

LEGISLATIVE FINANCE-HOUSE / SENATE FINANCE COMM. FILES 8879

SB 317 cont. , SB 326

655

246

# South-Central Timber Development, Inc.

6 April 1990

Senator Rick Uehling, Co-Chairman  
Senate Finance Committee  
P.O. Box V  
Juneau, Alaska 99811

SB 317

Dear Rick:

Re: CSSB 317 - Forest Practices Act

I have been fighting a lonely and losing battle against this great intrusion of the State of Alaska into private property.

The state forester told the Alaska Board of Forestry that enforcement would cost at least \$1.2 million per year. This expenditure is essential if the state is to busybody itself on the private forest land of Alaska. So while everybody talks about reducing the budget, this bill adds an outlay of over \$1 million annually, and involves the addition of many more "warm bodies" to the state payroll.

Some of the Native corporations owning timber have expressed themselves in favor of this because they fear the imposition of something worse from the Alaska Department of Fish and Game. Further, certain fisherman groups have been influential with the Native owners, persuading them to accept this big new dose of regulation, planning and governmental control. The truth is, the total fish take reached a record in 1989, even in the Ketchikan area where timber harvest has been intense for over 40 years. That logging is the enemy of fish is essentially a myth.


The bill represents unfounded anxiety for fish resources, and undoubtedly has the hidden purpose of down playing timber harvesting, private property rights and free enterprise. Instead of Juneau's constantly discouraging industrial development, it would be a pleasant change to see some bill which actually helped people engaged in industry, creating jobs and paying taxes.

I would like to confer with you as to how to stop this onslaught.

For your information I enclose letters previously written to Senator Fahrenkamp and Representative Furnace.

With kind regards and thanks for your attention, I am,

Sincerely yours,

  
Joseph R. Henri  
President

# South-Central Timber Development, Inc.

30 March 1990

Representative Walt Furnace  
P.O. Box V  
Juneau, Alaska 99811

Dear Walt:

Re: H.B. 331 and S.B. 317, Forest Practices Revisions

Regarding the teleconference hearing yesterday on H.B. 331, thank you for the only bit of friendliness emitting from the Committee. Per your request, I enclose a copy of my letter to Senator Fahrenkamp dated 6 March 1990.

Walt, this is an absolutely horrible enactment. I cannot believe our legislature would seriously consider such a gross intrusion into private rights, the creation of all sorts of crimes where none previously existed, and making the Administrative Procedures Act inapplicable to proceedings under this new statute--to obtain quick and effortless dominion by the public official over the private citizen.

If the people who own a good timber tract of 40 acres or 160 acres knew what the Alaska Legislature was about to do to them, they would promptly rise up and make their complaints known. There are many hundreds of Alaskans so situated in the Kenai and Matanuska-Susitna Boroughs, among other places. If these smaller tracts of private property happen to adjoin or contain a stream, wetland or estuary, a 66' buffer on all sides is mandated. Depending on the configuration of the timbered land and the water bodies, the small property owner may end up not being able to cut any trees at all. Koncor, agreeing to this legislation, is sacrificing 1.5% of billions of board feet. The 40 acre property owner may be sacrificing 100% of his meager wealth.

The injustice of this enactment is appalling. It will just snuff out more "little guys" who have neither the wherewithal nor the stomach to appeal to the courts for redress, if any could be found there after making the effort.

I sincerely hope some way could be found to stop this avalanche of environmental despotism.

Sincerely yours,

*Joe*  
Joseph R. Henri  
President

JRH/df  
Enclosure

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# South-Central Timber Development, Inc.

6 March 1990

Senator Bettye M. Fahrenkamp &  
Members of the Senate Resources Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Fahrenkamp & Members of the Committee:

Re: S.B. 317 or H.B. 331  
Forest Practices Act Revisions

This bill is an astounding attack on private property rights. It is destructive of freedom, an Alaskan's most precious right, after life itself. It materially advances state control over production and the means of production. As the long-tormented countries of Eastern Europe try to shake off socialism and restore capitalism and liberty, the state government of Alaska, imitating the U.S. federal government, is bent on an ever-expanding take over of private property rights. The state is pursuing, in Friederick Hayek's phrase, a "fatal conceit": "The government knows best." "Only the government can competently manage the resources." We have very little private land of any kind in Alaska, compared to the total acres of uplands and tidelands. The privately owned forest lands of Alaska constitute no more than perhaps five percent of the total acreage within Alaska's boundaries; this private land has been extracted from the public domain over a painstakingly long period of time, and by a very arduous course; but apparently the state government cannot bear to part with significant and thorough-going control over the small percentage of Alaska not owned by a government.

This legislation is not destined to expand Alaska's forestry economy, or even to retain the level now realized. It is regressive and punishing and tinged in totalitarianism. It creates an omnipotent state apparatus over the privately owned forest lands of our state.

The cost to the state treasury of this newest intrusion of state government into private rights and property is conservatively estimated at \$1.2 million per year. Much more could be spent on these questionable and reprehensible activities; no doubt, in future years, the agencies will require a greatly expanded budget for these good socialist works. Thus, at a time when all the political talk is about reducing state expenditures, along comes this act to spend more money; hire more government inspectors, naysayers and gumshoes; and put state spending further out of control. Is anyone serious about reducing the budget?

I was in the audience in the Capitol when the House and Senate Resources Committees held a joint hearing on the Forest Practices Amendments on 31 January 1990. Regrettably, I did not realize I had to sign up as a witness, and so missed the opportunity to give these views.

Though Mr. Sturgeon, Chairman of the Forestry Board, did not give you my name, I am the representative of the Alaska Miners Association on the Alaska Board of Forestry. The proposed legislation eliminates the Miner's slot on the Board. Mr. Steve Borell, Executive Director of the Alaska Miners, has already written to you protesting the deletion.

1. The Board: Poorly Constituted and Non-Functioning.

The Forestry Board, under the new legislation, would likely end up with a majority of anti-development forces. Only two of the six voting members would have to be connected with forestry. The peculiar consensus required for the Board to act [AS 41.17.041(c) requires near unanimity] is a special hamstringing device. Your own intimate experience with obtaining eleven votes, or twenty-one votes, is proof enough that government by consensus will not be a government of accomplishment.

2. Alaska Will Plan Forever, but Probably Never Achieve A Big Forest Products Industry.

AS 38.05.112(a) requires a site-specific forest land use plan in spite of the fact that regional or area plans have already been accomplished. The intent is for "plans, plans, plans"! Wood markets may crash before Alaska is ever ready to enter seriously into the world of timber production and manufacturing. This reluctance to act--this same propensity to plan endlessly--is also evident in the statute under which state forests are to be created [AS 41.17.200 et seq.]: Notwithstanding that land has already been classified for "forestry" under the Alaska Lands Act, upon the creation of a state forest, entirely new plans are required, no doubt in the hope that some or most of the forest land will be dedicated to other purposes. State forests are "multi-purpose." If at least two purposes must be stipulated for a particular forest area, they may be "scenic quality," and "recreation," even though the land is a "state forest."

3. A Bureaucratic Straitjacket.

Alaska forestry on state lands is put into a strait jacket in AS 38.05.113(b). The provision that a proposed sale must have been on the schedule for two full years before an actual sale can take place destroys flexibility and dynamism. In truth, the last thing either sought by the authors or to be realized from this legislation would be a dynamic forest industry in Alaska.

4. "Scenic Quality" Is a Concept Peculiar To the Eye  
Of the Beholder.

AS 41.17.060(c)(6) compels the state to harvest its lands or not harvest at all, in deference to "scenic quality" in "areas of substantial importance to the tourism and recreation industry." This is an entirely subjective and maundering "standard" that will result in endless debate and delay. Is "scenic quality" the "forest primeval" or a carefully kept and supervised forest? What is an "area of substantial importance?" What is the "tourism and recreation industry?" Who is to say that tourists would not want to see some human progress and the intelligent activity of homo sapiens occurring on the forest lands of Alaska? Tourists get bored with endless miles of untouched woods.

5. Industry Will Be Suffocated By Regulations.

AS 41.17.080(d) expresses the pietistic hope that the commissioner will avoid making regulations which increase costs, but yield no benefits to public resources. The whole tenor and spirit of the legislation proposed is that timber cutting is detrimental to "public resources." Under the aura of this act the commissioner will be able to find no regulation which does not somehow benefit the public resource.

6. Statute Declares Timber Harvesting A Deleterious Activity.

As a matter of fact, under AS 41.17.115, the bill would have the State of Alaska declare by statute that timber harvest activities do, in fact, have significant adverse effects on fish habitat and water quality. This is nothing less than an outrage. In truth, timber harvest activities may benefit fish habitat and water quality.

7. The State Commands: Thou Shalt Be Naked To Thine Enemies.

If a private land owner decides to timber his land he must submit to the state government, in advance of logging, and each year thereafter, detailed plans of his proposed operations so that both the state and "members of the public who have asked to receive copies of notifications for the affected areas" can be fully informed about the private owner's business plans. Both the preservationists as well as business competitors and people bearing malice towards the applicant will have a powerful weapon to wield against this poor private land owner. Why should the State of Alaska force such public disclosure? The State bears no risk in such compulsion for disclosure, but the State certainly increases the risk of the private land owner. The total business intentions of the logger as to the entire drainage must be disclosed, for the current year and for all future years. This is communism at its best. No matter how many years contemplated operations may take, the operator must renew this plan every year. This fantastic onus should assure that a large cadre of bureaucrats will be fully employed while there are trees to cut in Alaska. "Private property" is a noun without much content at

the rate the State proposes to take away rights historically associated with private property. [AS 41.17.090 (a)]

8. The Confusion of Multiple Regulators All From The State of Alaska.

The proposed statute builds in conflict and practically assures conflict, controversy and turf battles by having two departments--two commissioners--both in charge of regulating nonpoint source pollution. Must we, with malice aforethought, make life so complicated, difficult and impossible to live? [AS 41.17.098 (c)]

9. The Act Will Drive Away New Forest Industry and Fetter What We Already Have; We Could Have a Massive Forest Products Economy.

I am told that only six or seven states in the nation have adopted a forest practices act of any sort, governing all forestry operations on private lands. Alaska was in the "vanguard" in adopting such legislation in 1978, under the sponsorship of then Representative Mike Miller of Juneau. Now, this new proposal would gild the lily and drive industry away, and it will prevent the expansion of existing industry. With energy, imagination and dedication, Alaska could attain a wood products industry with an annual value in the billions of dollars. That will take certain statutory assistance; it will take a commitment and resolve on the part of the state government and its bureaucracy. Senate Bill 317 and House Bill 331 go in the opposite direction; it's "killer legislation," and constitutes a vast harassment of the present and future industry, and an impenetrable discouragement to economic expansion.

10. This Legislation May Destroy Any Economic Activity In the Buffer Zone.

Before commencing "operations" on forest land, the operator or owner must provide the state forester with a comprehensive plan of operations. I take this legislation to mean that before someone can clear a riverside or lakeside woods for a non-timberlands use, such as a lodge or camp, the would-be developer or entrepreneur will have to first seek the permission of this state, which may never be given because of the buffer rules in this legislation.

11. Laws and Regulations Amount to Strangulation.

The additional regulations hurled upon Alaska citizens under this proposed act are heaped upon the already vast array of federal and state permits, interactions and jurisdictional overlaps already on the statute books. Even before this proposal is enacted, or if it is never enacted, the mass of permitting and regulatory interference in the natural resource industries is bewildering, appalling and in opposition to economic development and expansion. Indeed, economic activity in the resource

development field has already contracted in Alaska; we have become a highly undesirable place in which to do business.

12. Why Prefer Fish Over Timber? Timber Will Be More Valuable.

In the sections on riparian management, the rights of fish over timber are baldly enunciated. The state is making a clear and unequivocal preference for fish, though, in time, the economic value of timber can be expected to substantially exceed that of the fish affected by the riparian regime.

13. The Pillage of Private Property.

The application of these stringent water body buffer area standards to private land amounts to the pillage of Alaskans owning forests bordering on water bodies. People owning a few acres of land containing timber, if they happen to be in a riparian area, could stand to lose their right to harvest any timber whatsoever, depending on how any of the state agencies may interpret AS 41.17.117(a). It is said that some of the Alaska Native Corporations owning substantial volumes of timber under grants from the United States through ANILCA have received legal advice to the effect that the Forest Practices Act amendments affecting private property would not constitute a "taking" under the federal or state constitutions. What amounts to an illegal "taking" is being constantly litigated. Legal rulings change with changing attitudes towards socialism and capitalism. Judge Robert Bork's book, The Tempting of America, will act as a catalyst to restore devotion to private property. The U.S. Supreme Court has arrested its flirtation with totalitarian government by its pro-private property decisions in Nollan and First Evangelical Lutheran Church. Furthermore, there is no compulsion on the Alaska legislature to enact this huge attack on the rights of private property. If Alaska stands for anything, it ought to stand for individual freedom and the right to be left alone. Why must we seek to create an anti-property, socialist state in the far north?

14. Buffers Around Wetlands and Estuaries, Too.

It may be that your land is not along a river or a lake; it may border a wetland or an estuary. Nevertheless, a large buffer or ring of trees is commanded to be left standing, under penalty of \$10,000 per day fines or jail, or both.

15. The Regulations Not Yet Written May Do the Most Mischief of All.

AS 41.17.116 leaves much mischief to be done at the hands of the commissioner who will write and adjust regulations regarding private property timber. I would think if the state has decided to take away private property and private rights, it could at least do so by passing legislation. However, the regulation method can be blamed upon the work of a faceless bureaucrat, instead of an elected official. The full extent of the

devastation this bill will foist upon Alaska is as yet undisclosed.

16. The Bias Against Tree Harvesting.

In AS 41.17.116(a)(1)(D) the commissioner has the discretion to let the operator harvest timber in the buffer zone, provided that the operator leaves timber standing somewhere else; this other place does not have to be a riparian area. Why must such timber be left standing? This is one of many places reflecting the bias against timber harvesting.

17. The Dead Hand of a Rule Running for a Hundred Years.

The operating plan put upon the land prevents harvesting of timber outside an "operating area" until the "next rotation period." This latter phrase is never defined, but it could easily exceed a time span of over 100 years; apparently, the operating plan would constitute some sort of covenant running with the land. It may be that the spruce bark beetle would devour the trees the state forester would not allow to be cut, but no human being shall be so allowed under penalty of fine and imprisonment. Already, spruce under state management and control for many years has been killed by the beetle in volumes of hundreds of millions of board feet, but clearly there is more joy to the bureaucrat in lording it over human beings than over beetles. [AS 41.17.117(b)]

18. Compensation Provisions Arbitrary and Capricious.

The state forester is authorized to prevent an owner from cutting his timber even if that prevention will result in more than 5% of the basal area being left standing. The forester may do this by paying (whom?) for this timber at the "current market value"; this means "current" as of the time the operating plan is submitted and approved, but the harvest may not have occurred under the plan for another several years, which makes this cash payment provision utterly arbitrary and unfair. No one knows what the timber will be worth several years hence. [AS 41.17.117(c)(3)]

19. AS 41.17.117, the Heart of the Compromise, Is Fuzzy Obfuscatory, and the Poorest Kind of Law.

If a law drafter had deliberately attempted to make a statute's meaning fuzzy or obfuscated, he could not have done much better than Section 117. The strains of the so called "consensus" which generated this extremely critical section caused a lack of clear understanding of what the collectivity compromised upon. Is it a true compromise or is it a white washing of irreconcilable differences? And, of course, this section of the law, as a clear guide to the bureaucrats in charge of its administration, fails absolutely.

20. In State Lands, Vast Swaths of Trees Are Forbidden To Be Cut.

The state land standards differ from the private land standards; in fact, state timber north of the Alaska Range is treated differently than that south of the Range. Apparently, the environmentalists are less concerned about Interior Alaska. That is at least lucky for the Interior. In state timber the new law contemplates an absolute preference for fish and wildlife habitat over timber interests in a 600' wide riparian swath, extending the length or circumference of the water body.

21. Endless Harrassment By Multiple State Agencies.

AS 41.17.125 contains the noble invitation to all state agencies concerned to avoid duplication and inconsistency in their enforcement. Contrarily, however, all agencies keep their own rights to determine and exact remedies. Therefore, there will be little uniformity, but a great multiplicity of harassment or worse.

22. Big Penalties For All Concerned.

In the sections devising civil and criminal penalties it seems that a land owner or a timber owner can be fined or jailed if he "permits" a violation, even if the violator is a different person called an "operator." If one allows an operator to harvest trees perhaps that is "permitting a violation." This statute, obviously, would much prefer that the land owner and timber owner protect themselves by not allowing anyone to harvest timber. [AS 41.17.131]

23. An Arbitrary Hearing Procedure Lacking in Fundamental Justice.

The new hearing procedures have deleted the requirement that the hearing officer be trained in the law and admitted to its practice. [AS 41.17.139] People in the Division of Forestry will now appoint the judges in these grave judicial proceedings, but they shall not be people of the law, but rather employees of the Department of Natural Resources.

The Administrative Procedures Act of Alaska is not applicable to these kangaroo court proceedings. There is no requirement that any witness be required to give evidence under oath. The former rule that hearings be recorded has now been deleted, presumably so that the arbitrariness in these proceedings taking away one's property and one's right to operate one's business and one's right to work is hidden from view--a sort of Star Chamber approach.

24. The Delusion of No Third Party Suits.

The people in the so-called "consensus group" who believe they have obtained a great benison in AS 41.17.143(d), whereby

third parties are not allowed to file suits under the statute, are probably deluding themselves. I would think in a short time this provision will either be deleted or else found to be unconstitutional in Alaska.

25. Eliminating the Constitutional Provision of Preferences Among Beneficial Uses.

Under the definitions, the "significant impairment of productivity" rule apparently compels that Alaska land and water keep producing renewable resources at their natural or historic levels, making no provision for what Article VIII of our state constitution calls "preferences among beneficial uses." [AS 41.17.950(6) (C) and (12)]

26. A State Forest Without Timber.

The definition of a state forest never mentions trees, silviculture or forestry; it simply talks about "renewable resources" and "a variety of beneficial uses." What an utter farce! (AS 41.17.950(14))

27. No Stability, Peace or Consensus.

At the late January hearing in the capitol, a number of pro-passage witnesses testified that this new legislation would bring "stability" and "predictability." The implication is that the environmentalists and the developers will achieve a long term armistice, and enjoy years of mutual cordiality and deference. The history of the Tongass Forest legislation over the past 15 years, and the governmental activity in the Chugach National Forest utterly belie this naive contention. The legislature meets every year, and the opposing parties can be expected to seek changes favorable to themselves when the occasion arises. A new legislature is not bound by this so-called "consensus." In fact, the last section of this proposed legislation classifies the law as "interim" because it is "based on many untested assumptions." The silliest untested assumption of all is that this zombie will bring "stability" to the parties.

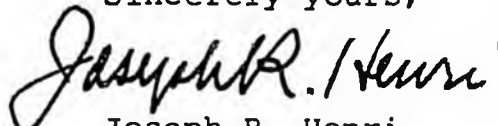
It has often been said that Alaska is a land full of rugged individualists, yet over the last 15 years we have witnessed an almost pathological quest to have government run or regulate everything. The clear implication of so much regulation is that those who own land and timber are not to be trusted with the running of their own affairs. Under the new laws and regulations, the Alaskan government will act as trustee and guardian. But it will be a bad trustee and a faithless guardian because its efforts are not to benefit the owners of the land, but rather to serve the new religion of environmentalism at the expense of the beneficiary of the trust. Alaskans are becoming wards of the state, in the worst connotation of that phrase.

In an article entitled "Profits Are For Rape and Pillage," Forbes Magazine of 5 March 1990, makes an astute observation:

At the very time when government regulation is discredited and out of favor nearly everywhere, it is making a comeback in the environmental field. Although political and economic arguments for socialism are derided around the world--and the power of the market to allocate resources intelligently is widely acclaimed--environmentalism is being used as an excuse for the government to move back into managing the minutiae of our lives.

No matter that private property rights are pushed aside or despised, no matter that the cost to the state treasury is in seven figures annually to perpetrate the violation of private property, no matter that hirelings, agents, inspectors, and gumshoes will be added to the ever-swelling ranks of the state bureaucracy, this cause of so controlling the five percent of Alaska having privately owned forests is a holy calling, a crusade, a zealot's hegira. As Robert Crandall of the Brookings Institute says, "When you're carrying out a crusade, you don't ask what's the cost of the religion."

Sincerely yours,



Joseph R. Henri  
President

JRH/df

cc: Members of the House Resources Committee  
Phil Holdsworth, Alaska Miners Association  
Kent Dawson, Alaska Miners Association  
Steve Borell, Alaska Miners Association  
Becky Gay, Resource Development Council  
Thyes Schaub, Alaska Loggers Assn., Juneau

# Alaska State Legislature

## Senate Resources Committee

Senator Bettye Fahrenkamp, Chairman  
Senator Jay Kerttula, Vice Chairman  
Senator Dick Eliason  
Senator Steve Frank  
Senator Rick Hallford  
Senator Arliss Sturgulevski  
Senator Fred Zhareff



P.O. Box V  
Juneau, Alaska 99811  
(907) 465-4907

To: Senate Resources Committee  
From: Staff, Senate Resources Committee  
Re: CS SB 317 (Resources) draft 3/21/90 g00529SE

CS SB 317 (Res) SB 317

Sec. 1	was Sec 1 and Sec 26 1 (d)
Sec. 2	was Sec 2 and Sec 4
Sec 3	was Sec 5
Sec 4	was Sec 7
Sec 5	was Sec 8
Sec 6	was Sec 9 and 10
Sec 7	was Sec 11 and 12
Sec 8	was Sec 13
Sec 9	was Sec 14
Sec 10	was Sec 15
Sec 11	was Sec 16
Sec 12	was Sec 17
Sec 13	was Sec 18
Sec 14	was Sec 19
Sec 15	was Sec 20
Sec 16	was Sec 21
Sec 17	was Sec 22
Sec 18	was Sec 23
Sec 19	was Sec 24
Sec 20	was Sec 24 (c)
Sec 21	was Sec 25
Sec 22	is new

*Remove  
"Statewide"*

*Bob Coiselle  
present 2/1/90*

*95233*

*9 member - 15/1/90*

Sec 23	is new
Sec 24 CS SB 317 (Res)	was Sec 27 SB 317
Sec 25 (e) (f)	was Sec 3 was Sec 28
Sec 26	was Sec 29
Sec 27	was Sec 30
Sec 28	was Sec 31
Sec 29	was Sec 6
Sec 30	is new
Sec 31	was Sec 19 41.17.116 (b) (in part)
Sec 32	was Sec 19 41.17.118 (3)
Sec 33	was Sec 32
Sec 34 - 37	are new

# Alaska State Legislature

## Senate Resources Committee

Senator Bettye Fahrenkamp, Chairman  
Senator Jay Kertula, Vice Chairman  
Senator Dick Eliason  
Senator Steve Frank  
Senator Rick Halford  
Senator Arliss Sturgulewski  
Senator Fred Zharoff



P.O. Box V  
Juneau, Alaska 99811  
(907) 465-4907

To: Senate Resources Committee members  
From: Nancy Petersen  
Staff, Senate Resources Committee  
Re: CS SB 317 (Res) ~~9005295E~~  
Date: March 21, 1990

Changes to the bill:

Throughout the bill meters are converted to feet.

### Section 2

(6) technical change, replace [SET OUT] with establish.

### Section 3

Increased the board membership to add two members:

a representative of a statewide mining organization

a representative of a statewide recreational organization

The quorum changed from five to seven.

### Section 11

AS 41.17.087

(a) technical [CONSISTENT WITH AS 41.17.098]

(b) The commissioner shall adopt regulations that specify the standards under which a variation will be granted for harvesting timber within the riparian area of

(1) a low gradient Type A water body with a width of five feet or less; and

(2) other appropriate water body types.

(c) A determination by the state forester under (a) of this section and regulations by the commissioner under (b) of this section shall give due deference under AS 41.17.098.

### Section 13 Interagency Coordination.

(f) If a disagreement referenced in (e) exists an officer of the agency may require reevaluation of the disagreement at a higher level within the agencies, or by the Governor, if necessary, before a decision is rendered by the commissioner.

## Section 14

### Riparian Standards for Private Land

Previously buffers were designed on a formula which requires a 50 foot no cut zone, allowed 50 % of the next 50 foot zone to be harvested with a maximum buffer volume not exceeding 5% of the commercial timber in the watershed. The formula was dropped and a 66 foot buffer was established as follows:

1) along a Type A water body, harvest of timber may not be undertaken within 66 feet of the water body

### Riparian Standards for State Land:

(c) In the absence of a site-specific determination by the Department of Fish and Game, the commissioner shall presume for planning purposes that a stream is anadromous if it is connected to anadromous waters that are without Department of Fish and Game documentation of a physical blockage and has a stream gradient of 8 percent or less.

Riparian standards for other public land:

On public land other than state land, harvest of timber may not occur

(1) within 100 feet from the shore or bank of an anadromous or high value resident fish water body that is located south of the Alaska Range;

(2) within 100 feet immediately adjacent to an anadromous or high value resident fish water body north of the Alaska Range unless the commissioner determines that adequate protection remains for the fish habitat.

## Section 16

Technical correction. New language reads:

(c) Each day that a violation described in this section occurs is a separate violation. The sentence is rewritten to be consistent with other penalty provisions in current law.

## Section 21

Technical change:

(d) [NO] A person, except the aggrieved forest landowner, timber owner, or operator, may [NOT] not maintain an administrative or judicial appeal, or other action or proceeding of any kind, challenging a decision or failure to act by the department with respect to the compliance of a timber operation on private forest land with this chapter or a regulation, standard, directive or order issued under this chapter.

Section 22 Technical change.

This section is added to cross reference language moved to Title 38.

a) The governor may propose to the legislature the establishment of state forests consisting primarily of commercially valuable forest land determined by the governor to be necessary for retention in state ownership for management under the principles of multiple use and sustained yield and consistent with AS 38.04.005. The proposal of the governor shall include a report and recommendations of the commissioner including

- (1) a preliminary forest inventory;
- (2) a summary of the testimony offered at public hearings held on the management of the proposed state forest in communities proximately located to a proposed state forest;
- (3) the findings of the commissioner on anticipated incompatibilities of uses described in AS 38.05.112 (c) [AS 41.17.230 (e)] under AS 38.05.112 (d) [AS 41.17.230 (f)];
- (4) written comments from appropriate state agencies on the compatibility of the uses described in AS 38.05.112 (d) [AS 41.17.230(e)] within the proposed state forest;
- (5) an estimate of the cost of a full implementation of an operational level forest inventory and the management plan.

Section 23

This section is added to cross reference language moved to Title 38.

(c) In addition to the uses described in AS 38.05.112 (c) [AS 41.17.230(e)], the commissioner may establish transportation corridors within the Tanana Valley State Forest.

Section 24

(b) For federal land,

- (1) the degree of resource protection may not be less than that established by this chapter for state land except that AS 41.17.119 establishes the minimum riparian standard;
- (2) a timber harvest activity subject to this chapter shall satisfy the requirement to be consistent to the maximum extent practicable with the Alaska coastal zone management program if the federal land management plans, guidelines, and standards applicable to that timber harvest activity provide no less resource protection than the standards that are established in this chapter provide for state land except that
  - (A) AS 41.17.119 establishes the minimum riparian standards;

and

  - (B) this paragraph does not apply to a timber harvest activity that requires a state or federal authorization under a provision of law other than this chapter.

Section 25

(e) Subject to 16 U.S.C. 1456 (f) (Sec. 307 (f) of the Coastal Zone Management Act of 1972, P.L. 92-583) as to private land, this chapter and the regulations adopted under this chapter establish the forest management standards, policies, and review processes under AS 46.40 (Alaska Coastal Management Act). This subsection does not apply to timber harvest activity that requires a state or federal authorization under a provision of law other than this chapter.

Section 27 Definitions:

Definitions were added:

(1) "Anadromous" waterbody means that portion of any freshwater body, or estuarine area, that:

(A) is catalogued under AS 16.05.870 as important for anadromous fish; or

(b) is not catalogued under AS 16.05.870 as important for anadromous fish but has been determined by the Department of Fish and Game to contain or exhibit evidence of anadromous fish in which event the anadromous portion of the stream or waterway extends up to the first point of physical blockage;

(7) "high value resident fish" means resident fish populations that are used for recreational, personal use, commercial, or subsistence purposes;

Section 28 The dates were changed to add one year to reflect a two year review which was originally intended.

Section 30 Interim Riparian Protection for the Coastal Forest.

This is a new section to provide for interim riparian protection.

Section 35

Originally the bill had an effective date of January 1, 1990. Under the CS, under section 2, AS 41.17.010 (5) has an immediate effective date.

Section 36

Sections 1, 3 -4, 6 -8, 10 -11, 13 -14, 22 -23, 27, 29 -32, and 34 take effect immediately .

Section 37

And the CS provides that except for those sections listed in Sec. 35 and Sec. 36, the bill takes effect October 1, 1990.

# Alaska State Legislature

## Senate Resources Committee

Senator Bettye Fahrenkamp, Chairman  
Senator Jay Kertula, Vice Chairman  
Senator Dick Eliason  
Senator Steve Frank  
Senator Rick Halford  
Senator Arliss Sturgulewski  
Senator Fred Zharoff



P.O. Box V  
Juneau, Alaska 99811  
(907) 465-4907

To: Senate Resources Committee

From: Nancy Petersen  
Staff, Senate Resources Committee

Date: March 21, 1990 ~~900529SE~~ *CS SB 317 (Res)*  
~~Senate Resources~~ *CS*

Re: SB 317, Forest Practices Act Sectional Analysis

Sec. 1. 38.05.112, Forest Land Use Plans, 5 Year Schedule  
This section requires additional planning prior to state timber sales. The division of forestry must prepare a site-specific plan before all state timber sales that fully integrates appropriate resource protection measures into the sale design. This site-specific design would also improve public review of individual timber sales.

This section requires the department to annually prepare a five-year timber schedule of the proposed state timber sales. Except for small and emergency sales such as salvage, a proposed sale would be required to be on the five-year schedules for two years preceding the sale.

Sec. 2. 41.17.010, Declaration of Intent

This section coordinates overlapping agency jurisdiction regulating timber harvest activities. Regulations of the amended forest practices act will serve as timber harvest standards for non-point source pollution, with DEC as lead agency. Regulations of the amended forest practices act provide the fish and habitat protection standards except for those activities subject to AS 16.06.840 and 16.05.870.

Sec. 3 41.17.041, Board of Forestry

This section restructures and reduces the current board from a 14 member to a 9 member board. Drops U.S. Forest Service member, Society of American Foresters member, and adds a professional forester not employed by government, except the university. Drops the Alaska Logger Assn. member. The new board would consist of:

- 1) a representative of a statewide commercial fishermen's organization;
- 2) a representative of a Native corporation established under ANCSA;
- 3) a member of an environmental organization;
- 4) a representative of a forest industry trade association;
- 5) a professional fish or wildlife biologist not employed in that capacity, by government, except the university;
- 6) a professional forester not employed in that capacity by government, except the university;

- 7) a representative of a statewide mining organization;
- 8) a member of a statewide recreational organization; and
- 9) the state forester, who serves ex officio and without a vote.

Sec. 4 41.17.047, Duties of the Board

This section expands the existing duties to include providing a forum for resolving forestry issues; coordinating an annual survey of research needs; monitoring the implementation, taking public testimony statewide, reviewing and making recommendations for changes to the forest practices act. Current duties include commenting on regulations. It is intended to be a consensus decision making body.

Sec. 5 41.17.055 (d)

Establishes DEC as lead agency for water quality and control of nonpoint source pollution and the regulations adopted become the state program for control of nonpoint source pollution, subject to approval of the DEC commissioner.

Sec. 6 41.17.060 (b), State, municipal, and private forest land standards. Subsection (2) is a technical change to clarify existing law regarding environmentally sensitive areas in non-point pollution control measures. Subsection (5) Adds to the list of standards established for forest practices to include: significant adverse effects of soil erosion and mass wasting on water quality and fish habitat.

Sec. 7 41.17.060 (c) Additional standards for state and municipal forest land: Under (6) Changes the standard for scenic quality by requiring that allowance shall be made for scenic quality in or adjacent to areas of substantial importance to the tourism and recreation industry, and under (7) Adds new language that an allowance shall be made for important fish and wildlife habitat.

Sec. 8 41.17.070 (b) Changes the reporting requirement to the legislature from 2 years to annually. Requires the department to record decisions made under the act for use by the public and state agencies in assessing the effectiveness of implementation of the act.

Section 9 41.17.080

Expands the list of regulations the commissioner may adopt regarding forest practices to include all phases of timber harvest and to make appropriate distinctions between public and private land; and directs the commissioner to only adopt those regulations that yield significant benefits to public resources.

Section 10 41.17.082, Control of Infestations and Disease.

Adds a new section to require the commissioner to take action to control forest infestation and disease outbreaks that threaten forest resources. It establishes the procedures for remedy of creating such conditions to include requirements for removing the conditions at the owner's expense. It establishes authority, under non-compliance, for the commissioner to enter onto the land and

take necessary action. And authority to undertake surveys to obtain data on regional insect infestation.

Section 11 41.17.087, Variation from requirements.

Adds a new section that allows a landowner or operator variation from requirements or regulations under this chapter on a site-specific basis. The commissioner shall adopt regulations that specify the standards under which a variation will be granted for harvesting timber within the riparian area.

Sec. 12 41.17.090 Notification of Plans to Harvest Timber.

This section provides an improved process for efficient and detailed review of timber harvest plans which allows the timber industry to respond to changing timber markets but ensures that harvest operations conform to forest practices standards and regulations. It allows forest landowners and operators to file a voluntary plan of operations for long term plans for timber harvesting in order to give the public an opportunity to review plans and establishes that unless a stop work order is issued, the operations may begin under the plan after 30 days, or within the time period upon notice that the review is completed. It allows for a onetime 10 day extension for the agency review.

Subsection (f) establishes a field inspection when necessary to determine consistency of the detailed plan of operations upon notification to the operator and that the scope shall be limited to the minimum area necessary to determine compliance with this chapter. The operator shall inform the state forester when the site is available for inspection. If not conducted within 21 days, or unless otherwise agreed upon by the operator and state forester, operations may begin. Subsection (g) allows for modifications to accommodate comments without requiring the operator to resubmit the plan.

Sec. 13 41.17.098, Inter-agency Coordination.

Since there is an overlapping agency expertise for issues concerning timber harvest, this section provides coordination mechanisms for DNR, F&G and DEC. It retains DNR as the lead agency but ensures that the appropriate agency expertise from F&G and DEC is included for issues that directly are within their expertise. Adds a new section which requires the DNR commissioner to coordinate with other agencies that have jurisdiction over activities subject to forest practices and affected coastal districts.

Sec. 14 41.17.115, Intent for Riparian Areas.

→ Private Lands:

Along Type A water body, 66 feet no cut zone

Along Type B water body, 100 foot conditional harvest zone, in compliance with slope stability standards

Along Type C water body, 50 foot conditional harvest in compliance with slope stability standards

→ State Land: North of the Alaska Range:

On anadromous or high value resident fish water body:

100 foot no cut zone, unless the division determines adequate protection for the fish habitat remains.

→ State Land: South of the Alaska Range:

On anadromous or high value resident fish water body:

100 foot no cut zone

100 - 300 foot conditional harvest zone, consistent with the maintenance of important fish and wildlife habitat.

→ Other Public Land: North of the Alaska Range::

On anadromous or high value resident fish water body:

100 foot no cut zone, unless the commissioner determines that adequate protection remains for fish habitat.

Other Public Land: South of the Alaska Range:

100 foot no cut zone subject to variance procedures.

Sec. 16:, 41.17.131, Penalties

This section streamlines existing procedures for levying civil penalties of up to \$10,000 per violation and adds additional authority to allow the state to issue citations for a class A misdemeanor for violations of this act.

Sec. 17, Directives

This section provides that DNR may issue enforceable, written orders directing that timber operations that violate or would violate this act or its regulations be changed. These directives may be written as part of the DNR office or field review of private timber operations as provided under Section 12 of the act. Directives may be appealed and operations may continue pending the outcome of the appeal.

Sec. 18, Stop Work Orders

This section provides that DNR may issue Stop Work orders if the forester determines a violation of the act or its regulation is occurring, or is likely to occur, and that significant harm to public resources will result if work is not halted. A stop-work order may be written as part of the DNR office or field review of private timber operations as provided under Section 12 of this act. Stop-work orders may be appealed, but the operation must stop pending the outcome of the appeal.

Section 19, and 20 Hearing Procedures. This section amends the hearing process by deleting the requirement that hearings be held before a lawyer appointed by the attorney general. Under the new process hearing officers may be an employee of the department. The new process should be less costly for the department and more efficient for both the landowner and the department.

Sec. 21, Appeals and Judicial Review

This section provides appeal procedures from DNR department decisions. It also provides that parties other than an aggrieved forest landowner, timber owner, or operator may not receive judicial review of individual timber harvest decisions. Third parties may, however, seek judicial review of regulations or of a systematic error in DNR decisions.

Sec. 22, 41.17.210 (a), and Sec. 23, 41.17.400 (c):

Technical amendments which cite title 38. Sections 41.17.230 (e) and (f) were moved under AS 38.05.112 (c). These sections were more appropriate to public lands.

Sec. 24 41.17.900 (b) Federal lands standard.

This section would require that the degree of resource protection may not be less than that established for state lands, and be consistent with the Alaska Coastal Management Program, except that minimum riparian standards are established under 41.17.119 (other public lands). Activities that require state or federal authorization under other laws are subject to the routine Alaska Coastal Management Program (ACMP) standards and procedures.

Sec. 25 41.17.900 (e) Private lands standard.

This section establishes that the amended forest practices act will serve as the Alaska Coastal Management Program for harvest activities on private lands.

Sec. 26

This section provides that state agencies and private landowners will establish cooperative, voluntary processes for protection of wildlife habitat on private land.

Sec. 27

This section provides definitions.

Sec. 28

This section provides for legislative review.

Sec. 29

This section provides for the initial terms of members of the Board of Forestry.

Sec. 30

This section provides for interim riparian protection for the coastal forest. Notification filed prior to the effective date of this section shall be reviewed by the commissioner to determine if the proposed operations provide protection that is substantially equivalent to the fish habitat protection that is provided under 41.17.116 (private lands). If not, the operator shall comply. If the operator has not received notification within 30 days, the plan is considered substantially equivalent to the fish habitat protection under 41.17.116.

Sec. 31

Provides interim protection for riparian protection outside the coastal forest. Timber harvest within 100 feet from the shore or bank of an anadromous or high value resident fish water body must be sited and designed to protect fish habitat and water quality.

Sec. 32

Provides that existing contracts or pending litigation are not altered by the act.

Sec. 33

Repeals 41.17.133, 41.17.135, 41.17.137, and 41.17.141.

Sec. 34. Repeals 41.17.230 (e) and 41.17.230 (f) as those sections were moved to Title 38.

Sec. 35. 41.17.010 (5) becomes effective immediately.

Sec. 36. Provides an immediate effective date for those sections affected.

Sec. 37. Provides for an immediate effective date for all other sections.

# South-Central Timber Development, Inc.

6 April 1990

Senator Rick Uehling, Co-Chairman  
Senate Finance Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Rick:

Re: CSSB 317 - Forest Practices Act

I have been fighting a lonely and losing battle against this great intrusion of the State of Alaska into private property.

The state forester told the Alaska Board of Forestry that enforcement would cost at least \$1.2 million per year. This expenditure is essential if the state is to busybody itself on the private forest land of Alaska. So while everybody talks about reducing the budget, this bill adds an outlay of over \$1 million annually, and involves the addition of many more "warm bodies" to the state payroll.

Some of the Native corporations owning timber have expressed themselves in favor of this because they fear the imposition of something worse from the Alaska Department of Fish and Game. Further, certain fisherman groups have been influential with the Native owners, persuading them to accept this big new dose of regulation, planning and governmental control. The truth is, the total fish take reached a record in 1989, even in the Ketchikan area where timber harvest has been intense for over 40 years. That logging is the enemy of fish is essentially a myth.

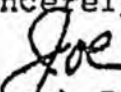
The bill represents unfounded anxiety for fish resources, and undoubtably has the hidden purpose of down playing timber harvesting, private property rights and free enterprise. Instead of Juneau's constantly discouraging industrial development, it would be a pleasant change to see some bill which actually helped people engaged in industry, creating jobs and paying taxes.

I would like to confer with you as to how to stop this onslaught.

For your information I enclose letters previously written to Senator Fahrenkamp and Representative Furnace.

With kind regards and thanks for your attention, I am,

Sincerely yours,

  
Joseph R. Henri  
President

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JRH/df

ANCHORAGE, ALASKA 99503

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# South-Central Timber Development, Inc.

30 March 1990

Representative Walt Furnace  
P.O. Box. V  
Juneau, Alaska 99811

Dear Walt:

Re: H.B. 331 and S.B. 317, Forest Practices Revisions

Regarding the teleconference hearing yesterday on H.B. 331, thank you for the only bit of friendliness emitting from the Committee. Per your request, I enclose a copy of my letter to Senator Fahrenkamp dated 5 March 1990.

Walt, this is an absolutely horrible enactment. I cannot believe our legislature would seriously consider such a gross intrusion into private rights, the creation of all sorts of crimes where none previously existed, and making the Administrative Procedures Act inapplicable to proceedings under this new statute--to obtain quick and effortless dominion by the public official over the private citizen.

If the people who own a good timber tract of 40 acres or 150 acres knew what the Alaska Legislature was about to do to them, they would promptly rise up and make their complaints known. There are many hundreds of Alaskans so situated in the Kenai and Matanuska-Susitna Boroughs, among other places. If these smaller tracts of private property happen to adjoin or contain a stream, wetland or estuary, a 66' buffer on all sides is mandated. Depending on the configuration of the timbered land and the water bodies, the small property owner may end up not being able to cut any trees at all. Koncor, agreeing to this legislation, is sacrificing 1.5% of billions of board feet. The 40 acre property owner may be sacrificing 100% of his meager wealth.

The injustice of this enactment is appalling. It will just snuff out more "little guys" who have neither the wherewithal nor the stomach to appeal to the courts for redress, if any could be found there after making the effort.

I sincerely hope some way could be found to stop this avalanche of environmental despotism.

Sincerely yours,

*Joe*  
Joseph R. Henri  
President

JRH/df  
Enclosure

255 EAST FIREWEED LANE  
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# South-Central Timber Development, Inc.

6 March 1990

Senator Bettye M. Fahrenkamp &  
Members of the Senate Resources Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Fahrenkamp & Members of the Committee:

Re: S.B. 317 or H.B. 331  
Forest Practices Act Revisions

This bill is an astounding attack on private property rights. It is destructive of freedom, an Alaskan's most precious right, after life itself. It materially advances state control over production and the means of production. As the long-tormented countries of Eastern Europe try to shake off socialism and restore capitalism and liberty, the state government of Alaska, imitating the U.S. federal government, is bent on an ever-expanding take over of private property rights. The state is pursuing, in Friederick Hayek's phrase, a "fatal conceit": "The government knows best." "Only the government can competently manage the resources." We have very little private land of any kind in Alaska, compared to the total acres of uplands and tidelands. The privately owned forest lands of Alaska constitute no more than perhaps five percent of the total acreage within Alaska's boundaries; this private land has been extracted from the public domain over a painstakingly long period of time, and by a very arduous course; but apparently the state government cannot bear to part with significant and thorough-going control over the small percentage of Alaska not owned by a government.

This legislation is not destined to expand Alaska's forestry economy, or even to retain the level now realized. It is regressive and punishing and tinged in totalitarianism. It creates an omnipotent state apparatus over the privately owned forest lands of our state.

The cost to the state treasury of this newest intrusion of state government into private rights and property is conservatively estimated at \$1.2 million per year. Much more could be spent on these questionable and reprehensible activities; no doubt, in future years, the agencies will require a greatly expanded budget for these good socialist works. Thus, at a time when all the political talk is about reducing state expenditures, along comes this act to spend more money; hire more government inspectors, naysayers and gumshoes; and put state spending further out of control. Is anyone serious about reducing the budget?

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PO 4

04 06 90 03:01PM \*SCTD 907-279-1493

I was in the audience in the Capitol when the House and Senate Resources Committees held a joint hearing on the Forest Practices Amendments on 31 January 1990. Regrettably, I did not realize I had to sign up as a witness, and so missed the opportunity to give these views.

Though Mr. Sturgeon, Chairman of the Forestry Board, did not give you my name, I am the representative of the Alaska Miners Association on the Alaska Board of Forestry. The proposed legislation eliminates the Miner's slot on the Board. Mr. Steve Borell, Executive Director of the Alaska Miners, has already written to you protesting the deletion.

1. The Board: Poorly Constituted and Non-Functioning.

The Forestry Board, under the new legislation, would likely end up with a majority of anti-development forces. Only two of the six voting members would have to be connected with forestry. The peculiar consensus required for the Board to act [AS 41.17.041(c) requires near unanimity] is a special hamstringing device. Your own intimate experience with obtaining eleven votes, or twenty-one votes, is proof enough that government by consensus will not be a government of accomplishment.

2. Alaska Will Plan Forever, but Probably Never Achieve A Big Forest Products Industry.

AS 38.05.112(a) requires a site-specific forest land use plan in spite of the fact that regional or area plans have already been accomplished. The intent is for "plans, plans, plans"! Wood markets may crash before Alaska is ever ready to enter seriously into the world of timber production and manufacturing. This reluctance to act--this same propensity to plan endlessly--is also evident in the statute under which state forests are to be created [AS 41.17.200 et seq.]: Notwithstanding that land has already been classified for "forestry" under the Alaska Lands Act, upon the creation of a state forest, entirely new plans are required, no doubt in the hope that some or most of the forest land will be dedicated to other purposes. State forests are "multi-purpose." If at least two purposes must be stipulated for a particular forest area, they may be "scenic quality," and "recreation," even though the land is a "state forest."

3. A Bureaucratic Straitjacket.

Alaska forestry on state lands is put into a strait jacket in AS 38.05.113(b). The provision that a proposed sale must have been on the schedule for two full years before an actual sale can take place destroys flexibility and dynamism. In truth, the last thing either sought by the authors or to be realized from this legislation would be a dynamic forest industry in Alaska.

4. "Scenic Quality" Is a Concept Peculiar To the Eye Of the Beholder.

AS 41.17.060(c)(6) compels the state to harvest its lands or not harvest at all, in deference to "scenic quality" in "areas of substantial importance to the tourism and recreation industry." This is an entirely subjective and maundering "standard" that will result in endless debate and delay. Is "scenic quality" the "forest primeval" or a carefully kept and supervised forest? What is an "area of substantial importance?" What is the "tourism and recreation industry?" Who is to say that tourists would not want to see some human progress and the intelligent activity of homo sapiens occurring on the forest lands of Alaska? Tourists get bored with endless miles of untouched woods.

5. Industry Will Be Suffocated By Regulations.

AS 41.17.080(d) expresses the pietistic hope that the commissioner will avoid making regulations which increase costs, but yield no benefits to public resources. The whole tenor and spirit of the legislation proposed is that timber cutting is detrimental to "public resources." Under the aura of this act the commissioner will be able to find no regulation which does not somehow benefit the public resource.

6. Statute Declares Timber Harvesting A Deleterious Activity.

As a matter of fact, under AS 41.17.115, the bill would have the State of Alaska declare by statute that timber harvest activities do, in fact, have significant adverse effects on fish habitat and water quality. This is nothing less than an outrage. In truth, timber harvest activities may benefit fish habitat and water quality.

7. The State Commands: Thou Shalt Be Naked To Thine Enemies.

If a private land owner decides to timber his land he must submit to the state government, in advance of logging, and each year thereafter, detailed plans of his proposed operations so that both the state and "members of the public who have asked to receive copies of notifications for the affected areas" can be fully informed about the private owner's business plans. Both the preservationists as well as business competitors and people bearing malice towards the applicant will have a powerful weapon to wield against this poor private land owner. Why should the State of Alaska force such public disclosure? The State bears no risk in such compulsion for disclosure, but the State certainly increases the risk of the private land owner. The total business intentions of the logger as to the entire drainage must be disclosed, for the current year and for all future years. This is communism at its best. No matter how many years contemplated operations may take, the operator must renew this plan every year. This fantastic onus should assure that a large cadre of bureaucrats will be fully employed while there are trees to cut in Alaska. "Private property" is a noun without much content at

the rate the State proposes to take away rights historically associated with private property. [AS 41.17.090(a)]

8. The Confusion of Multiple Regulators All From The State of Alaska.

The proposed statute builds in conflict and practically assures conflict, controversy and turf battles by having two departments--two commissioners--both in charge of regulating nonpoint source pollution. Must we, with malice aforethought, make life so complicated, difficult and impossible to live? [AS 41.17.098(c)]

9. The Act Will Drive Away New Forest Industry and Fetter What We Already Have; We Could Have a Massive Forest Products Economy.

I am told that only six or seven states in the nation have adopted a forest practices act of any sort, governing all forestry operations on private lands. Alaska was in the "vanguard" in adopting such legislation in 1978, under the sponsorship of then Representative Mike Miller of Juneau. Now, this new proposal would gild the lily and drive industry away, and it will prevent the expansion of existing industry. With energy, imagination and dedication, Alaska could attain a wood products industry with an annual value in the billions of dollars. That will take certain statutory assistance; it will take a commitment and resolve on the part of the state government and its bureaucracy. Senate Bill 317 and House Bill 331 go in the opposite direction; it's "killer legislation," and constitutes a vast harassment of the present and future industry, and an impenetrable discouragement to economic expansion.

10. This Legislation May Destroy Any Economic Activity In the Buffer Zone.

Before commencing "operations" on forest land, the operator or owner must provide the state forester with a comprehensive plan of operations. I take this legislation to mean that before someone can clear a riverside or lakeside woods for a non-timberlands use, such as a lodge or camp, the would-be developer or entrepreneur will have to first seek the permission of this state, which may never be given because of the buffer rules in this legislation.

11. Laws and Regulations Amount to Strangulation.

The additional regulations hurled upon Alaska citizens under this proposed act are heaped upon the already vast array of federal and state permits, interactions and jurisdictional overlaps already on the statute books. Even before this proposal is enacted, or if it is never enacted, the mass of permitting and regulatory interference in the natural resource industries is bewildering, appalling and in opposition to economic development and expansion. Indeed, economic activity in the resource

development field has already contracted in Alaska; we have become a highly undesirable place in which to do business.

12. Why Prefer Fish Over Timber? Timber Will Be More Valuable.

In the sections on riparian management, the rights of fish over timber are baldly enunciated. The state is making a clear and unequivocal preference for fish, though, in time, the economic value of timber can be expected to substantially exceed that of the fish affected by the riparian regime.

13. The Pillage of Private Property.

The application of these stringent water body buffer area standards to private land amounts to the pillage of Alaskans owning forests bordering on water bodies. People owning a few acres of land containing timber, if they happen to be in a riparian area, could stand to lose their right to harvest any timber whatsoever, depending on how any of the state agencies may interpret AS 41.17.117(a). It is said that some of the Alaska Native Corporations owning substantial volumes of timber under grants from the United States through ANILCA have received legal advice to the effect that the Forest Practices Act amendments affecting private property would not constitute a "taking" under the federal or state constitutions. What amounts to an illegal "taking" is being constantly litigated. Legal rulings change with changing attitudes towards socialism and capitalism. Judge Robert Bork's book, The Tempting of America, will act as a catalyst to restore devotion to private property. The U.S. Supreme Court has arrested its flirtation with totalitarian government by its pro-private property decisions in Nollan and First Evangelical Lutheran Church. Furthermore, there is no compulsion on the Alaska legislature to enact this huge attack on the rights of private property. If Alaska stands for anything, it ought to stand for individual freedom and the right to be left alone. Why must we seek to create an anti-property, socialist state in the far north?

14. Buffers Around Wetlands and Estuaries, Too.

It may be that your land is not along a river or a lake; it may border a wetland or an estuary. Nevertheless, a large buffer or ring of trees is commanded to be left standing, under penalty of \$10,000 per day fines or jail, or both.

15. The Regulations Not Yet Written May Do the Most Mischief of All.

AS 41.17.116 leaves much mischief to be done at the hands of the commissioner who will write and adjust regulations regarding private property timber. I would think if the state has decided to take away private property and private rights, it could at least do so by passing legislation. However, the regulation method can be blamed upon the work of a faceless bureaucrat, instead of an elected official. The full extent of the

devastation this bill will foist upon Alaska is as yet undisclosed.

16. The Bias Against Tree Harvesting.

In AS 41.17.116(a)(1)(D) the commissioner has the discretion to let the operator harvest timber in the buffer zone, provided that the operator leaves timber standing somewhere else; this other place does not have to be a riparian area. Why must such timber be left standing? This is one of many places reflecting the bias against timber harvesting.

17. The Dead Hand of a Rule Running for a Hundred Years.

The operating plan put upon the land prevents harvesting of timber outside an "operating area" until the "next rotation period." This latter phrase is never defined, but it could easily exceed a time span of over 100 years; apparently, the operating plan would constitute some sort of covenant running with the land. It may be that the spruce bark beetle would devour the trees the state forester would not allow to be cut, but no human being shall be so allowed under penalty of fine and imprisonment. Already, spruce under state management and control for many years has been killed by the beetle in volumes of hundreds of millions of board feet, but clearly there is more joy to the bureaucrat in lording it over human beings than over beetles. [AS 41.17.117(b)]

18. Compensation Provisions Arbitrary and Capricious.

The state forester is authorized to prevent an owner from cutting his timber even if that prevention will result in more than 5% of the basal area being left standing. The forester may do this by paying (whom?) for this timber at the "current market value"; this means "current" as of the time the operating plan is submitted and approved, but the harvest may not have occurred under the plan for another several years, which makes this cash payment provision utterly arbitrary and unfair. No one knows what the timber will be worth several years hence. [AS 41.17.117(c)(3)]

19. AS 41.17.117, the Heart of the Compromise, Is Fuzzy Obfuscatory, and the Poorest Kind of Law.

If a law drafter had deliberately attempted to make a statute's meaning fuzzy or obfuscated, he could not have done much better than Section 117. The strains of the so called "consensus" which generated this extremely critical section caused a lack of clear understanding of what the collectivity compromised upon. Is it a true compromise or is it a white washing of irreconcilable differences? And, of course, this section of the law, as a clear guide to the bureaucrats in charge of its administration, fails absolutely.

20. In State Lands, Vast Swaths of Trees Are Forbidden To Be Cut.

The state land standards differ from the private land standards; in fact, state timber north of the Alaska Range is treated differently than that south of the Range. Apparently, the environmentalists are less concerned about Interior Alaska. That is at least lucky for the Interior. In state timber the new law contemplates an absolute preference for fish and wildlife habitat over timber interests in a 500' wide riparian swath, extending the length or circumference of the water body.

21. Endless Harrassment By Multiple State Agencies.

AS 41.17.125 contains the noble invitation to all state agencies concerned to avoid duplication and inconsistency in their enforcement. Contrarily, however, all agencies keep their own rights to determine and exact remedies. Therefore, there will be little uniformity, but a great multiplicity of harassment or worse.

22. Big Penalties For All Concerned.

In the sections devising civil and criminal penalties it seems that a land owner or a timber owner can be fined or jailed if he "permits" a violation, even if the violator is a different person called an "operator." If one allows an operator to harvest trees perhaps that is "permitting a violation." This statute, obviously, would much prefer that the land owner and timber owner protect themselves by not allowing anyone to harvest timber. [AS 41.17.131]

23. An Arbitrary Hearing Procedure Lacking in Fundamental Justice.

The new hearing procedures have deleted the requirement that the hearing officer be trained in the law and admitted to its practice. [AS 41.17.139] People in the Division of Forestry will now appoint the judges in these grave judicial proceedings, but they shall not be people of the law, but rather employees of the Department of Natural Resources.

The Administrative Procedures Act of Alaska is not applicable to these kangaroo court proceedings. There is no requirement that any witness be required to give evidence under oath. The former rule that hearings be recorded has now been deleted, presumably so that the arbitrariness in these proceedings taking away one's property and one's right to operate one's business and one's right to work is hidden from view--a sort of Star Chamber approach.

24. The Delusion of No Third Party Suits.

The people in the so-called "consensus group" who believe they have obtained a great benison in AS 41.17.143(d), whereby

third parties are not allowed to file suits under the statute, are probably deluding themselves. I would think in a short time this provision will either be deleted or else found to be unconstitutional in Alaska.

25. Eliminating the Constitutional Provision of Preferences Among Beneficial Uses.

Under the definitions, the "significant impairment of productivity" rule apparently compels that Alaska land and water keep producing renewable resources at their natural or historic levels, making no provision for what Article VIII of our state constitution calls "preferences among beneficial uses." [AS 41.17.950(6) (C) and (12)]

26. A State Forest Without Timber.

The definition of a state forest never mentions trees, silviculture or forestry; it simply talks about "renewable resources" and "a variety of beneficial uses." What an utter farce! (AS 41.17.950(14))

27. No Stability, Peace or Consensus.

At the late January hearing in the capitol, a number of pro-passage witnesses testified that this new legislation would bring "stability" and "predictability." The implication is that the environmentalists and the developers will achieve a long term armistice, and enjoy years of mutual cordiality and deference. The history of the Tongass Forest legislation over the past 15 years, and the governmental activity in the Chugach National Forest utterly belie this naive contention. The legislature meets every year, and the opposing parties can be expected to seek changes favorable to themselves when the occasion arises. A new legislature is not bound by this so-called "consensus." In fact, the last section of this proposed legislation classifies the law as "interim" because it is "based on many untested assumptions." The silliest untested assumption of all is that this zombie will bring "stability" to the parties.

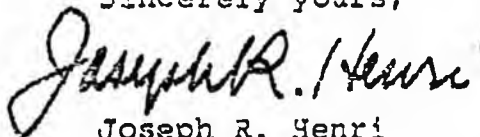
It has often been said that Alaska is a land full of rugged individualists, yet over the last 15 years we have witnessed an almost pathological quest to have government run or regulate everything. The clear implication of so much regulation is that those who own land and timber are not to be trusted with the running of their own affairs. Under the new laws and regulations, the Alaskan government will act as trustee and guardian. But it will be a bad trustee and a faithless guardian because its efforts are not to benefit the owners of the land, but rather to serve the new religion of environmentalism at the expense of the beneficiary of the trust. Alaskans are becoming wards of the state, in the worst connotation of that phrase.

In an article entitled "Profits Are For Rape and Pillage," Forbes Magazine of 5 March 1990, makes an astute observation:

At the very time when government regulation is discredited and out of favor nearly everywhere, it is making a comeback in the environmental field. Although political and economic arguments for socialism are derided around the world--and the power of the market to allocate resources intelligently is widely acclaimed--environmentalism is being used as an excuse for the government to move back into managing the minutiae of our lives.

No matter that private property rights are pushed aside or despised, no matter that the cost to the state treasury is in seven figures annually to perpetrate the violation of private property, no matter that hirelings, agents, inspectors, and gumshoes will be added to the ever-swelling ranks of the state bureaucracy, this cause of so controlling the five percent of Alaska having privately owned forests is a holy calling, a crusade, a zealot's hegira. As Robert Crandall of the Brookings Institute says, "When you're carrying out a crusade, you don't ask what's the cost of the religion."

Sincerely yours,



Joseph R. Henri  
President

JRH/df

cc: Members of the House Resources Committee  
Phil Holdsworth, Alaska Miners Association  
Kent Dawson, Alaska Miners Association  
Steve Borell, Alaska Miners Association  
Becky Gay, Resource Development Council  
Thyes Schaub, Alaska Loggers Assn., Juneau



TESTIMONY OF ROBERT W. LOESCHER  
BEFORE THE SENATE FINANCE COMMITTEE  
REGARDING CSSB 317

MY NAME IS ROBERT W. LOESCHER AND I AM SEALASKA CORPORATION'S EXECUTIVE VICE PRESIDENT OF RESOURCE MANAGEMENT. FOR THE PAST EIGHTEEN MONTHS, SEALASKA HAS BEEN EXTENSIVELY INVOLVED IN, AND A STRONG SUPPORTER OF, THE CONSENSUS PROCESS FOR REVISING OUR STATE'S FOREST PRACTICES ACT. AS A RESULT OF THE DEDICATED EFFORT OF EVERY PARTICIPANT IN THE FOREST PRACTICES STEERING COMMITTEE, YOU HAVE BEFORE YOU LEGISLATION THAT HAS BEEN AGREED TO BY A WIDE RANGE OF FOREST USERS.

THE LEGISLATION IS NOT ONLY CONSENSUS LEGISLATION, IT IS GOOD LEGISLATION. IT STRIKES A FAIR BALANCE BETWEEN THE COMPETING INTERESTS AFFECTED BY THE BILL. THE RIPARIAN PROTECTION MEASURES IN THE BILL, FOR EXAMPLE, PROVIDE ADEQUATE PROTECTION FOR FISHERIES RESOURCES. AT THE SAME TIME, THE PROVISIONS ARE SUFFICIENTLY FLEXIBLE SO AS TO ENSURE THAT THE BILL'S BUFFER ZONE REQUIREMENTS -- REQUIREMENTS THAT WILL RESULT IN SUBSTANTIAL COSTS TO INDUSTRY -- CAN BE TAILORED TO SITE SPECIFIC CONDITIONS. TO THIS END, THE

BILL PROVIDES THAT THE DEPARTMENT OF NATURAL RESOURCES, IN CONSULTATION WITH THE DEPARTMENT OF FISH AND GAME, WILL GRANT VARIANCES FROM THE LEGISLATION'S RIPARIAN REQUIREMENTS IN THOSE CASES WHERE THE COST OF LEAVING RIPARIAN TIMBER WILL NOT YIELD CORRESPONDING BENEFITS TO FISHERIES RESOURCES.

THE BALANCE STRUCK IN THE LEGISLATION, HOWEVER, CANNOT BE ACHIEVED UNLESS BOTH DNR AND ADF&G ARE GIVEN SUFFICIENT FIELD POSITIONS TO CONDUCT THE INSPECTIONS NECESSARY TO DETERMINE WHETHER THE RIPARIAN PROTECTION REQUIREMENTS SHOULD BE MODIFIED IN INDIVIDUAL CASES. THE PURPOSE OF THIS BILL IS TO TAKE FOREST PRACTICES' DECISION MAKING OUT OF THE OFFICE, AND INTO THE FIELD. THE FISCAL NOTE BEFORE YOU REPRESENTS THE MINIMUM COMMITMENT OF RESOURCES NECESSARY TO ALLOW DNR AND ADF&G TO PROPERLY TAILOR THE BILL'S RIPARIAN REQUIREMENTS TO ACTUAL FISHERIES NEEDS.

SEALASKA RECOGNIZES, OF COURSE, THE SERIOUSNESS OF ANY NEW PROGRAM EXPENDITURES IN THESE DAYS OF DWINDLING STATE REVENUES. HOWEVER, THE COST TO THE STATE OF INADEQUATELY FUNDING THIS LEGISLATION IS LIKELY TO BE SIGNIFICANTLY GREATER. IF, FOR BUDGETARY REASONS, DNR AND ADF&G ARE FORCED TO MAKE CRITICAL DECISIONS FROM A DISTANT BUREAUCRACY, THE TIMBER AND FISHING INDUSTRIES WILL BOTH SUFFER. LACKING THE ABILITY TO CONDUCT ADEQUATE FIELD INSPECTIONS WILL LIKELY RESULT IN BOTH:

1. LOST REVENUE, AND LOST JOBS IN THE TIMBER INDUSTRY AS A RESULT OF THE EXCESSIVE RETENTION OF HIGH VALUE TIMBER WITHOUT ANY CORRESPONDING ENVIRONMENTAL BENEFITS; AND

2. IMPAIRMENT OF FISHERIES RESOURCES BECAUSE OF THE AGENCY'S INABILITY TO ADDRESS THE PARTICULARIZED NEEDS OF SPECIFIC FISH HABITATS.

IN OTHER JURISDICTIONS, FOREST PRACTICES IN GENERAL, AND BUFFER ZONES IN PARTICULAR, HAVE BEEN THE SUBJECT OF HEATED CONTROVERSY. CONSIDERABLE PUBLIC RESOURCES HAVE BEEN SQUANDERED IN THE ARGUMENT ITSELF, AND A WIDE RANGE OF FOREST VALUES HAVE BEEN COMPROMISED WHILE THE DEBATE CONTINUES. IN ALASKA, WE HAVE THE OPPORTUNITY TO ACHIEVE PEACE IN THE WOODS, AND OPTIMIZE THE LONG TERM ECONOMIC VALUE OF ALL THE RESOURCES OF THE FOREST. FOR THOSE BENEFITS, THE FISCAL NOTE ATTACHED TO THIS LEGISLATION IS A RELATIVELY SMALL PRICE TO PAY.

ON BEHALF OF SEALASKA, THANK YOU FOR THE PROMPT CONSIDERATION THAT I KNOW THIS COMMITTEE WILL GIVE TO THE LEGISLATION.

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Testimony of Robert G. Loiselle  
For The Forest Alliance  
Senate Finance Committee Hearing  
SB 317  
April 6, 1990  
Juneau, Alaska

The Forest Alliance is a broadly constituted organization of forest land owners, manufacturers, loggers and others having commercial and professional interests in the proper management and development of forest lands. The members of the Alliance include all of the major private timber owners in the state of Alaska. The Alliance was formed in late 1989, and has undertaken the special mission of bringing the broad support of the timber industry to the Forest Practices Act, Senate Bill 317 and House Bill 331.

The bill before you has the support of major environmental, fishing, landowner, and forest industry groups, as well as that of the state resource agencies. This bill incorporates a number of carefully drawn provisions reflecting compromise on issues of great importance to the interested parties. In our view, it can establish a new framework for environmentally sound development of Alaska's forested lands. We respectfully urge you to adopt this bill without significant change.

With regard to the aspect of the bill of particular interest to this committee, we strongly urge that it be funded at the level requested in the fiscal note (\$1.2 million). While we believe that funding is an important issue to all interested parties, it is particularly critical to forest landowners and operators.

As a result of recent negotiations which finally brought all parties to agreement, a number of changes were made to the bill.

Among the more significant changes was a change in the buffer strip standard for private land. The previous system was much more complex, but provided the landowner with the certainty that no more than 5% of his timber would have to be devoted to buffer strips. The new standard, while much simpler and easier to administer, provides no such assurance. The only assurance that the landowner now has is that variances from the standard will be granted for small, low value streams.

In order to obtain these variances, it will be necessary that adequate agency field personnel are available to handle landowner requests. Beyond this extremely important function, this act will impose additional administrative, educational and enforcement requirements.

We have seen time and again that when agency and industry personnel can get together in the field, problems or potential problems are often readily resolved. This feature will be especially important in the new operating environment created by this act. This act will be impossible to properly administer without the requested funding. To pass it without funding would impose an impossible burden on all concerned, particularly on our industry, which has already sacrificed greatly to help bring this new forest practices act to fruition.

Thank you very much for this opportunity to testify. I would be happy to answer any questions you might have.

April 6, 1990

**KFP**  
**Koncor Forest Products Company**

3501 Denali, Suite 202  
Anchorage, Alaska 99503  
(907) 562-3335 FAX (907) 562-0599

Senate Finance Committee  
Alaska State Senate  
Juneau, Alaska

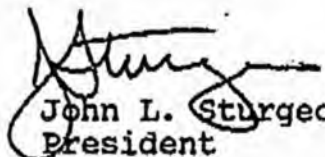
Dear Senate Finance Committee Members:

Koncor Forest Products would like to express our strong support for the \$1.2 million dollars appropriation to fund the revised Forest Practices Law. We support it for the following reasons:

- 1) To adequately enforce the laws applying to the harvesting of timber, adequate manpower is needed. Without adequate enforcement public confidence will be eroded and will eventually reduce the ability of native corporations to harvest their timber.
- 2) The funding will assure that problems are solved prior to an operation starting. Inadequate funding means Division of Forestry and Alaska Department of Fish and Game can only occasionally visit a site. When they do visit the site they will be inspecting areas that have already been harvested. This means they will be spending their limited time issuing citations rather than helping timber operators do their work properly. They will be forced to function as 'policeman' rather than professional technical advisors helping to prevent environmental damage.
- 3) If the State of Alaska truly wants to strengthen and diversify its economy it must make this kind of investment. Without adequate enforcement and government supervision of resource development, little progress can be expected. Without adequate funding the State can expect continued conflict between the pro and anti development types. This means less jobs and a smaller 'non-oil' tax base.
- 4) The Forest Practices revision was an extremely difficult compromise to secure. The funding of \$1.2 million dollars was a major component of that compromise. Without the funding there is no compromise and the bill will be endangered.

Thank you for the opportunity to express my thoughts.

Sincerely,

  
John L. Sturgeon  
President

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: Corrected 4/19/90  
CS SB 317 SFC  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 4/17/90 Agency Affected: DEC  
Title: Forest Resources and Practices BRU: Environmental Quality  
Act \_\_\_\_\_  
Sponsor: Rules Committee Components: Environmental Quality  
Requestor: Senate Resources Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	164.4	164.4	164.4	164.4	164.4	164.4
TRAVEL	22.0	22.0	22.0	22.0	22.0	22.0
CONTRACTUAL	38.0	38.0	38.0	38.0	38.0	38.0
SUPPLIES	3.5	3.5	3.5	3.5	3.5	3.5
EQUIPMENT	15.1	15.1	15.1	15.1	15.1	15.1
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	243.0	243.0	243.0	243.0	243.0	243.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	243.0	243.0	243.0	243.0	243.0	243.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	243.0	243.0	243.0	243.0	243.0	243.0

POSITIONS:

FULL-TIME	3.5	3.5	3.5	3.5	3.5	3.5
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

ANALYSIS ATTACHED

Prepared by: Dave Sturdevant  
Division: Environmental Quality

Phone: 465-2653  
Date: \_\_\_\_\_

Approved by Commissioner: ADKyle  
Agency: Environmental Conservation

Date: 4/17/90

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

The Department is responsible for water quality under State law and the federal Clean Water Act. The revised Forest Resources and Practices Act establishes the Department of Environmental Conservation as the lead agency for water quality and control of nonpoint source pollution in forest practices. The Forest Resources and Practices Act will establish the nonpoint source pollution control requirements under both State law and the Clean Water Act within the forest practices regulations. Major areas of involvement for the Department include:

- participation in development of Forest Practices regulations and best management practices, and approval of the regulations;
- development of a cooperative agreement among the Departments of Natural Resources, Fish and Game, and Environmental Conservation covering regulations, best management practices, permits, inspections, enforcement and training;
- development of an interagency "uniform enforcement policy;"
- review of forest plans and timber harvest contracts on State lands, and review of all plans of operation for timber harvest on private lands;
- inspection of timber harvest operations, provision of technical assistance, and enforcement activities; and
- development of cooperative efforts in water quality monitoring.

The Department presently has one FTE in Forest Practices for all of southeast Alaska, and .5 FTE for all of southcentral Alaska, both newly established in FY 90. To reasonably carry out its responsibilities under the act, the Department will require a minimum of 3.5 additional FTEs. Of these positions, .5 FTE would be added to the existing .5 FTE in southcentral Alaska. Two new positions would be established as field officers in southeast Alaska in addition to the one existing position. These three positions would be located in Ketchikan, Sitka and Juneau. One additional position would be established as the Forest Practices coordinator in the central office, Juneau. Additional contractual money (\$10.0) will be necessary with the Juneau position for support of field monitoring for water quality compliance.

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist II	50.4	4.0	18.0	1.0	4.3	77.7
Env. Field Officer II	44.4	7.0	8.0	1.0	4.3	64.7
Env. Field Officer II	44.4	7.0	8.0	1.0	4.3	64.7
Ecologist II	25.2	4.0	4.0	0.5	2.2	35.9
	-----	-----	-----	-----	-----	-----
TOTALS	164.4	22.0	38.0	3.5	15.1	243.0

Position Title <b>Ecologist II</b>		No. of Positions <b>1</b>	Range/Step <b>18A</b>	Barg. Unit <b>GGU</b>
Time Status <b>Permanent FT</b>	Staff Months <b>12</b>	Location <b>Juneau</b>		Election District
Type of Expenditure		Justification		
1	2	3		
Salary	<b>\$37,356</b>	<p><b>Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring with them increased potential for water quality impacts. The department has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in water quality protection under the Forest Practices program, including approval of the corresponding new Forest Practices regulations. This position is the central coordinator and interagency liaison for the Department's activities: revised regulations; Best Management Practices; water quality monitoring activities; application of water quality standards; uniform enforcement policy; technical training programs; cooperative agreements; and procedural matters. The position will participate in ongoing harvest activities, reviewing private plans of operation and State forest plans. The position also will serve as liaison with the U.S. Forest Service and other federal agencies, participating in similar activities to those described.</b></p>		
Benefits	<b>13,037</b>			
Premium Pay				
Other				
<b>Total Personal Services</b>	<b>\$50,393</b>			
Travel	<b>4,000</b>			
Contractual	<b>18,000</b>			
Commodities	<b>1,000</b>			
Equipment	<b>4,300</b>			
Other				
<b>Total Cost</b>	<b>\$77,693</b>			
Funding Source for Total Cost				
Federal Receipts 1002				
G. F. Match 1003				
General Fund 1004	<b>\$77,693</b>			
Gr. Program Receipts 1005				
Other				

**Request For  
New Position**

Agency Environmental Conservation  
 BRU Environmental Quality  
 Component EQ Projects

Page 1 of 1  
 Revised Date 2/6/90

**FY 91**

Position Title <b>Environmental Field Officer II</b>			No. of Positions <b>1</b>	Range/Step <b>16A</b>	Barg. Unit <b>GGU</b>
Time Status <b>Permanent FT</b>	Staff Months <b>12</b>		Location <b>Ketchikan</b>		Election District
Type of Expenditure			Amount		
<b>1</b>	<b>2</b>	<b>3</b>			
Salary	<b>\$32,424</b>				
Benefits	<b>11,929</b>				
Premium Pay					
Other					
<b>Total Personal Services</b>		<b>\$44,353</b>			
Travel		<b>7,000</b>			
Contractual		<b>8,000</b>			
Commodities		<b>1,000</b>			
Equipment		<b>4,300</b>			
Other					
<b>Total Cost</b>		<b>\$64,653</b>			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	<b>\$64,653</b>			
GF Program Receipts	1005				
Other					
Justification					
<p>Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This position will be based in the Ketchikan District Office and will serve that area in Forest Practices matters. This field position, plus a similar new field position in Sitka will increase the field staff in the Southeast Region to 3.0 FTEs. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.</p>					

**Request For  
New Position**

Agency Environmental Conservation  
 BRU Environmental Quality  
 Component EQ Projects

Page 1 of 1  
 Revised Date 2/8/90

**FY 91**

Position Title <b>Environmental Field Officer II</b>			No. of Positions <b>1</b>	Range/Step <b>16A</b>	Barg. Unit <b>GGU</b>
Time Status <b>Permanent FT</b>	Staff Months <b>12</b>		Location <b>Sitka</b>		Election District
Type of Expenditure			Amount		
1			2		3
Salary			<b>\$32,424</b>		
Benefits			<b>11,929</b>		
Premium Pay					
Other					
<b>Total Personal Services</b>					<b>\$44,353</b>
Travel					<b>7,000</b>
Contractual					<b>8,000</b>
Commodities					<b>1,000</b>
Equipment					<b>4,300</b>
Other					
<b>Total Cost</b>					<b>\$64,653</b>
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004			<b>\$64,653</b>	
GF Program Receipts	1005				
Other					
Justification					
<p>Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This position will be based in the Sitka District Office and will serve that area in Forest Practices matters. This field position, plus a similar new field position in Ketchikan, will increase the field staff in the Southeast Region to 3.0 FTEs. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.</p>					

**Request For  
New Position**

Agency Environmental Conservation  
 BRU Environmental Quality  
 Component EQ Projects

Page 1 of 1  
 Revised Date 2/8/89

**FY 91**

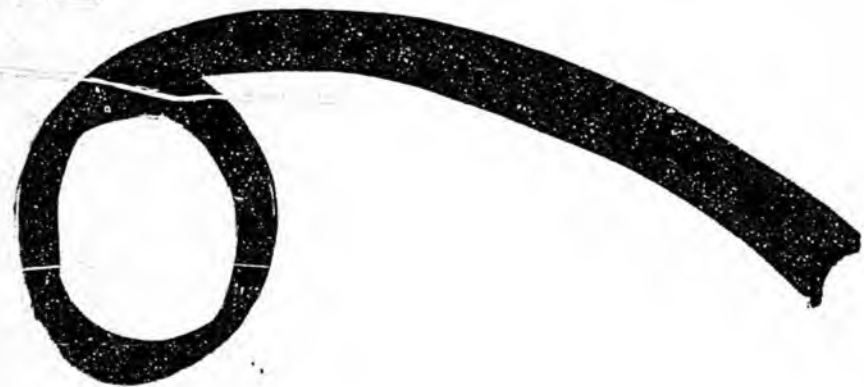
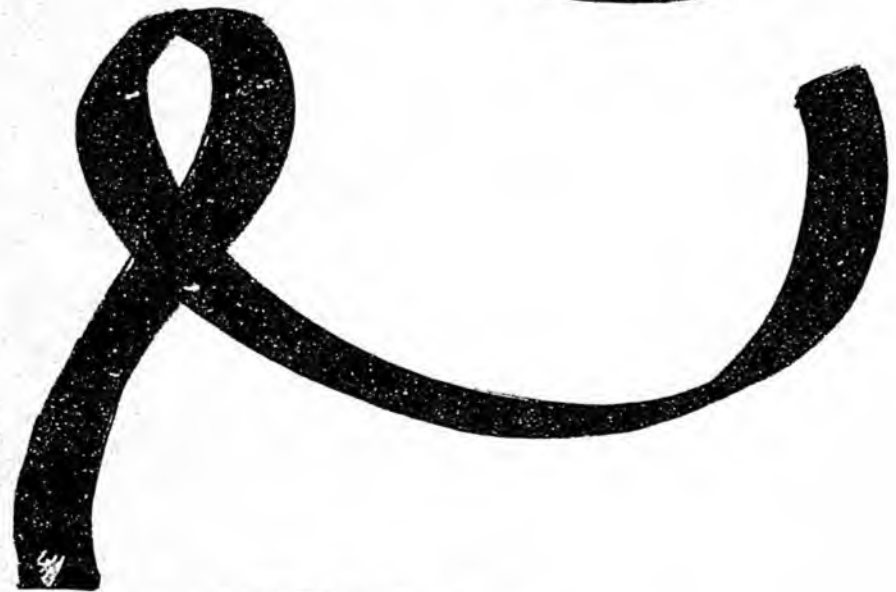
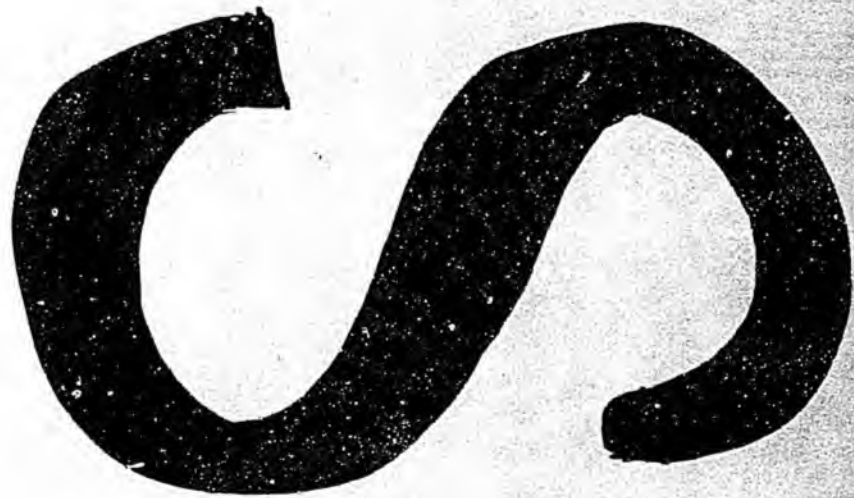
Position Title <b>Ecologist II</b>			No. of Positions <b>1</b>	Range/Step <b>18A</b>	Barg. Unit <b>GGU</b>
Time Status <b>Permanent PT</b>	Staff Months <b>6</b>		Location <b>Anchorage</b>		Election District
Type of Expenditure			Amount		
1			2		3
Salary			<b>\$18,678</b>		
Benefits			<b>6,519</b>		
Premium Pay					
Other					
<b>Total Personal Services</b>			<b>\$25,197</b>		
Travel			<b>4,000</b>		
Contractual			<b>4,000</b>		
Commodities			<b>500</b>		
Equipment			<b>2,200</b>		
Other					
<b>Total Cost</b>			<b>\$35,897</b>		
Funding Source for Total Cost					
Federal Receipts 1002					
G. F. Match 1003					
General Fund 1004			<b>\$35,897</b>		
GF Program Receipts 1005					
Other					
<p><b>Justification</b></p> <p><b>Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This field position, 0.5 FTE, will increase the existing 0.5 FTE in the Anchorage office to 1.0 FTE. This position will serve the entire southcentral region in Forest Practices matters. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.</b></p>					

**Request For  
New Position**

Agency Environmental Conservation  
 BRU Environmental Quality  
 Component EQ Projects

Page 1 of 1  
 Revised Date 2/8/90

**FY 91**



# SENATE FINANCE COMMITTEE REPORT

DATE: 1/24/90

FURTHER:

DATE TURNED INTO OFFICE: 4/24/90

The Finance Committee considered

SB 326

grants for community health planning; edf.

and recommended:

replace with \_\_\_\_\_ CS SB 326(Fix)  
 or adopt \_\_\_\_\_ CS \_\_\_\_\_  
 attached amendment(s)  
 \_\_\_\_\_ letter of intent adopted

same title  
 new title  
 technical  
title change  
(HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):

fiscal note(s) \_\_\_\_\_ Dept/Date:  
SFC/DHASS #187.1 4/24/90

zero fiscal note(s) \_\_\_\_\_

appropriation-no fiscal note

SIGNING DO PASS:

Jim Duncan  
Peace  
D. Grife

APPROVES PREVIOUS:

fiscal note(s) \_\_\_\_\_ Dept/Date:

zero fiscal note(s) \_\_\_\_\_

OTHER RECOMMENDATIONS:

1. John P. ... DO PASS

2. Paul ... (DO PASS)

Co-Chairs: Signatures and Recommendations

1410 JFC- 11-9-190

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 326 (Fin)  
PUBLISH DATE: \_\_\_\_\_

**FISCAL NOTE**

Corrected Note

**REQUEST:**

Revision Date: April 26, 1990  
Title: Grants for community health planning  
Sponsor: Senator Jones  
Requestor: Senate Finance

Agency Affected: Health & Social Services  
BRU: Administrative Services  
Components: Planning

**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	37.1	26.0	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	150.0	150.0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>187.1</b>	<b>176.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	187.1	176.0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>187.1</b>	<b>176.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**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)

Prepared by: Senator Rick Uehling, Co-chairman  
Division: Senate Finance Committee

Phone: 465-4821  
Date: April 26, 1990

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

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

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

6-1376D ✓  
Lauterbach  
4/24/99

*Adopted  
as amended*

Original sponsor(s): SEN. JONES

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 326 (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 grants for health planning; and  
7 providing for an effective date."

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

9 \* Section 1. LEGISLATIVE INTENT. (a) The purpose of the grant program  
10 established under this Act is to encourage community and regional planning  
11 for health services and to promote coordinated planning in those instances  
12 where communities or regions may share resources. Grant funding will be  
13 available to purchase professional expertise in completing needs assess-  
14 ments, market surveys, management and financial studies, and other communi-  
15 ty and regional analyses that will assist community and regional health  
16 leaders to develop planning strategies for improved health services.

17 (b) ~~Although there will be only one grant for each community and~~  
18 ~~region,~~ the department is encouraged to assist communities and regions to  
19 engage in cooperative planning. Cooperative planning among communities and  
20 regions will allow efficient use of consultant services purchased with  
21 grant funds, avoid unnecessary duplication of health services that could be  
22 shared by communities and regions, and provide increased accessibility and  
23 affordability of health care services.

24 (c) To the extent that it is reasonable, the format for community or  
25 regional health planning supported by the grants made under this Act should  
26 be consistent among grantees so that the community and regional health  
27 service data and other information will be useful for statewide health  
28 planning purposes.

29 \* Sec. 2. GRANT PROGRAM FOR HEALTH PLANNING. (a) The Department of

020458

1 Health and Social Services shall establish a grant program under which up  
2 to 12 municipalities, nonprofit entities serving Native service areas, or  
3 rural government entities providing health care services in a health ser-  
4 vice area may be awarded one grant each of up to \$50,000 and provided  
5 technical assistance to help the municipality, nonprofit entity, or rural  
6 governmental entity to

7 (1) establish or designate a community or rural health service  
8 area health care review board;

9 (2) conduct a comprehensive analysis of the local health care  
10 delivery system, which may include health care delivery in areas not within  
11 the boundaries of a municipality;

12 (3) develop an areawide or municipal health services planning  
13 process; and

14 (4) define a strategy for implementation of the health services  
15 plan developed by the municipality, nonprofit entity, or rural governmental  
16 entity;

17 (5) review coordination and cooperation of community, regional,  
18 state, and federal health care services and programs;

19 (6) evaluate effectiveness of public health, mental health,  
20 suicide prevention, drug and alcohol, and preventive health care programs;

21 (7) review cooperation, efficiency, and adequacy of public and  
22 private health care providers;

23 (8) review adequacy of health care facilities;

24 (9) make an accurate estimate, for the grantee's area, of the  
25 number of persons who are unable to receive necessary health care services,  
26 the number of patients who are generating unpaid medical bills, the number  
27 of residents who are uninsured or lack adequate health care insurance,  
28 which health care providers are providing uncompensated care, who is paying  
29 for the cost of uncompensated care, and the total cost of uncompensated

02059

1 care;

2 (10) participate and coordinate information gathered with appro-  
3 priate federal and state committees or agencies;

4 (11) recommend to the community or regional health care board,  
5 the Department of Health and Social Services, appropriate committees of the  
6 Alaska State Legislature, and appropriate federal agencies ways to coordi-  
7 nate and maximize the delivery and health care services.

8 (b) The department, in consultation with the Health Association of  
9 Alaska, the Alaska State Medical Association, the Alaska Native Health  
10 Board, the Department of Community and Regional Affairs, and the University  
11 of Alaska, shall develop guidelines for implementing the grant program,  
12 including application procedures and the terms and conditions under which  
13 grants will be awarded. The department may not award a grant to a munici-  
14 pality or rural governmental entity that does not have a

15 (1) method of ensuring broad community participation in the  
16 development and implementation of the health service plan; and

17 (2) demonstrated commitment to the development and implemen-  
18 tation of the health services plan through an agreement to provide cash and  
19 in-kind contributions to the planning process during the term of the grant  
20 totaling in value an amount that equals or exceeds 33 percent of total  
21 grant funds received during the term of the grant.

22 (c) The department shall, upon submission of appropriate applica-  
23 tions, award ~~six~~ grants under this section in state fiscal year 1991 and  
24 ~~six~~ in state fiscal year 1992. *One half of the* ~~Three of the six~~ grants in each year shall  
25 be awarded to grantees who serve rural areas with special needs, as defined  
26 by the department.

27 ~~(d) A community or rural government entity within a Native service~~  
28 ~~area is not eligible for a grant under this section if a grant under this~~  
29 ~~section has been awarded to a nonprofit entity serving the Native health~~

1 ~~service area. A nonprofit entity serving a Native health service area is~~  
2 ~~not eligible for a grant under this section if a grant under this section~~  
3 ~~has been awarded to a community or rural government entity within the~~  
4 ~~Native service area.~~

5 (e) The department may contract for technical services necessary for  
6 implementing this grant program.

7 (f) The department shall make available to grantees a list of re-  
8 sources available to provide consultation services on health planning.

9 (g) In this section

10 (1) "department" means the Department of Health and Social  
11 Services;

12 (2) "nonprofit entity serving a Native service area" means a  
13 nonprofit entity established by a Native regional corporation organized  
14 under 43 U.S.C. 1601 - 1628 to conduct health care programs under contracts  
15 with the federal government under P.L. 93-638 (Indian Self-determination  
16 and Education Assistance Act).

17 \* Sec. 3. This Act is repealed July 1, 1992.

18 \* Sec. 4. This Act takes effect July 1, 1990.

# health association of alaska

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790  
FAX (907) 463-3573

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

Chairman of the Board  
C. Keith Campbell  
Seward General Hospital

Chairman-Elect  
Ed Malowski  
Sitka Community Hospital

Immediate Past Chairman  
Jim Gingerich  
Fairbanks Memorial  
Hospital

Secretary/Treasurer  
Slater Dona Taylor  
Providenc Hospital  
Anchorage

Delegate to the American  
Hospital Association  
Charles Stokes  
Humana Hospital-Alaska  
Anchorage

Alternate Delegate to the  
American Hospital Assoc.  
Ed Zelne  
Cordova Community  
Hospital

Delegate to the American  
Health Care Association  
Tom Boling  
Our Lady of Compassion  
Care Center  
Anchorage

Alternate Delegate to the  
American Health Care  
Mark Bertirud  
Denali Center  
Fairbanks

Delegate to the Healthcare  
Forum  
John Vowell  
Wrangell General Hospital

Delegate to Congress of  
Hospital Trustees  
Jan Trettner  
Seward General Hospital

Government Institutions  
Representative  
Frank Sutton  
Mt. Edgecumbe Hospital  
Sitka

Outpatient Facilities  
Representative  
John J. Conway  
Veterans Administration  
Anchorage

President/CEO  
Harlan R. Knudson

## SB 326

### GRANTS - COMMUNITY HEALTH PLANNING

Purpose of SB 326 is to provide the opportunity for communities throughout Alaska to measure the effectiveness of their health care system. Five \$60,000 planning grants are authorized for 1990 and five for 1991.

The overall goal for this legislation is for communities or regions within Alaska to design a health care system that best meets the needs of the individuals within that community or region.

Questions to be answered by the studies funded by the grants authorized by the bill include:

- health care dollars currently generated by the community and where those health care dollars are being spent
- adequacy of current health care facilities
- need for additional health personnel
- evaluation of current hospital and community strategic plan and/or mission
- review of cooperation and coordination between health care programs and providers
- effectiveness of health facility fiscal management
- evaluate community health programs such as drug and alcohol abuse, mental health, public health and others
- public satisfaction with access, quality and cost of current community health programs and services
- study of health care needs

For more information contact:

Harlan Knudson  
Health Association of Alaska  
586-1790

\* \* \*

SFC 2/1/90

# ALASKA STATE LEGISLATURE

*While in Ketchikan*  
352 Front Street  
Ketchikan, AK 99901  
907-225-9675



*While in Juneau*  
P.O. Box V  
Juneau, AK 99811  
907-465-3743

**Senator Lloyd Jones**

January 23, 1990

## MEMORANDUM

To: Senator Rick Uehling, Co-Chair  
Senate Finance Committee  
Senator John Binkley, Co-Chair  
Senate Finance Committee

From: Senator Lloyd Jones

Subj: CSSB 326 HESS - Community Health Planning Grants

RECEIVED JAN 25 1990

I am requesting a hearing on CSSB 326 (HESS) by the Senate Finance Committee as soon as your calendar allows. The bill sets up one time only grants in the amount of \$60,000 each for ten communities. Five grants are to be distributed in FY91 and FY92. Each community or government entity can apply for only one grant in either year. The fiscal note also shows the cost of hiring a grants administrator with half-time salary and benefits.

Attached for your perusal are:

- a copy of CSSB 326 HESS
- a fiscal note from DHSS
- a sample budget which outlines the projected grant cost
- a position paper entitled "SB 326 - Grants for Community Health Planning" which explains the bill and the proposed program
- a report written by Dr. Bruce Amundson which outlines the Seward project, the model upon which this program is based

The attached information should give you a good overview of the bill. If you have any questions regarding the bill, please call Glenda Carino of my staff at 465-3743.

LJ:gmc  
Attachments

**ALASKA COMMUNITY HEALTH SERVICES DEVELOPMENT  
PROGRAM COSTS**

1) **Community Analysis Phase**

a) Market Survey	\$ 9,000
b) Needs Assessment	1,500
c) Hospital Financial Analysis	4,000
d) Hospital Management Analysis	4,000

2) **Planning Phase**

a) Strategic Planning Consultant	8,000
b) Other Consultants (i.e. conflict resolution, physician groups of individuals)	3,000

3) **Implementation Phase**

a) Technical Assistance (management, governance, marketing, recruitment, etc.)	6,000
b) Development of Community Insurance Plan (PPO)	12,000

4) **Travel**

<u>Activity</u>	<u># Trips</u>	<u>Avg. Cost Per Trip</u>	<u>Total</u>
Market Survey	2	\$ 350	\$ 700
Needs Assessment	1	350	350
Financial Analysis	1	350	350
Management Analysis	1	350	350
Presentations to Community Members	2	350	700
Strategic Planning	6	350	2,100
Other Consultants	3	350	1,050
Implementation (General)	9	350	3,150
PPO Development	5	350	<u>1,750</u>
			<b>\$10,500</b>

## 5) Other Costs

a)	Per Diem (40 days)	4,000
b)	Car Rental/Mileage	2,000
c)	Core (Central Staff):	
	Project Director	\$ 55,000
	Field Coordinator	40,000
	Secretary	<u>30,000</u>
		\$ 125,000 - 11 = \$11,360
d)	Phone, Insurance, Supplies, Misc.	3,500

[Alaska -- \$ 58,860  
Community -- 20,000]

Total Cost of Project (11 Communities)	867,460
Community Contribution (\$20,000 Each)	220,000
Alaska Appropriation	<del>547,460</del> 647,460

Revised  
4-11-89

## **SB 326 - Grants for Community Health Planning**

### **Introduction**

Through the work of the Governor's Interim Commission on Health Care, certain principles were developed and commended to the Governor and legislature to guide the development of health policy. One principal focused on ensuring access to basic health care services for all Alaskans. Another principal emphasized community responsibility for health care and health promotion.

Senate bill 326 focuses directly on both community responsibility and ensured access for rural Alaskans. The bill makes it possible for communities to set up a community health services plan.

### **Background**

Changes in the cost of health services, in reimbursement policies for public and private purchasers, in the economic and demographic conditions in rural areas, in the availability of health care providers, and other trends, threaten the availability of health care services in many rural communities.

In addition, many factors inhibit necessary changes in the delivery of health services to rural areas, including inappropriate and outdated regulatory laws, aging and inefficient health care facilities, the absence of local planning and coordination of rural health services, the lack of community understanding of the costs and benefits of supporting rural hospitals and providers, the lack of state or regional assistance to assure access to care that cannot be provided in every community, and lack of clarity of state health policy objectives.

### **The Program**

This program is designed to utilize a method for strengthening health services in Alaska by working directly with communities. The model program, developed by the University of Washington School of Medicine Rural Health Office, includes four phases:

**Community selection:** Any community desiring to participate in this program may initiate a request to the administrator of the program, designated by the State.

**Community analysis:** A thorough and intensive study will be made of the health services system in each participating community. This will include a management and financial study of the community hospital and/or nursing home; a market survey; a needs assessment; and other community analysis that may be deemed important.

**Strategic planning:** A strategic plan will be developed for the community, involving all elements of the health services delivery system.

**Implementation of the plan:** Problems identified in the planning process and changes in service configuration will be implemented.

Each community will develop its own spectrum of health services. In addition, the administrator of the program will develop a list of appropriate resources and consultants to assist each community. It will be the community's responsibility to involve all major health care providers, business leaders, public officials and other community leaders, to develop the project design, oversee and implement the program. Communities will also participate in the financial support of the program.

### **Appropriation**

In this act, the state of Alaska will appropriate \$337,100 in FY91 to support the program in 5 communities, \$326,000 in FY92 to support 5 more communities. Participating communities will be granted up to \$60,000 each. Other costs include funding a half-time grant administrator, advertising of the RFP, printing and technical assistance work sessions. Communities will be expected to contribute 33-percent of the total grant appropriation in cash or in-kind contributions.

### **Administration**

The Department of Health and Social Services shall establish the Alaska Rural Health Systems Project. The Department may contract with a third party to carry out the implementation of the legislation where this makes most effective use of available expertise, avoids duplication of efforts and promotes economy of resources.

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December 1989  
Bruce Amundson, M.D.  
Associate Director  
Community Health Systems

The Community Health Services Development (CHSD) strategy for assisting rural communities is a product of the University of Washington Rural Hospital Project (RHP). This four-year demonstration project was designed to develop approaches to stabilize and improve health services in a sample of six rural communities in the states of Washington, Alaska, Montana and Idaho (WAMI). The RHP emerged out of a recognition that the stability of rural health systems in the WAMI states was being threatened and one symptom was the increasingly tenuous status of rural hospitals that exist in the majority of rural communities in the four-state region. The basic premise of the RHP was that the hospital could be used as a point of entry into the community, a way to engage community leadership in a fundamental attack on the issues threatening health services in that rural community.

Although the community hospital is often the focal point for community agreement ("contract") to work with University of Washington/AHEC staff, the CHSD strategy includes strengthening all elements of the community health care system. The Community Health Services Development cycle has been completed in all six initial communities, and a formal evaluation of outcomes is currently underway. The CHSD

approach has been used in an additional 14 communities in the WAMI region.

Seward, Alaska was one of the original six RHP communities. A discussion of why Seward applied to participate, the issues the community was facing and a review of its accomplishments can serve to demonstrate the potential for this community-oriented approach.

Why Seward applied as a Rural Hospital Project Demonstration Community:

All participating communities were rural with hospitals under 50 beds. The hospital had to be experiencing financial distress in order to be selected.

In 1984, at the time communities were polled for their interest in partnering with the University of Washington School of Medicine, Seward faced the following problems:

- The small population base in Seward created severe limits on the range of health services and financial resources available to support those services; in addition, there was substantial out-migration by the service area population for hospital, physician, dental and other health services.

- The hospitals long-term financial viability was a major concern. The loss from operations for FY's 1982 and 1983 totalled \$650,000.
  
- The hospital facility had significant structural deficiencies in building, equipment and safety, with no capital reserve to modernize.
  
- Physician recruitment and retention had been a problem for many years. The number of physicians the small population could support was so small that physician stress and burnout was a recurring problem.
  
- The hospital board of trustees had not conducted a strategic planning process and was generally feeling overwhelmed by the responsibilities for stabilizing hospital and health services for the community.
  
- Public satisfaction surveys of health care in the community revealed major problems with confidence and quality. This clearly contributed to patient out-flow to other communities for services.
  
- A lack of cooperation and coordination among the

major health care providers in the community was noted.

- Various hospital financial practices and policies and practices are inadequate, including a very high accounts receivable.
- There was a high level of dissatisfaction with pharmacy services in the community.
- There was substantial dissatisfaction with alcoholism and mental health services, with massive out-migration to Anchorage for these services.
- The scope of medical services provided at the hospital was smaller than many hospitals of similar size. No surgery was being performed at that time, and a large portion of obstetrical patients were leaving the community for care.

In summary, approximately 40 significant problems, including those listed above, were documented by the Rural Hospital Project team when health services in Seward were analyzed carefully. Not surprisingly, the small cadre of health care leaders in the community was experiencing immense

frustration and was feeling overwhelmed by the problems they faced as they attempted to sustain health services for community residents.

The University of Washington team recognized that the number and range of problems facing a typical community such as Seward, in today's threatening environment, could only be addressed successfully if a more comprehensive strategy was developed. The underlying tenet of the Community Health Services Development strategy is that substantial change in failing rural health services can only be accomplished by mobilizing broad community health leadership and public support for these changes.

Four objectives of the Community Health Services Development strategy are:

1. To design a community health system to meet the individual community's needs.

A major proposition of the CHSD strategy is that the community rural health system should be constructed to meet the needs of the population it serves, including the large segments of rural communities that lack access to basic health care services because of financial, cultural and geographic barriers. In order

to accomplish this objective, we work with the community to determine the health needs of the local population and to develop a mix of services to meet those needs. This often means expanding the range of services available, since they have often atrophied for unnecessary and idiosyncratic reasons.

2. To improve the financial stability of local health institutions.

A major intervention is to provide thorough financial and managerial review of rural hospitals, nursing homes and clinics, and make specific recommendations on how to improve financial management and general administrative leadership.

3. To increase community utilization of and satisfaction with local health services.

A common problem in many rural communities is that the population is ambivalent about the quality of services provided locally. Local services are often perceived as unavailable or inferior, and a substantial portion of the population seeks health care outside the local area. This has the perverse effect of becoming a self-fulfilling prophecy when a shrinking market share and

falling utilization undermine the ability of health care personnel and institutions to sustain services that are in place.

4. To enhance local community leadership and effectiveness.

A common denominator in many rural communities is inadequate or dysfunctional community leadership. Too often communities have no mechanism for identifying, energizing and engaging local health and community leaders an effort to improve local health care capacity and quality. Rural hospital boards are often weak, and unaware of their need to serve as a conduit for community participation in shaping local health care systems. Many important components of rural communities are uninvolved or disaffected, and communication and teamwork among community leaders, hospital leadership, local physicians and other health providers is often more fractious than functional.

The Community Health Services Development Process:

Once a community agrees to participate in the CHSD process, there are three major phases:

1. Community Analysis:

The issues discussed above regarding Seward were identified through an extensive and careful analysis of the community health services. This analysis includes: a community market survey, mailed to each household in the service area to document satisfaction and utilization by local citizens; an exhaustive analysis of the financial, management, and organizational systems of institutions (hospital, nursing home, etc.); a needs assessment documenting health care strengths and weaknesses from interviewing 30 to 40 leaders in each community; and a demographic profile of each community.

From this thorough and objective study, the primary strengths and problems in the community health care system are clearly identified. This includes not only financial, personnel, and market share problems but also quality, performance, teamwork and leadership issues. In most communities, this is the first time these issues have been both comprehensively and honestly documented and described.

2. Hospital and community-wide health services planning:  
The above information becomes the raw material for a strategic planning process which usually involves both the

hospital (first) and the entire spectrum of community health services. This planning process necessitates broad community participation. The plan should reflect the optimal menu of health services that the community needs, and the steps to address the problems that have been identified.

It is instructive here to illustrate some of the major goals that were part of Seward's initial strategic plan.

They included:

- To achieve a financial position for the community hospital that will insure long-term stability and enable the hospital to meet the challenges of a dynamic health care environment.
- To maintain and improve the market position of Seward General Hospital throughout the east Kenai peninsula.
- To demonstrate leadership, through the hospital trustees and administration, to provide, integrate, and coordinate human services in the east Kenai peninsula.
- To maintain an environment in which individual

employees and others associated with Seward General Hospital can achieve maximum equality.

- To develop maximum integration and collaboration among the major health care providers in the community including the physicians, hospital, nursing home and mental health services.
  
- To develop a community health insurance plan to retain maximum health care dollars and patient services within the community.
  
- To improve the quality of pharmacy and mental health services.

These goals included many sub-tasks to effectively address the problems outlined earlier in this document.

### 3. Implementation:

Every effort is made by health care and community leaders, in collaboration with University of Washington/AHEC staff, to aggressively implement the changes reflected in the strategic plan. This requires clear delineation of responsibilities, diffusion of responsibility to a wider range of community participants and leaders, clearly

delineated timelines, and commitment to an ongoing planning cycle each year for both the hospital and other community health services.

Major outcomes of the CHSD strategy:

A rigorous two-year evaluation of the six initial communities, including Seward, is currently underway. This evaluation involves repeating most parts of the community analysis. Quantitative information regarding changes in market share, public satisfaction levels, etc. is not yet available.

However, in hospital financial status, a number of changes have already been documented as a result of the CHSD model. The more important outcomes include:

1. A commitment by hospital board and administration, as well as all community providers, to a rigorous, goal-oriented, problem-solving strategic planning process, to be re-examined annually. This is a major accomplishment for hospitals and communities that have never before accepted the need to plan in order to insure efficient use of scarce resources and to direct aggressive attention to threats and problems.

2. An improvement in the financial "bottom line" for Seward General Hospital.
3. The development of a community problem-solving organization, the "expanded core group", which includes representation from every element of health and human services in Seward. This group has developed more effective problem-solving approaches by providers in the community, improved teamwork, and is insuring better cooperation among the health care providers.
4. Hospital governance (by board and administration) is markedly improved. Changes have included a commitment by the board to a planning process, dramatically increased board confidence and competence, a board recruitment and development program, streamlined decision making and meetings, annual planning retreats, and the enlistment of new community members for specific expertise. As in other communities, this has been one of the most dramatic outcomes of enhanced community health leadership.
5. A hospital marketing plan has been developed to aggressively address the reasons many residents were leaving the community for health services. Prenatal and obstetrical services have been expanded, anesthesia

coverage has been improved and limited surgical services are now provided at the hospital. The image of the community hospital has improved through attention to the buildings, equipment, and their appearance. Programs to improve the interpersonal skills, personal appearance, sensitivity, and nurturing attitudes of personnel have been carried out. The importance of these efforts cannot be overemphasized when the reasons for citizen out-migration are understood.

6. New community technology including ultrasound and fetal monitoring equipment has been purchased.
7. A new hospital management information system has been instituted, and numerous management and financial systems changes have been implemented.
8. A more coordinated and functional physician recruitment strategy has been developed by the community, with excellent cooperation between the medical staff and the hospital.
9. An expanded range of physician specialists is now coming to the community to provide services locally.

10. Improved cooperation between the hospital and nursing home has been achieved, and an effective nursing home administrator recruited.
  
11. The community is exploring the development of a community health insurance plan to maximize the use of local dollars and develop incentives for local utilization of health services.

The above accomplishments are impressive. They represent constructive changes across the entire spectrum of community health services, and they also reflect a rate of change that certainly exceeds that which existed before the CHSD strategy was implemented.

In summary, general outcomes from the CHSD strategy in all participating communities include the following:

- a. A systematic, comprehensive approach to strengthening health care which includes system-wide planning, change on multiple fronts, more openness to outside facilitation and assistance, and greater peer group accountability.
  
- b. Improved system performance including enhanced community and health care leadership, improved teamwork, improved morale and optimism, and an

expansion of the scope of health services available locally.

- c. A structure for the future which insures continuing planning and problem-solving, a future-oriented attitude, and a willingness to continue to use outside resources to augment community skills and leadership.

In summary, Seward's experience has mirrored our experience in approximately 20 communities to date. Although some health care problems in rural communities will continue to be vexing due to the small population size and limited resources, the overall perspective of the CHSD strategy is that only with a community-driven approach involving broad health care and community leadership can many communities hope to sustain, let alone expand, the health services available to their residents. We believe at this time, even without the data from the Rural Hospital Project evaluation, that this process is far more effective than the crisis oriented, fragmented responses that many rural communities have historically utilized.

The partnering of community leaders with outside facilitators and consultants has proved to be a powerful team to address the complex issues facing rural communities. At a very modest cost per community (considering the overall

expenditure of health care dollars annually in a community), we believe that our experience with the CHSD strategy has shown that rural communities themselves are the most effective resources to stabilize their health services, rather than rely primarily on external saviors and solutions.

1219ch.doc

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: "An Act Relating to Grants for  
Community Health Planning."  
Sponsor: Senator Jones  
Requestor: \_\_\_\_\_

Agency Affected: University of Alaska  
BRU: All  
Components: \_\_\_\_\_

**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						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

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

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

This bill is not expected to significantly impact the fiscal operation of the university.

Prepared by: Marsha Hubbard Phone: 474-7593  
Division: Statewide Budget Date: 3/22/90

Approved by Commissioner: Brian Rogers Date: 3/22/90  
Agency: University of Alaska

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

# FISCAL NOTE

**REQUEST:**

Revision Date: May 6, 1989 Agency Affected: Health & Soc. Svcs.  
 Title: An Act relating to grants for BRU: Administrative Services  
community health planning  
 Sponsor: Senator Jones Components: Planning  
 Requestor: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY90	FY91	FY92	FY93	FY94	FY95
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	37.1	26.0	-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-	<del>100.0</del>	<del>100.0</del>	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	337.1	326.0	-0-	-0-	-0-
		150.0	150.0			
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	337.1	326.0	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	337.1	326.0	-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 analysis.

*4-24-90*

*Cuts grants and claims in half.*

Prepared by: Dave W. Williams  
 Division: Administrative Services, DHSS

Phone: 465-3015  
 Date: 1-4-90

Approved by Commissioner: *Mike M. Thurman*  
 Agency: Dept. of Health & Social Services

Date: 1-9-90

Distribution (by preparer):

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

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FISCAL NOTE Analysis (continued)

Senate Bill No. 326a  
5/6/89

BY JONES

"An Act relating to grants for community health planning; and providing for an effective date."

Contractual funding is based upon the following assumptions:

PURPOSE	FY 1991	FY 1992
Grant administrator	\$21,000	\$21,000
Advertising of RFP	600	
Printing	500	
Technical assistance work sessions	15,000	5,000
	<u>37,100</u>	<u>26,000</u>

It is estimated that a half-time grant administrator will be needed to organize and administer the grant program. Funding for this purpose is shown in the contractual line to facilitate a reimbursable services agreement for use of an existing position if such an arrangement proves feasible and efficient. Two year funding of the half-time position reflects the spread of grants over two fiscal years.

Advertizing cost is for notices in major newspapers and by mail.

Printing costs are estimated for publishing a Request for Proposal and for application forms.

Technical assistance work sessions would be held in 5 regional locations to assist with initial application completion. Additional on-site assistance, grant administration, monitoring and evaluation would occur as funding allows.

Grant funding assumes five communities funded in FY 91 at \$60,000 per community and five communities funded in FY 92 at \$60,000 per community.

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# HOUSE COMMITTEE REPORT

FILE

(11)

Date Referred: April 30, 1990

FURTHER REFERRALS:

Date of Committee Action: 5/4/90

The FINANCE Committee considered:

CSSB 326(FINANCE)

CS SB NO. 326 (Fin)

GRANTS FOR COMMUNITY HEALTH PLANNING

"An Act relating to grants for health planning; and providing for an effective date."

**RECOMMENDATIONS:**

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

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [ ] fiscal impact: \_\_\_\_\_
- [ ] zero fiscal note \_\_\_\_\_
- [ ] zero with analysis \_\_\_\_\_

- [X] fiscal note(s) 4/26/90/SEU.FIN.COMTE
- [ ] zero fiscal note(s) \_\_\_\_\_
- [ ] zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING:**

(Check approv. column)

Do Not Pass    No Rec    Amend

Hoffman	Larson			
Swackhammer	Barnes		X	
Brown	Phillips		X	
Koponen	Rieger		✓	

Larson  
 Chairman's Signature Hoffman

**FISCAL NOTE**

Corrected Note

**REQUEST:**

Revision Date: April 26, 1990  
Title: Grants for community health planning  
Sponsor: Senator Jones  
Requestor: Senate Finance

Agency Affected: Health & Social Service:  
BRU: Administrative Services  
Components: Planning

**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	37.1	26.0	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	150.0	150.0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>187.1</b>	<b>176.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	187.1	176.0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>187.1</b>	<b>176.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**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)

Prepared by: Senator Rick Uehling, Co-chairman  
Division: Senate Finance Committee

Phone: 465-4821  
Date: April 26, 1990

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

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

**Distribution (by preparer):**

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

page \_\_\_\_\_ of \_\_\_\_\_

FISCAL NOTE ANALYSIS (continued)

CSSB 326 (FIN)  
5/6/89

BY JONES

"An Act relating to grants for community health planning; and providing for an effective date."

Contractual funding is based upon the following assumptions:

PURPOSE	FY 1991	FY 1992
Grant administrator	\$21,000	\$21,000
Advertising of RFP	600	
Printing	500	
Technical assistance work sessions	15,000	5,000
	<u>37,100</u>	<u>26,000</u>

It is estimated that a half-time grant administrator will be needed to organize and administer the grant program. Funding for this purpose is shown in the contractual line to facilitate a reimbursable services agreement for use of an existing position if such an arrangement proves feasible and efficient. Two year funding of the half-time position reflects the spread of grants over two fiscal years.

Advertisizing cost is for notices in major newspapers and by mail.

Printing costs are estimated for publishing a Request for Proposal and for application forms.

Technical assistance work sessions would be held in 5 regional locations to assist with initial application completion. Additional on-site assistance, grant administration, monitoring and evaluation would occur as funding allows.

Grant funding assumes a maximum grant amount of \$50,000 for each grantee in FY 91 and a maximum grant amount of \$50,000 for each grantee in FY 92. The sum of all grant funding would be limited to \$150,000 each fiscal year. The total number of grants would be limited to up to twelve.

Original sponsor(s): SEN. JONES

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 326 (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 grants for health planning; and  
7 providing for an effective date."

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

9 \* Section 1. LEGISLATIVE INTENT. (a) The purpose of the grant program  
10 established under this Act is to encourage community and regional planning  
11 for health services and to promote coordinated planning in those instances  
12 where communities or regions may share resources. Grant funding will be  
13 available to purchase professional expertise in completing needs assess-  
14 ments, market surveys, management and financial studies, and other communi-  
15 ty and regional analyses that will assist community and regional health  
16 leaders to develop planning strategies for improved health services.

17 (b) The department is encouraged to assist communities and regions to  
18 engage in cooperative planning. Cooperative planning among communities and  
19 regions will allow efficient use of consultant services purchased with  
20 grant funds, avoid unnecessary duplication of health services that could be  
21 shared by communities and regions, and provide increased accessibility and  
22 affordability of health care services.

23 (c) To the extent that it is reasonable, the format for community or  
24 regional health planning supported by the grants made under this Act should  
25 be consistent among grantees so that the community and regional health  
26 service data and other information will be useful for statewide health  
27 planning purposes.

28 \* Sec. 2. GRANT PROGRAM FOR HEALTH PLANNING. (a) The Department of  
29 Health and Social Services shall establish a grant program under which up

1 to 12 municipalities, nonprofit entities serving Native service areas, or  
2 rural government entities providing health care services in a health ser-  
3 vice area may be awarded one grant each of up to \$50,000 and provided  
4 technical assistance to help the municipality, nonprofit entity, or rural  
5 governmental entity to

6 (1) establish or designate a community or rural health service  
7 area health care review board;

8 (2) conduct a comprehensive analysis of the local health care  
9 delivery system, which may include health care delivery in areas not within  
10 the boundaries of a municipality;

11 (3) develop an areawide or municipal health services planning  
12 process; and

13 (4) define a strategy for implementation of the health services  
14 plan developed by the municipality, nonprofit entity, or rural governmental  
15 entity;

16 (5) review coordination and cooperation of community, regional,  
17 state, and federal health care services and programs;

18 (6) evaluate effectiveness of public health, mental health,  
19 suicide prevention, drug and alcohol, and preventive health care programs;

20 (7) review cooperation, efficiency, and adequacy of public and  
21 private health care providers;

22 (8) review adequacy of health care facilities;

23 (9) make an accurate estimate, for the grantee's area, of the  
24 number of persons who are unable to receive necessary health care services,  
25 the number of patients who are generating unpaid medical bills, the number  
26 of residents who are uninsured or lack adequate health care insurance,  
27 which health care providers are providing uncompensated care, who is paying  
28 for the cost of uncompensated care, and the total cost of uncompensated  
29 care;