

LEGISLATIVE FINANCE-HOUSE / SENATE FINANCE COMM. FILES 8879

HB 203 cont. - HB 210 488 79

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 23, 1989

SUBJECT: Sectional analysis of draft SSHB 203
(Requirements for teacher certificates)

TO: Representative Eileen MacLean

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 directs the Board of Education to establish classes or types of teacher certificates and removes the requirement, now found in AS 14.20.020(b), that teachers hold a baccalaureate degree. In subsection (c), the bill permits the commissioner of education to issue emergency teacher certificates.

Subsection (d) of the bill is identical in substance to AS 14.20.020(e).

Section 2 amends the definition of "teacher" for the statutes concerning teacher certification and employment and acquisition of tenure rights. The new definition specifically includes school nurses. The existing definition reads:

"teacher" means a person serving in a teaching, counseling, or administrative capacity and required to be certificated in order to hold the position.

Section 3 gives the bill an effective date of July 1, 1989.

If I may be of further assistance, please advise.

TC:gc
wkk3/034

*Limit the
definition of
teacher to
allow
HBC. ed.
Native teachers
provide the
School Board*

WESTERN ALASKA COALITION OF SCHOOL BOARDS

Iditarod Area, Kashunamiut, Kuspuk, Lower Kuskokwim,
Lower Yukon, St. Mary's, Yupiit

SPRING MEMBERSHIP MEETING
MARCH 14-15, 1989
LKSD BOARD ROOM
BETHEL, ALASKA

Coalition Draft Minutes Excerpt Showing Position of the Coalition on Some Current, Proposed Bills.

Background Information. Representatives from six of the seven member school boards (Iditarod Area, Kashunamiut, Lower Kuskokwim, Lower Yukon, St. Mary's, and Yupiit) met and discussed various proposed bills during a worksession held before the regular Coalition business meeting on March 15, 1989. While agreement was reached on each of the bills, the Iditarod Area representative had to leave before the regular business meeting was called to order.

Draft Minutes Excerpt

2. Review of Current, Proposed Legislation

A. School Construction and Debt Retirement: CS for House Bill 37:

Discussion about HB37 came to focus on why the Coalition could not support the proposed bill. Mr. Harold Sparck, L.K.S.D., moved and Mr. Mike Williams, Yupiit, seconded that the Coalition of Western Alaska School Boards recommends the Legislature recognize that the issues of debt retirement and new school construction are essentially separate issues and that they should be dealt with as such. In particular:

* The State should only be required to pay for school construction debt retirement costs incurred as a result of building according to the minimum square footage guidelines in effect at the time of construction. Some cities and boroughs built facilities that greatly exceeded the minimum guidelines: these cities and boroughs should be required to pay for all costs due to decisions made to exceed the minimum guidelines for numbers of students and square footage.

* CSHB37 does not adequately recognize that schools are also community centers in most rural Alaskan communities in contrast to more urban areas that have separate gyms, auditoriums, cafeterias, sports centers, etc., etc. CSHB37 does not take into account other community resources in determining priorities for new construction.

* CSHB37 does not recognize that some school facilities have been constructed as a result of grants to municipalities instead of through the Department of Education to school Districts.

* The priority system for new construction proposed in CSHB37 will largely serve to perpetuate differences between wealthy and poor communities in which richer communities have outstanding, specialized facilities while poor communities have minimum, multi-purpose buildings.

* The 10 year debt retirement pay-off deadline is unnecessary. Why not 30 years so more money could be made available for new construction??

* It was not fair in the past to allow Alaska's richer cities and boroughs to tie-up and otherwise obligate state funds for school construction by their own actions. The Governor and Legislature are to be commended for trying to correct this injustice and problem.

Motion Carried Unanimously

B. School Finance: Single and Dual-Site Districts: House Bill 185:

This bill is the same as SB179. The Bill corrects The Public School Foundation Program for 28 single and dual-site school districts so as to put them on a funding par with multiple-site districts. The Legislature made special appropriations to some districts during the past two years in order to deal with this problem. Passage of HB185/SB179 directly helps Kashunamiut and St. Mary's School Districts.

Ms. Gloria Simeon, L.K.S.D., moved and Mr. Joe Paniyak, K.S.D., seconded supporting HB185.

Motion Carried Unanimously

C. Binding Arbitration: CSSB15:

Discussion centered on the reasons everyone present opposed binding arbitration. Binding arbitration takes away control and responsibility from elected school board members and gives it to unelected arbitrators who do not have to live with the results of their decisions and who may be ignorant of local conditions and needs. CSSB15 also does not distinguish between the different kinds of school employees such as maintenance workers and teachers. This needs to be done or else maintenance workers might be able to strike during the coldest part of the winter with millions of dollars of property damage resulting from their actions. The Legislature should not let employee unions run the schools instead of elected school board members.

Coalition Chair Ms. Flora Paukan appointed a committee consisting of Mr. Jim Johnson, I.A.S.D.; Ms. Elizabeth Carden, L.Y.S.D.; Mr. John Thompson, Sr., SMSD, Mr. Mike Williams, Yupiit, and Mr. Joe Paniyak, K.S.D., to meet with Mrs. Susan Murphy of the L.K.S.D. staff to draft a position opposing binding arbitration and in response to CSSB15. This committee would meet as soon as possible so that Mrs. Murphy could represent the Coalition at a public hearing on binding arbitration through the Bethel Legislative Information Office on March 16 from 3:30-6:30 P.M. No other action was taken on this topic at this time.

D. HB 198: Teacher Nonretention:

This Bill would enable a school board to reduce its staff as a result of a reduction of funds available to the school district as determined by the school board. Following discussion, Mr. Harold Sparck, L.K.S.D., moved and Mr. Paul Kiunya Sr., L.K.S.D., seconded support of HB198.

Motion Carried Unanimously

E. HB199: Teacher Salaries During Collective Bargaining:

This Bill would not require a school board to give a teacher a step or step and column salary increase if a new collective bargaining agreement is not reached prior to the expiration of the current agreement. Following discussion, Ms. Gloria Simeon, L.K.S.D., moved and Ms. Elizabeth Carden, L.Y.S.D., seconded support of HB199.

Motion Carried Unanimously

F. HB200: Teacher Tenure Rights:

HB200 would increase the time required to earn teacher tenure from two years to five years. Following discussion, Mr. Mike Williams, Yupiit, moved and Ms. Gloria Simeon, L.K.S.D., seconded support of HB200.

Motion Carried Unanimously

G. HB203: Insurance of Teacher Certificates:

HB203 would return responsibility for issuing teacher certificates to the Department of Education based on State Board of Education approved requirements. At present, the Department issues certificates based on University of Alaska "approved program" requirements. The University "approved programs" route has not and does not meet the teacher preparation needs of many Alaskan school districts.

Mr. Mike Williams, Yupiit, moved, and Mr. Paul Kiunya Sr. L.K.S.D. seconded support of HB203.

Motion Carried Unanimously

H. CSHB139: Payments of Bills Within 30 days by Schools and Municipalities:

This bill would require cities and schools to pay for all purchases within 30 days. Discussion clarified that this bill is unnecessary because nearly all successful businesses increase their base prices to take into account delayed payments and/or offer a discount for prompt payment. HB139 would also make it necessary for schools to hire more business office staff in order to comply with the law. Since no new funds are to be granted to schools for this purpose, HB139 would lead to a shift of money from instruction to administration in order to help less successful private businesses.

Mr. Harold Sparck, L.K.S.D., moved and Mr. Mike Williams, Yupiit, seconded opposing CSHB139.

Motion Carried Unanimously

I. CSHJR13: Creation of a Permanent Endowment Fund for Education:

Everyone present reviewed a videotape by Governor Cowper explaining why a permanent endowment fund for Alaskan schools should be created through a constitutional amendment. Ms. Edna MacLean, representing the Alaska Department of Education, also spoke about the proposal. A lengthy discussion about the proposal took place. Concerns were expressed that existing inequities in how schools are financed need to be recognized and dealt with before money is set aside in ways that could perpetuate such inequities. Coalition President Flora Paukan suggested that the Lower Yukon School District write a letter to Governor Cowper commending him for his efforts to establish a permanent fund for schools and explaining the major concerns members of the Coalition have about the plan. Following discussion, Mr. Leslie Hunter, L.Y.S.D., moved and Mrs. Gloria Simeon, L.K.S.D., seconded having L.Y.S.D. write to Governor Cowper as had been explained.

Motion Carried Unanimously

No other action was taken on this topic at this time.

WESTERN ALASKA COALITION OF SCHOOL BOARDS

IDITAROD AREA, KASHUNAMIUT, KUSPUK, LOWER KUSKOKWIM,
LOWER YUKON, ST. MARY'S, YUPIIT

Executive Summary of Legislative Positions Taken by the Coalition on March 15, 1989.

- A. CSHB37: Debt Retirement and School Construction:
COALITION OPPOSES. Debt retirement and school construction are two different issues.
- B. HB185: Single and Dual-Site School Funding:
COALITION SUPPORTS. Puts single and dual-sites on a par with multi-site districts.
- C. CSSB15: Binding Arbitration for School Employees:
COALITION OPPOSES. Need to keep local control instead of letting unions and non-resident arbitrators run schools.
- D. HB198: Teacher Nonretention:
COALITION SUPPORTS. Lets school boards nonretain teachers due to reduced funding.
- E. HB199: Teacher Salaries During Collective Bargaining:
COALITION SUPPORTS. Lets districts keep teachers at same salary step and column until new agreement is reached.
- F. HB200: Teacher Tenure Rights:
COALITION SUPPORTS. Extended time required for a teacher to acquire tenure from two to five years.
- G. HB203: Issurance of Teacher Certificates:
COALITION SUPPORTS. Makes Department of Education responsible for determining requirements for kinds of teacher certificates instead of University of Alaska.
- H. CSHB139: Payment of Bills by Schools and Cities:
COALITION OPPOSES. Would add to costs of school administration operations and favors inefficient businesses.
- I. CSHR13: Creation of Permanent Fund For Education
COALITION DECIDED NOT TO SUPPORT OR OPPOSE. Letter will be written to Governor explaining concerns about the need for an equitable school funding plan.

ALASKA STATE LEGISLATURE

Representative Eileen Panigo MacLean
P.O. Box 290
Barrow, Alaska 99723



Chairman
Community & Regional Affairs
Committee

Vice-Chairman
State Affairs Committee
Bush Caucus

Member Finance Subcommittee
Community & Regional Affairs
Education
Corrections

WHILE IN JUNEAU
Box V
Juneau, Alaska 99811
465-4525
465-4833

HOUSE OF REPRESENTATIVES

MEMORANDUM

TO: All Interested Parties

FR: Representative Eileen P. MacLean

DATE: March 16, 1989

Eileen P. MacLean

SUBJ: HB 203 Relating to requirements for teacher certificates and accounting for teacher certificate fees; and defining teacher.

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Northwest Arctic
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Nulquut
Point Hope
Point Lay
Selawic
Shungnak
Wainwright

Enclosed please find a copy of HB 203 which would revise AS 14.20.020 on the issuance of teacher certificates. The bill will clearly define who is a "teacher" required to have a teacher certificate, and the process of issuing teacher certificates. It will authorize the Department of Education to issue the certificates based on regulations established by the State Board of Education.

The definition of "teacher" would include instructors of language and culture, vocational education, and ROTC. These instructors teach specific courses on subjects based on experience, skills, and expertise that is not necessarily obtained in a university setting.

The State Board of Education would implement regulations for issuance of separate teacher certificates to fit special categories such as ROTC, Voc Ed, or a baccalaureate degree program. For example, to accommodate the baccalaureate degree programs, the State Board of Education would establish regulations to specifically target those types of teacher certificates requiring baccalaureate degree program.

This provision would allow alternative methods of quality control over teachers to be developed by the State Board of Education, Department of Education, in addition to the traditional baccalaureate degree program.

Presently, statutes do not address the competency base requirements for the universities to follow when they are in the process of issuing baccalaureate degrees in education. As it now stands, a student can fulfill college requirements in theory with only limited actual classroom experience. As we are all aware, the quality of education is an important aspect which is dependent on the school environment, including that of the community and the culture.

Another category of instructors who would be covered by the definition of "teacher" under this bill are school counselors, nurses or psychologists who teach short continuous courses in the schools relating to health, suicide intervention/prevention, substance abuse, and teenage pregnancy. A separate category of certificates would also be issued to this group of special service providers, based on regulations developed by the State Board of Education.

It is important to understand that this bill would not take away local control from school districts. Salaries would continue to be determined by the school district and even deciding whether to have these kinds of teachers would be the option of the school district.

This is not a tenure bill. HB 203 will only address retirement benefits and does not include special certificates in the teacher tenure system.

Also, the traditional baccalaureate degree process would not be changed. Requirements for four year degree would remain the same for Class A teaching certificate.

Last year, a similar bill was introduced by Senator Willie Hensley.

For the last few years, the issuance of teacher certificates has been a continuous topic. The problem I see is that the definition of teacher has not been definitive. It will continue to exist if we do not define what "teacher" means.



Alaska State Legislature

HOUSE HES. Cmte. 3 *[Signature]*

Please enter into the record my testimony to the Johnson O'Malley Program
committee name

committee on HOUSE BILL 203 & 231 , dated March 31, 1989
bill/subject

HOUSE BILL 203

I support that Bill. I think that it is very vital that it is passed for 3 main reasons:

1. The language teachers needs the certification. These people are good in teaching the language.
2. These people are role models for the children. We need role models very much.
3. The people that teaches cultural enrichment also needs to be recognized. The special certification would be one way of recognizing these people as part of these bill, I would also like to recommend that these people will further their education on children management. I think for people who could understand English very well would also benefit from Methods courses to improve their dispersement of their knowledge.

HOUSE BILL 231

I support this. Sec. 1. A514 03.015" It is the policy of this state that education should encourage all students to succeed in learning, assist students to shape worthwhile and satisfying lives, exemplify societal values, and provide students with tools to influence the character and quality of the world." This is a very good and worthwhile statement to hold onto especially if you are a native. This has been the intend of education for a number of decades, but it hasn't come through to alot of the Native people as a whole.

I support the planning parts (a) 1 establishes goals and priorities for improving education in the district;

) Includes a means of measuring the achievement of goals and priorities.

-(c) Students, parents, teachers and other members of the community shall be encouraged by the district to participate in the preparation of the report submitted under (a) of this section.

7(d) 17 (3)

These steps shall make the people accountable of their education for their children as well as the parents and the community as a whole. These steps would also make the parents aware of the education that the children are acquiring. This would be very good for Native Villages and natives in the urban native population.

Signed: *Aune Nagak*
Testifier

FNA/ Johnson O'Malley Program
Representing (Optional)

310 1/2 1st Avenue
Address

452-8344
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Health, Education & Social Services

committee on HR 18 committee name
HB, 33, 195, 203, 231, 251, 252 dated 3-31-89
bill/subject See pg. 3

It amazes me that our legislature can come to us requesting our input on how we would cut necessary services to our people and then turn around and giving one of our biggest industries an unnecessary Tax Credit. What types of services will be cut from the budget when the fishing industry takes advantage of this tax credit? I hope it will only come out of the Fish & Game budgets. It is my feeling that if budget cuts are going to be necessary, H.B. 33 should be scraped. At least until we come on better Times

See attached sheets.

Signed: Darryl Trigg Darryl Trigg

Testifier

Nome Eskimo Community

NOME ESKIMO COMMUNITY

Representing (Optional)

Box 401, Nome, AK 99762

P.O. Box 401, Nome, ALASKA 99762

Address

(907) 443-2246

443-2246

Phone No.

TESTIMONY RE: HB's 198, 203, 231, 251, 252

In regards to HB 198, I feel it is a good bill, but needs under Section 1 an additional sub paragraph that states: -

"(5) For not having a sufficient number of their students passing a test admitting them to the next higher grade."

Section 2 should read "The amendment to AS 14, 20, 175 made by sec. 1 of this Act, applies to all Teachers and administrators hired by a school district prior to and after the effective date of this act.

Subparagraph (5) is suggested because we feel that too many of our students are "socially" rather than "academically" promoted into higher grades. The Nome school district has many high school level students who still are only capable of reading at 3-7 grade levels.

The only problem I see with H.B. 203, is that it does not address non-degreed bilingual Teachers. It is my feeling that they are grossly unrecognized and often under paid.

HCR 19, is, in my opinion, a work of Art with the exception of the last "be it further resolved." This should be an ongoing action.

H.B. 231 is long over due. It is our feeling that Section 14.03.015, subparagraph (3) (d) should include in each grade level, "Entrance and Exit" exams that show our students have actually achieved the academic skills necessary to advance to the next grade level.

HB257

It is the feeling of Nome Eskimo Community that should it become necessary to institute an income tax, that the Longevity Bonus, Property Tax exemptions and the State Dividend check be exempt from taxation. In other words, that income taxes only be levied on earned income and/or wages. We feel that many dollars could be shaved from the budget if the Legislature would study the state hierarchy's and delete all or most of the "pork barrel" positions and administrative costs that were created in times of plenty. Nome Eskimo Community requests that all other sources of revenue and budget cuts be reviewed before an Income Tax is initiated.

We here at Nome Eskimo Community feel that H.B. 257 is supportable and would like to

the uneducational "soap" programs.

FAX 465-4924 3740



Alaska State Legislature

REP. EILEEN MACLEAN

Please enter into the record my testimony to the

committee name

committee on HB 18, HB 203, & HB 231

dated Testified March 31, 1989

bill/subject

Submitted April 7, 1989

THESE BILLS WOULD CONTINUE THE NEEDED WORK THAT THE SENATE SPECIAL COMMITTEE ON "SCHOOL PERFORMANCE" THAT WAS CHAIRED BY SENATOR WILLIE HENSLEY.

HB 18 is deeply needed by rural Alaska, so that academic performance could be enhanced in the REAA districts in preparing productive graduates for Alaska's society. The special committee was just a "start" for making improvements for Alaska education, and there is a strong need and desire for more "follow-up" in justifying public expenditure for education, so that Alaska could get the most for what we spend on education, There are many issues that we need to follow up as listed in this bill.

HB 231: This bill would grant more local control over program management and accountability in "education", as to what quality and efficiency ways they want their educational programs to be operated. Also the powers that would be granted under this bill is a-long-time-called-for action that would enable the DOE to follow up on the grants and planning that is required of the school districts. To have a effective academic school systems for Alaska, Alaska DOE, local advisory school boards, state board of education, school district and others would need a state education policy to enhance their respective duties and trust for a public education. "ACCOUNTABILITY" is needed, and this bill would help

HB 203: Rural Alaska and educators are for this bill for it would help the general public and various institutions know what Alaska means by defining what "teacher" is. This would help with the districts to be accountable for the type of staff they hire and keep. The recognition of instructors of language and culture, vocational education and ROTC is really needed, for their programs they implement are academic in nature due to their planning, special knowledge they had to have, and teaching efforts are the same as regular teachers. They do enhance and encourage "academic performance", and build self esteem in the students they serve.

Alaska's School performance. (I had to recap my testimony by memory in order to be included enough)

Testifier Larry Mandelall

Nome Public Community, Kenai, Cooper/HF Instructor, Northwest campus

Representing (Optional)

Nome, Alaska

Address

907-443-2455 H 2492 W

Phone No.

Telefax 4652718

Representative Eileen Panigeo MacLean Box V Juneau, Alaska 99811

I am pleased to offer you my strong support for ~~House Bill 231~~ concerning the requirements for teacher certification and for House Bill 231 concerning educational planning and advisory boards.

It is important to recognize and reward teachers who possess expertise in such areas as Native language and culture and vocational education. This is a long over-due effort. I would like to see provisions made for offering some education in pedagogical techniques for teachers holding such alternative certificates; ~~but~~ such education might take the form of short courses delivered during the summer or on-site.

The education planning grant fund is a useful incentive to encourage districts to undertake planning efforts. It is such local efforts, adapted to a context, that will bring about the types of changes needed in rural schools.

I will be glad to assist in the implementation of these bills. Thank you for the opportunity to offer these comments.

Yours truly,

Judith Kleinfeld Head, Department of Education, Fairbanks Faculty

NANA REGIONAL CORPORATION, INC.

POST OFFICE BOX 49 / KOTZEBUE, ALASKA 99752 / TELEPHONE (907) 442-3301



March 31 1989

Representative Eileen McLean
Pouch V
Juneau, Alaska 99811

Dear Eileen:

We support your efforts on HB203. For too long the Educational system has ignored the need to integrate the indigenous Native people's culture and values in Education.

One culture should not dominate and obliterate another, and your bill would set a positive note to have the cultures complement, rather than eliminate, each other. Your bill is certainly a step in the right direction.

Sincerely,

Pete Schaeffer
Vice President



March 31, 1989

Eileen McClean

Room 128

House of Representatives

Box V

Lawrence, Ok. 74811

Dear Representative McClean,

Our Ajinik Polly Schaeffer and a
Point of 8 children have
graduated.

I'm supporting continued forward
funding and early funding for our
schools.

I'm also a supporter for the
Teacher certification for bilingual
teachers.

Sincerely,

Polly Schaeffer

H

B

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HOUSE COMMITTEE REPORT

(11)

Date Referred: April 5, 1989

FURTHER REFERRALS:

Date of Committee Action: 5/1/89

The FINANCE Committee considered:

HB 208

HOUSE BILL NO: 208

[LOANS FOR PART-TIME STUDENTS]

"An Act relating to student loans; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CS HB 208 (Em.) the same title a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: House Fin. letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis 4/5/89 Postsec. Ed.

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

Lay Brown BROWN
Koponen KOPONEN
G. Ulmer ULMER

<u>[Signature]</u> HOFFMAN	X		
<u>Ronald J. [Signature]</u> LARSON	X		
<u>[Signature]</u> BARNES	X		
<u>[Signature]</u> SHULTZ	X		
<u>[Signature]</u> PHILLIPS	✓		
<u>[Signature]</u> RIEGER	✓		

Ronald J. [Signature]
 CO-Chairman's signature



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

P.O. Box V
State Capitol
Juneau, Alaska 99811

LETTER OF INTENT
COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 208 (FINANCE)

May 1, 1989

It is the intent of the legislature that subject to the limitations of 20 AAC 15.030(c), an applicant's authorized loan award will be based on financial need. The calculation of financial need will take into consideration the amount of money available to the applicant from other sources to meet expenses, or \$250.00, whichever is greater.

Handwritten signature of Ron Larson in cursive.

Co-Chairman, Ron Larson
House Finance Committee

Handwritten signature of Lyman Hoffman in cursive.

Co-Chairman, Lyman Hoffman
House Finance Committee

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: RE: Loans for half-time students
Sponsor: Boyer and Koponen
Requestor: House HESS

Agency Affected: Education
BRU: Postsecondary Education/ Student Loan Corporation
Components: Student Loan Fund Student Loan Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

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)

(SEE ATTACHED)

Prepared by: Ronald A. Phipps, Executive Director Phone: 465-2854
Division: Alaska Commission on Postsecondary Education Date: March 15, 1989

Approved by Commissioner: _____ Date: _____
Agency: _____

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

Adopted

HB 208
Analysis of Fiscal Impact

A. Assumptions

1. Total loan awards cannot exceed the statutorily required limit of three percent annual growth and will not exceed the FY 1990 budget appropriation.
2. A portion of borrowers who would have chosen to request a loan for full-time student status will elect to apply for a loan for half-time student status; i.e., a percentage of full-time loans will be supplanted by half-time loans.
3. Staff included in the FY 1990 budget request will be sufficient to service the addition of loans for half-time students.

Original sponsors: Boyer and Koponen

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 208 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to loans for half-time students,
7 deferral of loan repayment, and to the Alaska Post-
8 secondary Education Commission; repealing the student
9 financial aid committee; and providing for an effec-
10 tive date."

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

12 * Section 1. AS 14.42.030(b) is amended to read:

13 (b) The commission shall

14 (1) develop a comprehensive statewide plan for coordinated
15 postsecondary education in the state and serve as the state commission
16 on postsecondary education required under sec. 1202 of Title XII of
17 the Higher Education Act of 1965, as amended by the Education Amend-
18 ments of 1972 (P.L. 92-318, sec. 196; 86 Stat. 324);

19 (2) establish a state advisory council on community col-
20 leges and develop a comprehensive statewide plan for the expansion and
21 improvement of the community colleges under sec. 1001 of Title X of
22 the Higher Education Act of 1965, as amended by the Education Amend-
23 ments of 1972 (P.L. 92-318, sec. 186; 86 Stat. 312, 313);

24 (3) serve as the state agency required under sec. 105 of
25 Title I (Community Service and Continuing Education), 603 of Title VI
26 (Financial Assistance for Undergraduate Education), 704 of Title VII
27 (Construction of Academic Facilities), and Part B of Title IV (Guan-
28 teed Student Loan Program) of the Higher Education Act of 1965 (P.L.
29 89-329; 79 Stat. 1220, 1262; 20 U.S.C. 1005, 1123) as authorized by

1 sec. 1202(c) of Title XII of the Higher Education Act of 1965, as
2 amended by the Education Amendments of 1972 (P.L. 92-318, sec. 196; 86
3 Stat. 324);

4 (4) administer the provisions of AS 14.43.090 - 14.43.160
5 (student loan program) [, AND SERVE AS THE STUDENT FINANCIAL AID
6 COMMITTEE];

7 (5) administer the provisions of AS 14.48 (regulation of
8 postsecondary educational institutions);

9 (6) resolve any disputes that exist or arise under a con-
10 sortium or other cooperative agreement between institutions of public
11 and private higher education in the state.

12 * Sec. 2. AS 14.42.040(a) is amended to read:

13 (a) The commission may appoint an executive director as the
14 commission's executive officer. The executive officer is a member of
15 the exempt service under AS 39.25.110, serves at the pleasure of the
16 commission, and receives compensation fixed by the commission. The
17 executive officer appoints persons to the staff positions authorized
18 by the commission, and staff compensation is fixed by the commission.
19 [THE EXECUTIVE OFFICER IS THE EXECUTIVE SECRETARY OF THE STUDENT
20 FINANCIAL AID COMMITTEE.] Each employee of the commission shall elect
21 membership either in the state teachers' retirement system (AS 14.25),
22 if qualified, or in the public employees' retirement system
23 (AS 39.35).

24 * Sec. 3. AS 14.43.090(d) is amended to read:

25 (d) The commission [STUDENT FINANCIAL AID COMMITTEE CREATED
26 UNDER AS 14.43.095] may sell or assign notes and other instruments
27 evidencing scholarship loans to the Alaska Student Loan Corporation
28 and enter into agreements with the corporation relating to loans, the
29 administration of the student loan fund created under AS 14.42.210,

1 and the payment of and security for bonds of the corporation. Pro-
2 ceeds from the sale or assignment of notes and other instruments shall
3 be deposited in the scholarship revolving loan fund.

4 * Sec. 4. AS 14.43.100(a) is amended to read:

5 (a) Applications shall be submitted to the executive director
6 [SECRETARY] of the commission [COMMITTEE].

7 * Sec. 5. AS 14.43.100(b) is amended to read:

8 (b) A person whose loan application is not approved [RECOMMENDED
9 OR PRESENTED TO THE COMMITTEE] by the executive director of the com-
10 mission [SECRETARY] may appeal to the commission [COMMITTEE THROUGH
11 THE CHAIRMAN OF THE COMMITTEE] and the commission [COMMITTEE] shall
12 consider the application.

13 * Sec. 6. AS 14.43.105 is amended to read:

14 Sec. 14.43.105. ADMINISTRATION OF PROGRAM. The executive direc-
15 tor [SECRETARY] shall administer the programs subject to review by the
16 commission [COMMITTEE] and in accordance with the regulations adopted
17 by the commission [COMMITTEE]. The adoption of these regulations is
18 subject to the Administrative Procedure Act (AS 44.62). A summary of
19 the regulations shall be distributed to each applicant.

20 * Sec. 7. AS 14.43.110 is amended to read:

21 Sec. 14.43.110. UNDERGRADUATE LOANS. The commission [STUDENT
22 FINANCIAL AID COMMITTEE] may make a loan, not to exceed \$5,500 in a
23 [ANY ONE] school year [,] to a full-time [AN] undergraduate student,
24 and not to exceed \$2,750 in a school year to a half-time undergraduate
25 student, eligible under AS 14.43.125. The commission [COMMITTEE] may
26 make a loan for a summer term, even if the total loan for the school
27 year exceeds the \$5,500 or \$2,750 maximum, if the loan for the summer
28 term is counted against the \$5,500 or \$2,750 maximum for the following
29 school year.

1 * Sec. 8. AS 14.43.115 is amended to read:

2 Sec. 14.43.115. GRADUATE LOANS. The commission [STUDENT FINAN-
3 CIAL AID COMMITTEE] may make a loan, not to exceed \$6,500 in a [ANY
4 ONE] school year [,] to a full-time graduate student, and not to
5 exceed \$3,250 in a school year to a half-time graduate student, who is
6 eligible under AS 14.43.125 and is pursuing an advanced degree. The
7 commission [COMMITTEE] may make a loan for a summer term, even if the
8 total loan for the school year exceeds the \$6,500 or \$3,250 maximum,
9 if the loan for the summer term is counted against the \$6,500 or
10 \$3,250 maximum for the following school year.

11 * Sec. 9. AS 14.43.120(c) is amended to read:

12 (c) To maintain a loan awarded to a full-time student the stu-
13 dent must continue to be enrolled as a full-time student in good
14 standing in a career education program, college, or university that
15 meets the requirements [DESIGNATED] under (b) of this section. To
16 maintain a loan awarded to a half-time student, the student must con-
17 tinue to be enrolled as a half-time student in good standing in a
18 career education program, college, or university in the state that
19 meets the requirements under (b) of this section. The commission
20 shall adopt regulations defining "good standing" for purposes of this
21 subsection.

22 * Sec. 10. AS 14.43.120(g) is amended to read:

23 (g) Repayment of the principal and interest on the loan begins
24 not [NO] later than one year after the borrower's studies are termi-
25 nated. The loan shall provide for repayment of the total amount owed
26 in periodic installments in not more than 10 years from the commence-
27 ment of repayment if the loan is to a full-time student, or in not
28 more than five years from the commencement of repayment if the loan is
29 to a half-time student, except as provided in (k) and (m) of this

1 section. If the commission and the borrower agree to a different
2 repayment schedule, the borrower shall repay the loan in accordance
3 with the agreement. A borrower may make payments earlier than re-
4 quired by this subsection.

5 * Sec. 11. AS 14.43.120(k) is amended to read:

6 (k) Periodic installments of principal shall be deferred, but
7 interest shall accrue and be paid unless the borrower [STUDENT] is
8 eligible for interest payment benefits under (1) of this section,
9 during any of the following periods:

10 (1) if the borrower received a loan to attend as a full-
11 time student, return to full-time student status in good standing in a
12 career education program, college, or university that meets the
13 requirements under (b) of this section [AS PROVIDED IN (c) OF THIS
14 SECTION];

15 (2) if the borrower received a loan to attend as a half-
16 time student, return to half-time student status in good standing in a
17 career education program, college, or university in the state that
18 meets the requirements under (b) of this section; a borrower is not
19 eligible for deferral under this paragraph for a period longer than
20 eight years;

21 (3) serving an initial period of up to six years on active
22 duty as a member of the armed forces of the United States;

23 (4) [(3)] serving, for up to three years, as a full-time
24 volunteer under the Peace Corps Act;

25 (5) [(4)] serving, for up to three years, as a full-time
26 volunteer under the Domestic Volunteer Service Act of 1973;

27 (6) [(5)] for a one-time period up to 12 months in which
28 the borrower is seeking and unable to find employment in the United
29 States; or

1 (7) during the period of disability [(6)] if the borrower
2 becomes 50 percent or more disabled as certified by competent medical
3 authority.

4 * Sec. 12. AS 14.43.120(m) is amended to read:

5 (m) In case of hardship, the commission [COMMITTEE] may extend
6 repayment of a loan for an additional period of up to five years in
7 increments no longer than 12 months each.

8 * Sec. 13. AS 14.43.125(a) is amended to read:

9 (a) A person may apply for and obtain a scholarship loan if the
10 person

11 (1) is

12 (A) enrolled as a full-time student in a career educa-
13 tion, associate, baccalaureate, or graduate degree program; [OR]

14 (B) enrolled as a half-time student in a career educa-
15 tion, associate, baccalaureate, or graduate degree program in the
16 state; or

17 (C) a graduate of a high school or the equivalent, or
18 scheduled for graduation from a high school within six months,
19 with sufficient credits to be admitted to a career education
20 program or to an accredited college or university;

21 (2) is not delinquent or in default on a previously awarded
22 scholarship loan; and

23 (3) is a resident of the state at the time of application
24 for the loan; for purposes of this section, a person qualifies as a
25 resident of the state if at the time of application for the loan the
26 person

27 (A) has been physically present in the state for at
28 least two years immediately before the time of application for
29 the loan;

1 (B) is dependent on a parent or guardian for care, the
2 parent or guardian has been present in the state for at least two
3 years immediately before the time of application for the loan and
4 the person has been present in the state for at least one year of
5 the immediately preceding five years except that the commission
6 may by a two-thirds vote, acting upon a written appeal by the
7 person, grant an exemption to the requirement that the person has
8 been present in the state for one year of the immediately preced-
9 ing five years;

10 (C) has been physically present in the state, or is a
11 dependent of a parent or guardian who has been physically present
12 in the state, for at least two years immediately before the
13 applicant was absent from the state and the absence is due solely
14 to

15 (i) serving an initial period of up to six years
16 on active duty as a member of the armed forces of the United
17 States;

18 (ii) serving [,] for up to three years as a full-
19 time volunteer under the Peace Corps Act;

20 (iii) serving [,] for up to three years as a full-
21 time volunteer under the Domestic Volunteer Service Act of
22 1973;

23 (iv) required medical care for the applicant or
24 the applicant's immediate family;

25 (v) being a person who otherwise qualifies as a
26 resident and is accompanying a spouse who qualifies as a
27 resident under (i) - (iv) of this paragraph; or

28 (D) has been physically present in the state, or is a
29 dependent of a parent or guardian who has been physically present

1 in the state, for at least two years immediately before the
2 applicant or the parent or guardian was absent from the state and
3 the absence is due solely to

4 (i) participating in a foreign exchange student
5 program recognized by the commission;

6 (ii) attending a school as a full-time student;

7 (iii) full-time employment by the state;

8 (iv) being a member of or employed full-time by
9 the state's congressional delegation;

10 (v) being a person who otherwise qualifies as a
11 resident and is accompanying a spouse who qualifies as a
12 resident under (i) - (iv) of this paragraph; and

13 (4) does not have a past due child support obligation
14 established by court order or by the child support enforcement divi-
15 sion under AS 47.23.160 - 47.23.220 at the time of application.

16 * Sec. 14. AS 14.43.160 is amended by adding a new paragraph to read:

17 (7) "half-time student" means an undergraduate, graduate,
18 or career education student who during the semester is enrolled and is
19 in regular attendance at classes at one or more public or private
20 institutions of higher education for at least a total of six semester
21 credit hours or an equivalent of six semester credit hours, and in-
22 cludes a career education student enrolled and in regular attendance
23 in classes for at least 15 hours a week.

24 * Sec. 15. AS 14.43.255(c) is amended to read:

25 (c) The commission [STUDENT FINANCIAL AID COMMITTEE CREATED
26 UNDER AS 14.43.095] may sell or assign notes and other instruments
27 evidencing memorial scholarship loans to the Alaska Student Loan
28 Corporation and enter into agreements with the corporation relating to
29 loans, the administration of the student loan fund created under

1 AS 14.42.210, and the payment of and security for bonds of the corpo-
2 ration. Proceeds from the sale or assignment of a note or other
3 instrument shall be deposited in the appropriate memorial scholarship
4 loan fund account.

5 * Sec. 16. AS 14.43.320(a) is amended to read:

6 (a) The memorial scholarship loans provided for under AS 14.43.-
7 250 - 14.43.325 shall be administered by the executive director [SEC-
8 RETARY] of the commission [STUDENT FINANCIAL AID COMMITTEE UNDER
9 AS 14.43.095 AND 14.43.105], subject to review by the commission
10 [COMMITTEE] and to those regulations the commission [COMMITTEE] may
11 prescribe to carry out the purposes of AS 14.43.250 - 14.43.325.

12 * Sec. 17. AS 14.43.405(a) is amended to read:

13 (a) The educational incentive grant program established under
14 AS 14.43.400 - 14.43.500 shall be administered by the executive direc-
15 tor of the commission [SECRETARY OF THE STUDENT FINANCIAL AID COMMIT-
16 TEE UNDER AS 14.43.095 - 14.43.105], subject to review by the commis-
17 sion [COMMITTEE] and to those regulations the commission [COMMITTEE]
18 may adopt to carry out the purposes of AS 14.43.400 - 14.43.500.

19 * Sec. 18. AS 14.43.415(a) is amended to read:

20 (a) A student may apply for an educational incentive grant if
21 the student

22 (1) is a resident of Alaska;

23 (2) is either

24 (A) enrolled as a full-time undergraduate student in a
25 degree program in an accredited postsecondary educational insti-
26 tution; or

27 (B) eligible to be admitted to an accredited postsec-
28 ondary educational institution; and

29 (3) establishes financial need in accordance with standards

1 for determining financial need adopted by the commission [COMMITTEE]
2 under 20 U.S.C. 1070c-2.

3 * Sec. 19. AS 14.43.415(b) is amended to read:

4 (b) The commission [STUDENT FINANCIAL AID COMMITTEE] shall, by
5 regulation, establish a system of priority in the selection of recipi-
6 ents of grants under AS 14.43.400 - 14.43.500 under which students
7 from "low income" families or whose incomes are considered "low in-
8 come" shall be given preference in the award of the educational incen-
9 tive grants.

10 * Sec. 20. AS 14.43.620(b) is amended to read:

11 (b) The commission [STUDENT FINANCIAL AID COMMITTEE CREATED
12 UNDER AS 14.43.095] may sell or assign notes and other instruments
13 evidencing teacher scholarship loans to the Alaska Student Loan Corpo-
14 ration and enter into agreements with the corporation relating to
15 loans, the administration of the student loan fund created under
16 AS 14.42.210 and the payment of and security for bonds of the corpo-
17 ration. Proceeds from the sale or assignment of the notes or other
18 instruments shall be deposited in the teacher scholarship revolving
19 loan fund.

20 * Sec. 21. AS 14.43.630(a) is amended to read:

21 (a) The teacher scholarship loan program shall be administered
22 by the commission [STUDENT FINANCIAL AID COMMITTEE (AS 14.43.095)] in
23 accordance with regulations adopted by the commission [COMMITTEE].
24 The commission [COMMITTEE] shall

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

28 (2) develop and distribute to the local school boards an
29 application form for teacher scholarship loans; the form shall include

1 a requirement that the applicant supply a high school academic tran-
2 script and a statement of intent to enter a teaching career at the
3 elementary or secondary school level in the state.

4 * Sec. 22. AS 14.43.650(a) is amended to read:

5 (a) To be eligible for a teacher scholarship loan, a student
6 must

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

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

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

16 (4) submit to the local school board an application provid-
17 ed by the commission [STUDENT FINANCIAL AID COMMITTEE] under AS 14.-
18 43.630(a)(2); an application may be submitted six months before grad-
19 uation from high school; and

20 (5) not have a past due child support obligation estab-
21 lished by court order or by the child support enforcement division
22 under AS 47.23.160 - 47.23.220 at the time of application.

23 * Sec. 23. AS 14.43.720(b) is amended to read:

24 (b) The commission [STUDENT FINANCIAL AID COMMITTEE CREATED
25 UNDER AS 14.43.095] may sell or assign notes and other instruments
26 evidencing family education loans to the Alaska Student Loan Corpo-
27 ration and enter into agreements with the corporation relating to
28 loans, the administration of the student loan fund created under
29 AS 14.42.210, and the payment of and security for bonds of the

1 corporation. Proceeds from the sale or assignment of notes and other
2 instruments shall be deposited in the family education loan account.

3 * Sec. 24. AS 14.43.730 is amended to read:

4 Sec. 14.43.730. ADMINISTRATION. The family education loan
5 program shall be administered by the commission [STUDENT FINANCIAL AID
6 COMMITTEE (AS 14.43.095)] under regulations that it adopts [ADOPTED BY
7 THE COMMITTEE].

8 * Sec. 25. AS 14.43 is amended by adding a new section to article 9 to
9 read:

10 Sec. 14.43.990. DEFINITION. In this chapter, "commission" means
11 the Alaska Postsecondary Education Commission.

12 * Sec. 26. AS 14.43.095 and 14.43.160(2) are repealed.

13 * Sec. 27. This Act takes effect July 1, 1989.
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approved
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Principal shall be deferred, but interest shall accrue and be paid ... during any of the following periods:

(1) if the borrower received a loan to attend as a full-time student, return to full-time status in good standing in a career education program, college, or university...

(2) if the borrower received a loan to attend as a half-time student, return to half-time status in good standing in a career education program, college, or university in the state...; a borrower is not eligible for deferral under this paragraph for a period longer than eight years

RATIONALE: This language is intended to prevent loan recipients from enrolling or continuing to enroll half-time simply to avoid repayment of their loans.

STATE OF ALASKA

STUDENT

FINANCIAL AID

PROGRAMS

ANNUAL REPORT
1987-88

Alaska Commission on Postsecondary Education
Box FP, 400 Willoughby Avenue
Juneau, Alaska 99811

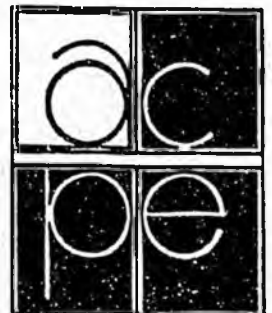
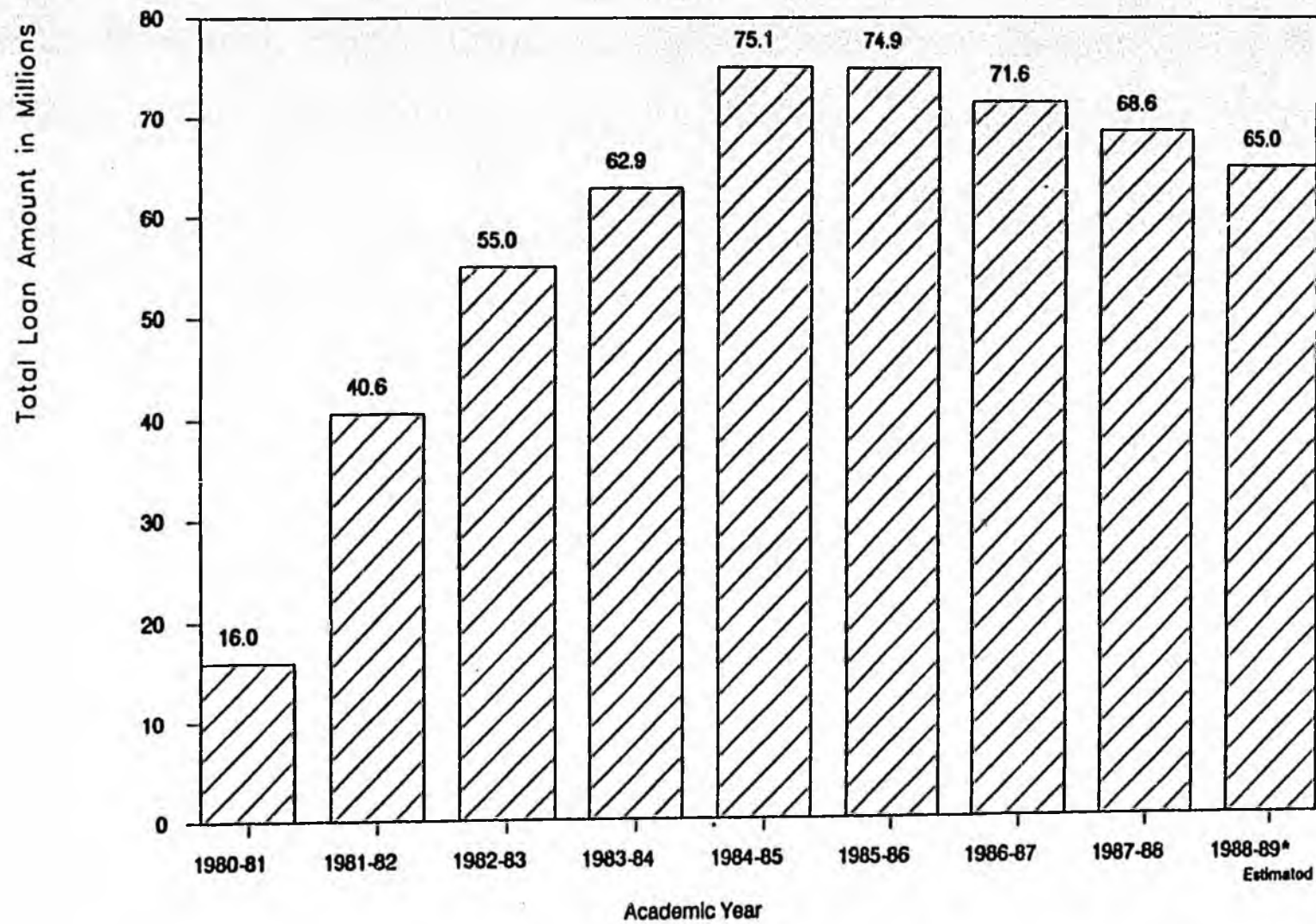


TABLE 14
YEARLY SUMMARY
OF
ALL STUDENT LOANS

ACADEMIC YEAR	STUDENTS ATTENDING IN-STATE				STUDENTS ATTENDING OUT-OF-STATE				TOTAL	
	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Loan Amount
1971-72	601	55.6	\$ 754,964	47.1	480	44.4	\$ 848,194	52.9	1,081	\$ 1,603,158
1972-73	809	46.3	1,079,264	37.6	939	53.7	1,791,120	62.4	1,748	2,870,384
1973-74	622	37.4	1,021,272	34.2	1,043	62.6	1,964,904	65.8	1,665	2,986,176
1974-75	559	38.4	851,138	32.0	898	61.6	1,808,669	68.0	1,457	2,659,807
1975-76	481	28.0	808,536	23.9	1,238	72.0	2,574,461	76.1	1,719	3,382,997
1976-77	584	30.4	927,972	24.1	1,337	69.6	2,922,535	75.9	1,921	3,850,507
1977-78	740	32.7	1,275,122	27.7	1,525	67.3	3,329,045	72.3	2,265	4,604,167
1978-79	902	32.3	1,772,376	27.6	1,893	67.7	4,644,026	72.4	2,795	6,416,402
1979-80	1,303	33.3	2,637,873	28.1	2,615	66.7	6,736,076	71.9	3,918	9,373,949
1980-81	1,733	42.3	5,960,465	37.3	3,727	57.7	10,030,815	62.7	6,460	15,991,280
1981-82	4,454	45.0	16,906,695	41.7	5,444	55.0	23,652,804	58.3	9,898	40,559,499
1982-83	6,581	50.4	25,483,984	46.3	6,477	49.6	29,523,411	53.7	13,058	55,007,395
1983-84	7,467	50.5	29,964,667	47.6	7,318	49.5	32,947,649	52.4	14,785	62,912,316
1984-85	9,266	54.0	37,638,513	50.1	7,907	46.0	37,437,370	49.9	17,173	75,075,883
1985-86	8,249	51.6	36,773,547	49.0	7,734	48.4	38,208,183	51.0	15,983	74,981,730
1986-87	8,650	52.2	35,224,988	49.2	7,916	47.8	36,357,559	50.8	16,566	71,582,547
1987-88	8,847	53.8	34,825,697	50.8	7,606	46.2	33,750,197	49.2	16,453	68,575,894
TOTAL	62,848	48.7	\$233,907,074	46.6	66,097	51.3	\$268,527,017	53.4	128,945	\$502,434,091

Alaska Student Loan Program

Loan Amount Per Year



STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 29, 1989

SUBJECT: Eligibility requirements for Student Loans -
HB 208

TO: Representative Mark Boyer

FROM: Michael F. Ford *M-F.*
Legislative Counsel

You have asked whether the state may restrict half-time student loans to in-state institutions as provided in HB 208. I believe that the state could restrict it's student loans to in-state schools, and that it would not create any constitutional problems to limit half-time student loans in this manner. This is assuming that this type of eligibility requirement would apply to all residents in an equal manner and would not discriminate against an applicant for a loan, but only against the institution. This restriction would of course deny student loans to those half-time students who wish to attend a program not available in-state. Again, I do not see that this raises a constitutional problem, instead it is a policy question within the power of the legislature to resolve.

MFF:gc
WKG8/089

Rep. Mark Boyer
March 13, 1989

SECTIONAL SUMMARY

HB 208 RELATING TO HALF-TIME STUDENT LOANS

Sec. 1 Establishes the undergraduate loan limit for half-time students at \$2,750. This is half of the \$5,500 limit for full-time students.

Sec. 2 Establishes the graduate loan limit for half-time students at \$3,250. This is half of the \$6,500 limit for full-time students.

Sec. 3 Limits the use of half-time loan funds to books, tuition, and required fees. Full-time loan funds may also be used for room and board.

Sec. 4 Requires that half-time loan recipients be enrolled in good standing in a career education program, college, or university in the state. These are the same requirements that full-time students must meet, except that full-time loan recipients may attend school out of state.

Sec. 5 Requires repayment of a half-time loan within five years from the commencement of repayment. This is half of the 10 year repayment period for full-time loans.

Sec. 6 Allows for deferral of principal and interest while the half-time student is in school. This same deferral provision applies to full-time students.

Sec. 7 Amends the eligibility provisions of the student loan program to include half-time, as well as full-time, enrollment in a career education, associate, baccalaureate, or graduate degree program in the state. Full-time students may enroll out of state also.

Sec. 8 Defines half-time student as an undergraduate, graduate, or career education student enrolled and in regular attendance for at least six semester credit hours, or a career education student enrolled and in regular attendance at classes for at least 15 hours a week. The definition of a full-time student is enrollment and regular attendance in at least 12 semester credit hours or the equivalent of undergraduate or career study, or 9 hours of graduate study.

Sec. 9 Effective date of July 1, 1989.

NOTE: All sections of HB 208 amend sections of existing law. Provisions of existing law that currently apply to full-time students but that are not referenced in SB 208 would apply to half-time students as well (8% interest, begin repayment within one year of completing study, interest accrual during grace period, default at 120 days, garnishment of Permanent Fund dividends for defaulted loans, two year residency requirement, commission approval of career education programs, etc.).

STATE OF ALASKA

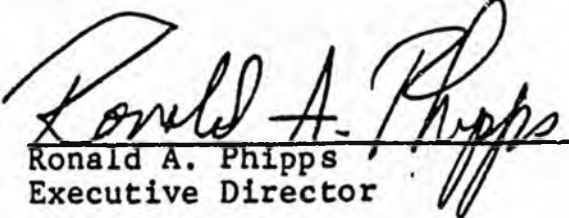
ALASKA COMMISSION ON POSTSECONDARY EDUCATION

STIVIE COWPER, GOVERNOR

P.O. BOX FP
JUNEAU, ALASKA 99811-0599
PHONE: (907) 465-2854

House Bill No. 208

At its meeting on March 3, 1989, the Commission on Postsecondary Education endorsed the concept of a half-time Student Loan Program to provide opportunities for those Alaskan students who are unable or disinclined to pursue postsecondary education on a full-time basis.


Ronald A. Phipps
Executive Director

WOHLFORTH, ARGETSINGER, JOHNSON & BRECHT

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TELECOPY (907) 278-8082

March 22, 1989

Dr. Ronald Phipps
Executive Officer
Alaska Student Loan
P.O. Box PP
400 Willoughby Avenue
Juneau, Alaska 98111

Dear Ron:

You have requested that we prepare a position paper with respect to Senate Bill No. 208, an Act Relating to Student Loans and Providing for an Effective Date, (hereafter, the Bill) particularly with respect to the Indenture securing the Corporation's outstanding Bonds. We are happy to provide the following in response to your request.

POSITION PAPER

SENATE BILL NO. 208

Senate Bill No. 208 amends various sections within AS 14.43 to expand the student loan program to include loans to "half-time students". Under present law, the Commission on Postsecondary Education is authorized to make loans under the student loan program only to full-time students.

The Bill defines a "half-time student" generally as a student enrolled in at least six semester credit hours, or the equivalent, at an institution of higher education. The following are the significant differences in the Bill's treatment of half-time students and full time students:

- (1) half-time student loans are limited to an amount that is one-half the maximum amount available to full-time students;

FILE COPY

Dr. Ronald Phipps
March 22, 1989
Page 2

(2) half-time student loans cannot be used to pay for room and board;

(3) half-time students must attend school within the state, both to qualify for a loan and to qualify for interest deferment with respect to an outstanding student loan; and

(4) half-time student loans must be repaid in five years after commencement of repayment (instead of 10 years for full-time loans).

With respect to general aspects of the Bill, we have identified no difficulties in terms of ambiguities, inconsistencies, drafting problems, or the like. Insofar as tax-exempt financing for student loans is concerned, you should be aware that item (3) above (which is expressed in the Bill at page 2, line 11, and at page 3, line 8) would make the half-time student loans ineligible for tax-exempt bond financing. Under the Internal Revenue Code, bonds issued to finance student loans are tax exempt only if the financing program does not restrict the geographical area within which the student must attend school. Accordingly, the Corporation would have to finance these types of loans from assets (most likely appropriations from the State) other than bond proceeds. The loans could be used to secure the Corporation's Bonds, but they would have to be strictly segregated from any funds or accounts under the Indenture that contain Bond proceeds or loans or other investments acquired with Bond proceeds. This is necessary in order to avoid jeopardizing the tax-exempt status of the Bonds.

With respect to any impact the Bill may have on the Indenture or other financing documents used in connection with the issuance of the Corporation's 1988 Series A Bonds, we have reviewed said documents and do not believe the Bill would have any impact. None of the 1988 Series A Bond proceeds would be used to finance the loans that would be permitted by the Bill. There will be no impact on the tax-exempt status of the Bonds (provided the segregation described above occurs). We have identified no covenants or representations, express or implied, in any of the financing

Dr. Ronald Phipps
March 22, 1989
Page 3

documents that would prohibit a change in the student loan program of this sort, and we do not apprehend that the change that would be effected by the Bill would be adverse in any way to the holders of the Bonds.

We hope this adequately responds to your request, but, of course, we are always happy to provide additional assistance at your request.

Very truly yours,


Kenneth E. Vassar

KEV/kc
S10346

Alaska State Legislature

REPRESENTATIVE
MARK BOYER

VICE-CHAIRMAN, HOUSE
HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

MEMBER, HOUSE LABOR AND
COMMERCE COMMITTEE

CHAIR, CHILDREN'S CAUCUS



House of Representatives

FAIRBANKS

1098 LAKEVIEW TERRACE
FAIRBANKS, ALASKA 99701
(907) 458-8473

JUNEAU

P.O. BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 485-3468

MEMORANDUM

TO: Representative Johnny Ellis, Chairman
House Committee on Health, Education
and Social Services

FROM: Representative Mark Boyer

RE: HB 208

DATE: March 23, 1989

House bill 208 would broaden the group of persons eligible to receive an Alaska student loan to include certain half-time students. The definition of a half-time student is included in the bill language.

HB 208 intends to address the needs of the serious half-time student; students who because of the demands of work, family, a disability, or some other limiting factor are unable to devote themselves to full time study. This bill intends to provide a vehicle to higher education; a vital mission of state government, for those who are bound by socio-economic circumstances. This bill aims to strengthen the rungs on the ladder of success, to insure opportunity for upward mobility and to realize the value and importance of higher education to everyone; a value ingrained in the American way.

Avoiding any potential for abuse of the system is critical to our efforts at designing and implementing post-secondary education programs. As we decipher the needs of the state such as job training and accessibility of higher education to our population, alterations of the existing programs are warranted. The alteration of the student loan program embodied in HB 208 was one of many recommendations taken from the Post-Secondary Education Commission's December 1988 report entitled "Student Financial Aid Alternatives."

Under HB 208, half-time student loans could only be used for tuition, books, and required fees and not for room and board or personal expenses. In contrast to full-time loans, half-time loans would only be used for in-state schools keeping the focus toward state retention of dollars and training for local job markets.

FAIRBANKS 20B

Academic eligibility requirements for half-time loans would be the same for full-time loans; students must be in good standing and enrolled in a career education or degree program. Loan terms would be half what they would be for full time students. All other provisions of the current loan program would apply to half-time loans; the interest rate would be 8%, repayment would begin within one year of completing study, and interest would accrue during the one year grace period.

Loans would be administered by the Postsecondary Education Commission as part of the existing full-time student loan portfolio. Loan funds would come from a combination of bond proceeds, loan repayments and state general funds as they do now for full-time loans. It is now anticipated that half-time students would be competing with full-time students for loan funds as available funds have exceeded demand in the last couple of years. In addition, the student loan program's growth is limited to 3% by statute.

I have attached back-up materials. Forthcoming materials and position papers will be placed on file. Thank you for your consideration.

TABLE 5.7 FY84-88 Tuition Rates by Campus/Course Level/Residency

RESIDENT	UNDERGRADUATE								GRADUATE							
	Per Credit Hour Charge					FY88 Annualized			Per Credit Hour Charge					FY88 Annualized		
	FY84	FY85	FY86	FY87	FY88	Tuition	Fees	TOTAL	FY84	FY85	FY86	FY87	FY88	Tuition	Fees	TOTAL
UAA																
Anchorage Campus	\$30	\$30	\$35	\$40	\$40	\$960	\$86	\$1,046	\$60	\$60	\$65	\$75	\$75	\$1,350	\$86	\$1,436
Kenai Pen College	\$25	\$25	\$25	\$30	\$30	\$720	\$36	\$756	-	-	-	-	-	-	-	-
Kodiak College	\$25	\$25	\$25	\$30	\$30	\$720	\$0	\$720	-	-	-	-	-	-	-	-
Mat-Su College	\$25	\$25	\$25	\$30	\$30	\$720	\$12	\$732	-	-	-	-	-	-	-	-
RE - Adak/Shemya	\$25	\$25	\$25	\$30	\$30	\$720	\$0	\$720	-	-	-	-	-	-	-	-
UAF																
Fairbanks Campus	\$30	\$30	\$35	\$40	\$40	\$960	\$338	\$1,298	\$60	\$60	\$65	\$75	\$75	\$1,350	\$338	\$1,688
Aleutians Centers	\$25	\$25	\$25	\$30	\$30	\$720	\$0	\$720	-	-	-	-	-	-	-	-
Bristol Bay Campus	\$25	\$25	\$25	\$30	\$30	\$720	\$0	\$720	-	-	-	-	-	-	-	-
Chukchi Campus	\$25	\$25	\$25	\$30	\$30	\$720	\$0	\$720	-	-	-	-	-	-	-	-
Interior Campus	\$25	\$25	\$25	\$30	\$30	\$720	\$0	\$720	-	-	-	-	-	-	-	-
Kuskokwim Campus	\$25	\$25	\$25	\$30	\$30	\$720	\$30	\$750	-	-	-	-	-	-	-	-
Northwest Campus	\$25	\$25	\$25	\$30	\$30	\$720	\$0	\$720	-	-	-	-	-	-	-	-
UAS																
Juneau Campus	\$30	\$30	\$35	\$40	\$40	\$960	\$20	\$980	\$60	\$60	\$65	\$75	\$75	\$1,350	\$20	\$1,370
Ketchikan Campus	\$25	\$25	\$25	\$30	\$30	\$720	\$20	\$740	-	-	-	-	-	-	-	-
Sitka Campus	\$25	\$25	\$25	\$30	\$30	\$720	\$20	\$740	-	-	-	-	-	-	-	-
PWSCC																
	\$25	\$25	\$25	\$30	\$30	\$720	\$20	\$740	-	-	-	-	-	-	-	-
NON-RESIDENT																
UAA																
Anchorage Campus	\$80	\$80	\$85	\$105	\$105	\$2,520	\$86	\$2,606	\$120	\$120	\$135	\$150	\$150	\$2,700	\$86	\$2,786
Kenai Pen College	\$65	\$65	\$65	\$75	\$75	\$1,800	\$36	\$1,836	-	-	-	-	-	-	-	-
Kodiak College	\$65	\$65	\$65	\$75	\$75	\$1,800	\$0	\$1,800	-	-	-	-	-	-	-	-
Mat-Su College	\$65	\$65	\$65	\$75	\$75	\$1,800	\$12	\$1,812	-	-	-	-	-	-	-	-
RE - Adak/Shemya	\$65	\$65	\$65	\$75	\$75	\$1,800	\$0	\$1,800	-	-	-	-	-	-	-	-
UAF																
Fairbanks Campus	\$80	\$80	\$85	\$105	\$105	\$2,520	\$338	\$2,858	\$120	\$120	\$135	\$150	\$150	\$2,700	\$338	\$3,038
Aleutians Centers	\$65	\$65	\$65	\$75	\$75	\$1,800	\$0	\$1,800	-	-	-	-	-	-	-	-
Bristol Bay Campus	\$65	\$65	\$65	\$75	\$75	\$1,800	\$0	\$1,800	-	-	-	-	-	-	-	-
Chukchi Campus	\$65	\$65	\$65	\$75	\$75	\$1,800	\$0	\$1,800	-	-	-	-	-	-	-	-
Interior Campus	\$65	\$65	\$65	\$75	\$75	\$1,800	\$0	\$1,800	-	-	-	-	-	-	-	-
Kuskokwim Campus	\$65	\$65	\$65	\$75	\$75	\$1,800	\$30	\$1,830	-	-	-	-	-	-	-	-
Northwest Campus	\$65	\$65	\$65	\$75	\$75	\$1,800	\$0	\$1,800	-	-	-	-	-	-	-	-

House Bill 208

Number of Part-Time Students in Degree Programs
Taking at Least 6 Credit Hours At The University of Alaska
Fall, 1988

Undergraduate Students

<u>Number of Credit Hours</u>	<u>Number of Students</u>	<u>Average Age</u>
6	784	31.7
7	259	31.6
8	123	30.4
9	492	29.7
10	203	29.7
<u>11</u>	<u>96</u>	<u>28.6</u>
Subtotal	1,957	30.7

Graduate Students

6	139	33.7
7	18	30.8
<u>8</u>	<u>7</u>	<u>32.6</u>
Subtotal	164	33.4
Total	<u>2,121</u>	<u>30.9</u>

Source: Office of Institutional Research, University of Alaska

//1038R

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: RE: Loans for half-time
 Students
 Sponsor: Bover and Koponen
 Requestor: Senate Hess

Agency Affected: Education
 BRU: Postsecondary Education/
 Student Loan Corporation
 Components: Student Loan Fund
 Student Loan Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	42.0	42.0	42.0	42.0	42.0	42.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	42.0	42.0	42.0	42.0	42.0	42.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER Corp.	42.0	42.0	42.0	42.0	42.0	42.0
TOTAL Receipts	42.0	42.0	42.0	42.0	42.0	42.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Costs for printing and mailing of loan documents.

Prepared by: Jane Bvers Maynard, Executive Director Phone: 465-2854
 Division: Alaska Commission on Postsecondary Education Date: March 27, 1990

Approved by Commissioner: _____ Date: _____
 Agency: _____

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

CSHB 208
Analysis of Fiscal Impact

A. Assumptions

1. Total loan awards cannot exceed the statutorily required limit of three percent annual growth and will not exceed the FY 1991 budget appropriation.
2. A portion of borrowers who would have chosen to request a loan for full-time student status will elect to apply for a loan for half-time student status; i.e., a percentage of full-time loans will be supplanted by half-time loans.
3. Present staff level will be sufficient to service the addition of loans for half-time students.
4. New documents will be printed annually assuming annual borrower levels of up to 5,000.

H

B

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HOUSE COMMITTEE REPORT

(11)

Date Referred: February 14, 1990

FURTHER REFERRALS:

(Finance added 2/14)

Date of Committee Action: 3/5/90

The FINANCE Committee considered:

HB 210

HOUSE BILL NO. 210 INSTREAM FLOW RESERVATIONS FOR FISH

"An Act relating to the reservation of instream flows in water important for fish; and providing for an effective date."

RECOMMENDATIONS:

- [X] be replaced with CS HB 210 (FIN) [X] the same title
 [] have attached amendment(s) [] a new title
 [] do pass
 [] do not pass
 [] no recommendation
 [X] individual recommendations
 [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
 (Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [X] fiscal impact H. FIN. CmTE.
 [] zero fiscal note _____
 [] zero with analysis _____

- [] fiscal note(s) _____
 [] zero fiscal note(s) _____
 [] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass No Rec Amend

<u>[Signature]</u> Hoffman				
<u>[Signature]</u> Swackhammer	<u>[Signature]</u> Carson		✓	
<u>[Signature]</u> Brown	<u>[Signature]</u> BARNES	X		
<u>[Signature]</u> Koponen	<u>[Signature]</u> Shultz	✓		
<u>[Signature]</u> Ulmer	<u>[Signature]</u> Phillip's	✓		
	<u>[Signature]</u> Rieger	✓		
	<u>[Signature]</u> Wallis		✓	

[Signature] Carson
 Chairman's Signature
[Signature] Hoffman

FISCAL NOTE

REQUEST:

Revision Date: 3/1/90
Title: An Act Relation To The
reservation of Instream Flow
Sponsor: House Finance Committee
Requestor: _____

Agency Affected: Natural Resources
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	148.6	123.3	98.0	98.0	98.0	98.0
TRAVEL	6.0	6.0	2.0	2.0	2.0	2.0
CONTRACTUAL	53.0	63.0	53.0	53.0	53.0	53.0
SUPPLIES	4.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	19.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	230.6	195.30	156.0	156.0	156.0	156.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	230.6	195.30	156.0	156.0	156.0	156.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	3.0	2.5	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: House Finance Committee Phone: 465-3727
Division: Co-Chairman Ron Larson Date: 3/1/90
Co-Chairman Lyman Hoffman
Approved by Commissioner: Lyman Hoffman Date: 3/5/90
Agency: _____

Distribution (by preparer):

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

Adopted

House Finance Committee Fiscal Note Analysis

Line 100 PERSONAL SERVICES

FY91

56.0 (Range 18) Hydrologist III
42.0 (Range 14/16) Hydrologist I/II
50.6 One year Regulations writer
148.6

FY 92

56.0 - same position as above
42.0 - same position as above
25.3 - 6 months regulations writer
123.3

FY 93, FY 94, FY95, FY96

56.0 - same hydrologist position as above
43.0 - same hydrologist position as above
98.0

This bill would require two surface water hydrologists to estimate the mean annual flow of a river or stream and reserve a percentage of this estimate instream only on receipt of an application to appropriate water. It would be done on a case by case basis, and would not require as many experienced hydrologists as recommended by DNR.

Instead, one experienced hydrologist at range 18 and one entry level hydrologist at range 14/16 under his direction placed within the Division of Land and Water Management could estimate the mean annual flows for rivers and streams with no gage data. These hydrologists would do this upon receipt of an application to divert water out of stream, but would also calculate flow statistics for those sites that have data.

The main reason for two hydrologists at a lower range is because the workload to implement CSHB210(RES) is not substantial. Please recognize that the majority of out of stream applications have been filed and probably will continue to be filed only on a limited number of streams, primarily those near populations centers. In these cases there are usually some hydrologic data and estimations of average annual flows already available. Furthermore, it is likely that after the first few years of under this new legislation, the number of streams for which new flow estimates would need to be made would drop dramatically. Finally, the estimation method advocated in CSHB210(RES) is technically feasible and not a complicated analysis. According to the United States Geological Survey (USGS) it would require two to three days at most to compute the mean annual flow for a new river or stream.

House Bill 210 recognizes we have inadequate flow data on our streams. Over 99% of the rivers and streams in Alaska are ungaged. HB 210 was formulated to provide for the use of estimates of mean annual flow, which are fairly simple calculations based upon formulas already developed by the U.S. Geological Survey and U.S. Forest Service. Inputs for the formulas are primarily obtained from existing topographic maps and existing precipitation data. Two hydrologists would be more than adequate to complete this work.

The two hydrologists within the Division of Land and Water Management would be devoted full time to water adjudication. They would also have to provide technical support and input into the development of regional regulations. It is also assumed that existing hydrological staff and resources currently within the Division of Geological and Geophysical Survey would now be free to support and assist with special water problems as they occur on a case by case basis.

A full time regulations writer must be available to DNR to enable them to develop regulations required by this bill. The suggested \$50.6 for FY 91 is derived from the salary of the regulations writer position suggested by DNR (at range 18A for 50.0). As the regulations must be initially drafted, and later redrafted after public review near the end of the 18 month time period, there will be a need for a regulations writer for FY 92 as well. The suggested \$25.3 in FY92 is derived from the 25.3 salary of the regulations writer position suggested by DNR for FY92.

Line 200 TRAVEL

FY 91

4.0 travel for hydrologists
2.0 travel for regulations writer
6.0 travel

FY 92

4.0 travel for hydrologists
2.0 travel for regulations writer
6.0 travel

FY 93 - FY 96

2.0 for travel for hydrologists

Some travel and per diem may be necessary for the hydrologists to coordinate with regional offices in FY 91 through FY 96. Initially, they will have to travel to other parts of the state to gather and coordinate interdepartmental and interagency hydrological data on water flows. As roughly 150-200 out of stream applications are filed each year, and many of them are on streams that already have water flow data, the number of new streams for which flow data estimates would not be many and would drop off dramatically after the first few years. DNR's fiscal note proposed funding a new hydrologist position in each of DNR's three administrative regions across the state. By creating two hydrologists and funding some travel, the objectives of CS HB210(RES) can be

Page 4 of 5

Some travel for the regulations writer for public meetings, etc...will be necessary in FY 91. As public review will be increase at the end of the 18 month period to develop regulations, there will be more travel required in FY 92.

Line 300 CONTRACTUAL

FY91

3.0 Printing, reproduction, miscellaneous costs
50.0 U.S. Geological Survey Gaging Stations
53.0

FY92

3.0 Same as above
10.0 Advertisement, Public Notice, Mailings for Public Hearings for Regulations
50.0 U.S. Geological Survey Gaging Stations
63.0

FY93, FY94, FY95, FY96

3.0 Same as above
50.0 U.S. Geological Survey Gaging Stations
53.0

3.0 of supplies for such items as map reproductions, miscellaneous services, advertisement and printing of the regulations, need etc...need to be provided each fiscal year. As the public review process will increase near the end of the 18 months of developing the regulations, however, the newspaper advertising, duplicating and mailing responsibilities will increase. The additional sum of 10. in FY 92 under contractual in DNR's fiscal note does reflect this increased responsibility. The 50. for U.S.G.S. gaging will be matched by the USGS, who will install and maintain the gaging stations and publish the data in a nationwide and statewide database. Stations will be operated to improve the accuracy of hydrological models.

Line 400 SUPPLIES

FY91

3.0 Software
1.0 Office supplies
4.0

FY92 - FY96

2.0 Software
1.0 Office Supplies
3.0

More funds might be necessary in the first fiscal year for developing the regulations.

Line 500 EQUIPMENT
FY91

19.0 - Personal computers and accessories

2 personal computers and accessories for the hydrologists are necessary (computers should also have capability for graphs, statistical information, etc...)

230.6= Total operating for FY 91

195.30 = Total FY92

156.= Total FY 93

156= Total FY 94

156 = Total FY 95

156 = Total Fy 96

Original sponsor(s): REP. DAVIDSON, Goll, Jacko, Ellis, Brown

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 210 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the reservation of instream flows
7 in water important for fish; and providing for an
8 effective date."

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

10 * Section 1. AS 46.15 is amended by adding a new section to read:

11 Sec. 46.15.146. RESERVATION OF INSTREAM FLOWS FOR FISH. (a)
12 Except as provided in AS 46.15.090, upon receipt by the commissioner
13 of an application to appropriate (1) water from a river or stream that
14 is important for the spawning, incubation, rearing, or migration of
15 fish; or (2) ground water that significantly influences the volume of
16 water in a river or stream that is important for spawning, incubation,
17 rearing, or migration of fish, the commissioner shall reserve under
18 (b) or (c) of this section an instream flow in the river or stream for
19 the instream use of fish and to maintain existing habitat for fish.
20 The commissioner shall base instream flow reservations on an instream
21 flow analysis using the best hydrological data or estimate of hydro-
22 logical conditions existing at the time of the application for appro-
23 priation.

24 (b) Unless the commissioner has regulations in effect under (c)
25 of this section, the commissioner shall reserve for the months of
26 April through October, an instream flow of at least 60 percent of the
27 mean annual flow of the river or stream and for the months of November
28 through March, an instream flow of at least 30 percent of the mean
29 annual flow of the river or stream.

1 (c) The commissioner shall adopt regulations to reserve instream
2 flows in rivers and streams for instream use of fish and to maintain
3 existing habitat for fish. The commissioner shall consult the Depart-
4 ment of Fish and Game during the development of regulations adopted
5 under this subsection. The regulations adopted under this subsection
6 must establish hydrologic regions within the state, and specify for
7 each hydrologic region the proportion of mean annual or monthly in-
8 stream flows in rivers and streams that are reserved from further
9 consumptive appropriation. The commissioner shall amend the regu-
10 lations adopted under this subsection on the basis of additional
11 hydrological and biological information, as the commissioner deter-
12 mines is necessary.

13 (d) If the commissioner is prevented from reserving the percent-
14 age of the mean annual flow required under (a) of this section because
15 of the existence of an application on record before the effective date
16 of this Act or a right to appropriate acquired before the effective
17 date of this Act, the commissioner shall reserve all of the instream
18 flow that is available for reservation.

19 (e) The commissioner may under AS 46.15.145, on the basis of an
20 analysis of data obtained from an instream flow study, adjust the
21 quantity of water of a river or stream required to be reserved under
22 (a) or (d) of this section following a written finding by the commis-
23 sioner that the interests of the state will be best served. The
24 commissioner shall coordinate adjustments under this section with the
25 decisions of the commissioner of fish and game under AS 16.05.020,
26 16.05.050, 16.05.840, and 16.05.870, regarding the protection of
27 habitat for fish and passage of fish.

28 (f) The priority date of a reservation of water from a river or
29 stream identified under AS 16.05.870 or identified in a Department of

1 Fish and Game regional guide on or before the effective date of this
2 Act is the effective date of this Act. The priority date of a reser-
3 vation of water from a river or stream identified under AS 16.05.870
4 or identified in a Department of Fish and Game regional guide after
5 the effective date of this Act is the date on which the identification
6 takes effect.

7 (g) An instream flow reserved under this section is withdrawn
8 from consumptive appropriation.

9 (h) A reservation of water under this section does not affect
10 rights and applications on record before the effective date of this
11 Act.

12 (i) This section does not apply to appropriations under AS 46.-
13 15.040 for nonconsumptive uses of water or for single family domestic
14 use.

15 (j) This section does not apply to appropriations of ground
16 water of 5,000 gallons or less a day unless the commissioner, in
17 consultation with the Department of Fish and Game, determines that the
18 appropriation may adversely affect fish habitat in a river or stream.
19 The commissioner shall consider multiple appropriations of water for a
20 single related use as a single appropriation for the purposes of this
21 subsection.

22 * Sec. 2. The commissioner of natural resources shall adopt the regula-
23 tions required under AS 46.15.146(c), enacted by sec. 1 of this Act, within
24 18 months of the effective date of this Act.

25 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).
26
27
28
29

CS HB 210 FIN
(Attached to IN FIN

TO: Members of the House Finance Committee

**Major Differences between the House Finance Fiscal Note
and Department of Natural Resources Fiscal Note:**

DNR Fiscal Note Finance Committee Fiscal Note

783. Total Operating FY 91 **230. Total Operating FY 91**

Line 100

229.4

three hydrologists
student interns

148.6

two hydrologists
no student interns

Line 200

80.

Field travel
Travel for public meetings
Travel for education to Colorado

6.0

Some field travel
Some travel for public meetings
No travel to Colorado

Line 300

311.6

Contractual funds for
computer updating

53.

3.0 for some printing, xeroxing
50.0 for USGS gaging matching
funds
No contractual funds for computer

Line 400

12.

No explanation

4.0

Office supplies and software
for two hydrologist positions

Line 500

150.

All state funds
for gaging

19.

Two personal computers
for hydrologist positions

Gaging moved to line 300 to
contract with USGS and get
matching funds

Failed

A M E N D M E N T #3

OFFERED IN THE HOUSE

BY REP. RIEGER

TO: CSHB210 (Finance)

Page 1, line ²⁴22 through line ²⁹27

Delete entirely

Page 2, line ⁵3 through ⁹7

After "under this ^{sub}section." line 5

delete: "The regulations adopted under this subsection shall establish hydrologic regions within the state, and specify for each hydrologic region the proportion of mean annual or monthly in-stream flows in rivers and streams that are reserved from further consumptive appropriation."

Page 2, line 1213 § 14

After "prevented from reserving the"

delete: "percentage of the mean annual" ~~Amount~~ insert

^{end}
INSERT "Amount" after "prevented from reserving the"
(Technical Am.)

CSHB 210

Failed
3-6-61

AMENDMENT # 1

BY: SHULTZ

Page 1,

Lines 14, and 15,

change to read as follows:

" appropriate water from a river or stream that is essential
for the spawning, incubation, rearing, or migration of
significant populations of important fish"

CSHB 210

AMENDMENT #

2

failed
346N

BY: SHULTZ

Page 1,

Lines 24,26, and 27

Change to read as follows:

"through October, an instream flow of at least 50 percent of the mean annual flow of the river or stream and for the months of November through March, an instream of at least 50 percent of the mean average flow of the river or stream for those months."

CSHB 210

AMENDMENT # 3

BY: SHULTZ

*failed
3 44 5N*

Page 2,
Lines ¹⁹~~20~~, and ^{20 21}~~21~~,

Change to read as follows:

"under (a) or (d) of this section following a written finding by the commissioner that there is a compelling reason to make an adjustment."

CSHB 210

AMENDMENT #

4

failed
3/6/62

BY: SHULTZ

Page 2,

Line ~~22~~, 21 + 22

Change to read as follows:

" The Commisioner shall make adjustments under this section after considering the comments of the commissioner of fish and game and those parties being directly affected by the change."

CSHB 210

failed
47 5N

AMENDMENT # 5

BY: SHULTZ

Page 3,

add a new subsection to read as follows:

The commissioner shall provide to the legislature a yearly assessment of the negative impacts of this legislation to private sector resource development.

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature

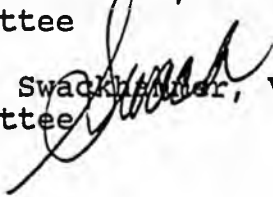
SOLDOTNA
312 TYEE STREET
SOLDOTNA, ALASKA 99669
(907) 262-7841

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

House of Representatives

M E M O R A N D U M

TO: Representative Ron Larson, Co-Chair
Representative Lyman Hoffman, Co-Chair
House Finance Committee

FROM: Representative C.E. Swackhammer, Vice-Chair
House Finance Committee 

DATE: March 1, 1990

TOPIC: HB 210; Relating to the reservation of instream
flow in water important to fish.

The House Finance Subcommittee on HB 210 comprised of Rep. Rieger, Rep. Brown and Rep. Koponen and myself met on February 28, 1990. The intent of HB 210 is to guarantee a sufficient amount of water will remain in fish bearing rivers and streams. The bill will require regulations to be adopted by DNR within 18 months of the effective date of the bill. The purpose of the regulations is to develop regional minimum instream flow reservations throughout the state of Alaska to protect habitat in fish streams. It will be necessary to review existing hydrologic and biologic information, procedures to calculate mean annual and mean monthly flows, and methods used to determine instream flow withdrawals.

1. FISCAL NOTES - House Resources Committee Fiscal Note - \$141.7; Department of Natural Resources Fiscal Note - \$783.0. The Subcommittee's goal was to review the fiscal notes and work out a compromise that would provide adequate funding to carry out the intent of the bill. The Subcommittee recommends a fiscal note of \$230.6 be adopted by the full House Finance Committee.

2. GROUNDWATER AMENDMENTS - There is concern that provisions in HB 210 do not adequately address groundwater usage for domestic or small business. As a result, the following amendments have been offered.

a) Representative Davidson's (sponsor of HB 210) amendment would allow the domestic use of water to be exempted from the provisions of HB 210 and the Departments' of Natural Resources and Fish and Game to exempt the appropriation of groundwater of less

HB 210
3/1/90
Page 2

than 5,000 gallons per day (5,000 gallons per day is adequate for a 33 room hotel).

b) Representative Rieger's amendment would exempt the appropriation of groundwater from the provisions of HB 210.

The compromised offer reached by the Subcommittee while it does not satisfy everyone, will bring us closer to resolution of the concerns raised.





STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Box V, Juneau, Alaska 99811
(907) 465-2487 • 465-2498

REPRESENTATIVE CLIFF DAVIDSON • DISTRICT 27 • Box 746, Kodiak, Alaska 99615 • (907) 486-8250

M E M O R A N D U M

TO: Representative Lyman Hoffman, Co-Chairman
Representative Ron Larson, Co-Chairman
House Finance Committee

FROM: Representative Cliff Davidson,  Co-Chairman
Representative Curt Menard,  Co-Chairman
House Resources Committee

DATE: February 20, 1990

SUBJECT: Fiscal Note for CSHB 210(RES)

Members of the House Resources Committee seriously questioned the fiscal note provided by the Department of Natural Resources for House Bill 210. We strongly encourage and recommend the Finance Committee develop an effective and substantially reduced fiscal note.

Enclosed are reasons why such a high fiscal note are not necessary for implementation of this legislation.

Thank you.

CD:hbs

Enclosures:

Critique of DNR fiscal note dated 1/13/90 and 3/8/89

Proposed fiscal note and justification

Feb. 19, 1990 Memorandum to DNR from Representative Davidson

Feb. 15, 1990 Memorandum from DNR to Representative Davidson

March 6, 1989 Letter of support from the Alaska Power (Energy)
Authority

The following analysis is based on the budget breakdown on page 5 of the DNR fiscal note dated 2/13/90.

100

Instream Flow Monitoring

Three hydrologists at this range are not needed. The workload of this bill could be accomplished with two hydrologists at a lower range.

Water applications will be few:

This is because an estimate of the mean annual flow of a stream would only be required upon receipt of an application to appropriate water out of stream.

As indicated in the memorandum from DNR to Representative Davidson, the number of out of stream applications received by DNR are not extraordinary, averaging around 150 to 200 permits a year. Alaska is a state where there is an abundance of water and currently little competition for it. As a result, there are not many applications filed.

This bill would require a hydrologist to estimate the mean annual flow of a river or stream and set a percentage of this estimate only on receipt of an application to appropriate water. It would be done on a case by case basis, and would not require three experienced hydrologists.

DNR does not presently know on what rivers these current out of stream applications have been filed. However, one thing to recognize is that the majority of the applications filed have been filed and probably will continue to be filed on only a limited number of streams, primarily those near population centers. In these cases there are usually some hydrologic data and estimations of average annual flows already available. Furthermore, it is likely that after the first few years of under this new legislation, the number of streams for which new flow estimates would need to be made would drop dramatically.

See the enclosed letter and attachment from the Alaska Energy Authority, a major out of stream appropriator of water in the State of Alaska, for additional supporting evidence of the above statement.

Simple method to calculate flows:

House Bill 210 recognizes we have inadequate flow data on our streams. 99% of the rivers and streams in Alaska are ungauged. HB 210 was formulated to provide for the use of estimates of mean annual flow, which are fairly simple calculations based upon formulas already developed by the U.S. Geological Survey and U.S. Forest Service. Inputs for the formulas are primarily obtained from existing topographic maps and existing precipitation data. Two hydrologists would be adequate to complete this work.

Page 2

Regulations writer, Rq 18A

A full time regulations writer is not necessary for the full 18 months in which the bill allows DNR to develop regulations. A seasonal regulations writer for 1 - 3 months is appropriate for the work load.

Student interns are not necessary.

Ongoing STORET Maintenance

This is a computer system they already maintain and operate to store instream flow data. Massive new data would not be required to manage under this bill, as the bill only requires the mean annual flow of a river or stream to be estimated on receipt of an application to appropriate water out of stream. Based on information provided by DNR, these average 150 - 200 water applications per year.

200

Field Travel

While some travel may be necessary, the educational training is unnecessary. The Department of Natural Resources does not need to add travel instream flow information. This would duplicate information available from the Alaska Department of Fish and Game.

300

LAS Modification

While updating and maintaining their computer system is a serious need within the agency, it is not necessary to this of this bill. Has this been submitted in the operating budget proposal?

400

Total Supplies

What is the breakdown for these supplies? We have received no specific breakdown on this item.

500

Equipment

This is a necessary expense and should definitely be a long term goal.

By all means a highly accurate information data base of water flows is better than an estimate. But this bill was specifically designed to use the best available existing data and does not require additional data to be collected. The bill is a cost-effective mechanism to allocate our public water resources today, based on existing data. This allocation of water would at least be based on educated guess of a river's mean annual flow, instead of no estimate whatsoever..

Page 3

The bill, however, does provide the option to use additional and better data if and when there is a need such as when competition for a specific water body increases. When gages are constructed, then the estimates recommended under CSHB210(RES) can be revised.

Gauges are the best, most accurate way to measure water and are a resource management goal. However, gauges are expensive and need 5-10 years to provide accurate information.

Gauging our streams is long overdue. However, it should be part of a statewide planning strategy to develop and perfect our water data when and where needed, and not attached to this bill.

Independent legislation or budget requests should be introduced to improve a gauging network, with the full support of the Legislature. When this legislation or budget request is submitted, a plan should also be submitted. There should be a scientific basis to properly determine where we put gages. There is no indication where these gages in this fiscal note would even be placed.

In addition, please note that many developers already fund gauging. Of the current 226 gauged streams in Alaska, only 101 were government funded. The rest were either funded by industry (Greens Creek Mine for example) another state agency, such as Alaska Energy Authority (for a water project) or Department of Fish and Game (for hatcheries, etc.)

If you have any further questions about the specifics of either the DNR fiscal note or our proposed fiscal note, please contact my office at 465-2487 for assistance.

Thank you.



STATE OF ALASKA
HOUSE OF REPRESENTATIVES
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(907) 465-2487 • 465-2498

REPRESENTATIVE CLIFF DAVIDSON • DISTRICT 27 • Box 746, Kodiak, Alaska 99615 • (907) 486-8250
M E M O R A N D U M

TO: Representative Lyman Hoffman, Co-Chairman
Representative Ron Larsen, Co-Chairman
House Finance Committee

FROM: Representative Cliff Davidson
Co-Chairman, House Resources Committee

DATE: February 19, 1990

SUBJECT: CSHB210 (RES)

I would like to encourage your support and co-sponsorship of legislation now pending in the Alaska Legislature: CSHB210(RES).

Simply, this bill guarantees a sufficient amount of water will always remain in our fish bearing rivers and streams.

Currently, a danger exists whereby we can over appropriate water out of Alaska's rivers and streams. Despite the constitutional mandate (Article VIII, Section 13) to reserve water for fish and wildlife, neither the existing statutes nor regulations guarantee water be reserved for this purpose.

The Alaska Constitution is unique among state constitutions in reserving water flows for fish and wildlife. The framers of our constitution obviously realized the tremendous value of our abundant renewable fish and game resources. These resources are absolutely dependent on a minimum level of water for survival. No single Alaskan industry even comes close to the number of small business affected by and dependent upon our water resources. Indeed, fish and wildlife industries (tourism, canneries, guides, commercial, sport and subsistence fishermen, for example) all depend on water resource that include quality as well as quantity requirements.

In addition, these industries employ more Alaskans than any other. Ensuring water remains instream, however, also benefits numerous other users of water: navigation, transportation, recreation, sanitation, water quality and downstream uses in general.

House Bill 210 would bring state law in compliance with our constitution. Only after receipt of an application to remove water from a river or stream would this legislation require 1) the mean annual flow of a fish bearing river or stream be

Page 2

estimated and 2) that a sufficient percentage of the estimated flow remain "instream" for fish before a right to take water out is granted. This would not affect all rivers and streams but only those where there is an application to divert water.

While House Bill 210 protects our fish and wildlife, however, it really addresses a much deeper problem: there is little or no data on over 99% of our streams. There is a danger we can over appropriate water rights, which are difficult, if not impossible rights to revoke.

We need to prevent over appropriation. The best way to accomplish this is to fund gauges on our rivers and streams. However, this requires much money and at least five to ten years to collect records on each stream reach. While I am a strong proponent of gauging, we need a way to quantify and allocate our public water resources today - based on the best available existing data. If we wait until tomorrow, there will be less opportunity to prevent conflict and avoid costly litigation.

Until we can afford to gather and record data, CSHB210(RES) would provide a cost-effective mechanism for quantifying the water in thousands of streams and rivers that do not have any flow records. By reserving a percentage of the mean annual flow instream before allocating water out of stream, this legislation forces us to estimate water flows and prevent over appropriation. When and if there is a need for better flow data, section (e) of the legislation advocates these estimates can and should be replaced.

Quantifying our water resources benefits all users of water, both instream and out of stream. While House Bill 210 would guarantee a certain level of water for the survival of fish and wildlife, it would also ensure adequate water for other important uses, such as mining, hydroelectric, and municipal water supply, and also expedite the application process for water appropriation for these users.

Water is a public resource. We are responsible for its proper management for all users of water -- present and future generations. Such important public policy must at the minimum estimate how much water we have.

In summary, I believe CSHB210 (RES) would protect our fish and game resources and help solve many future problems regarding the allocation of Alaska's water resources. One needs only to look at the water appropriation fiascoes of the Lower 48 to realize the wisdom of House Bill 210's conflict-preventive approach to water allocation.

Enclosed is a packet of information was delivered to your office for your perusal. I urge your serious review of this material. Please do not hesitate to contact my office at 465-2487, if I can be of any assistance.

Thank you.



STATE OF ALASKA

HOUSE OF REPRESENTATIVES

Box V, Juneau, Alaska 99811

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REPRESENTATIVE CLIFF DAVIDSON • DISTRICT 27 • Box 746, Kodiak, Alaska 99615 • (907) 486-8250

MEMORANDUM

TO: Gary Gustafson, Director
Division of Land and Water Management

Attn: Mary Lu Harle, Water Resource Manager

FROM: Representative Davidson
Co-Chairman, House Resources Committee

DATE: February 19, 1990

SUBJECT: CSHB210 (RES)

Thank you providing the information I requested regarding the number of out of stream applications in the State of Alaska. From your response dated April 10, 1990 I understand there are 398 applications pending adjudication, 1,607 permits issued and 2,889 certificates issue as of October 1989.

However, on February 6, 1990 I sent a list of questions requesting clarification of this information. Although I understand the answers to my questions were not immediately accessible due to the computer system, almost two weeks have passed.

CSHB210 (RES) will be before the Finance Committee Thursday, February 22, 1990. This information is absolutely crucial to the financial review of CSHB210 (RES). For the benefit of the House Finance Committee, I am again requesting this information in writing no later than Wednesday, February 21, 1990.

For your reference, I have listed these questions on the following page. If you cannot provide this information, I request a written, detailed explanation of why this information is not available.

Page 2

QUESTIONS

1) Prior to April, 1968, how many applications were filed for the withdrawal, impoundment, or diversion of streams?

2) How many applications were filed and accepted for the withdrawal, impoundment, or diversion of streams for the rest of 1968?

3) How many applications for the withdrawal, impoundment or diversion of streams have been filed and accepted per year from 1968 through 1989?

4) What out of stream users of water have applied for 100,000 gallons a day or more appropriation of streams, or what type of uses would require 100,000 gallons of water a day appropriation?

5) Please provide the names of streams or rivers for these applications.

6) Please provide the quantity of water requested for these appropriations.

Of all of the above, please differentiate between diversions, withdrawals, and impoundment appropriations. How many of the diversions would be classified as a nonconsumptive use of water under your proposed regulation revisions?

Of all the above, on how many streams have you calculated or estimated the water available for appropriation and by which techniques?

Please contact my office at 465-2487 if you have any questions. Please address your response to my attention. My direct fax line 465-2418.

Thank you for your prompt consideration of this request.

CD:hbs
Enclosures

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

3601 C STREET
P.O. Box 107005
ANCHORAGE, ALASKA 99510-7005
PHONE: (907) 762-2692

February 15, 1990

Representative Cliff Davidson
Co-chairman, House Resources Committee
P.O. Box V
Juneau, AK 99811

DEPARTMENT OF
NATURAL RESOURCES
FEB 21 1990
COMMISSIONER'S OFFICE
JUNEAU

Dear Representative Davidson:

In your February 6, 1990 memorandum, you asked for a large amount of statistical information over the last twenty years regarding surface water appropriations.

As you know, the Water Use Act was enacted in 1966 and early casefiles in some cases contain little information. In the early 1980's, we designed and began entering information into the department's Land Administration System (LAS) computer system which includes information about water rights applications, permits, and certificates. It is important to understand that this computer system is a computer filing system and it cannot manipulate data and produce custom reports quickly. It is not a system like the readily available Lotus software. To compile much of the information that you have requested will require a custom report that can only be prepared by programming a custom request for the information. This is both costly and time consuming; it will take approximately two to four weeks to gather some of this information. However, if that is what you want, our staff is available to work closely with your staff to design a programming request to produce the required information. The initial programming request must be specific and complete, because once the programming is done it cannot be easily changed.

The following responses answer your questions as best we can with current information.

1. Prior to April, 1968, how many applications were filed for the withdrawal, impoundment, or diversion of streams?

No applications were received prior to April, 1968. However AS 46.15.065 required existing water users to file declarations of

appropriations during this time to protect their existing right to use water. It will require a custom report to provide how many declarations of appropriation were filed during this period. Any of the declarations that were closed and not issued are not on our computer, and some background information, such as water source, was not entered during the initial batch entry of data and is not available.

2. How many applications were filed and accepted for the withdrawal, impoundment, or diversion of streams for the rest of 1968?

This information is available only through a custom report.

3. How many applications for the withdrawal, impoundment or diversion of streams have been filed and accepted per year from 1968 through 1989?

Information on numbers of surface water applications received from 1968 through 1983 is not available except through a custom report. The following summarizes surface water applications received from 1984 through May, 1989, produced by a custom report in May, 1989.

1984 - 342 surface water rights applications received
1985 - 683 surface water rights applications received
1986 - 151 surface water rights applications received
1987 - 108 surface water rights applications received
1988 - 139 surface water rights applications received
1989 through May - 78 surface water rights applications received

4. What out of stream users of water have applied for 100,000 gallons a day or more appropriation of streams, or what type of uses would require 100,000 gallons of water a day appropriation?

This information is not available prior to 1984 except by generating a custom report. The attached printout of surface water rights applications filed between 1984 and May, 1989 lists the quantities applied for. The codes are as follows: G is gallons per day; M is gallons per minute; A is acre feet per day; C is cubic feet per second; Y is total flow; Z is other; and U is unknown.

Typical water uses in excess of 100,000 gallons of water per day might include, depending on the project, placer and lode mining, oil and gas exploration, public water supplies, docking facilities, fish hatcheries, hydroelectric facilities, canneries, and other large industrial users.

5. Names of these streams or rivers for these applications.

This information is not available for applications prior to 1984 except by generating a custom report. The attached printout of surface water rights applications filed between 1984 and May, 1989

lists the surface water sources from which water is applied for.

6. The quantity of water requested for the appropriations.

This information is not available for applications prior to 1984 except by generating a custom report. The attached printout of surface water rights applications filed between 1984 and May, 1989 lists the quantities applied for or granted for these applications. Please note the status codes are as follows: 10 is application; 11 is permit issued; 12 is certificate issued; 44 is application closed; and 40 is certificate revoked.

7. Of all of the above, please differentiate between diversions, withdrawals, and impoundment appropriations. How many of the diversions would be classified as a nonconsumptive use of water under your proposed regulation revisions?

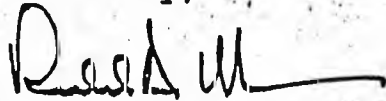
We do not specifically differentiate between diversions, withdrawals, and impoundments. The applications are coded by surface, subsurface, and dams. The attached printout is a custom report for source codes surface and dam water rights. We do not have nonconsumptive uses coded in our computer so that information is not available. These uses are generally, depending on the project, placer mining, run of the river hydroelectric projects and instream flow reservations.

8. Of all the above, on how many streams have you calculated or estimated the water available for appropriation and by which techniques?

This information is not coded and is not available. We use a variety of techniques from calculating mean annual flows using USGS records to requesting detailed hydrologic analysis from the Division of Geological and Geophysical Surveys.

If you have further questions, please do not hesitate to contact me.

Cordially,



Gary Gustafson
Director

cc: Lennie Gorsuch
Rod Swope
Tom Hawkins
Larry Ostrovsky
Bob Forbes



Alaska Power Authority

State of Alaska

March 6, 1989

Mr. Stosh Anderson
P.O. Box KS
Levelock, Alaska 99627.

Subject: Proposed Instream Flow Reservation Regulation Amendments

Dear Mr. Anderson:

The Alaska Power Authority has reviewed your proposed amendments to AS 46.15.145.

As a general comment, we support the adoption of an amendment that simplifies the reservation of public waters not only for fisheries, but for other public uses such as navigation and recreation. We also expect the amendment would simplify the permitting and feasibility analysis of hydroelectric projects as well.

Tennant's method of determining the minimum flow requirements for maintaining fisheries, which is the basis for the quantities of water to be reserved by the proposed amendment, has been demonstrated to be a very suitable methodology and compares favorably with the incremental flow types of analysis. Tennant's method, however, is simple to apply and far less costly with respect to data gathering and analysis.

With respect to the manner in which a reservation would be effected, we do have some specific comments. We believe that it may be most beneficial to the state to enact an amendment that withdraws from appropriation the 60% and 30% flows for all anadromous fish streams specified under AS 16.05.870(a) at the time of enactment.

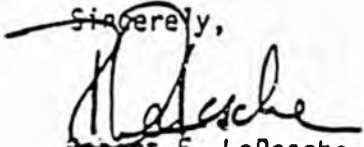
We have discussed this concept cursorily with the Attorney General's Office and have been told that there is probably no legal or constitutional impediment to doing this. In fact, this type of statewide reservation would implement constitutional requirements related to maintaining fish and wildlife resources at sustained yields. The burden would rest upon the party requesting water rights to demonstrate that the request would still maintain the minimum flow requirements. If the requested appropriation diminishes flows below the minimums, the burden would be upon the user to demonstrate that he could adequately mitigate to maintain sustained yields of fisheries or compensate for their loss in an out-of-kind manner.

The advantage to this approach is that the reservation is made statewide immediately, not piece-meal only as applications for water rights are submitted.

Enclosed with this letter is a capsule discussion of some of the issues we see related to this bill and reservations in general.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,


Robert E. LeResche
Executive Director

TA/REL/bw

Enclosure as stated

Discussion of Issues

Concern/AgreementComment

The State Constitution and AS 16 already protect anadromous fish streams.

While they require protection of fisheries and maintenance or enhancement of populations, they do not quantify and reserve flows for these purposes.

The use of Tenant's method to quantify the flow requirements for fisheries will not determine the true need.

Where time and funding are not available to do detailed instream flow studies, Tenant's method has proven to be a very useful tool. While it is only an approximation of the flow requirements, in studies where it has been compared on a case by case basis with detailed incremental type analysis, it shows good correlation.

(

This reservation is too large and will preclude many use of streams if adopted.

In the proposed amendments, the applicant may conduct an instream flow study to show that it may be possible to decrease flows further. The language in the amendment should be revised, however, to allow other types of mitigation so that flows can be reduced to less than those needed to maintain fisheries in a particular reach of water, but compensation provided elsewhere.

(

Furthermore, we envision that this type of reservation will not greatly impact users who divert water from streams temporarily for uses such as run-of-river hydroelectric generation or placer mining provided suitable mitigation is proposed for the reach of water between the points of take and discharge.

The administrative burden related to these amendments are onerous.

Several things can be done to reduce the administrative burdens of the amendments. The first thing

that could be done is to require the applicant to make a determination of the average annual flow of the water body in question. The U.S.G.S. or engineering consulting firms could provide this information. The applicant would then be required to demonstrate that their requested appropriation would not infringe upon the in-stream flow reservation.

If the idea of having the applicant determine flows is not acceptable, an application fee could be charged that would allow DNR to maintain staff to make the determinations.

One thing to recognize is that the majority of the applications will be made on only a limited number of streams, primarily those in population centers. Usually there is some hydrologic data and estimations of average annual flows

Attachment

already available.

We would suspect that after the first few years of this requirement the number of streams for which flow estimates would need to be made would drop off dramatically.

STATE OF ALASKA
THE LEGISLATURE

POUCH STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 16, 1990

SUBJECT: Sectional Summary of CSHB 210(Resources);
An Act relating to the reservation of
instream flows in water important for fish

TO: Representative Cliff Davidson

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is a sectional summary of CSHB 210
(Resources).

A sectional summary of a bill is not a definitive interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 46.15 by adding a new section relating to reservation of instream flows for fish.

Sec. 46.15.146 provides that upon receipt of an application to appropriate water from a river or stream that is important to fish the commissioner of natural resources shall reserve an instream flow of water for the use of fish and to maintain existing habitat for fish. The commissioner shall reserve an instream flow of water on the basis of the best hydrological data existing at the time. An application for a public water supply has priority over a reservation of water for fish.

Unless the commissioner has previously adopted regulations regarding reservations of instream flows for fish, the commissioner shall reserve at least 60 percent of the instream flow of a river or stream for the instream use of fish during the months of April through October and at least 30 percent of the instream flow during the months of November through March.

The commissioner shall adopt regulations to reserve instream flows in rivers and streams for the use of fish and to maintain existing habitat for fish. The commissioner shall

Representative Cliff Davdison
Page 2
February 16, 1990

establish hydrologic regions within the state and specify proportions of instream flows that are reserved for the use of fish in each region. The commissioner shall amend these regulations as new hydrological and biological information is obtained and as the commissioner considers necessary.

If the commissioner cannot reserve sufficient instream flow to satisfy the instream needs of fish due to prior appropriations of water or applications for appropriations, the commissioner shall reserve all of the instream flow that is available.

The commissioner may adjust the quantity of water that has been reserved for the use of fish if the commissioner determines that it is in the best interest of the state. The commissioner shall coordinate adjustments with the decisions of the commissioner of fish and game regarding protection of habitat for fish and passage of fish.

The priority date for a reservation of water from a river or stream identified by the Department of Fish and Game as important for fish before the effective date of this section is the effective date of this section. The priority date for a reservation of water from a river or stream identified as important for fish after the effective date of this section is the date on which the identification is made.

Instream flows reserved under this section are withdrawn from appropriation. Appropriations of water and applications for appropriations of water on record before the effective date of this section are not affected by a reservation of water for the use of fish. Appropriations of water for nonconsumptive uses are not subject to this section.

Section 2 of the bill provides that within 18 months after the effective date of the bill the commissioner of natural resources shall adopt regulations to reserve instream flows in rivers and streams for instream use of fish and to maintain existing habitat for fish.

Section 3 of the bill provides that the bill takes effect immediately after becoming law.

TBC:lmb
L9/123