

LEGISLATIVE FINANCE-HOUSE / SENATE FINANCE COMM. FILES 8879

HB 396 cont. - HB 400 514 125

man is always there. The very nature of our jobs places probation officers in a touchy position; we enforce the orders of the Court which often means violating a persons probation and threatening their freedom.

On one occasion following a sentencing hearing 2 1/2 years ago in which I recommended a stiff sentence for a child abuser, the defendants wife became extremely angry. Not only did she verbally assault me in the courtroom but she attempted to physically confront me. The defendant (her husband) was able to grab her and hold her down while I left the Court Room.

Finally I wanted to share with you an incident that involved a fellow probation officer in the Anchorage/Kenai area. This man had his home fire bombed and was seriously burned as a result. Although the police investigation was never able to determine who was responsible, this man was very certain one of his probationers was to blame based on past supervision problems.

In conclusion, there is always the potential

-1254

you violence with this position. There
is certainly ongoing stress and the
underlying knowledge that many of
our day to day duties place us in dangerous
situations.

Thank you once again Senator Duncan
for your sponsorship of the bill relating to
placing probation officers under Peace
Officers Retirement.

Sincerely,

Susan J. Todd

P.O. Box 2748

SITKA, ALASKA 99835

CC Representative Ben BRUSSENDORF
Senator Richard ELIASON

Alaska State Legislature

HOUSE OF REPRESENTATIVES



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REPRESENTATIVE FRAN ULMER

November 13, 1989

Senator Jim Duncan
P.O. Box V
Juneau, AK 99811

Dear Senator Duncan:

I would like to let you know of my support for your proposed legislation which would include probation officers under the status of peace officers for retirement in the Public Employees Retirement System. I would be very interested in receiving more information pertaining to this proposed legislation, including information relating to the cost of adding these employees to PERS.

Please let me know if there is anything I can do to help with this proposal on the House side.

Sincerely,

Handwritten signature of Fran Ulmer in cursive script.
Fran Ulmer

Alaska Probation and Parole Association

November 3, 1989

Representative Swackhammer
312 Tyee St.
Soldotna, Alaska 99669

Dear Representative Swackhammer:

Senator Duncan will introduce the enclosed Bill placing Probation-Parole Officers under the Peace Officer Retirement System. Our association is well aware of your knowledge and interest in all correctional issues. Please support Senator Duncan's Bill on the House side.

If you consider it appropriate, we'd ask that you introduce this legislation on the House side.

Again, the members of our association and I thank you for your continued support.

Sincerely,



Lew Reece, President
APPA

Alaska State Legislature

COMMITTEES:

MEMBER

RULES

COMMITTEE ON COMMITTEES

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

FINANCE SUBCOMMITTEE
DEC



PO. BOX 1441
WRANGELL, ALASKA 99929
(907) 874-2318

While in Juneau
PO. BOX V
JUNEAU, ALASKA 99811
(907) 465-4905

House of Representatives

ROBIN L. TAYLOR
MINORITY LEADER

November 2, 1989

Keith Stell, Southeast Representative
Alaska Probation/Parole Association
17025 Glacier Hwy.
Juneau, Alaska 99801

Dear Keith,

Thank you for writing to me regarding the Peace Officer Retirement status. I agree with you 100%, we are long overdue for a bill granting Peace Officer Retirement status to probation officers. I will be more than happy to support this legislation in the House of Representatives. If there is anything else that I may do to assist you, please do not hesitate to let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robin L. Taylor".

Robin L. Taylor

RLT/sjw

Alaska State Legislature

HOUSE OF REPRESENTATIVES

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REPRESENTATIVE FRAN ULMER

January 20, 1990

Ms. Lynda L. Zaugg
P.O. Box 020805
Juneau, Alaska 99802

Dear Lynda:

Thank you for the copy of your letter to Rep. Swackhammer in support of HB 396, which allows probation officers to become part of the law enforcement retirement system. As co-sponsor of this bill I am aware of the hazardous nature of probation officers' duties.

After reading your letter, I must say I share your amazement that the dangerous situations you describe did not turn into deadly incidents. You make it graphically clear just why you and your colleagues should be included in the law enforcement retirement system.

Thank you again for sharing your experiences with me. I admire the courage and dedication it requires to pursue a career vitally necessary to our public safety which is fraught with danger. I look forward to working with you to secure passage of HB 396.

Sincerely,


Fran Ulmer

FU/d1

District 4B — Juneau

P.O. Box V • Juneau, Alaska 99811-3100 • (907) 465-4947

January 29, 1990

Representative Ron Larson
PO Box V
Juneau, Alaska 99801

Dear Representative Larson:

House Bill 396, which places probation officers in the Peace Officers and Fireman's Retirement System will soon have a hearing in the House Finance Committee. I urge you to pass this bill out of committee with a "due pass" so the House can have a floor vote on it. I hope the information which appears below will help you in deliberations.

Probation officers are defined as Peace Officers in Alaska Statute 11.81.900(38). Likewise, probation officers are covered under the Alaska Police Standards Council Act (AS 18.65.130). Probation officers can and do arrest probationers (AS 33.05.070) and parolees (AS 33.16.240). Probation officers encounter the same hazards and stresses as those experienced by other peace officers. For instance, probation officers sometimes carry guns in the execution of their work (Department of Corrections Policy and Procedure 902.16). Probation officers search the persons and residences of people on probation and parole. Probation officers often find themselves in dangerous situations where they may be physically assaulted or shot during an arrest or search.

Examples from my own experience as a probation officer include an instance where an offender hired a private investigator to investigate not only myself but my family so that he could find information in my background with which to embarrass or impeach me in Court. Another probationer did a "drive-by" shooting at the probation office. Earlier in the evening he had shot out the windows in an apartment building owned by the Chief Probation Officer. Interestingly, he shot out the Law Library windows one floor above the probation office by mistake as he thought the probation office was on the fourth floor rather than the third floor of the Court building. In any case, at a hearing, he was found guilty of deliberately shooting at us.

While arresting an offender and booking him into Lemon Creek Correctional Center, he became enraged when I would not agree to release him. He assaulted me in the booking room of the prison. Last year, it was necessary to obtain the assistance of the Juneau Police Department and the Alaska State Troopers to serve an arrest

January 29, 1990
Page Two

warrant on a probation violator. Since he would not come out, we had to kick down the door of his trailer and enter with guns drawn. This probationer was found extremely intoxicated. A rifle was within easy reach.

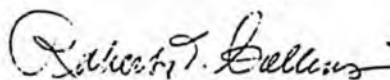
Several years ago, I searched the residence of a probationer and found substantial quantities of cocaine and two machine guns. Probationers and parolees often make threats of violence against probation officers and while I do not take each and every one of them seriously, cummulatively they cause a lot of stress.

Probation officers are required to enter correctional centers two to three times per week in order to do intake interviews, participate in parole hearings, and a host of other activities which usually include direct face-to-face contact with inmates who are angry and hostile. Some probation officers do all of their work in correctional centers and are in close proximity to inmates all day, every day. They work right next to correction officers who have had Peace Officer and Fireman Retirement for years. The dangers encountered by these probation officers are exactly the same as those encountered by their correction officer associates. The only difference is that correction officer have Peace Officer Retirement and probation officers do not.

All of our probationers and parolees are felons. We do not supervise misdemeanants. Since we face the same stresses and dangers as those experienced by police officers, correction officers, and Alaska State Troopers, it seems just that we be included in the Peace Officer Retirement System.

Thank you for giving me the opportunity to air my views. The above information is my own position and may not reflect the position of the Department of Corrections. If you have any questions, please do not hesitate to contact me.

Very Truly Yours,



Robert K. Collins
District Probation Supervisor
9340 View Drive
Juneau, Alaska 99801
Phone: 789-2074 (h)
465-3180 (w)

RKC/cm

cc Keith Stell, Chief Probation Officer, Juneau

HB

398

HOUSE COMMITTEE REPORT

FILE

(11)

Date Referred: March 13, 1990

FURTHER REFERRALS:

Date of Committee Action: 3/27/90

The FINANCE Committee considered:

HB 398

HOUSE BILL NO. 398

ADJUSTMENTS OF PRIOR YR FOUNDATION AID

"An Act providing authority for the Department of Education to adjust a school district's state foundation aid in a fiscal year to correct for previous underpayments or overpayments."

RECOMMENDATIONS:

- be replaced with CSAB 34E (HESS) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note DDE
- 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

Ronald J. Larson Larson

Cliff Swackhammer SWACKHAMMER

Koponen Koponen

Dirk Schultz Schultz

~~Wauis~~

Wauis Wauis

Signature	Name	Do Not Pass	No Rec	Amend
<u>Laura Hoffman</u>	Hoffman	X		
<u>John Brown</u>	Brown	X		
<u>Barbara Barnes</u>	Barnes	X		
<u>Steve Rieger</u>	Rieger		✓	
<u>Phillips</u>	Phillips		✓	

Laura Hoffman Hoffman
Chairman's Signature
Ronald J. Larson Larson

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Authority for the Department
to adjust a school districts state
 Sponsor: Rules
 Requestor: House HESS
 Agency Affected: Education
 BRU: K-12 Support
 Components: Foundation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-					
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-					
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Based upon FY 91 projected student data the fiscal impact of the bill in FY91 is zero. The cost in future years is indeterminate.

Prepared by: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 3/8/90
 Approved by Commissioner: William G. Demmert Date: 3/8/90
 Agency: Education

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

Adopted

Offered: 3/13/90
Referred: Finance

600050HE

Prev in DOE - 4/8/90

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE HESS COMMITTEE

2 CS FOR HOUSE BILL NO. 398 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing authority for the Department of
7 Education to adjust a school district's state founda-
8 tion aid in a fiscal year to correct for previous
9 underpayments; relating to the number of allowable
10 total elementary and secondary instructional units in
11 determining state foundation aid for a school dis-
12 trict; and providing for an effective date."

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

14 * Section 1. AS 14.17.021(a) is amended to read:

15 (a) The amount of state foundation aid for which a school dis-
16 trict may qualify in a fiscal year is calculated by subtracting from
17 the basic need defined in (b) of this section the required local
18 contributions under AS 14.17.025(a) and 90 percent of eligible federal
19 impact aid for that fiscal year. The department may make adjustments
20 to a district's state foundation aid for a fiscal year to correct
21 underpayments made in previous fiscal years.

22 * Sec. 2. AS 14.17.031(b) is repealed and reenacted to read:

23 (b) If the total elementary and secondary instructional units
24 that a school district is eligible to receive under (a) of this sec-
25 tion decrease by 10 percent or more from one fiscal year to the next,
26 the school district may use the last fiscal year before the reduction
27 as a base fiscal year and offset its reduction according to the fol-
28 lowing schedule: (1) for the first fiscal year after the base fiscal
29 year, the school district is eligible to receive the total elementary

HB0398B

1 and secondary instructional units determined under (a)(1) of this
2 section plus 75 percent of the difference in total elementary and
3 secondary instructional units between the base fiscal year and the
4 first fiscal year after the base fiscal year; (2) for the second
5 fiscal year after the base fiscal year, the school district is eligi-
6 ble to receive the total elementary and secondary instructional units
7 determined under (a)(1) of this section plus 50 percent of the differ-
8 ence in total elementary and secondary instructional units between the
9 base fiscal year and the second fiscal year after the base fiscal
10 year; (3) for the third fiscal year after the base fiscal year, the
11 school district is eligible to receive the total elementary and secon-
12 dary instructional units determined under (a)(1) of this section plus
13 25 percent of the difference in total elementary and secondary in-
14 structional units between the base fiscal year and the third fiscal
15 year after the base fiscal year. The schedule established in this
16 subsection is available to a school district for the three fiscal
17 years following the base fiscal year only if the total elementary and
18 secondary instructional units received by the school district under
19 (a)(1) of this section for each fiscal year are less than the total
20 elementary and secondary instructional units received by the school
21 district in the base fiscal year. This subsection does not apply to a
22 decrease in total elementary and secondary instructional units result-
23 ing from a loss of enrollment that occurs as a result of a boundary
24 change under AS 29.

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



• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
326 Fourth St., Suite 408 Juneau, Alaska 99801 588-9702

POSITION PAPER

HB 398

"Adjusting a school district's state foundation aid in a fiscal year"

The Alaska Council of School Administrators supports HB 398 with the addition of amendment #1 detailing a process for the reduction of funds under the foundation support program to school districts.

School districts develop budgets around the best information available and on current enrollment as well as projected enrollment for the coming school year. As the school year begins and because of unanticipated events which causes a severe reduction in enrollment, districts can be seriously impacted and with this amendment, the reductions in staff and programs can be accomplished in a gradual, well planned process which will cause as little disruption as possible to the over-all educational program.

We urge this committee to pass the amendment.

PROPOSAL

For a Feasibility Study of

Alaska Foundation Funding Program

(Educational Equity and Cost Effectiveness)

ABSTRACT

Due to the substantial interest in financing of public education in Alaska and with continued litigation throughout the United States concerning the issue of equity in education finance, it seems desirable to investigate all the various concerns relating to the funding of public schools in Alaska. A study of the State Foundation Funding Program should be conducted to address the questions relating to educational equity and cost effectiveness.

STATEMENT OF PURPOSE

It is essential that the State of Alaska have a mechanism in place to properly finance the public education system. Alaska's school districts vary greatly in size, political complexity, and district wealth. While some municipal districts are comparable to those in other states, others are remote, with many small schools isolated from one another. Several small city districts consist of single attendance centers which are located in rural areas of the state. Due to this diversity it is logical to assume that the actual cost of education may vary greatly on a district-by-district basis, and it is difficult to guarantee that true equity in educational funding exists. For the same reason it is equally difficult to ensure that every district receives sufficient funds to offer an acceptable educational program for all students. Finally, it is essential that all education services are provided as cost effectively and as efficiently as possible.

EDUCATION EQUITY AND SCHOOL FINANCE

Throughout the country a major portion of state and local taxes are dedicated to the support of public education. Public education is expensive and there has been considerable scrutiny of school finance methods. During the last twenty years much of this scrutiny has been directed toward equity in education.

In San Antonio v. Rodriguez (1973) the U.S. Supreme Court ruled that since education was not a right under the U.S. constitution the court had no jurisdiction in matters pertaining to equity in educational funding. This decision left the issue up to the state courts. In 1971, the California Supreme Court in Serrano vs Priest declared that the state's system for financing public schools was unconstitutional. This decision established a standard that the quality of a child's education must be based on the wealth of the state as a whole and not on the wealth of a local school district. Since this decision there has been considerable litigation relating to this issue. As of this date twelve states have upheld their education finance system and ten states have declared their system to be unconstitutional. Currently there is ongoing litigation concerning this issue in several other states. Alaska is one of these states.

Equity in education is a very complex problem. The fundamental question is, equity for who? There are two basic answers to this question. One, equity for the taxpayer; and two, equity for the children enrolled in the public schools. While equity for the taxpayer is an issue worthy of further investigation, the focus of this proposal will be equity for the pupil.

The various state supreme courts have not been able to agree on the concept of equity. One court stated that since the plaintiff had not been able to show that a single child had been deprived of an educational opportunity the complaint was denied. In the same article the author pointed out that the Louisiana State Supreme Court upheld the Louisiana finance system stating that it was sufficient to ensure a minimum educational program for all students. California established a one-hundred-dollar-per-student band or variance whereby, all per-pupil expenditure must be within a hundred dollars of one another. This has been interpreted to include adjusted dollars which reflect inflation and cost differentials related to small versus large district operations. In Oklahoma the Supreme Court ruled that the state was under no obligation to guarantee equal expenditure per child in its educational system. While the federal government remains uninvolved, it is studying the issue.

While there appears to be no single method to determine equity in education finance, there are several areas that if properly addressed increase the probability of a given formula withstanding the scrutiny of the courts. These areas are as follows:

- 1) Horizontal Equity
- 2) Vertical Equity
- 3) Equal Opportunity
- 4) Adequacy of Funding

Horizontal equity means the "equal treatment of equals." This is the principle upon which many state funding programs are based. This principle assumes that all children are equal with equal problems and the equal ability to learn. Since this can readily be shown not to be the case this principle by itself simply will not survive legal review. This principle is valid when it is applied to subgroups of children where it can be demonstrated that they have like or similar characteristics.

Vertical equity is the "unequal treatment of unequals." This principle recognizes legitimate differences among pupils and allows for additional funds for these differences. Such legitimate differences include identified special educational needs, socio-economic factors that affect children, cultural or language barriers that impact children and their learning behavior, and other agreed-upon categories that affect the learning process. This principle can also be applied on a district basis when it can be demonstrated that differences exist which impact the cost of education. Such differences include size, locations, geographic considerations and population density.

Equal opportunity. While this principle contains all of the generally accepted concepts relating to discrimination on the basis of sex, age, handicapping conditions, race, and religion, it also refers to something different. This principle also relates to educational discrimination based on local wealth, fiscal capacity, or resources. In effect, this principle states that education should not be a function of a district's wealth.

Adequacy. This principle means that the educational finance system must provide sufficient funds to ensure that an acceptable minimum educational program can be offered to every child. This issue was addressed recently in the Texas case where the court stated as part of its decision that sufficient funds were not made available to financially support minimum state-mandated programs.

If properly taken into consideration, the above four principles can help establish an education finance system that has a good chance of withstanding legal challenges.

The courts seem to respond more favorably to systems that are based on a per pupil or per unit basis rather than on a program basis. When the amount of money available changes on a per pupil basis, it impacts all pupils the same whether it increases or decreases the available funds. The courts also seem to be favorably impressed with funding formulas that are based on sound research, logic, and good judgement.

There are several statistical tests available which can be used to argue equity or inequity. Such tests usually relate to dispersion or correlation. In California it was successfully argued that since 93% of all students fall within the 100-dollar range (adjusted dollars), the test of equity was satisfied. A two-tailed test of dispersion was used for this purpose. Statistics books are full of tests that can be used in equity arguments. Caution should be observed in the use of these tests since statistics are often misused, misunderstood, and misapplied.

ALASKA'S FOUNDATION FUNDING PROGRAM

Alaska's current method of financing public education was enacted into law in 1987. This act, contained in AS.14.17, was the result of considerable study over a relatively long period of time. An examination of this process clearly indicates that the four principles described above were taken into account. The current system (attached) is responsive to both vertical and horizontal equity, adequacy, and equal opportunity. The fact that the above described principles are addressed by this funding method does not guarantee that the formula is perfect, acceptable to all districts, or that it will withstand legal challenge. There have been several claims that the existing law does not meet the current educational needs of the state. While no real empirical evidence has been submitted to substantiate these claims, sufficient subjective evidence presented warrants an investigation into these allegations. A review of these claims suggests that the study give serious consideration to the questions mentioned in the next section of this proposal.

Study Goals

- 1) To maintain an education finance system which will meet all federal program eligibility requirements, provide a minimum level of funding to ensure that all students have the opportunity to benefit from a basic educational program, and withstand challenges relating to the legality of the system.

- 2) To develop a statewide education delivery system which will be operationally cost efficient and programatically effective.

RECOMMENDED PROCEDURE FOR THE STUDY

- 1) Select a group of individuals representing interested parties. This group should be appointed by the State Board of Education.
- 2) Contract with a consultant, who will conduct the study under the direction of the Director of the DOE Educational Finance and Support Services Division (EF&SS). This individual or firm must have extensive knowledge of school finance, school finance in Alaska and a thorough understanding of the issues facing education in Alaska today. This function might be provided through the University of Alaska.
- 3) The contractor should conduct a technical review of existing information concerning the issues and questions identified in this proposal.
- 4) The committee will meet five times during the course of this study. These meetings will be held on a regular basis and will be conducted by the Department of Education. Concerned parties will be invited to submit evidence regarding the issues being investigated at these meetings.
- 5) The department will provide the committee with detailed information relating to the issues under investigation.
- 6) Computer simulation models will be used to generate information to support decisions relating to school size, district size and/or regional service center size.
- 7) Upon completion of the review of all the evidence compiled as a result of the study, the committee, the contractor, and department representatives will meet to formulate recommendations for change in the existing program.
- 8) The department will present any recommendations for changes to the State Board of Education for their review and possible action.

STUDY ISSUES

- 1) Maintain a cooperative relationship with school districts. Without the cooperation and support of school districts any study on educational issues would fail.
- 2) The regional service center concept must be considered as part of this proposal. This concept has worked well in other states and has contributed to improved services to school districts with cost effectiveness. This issue is currently being addressed in part by a study being proposed relating to a statewide computer service network.
- 3) The consolidation of school districts for the purpose of improving the delivery of educational service must be investigated. Consolidation might prove to be a cost effective method to provide better educational services to pupils. Consolidation of school districts has proved itself to be an effective and efficient method of providing high quality educational programs in other states.
- 4) Equity in education finance needs to be addressed. A determination must be made relative to Alaska's foundation program and vertical and horizontal equity. It is essential that Alaska's funding method be consistent with the state's constitution.
- 5) Adequacy in education funding must be evaluated. The state's foundation program must provide sufficient funds to meet the minimum educational needs of all students. Critical to this issue is the value of the instruction unit (currently \$60,000) and the area cost differentials. These two factors must be studied to determine if they truly reflect the cost of education in Alaska.
- 6) Several questions have been raised concerning the state foundation program and small single/dual school districts. Claims have been made that the present formula does not adequately meet the needs of these districts. This study must take these questions into consideration.
- 7) Every child should have an equal opportunity to an education. This opportunity must exist regardless of a district's wealth. The state funding formula must take this factor into account. This study must address this principle especially as it relates to local effort.
- 8) Alaska currently funds capital improvements for education by three basic methods:
 - 1) Grants to municipalities.
 - 2) Grants to the Department of Education.
 - 3) The debt retirement program.Questions relating to equity and adequacy of these methods need to be addressed.
- 9) The operation of very small elementary and/or secondary schools may not be cost effective. Moreover, such small schools may not fully meet the educational needs of the pupils they serve. This study should investigate alternative methods of program delivery to children in these situations.

STUDY QUESTIONS

- 1) Does the existing formula adequately meet the needs of small single/dual site school districts?
- 2) Do the area differentials accurately reflect the actual cost of education throughout the state?
- 3) Should the state consolidate school districts in the interest of program effectiveness and operating efficiency?
- 4) Should the state adopt the regional education service center concept found in many other states to provide improved services to school districts?
- 5) Is the current \$60,000/unit sufficient to adequately meet the requirement for a basic educational opportunity for all Alaskan students?
- 6) Are the current methods of funding capital projects equitable and adequate?
- 7) Should Alaska establish municipal governments in the unorganized area of the state?
- 8) Should the state establish minimum enrollment requirements for the funding of elementary and secondary schools through the foundation program?

While these questions need to be addressed, it should be recognized that the existing formula may need very little modification in order to be responsive to changes required to satisfy equity questions.

Assumptions Relating to this Proposal

- 1) Available state funds for all government programs will decline.
- 2) The eligibility requirements for PL-81-874 must continue to be met as a condition of any changes in the foundation program as a result of this study.
- 3) Eligibility requirements for all other federal programs must continue to be met as a condition of any changes in the foundation program as a result of this study.
- 4) The expertise needed to conduct this study can be found in Alaska. Moreover, most of the data requirements to complete this investigation are available from school district records or Department of Education files. Given the above assumption it is recommended that \$260,000 be appropriated to the Alaska Department of Education to conduct this study. The department will oversee this project and provide the necessary support and other resources to ensure project completion.

Project Budget

Committee Meetings (est. 10 members meet 6 times)

20 total meeting days (10 * \$ 80 * 20) 16,000

6 rnd-trip airfare (10 * \$500 * 6) 30,000

In-State Consultant Assistance 200,000

Communication Costs

5 1-hr teleconf., 12 sites (12 * \$ 38 * 5) 2,280

Telephone, fax expenses 500

Mailing expenses 400

Consultation Time with DOE personnel

EFSS Director and staff 1,000

Adm Svcs Financial staff 2,600

Data Management staff 2,000

Printing, Binding Expenses 5,000

TOTAL \$259,780

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

ce
HB 398

January 8, 1990

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the public school foundation program. The bill would simplify the process of making corrections to underpayments made to school districts in previous fiscal years by permitting current-year state aid to be adjusted rather than requiring a supplemental appropriation. The need for this bill arises from the relationship between the Department of Education and the federal government for federal impact aid purposes under P.L. 81-874.

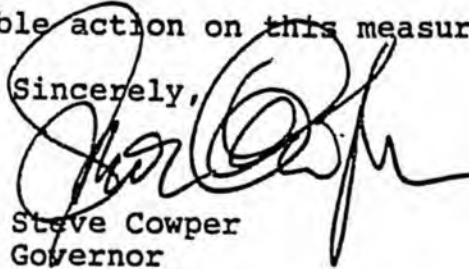
Under P.L. 81-874, as amended, a state is authorized to consider federal impact aid payments made to school districts as "local resources" under the state's school aid formula, and thus reduce the amount of state aid needed, only if the state's program meets federal equalization criteria. One of those criteria, according to the United States Department of Education's interpretation of its regulations, is that if a state distributes state aid based on an estimated ratio of local support to the district covered by the state's equalization plan to total local support (as Alaska does) then it must make appropriate corrections after the local support estimates are replaced by actual, audited data.

Currently, under AS 14.17.170, the department can require a district to return any overpayments made to it. By implication, it may reduce current-year foundation support by the amount of any overpayment made in a previous fiscal year. There is no statutory provision, however, authorizing the department to use money appropriated for the current-year foundation program to correct underpayments made in prior fiscal years. The Department of Education recommends this bill to permit that use of the current-year

foundation program appropriation, even if that use would sometimes require prorating current-year support to all districts. That would eliminate the need for a supplemental appropriation each year to make what are relatively minor adjustments to the previous fiscal year's state aid distribution.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name below.

Steve Cowper
Governor

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

GOLDBELT PLACE
801 WEST 10TH STREET
P.O. BOX F
JUNEAU, ALASKA 99811-0500

February 8, 1990

Jim Nordlund
House HESS Committee
PO Box V
Juneau, Alaska 99811

Dear Mr. Nordlund:

The Department of Education annually must pass a federal disparity test to determine whether Alaska's Public School Foundation Program meets U.S. Department of Education regulations for states that use P.L. 81-874 funds as part of their school funding distribution mechanism. In the past, the federal government has given a conditional determination that Alaska has passed the disparity test, with an exception. The exception is made because the State disburses funds through the foundation program based on budgeted data. The disparity test itself is based on audited data. The federal government will issue a final determination that Alaska meets the disparity test only after payments to districts are reconciled with the audited data. In the past, the State has made these reconciliations through its annual supplemental appropriation.

The amendment to AS 14.17.021(a) in House Bill 398 authorizes the State to make those reconciliation payments prior to submitting to a federal disparity test. This bill is necessary because the federal government has requested the State to prorate payments to districts during the school year based on audited data. The federal concern is that the Legislature may find itself in a position not to fund a supplemental appropriation. Should that occur Alaska is at risk of losing all PL 81-874 funds that come to the State. Total potential loss is about \$70 million per year.

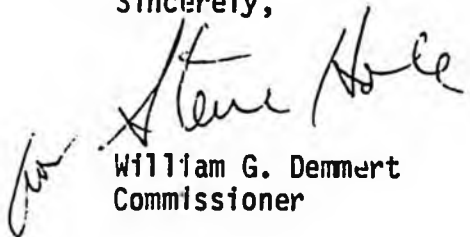
Meanwhile, as payments are prorated under authorization of House Bill 398, the Legislature can, as it has done in the past, make up full funding to districts in an annual supplemental appropriation. If some catastrophic emergency prohibits a supplemental, then the State does not risk losing its PL 81-874 receipts because of imbalances in the State's foundation program distribution.

Jim Nordland
February 8, 1990
Page 2

Enclosed is a letter from Charles Hansen, Director, Impact Aid Program. U.S. Department of Education, noting the requirement that the Alaska Department of Education must secure funds from the State Legislature to reimburse those school districts that failed to receive adequate foundation funding in FY 88 and FY 89, according to the federal disparity test.

I am available if you need further information about this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Hole", is written over the typed name. To the left of the signature is a small, illegible handwritten mark.

William G. Demmert
Commissioner

Enclosure



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

DEC 29 1989

22 DEC 1989

John E. Anttonen, Director
Educational Finance and Support Services
Alaska State Department of Education
Goldbelt Place
801 West 10th Street, P.O. Box F
Juneau, Alaska 99811-0500

Dear Mr. Anttonen:

This is to notify you that, based upon examination of the data sets provided for our review, we are approving the disparity test results dated November 13, 1989 for fiscal year (FY) 1988 as computed by your office under Section 5(d)(2) of Public Law 81-874, subject to the following condition.

As stated in my letter of October 23, 1989, the State Department of Education must secure from the State legislature an appropriation to reimburse those school districts from which State foundation aid funds were improperly withheld under Section 5(d). If the appropriate adjustments are made in the amounts indicated in the November 13 data, and are reported to this office, this Department will let stand the existing determination for FY 1988.

In addition, we still have not received either a copy of the State's legislative proposal requesting additional appropriations, or the proposal requesting authority to make adjustments in future-year State aid payments, both of which your office agreed to submit to us prior to submission to the legislature in the upcoming legislative session.

Finally, I would like to relay to you the fact that both Dr. Robert Farning and Kerry Wingell of my staff were pleased with the outcome of the recent State workshop in Anchorage. Apparently a number of attendees engaged in some lively exchanges and contributed significantly to forging a better understanding of Alaska school conditions as they relate to the Impact Aid Program. Equally as important, my staff now feel confident that the morning session during which they explained the FY 1989 payment vouchers to Eddy Jeans of your staff should enhance your ability to prepare submissions to the Department.

Thank you for your cooperation in working to remedy the deficiencies in the prior FY 1988 disparity test. I look forward to your continuing support as we proceed with the determination process for the ensuing fiscal years.

Sincerely,

Charles E. Hansen, Director
Impact Aid Programs
Elementary and Secondary Education

--REVISED--

1990 SESSION STATUTORY APPROPRIATION LIMIT CALCULATION
GENERAL FUND AND GENERAL FUND/PROGRAM RECEIPTS
BASED ON A.S. 37.05.540

APPROPRIATIONS ENACTED IN FY89

Operating	2,032.5
Capital	132.8
Loans	10.0
G.O. Debt	120.4
Other Debt	12.1
Special Appropriations	
Ch 117 Sec 206, Oil/Hazard Fund	32.0
Ch 13, Oil/Hazard Fund	20.0
Science & Technology Endowment	34.0
Ch 62, Business Incentive Training	0.3
Ch 103, Arctic Winter Games	0.1
Supplementals (for FY89 and prior years)	91.2
Supplementals (for FY88 and prior years)	55.9
TOTAL APPROPRIATIONS	2,541.3

EXCEPTIONS TO THE APPROPRIATION LIMIT

G.O. Debt Retirement	-120.4
Reappropriations	
Ch 117, Sec 35, Foundation	-3.5
Ch 117, Sec 195, PCE Grants	-1.8
Ch 117, Sec 204, DCAP	-0.4
Science & Technology Endowment (Enacted FY88)	-34.0
TOTAL EXCEPTIONS	-160.1

TOTAL APPROPRIATIONS SUBJECT TO LIMIT 2,381.2

Multiply by 5% plus the change in population and inflation 1.0794

1990 SESSION APPROPRIATION LIMIT 2,570.3

APPROPRIATIONS REQUESTED - 1990 SESSION (Subject to Spending Limit)

Operating	2,063.1
Capital	228.5
Loans	13.7
School Debt	107.8
Other Debt	12.1
Special Appropriations	
Oil/Hazardous Fund	27.0
Supplementals (for FY90 and prior years)	
HB 428	61.5
HB 464	48.8
HB 453	0.9
HB 459/SB 424	8.6
New Legislation	10.0
TOTAL REQUESTED APPROPRIATIONS	2,532.0

BALANCE OF SPENDING LIMIT OVER APPROPRIATIONS -11.7

Assumptions: "An appropriation is considered to be made in the fiscal year in which it is enacted" All appropriations included in the FY89 base are those signed into law during that fiscal year, whether it relates to FY89 or FY90. Differences between this calculation and the 1/24/90 version of the spending limit computations are a result of the identification of the actual enactment date of the supplemental appropriation for FY88 (signed by the Governor on 7/8/88). Debt Retirement - The statute refers to general obligation bonds as exceptions to the spending limit. In the more strict interpretation of this statement we would not exclude any other debt. Railbelt Energy Fund expenditures are shown as general funds subject to the spending limit.

FY90 SPENDING LIMIT COMPUTATION
MULTIPLICATION FACTOR

PERCENTAGE
CHANGE

SET BY STATUTE

5.00

CHANGE IN POPULATION

Source: Greg Williams, Dept. of Labor, Research and Analysis

1988	531,000
1989	<u>534,400</u>
	3,400

0.64

CHANGE IN INFLATION

Source: Dept. of Labor, Research and Analysis
CPI - Urban Consumers - Anchorage

First half of 1988	108.4
First half of 1989	<u>110.9</u>
	2.5

2.30

TOTAL

7.94

**1989 SESSION STATUTORY APPROPRIATION LIMIT CALCULATION
GENERAL FUND AND GENERAL FUND/PROGRAM RECEIPTS
BASED ON A.S. 37.05.540**

APPROPRIATIONS ENACTED IN FY88

Operating		
FY89	1,973.1	
Capital		
FY89	38.2	
FY88 (signed by Governor 7/23/87)	38.5	
Loans		
FY89	16.7	
FY88 (signed by Governor 7/23/87)	1.0	
G.O. Debt		
FY89	135.6	
Other Debt	11.8	
Special Appropriations		
Science & Technology Endowment (Sec 1, Ch 5, FSSLA 87 repealed & reauthorized at Sec 189, Ch 173, SLA 88)	100.0	
Ch 10, SLA 88, Jobs Bill	75.2	
Ch 137, SLA 88, Circumpolar Health Studies	0.3	
Ch 171, SLA 88, Enforcement of Alcohol Laws	0.2	
Supplementals (for FY88 and prior years)	8.6	
TOTAL APPROPRIATIONS		2,499.2

EXCEPTIONS TO THE APPROPRIATION LIMIT

G.O. Debt Retirement, FY89	-135.6	
TOTAL EXCEPTIONS		-135.6

TOTAL APPROPRIATIONS SUBJECT TO LIMIT 2,363.6

Multiply by 5% plus the change in population and inflation 1.0499

1989 SESSION APPROPRIATION LIMIT 2,481.5

APPROPRIATIONS - 1989 SESSION (Subject to Spending Limit)

Operating	2,026.8	
Capital	132.8	
Loans	10.0	
Other Debt	12.1	
Special Appropriations		
Oil/Hazardous Fund (Prior Years)	20.0	
Oil/Hazardous Fund	32.0	
Supplementals (for FY88 and prior years, signed by Governor 7/8/88)	55.9	
Supplementals (for FY89 and prior years)	91.2	
TOTAL APPROPRIATIONS		2,380.8

BALANCE OF SPENDING LIMIT OVER APPROPRIATIONS 100.7

Assumptions: According to the statute "an appropriation is considered to be made in the fiscal year in which it is enacted." This would require all appropriations included in the FY88 base to be any that were made during the FY88 legislative session, whether it relates to FY88 or FY89.

Debt Retirement - The statute refers only to general obligation bonds as an exception.

FY89 SPENDING LIMIT COMPUTATION
MULTIPLICATION FACTOR

PERCENTAGE
CHANGE

SET BY STATUTE

5.0000

CHANGE IN POPULATION

Source: Greg Williams, Dept. of Labor, Research and Analysis

1987	537,800
1988	<u>531,000</u>
	-6,800

-0.0126

CHANGE IN INFLATION

Source: Dept. of Labor, Research and Analysis
CPI - Urban Consumers - Anchorage

First half of 1987	108.3
First half of 1988	<u>108.4</u>
	0.1

0.0009

TOTAL

4.9883

1988 SESSION STATUTORY APPROPRIATION LIMIT CALCULATION
 GENERAL FUND AND GENERAL FUND/PROGRAM RECEIPTS
 BASED ON A.S. 37.05.540

APPROPRIATIONS ENACTED IN FY87		
Operating	1,846.9	
Capital - signed by Governor 7/23/87	0.0	
Loans	19.4	
G.O. Debt	148.0	
Special Appropriations		
Ch 32, Alaska AIDS Program	0.5	
Ch 86, Arctic Winter Games	0.6	
Supplementals (for FY87 and prior years)	22.6	
TOTAL APPROPRIATIONS		2,038.0
EXCEPTIONS TO THE APPROPRIATION LIMIT		
GO Debt	-148.0	
TOTAL EXCEPTIONS		-148.0
TOTAL APPROPRIATIONS SUBJECT TO LIMIT		1,890.0
Multiply by 5% plus the change in population and inflation		1.0498
1988 SESSION APPROPRIATION LIMIT		1,984.2
APPROPRIATIONS - 1988 SESSION (Subject to Spending Limit)		
Operating		
FY89	1,973.1	
Capital		
FY89	88.2	
FY88 (signed by Governor 7/23/87)	88.5	
Loans		
FY89	16.7	
FY88 (signed by Governor 7/23/87)	1.0	
Other Debt	11.8	
Special Appropriations		
Science & Technology Endowment (Sec 1, Ch 5, FSSLA 87 repealed & reauthorized at Sec 189, Ch 173, SLA 88)	100.0	
Ch 10, SLA 88, Jobs Bill	75.2	
Ch 137, SLA 88, Circumpolar Health Studies	0.3	
Ch 171, SLA 88, Enforcement of Alcohol Laws	0.2	
Supplementals (for FY88 and prior years)	8.6	
TOTAL APPROPRIATIONS		2,363.6
BALANCE OF SPENDING LIMIT OVER APPROPRIATIONS		-379.4

Assumptions: According to the statute "an appropriation is considered to be made in the fiscal year in which it is enacted." This would require all appropriations included in the FY87 base to be any that were made during the FY87 legislative session, whether it relates to FY87 or FY88.

Debt Retirement - The statute refers only to general obligation bonds as an exception.

FY88 SPENDING LIMIT COMPUTATION
MULTIPLICATION FACTOR

PERCENTAGE
CHANGE

SET BY STATUTE

5.0000

CHANGE IN POPULATION

Source: Greg Williams, Dept. of Labor, Research and Analysis

1986	547,600	
1987	<u>537,800</u>	
	-9,800	-0.0179

CHANGE IN INFLATION

Source: Dept. of Labor, Research and Analysis
CPI - Urban Consumers - Anchorage

First half of 1986	289.0	
First half of 1987	<u>289.2</u>	
	0.2	0.0007

TOTAL

4.9823

STATE OF ALASKA				
ENACTMENT OF APPROPRIATIONS				
GENERAL FUNDS AND GENERAL FUND PROGRAM RECEIPTS				
YEAR OF ENACTMENT	Date of Enactment	FY87	FY88	FY89
Ch 95, SLA 87	6/30/87			
Conference Committee		1,632.0		
New Legislation		12.5		
Program Receipts		45.4		
Sec 19 & 20 Legal Proceedings		9.8		
Sec 22, Pers Svcs		37.7		
School Debt		109.5		
GO Debt		148.0		
Loans		3.7		
Ch 2, SLA 87-Disaster Relief	3/17/87	0.0		
Ch 32, SLA 87-AIDS Program	5/30/87	0.5		
Ch 26, SLA 87-Arctic Winter Games	6/15/87	0.6		
Ch 90, SLA 87-FY87 Supplementals	6/17/87	22.6		
Ch 93, SLA 87 - Student Loans	6/17/87	15.7		
Ch 3, SLA 87 FSS	7/23/87			
Capital			88.5	
Loans			1.0	
Reappropriations-Operating			2.6	
Reappropriations-Capital			7.6	
Ch 5, SLA 87 FSS	7/23/87			
To budget Reserve Fund			250.0	
Ch 154, SLA 88	6/10/88			
Conference Committee			1,399.8	
New Legislation			2.1	
GO Debt			135.6	
Other Debt			11.8	
Ch 12, SLA 88	3/26/88			
Foundation			461.7	
School Debt			109.5	
Ch 172, SLA 88 - Capital	6/17/88		88.2	
Loans			16.7	
Ch 10, SLA 88 - JOBS	3/3/88		75.2	
Ch 173, SLA 88	7/8/88			
Reappropriations - Operating				10.4
Reappropriations - Capital				30.2
Reapprop-Ch 5, SLA 87-GF*				
FY88 Supplementals				55.9
Ch 6, SLA 88 - FY88 Supplemental	2/25/88		0.3	
Ch 20, SLA 88 - FY88 Supplemental	4/22/88		8.3	
Ch 137, SLA 88-Circumpolar Hlth	6/8/88		0.3	
Ch 153, SLA 88-Disaster Relief	6/9/88		0.0	
Ch 171, SLA 88-Alcohol Laws	6/17/88		0.2	

YEAR OF ENACTMENT	Date of Enactment	FY87	FY88	FY89
Ch 116, SLA 89	6/17/89			
Conference Committee				1,886.6
New Legislation				3.1
School Debt				107.3
Shared Taxes				18.6
Fisheries Enhancement				10.5
GO Debt				120.4
Other Debt				12.1
Loans				10.0
Ch 117, SLA 89	6/30/89			
Capital				132.2
Reappropriation - Operating				5.7
Reappropriation - Capital				17.4
Ch 87, SLA 89-FY89 Supplementals	6/1/89			37.7
Ch 43, SLA 89-FY89 Supplemental	5/26/89			3.5
Ch 103, SLA 89-Arctic Winter Games	6/13/89			0.1
Ch 62, SLA 89-Business Incentive	5/30/89			0.3
Ch 13, SLA 89-Oil Spill	4/12/89			20.0
TOTALS		2,038.0	2,659.4	2,563.3

* Original Appropriation to Budget Reserve Account, Reappropriation changed it to Science & Technology Endowment and reduced amount to \$100.0 million. Also added contingency.

FY 90 APPROPRIATION LIMIT CALCULATION
GENERAL FUND AND GENERAL FUND/PROGRAM RECEIPTS
Based on AS 37.05.540

1. Appropriations Enacted in FY89		
A. Operating-Ch. 116, SLA1990 (enacted 6/18/89)		2,026.7
B. Capital		132.8
C. Loans-Ch. 116, SLA 1990		10.0
D. G.O. Debt- Ch. 116, SLA 1989		120.4
E. Lease/Purchase Debt-Ch. 116, SLA 1989		12.1
F. Supplementals-Ch. 87, SLA 1989		91.2
G. Exxon Valdez-Ch. 13, SLA 1989		20.0
H. Transfer Science & Tech to Permanent Fund		34.0
I. Special Appropriations Oil Fund		32.0
J. Other Appropriations-Ch. 43, Ch. 103, Ch 62, SLA 89		3.9
Ch. 173, SIA 1988		55.9
TOTAL APPROPRIATIONS ENACTED IN FY89		2,539.0
2. Not Subject to Limit		
A. G.O. Debt Retirement		-120.4
B. Science & Tech to the Permanent Fund		-34.0
3. Total Appropriations Subject to Limit		2,384.6
4. Multiply #3 by 5% plus the Change in Population and Inflation	X	1.0794
5. MAXIMUM FY 90 APPROPRIATION LIMIT		2,573.9
Under AS 37.05.540		
6. Proposed Appropriations Enacted in FY 90 (Subject to the Spending Limit)		
A. Operating-Governor's FY91 Request		2,170.9
B. Capital (Introduced 2/1/90)		113.5
C. Loans- Governor's Request		13.7
D. G.O. Debt Retirement/Lease Purchase		12.1
E. Special Appropriations Oil Fund		27.0
F. Supplementals-HB428, HB459 & SB 396		75.0
G. Special Maintenance Capital Bill (2/1/90)		48.8
TOTAL APPROPRIATIONS ENACTED IN FY90		2,461.0
7. Amount FY 90 Appropriations are Below the Limit		112.9

Notes: (1) Enacted defined as "when the Governor signs a bill".

(2) Appropriations not subject to the appropriation limit include: G.O. Debt-95.6, Railbelt Energy Fund Reappropriation 115.0 and transfers to the Permanent Fund.

HB

398



Alaska State Legislature

Senate

Office of the Secretary

P.O. BOX V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

OFFICIAL BUSINESS

FOR YOUR IMMEDIATE ATTENTION

DATE:

5/8/90

TO SENATE COMMITTEE:

Finance

FROM: Office of the Senate Secretary

The Senate President has added/changed the referral(s) on the following bill(s):

as HB 581 (Fin)

as HB 398 (Hess)

as HB 10 (Hess) am

Please give the bill file(s) and the signed letter (this note) to the page delivering this message.

Thank you for your prompt attention.

SIGNATURE OF PERSON RECEIVING THIS NOTE

HB

399

HOUSE COMMITTEE REPORT file

(11)

Date Referred: March 19, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/19/90

The FINANCE Committee considered:

HB 399

HOUSE BILL NO. 399

HEALTH PLANNING AND DEVELOPMENT

"An Act relating to state coordination of health planning and development; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CS HB 399 (FIN) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: _____ (Date/Dept)

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

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis DHSS 1/8/90

SIGNING DO PASS:

Loren Hoffman

Ronald Larson

C. Swackhammer

L. Brown

Kopman

Ulmer

K. Waus

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>Ronald E. Larson</u> Phillips	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Steve Rieger</u> Rieger	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Ronald Larson Larson
 Co-Chairman's Signature
Loren Hoffman Hoffman

CC

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Certificate of Need

Agency Affected: Health & Social Services
BRU: Administrative Services

Sponsor: Rules Committee
Requestor: Governor

Components: Planning & Development

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	20.0	20.0	21.0	21.0	22.0	22.0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: Dave W. Williams
Division: Administrative Services

Phone: 465-3015

Date: 11/8/89

Approved by Commissioner: Therese Chas. Atkins
Agency: Health & Social Services

Date: 11/9/89

Distribution (by preparer):

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

Adopted

Analysis:

The purpose of the Certificate of Need law is to avoid unnecessary increases in the cost of health care that may be associated with:

- Health facility construction at a cost of \$1,000,000 or more;
- Changes in the health facility bed capacity; and
- Addition or elimination of institutional health service.

The bill provides for establishment of fees for applications submitted for review. The fees will be set out in regulations and reflect the amount of effort required to complete the review. Proposed regulations will include fees for submission of an application as follows:

Fixed portion		\$ 5,000
plus: Variable portion based		
on proposed capital expenditure amount:		
first \$ 1,000,000	1/2%	(.0050)
next 9,000,000	1/10%	(.0010)
over 10,000,000	1/50%	(.0002)

Thus a \$20,000,000 project would involve the following fees:

flat fee	\$ 5,000
first \$ 1,000,000	5,000
next 9,000,000	9,000
over 10,000,000	2,000
total fee	<u>\$ 21,000</u>

The \$20,000 in annual revenues shown in the fiscal note are based upon a yearly submission of applications totaling \$20 million. Although \$20 million in applications is a reasonable expectation for an average year, the actual revenues and staff time required will depend upon the amount of applications submitted. The department does not anticipate a requirement for additional staff for the certificate of need program administration unless the dollar value of submitted applications approaches an average of \$60 million per year.

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 399 (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 state coordination of health
7 planning and development; abolishing the Statewide
8 Health Coordinating Council; and providing for an
9 effective date."

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

11 * Section 1. AS 18.07 is amended by adding a new section to read:

12 Sec. 18.07.005. LEGISLATIVE PURPOSE. It is the purpose of this
13 chapter to create a rational framework for the planning and develop-
14 ment of all health care services in the state to ensure promotion and
15 protection of public health, provide equitable access to health ser-
16 vices, and avoid unnecessary increases in health care costs.

17 * Sec. 2. AS 18.07.021 is amended to read:

18 Sec. 18.07.021. STATE HEALTH PLANNING AND DEVELOPMENT [AGENCY].
19 The [OFFICE OF PLANNING AND RESEARCH IN THE] department is responsible
20 for [THE] state health planning and development, [AGENCY DESIGNATED
21 UNDER 42 U.S.C. 300m(b)(3). THE OFFICE] shall [PERFORM THE FUNCTIONS
22 ENUMERATED UNDER 42 U.S.C. 300m-2,] administer the certificate of need
23 program outlined in AS 18.07.031 - 18.07.111 [AS 18.07.041 - 18.07.-
24 111], and shall perform other functions prescribed in this chapter.

25 * Sec. 3. AS 18.07.031 is repealed and reenacted to read:

26 Sec. 18.07.031. CERTIFICATE OF NEED REQUIRED. Unless authorized
27 under the terms of a certificate of need issued by the department, a
28 person may not

29 (1) make a capital expenditure of \$1,000,000 or more for

1 construction of a health care facility;

2 (2) convert a building, in whole or in part, for use as a
3 health care facility if the fair market value of the converted part of
4 the building is greater than \$500,000 and the sum of the fair market
5 value plus additional capital expenditures made to facilitate the
6 conversion equals or exceeds \$1,000,000;

7 (3) alter or redistribute the bed capacity of a health care
8 facility by more than 10 beds or 10 percent of the number of beds in
9 the facility, whichever is fewer;

10 (4) add or eliminate a category of health services to or
11 from those provided by the health care facility; or

12 (5) acquire a health care facility at a cost of \$1,000,000
13 or more.

14 * Sec. 4. AS 18.07.051 is amended by adding a new subsection to read:

15 (b) A certificate of need is valid only for the defined scope,
16 physical location, and person stated in the certificate.

17 * Sec. 5. AS 18.07.061 is amended to read:

18 Sec. 18.07.061. MODIFICATION AND TERMINATION OF ACTIVITIES.
19 The certificate holder shall apply to the department [OFFICE] for a
20 modification of the certificate [BEFORE TERMINATING PART OF THE ACTIV-
21 ITIES AUTHORIZED BY THE TERMS OF ISSUANCE, BUT THE CERTIFICATE HOLDER
22 IS NOT REQUIRED TO OBTAIN THE ACQUIESCENCE OF THE OFFICE] before
23 transferring the certificate or modifying or terminating all or part
24 of the activities authorized by the certificate. If a certificate
25 holder intends to terminate [TERMINATES] all of the activities autho-
26 rized by a certificate, the certificate holder is required to apply to
27 [NOTIFY] the department [OFFICE] 60 days before termination and to
28 surrender the certificate to the department [OFFICE] within 30 days
29 after [OF] termination.

1 * Sec. 6. AS 18.07.061 is amended by adding new subsections to read:

2 (b) An application for transfer of a certificate shall be made
3 on forms provided by the department and must contain

4 (1) evidence, of the type the department may require by
5 regulation, that the transferee is able to assume ownership or opera-
6 tion of the health care facility and to provide the appropriate health
7 services;

8 (2) evidence that the transferee is acquiring the health
9 care facility at no more than its current fair market value; and

10 (3) other information that the department may require.

11 (c) Transfer of a certificate is subject to conditions the
12 department considers necessary.

13 * Sec. 7. AS 18.07.071 is repealed and reenacted to read:

14 Sec. 18.07.071. EMERGENCY CERTIFICATES. (a) The department
15 shall expedite review of an application for a certificate of need
16 under AS 18.07.031(1) that is required to

17 (1) eliminate or prevent imminent safety hazards as defined
18 by a federal, state, or local fire, building, or life safety code or
19 regulation;

20 (2) comply with state licensure standards; or

21 (3) comply with accreditation standards, compliance with
22 which is required to receive federal reimbursement.

23 (b) An application approved under (a) of this section may be
24 approved only to the extent that the capital expenditure is required
25 to eliminate or prevent the hazards or to comply with the standards
26 described in (a) of this section.

27 * Sec. 8. AS 18.07 is amended by adding a new section to read:

28 Sec. 18.07.079. FINAL DECISION. (a) Within 150 days after it
29 determines that it has received a complete application, the department

1 shall take one or more of the following actions:

2 (1) approve part or all of the application and issue a
3 certificate of need that includes conditions that the department
4 considers appropriate; the conditions must be directly related to the
5 activities for which the application was made;

6 (2) deny a certificate of need;

7 (3) recommend modifications to the application; if the
8 applicant agrees to modify the application, the department may defer a
9 final decision on the application for 30 days after receiving the
10 modified application and all additional information to support the
11 modifications; deferral for more than 30 days under this paragraph may
12 be made by the department only after written findings that there is
13 good cause for deferring the decision and that deferral is in the
14 public interest.

15 (b) The department shall send the final written findings and
16 decision to the applicant and to other persons who request a copy of
17 the findings and decision. If the final decision is to approve an
18 application, the department shall issue a certificate of need to the
19 applicant.

20 * Sec. 9. AS 18.07.081(a) is amended to read:

21 (a) The department [OFFICE], a member of the public who is
22 substantially affected by activities authorized by the certificate,
23 [OR] another applicant for a certificate of need, or a health care
24 facility that either provides services similar to the proposed ac-
25 tivity or has indicated to the department in writing within the year
26 preceding the decision to grant the certificate an intention to pro-
27 vide similar services to a health service population that includes all
28 or part of the health service population served under the certificate
29 of need may request [INITIATE] a hearing to obtain modification,

1 suspension or revocation of an existing certificate of need by filing
2 an accusation with the department [COMMISSIONER] as prescribed under
3 AS 44.62.360. A revocation, modification, or suspension of an out-
4 standing certificate may not be undertaken unless it is in accordance
5 with AS 44.62.330 - 44.62.630.

6 * Sec. 10. AS 18.07.081(c) is amended to read:

7 (c) A certificate of need shall be suspended if an accusation is
8 filed before the commencement of activities authorized under AS 18.-
9 07.079 [AS 18.07.041] that charges that factors upon which the certif-
10 icate of need was issued have changed [,] or new factors have been
11 discovered that significantly alter the need for the activity au-
12 thorized. [A SUSPENSION OF A CERTIFICATE MAY NOT EXCEED 60 DAYS. AT
13 THE END OF THIS PERIOD OR SOONER, THE OFFICE SHALL REVOKE OR REINSTATE
14 THE CERTIFICATE].

15 * Sec. 11. AS 18.07.081(d) is amended to read:

16 (d) A certificate of need may be revoked if

17 (1) the certificate holder [SPONSOR] has not shown continu-
18 ing progress toward commencement of the activities authorized under
19 AS 18.07.079 within one year after [AS 18.07.041 AFTER SIX MONTHS OF]
20 issuance;

21 (2) the certificate holder [APPLICANT] fails, without good
22 cause, to complete activities authorized by the certificate;

23 (3) the certificate holder [SPONSOR] fails to comply with
24 the provisions of this chapter or regulations adopted under this
25 chapter;

26 (4) the certificate holder [SPONSOR] knowingly misrepres-
27 sents a material fact in obtaining the certificate;

28 (5) the facts charged in an accusation filed under (c) of
29 this section are established; or

1 (6) the certificate holder [SPONSOR] fails to provide
2 services authorized by the terms of the certificate.

3 * Sec. 12. AS 18.07.081(e) is amended to read:

4 (e) A person who files [MAY NOT FILE] an accusation seeking
5 suspension or revocation of a certificate of need under this section,
6 knowing that the charges stated in the accusation are untrue or that
7 the charges do not constitute grounds for revocation or suspension
8 under this chapter, is guilty of a class B misdemeanor.

9 * Sec. 13. AS 18.07.091 is repealed and reenacted to read:

10 Sec. 18.07.091. REPORTING REQUIREMENTS, PENALTIES, AND INJUNC-
11 TION. (a) The department shall require all health care facilities
12 operating in the state to periodically file reports required by the
13 department by regulation.

14 (b) The department shall require a certificate holder to file
15 with the department, periodically during the development stage and
16 annually after that until completion of the activity authorized under
17 AS 18.07.031, a report demonstrating that the activity is in compli-
18 ance with all provisions of the certificate of need.

19 (c) If the department finds that a person has substantially
20 failed or refused to comply with AS 18.07.031 - 18.07.111 or a regu-
21 lation adopted under those sections, the department may take one or
22 more of the following actions:

23 (1) issue an order directing the person to stop the ques-
24 tioned activity;

25 (2) deny, suspend, revoke, or modify a construction license
26 required under AS 18.20.020 as related to the questioned activity;

27 (3) suspend a payment to be made by the department to the
28 person for capital and operating expenses relating to the questioned
29 activity;

1 (4) deny, suspend, revoke, or modify a certificate of need;
2 or

3 (5) issue an order against a person who violates a pro-
4 vision of AS 18.07.031 - 18.07.111 or a regulation adopted under those
5 sections imposing a civil penalty of not more than \$20,000.

6 (d) Before imposing a sanction listed in (c) of this section,
7 the department shall give reasonable notice of and an opportunity for
8 a hearing.

9 (e) Notwithstanding AS 44.62.330 - 44.62.630, if the department
10 finds that there will be a significant and adverse effect upon the
11 public interest caused by substantial failure or refusal of a person
12 to comply with AS 18.07.031 - 18.07.111 or a regulation adopted under
13 those sections, the department may issue an order that does one or
14 more of the following:

15 (1) directs the person to stop the questioned activity;

16 (2) suspends a construction license required under AS 18.-
17 20.020 as related to the questioned activity; or

18 (3) suspends a payment to be made by the department to the
19 person for capital and operating expenses relating to the questioned
20 activity.

21 (f) Notwithstanding AS 44.62.330 - 44.62.630, an order under (e)
22 of this section takes effect immediately upon service by the depart-
23 ment and remains in effect pending the decision after any hearing that
24 may have been requested unless the person served can demonstrate to
25 the department's satisfaction that the questioned activity is not
26 subject to the application and review requirements of AS 18.07.031 -
27 18.07.111, or that the person would likely prevail on the merits and
28 that allowing the activity to continue is in the public interest.

29 (g) Injunctive relief against a violation of AS 18.07.031 -

1 18.07.111 or a regulation adopted under those sections may be obtained
2 from a court of competent jurisdiction by the department, a certifi-
3 cate holder who is adversely affected by the violation, or a member of
4 the public substantially and adversely affected by the violation.

5 * Sec. 14. AS 18.07.101 is amended to read:

6 Sec. 18.07.101. REGULATIONS. The department [COMMISSIONER]
7 shall adopt, in accordance with the Administrative Procedure Act
8 (AS 44.62), regulations that establish procedures under which a person
9 [SPONSORS] may apply [MAKE APPLICATION] for a certificate [CERTIFI-
10 CATES] of need required by this chapter, establish the amount of
11 variation that may occur in an activity authorized by a certificate of
12 need without requiring a modification of the certificate, [AND THAT]
13 govern the review of those applications by the department [OFFICE],
14 establish requirements for a uniform statewide system of reporting
15 financial and other operating data, establish reasonable fees for
16 applications and other services, and otherwise carry out the purposes
17 of this chapter.

18 * Sec. 15. AS 18.07.111 is repealed and reenacted to read:

19 Sec. 18.07.111. DEFINITIONS. In this chapter

20 (1) "category of health services" means a service that is
21 recognized as a distinct service for the purposes of health care
22 facility licensure and certification under regulations adopted under
23 AS 18.20.010 - 18.20.130, except that "service" does not include the
24 lawful practice of a profession or vocation conducted independently of
25 a health care facility and in accordance with applicable licensing
26 laws of the state;

27 (2) "certificate" means a certificate of need;

28 (3) "certificate of need" means a written order of the
29 department that sets out the affirmative findings that a proposed

1 activity sufficiently satisfies the plans and criteria prescribed for
2 such an activity by this chapter and by department regulations and
3 that permits the certificate holder to proceed with the activity;

4 (4) "commencement of activities" means, with the intent to
5 continue until it is completed,

6 (A) the visible commencement of actual operations, on
7 the ground, which is readily recognizable as such, for the con-
8 struction of a building, the alteration of the bed capacity of a
9 health care facility, or the provision for or deletion of an
10 existing category of health services to consumers; or

11 (B) a significant step toward acquisition of a health
12 care facility;

13 (5) "complete activities" means the substantial performance
14 of the work required to comply with the terms of issuance of the
15 certificate of need that all parties participating in those activities
16 have obligated themselves to perform;

17 (6) "construction" means excavation, erection, alteration,
18 modification, reconstruction, modernization, improvement, extension,
19 or other development by or on behalf of a health care facility and
20 includes the lease or purchase of equipment;

21 (7) "department" means the Department of Health and Social
22 Services;

23 (8) "health care facility" means an institutional health
24 service provider licensed in whole or in part by the state under
25 AS 18.20.010 - 18.20.130, whether public or private, whether a part-
26 nership or corporation, whether organized for profit or not, and
27 includes a hospital, psychiatric hospital, substance abuse hospital,
28 tuberculosis hospital, skilled nursing facility, kidney disease treat-
29 ment center (including freestanding hemodialysis units), intermediate

1 care facility, ambulatory surgical facility, freestanding emergency
2 care facility, osteopathic facility, independent diagnostic labora-
3 tory, and central service facility; "health care facility" does not
4 include:

5 (A) an Alaska Pioneers' Home administered by the
6 Department of Administration under AS 44.21.020(10) and AS 47.-
7 25.010 - 47.25.100;

8 (B) the offices of private physicians or dentists,
9 whether in individual or group practice, occupied on a regular
10 basis to perform the range of diagnostic and treatment services
11 usually performed by physicians and dentists on an outpatient
12 basis;

13 (C) office buildings built or leased by or on behalf
14 of a health care facility for the exclusive use of physicians,
15 dentists, and other practitioners of the healing arts, or other
16 investments made by or on behalf of a health care facility,
17 unless capital expenditures or operating expenses will be charged
18 or reimbursed in the future as costs for providing patient ser-
19 vices offered by the health care facility; and

20 (9) "person" means an individual, corporation, company,
21 partnership, firm, association, organization, business trust, estate,
22 or government entity, and includes a health care facility.

23 * Sec. 16. AS 18.20.050 is amended to read:

24 Sec. 18.20.050. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.
25 The department may deny, suspend, or revoke a license in a case in
26 which it finds that there has been a substantial failure to comply
27 with the requirements established under AS 08.64.336, AS 18.07.031 -
28 18.07.111, or AS 18.20.060 - 18.20.080.

29 * Sec. 17. AS 44.29.100 is amended to read:

1 Sec. 44.29.100. ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE.
2 There is established in the Department of Health and Social Services
3 an advisory board on alcoholism and drug abuse. [THE BOARD SHALL
4 FUNCTION AS A STANDING COMMITTEE OF THE STATEWIDE HEALTH COORDINATING
5 COUNCIL ESTABLISHED UNDER AS 18.07.011.]

6 * Sec. 18. AS 47.30.475(b) is amended to read:

7 (b) Money available under this section shall be awarded by the
8 department to applicants on the basis of community need, but only if
9 the award is consistent with the annual implementation plan developed
10 under 42 U.S.C. 3001-2(b)(2) (National Health Resources Planning and
11 Development Act of 1974) by the health systems agency for the health
12 system area in which the applicant is located [AND THE STATE HEALTH
13 PLAN DEVELOPED BY THE STATEWIDE HEALTH COORDINATING COUNCIL UNDER 42
14 U.S.C. 300m-3(c)(2)(A),] and only after consideration of comment and
15 advice of the Advisory Board on Alcoholism and Drug Abuse. In award-
16 ing grants, the department shall further consider the amount of money
17 that is available for all applications and whether an application
18 would contribute to the wise development of a comprehensive program of
19 alcoholic and drug abuse rehabilitation and prevention.

20 * Sec. 19. AS 18.07.011, 18.07.041, 18.07.081(b); AS 18.08.020(2),
21 18.08.090(11); and AS 18.26.030(a)(4)(B) are repealed.

22 * Sec. 20. This Act takes effect immediately under AS 01.10.070(c).
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STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 15, 1990

SUBJECT: Health Planning
(CSHB 399(HESS))

TO: Representative Johnny Ellis
Chair, House HESS Committee

FROM: Terri Lauterbach *TLL*
Legislative Counsel

Enclosed is a draft of CSHB 399(HESS), as requested by Jim Nordlund. I believe it incorporates the substance of the changes Jim requested. It also makes some other changes Jim did not request, which will be described briefly by this memo.

As you know, this bill was introduced by the Governor's Office and not drafted in the Legal Services Division. As with all governor's bills, I have reviewed this one for style and drafting oversights. Based on that review, there are numerous slight wording changes throughout the CS. I have also added two new bill sections, sections 17 - 18, to deal with references to the Statewide Health Coordinating Council which is abolished by this bill. I have also added more AS sections to the repealer, section 19, to deal with other references to the council. And, I have expanded the bill title to more accurately describe the bill. (The full effect of abolishing the council arguably goes beyond "health planning," as you can see by the additional sections and repealers that I have added to the bill to reflect the council's demise.)

Please be sure to check all the changes to see if your intent has been achieved, and let me know if I can be of further assistance.

TL:pl
WKP3/043

Enclosure

Section by Section Analysis

House Bill 399, 1/23/90

Short Title: "An Act relating to state coordination of community planning and development; and providing for an effective date."

This bill clarifies ambiguities in the Certificate of Need statute and makes other changes to increase the effectiveness of the Certificate of Need program. The Certificate of Need program (CON) provides a framework for regulating certain health care facility activities that may have a significant impact upon the cost of, and accessibility to, quality health care services. The bill clarifies an ambiguity in program coverage so as to assure determination of need for new institutional health services and bed capacity expansions. Technical changes are also included to reflect changes in federal law and DHSS organization.

Section 1. LEGISLATIVE PURPOSE.

This section is self-explanatory, providing legislative guidance that the Certificate of Need program is intended to not only serve as a cost containment mechanism, but also to assure promotion and protection of public health and equitable access to needed care.

Section 2. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.

The technical changes to this section amend references to rescinded federal law and recognize organizational changes made since 1976.

Section 3. CERTIFICATE OF NEED REQUIRED.

The existing statute requires a CON review for changes to a health care facility that would likely have substantial impact on costs or services. Such changes are categorized within the statute as:

- (1) construction of a health care facility;
- (2) alteration of the bed capacity of a health care facility; or
- (3) addition or elimination of a category of health services provided by a health care facility.

There is a \$1,000,000 expenditure threshold given within the same statute section, but the effect of the threshold upon changes in bed capacity and offered services is not clear. The addition or elimination of a service, or a change in bed capacity may initially require little or no expenditure, but can have a substantial impact on the operating costs or accessibility to health care services. The bill clarifies CON program coverage of service and bed capacity changes by applying the dollar threshold to only health facility construction.

This section also requires a review for acquisition of a health care facility. An acquisition oftentimes results in a substantial increase in the capital cost basis upon which facility costs and charges are based.

Section 4. TERMS OF ISSUANCE OF THE CERTIFICATE.

Section 4 provides a basis for addressing the scope of a certificate's validity.

Section 5. MODIFICATION AND TERMINATION OF ACTIVITIES.

Section 5 is amended to require a certificate holder to report any decision to discontinue part or all of the activities authorized under a certificate. Without this change a certificate holder could decide to forgo the services and other activities which the public found most compelling for approval of the application while continuing to develop the less needed parts of the application.

Amendments within this section provide for an orderly process for transfer of a certificate based upon the prospective owners ability to carry out the activities authorized under the certificate and the sale price for a health care facility is limited to the current fair market value.

Section 6. EMERGENCY CERTIFICATES.

This section repeals references to "temporary" certificates and clarifies the purpose of "emergency" certificates." The activities authorized by a certificate of need are not temporary in nature, but result in permanent construction or other substantive changes to the health care system that are not easily reversed. The department has never received an application for or issued a temporary certificate. The provision for "emergency" certificates remains to address urgent conditions (e.g. rebuilding the fire damaged wing of a hospital) and no further certificate of need review will be required for the authorized activity to continue.

Section 7. FINAL DECISION.

This section provides for issuance of a certificate based upon the assertions given in the application and upon the state agency findings established during the review. The amendments to this section clarify the department's authority to issue a certificate for less than the total scope of activity set out in the application. Part of an application may be approved in instances where approval of all requested construction, number of beds, or services is not supported by the application and findings. Flexibility is also provided for instances in which there are competing applications for the same or similar services.

Section 8. PROCEEDINGS FOR MODIFICATION, SUSPENSION, AND REVOCATION.

This section is amended to clarify the standing of health care facilities, competing applicants and the department's Medicaid Rate Advisory Commission to request a hearing for modification, suspension, or revocation of a certificate. In addition, the section updates organizational references and removes a 60 day limitation for completion of hearings requested for revocation, modification, or suspension of a certificate. The requirement is unchanged for hearings to be conducted under the Alaska Administrative Procedures Act (APA, AS 44.62.330 -- 44.62.630), and the time requirements of the APA will be followed.

Section 9. REPORTING REQUIREMENTS, PENALTIES, AND INJUNCTION.

Amendments in this section establish reporting requirements for certificate holders and provide for maintaining the status quo for the time necessary to conduct a hearing. Section .091(c) lists the penalties the department may impose if the department finds, after a formal hearing under the APA, that a person has substantially failed to comply with certificate of need requirements.

Sections .091(e) and .091(f) provide authority for the department to stop further activity if the department finds the activity is subject to CON review and that continued activity would be adverse to the public interest. This allows for maintenance of the status quo while a hearing is conducted.

Section 10. REGULATIONS.

This section provides for regulations for program administration and for establishment of fees for applications submitted for review. Many states have chosen Certificate of Need user fees as a method of enhancing state revenues. Such fees are reimbursable under Alaska's medical assistance programs.

The fees will be set out in regulations and reflect the amount of effort required to complete the review. The Department intends to propose regulations setting fees for submission of a CON application as follows:

Fixed portion			\$ 5,000
plus: Variable portion based			
on proposed capital expenditure amount:			
first \$ 1,000,000	1/2%	(.0050)	
next 9,000,000	1/10%	(.0010)	
over 10,000,000	1/50%	(.0002)	

A \$20,000,000 project would involve the following fees:

flat fee	\$ 5,000
first \$ 1,000,000	5,000
next 9,000,000	9,000
over 10,000,000	<u>2,000</u>
total fee	\$ 21,000

Section 11. DEFINITIONS.

AS 18.07.111 contains several definitions which are expanded or otherwise amended for technical clarification.

The definition for "category of health services" is amended to restrict program coverage for the addition or elimination of a health service to the same service categories used for Medicaid certification and state licensure purposes. In the existing definition the terms "major type, program, unit, division, or department of care..." are used instead. These terms do not provide clear direction on the service changes that would be subject to CON review.

Section 12.

This section provides authority for the department to carry out the denial, suspension, or revocation of a health facility license as described in section 9 above.

Section 13.

Section 13 repeals references to the Statewide Health Coordinating Council. The Council has not been funded for four years and no longer functions as a health planning body.

Section 13 also repeals AS 18.07.041, Standard of Review for Applications for Certificates of Need. This section presently limits consideration of a certificate of need application to "need," "availability," and "quality" issues. In practice, several other considerations must be made including financial ability of the applicant, alternative means of providing proposed services, impact on existing health care systems, impact on health care costs and the preference of the public as expressed in official planning documents, public meetings, etc. Review criteria which address "need," "availability," "quality," and the other aspects of application review will be set out in regulations under the authority provided in section 10 of the bill.

FISCAL IMPACTS

No increased requirement for operational funding will result from passage of this legislation. The substantial capital and operating costs associated with unneeded health facility construction, surplus inpatient beds, and the addition or elimination of health facility services can be avoided.

The CON program, as amended under this bill, provides a rational approach for assessing the need for health care system changes that typically result in substantially increased health care costs. Each of the categorical activities covered under the statute generate costs that are reimbursable through publicly funded medical assistance programs. Health facilities include the associated costs when determining the charges for the services offered.

The bill provides potential for revenue enhancement through program receipts for application fees. The amount of revenue will depend upon the number of and estimated cost of health facility projects proposed.

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AND
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HOSPITAL
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A 99519-6604



SISTERS OF
PROVIDENCE
SERVING IN THE WEST SINCE 1850

DATE: April 16, 1990
TO: Members of the House Finance Committee
RE: HB ³⁹⁹~~366~~

We understand and are most sympathetic with the Department's desire to reduce the costs of health care in Alaska - particularly in the areas of Medicaid and state employee insurance, but we do not believe HB ³⁹⁹~~366~~ is the correct tool.

Providing greater power to the Department of Health and Social Services to involve itself in the day to day activities of health care providers simply expands State bureaucracy and increases administrative costs and of Certificate of Need fees for Providers.

We therefore oppose HB ³⁹⁹~~366~~. If, however, the Legislature continues to consider it, we would argue for numerous amendments to eliminate some of the problems that make the present version of the bill unworkable.

Such changes should be forthcoming from the Health Association of Alaska.

Sister Dona Taylor

Sister Dona Taylor
Administrator
Providence Hospital

STEVE COWPER
GOVERNOR



ec
HB 399

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 8, 1990

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to state coordination of health planning and development. The bill makes several substantive changes to the existing certificate of need program in AS 18.07, which provides a framework for regulating certain health care facility activities. The changes will broaden the scope of review by the Department of Health and Social Services (DHSS) and thereby better carry out the purpose of the program, which is generally to contain costs and to promote accessibility to and high quality of health care services. This bill also makes technical changes in AS 18.07 to reflect changes in federal law and DHSS organization, and to clarify ambiguous areas of the current law.

One of the primary revisions made by the bill is to require a certificate of need for any change in bed capacity or category of health services, regardless of cost. AS 18.07.031 currently requires a certificate only for those projects that cost \$1,000,000 or more. Although this threshold amount is appropriate for construction projects, to ensure that only significant projects are reviewed, it is not appropriate for changes in bed capacity or category of health services because such changes can be made at minimal or no cost and yet have a significant impact on the availability and cost of health care services. Section 3.

The bill also adds the requirement that a certificate of need be obtained for the acquisition of a health care facility. Because the purchase price of a health care facility is passed on to consumers, insurance companies,

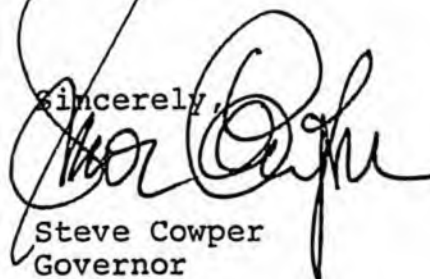
and public programs, there is a strong public concern that the price paid for the facility not exceed the fair market value. Also sec. 3.

Another significant part of the bill repeals AS 18.07.041. Section 13. This statute presently limits review of a certificate of need application to "availability," "quality," and "accessibility" issues. Other considerations, however, such as financial ability of the applicant, public preference, and impact on health care costs, are also important. The department's standard of review will therefore be based on the "purposes" set out in proposed AS 18.07.005. Section 1.

Other changes set out in this bill require department review of certificate transfers, allow conditional or partial approval of certificate applications, and authorize establishment of fees for applications and other services. Existing AS 18.07.091 is repealed and reenacted (sec. 9), and AS 18.20.050 is amended (sec. 12), to allow the department to impose various sanctions for violations of AS 18.07.

Passage of this bill would allow the Department of Health and Social Services to better implement the certificate of need program. I urge your support and passage of this important legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name below.

Steve Cowper
Governor

H

B

4000

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 9, 1990

FURTHER REFERRALS:

Date of Committee Action: 3/23/90

The FINANCE Committee considered:

HB 400

HOUSE BILL NO. 400

FISHERIES BUSINESS TAX AND LICENSE

"An Act relating to the fisheries business tax and license, and to persons subject to the tax and the licensure requirement; establishing civil penalties for failure to obtain a fisheries business license; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CSHB 400 (FIN) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

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

- fiscal note(s) 1/8/90 Dept Revenue
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not Pass No Rec Amend

<u>Ronald J. Larson</u> Larson	<u>Roll E. Phillips</u> Phillips	↓		
<u>Steve Swackhammer</u> Swackhammer	<u>Shultz</u> Shultz	✓		
<u>Ulmer</u> Ulmer				
<u>Barnes</u> Barnes				
<u>Kaponen</u> Kaponen				
<u>Watts</u> Watts				

Chairman's Signature
Ronald J. Larson Larson

STATE OF ALASKA
1990 LEGISLATIVE SESSION

cc

No. 1

BILL VERSION: HB 400

PUBLISH DATE: HOUSE 1/8/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Civil penalties for failure
to obtain fisheries business license
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	500.0	500.0	500.0	500.0	500.0	500.0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: See Attached:

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Steven E. Kettel

Phone: (907) 465-2320
Date: December 5, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Hugh Malone

Date: December 5, 1989

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

Adopted

Law Log #0015
Analysis
Prepared by:
Steven E. Kettel
Director
Income and Excise Audit Division

Analysis

Failure to obtain a license prior to processing will trigger a monetary penalty scheme under the proposal. The penalties escalate as subsequent violations occur. The bill will create civil penalties for processing fish without a license. This will make it much easier for the Department to enforce the law, and will give the Department the leverage it needs to obtain fisheries business license applications and tax prepayments from fish processing companies.

This legislation was recommended by the legislative audit completed on June 9, 1989. Recommendation No. 5 stated that the Department of Revenue should seek legislation for more stringent penalties for operating a fisheries business without a fisheries business license.

Revenue Impact

We cannot anticipate the number of processors that will fail to obtain proper licensing and consequently be penalized. We do believe that voluntary compliance, especially among floating processors, will improve dramatically and increase tax collections by \$500,000 - \$1 million.

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 400 (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 fisheries business tax and
7 license, and to persons subject to the tax and the
8 licensure requirement; establishing civil penalties
9 for failure to obtain a fisheries business license;
10 and providing for an effective date."

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

12 * Section 1. AS 43.75.011 is amended to read:

13 Sec. 43.75.011. FISHERIES BUSINESS LICENSE. A person engaging
14 or attempting to engage in a fisheries business or in an activity
15 described in AS 43.75.100 shall first apply for and obtain a license
16 as provided in AS 43.75.020.

17 * Sec. 2. AS 43.75.011 is amended by adding a new subsection to read:

18 (b) The commissioner may assess a civil penalty against a person
19 required to have a license under (a) of this section who fails to
20 obtain the license. The civil penalty for a violation of (a) of this
21 section may not exceed \$5,000 the first time a civil penalty is
22 assessed, \$10,000 for a second assessment, \$15,000 for a third assess-
23 ment, \$20,000 for a fourth assessment, and \$25,000 for a fifth or
24 subsequent assessment. The commissioner may not assess a person more
25 than one civil penalty for a violation of (a) of this section in a
26 30-day period.

27 * Sec. 3. AS 43.75.020 is amended to read:

28 Sec. 43.75.020. APPLICATION FOR LICENSE. (a) Application for a
29 license shall be filed with the department and accompanied by an

1 annual [INITIAL] fee of \$25. A separate annual [INITIAL] fee is
2 required for each plant specified in the application covered by the
3 license. The application shall contain the name of the applicant, the
4 line of business to be licensed, place of business, and other facts
5 which the department prescribes. The applicant shall state that the
6 applicant agrees to pay the [LICENSE] tax imposed by AS 43.75.015 or
7 43.75.100, and that the applicant will make a return and pay the tax
8 at the time provided by law.

9 (b) Upon receipt of the application in proper form, accompanied
10 by the annual [INITIAL] fee, the department shall issue the license.

11 * Sec. 4. AS 43.75.100(a) is amended to read:

12 (a) A person taking, purchasing, or otherwise acquiring a fish-
13 ery resource that [COVERED BY THIS CHAPTER WHICH] has not been subject
14 to the tax imposed in AS 43.75.015 is subject to the tax levied in
15 AS 43.75.015 on the value of the fishery resource if the person

16 (1) transports the fishery resource to a point outside the
17 taxing jurisdiction of the state for subsequent processing or sale
18 outside the taxing jurisdiction of the state;

19 (2) sells the fishery resource outside the taxing jurisdic-
20 tion of the state; or

21 (3) has the fishery resource processed by a fisheries
22 business in the state.

23 * Sec. 5. This Act takes effect January 1, 1991.
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LETTER OF INTENT-HOUSE BILL 400

In order to clarify current policy under A.S. 43.75.140 (11), section 5 of this act was amended. To insure tax compliance, the language "or compensation for delivery" was added to the definition of value. This amendment does not establish new policy but rather makes explicit both the taxpayer's liability and department authority.

By Representative Swackhammer

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Alaska MUNICIPAL League


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217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

February 8, 1990

MEMORANDUM

TO: Representative Cliff Davidson, Co-Chairman
 Representative Curt Menard, Co-Chairman
 Members of the House Resources Committee

FROM: Scott A. Burgess, Executive Director 

SUBJECT: HB 400 - Relating to fisheries business tax and license

The Alaska Municipal League supports HB 400. The Alaska Municipal League's 1990 Municipal Platform (relevant excerpt attached) includes support for the continuation of the Fisheries Business Tax Program (AS 43.75) and "urges the Legislature and the state administration to take all necessary steps to strengthen the reporting and collection efforts of the Fisheries Business Tax Program to ensure equitable operation of the program and maximum return to Alaska's municipalities" and to the State.

HB 400 expands the authority of the Department of Revenue to assess fines against persons who are required to have a fisheries business license under AS 43.75.011 but fail to obtain the license. The AML supports HB 400 and urges its passage as one way to improve enforcement of the program for equity and maximum return.

The AML would like to work with the Committee on any other ways to improve enforcement and collections under the Fisheries Business Tax Program, HB 33 - Extending the Fisheries Business Tax Credit Program, and on legislation to share fisheries business tax revenues from the off-shore processors (see additional attached excerpt from AML's Platform). Thank you.

Attachments

541

Fisheries Business Tax Program

The Alaska Municipal League urges the Legislature and state administration to take all necessary steps to strengthen the reporting and collection efforts of the Fisheries Business Tax Program to ensure equitable operation of the program and maximum return to Alaska's municipalities. The League supports continuation of the Fisheries Business Tax Program established by AS 43.75, including the provision that 50 percent of the revenues generated from the tax are to be shared with municipalities.

AS 43.75.015 establishes the Fisheries Business Tax (commonly referred to as the "raw fish tax") Program, which is administered by the Department of Revenue. Each fisheries business, i.e., processor, operating within the State, whether off shore or on shore, is liable for these taxes, which are levied at different rates depending on the nature of the processing involved (AS 43.75.015).

By statute (AS 43.75.130), 50 percent of the total tax liability under the program from processors operating within an incorporated municipality is refunded to the local government (city, borough, or a portion to each for processing that occurred in a city within a borough). The payments to local governments under this program, which are intended to compensate for the additional costs of providing government services to fisheries businesses, constitute a major portion of the annual budget in some municipalities. In FY 89, for example, 53 municipalities received over \$15.7 million, with shares ranging from as little as \$52.50 (Mekoryuk) to over \$1.7 million (Bristol Bay Borough and Kodiak Island Borough). The \$1.7 million received by the Kodiak Island Borough represented 27 percent of its total budget for the year.

AS 43.75.032, which was enacted in 1986 and remains in effect until January 1, 1992, allows processors a tax credit for up to 50 percent of capital expenditures made to increase product diversity or quality, promote production efficiency and capacity, or contribute to the development of a cooperative seafood industrial park. The statute allows this credit for a maximum of three consecutive years, which must begin in tax years 1987 through 1989.

Tax credits granted are deducted from the balance of the total taxes due after the municipalities' shares are distributed, which includes revenues from all processors operating outside municipal boundaries as well as 50 percent of what is due from those operating inside municipalities. Municipalities may choose to grant an additional tax credit to be deducted from their share of the revenue. The table below compares total net revenue (minus the tax credit) and the amount distributed to municipalities. It does not include information on the total tax liability, nor the amount of tax credit granted. Net revenue to the State has dropped during the past few years because of the formation of a new municipality, the Aleutians East Borough, in 1987 and because of the tax credit program. The net revenue projections for FY 1990 and FY 1991 are the mid-case scenario of the Department of Revenue.

Table 9. Fisheries Business Tax Shared Revenue Program

Fiscal Year	Total Net Revenue to State ^a	Payments to Municipalities
1985	\$18,695,205	\$6,503,103
1986	21,129,128	6,773,558
1987	27,025,050	8,076,553 ^b
1988	22,675,575	8,050,024 ^c
1989	26,759,425	15,721,755 ^d
1990	22,400,000 ^e	15,626,200 ^e
1991	23,000,000 ^e	18,000,000 ^e

^a Total revenue figures available from the Department of Revenue for these years are net of tax credits granted to processors.

^b FY 87 distribution was \$8,076,553, of which \$116,553 was for prior year prepayments encumbered in FY 86 but not eligible for distribution until FY 87. This amount was \$600,001 less than the amount earned because of an appropriation shortfall.

^c Plus \$600,001 in a supplemental appropriation for FY 87.

^d Plus \$3,411,196 in a supplemental appropriation for FY 88.

^e Estimated

Source: Alaska Department of Revenue

From the municipalities' point of view, there are two types of threats to this program, which is so important to Alaska's coastal communities: (1) inadequate administration of the program, which leads to a breakdown in collection, reporting, and enforcement operations and, thus, a lower rate of tax collection than should be expected, and (2) a change in the distribution formula.

Of great concern to the League and its members is improvement of the program's reporting, enforcement, and collection efforts. Any breakdown in the administration of the program results in lower revenues for both the State and local governments. In 1988, legislation was passed to allow the Department of Revenue to share fisheries business tax return information with municipal officials to help both parties determine whether, in fact, processing activity is being reported accurately. However, the department's administration of the program has some serious problems that are blocking fair, equitable, and accurate collection and distribution of fisheries business taxes due.

The Division of Legislative Audit recently completed an audit of the program ("A Special Report on the Department of Revenue Income and Excise Audit Division Fisheries Business Tax Program," June 9, 1989). That report suggests several changes that would improve the operation of the program, including better accounting practices, automation of record keeping, and expanded audit efforts to verify information reported and to identify unlicensed processors.

The League supports the implementation of these suggestions and other methods to improve the collection and reporting activities of the program. This support includes support for funding necessary to automate the record keeping system for the fisheries

business tax program and to increase the audit staff to the level necessary to administer the program in an equitable manner.

Also of concern are attempts to change the distribution formula. During the 1989 legislative session, one suggestion for dealing with the State's anticipated revenue shortfall was to change the statutorily defined distribution formula from a 50 percent State/50 percent local share to 70 percent State/30 percent local share. This change, which would have amounted to a 40 percent reduction in the amount received by local governments, would have been disastrous, particularly to communities that are dependent on this revenue source.

The League opposes any efforts to reduce the local governments' share of this tax. In addition, the League favors distribution of 50 percent of the revenue derived from processors located outside municipal boundaries to impacted municipalities; these funds currently remain in the state general fund (see "Fiscal Stability Measures" item above). The League also supports extension of the tax credit program and application of the tax credit to cooperative or municipal utility construction related to onshore fisheries development.

The Alaska Municipal League supports establishment of a program to share fisheries business tax proceeds from offshore processors with affected municipalities to mitigate the impacts of the fisheries on the provision of local services.

Coastal municipalities must provide additional governmental services because of the impact of seafood processors, both within and outside municipal boundaries. It is important that tax receipts from all types of processors be shared with the municipalities affected by their operations.

Under the provisions of AS 43.75, Fisheries Taxes, all processors must pay a fisheries business tax to the State. Only the portion of the tax collected as a result of processing activity that takes place within municipal boundaries is shared with municipalities. This is intended to help offset the demands on local services resulting from the influx of people, demand for utilities, increased use of health facilities, additional call for law enforcement, and other impacts that result from the fish harvesting and processing activities. The formula for distribution of these tax revenues is based on the revenue generated from fisheries business operations occurring within municipal boundaries. The municipalities get 50 percent, and the State retains 50 percent. Shared fisheries tax revenues are a substantial source of revenue for many local governments: in FY 89, for example, 53 municipalities received over \$15.7 million, with shares ranging from as little as \$52.50 to over \$1.7 million (Bristol Bay Borough and Kodiak Island Borough).

Current statutes provide that the revenue generated from fish processing plants located outside municipal boundaries goes entirely to the State and is not shared with local governments, in spite of the fact that the activities of these processors do impact local governments. Many municipalities have to provide additional services as a result of offshore processing operations outside their borders, for instance health services, garbage hauling, and expanded law enforcement activities. These impacts can be significant to municipalities and their taxpayers, especially in proportion to the level of service provided to their permanent municipal population. However, the State, which does not provide services at the local level, receives the tax receipts from the processors operating outside municipal boundaries.

In FY 1989, the total tax liability of processors was \$41.3 million. Of this, \$31.4 million was attributable to processing activity that took place within municipal boundaries (resulting in a \$15.7 million distribution to municipalities). The balance, \$9.9 million, was attributable to processors operating outside municipalities and

was retained by the State. If this had been shared 50/50 with affected municipalities, local governments would have received up to \$4.5 million to help mitigate the additional costs of providing services to processors and their employees.

The League supports a program that would share the fisheries business tax revenues generated from processors located outside municipal boundaries with those communities that can demonstrate an effect on municipal operations resulting from the processors' activities. During FY 86, the Department of Community and Regional Affairs conducted a pilot project to allocate revenues from offshore processing activities to municipalities, and legislation (HB 314/SB 454) was introduced in 1988 that would have made such a program permanent. The impact of offshore processors on local government operation is, if anything, increasing, and municipalities, which must provide services to such processors, should be given a share of the revenue received by the State from them.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

ce
HB 400

January 8, 1990

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that allows the commissioner of revenue to assess a civil penalty against a person who is required to obtain a fisheries business license under AS 43.75.010, but who fails to do so. The penalty assessed for a failure to obtain a license is \$5,000 for a first occurrence. Penalties for subsequent occurrences increase by increments of \$5,000, to a maximum of \$25,000. The bill also makes four housekeeping amendments.

AS 43.75.011 -- 43.75.140 require fish processors and certain others to obtain a license and pre-pay any estimated fisheries business taxes before the processing or other disposition of fish takes place. Failure to obtain a license is punishable under AS 43.05.290 only after a criminal conviction.

The Department of Revenue estimates there to be as many as 50 unlicensed floating fish processors that are working within Alaska's territorial waters. It is believed that compliance with the fisheries tax statutes would be enhanced by authorizing the department to assess civil penalties against those who fail to obtain the required license.

Sections 1, 3, and 4 of the bill make "housekeeping" changes. The change in sec. 1 amends AS 43.75.011 to make clear that a person who is not engaged in a "fisheries business" (as defined in AS 43.75.140) but who is subject to the fisheries business tax under AS 43.75.100, must obtain a fisheries business license. For example, a commercial fisherman selling his or her Alaska catch outside the state, or a fish buyer who transports fish, taken in Alaska, outside the state for processing, is, under AS 43.75.100,

liable for payment of the fisheries business tax. It has been the department's long-standing interpretation of AS 43.75 that such a person must obtain the same license required of a fisheries business.

Section 3 of the bill deletes confusing references in AS 43.75.020 to the "initial" fee (i.e., the license fee), and clarifies that the license fee is an annual fee. Section 3 also deletes the word "license" where it precedes "tax" in AS 43.75.020, and replaces that outdated reference with a reference to the statutes in AS 43.75 that impose the fisheries business tax.

Section 4 of the bill deletes the phrase "covered by this chapter," which modifies the term "fishery resource" in AS 43.75.100(a). "Fishery resource" is defined in AS 43.75.140, making that modifying phrase unnecessary and confusing.

I urge your early and favorable consideration of this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name and title.

Steve Cowper
Governor