expert testimony, although California has added a category of unavailability that defines an expert as "a physician, surgeon, psychiatrist, licensed psychologist, licensed clinical social worker, or licensed marriage family or child counselor."³⁰

As noted previously, in order to protect an accused's constitutional right to confront witnesses, a second requirement also must be met before a child's statement may be admitted under the new exceptions. In Ohio v. Roberts, the U.S. Supreme Court indicated that after a witness is shown to be unavailable, a statement may be admitted only if it has "sufficient indicia of reliability"; such reliability "can be inferred without more in a case where the evidence falls within a firmly rooted hearsay exception. In other cases, the evidence must be excluded, at least absent a showing of particularized guarantees of trustworthiness."³¹ (emphasis added). This requirement means that a court may not admit a statement under a special exception unless the statement is shown to possess particularized guarantees of trustworthiness, since the statement would not fall within a "firmly rooted exception."

As with the showing of unavailability, factors showing trustworthiness may not be easy to establish. Indeed, it is preferable for prosecutors to seek admissibility of hearsay statements of child sexual abuse victims under one or more of the long-standing or accepted exceptions, as well as the new exception. A court would be likely to admit a statement under a traditional exception in order to avoid making particularized findings of trustworthiness. South Dakota's statute makes a statement admissible under the new exception only if it is not admissible under any other statute.

In seeking admissibility under the new exception, a prosecutor first should attempt to show that the statement satisfies one or more criteria cited in the U.S. Supreme Court's decision in Dutton v. Evans.³² The Dutton criteria are: (1) The statement contains no express assertion of past fact; (2) Cross-examination could not show the declarant's lack of knowledge; (3) The possibility of declarant's faulty recollection is remote; and (4) The circumstances surrounding the statement are such that there is no reason to suppose the declarant misrepresented the defendant's involvement.

Courts have held that all four Dutton factors need not be shown in order to admit a statement over confrontation objections, and in fact, if other factors indicate reliability, a statement may not be required to satisfy any of the elements.³³ Prosecutors also should marshal facts to satisfy criteria cited by other courts as indicating a statement's trustworthiness, including the following:

- (1) whether there is an apparent motive to lie;
- (2) the general character of the declarant;
- (3) whether more than one person heard the statements;
- (4) whether the statements were spontaneous or directly responsive to questions;
- (5) the timing of the declaration;
- (6) the relationship of speaker and declarant;
- (7) the child's young age makes it unlikely the child fabricated where the statement represents a graphic account beyond the child's experience;
- (8) the nature and duration of abuse;
- (9) the relationship of declarant and defendant;
- (10) the statement has a "ring of verity" and terminology appropriate to the child's age;
- (11) the child was suffering pain or distress when making statement; and
- (12) extrinsic evidence exists to show defendant's opportunity to commit the act complained of in child's statement.³⁴

Alternative Approaches for Avoiding the Child Victim's Testimony in Open Court Where Necessary to Prevent Severe Emotional Trauma or When the Child is Otherwise Not Available as a Witness

The ABA Recommendations state the following regarding the testimony of child sexual abuse victims:

1.4.4. Child's Testimony

In criminal cases, a child sexual abuse victim should testify at preliminary hearings or grand jury proceedings only if needed. Where necessary to prevent trauma to the child, procedures should be developed to avoid the need for the child's testimony in open court in criminal and civil trials, taking into account any constitutional limitations.

Testifying in a formal courtroom at a criminal trial in front of the defendant, jury, judge and an audience of spectators, and being subjected to direct and cross-examination often is cited as one of the most intimidating and stressful aspects of the legal process for children.³⁵ Although such an experience also may be anxiety-producing for adults, adults generally have developed coping mechanisms to deal with such situations. Further, adults also have a general understanding of the purpose and operation of our legal system and should be better able to withstand and deal with a defense attorney's efforts to discredit their testimony.

The choice of alternatives for taking a child's testimony should depend upon the needs and problems of a particular child. For some children, testifying in front of the defendant may not be as traumatic as sitting on the witness stand in a formal courtroom with an audience full of strangers and the press or with the jury present. A videotaped deposition with the defendant present may be the proper mechanism for such a child. In juvenile court child protection cases, children may be interviewed in the judge's chambers (generally with the parent alleged to have committed the abuse present), providing a less formal setting in which the child may be examined and cross-examined. Other children may not be disturbed by testifying in the presence of the public or the jury, but terrified of facing the defendant. Still other children may only require an advocate, close friend or relative in order to feel less traumatized. Finally, some children may find testifying a helpful experience in dealing with the abuse and may not be traumatized at all.

For the above reasons, legislatures adopting innovative approaches should not mandate a particular approach for all child victims, such as excusing all children from testifying, closing the courtroom in all cases when a child testifies, or preventing the child from seeing the defendant in all cases during the child's testimony. Indeed, the U.S. Supreme Court in Globe Newspaper Co. v. Superior Court held that mandatory exclusion of the press during the testimony of a child sexual abuse victim was violative of the first amendment.

A number of states have enacted or are considering legislation allowing alternatives for taking the testimony of a child sexual abuse victim in order to prevent the child from having to testify in open court at trial, including testimony by videotape or closed-circuit television. Indeed, it is advisable for states to adopt legislation allowing the use of such alternatives. A California appeals court skirted the constitutional issues and disallowed the use of closed-circuit television for taking a child's trial testimony because specific authorization for such a procedure had not been granted by state statute, a necessity given the serious constitutional issues raised by the procedures.³⁶

Other courts, however, have allowed such alternatives without legislative authority, or at least have addressed the constitutional issue despite the absence of legislation.³⁷ For example, where no legislative authority existed, some courts have allowed a child sexual abuse victim to testify in court with the defendant hidden from the child's view, although others have held such a procedure to be violative of the defendant's right of confrontation.³⁸ Thus, although states should enact legislation authorizing various methods, prosecutors still should request a court to allow the use of videotaping, closed-circuit television, or other means where necessary to lessen the trauma of testifying even if their state has no statute.

Videotaped Testimony or Deposition

States seem to be most interested in statutes to allow videotaping of a child's testimony. In 1982, the ABA's Child Sexual Abuse Project found that four (4) states allowed videotaped testimony. By 1985, fourteen (14) states had statutes permitting videotaped trial or preliminary hearing testimony. (See Appendix A for states) Six (6) of the 14 statutes permit the videotape to be made or admitted into evidence at trial only if the court finds that the child's testimony in open court would cause severe emotional trauma.³⁹ Three (3) of these statutes allow either the videotape to be made or to be admitted at trial if the court

finds the child to be "medically unavailable" because testimony would cause emotional trauma, or otherwise "unavailable" as defined in a state's evidence code sections relating to the admissibility of hearsay or prior testimony.⁴⁰ The remaining statutes simply give the court discretion to order the making of the videotape. Thirteen (13) specifically allow cross-examination or questioning of the child by the defendant or his lawyer.

Twelve (12) statutes require the physical presence of the defendant in the room where the videotaping takes place; the statutes in Kentucky and Texas mandate that the defendant be hidden from the child's view, although the defendant must be able to see and hear the child. The age of the child varies by statute, although all provisions allow videotaping of children under 12 years of age.

Live Testimony of the Child by Closed-Circuit Television

Three (3) states, Kentucky, Louisiana, and Texas, have statutes permitting closed-circuit television of a child's testimony. (See Appendix A) During the trial, the child is questioned by the prosecutor and defense attorney (with a support person allowed to be present) in a room outside the courtroom, which is televised to the judge, jury and public in the courtroom. The defendant must be able to "observe and hear the testimony of the child in person," but the child may not see or hear the defendant. Only Louisiana conditions the use of this procedure "when justice so requires."

A bill in California, which has passed the state senate, proposes two-way television of the child's testimony, which may be utilized if psychological harm to the child from testimony in open court is shown. Under this bill, the child would be in a room outside the courtroom, and the judge, jury, defendant, and both attorneys would be in the courtroom. The child would be able to see the courtroom by television, and the people in the courtroom can see the child by television. The attorneys would question the child from the courtroom, and only a support person would be permitted with the child. This proposal thus differs from the other laws by allowing the child to see the courtroom and the jury, judge, public and defendant, but permits the questioning to occur by television rather than in the child's presence.

Potential Constitutional And Other Problems With Alternative Procedures for Taking a Child's Testimony

The above statutory alternatives may raise a number of constitutional violations, many of which are to be examined for the first time at the American Bar Association's National

Policy Conference on Legal Reforms in Child Sexual Abuse Cases or have been analyzed by various law journal articles.⁴¹ As noted earlier, careful consideration of these issues is advised in order to avoid reversals of convictions and to prevent retrials. Once a significant number of states have passed legislation dealing with an area of great concern to the public such as child sexual abuse, tremendous interest in following the trend should be tempered by evaluating the issue in terms of both its constitutionality as well as its practicality.

The constitutional issues raised by the new videotaping and closed-circuit television statutes include the defendant's right to a fair trial under the due process clause of the fourteenth amendment, the defendant's sixth amendment right to a public trial and to a trial by jury, the defendant's sixth amendment right to confront witnesses, and the public's (and press') first amendment right to attend criminal trials. Commentators have suggested that the defendant's jury trial right may be infringed, even if the videotaping is shown to the jury later, because it interferes with the jury's decisionmaking function by distorting or not fully conveying evidence, especially a witness' demeanor; it denies the jury's power at common law to question witnesses; and "it compromises the integrity of the court."⁴²

The defendant's right to a fair trial under the 14th amendment due process clause "traditionally has required judge and jury to be unbiased and evidence to be trustworthy."⁴³ The use of videotaping may prevent the jury from making an accurate and unbiased decision if the videotaping medium prejudicially alters or does not convey evidence. Moreover, the truth-eliciting aspects of the jury trial are removed when videotaping is used, enhancing the possibility of unfairness or perjury.⁴⁴

As with the jury trial right, the defendant's right to a public trial and the right of the press and public to attend criminal trials may be infringed even if the videotape is shown later to the public. Commentators have cited a number of reasons to support this contention, such as the fact that witnesses "may speak more truthfully if placed before the scrutiny of their peers," and that confidence in judicial remedies may lead to public skepticism of judicial processes if the videotaping is done privately.⁴⁵

The first amendment right of access to criminal trials by the press and public has been analyzed in depth elsewhere.⁴⁶ The issue has reached the U.S. Supreme Court, which held in Globe Newspaper that mandatory closure of the courtroom during the victim's testimony violated the first amendment. Statutes

in many states allow closure within the discretion of the court, which should pass constitutional muster. Videotaped testimony shown later to the press and public also should not be violative of the first amendment as long as they are not mandated by statute.

The defendant's sixth amendment right to confront witnesses in a criminal trial also may be violated unless certain requirements are met before using videotaped testimony or closed circuit television. Generally, closed circuit television or videotaping of the child's testimony is sought where it is believed that if the child testifies, she will suffer serious emotional harm or will be so terrified that she will refuse to talk or will freeze up because of the courtroom setting or personal threats by the defendant. Therefore, although the child is in fact available to testify, she would be unavailable to testify in a formal courtroom setting. Depositions frequently have been used in situations where it is impossible to obtain the witness' personal presence at trial. One commentator notes three types of unavailability: the witness is not available for legal process (e.g. death, absence); available for process, but not available for actual attendance (e.g., illness); or available for process and attendance but not available for testifying. It is the third category that justifies videotaping or television for taking the child's testimony.⁴⁷

Necessity is the basic principle for the use of depositions and former testimony at trial, and for the use of closed circuit television. If the witness's testimony in court cannot be had, "it will be lost entirely for the purpose of doing justice if it is not received in the form in which it survives and can be had. The only inquiry then, need be: Is his testimony in court unavailable?"⁴⁸ Thus, in order to admit videotaped testimony in lieu of the child's testimony in court, the requirement of unavailability first must be met. As with special hearsay exceptions, unavailability categories include death, absence, physical or mental disability, incompetency at trial, failure of memory, and refusal to testify. As some statutes provide, severe psychological trauma to the child from testifying also may be a proper ground, although the three statutes that allow a videotaped deposition to be admitted based on any ground of unavailability are preferable.

In addition to unavailability, Ohio v. Roberts also requires statements to possess indicia of reliability, either by falling within an existing hearsay exception or having particularized guarantees of trustworthiness. In analyzing the videotaping legislation, both requirements of Ohio v. Roberts must be considered. First, the eight (8) videotaping statutes that do not require unavailability to be demonstrated probably violate the confrontation clause. Those statutes that require a finding of the child's unavailability, and require