

ALASKA LEGISLATURE 1218
HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994

FOUNDATION

S U P P L E M E N T

Dear Legislator...

During the last legislative session, the Alaska Legislature passed the Fisheries Landing Tax bill of 1993. The intent was to recover revenues from the off-shore fishing industry for landing fish products near Western Alaska coastal communities. Fifty percent of the tax revenue will accrue to the state General Fund, and approximately 50 percent to the communities where landings will be made, with .3 percent being provided to the Alaska Seafood Marketing Institute for Alaska seafood promotion. A very limited amount will support Community Development Quota (CDQ) programs.

We believe that an important aspect of the relationship between the resources of the Bering Sea, the fisheries industry and the Western Alaska coastal communities has been overlooked.

The American Factory Trawler Association (AFTA) has for the past two years, voluntarily contributed more than \$850,000 through the Foundation to projects in the most economically depressed Western Alaska communities. Projects that provided job training and employment have placed more than 240 persons in seafood processing contracts. These

contracts have led to more than \$3 million in wages to community members and their families. The results of these jobs and the wages have had an immeasurable effect on the social well-being of these community members.

The Foundation also has provided grants and zero-percent interest loans to remote communities in Western Alaska to support economic development. Through our loan program, Nunivak Island Seafoods now has the equipment to transport its processed halibut to market and provide fishing opportunities to the community fishermen. In Kotzebue, the fishermen have formed the Chukchi Sea Fishermen's Cooperative. With a grant from the Foundation, they have operated their own salmon buying station. This project raised the price to the fishermen by \$.20 a pound in one year. More than 200,000 pounds were purchased by the cooperative, which also provided employment to five workers during the season.

In addition, the Foundation was the first institution to provide support funding to communities that were eligible for the Community Development Quota (CDQ) program. Our initial \$30,000 allowed the 53 community representatives to meet to form the

FOUNDATION

S U P P L E M E N T

CDQ community organizations that went on to establish economic development joint ventures with the fishing industry.



The Foundation has supported other projects that allowed fishermen to increase their opportunities to participate in fisheries. The Atka Fishermen's Association members now participate in a pink salmon fishery as a result of an equipment loan made by the Foundation. Savoonga and Gambell fishermen now participate in a halibut fishery as a result of a training grant that the Foundation made.



Finally, the Foundation has worked with numerous communities to strengthen the cooperative relationship between the fishermen who ultimately must work together for their common good. Inuit Fish Marketing, Ltd., was established to bring fishermen from Kotzebue, Unalakleet, Emmonak and Bethel to a common marketing effort of 1 million pounds of chum salmon. Although the group formed and worked cooperatively toward this common sales goal, the disastrous chum salmon runs of this past season allowed a limited success for this project. This effort underscores the continued need for the Foundation, its projects and the financial support of the off-shore fishing industry such as the AFTA members.



We must find ways to support more partnerships between industry, Alaska and the Western Alaskan communities. To do this, we believe that the Fish Landing Tax Bill of 1993 must be amended to include a provision that will provide a tax credit to companies

that contribute to the Bering Sea Commercial Fisheries Development Foundation. These contributions will allow the Foundation to form matching challenge grant partnerships with federal, state, industry, communities and private philanthropic organizations.

The projects that the Foundation then is able to sponsor in Western Alaska will be used to benefit the most economically depressed communities.



The disastrous fishing season this year for the Bering Sea communities should serve to focus our attention. The Foundation believes that industry is willing to assist and has shown this willingness for the past two years. The Governor's proclamation of an economic disaster in the Yukon-Kuskokwim region indicates only the beginning of the problems for these communities. If the Landing Tax Bill is allowed to divert all the fisheries revenues from the economically disadvantaged communities to the state General Fund and the economically sound communities, the off-shore fishing industry with its current economic difficulties, will have no ability to assist the communities that need it the most. We suggest setting aside a portion of the revenues (perhaps 15 percent) for reinvestment into economically depressed Western Alaskan communities through the Foundation.



Please consider supporting an amendment to the Fisheries Landing Tax Bill of 1993 in the 1994 legislative session. I have included additional information about the Foundation and the community projects that we have supported. If you have any questions, please feel free to contact us.

gmr

FINANCE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

FURTHER: Finance

DATE: 2/14/94

Date of 5-Day Notice: 3.17.94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3.28.94

Resources Committee considered SB 311

Authorizir SB 311 CREDIT TO FISHERY RESOURCE LANDING TAX contributions made by taxpayers ... quota and for contributions based on fishery resources not harvested under a quota made by taxpayers harvesting fisheries resources under a community development quota, amending the manner of calculating the amount available for revenue sharing by operation of this credit, and expediting agency review of the credit applications under that tax; efd. and recommends:

replace with _____ CS _____ and report it back as follows _____ ()

same title
 new title
 technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

[Handwritten signature]

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
Dept. Rev.	3.22.94	0	✓

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

② Donnell Frank

① Inexp. Finance No Rec
① P. J. Gandy No Rec

① Mike Miller No Rec

Chair: Signature and Recommendation

SB

312

HFIN

FILE



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement

Senate Bill No. 312 was introduced by the Senate Finance Committee and passed the Senate as CS SB 312 (HESS) Am.

Under current law, the Department of Education must accept or reject a school construction project *in toto*; a project can only be rejected if found to be "not in the best interests of the state", an undefined standard that could easily lead to litigation if used by the department. SB 312 would allow DOE to modify or revise the scope of submitted projects to assure that schools are adequately sized for the community to be served. In addition, SB 312 would allow DOE to require that school construction projects be phased, an approach which has worked extremely well for other grant programs such as village safe water. A phased-in approach will allow DOE an opportunity to review projects through their development and make adjustments as needed.

An all-or-nothing approach to approval of school construction projects is not effective either for school districts or for the department, and this bill seeks to remedy the situation.

The HESS version included a provision that school construction projects be phased.

Two amendments were added on the floor. The Department of Education and I supported both.

Amendment 1 allowed a school term to begin and end on dates fixed by the governing body of a school district as long as the term equivalent is not less than 180 days. This allows the accommodation of situations such as Russian Orthodox holidays in certain schools on the Kenai Peninsula.

Amendment 2 concerns a pilot project for special education services. The number of students identified for special education is increasing each year. Currently school districts must identify and count students (AS 14.07.045) to receive special education funding. This amendment allows the Commissioner of Education to authorize a pilot project in four school districts for a period not to exceed three years that will not cost the state additional revenue.

(11)

Date Referred: April 20, 1994

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Date of Committee Action: 4/28/94

The FINANCE Committee considered:

CSSB 312(HES) am

CS FOR SENATE BILL NO. 312(HES) am

SCHOOL CONSTRUCTION GRANT REVIEW

"An Act relating to the school term, school construction grants and to interscholastic school activities; relating to a pilot project for state aid for special education; and providing for an effective date."

RECOMMENDATIONS:
be replaced with H CS CSSB 312 (Fin) [X] the same title [] a new title

[] have attached amendments(s)

[] do pass

[] do not pass

[] no recommendations

[X] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal impact _____

[] fiscal note(s) _____ 4/20/94

[] zero fiscal note _____

[X] zero fiscal note(s) (2) DOF 3/18/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
EP Macheen Macheen	✓				
Ronald J. LARSON	X				
NAVARRE	✓	Mark Hanley Hanley		X	
Kay Brown Brown	✓	Terry Martin Martin			X
		Sean Parnell Parnell		X	
		Ben Gussendorf Gussendorf		X	
		Guy Theriault Theriault			

Ronald J. LARSON EP Macheen
CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 1
 Bill Version: SB 312
 (S) Publish Date: 3-18-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION
 Revision Date: March 14, 1994
 Title: "An Act relating to school construction grants; and providing for an effective date."
 Sponsor: Senate Finance Committee
 Requester: Senate Finance Committee

Department Affected: Education
 BRU: School Finance
 Component: Educational Facilities Support

COMPONENT SERIAL NO. 1957

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME				
PART-TIME				
TEMPORARY				

Changes in CS SB 312 (HES) have no fiscal impact. This fiscal note is appropriate.
3/16/94 kah
 date Comte Aide (initial)

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary.) The proposed legislation provides an opportunity for the department to modify a school construction or major maintenance capital improvement project request in order to achieve cost effective construction and provides for phased funding of capital improvement projects.
Please see the attached continuation page for additional detail.

Prepared by: Duane Guiley Phone: 465-8679
 Division: School Finance Date: March 14, 1994

Approved by Commissioner: Jerry Covey Date: March 14, 1994
 Agency: Education

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE (continued): DEPARTMENT OF EDUCATION

Division School Finance Bill Number SB 312

Bill Title "An Act relating to school construction grants; and providing for an effective date."

Sponsor Senate Finance Committee

As proposed, Senate Bill 312 provides an opportunity for the department to modify a school construction or school major maintenance capital improvement project request in order to achieve cost effective construction. Further, the proposed legislation provides for phased funding of a capital improvement project.

In 1993, the eligibility, classification, evaluation and prioritization of public school capital improvement projects changed significantly, due to passage of CSSB 7(FIN) am H. Section 9 of Chapter 78 of the 1993 Session Laws of Alaska established a new Bond Reimbursement and Grant Review Committee (BR&GRC). In addition to other duties, the committee shall develop criteria for construction of schools in the state, including requirements to achieve cost effective construction and establish a form for the grant applications. SB312 matches the recommendations of the BR&GRC.

The committee has forwarded a recommendation to the commissioner which requires a standardized facility evaluation and condition survey to be attached to each 1996 full funding project request. The committee also recommended that applications lacking the detailed architectural and engineering facility condition survey, which documents the deficiencies of the existing facility, should receive no more than a planning grant. These standardized documents will allow the department to objectively assess the feasibility and the merits of phase funding the project. The BR&GRC indicated that a district can not reasonably determine the scope or cost of a project without conducting a detailed analysis of the existing facilities.

This proposed statute will facilitate the implementation of the recommendations of the Bond Reimbursement and Grant Review Committee.

APPROVED:

Director Duane Guiley Division School Finance

Signature  Date March 14, 1994

Commissioner/Deputy _____

Signature  Date 3/15/94

FISCAL NOTE

STATE OF ALASKA

1994 LEGISLATIVE SESSION

Revision Date: 4/15/94
 Title: An Act relating to the school term, school construction grants, interscholastic activities & pilot project for special education.
 Sponsor: Senate Finance Committee
 Requestor: House HESS Committee

Department Affected: Department of Education
 BRU: K - 12 Support
 Component: Foundation Program

COMPONENT SERIAL NO. 141

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	-----	-----	-----	-----	-----	-----

FUNDING:

(Thousands of Dollars)

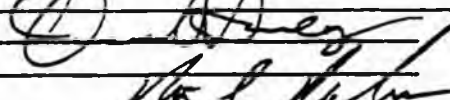
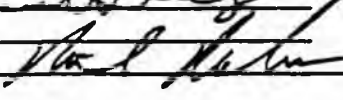
FUNDING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)
 The proposed legislation will not have an additional cost to the state. Section 4, which establishes a pilot project for state aid for special education, may have a savings to the state in the future. Please see the attached page for further detail.

Prepared by: Duane Guiley  Phone: 465-8679
 Division: School Finance Date: April 15, 1994
 Approved by Commissioner: Jerry Covey  Date: April 15, 1994
 Agency: Education

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

COMMITTEE COPY

Fiscal Note Analysis

CSSB 312 (HES)am

"An Act relating to the school term, school construction grants and to interscholastic school activities; relating to a pilot project for state aid for special education; and providing for an effective date."

The Public School Foundation Program provides state aid in support of kindergarten through twelfth grade public education. In addition, the foundation program provides supplementary units for students with special needs. The fastest growing component of the foundation program is special education. From 1988 through 1993, special education units increased an average of 6.6% a year. Typically, special education units increase by about 150% of the increase in K-12 units, but the increase has been as high as 200% of the K-12 unit increase.

Establishing a pilot program which caps the percentage of students identified in certain special education service categories will not cost the state additional money. Based on previous trends, the caps will reduce the eligibility for state aid that otherwise would have been requested by a district. The results of the pilot(s) should establish the value of duplicating the special education service alternative in other districts, providing for an even greater savings.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HCS CSSB 312(HES)

Page 3, line 16, after "resource":

Delete "and"

Insert ","

Adopted

Page 3, line 17 after "contained":

Insert "or intensive"

Page 3, line 31:

Delete "four"

Insert "eight"

Adopted

FISCAL NOTE

STATE OF ALASKA

1994 LEGISLATIVE SESSION

Revision Date: 4/15/94

Department Affected: Department of Education

Title: An Act relating to the school term, school construction grants, interscholastic activities & pilot project for special education.

BRU: K - 12 Support

Sponsor: Senate Finance Committee

Component: Foundation Program

Requestor: House HESS Committee

COMPONENT SERIAL NO. 141

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	-----	-----	-----	-----	-----	-----

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

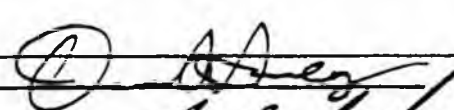
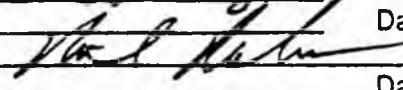
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate or current year (FY94) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

The proposed legislation will not have an additional cost to the state. Section 4, which establishes a pilot project for state aid for special education, may have a savings to the state in the future. Please see the attached page for further detail.

Prepared by: Duane Guiley  Phone: 465-8679
 Division: School Finance Date: April 15, 1994
 Approved by Commissioner: Jerry Covey  Date: April 15, 1994
 Agency: Education

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

COMMITTEE COPY

Fiscal Note Analysis

CSSB 312 (HES)am

"An Act relating to the school term, school construction grants and to interscholastic school activities; relating to a pilot project for state aid for special education; and providing for an effective date."

The Public School Foundation Program provides state aid in support of kindergarten through twelfth grade public education. In addition, the foundation program provides supplementary units for students with special needs. The fastest growing component of the foundation program is special education. From 1988 through 1993, special education units increased an average of 6.6% a year. Typically, special education units increase by about 150% of the increase in K-12 units, but the increase has been as high as 200% of the K-12 unit increase.

Establishing a pilot program which caps the percentage of students identified in certain special education service categories will not cost the state additional money. Based on previous trends, the caps will reduce the eligibility for state aid that otherwise would have been requested by a district. The results of the pilot(s) should establish the value of duplicating the special education service alternative in other districts, providing for an even greater savings.

Opposed to CSSB 312

DENALI BOROUGH SCHOOL DISTRICT

April 18, 1994

Representative Jeannette James
Alaska State Legislature
Alaska State Capitol
Juneau, Alaska 99801-1182

Dear Representative James:

I am all thanks today. I appreciated your taking a few minutes to listen to me on the telephone today on the subject of CSSB 312. I also really appreciate your efforts relating to the passage of HB 505. Thanks for the vote of confidence!

My objections to 312 are with Section 1 relating to DOE oversight of school construction. I believe that this bill would give DOE far more than just oversight responsibility. It appears that they would have the authority to overrule planning efforts that take place on a local level. It also appears that they could require districts to phase a project - not for funding, but for completion of the work. Our architects have indicated that it could make a project such as the one we are planning at Tri-Valley cost as much as \$3 million more than it should. The Tri-Valley project involves significant "major maintenance" items that they could require us to repair with our phase one funds. The only economical way to accomplish this project is to combine the increased space construction with the repairs and remodel work and complete them as part of one project. While I can envision some school district projects that might benefit from such oversight, there is no guarantee that the Department would work in the interests of local communities.

It also appears that DOE bureaucrats would have the authority

P.O. Box 280 • Healy, Alaska • 99743 • (907) 683-2278 • FAX (907) 683-2514

John Novak, Superintendent

DENALI BOROUGH SCHOOL DISTRICT

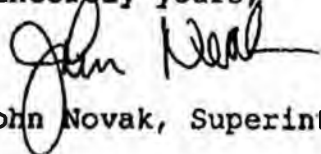
to change the scope of projects before they were even considered at the legislative levels for funding. In our case we spent hundreds of hours and some dollars to assess needs, survey local conditions, trends, desires, etc., and considered approaches to securing funding and other general planning. Do we want DOE to be able to arbitrarily override these efforts? DOE already has in place standards for school planning relating to size, square footage, etc. If our plans fit the guidelines, why should they have the authority to modify them without knowledge of our unique programs, student and staff profiles, etc? Another question I have is how many additional employees will be hired by DOE to do all of the work to make decisions about projects all over the state. Will they start taking even bigger chunks of money from legislative appropriations to school districts in the name of "overhead"?

The Department of Education has given me no reason to believe that they would utilize the authority Section 1 of this bill grants them to make any decisions that would serve our interests. I think this is an example of an action that would (probably inadvertently) expand the size of the department and cause us a great deal more work that has no chance of resulting in better school facilities.

I hope that you will consider my concerns and either work to delete Section 1 of SB 312 or defeat the bill altogether.

Thanks for taking time to consider my concerns.

Sincerely yours,



John Novak, Superintendent

P.O. Box 280 • Healy, Alaska • 99743 • (907) 683-2278 • FAX (907) 683-2514

John Novak, Superintendent

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF EDUCATION

GOLDBELT PLACE
801 WEST 10TH STREET, SUITE 200
JUNEAU, ALASKA 99801-1894

DIVISION OF SCHOOL FINANCE

Transmitted by facsimile April 25, 1994

April 25, 1994

Dr. Brent Rock
Assistant Superintendent of Administrative Services
Anchorage School District
P. O. Box 196614
Anchorage, Alaska 99519

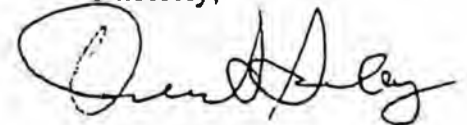
RE: Senate Bill 312, Section 1, School Construction Grants

Dear Dr. Rock:

In consideration of testimony offered by Anchorage School District during a House Health, Education and Social Services Committee hearing on the Committee Substitute for Senate Bill 312, I offer this written response to concerns raised. Section 1, of the proposed legislation, amends department authority during the review of an application for a school construction or major maintenance grant under AS 14.11.013. This section of statute applies only to grants which are funded under title 14. As you are aware, title 14 grants are the result legislative funding of first year requests included in the six year capital improvement plans, submitted by districts each year on September 1. This section of statute does not apply to projects that are funded by bonds, whether reimbursable or not, or legislative discretionary grants. Legislative discretionary grants are normally funded under title 37 as grants to named recipients. The exemption from title 14 applies to discretionary grants even if they are distributed through the Department of Education.

Thank you for providing me the opportunity to respond to the district's concern and for taking the time to discuss those concerns with me. If I can be of further assistance, please call me at 465-8679.

Sincerely,



Duane Guiley
Director

Attachment

cc: Jerry Covey
Commissioner

DEPARTMENT OF EDUCATION

Testimony CS for SB312

Senate Bill 312 is not intended to give the Department of Education unilateral control over the scope or cost of a school district capital project, nor to give the Department unilateral authority to determine which projects should be phase funded. The bill is intended to provide more options to the Department, during the initial review process, than what exists currently in statute. AS14.11.013(c) describes three conditions under which the Department may reject a school capital project request, as follows: (1) incomplete information; (2) a determination that existing facilities can meet the need or that alternative projects are in the best interest of the state; or (3) a determination that the project is not in the best interest of the state. Under current law, a decision by the Department to reject a project may be unilateral and is not subject to appeal under AS14.11.016. A rejected project delays the district a minimum of another year.

Assignment of priority, establishment of project scope and establishment of project budget are all subject to appeal under AS14.11.016. If SB312 passes and if the Department exercises the authority granted by section one in evaluating a capital project budget request, then each of those decisions would be subject to appeal. An appeal provides an opportunity for the district to provide information to the Department and an independent hearing officer in order to overturn the Departments initial consideration.

The Department intends to provide no more than three phases of funding. Planning, design, and construction phases will assist districts in developing accurate cost projections, utilizing state resources. As the department develops more stringent criteria for project applications, the cost of developing a capital project request will increase. Some districts will not have the financial or human resources needed to develop the standardized form. By providing a planning and design grants districts will be able to develop accurate cost estimates for the construction phase of the project they will know where they are going to build, what they are going to build and how they are going to build it.

Under the current system districts must cover the potential cost increases, project contingencies and all other unknowns in their initial project application. At the time of application most districts have no idea where they will build the new building, what the community need or what the cost will be. As a result some projects are short funded while other projects are over funded. Rarely do districts return money to the state. Rather than returning money, districts increase the scope of the project or enhance the project in some way to utilize the total grant amount.

In order to alleviate some of the concern which has been expressed about the potential misuse of Department authority, the Department would suggest deleting lines 9 & 10 on page 1 and inserting :

(2) require that a school construction project be phased for purposes of planning, design and construction.

DEPARTMENT OF EDUCATION

Testimony CS for SB312

Senate Bill 312 is not intended to give the Department of Education unilateral control over the scope or cost of a school district capital project, nor to give the Department unilateral authority to determine which projects should be phase funded. The bill is intended to provide more options to the Department, during the initial review process, than what exists currently in statute. AS14.11.013(c) describes three conditions under which the Department may reject a school capital project request, as follows: (1) incomplete information; (2) a determination that existing facilities can meet the need or that alternative projects are in the best interest of the state; or (3) a determination that the project is not in the best interest of the state. Under current law, a decision by the Department to reject a project may be unilateral and is not subject to appeal under AS14.11.016. A rejected project delays the district a minimum of another year.

Assignment of priority, establishment of project scope and establishment of project budget are all subject to appeal under AS14.11.016. If SB312 passes and if the Department exercises the authority granted by section one in evaluating a capital project budget request, then each of those decisions would be subject to appeal. An appeal provides an opportunity for the district to provide information to the Department and an independent hearing officer in order to overturn the Departments initial consideration.

The Department intends to provide no more than three phases of funding. Planning, design, and construction phases will assist districts in developing accurate cost projections, utilizing state resources. As the department develops more stringent criteria for project applications, the cost of developing a capital project request will increase. Some districts will not have the financial or human resources needed to develop the standardized form. By providing a planning and design grants districts will be able to develop accurate cost estimates for the construction phase of the project they will know where they are going to build, what they are going to build and how they are going to build it.

Under the current system districts must cover the potential cost increases, project contingencies and all other unknowns in their initial project application. At the time of application most districts have no idea where they will build the new building, what the community need or what the cost will be. As a result some projects are short funded while other projects are over funded. Rarely do districts return money to the state. Rather than returning money, districts increase the scope of the project or enhance the project in some way to utilize the total grant amount.

In order to alleviate some of the concern which has been expressed about the potential misuse of Department authority, the Department would suggest deleting lines 9 & 10 on page 1 and inserting :

(2) require that a school construction project be phased for purposes of planning, design and construction.

Bond Reimbursement and Grant Review Committee
Facility Evaluation/Inventory Sub-Committee Report
Wednesday, February 16, 1994

SCHOOL CAPITAL IMPROVEMENT PROGRAM PROPOSAL

Issue: Facility condition survey and provision for school facility inventory

Background: Concerning standards for school construction, prioritization of capital projects and inventory and condition surveys of existing facilities, the Alaska 2000 Facilities Committee recommended the following:

Alaska Department of Education should develop a set of standards to guide school construction. Topics include space (overall size and distribution), quality (materials) and cost, both construction and "soft" costs.

Alaska Department of Education should, Provide annual set aside for major maintenance of \$20-40 million, require adequate preventive maintenance in order to be eligible for state funding, create incentives for good programs and institute an independent assessment program for State funded projects and for preventive maintenance programs.

A statewide educational facility inventory process is required. Inventory efforts should be focused in the areas of most critical need and should increase as funding becomes more likely. Technical and program evaluation should be included. The process should be standardized and state funded.

Based on these recommendations, the Commissioner appointed an eighteen member committee, chaired by Superintendent, Dick Clevenger, to provide a more detailed description of a capital improvement evaluation and ranking process, school construction standards and a state-wide facility inventory. The committee met over the spring and summer of 1993. Included in the list of findings was the following Matrix Sub-Committee recommendation:

The State of Alaska should adopt a matrix model that will be utilized to prioritize school districts capital improvement projects. The matrix model should be similar to the State of Washington's and address both the condition of existing facilities and student populations served. The building condition evaluation forms presented in the CEFPI "School Facility Appraisal Guide" should be used in lieu of the Washington State forms. Both Models will require modification to meet the unique requirements of Alaska.

The results of prior committee work were distributed at the organizational meeting of the Bond Reimbursement and Grant Review Committee (BR&GRC). Copies of the Council of Educational Facility Planners (CEFPI) Comprehensive Facility Evaluation Process and the Washington State Prioritization Model were distributed and discussed at the December 9, 1993, BR&GRC meeting. In order to provide for a detailed review of both processes and prior committee work and for the purpose of making a BR&GRC recommendation, the Chair appointed the four person, Facility Evaluation/Inventory Sub-committee. The sub-committee was charged with developing a recommendation for BR&GRC consideration, related to a state-wide education facility inventory and a facility condition survey process.

The sub-committee obtained a commitment from Michael Roberts, Washington State Director of School Facilities and Organization, to attend the meeting and provide an overview of Washington's experience in developing and implementing its model. The sub-committee met on February 15, 1994 in the Department's second floor conference room of the Goldbelt Building in Juneau, Alaska. The group consisted of the four committee members, Ed Crittenden, staff program consultant, and Michael Roberts. The Educational Facilities Support staff observed.

Mr. Roberts presented an overview of the prior and current school construction evaluation, prioritization and funding processes, as well as a differentiation of the terms "eligibility" and "priority". Many similarities were noted between the prior Washington and the current Alaska programs. However, the current Washington system requires a significantly greater up front share to be provided by the local district through passage of a local bond and a reduced state fund share. All Washington school districts have limited bonding and mill levy authority. Project eligibility is based on a 14 question state study and survey, which includes building condition surveys of all district facilities and a comprehensive six year plan, partially state funded once each six years. Priority is based on a single scoring matrix which classifies projects as 1) growth construction or 2) modernization or new in-lieu/major renovation. The minimum threshold for a modernization or new in-lieu/major renovation project is 40% of current facility replacement cost. The state share is based on a standard gross square foot per student, grouped by grade level, times a standard per square foot construction cost, times a state match ratio, determined by assessed valuation per pupil. State match ranges from a high of 96% to a low of 20% of standard cost. The eligibility and formula establish the state share, while, the priority determines in what order the state will fund. Front funding with local dollars, with subsequent reimbursement through the prioritization process is an option. In each case, the district is the owner, the district manages the project and the district determines space utilization. The state match is tied to specific timelines and is based on "on-site" costs and excludes all "off-site" costs, (ie, access roads, utility hook-ups, traffic signals). The state share is funded with earnings of the School Lands Trust Fund, after the required local dollars are expended.

Recommendation: The State should require a standardized evaluative instrument that considers the educational program suitability and general condition of an existing facility, for the purpose of determining eligibility for state funding. This instrument would be similar to the CEFPI Comprehensive Facility Evaluation, adapted for Alaska. A more technical, standardized facility condition survey should be required in order to evaluate state-wide priority and determine the state share of a specific construction project. The condition survey should be comparable to an amended Washington State form and require surveyor training or experience similar to an architect or engineer.

The facility evaluation and the facility condition survey should be considered in the assignment of priority and be required as an attachment to each fiscal year 1996 construction phase project application. Districts which lack the human or financial resource to prepare the technical facility condition survey should submit the facility evaluation as part of the application package for a FY96 planning grant.

Districts should be required to submit standardized facility evaluations on all existing educational facilities within the district, as a prerequisite to school capital improvement funding in fiscal year 1998. These evaluations will provide the basis for a state-wide educational facility inventory.

The Department should make copies of the standardized documents available to all districts and provide training to interested parties by May 30, 1994, in order to require submittal by September 1, 1994. Districts which have an existing facility evaluation and/or facility condition survey document should be required to "cross walk" the district document to the standardized form.

Response: The Bond Reimbursement and Grant Review Committee adopted this report on February 16, 1993, for the purpose of submitting it as a recommendation to Commissioner Covey and for making a report to the State Board of Education. The Board accepted the report at its regular meeting on February 18, 1994. Subsequent to that meeting, Commissioner Covey accepted the recommendation.

Pilot Project for Special Education Services

Special Education Funding	Special education is funded pursuant to AS 14.17.045, which specifies that exceptional children generate additional instructional units if they receive gifted services (0.025 units), resource services (0.056 units), self-contained services (0.1 units), or intensive services (0.333 units), as those services are defined by regulation.
Problem	<p>The funding mechanism provides a financial incentive for districts to identify as many children as possible for special education. Funding use is discretionary at the district level. In other words, funds generated through the foundation program due to the classification of children as exceptional need not be spent on special education services. In some instances, districts may label students unnecessarily. The result is contrary to the most current research and litigation, which speaks to inclusion of children in the regular education program to the maximum extent appropriate.</p> <p>The number of students identified for special education is increasing each year as a result of many factors, including greater social and emotional needs of children entering our schools. The expansion of the special services program is putting a tremendous financial burden on the state. Many of the students whose evaluations result in identification as disabled may not be disabled themselves, but may be reflecting a disability of our schools to meet their educational needs.</p>
Alternative Model	A number of districts believe that many children are inappropriately labeled mildly or moderately disabled. They believe that these children can be served in the regular educational program with satisfactory educational results without the stigma and harm that can follow from being labeled disabled or handicapped. The department believes that districts will be able to demonstrate that with additional training for teachers and more emphasis on early intervention programs, these children will meet or exceed educational results that could be expected from identifying the children as disabled. However, if districts do not identify and count students according to AS 14.17.045, they cannot receive special education funding at all.
Solution	The Department of Education believes an alternative approach should be encouraged. It is recommended that a pilot project be authorized for four school districts. The project would cap the percentage of resource and self-contained students at the district's current level, would allow greater flexibility in serving students in the regular educational program, and would remove the incentive for identifying and labeling students. The department believes the concept is in line with the most current research in special education, is in the best interest of our students, and will ultimately save the state money.

Prepared by the Department of Education.

ALASKA DEPARTMENT OF EDUCATION
 FY88-94 FOUNDATION PROGRAM
 Special Education Units

4/6/94 FILE: 7YRSPED.XLS

	FY88 Spec. Ed.	FY89 Spec. Ed.	FY90 Spec. Ed.	FY91 Spec. Ed.	FY92 Spec. Ed.	FY93 Spec. Ed.	FY94 Spec. Ed.	Area Diff.
ADAK	4.58	4.58	3.79	3.56	5.14	5.17	3.53	1.27
ALASKA GATEWAY	7.49	7.21	6.16	7.01	7.41	7.05	8.76	1.19
ALEUTIAN REGION	1.03	1.48	3.64	1.00	1.00	1.00	1.00	1.31
ALEUTIANS EAST	3.17	3.21	1.00	4.22	4.60	3.68	3.86	1.31
ANCHORAGE	437.70	450.78	453.62	475.17	533.78	603.05	593.60	1.00
ANNETTE ISLANDS	4.57	5.74	5.75	5.69	5.57	5.00	5.04	1.03
BERING STRAIT	14.04	14.18	14.81	15.54	16.51	18.66	19.94	1.39
BRISTOL BAY	2.84	2.96	2.73	3.21	3.07	3.34	3.07	1.27
CHATHAM	4.04	4.40	4.44	4.45	4.48	4.59	4.67	1.03
CHUGACH	1.20	1.24	2.27	2.10	2.14	1.47	1.84	1.14
COPPER RIVER	3.57	5.45	6.41	9.62	7.85	6.73	6.51	1.14
CORDOVA	4.07	5.03	4.97	4.98	5.69	5.99	5.92	1.11
CRAIG	1.83	1.94	1.79	2.30	3.55	4.25	4.92	1.03
DELTA/GREELY	11.26	11.72	10.76	12.28	14.53	13.84	16.12	1.16
DEVALI	2.60	2.78	2.75	2.72	3.12	3.40	3.55	1.23
DILLINGHAM	4.52	7.02	8.80	9.11	12.15	10.20	9.26	1.27
FAIRBANKS	133.62	140.30	142.84	145.58	154.87	181.06	190.77	1.04
GALENA	1.00	1.02	1.00	2.02	2.11	1.49	1.74	1.30
HAINES	2.55	2.85	2.12	3.33	4.07	3.87	4.05	1.05
HOONAH	2.80	2.52	2.43	2.69	3.97	6.19	6.61	1.08
HYDABURG	1.39	1.25	1.25	1.45	1.17	1.39	1.00	1.03
IDITAROD	4.51	5.01	6.70	7.13	6.29	6.18	6.75	1.33
JUNEAU	63.81	67.36	68.66	72.42	85.30	98.70	98.73	1.00
KAKE	3.15	3.30	2.74	2.56	2.42	2.93	2.29	1.03
KASHUNAMIUT	2.42	2.75	2.85	2.01	3.50	2.54	3.14	1.33
KENAI	80.29	85.40	92.18	98.35	120.39	117.88	118.32	1.00
KETCHIKAN	26.38	29.32	26.88	28.35	28.02	27.66	23.19	1.00
KLAWOCK	2.07	2.73	2.62	3.14	3.11	3.75	3.58	1.03
KODIAK	27.39	26.03	25.82	25.84	28.91	31.31	30.84	1.09
KUSPUK	4.80	5.97	5.53	6.76	7.56	7.72	6.50	1.33
LAKE AND PENN.	4.13	3.97	5.71	4.97	4.08	5.88	6.78	1.31
LOWER KUSKOKWIM	31.88	29.69	33.71	36.03	38.77	40.23	38.23	1.42
LOWER YUKON	14.74	14.18	15.32	18.48	22.63	18.79	17.77	1.35
MATSU	74.73	81.97	87.72	104.77	117.44	126.04	136.27	1.00
NENANA	2.92	2.13	1.88	1.79	2.05	2.25	1.61	1.20
NOME	6.63	7.97	6.62	8.95	10.33	10.77	10.14	1.34
NORTH SLOPE	7.16	7.45	7.96	8.78	8.09	9.24	10.98	1.45
NORTHWEST ARCTIC	16.33	20.50	21.14	20.94	24.79	18.52	21.35	1.45
PELICAN	1.00	1.00	1.00	1.09	1.00	1.00	1.00	1.08
PETERSBURG	7.82	6.99	8.06	7.85	7.38	6.91	7.02	1.00
PRIBILOF	1.83	2.08	2.19	2.48	2.05	2.24	2.16	1.30
SITKA	16.88	18.35	14.70	17.85	15.77	15.70	15.23	1.00
SKAGWAY	1.00	1.28	1.23	1.16	1.46	1.23	1.48	1.05
SOUTHEAST	4.55	4.62	5.67	6.09	5.26	5.64	6.22	1.04
SOUTHWEST	5.13	5.01	5.12	6.24	6.31	5.52	4.96	1.31
ST MARY'S	2.05	1.85	1.98	1.93	1.77	1.97	1.22	1.30
TANANA	1.00	1.00	1.00	1.32	1.28	1.20	1.11	1.30
UNALASKA	1.21	1.93	1.81	2.18	2.16	2.50	2.77	1.27
VALDEZ	3.77	4.77	4.90	5.99	5.22	8.71	9.19	1.11
WRANGELL	5.82	7.51	9.50	8.22	8.59	5.71	7.17	1.00
YAKUTAT	1.03	1.17	1.00	1.20	1.63	2.42	2.35	1.08
YUKON FLATS	3.97	4.57	5.17	4.21	3.84	3.74	4.72	1.46
YUKON/KOYUKUK	6.38	6.52	8.12	8.80	10.74	10.07	11.84	1.34
YUPIIT	4.38	5.00	4.70	4.48	6.01	4.85	6.49	1.41
TOTALS	1,091.03	1,147.04	1,173.52	1,250.39	1,390.93	1,501.22	1,517.16	

ALASKA DEPARTMENT OF EDUCATION
 FY88-94 FOUNDATION PROGRAM
 Special Education Basic Need

4/6/94 FILE: 7YRSPED.XLS

Unit Value >>>>	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$61,000	\$61,000
	FY88	FY89	FY90	FY91	FY92	FY93	FY94
	Spec. Ed.	Spec. Ed.	Spec. Ed.	Spec. Ed.	Spec. Ed.	Spec. Ed.	Spec. Ed.
ADAK	\$349,200	\$349,200	\$288,600	\$271,200	\$391,800	\$400,770	\$273,280
ALASKA GATEWAY	534,600	514,800	439,800	500,400	529,200	511,790	635,620
ALEUTIAN REGION	81,000	116,400	286,200	78,600	78,600	79,910	79,910
ALEUTIANS EAST	249,000	252,600	78,600	331,800	361,800	294,020	308,660
ANCHORAGE	26,262,000	27,046,800	27,217,200	28,510,200	32,026,800	36,786,050	36,209,600
ANNETTE ISLANDS	282,600	354,600	355,200	351,600	344,400	314,150	316,590
BERING STRAIT	1,171,200	1,182,600	1,235,400	1,296,000	1,377,000	1,582,340	1,690,920
BRISTOL BAY	216,600	225,600	208,200	244,800	234,000	258,640	237,900
CHATHAM	249,600	271,800	274,200	274,800	276,600	288,530	293,410
CHUGACH	82,200	84,600	155,400	143,400	146,400	102,480	128,100
COPPER RIVER	244,200	372,600	438,600	658,200	537,000	467,870	452,620
CORDOVA	271,200	334,800	331,200	331,800	379,200	405,650	400,770
CRAIG	112,800	120,000	110,400	142,200	219,600	267,180	309,270
DELTA/GREELY	783,600	816,000	748,800	854,400	1,011,000	979,050	1,140,700
DENALI	192,000	205,200	202,800	201,000	230,400	254,980	266,570
DILLINGHAM	344,400	535,200	670,800	694,200	925,800	789,950	717,360
FAIRBANKS	8,337,600	8,754,600	8,913,000	9,084,000	9,663,600	11,486,300	12,102,400
GALENA	78,000	79,800	78,000	157,800	164,400	118,340	137,860
HAINES	160,800	179,400	133,800	210,000	256,200	247,660	259,250
HOONAH	181,200	163,200	157,200	174,600	257,400	408,090	435,540
HYDABURG	85,800	77,400	77,400	89,400	72,600	87,230	62,830
IDITAROD	360,000	399,600	534,600	568,800	502,200	501,420	547,780
JUNEAU	3,828,600	4,041,600	4,119,600	4,345,200	5,118,000	6,020,700	6,022,530
KAKE	194,400	204,000	169,200	158,400	149,400	184,220	143,960
KASHUNAMIUT	193,200	219,600	227,400	160,200	279,600	206,180	254,980
KENAI	4,817,400	5,124,000	5,530,800	5,901,000	7,223,400	7,190,680	7,217,520
KETCHIKAN	1,582,800	1,759,200	1,612,800	1,701,000	1,681,200	1,687,260	1,414,590
KLAWOCK	127,800	168,600	162,000	193,800	192,000	235,460	225,090
KODIAK	1,791,600	1,702,200	1,688,400	1,690,200	1,890,600	2,081,930	2,050,820
KUSPUK	382,800	476,400	441,000	539,400	603,000	626,470	527,650
LAKE AND PENN.	324,600	312,000	448,800	390,600	320,400	469,700	541,680
LOWER KUSKOKWIM	2,716,200	2,529,600	2,872,200	3,069,600	3,303,000	3,484,930	3,311,690
LOWER YUKON	1,194,000	1,148,400	1,240,800	1,497,000	1,833,000	1,547,570	1,463,390
MATSU	4,483,800	4,918,200	5,263,200	6,286,200	7,046,400	7,688,440	8,312,470
NENANA	210,000	153,600	135,600	129,000	147,600	164,700	117,730
NOME	532,800	640,800	532,200	719,400	830,400	880,230	821,990
NORTH SLOPE	622,800	648,000	692,400	753,800	703,800	817,400	971,120
NORTHWEST ARCTIC	1,420,800	1,783,800	1,839,000	1,821,600	2,157,000	1,637,850	1,888,560
PELICAN	64,800	64,800	64,800	70,800	64,800	65,880	65,880
PETERSBURG	469,200	419,400	483,600	471,000	442,800	421,510	428,220
PRIBILOF	142,800	162,000	171,000	193,200	160,200	177,510	171,410
SITKA	1,012,800	1,101,000	882,000	1,071,000	946,200	957,700	929,030
SKAGWAY	63,000	80,400	77,400	73,200	91,800	78,690	94,550
SOUTHEAST	283,800	288,000	354,000	379,800	328,200	358,070	394,670
SOUTHWEST	403,200	393,600	402,600	490,200	496,200	441,030	396,500
ST MARY'S	160,200	144,600	154,200	150,600	138,000	156,160	96,990
TANANA	78,000	78,000	78,000	103,200	99,600	95,160	87,840
UNALASKA	92,400	147,000	138,000	166,200	164,400	193,980	214,720
VALDEZ	250,800	317,400	326,400	399,000	347,400	589,870	622,200
WRANGELL	349,200	450,600	570,000	493,200	515,400	348,310	437,370
YAKUTAT	66,600	75,600	64,800	78,000	105,600	159,210	154,940
YUKON FLATS	348,000	400,200	453,000	369,000	336,600	333,060	420,290
YUKON/KOYUKUK	513,000	524,400	652,800	707,400	863,400	822,890	968,070
YUPIIT	370,800	423,000	397,800	379,200	508,200	417,240	558,150
TOTALS	\$69,721,800	\$73,336,800	\$75,181,200	\$80,130,600	\$89,073,600	\$97,172,390	\$98,340,540

Pilot Project for Special Education Services

- School districts must identify and count students (according to AS 14.07.045) to receive special education funding.
- Funds generated for special education students need not be spent on special education services.
- The number of students identified for special education is increasing each year. In some instances, districts may label students as special needs students unnecessarily.
- The result is contrary to the most current research, which speaks to inclusion of children in the regular educational program to the maximum extent appropriate.
- An alternative approach should be encouraged. This amendment would authorize a pilot project for four school districts. The pilot project would not exceed three years.
- The Commissioner of the Department of Education would need to find that the project is in the best interests of the students and the state.
- The project would comply with the requirements of federal law, including the Individuals with Disabilities Education Act (IDEA).
- The pilot project would
 - cap the percentage of resource and self-contained students at the district's current level.
 - allow greater flexibility in serving students in the regular educational program.
 - remove the incentive for identifying and labeling students.
- Establishing a pilot program will not cost the state additional revenue. Based on previous trends, the caps will reduce the eligibility for state aid that would otherwise have been requested by a district.

Fiscal Impact - Proposed Amendment to CSSB312 (HESS)

The Public School Foundation Program provides state aid in support of kindergarten through twelfth grade public education. In addition, the foundation program provides supplementary units for students with special needs. Supplementary units are provided for special education, bilingual education and vocational education. The fastest growing component of the foundation program is special education. From 1988 through 1993, special education units increased an average of 6.6% a year. Typically, special education units increase by about 150% of the increase in K-12 units. The special education unit increase has been as high as 200% of the K-12 unit increase.

Establishing a pilot program which provides for special education service alternatives, while capping the percentage of students identified in certain special education service categories will not cost the state additional revenue. Based on previous trends, the caps will reduce the eligibility for state aid that would otherwise have been requested by a district. The results of the pilot(s) should establish the value of duplicating the special education service alternatives in other districts, providing for an even greater savings.

ALASKA SCHOOL ACTIVITIES ASSOCIATION
Prepared by the Department of Education

Subject

Repeal of the statutes creating the Alaska School Activities Association (ASAA) (AS 14.07.058) and the Alaska School Activities Fund within the State general fund (AS 14.07.059).

Background

*The purpose of ASAA is to promote and govern interscholastic activities, such as basketball, swimming, band, football, and wrestling.

*ASAA was formed in 1956 under a superintendent's advisory commission to the commissioner of education.

*Twenty years later, in 1976, the Legislature established the ASAA in statute.

*In 1986, the Legislature removed ASAA from the Department of Education's budget.

*In January 1987, the organization filed articles of incorporation to become ASAA, Incorporated, a 501C(3) private non-profit corporation.

*ASAA, Inc. currently raises funds for operations through gate receipts, dues from member districts and corporate donations.

*The State Board of Education continued to serve as the appeals review body for the Association to hear student appeals for waivers to compete in interscholastic activities, such as basketball, football and swimming.

*During the past two years, the State Board of Education was named in three court actions involving ASAA, Inc. These actions (two students contesting waiver denials; one student contesting a rule) caused the State to expend resources to defend in court the rules and regulations of a non-profit corporation over which the State has no oversight or authority.

*In 1994, the Attorney General's Office held that ASAA is no longer operating and that ASAA, Inc. is performing the functions of ASAA. ASAA, Inc. is not part of the apparatus of State government; the statutes creating ASAA and the ASAA Fund are no longer in force.

*The AG's opinion also held that the State Board of Education had no legal authority over ASAA, Inc. and should not serve as the appeals review body over a private non-profit corporation over which it has no authority.

*The AG recommended that the statutes relative to ASAA be repealed.

*Officials of ASAA, Inc. agree with this course of action.

Recommended Action

*The Department of Education supports the repeal of AS 14.07.058-.059.

MEMORANDUM

State of Alaska
Department of Law

Honorable Jerry Covey
Commissioner
Department of Education

DATE: January 19, 1994
FILE NO.: 663-94-0078
TEL NO.: 465-3603
SUBJECT: ASAA and ASAA, Inc.

Janice Levy

FROM:

Janice Gregg Levy
Assistant Attorney General
Human Services Section-Juneau

INTRODUCTION

You have asked our opinion regarding two organizations -- the Alaska School Activities Association (ASAA) created at AS 14.07.058, and the Alaska School Activities Association, Inc. (ASAA, Inc.), a nonprofit corporation. Specifically, you asked the following questions:

1. Is ASAA, Inc. statutorily the same entity as ASAA?
2. If ASAA, Inc. is a different entity than ASAA, is the state legally responsible for the actions of ASAA, Inc.?
3. Is the Commissioner of Education required to enforce AS 14.07.058 - 14.07.059 in light of the legislature's defunding of ASAA?
4. If ASAA, Inc. is not the same entity as ASAA, is it appropriate, in light of the potential legal liability and other unbudgeted financial commitment of the state, for the State Board to serve as the ASAA, Inc. Appeals Review Commission?

The short answers to your questions are that ASAA and ASAA, Inc. are distinct legal entities; the state should not be liable for the acts of a nonprofit corporation, but the present arrangement may make the state vulnerable to claims; the commissioner need not on his own attempt to revive ASAA; and the State Board of Education should refrain from serving as the Appeals Review Commission for ASAA, Inc.

DISCUSSION

1. Is ASAA, Inc. statutorily the same entity as ASAA?

The answer to this question is no. ASAA, Inc. is a nonprofit corporation, created by individuals, not the state. It

was certified as a nonprofit corporation on April 21, 1986, in accordance with the corporate laws of Alaska, AS 10.20. In contrast, ASAA was created by the legislature in 1976 at AS 14.07.058.¹ Although they share similar names and were created to perform similar functions, ASAA and ASAA, Inc. are legally two distinct entities. ASAA is within state government, while ASAA, Inc. is a private, nongovernmental, nonprofit corporation.

The relationship between the two organizations is, as you indicate, an unusual one. At the time that ASAA, Inc. filed its articles of incorporation, its executive director and Board of Control were the executive secretary and Board of Control of the statutory ASAA.² Thus, at the time of the formation of ASAA, Inc., the two entities had the same functions, the same personnel, and a similar name. Additionally, ASAA, Inc. used the constitution and bylaws of ASAA. The corporation revised those documents to add "Inc." wherever "ASAA" was referenced, and added some administrative policies to what had been the ASAA handbook.³ Additionally, it is possible that some member schools believed that ASAA (the statutory entity) had simply incorporated, and that it continued to be within the Department of Education. Despite the

¹ The purpose and structure of ASAA are described in statute. A board of control is to be elected from regions in the state, and, in consultation with the department, is to hire an executive secretary. AS 14.07.058(d)-(e). The department is to approve the association's constitution and bylaws to ensure equitable treatment. AS 14.07.058(g). Additionally, the legislature established a fund within the general fund to receive deposits of ASAA fees, including membership fees and activity and events fees collected by the association. AS 14.07.059.

² Tom Wagner, then Assistant Attorney General advising the department, has pointed out that there is an inherent conflict of interest in a state employee acting as head of a nonprofit corporation whose purposes are substantially the same as the statutory program he was hired to implement. See 1983 Inf. Op. Att'y Gen. at 7 (Jan. 6; 663-86-0418). See also the January 12, 1987 memorandum from Tom Wagner to Acting Attorney General Ron Lorensen.

³ These changes were not approved by the Board of Education, and do not amend ASAA's constitution and bylaws. Thus, at the present time there exists a constitution and bylaws for ASAA, Inc. and a constitution and bylaws for ASAA. They are similar, but not identical.

overlapping functions and players, however, ASAA and ASAA, Inc. are distinct legal entities.

2. If ASAA, Inc. is a different entity than ASAA, is the state legally responsible for the actions of ASAA, Inc.?

The state should not be liable for the actions of a nonpublic corporation. Although ASAA, Inc. performs functions that serve a public interest (as do many nonprofit corporations), it is not a public entity. The interaction between the two organizations over the last six years, however, has blurred what would otherwise be a bright line legally separating these two organizations.

The most obvious way in which the two organizations have remained intertwined is that the State Board of Education has continued to sit as the Appeals Review Commission for eligibility determinations made by ASAA, Inc.'s Board of Control. This action gives the appearance that the state remains connected to ASAA, Inc., or that ASAA, Inc. is in some way within the Department of Education. A party with a claim against the corporation may well exploit that connection in an attempt to hold the state liable for the corporation's acts. Whether the state would succeed in avoiding liability would probably depend on the nature of the claim. It is in the state's best interests to take steps to avoid exposing itself to liability for acts of a nonstate entity over which it has no control.

3. Is the Commissioner of Education required to enforce AS 14.07.058 - 14.07.059 in light of the legislature's defunding of ASAA?

In our opinion, the commissioner need not attempt to administer an association which has no members and no budget. Although ASAA continues to exist in statute, its vitality depends on the participation of member schools who join by submitting an application and paying dues. There are no current members of ASAA. Those schools who once belonged to ASAA have now become members of and pay dues to ASAA, Inc. We agree with the 1988 opinion of Tom Wagner that the legislature's defunding of the ASAA budget did not operate to repeal ASAA from statute. 1988 Inf. Op. Att'y Gen. at 6 (Jan. 6; 663-86-0418). The statutory creature continues to exist, but it is in a state of hibernation. Your question, as I understand it, is whether the department is obliged to wake it up. In our opinion, it is not.

First, the legislature's defunding of the program suggests that it understood and approved of the corporation taking

over what had heretofore been a governmental function. ASAA, Inc. has governed interscholastic activities in Alaska since 1987. The Department of Education has not sought funding from the legislature for ASAA since that time. In our opinion the Department of Education is not obliged to needlessly spend time attempting to administer a program for the benefit of schools who have all joined another organization. It is unlikely that the legislature intended such a result.

Second, the language of the statute describes a whole scheme that contemplates an active membership. The only real department mandate set out in AS 14.07.058 is that the department shall make applications available to schools in the state. AS 14.07.059 requires the commissioner and the department to handle the ASAA budget in a certain manner. The department cannot carry out these duties in a vacuum. No schools have requested application or membership in ASAA, and there are no program receipts and no active association seeking a budget. The statutes do not require the department to actively solicit membership in ASAA. For these reasons, we do not believe that the department fails to perform its statutory obligations by refraining from attempting to revive ASAA. If the legislature does not approve of the manner in which interscholastic activities are governed, and desires the direct governance of those activities by the Department of Education, it is free to breathe life into ASAA by funding it again.

4. If ASAA, Inc. is not the same entity as ASAA, is it appropriate, in light of the potential legal liability and other unbudgeted financial commitment of the state, for the State Board to serve as the ASAA, Inc. Appeals Review Commission?

We believe the answer to this question is no. As described above, it is the intertwining of these distinct legal entities that exposes the state to liability for the acts of a nonstate corporation. In the past year, the Department of Education has expended significant legal fees defending in court decisions first made by a nonprofit corporation over which it exercises no control. This arrangement results in an inappropriate expense for the state, and unnecessary exposure for greater liability.

Additionally, the Board of Education simply has no statutory authority for hearing appeals from a nongovernmental corporation. That it has done so over the years may be the result of a misunderstanding by the Board of Education of an earlier attorney general opinion. Ed Nash (originally Executive Secretary

for ASAA and then Executive Director for ASAA, Inc.) asked the Board of Education in 1987 if it would consider being the final appeal step in an appeal that began before ASAA, Inc. incorporated. He suggested that ASAA, Inc. and the Board of Education could consider having the Board continue in its appellate capacity, depending on the advice of the parties' counsel.

The Board of Education apparently asked its attorney whether it should continue to hear appeals. A 1988 memo from Tom Wagner stated in relevant part:

We conclude that ASAA still exists as a legal entity within the Department of Education, that its board of control is still responsible for making eligibility decisions in accordance with its bylaws approved under 4 AAC 06.111, and that the state board still acts as an appeal body under those bylaws.

1988 Inf. Op. Att'y Gen. at 1 (Jan. 6; 663-86-0418). This view, with which we agree, states that the State Board continues to sit as the appeals body for the ASAA Board of Control. This is to be distinguished from the ASAA, Inc. Board of Control. The Board of Education may have misunderstood his advice to be that it should continue to hear any appeals that came to it. The appeals have come from the ASAA, Inc. Board of Control, not the statutorily created ASAA Board of Control. Thus, in our view the Board of Education has been improperly hearing appeals from a nonstate entity's board. The procedure should not continue.

It would be appropriate to inform ASAA, Inc. and its member schools in writing that the Board of Education will no longer hear the appeals of decisions of the ASAA, Inc. Board of Control. That body may wish to set up another appeals procedure.

CONCLUSION

In conclusion, the concerns you raise are serious. ASAA, Inc. is not the same entity as ASAA, and the Board of Education acts beyond the scope of its statutory authority when it sits as an appeals body for the nonprofit corporation. Besides acting outside the scope of its authority, it unnecessarily entangles itself with the corporation, possibly exposing the department to liability for the acts of the corporation.

In our opinion it would be appropriate for the Board of Education to notify the corporation and its member schools that it will no longer sit as the Appeals Review Commission for the

Honorable Jerry Covey
Commissioner, Department of Education
663-34-0078

January 19, 1994
Page 6

corporation. The notice should explain that the corporation is a legal entity distinct from the statutory ASAA, and that ASAA, Inc. is not within the state apparatus. Although the statutes related to the Alaska School Activities Association will continue to exist, they will simply be in disuse. The legislature may choose at some point to repeal them, or alternatively may one day revive them by funding the program and requiring membership within the statutory association.

I hope this answers the questions you raised concerning ASAA and ASAA, Inc. Please do not hesitate to contact me if I can be of further assistance.

JGL/bap

Attachments

cc: Harry Gamble ✓



Lawrence A. Wiget, Ed.D.
Director, Government Relations/Legislative Liaison
4600 Debarr Road
P.O. Box 196614
Anchorage, Alaska 99519-6614
(W) 907 269-2255 (FAX) 907 269-2107

TO: HOUSE HESS COMMITTEE

SUBJECT: SENATE BILL NO. 312

DATE: APRIL 18, 1994

While we appreciate the efforts of DOE and the legislature in attempting to address containing school construction costs statewide, the proposed legislation and proposed DOE criteria for unhoused students remains too subjective in areas which require objectivity.

Thus, the administration of the Anchorage School District is opposed to Senate Bill No. 312. We believe that the bill is not in the best interest of the Anchorage School District. It usurps local control and does not address our unhoused students needs.

Specific areas of objection include the following:

I. Section 1. AS 14.11.013 (c), is amended to read;

(c) The department may

(1) modify a project request when necessary to achieve cost-effective school construction;

(2) require that school construction in a project request be phased; and...

The proposed legislation would further erode local control in making decisions concerning cost effective school construction. Currently, DOE requires that certain subjective criteria must be met, including a maximum of 100 square feet per student maximum for elementary schools and 150 square feet per student for secondary schools.

While we understand that the proposed legislation is being put forth to control construction costs, it is our belief from past experience that the current regulations already provide for that while allowing for some local control.

What is being proposed is such that while we may meet all the current criteria on a cost-efficient project, DOE may still modify the project including forcing the district to use cheaper materials to lower the cost, thus lowering the life expectancy of the building while increasing maintenance costs.

In addition, by requiring a district to phase in a project rather than completing it at the time of initial construction, could increase the overall costs of the project. This decision should be left to the local school board based on what they believe is the most cost-effective method for the project.

For the Anchorage School District, with its strong local control through Board, Municipal Assembly and bonding ability, building unnecessary or extravagant facilities is not permitted.

There are times in which we do complete renovations of schools on a phased-in schedule, but that is determined by the local board based on multiple factors, such as that which is in the best interest of our students, as well as community and cost considerations.

For further information please contact Dr. Brent Rock, Assistant Superintendent, Administrative Services at 269-2281; or, Dr. Larry Wiget at 269-2255.



Lawrence A. Wiget, Ed.D.
Director, Government Relations/Legislative Liaison
4600 Debarr Road
P.O. Box 196614
Anchorage, Alaska 99519-6614
(W) 907 269-2255 (FAX) 907 269-2107

PLEASE DISTRIBUTE THE ATTACHED ASD POSITION ON SB 312 TO ALL MEMBERS OF THE HESS.

ALSO, PLEASE CONTACT DR. BRENT ROCK, ASSISTANT SUPERINTENDENT FOR FURTHER INFORMATION ON OUR POSITION.

HE CAN BE REACHED AT 268-2281.

THANK YOU!

d

4/20/94

Finance

(9)
Date Referred: April 14, 1994

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Date of Committee Action: 4/19/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: CSSB 312(HES) am
CS FOR SENATE BILL NO. 312(HES) am SCHOOL CONSTRUCTION GRANT REVIEW

"An Act relating to the school term, school construction grants and to interscholastic school activities; relating to a pilot project for state aid for special education; and providing for an effective date."

RECOMMENDATIONS:
be replaced with HCS CSSB 312 (HES) the same title
 a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)
 fiscal impact _____ fiscal note(s) _____
 zero fiscal note DOE zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>		<i>[Signature]</i> Kott		X	
<i>[Signature]</i> G. Davis	X	<i>[Signature]</i> B. Davis			X
<i>[Signature]</i> Bunde		<i>[Signature]</i> Olberg		✓	
<i>[Signature]</i> Tooney	✓				
	(3)			(2)	(1)

[Signature] Bunde
-CHAIRMAN'S SIGNATURE

SB

312

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/18/94

FURTHER:

DATE TURNED INTO OFFICE: 3-31-94

The Finance Committee considered SENATE BILL NO. 312

"An Act relating to school construction grants; and providing for an effective date."

and recommends:

replace with _____ CS _____ (FINANCE)

or adopt previous CS SB 312 (HES)

attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

Individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
<u>DOE</u>	<u>3/4/94</u>	<u>0</u>	

Appropriation No Fiscal Note

DO PASS:

[Signature]

OTHER RECOMMENDATIONS:

[Signature] Keith Donatelli and
[Signature] Barry Sharp ditto

1. [Signature]
Co-Chair: Signature/Recommendation

(but I'd like an amendment!)

2. [Signature] no Rec
Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA

BILL NO. SB312

1994 LEGISLATIVE SESSION

Revision Date: March 14 1994

Department Affected: Education

Title: "An Act relating to school construction grants; and providing for an effective date."

BRU: School Finance

Sponsor: Senate Finance Committee

Component: Educational Facilities Support

Requester: Senate Finance Committee

COMPONENT SERIAL NO. 1957

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary.) The proposed legislation provides an opportunity for the department to modify a school construction or major maintenance capital improvement project request in order to achieve cost effective construction and provides for phased funding of capital improvement projects.

Please see the attached continuation page for additional detail.

Prepared by: Duane Guiley

Phone: 465-8679

Division: School Finance

Date: March 14 1994

Approved by Commissioner: Jerry Covey

Jerry Covey

Agency: Education

Date: March 14 1994

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

FISCAL NOTE (continued): DEPARTMENT OF EDUCATION

Division School Finance Bill Number SB 312

Bill Title "An Act relating to school construction grants; and providing for an effective date."

Sponsor Senate Finance Committee

As proposed, Senate Bill 312 provides an opportunity for the department to modify a school construction or school major maintenance capital improvement project request in order to achieve cost effective construction. Further, the proposed legislation provides for phased funding of a capital improvement project.

In 1993, the eligibility, classification, evaluation and prioritization of public school capital improvement projects changed significantly, due to passage of CSSB 7(FIN) am H. Section 9 of Chapter 78 of the 1993 Session Laws of Alaska established a new Bond Reimbursement and Grant Review Committee (BR&GRC). In addition to other duties, the committee shall develop criteria for construction of schools in the state, including requirements to achieve cost effective construction and establish a form for the grant applications. SB312 matches the recommendations of the BR&GRC.

The committee has forwarded a recommendation to the commissioner which requires a standardized facility evaluation and condition survey to be attached to each 1996 full funding project request. The committee also recommended that applications lacking the detailed architectural and engineering facility condition survey, which documents the deficiencies of the existing facility, should receive no more than a planning grant. These standardized documents will allow the department to objectively assess the feasibility and the merits of phase funding the project. The BR&GRC indicated that a district can not reasonably determine the scope or cost of a project without conducting a detailed analysis of the existing facilities.

This proposed statute will facilitate the implementation of the recommendations of the Bond Reimbursement and Grant Review Committee.

APPROVED:

Director Duane Guilev Division School Finance

Signature  Date March 14, 1994

Commissioner/Deputy _____

Signature  Date 3/15/94



Official Business

Alaska State Senate

Senate Finance Committee

SPONSOR STATEMENT
CS Senate Bill 312 (HESS)

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Section 1.

Under current law, the Department of Education must accept or reject a school construction project *in toto*; a project can only be rejected if found to be "not in the best interests of the state", an undefined standard that could easily lead to litigation if used by the department. SB 312 would allow DOE to modify or revise the scope of submitted projects to assure that schools are adequately sized for the community to be served. In addition, SB 312 would allow DOE to require that school construction projects be phased, an approach which has worked extremely well for other grant programs such as village safe water. A phased-in approach will allow DOE an opportunity to review projects through their development and make adjustments as needed.

An all-or-nothing approach to approval of school construction projects is not effective either for school districts or for the department, and this bill seeks to remedy the situation.

Section 2.

Repeal of AS 14.07.058 (Alaska School Activities Association) and AS 14.075.059 (Alaska school activities fund) would accomplish the following.

The Alaska School Activities Association was incorporated in 1986, and is supported solely through private funding. ASAA became ASAA, Inc. It was formed as a non-profit corporation so that it could accept donations from private sources. It was formulated with the same personnel, virtually the same by-laws, constitution, and function as ASAA.

1/ ASAA, Inc., would continue to operate as a nonprofit corporation, supporting statewide tournaments, administrative functions, litigation defense and other expenses, etc., through private fundraising efforts.

2/ The repeal of these statutes would remove DOE's exposure to litigation over rulings of the Board of Control of ASAA, Inc. (on eligibility waivers or penalty rulings, for example).

Bond Reimbursement and Grant Review Committee
Facility Evaluation/Inventory Sub-Committee Report
Wednesday, February 16, 1994

SCHOOL CAPITAL IMPROVEMENT PROGRAM PROPOSAL

Issue: Facility condition survey and provision for school facility inventory

Background: Concerning standards for school construction, prioritization of capital projects and inventory and condition surveys of existing facilities, the Alaska 2000 Facilities Committee recommended the following:

Alaska Department of Education should develop a set of standards to guide school construction. Topics include space (overall size and distribution), quality (materials) and cost, both construction and "soft" costs.

Alaska Department of Education should, Provide annual set aside for major maintenance of \$20-40 million, require adequate preventive maintenance in order to be eligible for state funding, create incentives for good programs and institute an independent assessment program for State funded projects and for preventive maintenance programs.

A statewide educational facility inventory process is required. Inventory efforts should be focused in the areas of most critical need and should increase as funding becomes more likely. Technical and program evaluation should be included. The process should be standardized and state funded.

Based on these recommendations, the Commissioner appointed an eighteen member committee, chaired by Superintendent, Dick Clevenger, to provide a more detailed description of a capital improvement evaluation and ranking process, school construction standards and a state-wide facility inventory. The committee met over the spring and summer of 1993. Included in the list of findings was the following Matrix Sub-Committee recommendation:

The State of Alaska should adopt a matrix model that will be utilized to prioritize school districts capital improvement projects. The matrix model should be similar to the State of Washington's and address both the condition of existing facilities and student populations served. The building condition evaluation forms presented in the CEFPI "School Facility Appraisal Guide" should be used in lieu of the Washington State forms. Both Models will require modification to meet the unique requirements of Alaska.

The results of prior committee work were distributed at the organizational meeting of the Bond Reimbursement and Grant Review Committee (BR&GRC). Copies of the Council of Educational Facility Planners (CEFPI) Comprehensive Facility Evaluation Process and the Washington State Prioritization Model were distributed and discussed at the December 9, 1993, BR&GRC meeting. In order to provide for a detailed review of both processes and prior committee work and for the purpose of making a BR&GRC recommendation, the Chair appointed the four person, Facility Evaluation/Inventory Sub-committee. The sub-committee was charged with developing a recommendation for BR&GRC consideration, related to a state-wide education facility inventory and a facility condition survey process.

The sub-committee obtained a commitment from Michael Roberts, Washington State Director of School Facilities and Organization, to attend the meeting and provide an overview of Washington's experience in developing and implementing its model. The sub-committee met on February 15, 1994 in the Department's second floor conference room of the Goldbelt Building in Juneau, Alaska. The group consisted of the four committee members, Ed Crittenden, staff program consultant, and Michael Roberts. The Educational Facilities Support staff observed.

Mr. Roberts presented an overview of the prior and current school construction evaluation, prioritization and funding processes, as well as a differentiation of the terms "eligibility" and "priority". Many similarities were noted between the prior Washington and the current Alaska programs. However, the current Washington system requires a significantly greater up front share to be provided by the local district through passage of a local bond and a reduced state fund share. All Washington school districts have limited bonding and mill levy authority. Project eligibility is based on a 14 question state study and survey, which includes building condition surveys of all district facilities and a comprehensive six year plan, partially state funded once each six years. Priority is based on a single scoring matrix which classifies projects as 1) growth construction or 2) modernization or new in-lieu/major renovation. The minimum threshold for a modernization or new in-lieu/major renovation project is 40% of current facility replacement cost. The state share is based on a standard gross square foot per student, grouped by grade level, times a standard per square foot construction cost, times a state match ratio, determined by assessed valuation per pupil. State match ranges from a high of 96% to a low of 20% of standard cost. The eligibility and formula establish the state share, while, the priority determines in what order the state will fund. Front funding with local dollars, with subsequent reimbursement through the prioritization process is an option. In each case, the district is the owner, the district manages the project and the district determines space utilization. The state match is tied to specific timelines and is based on "on-site" costs and excludes all "off-site" costs, (ie, access roads, utility hook-ups, traffic signals). The state share is funded with earnings of the School Lands Trust Fund, after the required local dollars are expended.

Recommendation: The State should require a standardized evaluative instrument that considers the educational program suitability and general condition of an existing facility, for the purpose of determining eligibility for state funding. This instrument would be similar to the CEFPI Comprehensive Facility Evaluation, adapted for Alaska. A more technical, standardized facility condition survey should be required in order to evaluate state-wide priority and determine the state share of a specific construction project. The condition survey should be comparable to an amended Washington State form and require surveyor training or experience similar to an architect or engineer.

The facility evaluation and the facility condition survey should be considered in the assignment of priority and be required as an attachment to each fiscal year 1996 construction phase project application. Districts which lack the human or financial resource to prepare the technical facility condition survey should submit the facility evaluation as part of the application package for a FY96 planning grant.

Districts should be required to submit standardized facility evaluations on all existing educational facilities within the district, as a prerequisite to school capital improvement funding in fiscal year 1998. These evaluations will provide the basis for a state-wide educational facility inventory.

The Department should make copies of the standardized documents available to all districts and provide training to interested parties by May 30, 1994, in order to require submittal by September 1, 1994. Districts which have an existing facility evaluation and/or facility condition survey document should be required to "cross walk" the district document to the standardized form.

4 AAC 06.111 is repealed:

4 AAC 06.111. ALASKA SCHOOL ACTIVITIES ASSOCIATION.
Repealed. (Eff. 10/28/76, Register 60; am 3/24/77, Register 61;
am 3/1/78, Register 65; am 9/23/78, Register 67; am 11/23/80,
Register 76; am 11/26/80, Register 76; am 7/31/81, Register 79; am
6/9/83, Register 86; am 8/30/84, Register 91; am 3/24/85, Register
93; am 8/30/86, Register 99; am 2/20/87, Register 101; repealed
/ / , Register)

4 AAC 06 is amended by adding a new section to read:

4 AAC 06.115. INTERSCHOLASTIC ACTIVITIES. (a) The purpose
of 4 AAC 06.115 is to provide a procedure that enables school
districts to promote and govern interscholastic activities
effectively, economically, and fairly, while keeping those
activities in their proper perspective educationally.

(b) A school or school district may join and pay dues to the
Alaska School Activities Association, Inc., or any other
voluntary, nonprofit association whose purpose is to administer
and promote interscholastic activities in Alaska so long as the
association

(1) makes applications and membership available to all
public and private schools and school districts in the state;

(2) is governed by a board that is elected from the
membership and fairly represents all regions of the state that
participate in the organization;

(3) adopts a constitution and bylaws setting forth its
philosophy, purpose, rules and procedures, including a fair
procedure for challenging interpretation or application of a rule;
and

(4) operates in compliance with state and federal law.

(c) An association described in (b) of this section shall administer interscholastic activities in a manner that

(1) encourages high standards of citizenship and complements the academic programs of schools;

(2) is consistent with and advances the state's education policy set out at AS 14.03.015; and

(3) recognizes that the organization and governance of interscholastic activities is a public purpose that is best met through the cooperation and association of interested schools and districts.

(d) For purposes of review, an adjudicatory decision of a voluntary association described in (b) of this section is a final decision of a school district. A decision of a school district is appealable to the superior court pursuant to Part VI of the Rules of Appellate Procedure.

(e) In this section, "district" has the meaning given in AS 14.17.250. (Eff. / / , Register)

Authority: AS 14.03.015
AS 14.07.020(a)(2)
AS 14.07.060

DRAFT

April 15, 1994

DOE Facilities Staff suggestions to the Bond Reimbursement and Grant Review Committee regarding Portable Classrooms

Portable Classroom: any factory-built single classroom (teaching station) structure, transportable in one or more sections, which requires a chassis or axel assembly to be transported, and is designed or remodeled to be used as an educational space with or without a permanent foundation when connected to the required utilities. The structure shall be capable of being demounted and relocated to other locations as needs arise.

In 1992 as a result of a meeting held in Anchorage, the Department of Education came up with the following conclusions regarding portable classrooms.

It has been decided that portable classrooms are a viable solution for housing students, until such time as the core areas are over stressed due to the percentage of students housed in portable classrooms. For this purpose core area shall be defines as "Those support service areas which are commonly used by all students. i.e. Gymnasium/Auditorium, Library/Media Center. Student Commons, Multi Purpose Rooms etc." Portable classrooms are also a viable alternative in those communities that experience population shifting. If the school district can demonstrate than an existing portable classroom is not safe and that it is not cost effective to repair it, then that space will not be considered as available classroom space and will not be considered as available gross square footage regarding determinations of unhoused students.

Although a number of school districts were disgruntled about the opinion, none could offer a better definition at the time. The biggest complaint was that small children in portable classrooms not attached to the main facility by covered walkways or enclosed hallways spent an inordinate amount of time dressing to attend functions in the main facility, use core areas or the restrooms. The Department suggested that it may be more efficient to place the older students in the portables and keep the primary students in the main facility. There was no response from the school districts on that argument nor did they offer alternative solutions.

NON REIMBURSED CASH EXPENDITURES FOR FY93

3/23/94 FILE: 94CA

DRAFT

DISTRICT	AMOUNT	
Adak Region	\$10,076	
Alaska Gateway	0	
Aleutian Region	2,685	Major Maintenance
Aleutians East	84,045	
Anchorage	1,870,186	
Annette Island	17,202	Equipment Replacemen
Bering Strait	0	
Bristol Bay	143,841	
Chatham	165,837	
Chugach	16	
Copper River	94,079	
Cordova City	102,987	
Craig City	157,235	
Delta Greely	1,081,829	
Denali	130,109	
Dillingham City	0	
Fairbanks	483,914	
Galena City	340	
Haines	66,396	
Hoonah City	0	
Hydaburg City	6,745	
Iditarod Area	58,099	
Juneau City	0	
Kake City	0	
Kashunamiut	190,054	Major Maintenance
Kenai	1,083,899	
Ketchikan Gateway	112,054	
Klawock City	146,541	
Kodiak Island	24,000	
Kuspuk	117,089	
Lake & Peninsula	292,105	
Lower Kuskokwim	148,485	
Lower Yukon	0	
Matanuska-Susitna	0	
Nenana City	807	
Nome City	46,729	
North Slope	0	
Northwest Arctic	715,351	
Pelican City	13,952	
Petersburg City	18,705	
Pribilof Islands	362,482	
St. Mary's	12,622	
Sitka	184,491	
Skagway City	8,067	
Southeast Island	153,287	
Southwest Region	318,457	
Tanana	0	
Unalaska City	27,080	
Uz City	554,202	
Ull City	0	
	93,481	
	69,227	
	596,807	
	143,056	
	\$9,908,651	

3/22/94

NON-REIMBURSED CASH EXPENDITURES FROM
4-30-90 to 4-30-93 MADE BY DISTRICTS

DISTRICT	FISCAL YEAR	AMOUNT		DISTRICT TOTAL
Aleutians East Schools	1991	\$12,784.00	1	
	1992	\$8,677.00	2	
	1993	\$84,045.00	3	
Total				\$105,506.00
Bristol Bay Schools	1991	\$42,318.00	4	
	1992	\$63,986.00	5	
	1993	\$143,841.00	6	
Total				\$250,145.00
Unalaska Schools	1991	\$445,935.00	7	
	1992	\$233,197.00	8	
	1993	\$27,080.00	9	
Total				\$706,212.00
Grand Total				<u>\$1,061,863.00</u>

DRAFT

1. Entire amount from Operating Fund. No specific project listed.
2. Entire amount from Operating Fund. No specific project listed.
3. King Cove Construction \$62,602; Akutan \$5,084; Cold Bay \$16,359. King Cove & Akutan are from Operating Fund and Cold Bay is from Local Rev. King Cove Roof came in under budget. The remainder of the cash approval could have been used for the King Cove Construction project.
4. Elementary Construction \$16,135; Construction Maintenance \$26,183. Elem. const. is from Local Rev. and Const. Maint. is from Operating Fund.
5. Playground Equip. \$15,393; CIP Proj. #1 \$5,423; Const. Maint. \$43,170. Playground & CIP Proj. 1 are from Local Rev. and Const. Maint. is from Operating Fund.
6. Playground Equip. \$916; CIP Proj #1 \$63,112; CIP Proj. #2 \$72,610; Const. Maint. \$7,203. Playground & CIP Proj. 1 are from Local Rev. and CIP Proj. 2 & Const. Maint. are from Operating Fund.
7. Capital Improve. \$3,720; School Add'n \$442,215. Cap. Improve. is from Operating Fund and School Add'n is from Local Rev.
8. District Office \$34,144; School Addition \$3,000; Classroom Addition \$9,699; Ed. Specs. \$19,183; Real Estate \$167,171. District Office, Classroom Addition, Ed. Specs., & Real Estate are from Operating Fund and School Add'n is from Local Rev.
9. School Add'n \$2,500; Classroom Add'n \$22,438; Ed. Specs. \$2,142. School Add'n & Ed. Specs. are from Operating Fund & Classroom Addition is from Local Rev.

Issues:

1. The old cash program ended 6-30-90, so reimbursements from 4-30-90 to 6-30-90 may be subject to double payment.
2. Expenditures in FY91 were eligible for reimbursement in FY93 on a 2 yr lag basis. The department can no longer pay on FY93, since it is already past.
3. Expenditures in FY92 were eligible for reimbursement in FY94 on a 2 yr lag basis. The department cannot pay these since the amounts were not listed on the anticipated debt submitted on October 15, 1992.
4. Expenditures in FY93 will be eligible for reimbursement in FY95 on a 2 yr lag basis. The department cannot pay these since the amounts were not listed on the anticipated debt submitted on October 15, 1993.
5. Playground equipment is not eligible for reimbursement under the cash program.
6. Real estate is not eligible for reimbursement under the cash program.



Lawrence A. Wiget, Ed.D.
Director, Government Relations/Legislative Liaison
4600 Debarr Road
P.O. Box 196614
Anchorage, Alaska 99519-6614
(W) 907 269-2255 (FAX) 907 269-2107

TO: SENATE FINANCE COMMITTEE
SUBJECT: CS FOR SENATE BILL NO. 312(HES)
DATE: MARCH 23, 1994

While we appreciate the efforts of DOE and the legislature in attempting to address containing school construction costs statewide, the proposed legislation and proposed DOE criteria for unhoused students remains too subjective in areas which require objectivity.

Thus, the administration of the Anchorage School District is opposed to CS for Senate Bill No. 312 (HES). We believe that the bill is not in the best interest of the Anchorage School District. It usurps local control and does not address our unhoused students needs.

Specific areas of objection include the following:

I Section 1. AS 14.11.013 (c), is amended to read;

(c) The department may

(1) modify a project request when necessary to achieve cost-effective school construction;

(2) require that school construction in a project request be phased; and...

The proposed legislation would further erode local control in making decisions concerning cost effective school construction. Currently, DOE requires that certain subjective criteria must be met, including a maximum of 100 square feet per student maximum for elementary schools and 150 square feet per student for secondary schools.

While we understand that the proposed legislation is being put forth to control construction costs, it is our belief from past experience that the current regulations already provide for that while allowing for some local control.

What is being proposed is such that while we may meet all the current criteria on a cost-efficient project, DOE may still modify the project including forcing the district to use cheaper materials to lower the cost, thus lowering the life expectancy of the building while increasing maintenance costs.

In addition, by requiring a district to phase in a project rather than completing it at the time of initial construction, could increase the overall costs of the project. This decision should be left to the local school board based on what they believe is the most cost-effective method for the project.

For the Anchorage School District, with its strong local control through Board, Municipal Assembly and bonding ability, building unnecessary or extravagant facilities is not permitted.

There are times in which we do complete renovations of schools on a phased-in schedule, but that is determined by the local board based on multiple factors, such as that which is in the best interest of our students, as well as community and cost considerations.

II Amendment #4, Section 1 (a)

(B) house students who would otherwise be unhoused; in this subparagraph, "unhoused" includes conditions in which students are housed in temporary facilities that are determined by the department to be materially substandard.

In terms of unhoused students, we were told by DOE that objective criteria would be recommended for determining the use of portable classrooms. The criteria would be such that when a school reached 110% of its capacity, it would then be considered over stressed on its core area. In other words, any students in a school over 110% in capacity would not be counted as housed students even though they would be placed in temporary portable classrooms.

In the proposed draft of DOE suggestions to the Bond Reimbursement and Grant Review Committee regarding Portable Classrooms, subjective criteria are indicated which may not allow under the proposed bill for students housed in the 144 portable classrooms in the Anchorage School District to be considered as unhoused students. In essence, what is proposed in the Bill in conjunction with what is being proposed by DOE as criteria for determining when a student is

considered unhoused, the students in the majority of the portables in the Anchorage School District may be considered as "housed."

This is unacceptable to us.

For further information please contact Dr. Brent Rock, Assistant Superintendent, Administrative Services at 269-2281; or, Dr. Larry Wiget at 269-2255.

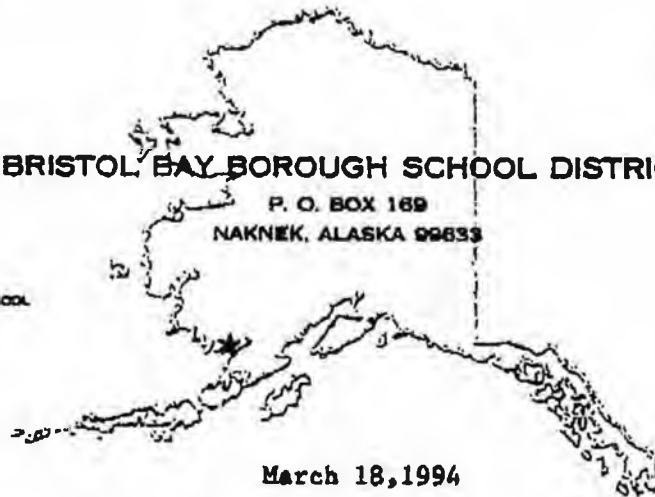
SB 312

BRISTOL BAY BOROUGH SCHOOL DISTRICT

P. O. BOX 169
NAKNEK, ALASKA 99833

PHONE 246-4225 OR 4265
HIGH SCHOOL

RICHARD W. LEATH
SUPERINTENDENT



March 18, 1994

Senator George Jacko
Alaska State Legislature
P.O.Box V (MS3100)
Juneau, Alaska 99811

Dear Senator Jacko:

This letter concerns the passage last session of SB 7 which totally restructured the manner in which school construction is funded by the state. The passage of this bill, once again, allows for the state to participate in a debt retirement program for those borough and city school districts that choose to bond themselves for new school facilities. The language in this bill allowed for projects that were funded with bond issues from March 31, 1990 through April 30, 1993 to be included in this debt retirement program.

The Bristol Bay Borough built \$4,500,000.00 in new school facilities during the above mentioned time frame, but chose to use cash reserves to build them rather than to fund them through a bond issue. We would like to have the language in SB 7 expanded to allow projects that were built with cash to be eligible for the 70% debt retirement. This is actually a better arrangement for the state, since they would only be re-imbursing 70% of the actual cost of the facility and not 70% of the interest that also has to be paid on a bond issue.

The Bristol Bay Borough Assembly and School Board would appreciate your efforts to effect the necessary language changes in SB 7 to allow our school district projects to be eligible for re-imburement.

Sincerely,
Richard W. Leath
Richard W. Leath
Superintendent

ALEUTIANS EAST BOROUGH

School District

P.O. Box 429
Sand Point, Alaska 99661-0429

Phone: (907) 383-3222
FAX: (907) 383-3496

March 18, 1994
3:00pm

The Honorable George Jacko
Senator
Alaska State Legislature
Capitol Building
Juneau, Alaska 99801

FAX 465-2897

Dear Senator Jacko:


I understand SB912 may be modified to include language that would re-instate debt retirement reimbursement for cash expenditures.

The Aleutians East Borough has provided and continues to provide for the school construction needs of our district. The AEB spent \$1.3 million on life safety code upgrade work at King Cove. The Borough is in the process of developing construction drawings to build a \$1.4 million addition/remodel project at Akutan to expand the facility to minimum Department of Education space guidelines for projected enrollments. Another unhousted student priority is False Pass, estimated to require up to \$1.0 million in remodel/addition to meet minimum space guidelines for existing enrollments. This totals \$3.8 million in serious school construction needs in our district.

I believe the Borough is at or near its bonding debt capacity, and so would greatly benefit from re-instatement of the cash reimbursement part of the AS 14.11.100 debt retirement program. The students of AEBSB face years of sub-standard service in over-crowded facilities without resumption of the cash reimbursement program.

We wholeheartedly support the amendment of SB912 to include reimbursement of municipal school districts for expenditures on DOE approved priority #1 Life Safety and Priority #2 Unhousted Students projects. Thank you for advocating such an amendment to SB912.

Sincerely,



Tom Ryan
Superintendent

CC: Bob Justtner, AEB

Board Members
ASB Chairs

SERVING

AKUTAN Box 36 Akutan, AK 99553 (907) 698-2205	COLD BAY Box 128 Cold Bay, AK 99571 (907) 932-2409	FALSE PASS Box 20 False Pass, AK 99583 (907) 548-2224	KING COVE Box 6 King Cove, AK 99612 (907) 497-2334	NELSON LAGOON Box 19 Nelson Lagoon, AK 99571-8996 (907) 989-2225	SAND POINT Box 200 Sand Point, AK 99661 (907) 383-2303
---	--	---	--	--	--



Lawrence A. Wiget, Ed.D.
Director, Government Relations/Legislative Liaison
4600 Debarr Road
P.O. Box 196614
Anchorage, Alaska 99519-6614
(W) 907 269-2255 (FAX) 907 269-2107

TO: BOB EVANS

SUBJECT: SB 312 RESPONSE

DATE: MARCH 16, 1994

Attached, please find the response of district facilities through the assistant superintendent's office, 269-2281, to SB 312.

Please forward to Senator Pearce's office.

Further information requests in regard to this bill should be directed to Dr. Rock.

Thanks.

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA
FACILITIES/MAINTENANCE DEPARTMENT

MEMORANDUM

MARCH 16, 1994

TO: DR, BRENT L. ROCK, ASSISTANT SUPERINTENDENT
ADMINISTRATIVE SERVICES

FROM: ED CONYERS, DIRECTOR, FACILITIES/MAINTENANCE DEPARTMENT

SUBJECT: PROPOSED STATE LEGISLATION ON D.O.E. POWERS

Section 1. AS 14.11.013 (c) is amended to read:

(c) The department may

- (1) Modify a project request when necessary to achieve cost-effective school construction;

A.S.D Response:

The district, with community involvement, designs schools to meet the district's requirements and community's needs. If the D.O.E has power to change this it usurps local control. "Grassroots" involvement is priority to the district and community. These respective entities need final control. Schools designed to meet local needs is critical.

- (2) Require that school construction in a project request be phased;

A.S.D. Response:

Again, the district and community do make the decision to perform some necessary renovations in phases. However, this decision should remain at the local level. If this control is usurped by D.O.E., it could result in more costly construction and inadequate facilities especially in the construction of new schools. Schools should be constructed in a single time frame to meet current and projected enrollment and other needs, not phased.

dh

cc file

PORTABLE UNITS IN ALASKA

The following is the results of the Portable Classroom Survey initiated by this office April '91

16 out of the 54 School Districts have reported having portable units in use. Out of a total of 286 units, Anchorage reported the highest number with 98. Craig and Unalaska reported having only one.

The results are broken down into three Categories:

- I. District with 20 or more units
- II. District with 5 or more units
- III. Districts with less than 5 units

CATEGORY I

Anchorage School District

50 over 20 years old
17 over 10 years old
31 less than 10 years
98 Total

Comments: Oldest portable unit is 28 years and is currently used to store Janitorial supplies and equipment.

Matanuska/Susitna Borough Schools

7 over 10 years old
31 over 5 years old
16 less than 5 years
54 Total

Comments: Oldest units are only 15 years old.

Fairbanks North Star Borough Schools

17 over 20 years old
3 over 10 years old
8 less than 10 years
28 Total

Comments: 11 of the 17 units over 20 years old are reported as being in "terrible condition" by the district.

Kenai Peninsula Borough Schools

6 over 10 years old
16 less than 10 years
22 Total

Comments: Borough purchased 5 units in 1983; 4 units in 1984; 3 units in 1985; and 4 units in 1986. They relocated 10 units in 1985 and 1990 to accommodate shifts in the population.

SOURCE DATE	DISTRICT	TOTAL UNITS	LOCATION	YEAR ACQUIRED	EST. AGE	PRESENT SITE	CONDITION	DESCRIPTION OR USE	GENERAL COMMENTS AND INFORMATION
				1984				136-84	
				1986				104-86	
	3a		Susitna	1969				155-69	
				1969				157-69	
				1981				194-81	
	5a		Turnagain	1968				142-68	
				1969				163-69	
				1982				110-82	
				1982				117-82	
				1982				119-82	
	3a		Whaley Center	1968				140-68	
				1968				145-68	
				1969				153-69	
	1a		Williwaw	1968				170-68	
	2a		Willow Crest	1981				181-81	
				1969				164-69	
	9a		Ace Special Ed	1981				185-81	Ace Special Ed
				1981				186-81	Ace Special Ed
				1968				174-68	Ace Special Ed
				1967				132-67	Ace Special Ed
				1982				121-82	B Reach/3 offices and reception area
				1967				131-67	B Reach/3 offices and reception area
				1987				103-87	B Reach
				1969				162-69	B Reach
				1982				128-82	Converted to student restroom facility, 1988
	2a		Booth Memorial	1965				225-65	
				1965				244-65	
	9a		MLK Center	1969				151-69	
				1969				154-69	
				1965				127-65	
				1968				148-68	
				1968				171-68	
				1968				146-68	
				1982				113-82	
				1981				182-81	
				1982				122-82	Special Ed
	1a		Central Jr. High	1970				240-70	Gym storage...on permanent foundation
	1a		Clark Jr. High	1981				195-81	
	4a		Gruening Jr. High	1984				167-84	
				1968				147-68	
				1981				188-81	
				1969				156-69	
	3a		Hanshaw Jr. High	1982				112-82	
				1969				161-69	
				1981				190-81	
	2a		West High	1969				158-69	Art Resource Program/art supply storage
				1984				138-84	
	1a		Admin	1967				130-67	
	8a		Maintenance	1982				103-82	Building Section

SOURCE DATE	DISTRICT	TOTAL UNITS	LOCATION	YEAR ACQUIRED	EST. AGE	PRESENT SITE	CONDITION	DESCRIPTION OR USE	GENERAL COMMENTS AND INFORMATION
				1982				134-82	Electric Section
				1965				227-65	Grounds Section
				1981				001-81	ATCO container...storage, not a portable
				1963				200-63	Heat/Vent Section
				1967				231-67	Building/Paint
				1982				125-82	Heat/Vent Section
				1963				101-G-63	Storage custodial....structural/electric code de
		1a	Wendler Jr. High	1968				144-68	C&I Annex....Assessment & evaluation 2 offi
		1a	Wonder Park	1965				226-65	Singerland and mod primary office
		1a	APD	1967				233-67	on loan to police department
5/2/91	Annette Island	3	Metlakatla		10yrs		fair	District Office	
			Metlakatla		10yrs		fair	Music Building	
			Metlakatla		10yrs		fair	High School Annex	
5/2/91	Bering Strait	0							
5/20/91	Bristol Bay	0							
4/30/91	Chatham	3							
		2a	Freshwater Bay		10yrs		good		purchased used
		1a	Corner Bay		10yrs				
5/2/91	Chugach	0							
5/1/91	Copper River	8							
		1a	Kenny Lake		16yrs	16yrs	poor	school	purchased used
		1a	Copper Center		16yrs	3yrs	poor	school	from Glennallen
		2a	Glennallen		26yrs	26yrs	poor	teen center	purchased new - one to be relocated to Slana
		1a	Chistochina		16yrs	6yrs	poor	school	
		1a	Slana		16yrs	6yrs	poor	school	
		1a	Nelchina		16yrs	4yrs	poor	school	
		1a	Paxson		16yrs	15yrs	poor	school	
4/30/91	Cordova	2			15yrs		fair	classroom	stationery, on permanent foundation
					15yrs		fair	District Admin o.fice	
5/15/91	Craig	1			20yrs		fair	classroom	originally teacher housing, 3 years as classroom
5/28/91	Delta/Greely	6							
		3 each		1965		26yrs	poor		
		3 each		1975		16yrs	marginal		
	Dillingham	0							
5/30/91	Fairbanks	20							
		3a	Taylor		20+	20+	terrible		
		2a	Pennell		20+	20+	terrible		
		6a	Ben Eielson		20+	20+	terrible		
		6a	N. Pole		20+	20+	bad		
		4a	Badger Rd			6	good		
		4a	Weller			6	good		
		3a	Joy		15+		bad		two were purchased used
4/26/91	Galena	0							
5/10/91	Haines	0							
4/25/91	Hoonah	0							
5/17/91	Ilydaburg	0							
4/29/91	Iditarod	0							
5/10/91	Juneau	7							
		2a	Floyd Dryden		2yrs	2yrs	good	classroom	

SOURCE DATE	DISTRICT	TOTAL UNITS	LOCATION	YEAR ACQUIRED	EST. AGE	PRESENT SITE	CONDITION	DESCRIPTION OR USE	GENERAL COMMENTS AND INFORMATION
		3a	Glacier Valley		2yrs	2yrs	good	classroom	
		1a	Auke Bay		2yrs	2yrs	good	classroom	
		1a	Mendenhall River		2yrs	2yrs	good	classroom	
5/21/91	Kake	0							
4/25/91	Kashunamiut	0							
5/20/91	Kenai Peninsula	22							
		2a	Soldotna		15		poor	High School	Borough purchased 5 new units 1983
		3a	Soldotna		8		good	Elementary	Borough purchased 4 new units 1983
		1a	Soldotna		15		poor	Jr. High	Borough purchased 3 new units 1983
		1a	Nikiski		5		good		Borough purchased 4 new units 1983
		1a	Bartlett		12	12	poor		
		2a	Chapman		7		good		
		1a	Redoubt		5		good		relocated 10 units in 1985
		2a	\sears		7		good		relocated 1 units in 1986
		3a	Tustumena		6		good		relocated 3 units in 1988
		1a	Tustumena		5		good		relocated 2 units in 1989
		1a	Vosnesenka		5		good		relocated 10 units in 1990
		2a	Paul Banks		8	8	good		proposed 4 units 1991
		2a	Paul Banks		15	15	poor		
4/25/91	Ketchikan	0							
5/31/91	Kodiak Island	0							
5/16/91	Lake & Pen	0							
5/31/91	Lower Kuskokwim	9							
		3a	Bethel	1965			good		remodel 1990
				1970			fair		
				1970			good		remodel 1990
		1a	Atmathalak	1967			poor		extremely poor condition
		1a	Hunapitchuk	1978			poor		
		1a	Kwethluk	1965			fair		remodeled 1987, moved from Bethel
		3a	Platinum	1961			poor		
			1961			poor		
				1961			poor		
4/25/91	Lower Yukon	0							
6/3/91	Kuspuk/Aniak	0							
4/29/91	Mat-su	54							
		4a	Cottonwood		6yrs	6yrs	good	#4/classroom	
					6yrs	6yrs	good	#5/classroom	
					6yrs	6yrs	good	#6/classroom	
					8yrs	2yrs	good	#36/classroom	
		1a	Finger Lake		6yrs	2yrs	good	#25/classroom	
		7a	Glacier View		8yrs	3yrs	good	#40/classroom	
					8yrs	3yrs	good	#41/classroom	
					8yrs	3yrs	good	#42/classroom	
								#62	
					6yrs	3yrs	good	#63/office	
					8yrs	3yrs	good	#13/classroom	
					15yrs	3yrs	poor	#11/storage	
		4a	Iditarod		8yrs	8yrs	average	#17/classroom	
					8yrs	8yrs	average	#18/classroom	

SOURCE DATE	DISTRICT	TOTAL UNITS	LOCATION	YEAR ACQUIRED	EST. AGE	PRESENT SITE	CONDITION	DESCRIPTION OR USE	GENERAL COMMENTS AND INFORMATION
					8yrs	8yrs	average	#19/classroom	
					8yrs	8yrs	average	#48/classroom	
	1a		Palmer Hi School		10yrs	3yrs	average	#3/storage	
	3a		Pioneer Peak		6yrs	3yrs	good	#24/classroom	
					8yrs	3yrs	good	#44/classroom	
					5yrs	3yrs	good	#65/classroom	
	1a		Sherrrod		12yrs	5yrs	poor	#30/storage	
	1a		Skwentna		7yrs	7yrs	average	#31/classroom	
	4a		Snowshoe		8yrs	8yrs	average	#32/classroom	
					8yrs	8yrs	average	#33/classroom	
					8yrs	8yrs	average	#34/classroom	
					8yrs	8yrs	average	#35/classroom	
	4a		Su-Valley		7yrs	7yrs	average	#37/classroom	
					7yrs	7yrs	average	#38/classroom	
					10yrs	6yrs	average	#39/classroom	
						4yrs	poor	#70/shop	
	6a		Swanson		5yrs	5yrs	good	#45/classroom	
					5yrs	5yrs	good	#46/classroom	
					5yrs	5yrs	good	#47/classroom	
					5yrs	5yrs	good	#49/classroom	
					15yrs	15yrs	good	#50/classroom	
					15yrs	15yrs	good	#51/classroom	
	4a		Talkeetna		8yrs	4yrs	good	#52/classroom	
					8yrs	4yrs	good	#53/classroom	
					6yrs	1yr	average	#43/classroom	
					10yrs	5yrs	average	storage/office	
	3a		Tanana		7yrs	2yrs	good	#22/classroom	
					7yrs	2yrs	good	#23/classroom	
					7yrs	2yrs	good	#67/classroom	
	1a		Trapper Creek			10yrs	poor	storage	
	3a		Wasilla Hi Sch			7yrs	poor	#1/classroom	
						7yrs	poor	#2/classroom	
					10yrs	7yrs	average	storage	
	4a		Wasilla Middle		15yrs	7yrs	poor	shop/office	
					5yrs	1yr	good	#28/classroom	
					5yrs	1yr	good	#29/classroom	
					5yrs	1yr	good	#68/classroom	
	2a		Maintenance		7yrs	4yrs	good	#26/office	
					7yrs	4yrs	good	#27/office	
	1a		Warehouse		8yrs	4yrs	average	storage	plus 1 trailer
5/10/91	Kenana	0							
5/3/91	Nome	0							
5/3/91	North Slope	0							
5/9/91	NW Arctic	0							
5/14/91	Pelican	0							
5/10/91	Petersburg	0							
4/26/91	Pribilof	0							
4/25/91	Railbelt	0							
5/15/91	Sitka	0							

none of the existing portables will survive any future moves.

District Office has been placed on a permanent foundation

SOURCE DATE	DISTRICT	TOTAL UNITS	LOCATION	YEAR ACQUIRED	EST. AGE	PRESENT SITE	CONDITION	DESCRIPTION OR USE	GENERAL COMMENTS AND INFORMATION
5/22/91	S.E. Island	17							
		1a	Edna Bay		7yrs	7yrs	good		
		1a	Cabin Creek		unk.	2yrs	fair		on log floats, 7th move
		3a	Hobart Bay		6yrs	6yrs	good		
		1a	Hollis		7yrs	7yrs	good		
		2a	Coffman Cove		21yrs	6yrs	fair		site closure - 3rd move
		1a	Coffman Cove		7yrs	6yrs	good		site closure - 1st move
		2a	Long Island		7yrs	7yrs	good		
					11yrs	11yrs	fair		
		1a	Rowan Bay		2yrs	2yrs	good		
		1a	Thorne Bay		unk.	1yr	fair	voc-ed	purchased used
		1a	Margarita		9	2yrs	fair		log floats, 4th move
		1a	Smith Cove		8		good		
		2a	Naukati		10	4yrs	fair		purchased used
					2	2yrs	good		
5/24/91	S.W. Region	9							
		1a	Aleknagik		5yrs		fair		to accommodate S Shore student population
		8a	Togiak		22yrs		fair		
					22yrs		fair		these 6 were brought onsite
					22yrs		fair		by the BIA and repaired
					22yrs		fair		to allow for building expansion
					22yrs		fair		
					15yrs		poor		reconditioned bunkhouse
					4yrs		fair		
5/1/91	Skagway	0							
5/16/91	St. Mary's	0							
5/3/91	Tanana	0							
4/29/91	Unalaska	1	Unalaska		15yrs	2yrs	ok	next to elementary -	relocated to allow for expansion
5/28/91	Valdez	4	Valdez		15yrs		condemned	no longer used	
5/2/91	Wrangell	0							
4/24/91	Yakutat	0							
5/28/91	Yukon Flats	3	N. Lights Sch.		30yrs	10yrs	poor	purchased used from pipeline days	
4/30/91	Yukon/Koyukuk	0							
4/30/91	Yupit	0							

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF EDUCATION
OFFICE OF THE COMMISSIONER

GOLDBELT PLACE
801 WEST 10TH STREET, SUITE 200
JUNEAU, ALASKA 99801-1894

November 16, 1993

40
—

The Honorable Drue Pearce
Alaska State Legislature
Anchorage Caucus
716 W. 4th, Suite 510
Anchorage, AK 99501-2133

Dear Senator Pearce:

This is in response to your letter dated September 7, 1993 regarding your concerns about the emergency school construction regulations. The Board was made aware of the written concerns received by the department prior to taking action on the emergency regulations. At its October 27-30, 1993 meeting, the Board adopted the regulations as permanent. This is not to say that all concerns have been addressed or that we have completed our review of the overall process. The department anticipates that some significant changes will be proposed during the current year.

As you are aware, the Bond Reimbursement and Grant Review Committee was established in accordance with SB7, as passed in the last legislative session. Your representatives on this committee are Senator Randy Phillips and Representative Con Bunde. This committee will provide on-going review and evaluation of the process and procedures for all aspects of the school bond debt and capital improvement project programs.

As you stated, the department has considered all instructional space when making prior year comparisons to the published square foot guidelines. This does, in fact, include portable classrooms. We are aware of the burden this places on common areas in some facilities. The department is currently reconsidering its position and will make a recommendation to the committee before distribution for general public comment.

Again, you are correct in your understanding of the department's previous ranking process. Projects were prioritized in the order of the criteria established in statute as required by regulations resulting from state-wide meetings open to all facility managers and school district staff.

Letter, Anchorage Caucus
November 16, 1993
Page 2

However, the FY95 capital improvement project budget request, published November 1, 1993, utilized a different process whereby no one project criteria or classification received overall priority. Within the major maintenance classification, protection of structure and code upgrade projects competed equally for priority. Life/Health/Safety and unhoused student projects competed equally for school construction dollars followed by operating cost savings, instructional improvement and other projects.

Thank you for taking the time to forward your concerns, and for your financial support of the much needed school capital improvements through the appropriation process.

Sincerely,



Jerry Covey
Commissioner

cc: Senator Dave Donley
Representative Mark Hanley
Representative Ed Willis

AMENDMENT

CSSB 312(HES)

6-1
FAILED
Jacko supported

Offered by Senator Jacko

Page 2, after line 4:

Insert a new bill section to read:

"* Sec. 2. AS 14.11.100(a) is amended by adding a new paragraph to read:

(8) subject to (h) and (i)(1) and (3) of this section, 70 percent of cash payments made after April 1, 1990, but before April 30, 1993, by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$150,000."

Renumber the following bill sections accordingly.

Change the title to conform to the amendment.

SENATE FINANCE
COMMITTEE (1)
Amendment Number: _____
Bill Number: SB 312
Sponsor: JACKO Date: 3/21/94
Logged In By: BM

SENATE AMENDMENT

By Rieger

To: CSSB(312)(HES) SENATE BILL No. _____

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

*amend # 2
withdrawn by Sen. Rieger*

Add a new section as follows:

AS 14.11.013(a)⁽¹⁾(B) is amended to read:

(B) house students who would otherwise
be unhoused; in this subparagraph
"unhoused" includes conditions in
which students are housed in
temporary facilities. ;

SENATE AMENDMENT #3

MOVED by
Sen Rieger
pending @
request

BY Rieger & J. ~~Kent~~ W/Drew

To: CSSB(312)(HES) SENATE BILL No. _____

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

Add a new section as follows:

AS 14.11.013(a)⁽¹⁾(B) is amended to read:

(B) house students who would otherwise be unhoused; in this subparagraph "unhoused" includes conditions in which students are housed in temporary facilities;

AS. 14.11.102 (b)(4) is amended to read:

(4) existing regional, community, and school facilities, and their condition, and unhoused students: in this subparagraph "unhoused" includes conditions in which students are housed in temporary facilities; this paragraph does not include administrative facilities;

#4

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR RIEGER

TO: CSSB 312(HES)

Page 1, line 1, after "construction":

Insert "and major maintenance"

SENATE FINANCE

COMMITTEE

Amendment Number: Am 9

Bill Number: SB 312

Sponsor: Rieger Date: 3/22/94

Logged In By: [Signature]

Page 1, after line 3:

Insert a new bill section to read:

"* Section 1. AS 14.11.013(a) is amended to read:

(a) With regard to projects for which grants are requested under AS 14.11.011, the department shall

(1) annually review the six-year plans submitted by each district under AS 14.11.011(b) and recommend to the board a revised and updated six-year capital improvement project grant schedule that serves the best interests of the state and each district; in recommending projects for this schedule, the department shall verify that each proposed project meets the criteria established under AS 14.11.014(b) and qualifies as a project required to

(A) avert imminent danger or correct life-threatening situations;

(B) house students who would otherwise be unhoused; in this subparagraph. "unhoused" includes conditions in which students are housed in temporary facilities that are determined by the department to be materially substandard;

(C) protect the structure of existing school facilities;

(D) correct building code deficiencies that require major repair or rehabilitation in order for the facility to continue to be used for the educational program;

(E) achieve an operating cost savings;

(F) modify or rehabilitate facilities for the purpose of

improving the instructional program;

(G) meet an educational need not specified in (A) - (F) of this paragraph, identified by the department;

(2) prepare an estimate of the amount of money needed to finance each project;

(3) provide to the governor, by November 1, and to the legislature within the first 10 days of each regular legislative session, a revised and updated six-year capital improvement project grant schedule, together with a proposed schedule of appropriations."

Page 1, line 4:

Delete "Section 1."

Insert "Sec. 2."

Page 2, after line 4:

Insert a new bill section to read:

** Sec. 3. AS 14.11.102(b) is amended to read:

(b) The department shall evaluate projects for which retirement of school construction debt is requested. In evaluating projects for bond reimbursement as required under this section, the department shall evaluate all of the following factors, without establishing an absolute priority for any one factor:

(1) emergency requirements;

(2) priorities assigned by the district to the projects requested;

(3) new local elementary and secondary facilities;

(4) the condition of existing regional, community, and school facilities, and unhoued students: in this paragraph, "unhoued" includes conditions in which students are housed in temporary facilities that are determined by the department to be materially substandard [THEIR CONDITION]; this paragraph does not include administrative facilities;

(5) the amount of district operating funds expended for maintenance;

and

(6) other program options for accomplishing the project's objectives."

Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE

8-LS1734E.3

Ford

3/22/94

Amendment Number: 312

Bill Number: SB 312

Sponsor: RIEGER Date: 3/22/94

Logged In By: [Signature]

AMENDMENT

amended (see pg 4)

MOVED, Sen Rieger

PASSED

OFFERED IN THE SENATE

BY SENATOR RIEGER

TO: CSHB 312(HES)

Page 1, line 1, after "grants":

Insert ", to reimbursement to municipalities for school construction debt,"

Page 2, after line 4:

Insert new bill sections to read:

"* Sec. 2. AS 14.11.100(a) is amended to read:

(a) During each fiscal year, the state shall allocate to a municipality that is a school district [,] the following sums:

(1) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness incurred before July 1, 1977, to pay costs of school construction;

(2) 90 percent of

(A) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness incurred after June 30, 1977, and before July 1, 1978, to pay costs of school construction;

(B) cash payments made after June 30, 1976, and before July 1, 1978, by the municipality during the fiscal year two years earlier to pay costs of school construction;

(3) 90 percent of

(A) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness incurred after June 30, 1978, and before January 1, 1982, to pay costs of school construction projects approved under

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 1	
To	Legal Services	From	Marie
Co.	Attn: FORD	Co.	Senate Finance
Dept.	NOTE: See	Phone #	
Fax #	Chgo on pg. 4	Fax #	

AS 14.07.020(a)(11);

(B) cash payments made after June 30, 1978, and before July 1, 1982, by the municipality during the fiscal year two years earlier to pay costs of school construction projects approved under AS 14.07.020(a)(11);

(4) subject to (h), [AND] (i), and (o) of this section, up to 90 percent
of

(A) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness incurred after December 31, 1981, and authorized by the qualified voters of the municipality before July 1, 1983, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(a)(11); and

(B) cash payments made after June 30, 1982, and before July 1, 1983, by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(a)(11); and

(C) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are submitted to the department for approval under AS 14.07.020(a)(11) before July 1, 1983, and approved by the qualified voters of the municipality before October 15, 1983, not to exceed a total project cost of (i) \$6,600,000 if the annual growth rate of average daily membership of the municipality is more than seven [7] percent but less than 12 percent, or (ii) \$20,000,000 if the annual growth rate of average daily membership of the municipality is 12 percent or more; payments made by a municipality under this paragraph on total project costs that exceed the amounts set out in (i) and (ii) of this paragraph are subject to (5)(A) of this subsection;

(5) subject to (h), (i), [AND] (j), and (o) of this section, 80 percent
of

(A) payments made by the municipality during the fiscal year

for the retirement of principal and interest on

(i) outstanding bonds, notes, or other indebtedness authorized by the qualified voters of the municipality after June 30, 1983, but before March 31, 1990, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(a)(11);

(ii) outstanding bonds, notes, or other indebtedness authorized by the qualified voters of the municipality before July 1, 1989, and reauthorized before November 1, 1989, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(a)(11); and

(B) cash payments made after June 30, 1983, by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved by the department before July 1, 1990, under AS 14.07.020(a)(11);

(6) subject to (h), (i), (j), and (n) of this section, 70 percent of payments made by the municipality during the fiscal year for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness authorized by the qualified voters of the municipality on or after April 30, 1993, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$200,000 and are approved under AS 14.07.020(a)(11);

(7) subject to (h), (i), (j), [AND] (n), and (o) of this section, 70 percent of payments made by the municipality during the fiscal year for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness authorized by the qualified voters of the municipality after March 31, 1990, but before April 30, 1993, to pay costs of school construction, additions to schools, and major rehabilitation projects.

* **Sec. 3.** AS 14.11.100 is amended by adding a new subsection to read:

(o) The percentage of bonded school construction debt that a municipality is eligible to be reimbursed for under (a)(4)(A) and (C), (a)(5)(A), or (a)(7) of this

section shall be reduced by 200 percent of a fraction, the numerator being the amount by which a bond sells at ^{an original issue} premium to par value and the denominator being the par value of the bond issue." ✓

Renumber the following bill sections accordingly.

Page 2, after line 5:

Insert new bill sections to read:

"* Sec. 5. Sections 2 and 3 of this Act are retroactive to July 1, 1993.

* Sec. 6. Sections 2, 3, and 5 of this Act take effect immediately under AS 01.10.070(c)."

Renumber the following bill section accordingly.

Page 2, line 6:

Delete "This"

Insert "Except as provided in sec. 6 of this Act, this"

AN AMENDMENT

BY SENATOR RIEGER

IN SENATE FINANCE

CSSB 312 (FIN)

Sec. 3

Page 3, line 27 delete "and (o)"

Page 4, line 21 delete "and (o)"

Page 5, line 14 delete "and (o)"

Page 5, line 8 add: "and (o)"

Page 5, line 22 delete "(a)(4)(A) and (C), (a)(5)(A), or (a)(7)"

add: "(a)(6)"

SENATE FINANCE
COMMITTEE

Amendment Number: 6
Bill Number: SB 312
Sponsor: RIEGER Date: 3/24/94
Logged In By: (Signature)

3-31-94
Committee
opt'd for
passing of
CS (HEB)

CS FOR SENATE BILL NO. 312(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to school construction and major maintenance grants, to
2 reimbursement to municipalities for school construction debt, and to interscholastic
3 school activities; and providing for an effective date."

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

5 * **Section 1.** AS 14.11.013(a) is amended to read:

6 (a) With regard to projects for which grants are requested under AS 14.11.011,
7 the department shall

8 (1) annually review the six-year plans submitted by each district under
9 AS 14.11.011(b) and recommend to the board a revised and updated six-year capital
10 improvement project grant schedule that serves the best interests of the state and each
11 district; in recommending projects for this schedule, the department shall verify that
12 each proposed project meets the criteria established under AS 14.11.014(b) and
13 qualifies as a project required to

14 (A) avert imminent danger or correct life-threatening situations;

1 (B) house students who would otherwise be unhoused; in this
2 subparagraph, "unhoused" includes conditions in which students are
3 housed in temporary facilities that are determined by the department to
4 be materially substandard;

5 (C) protect the structure of existing school facilities;

6 (D) correct building code deficiencies that require major repair
7 or rehabilitation in order for the facility to continue to be used for the
8 educational program;

9 (E) achieve an operating cost savings;

10 (F) modify or rehabilitate facilities for the purpose of improving
11 the instructional program;

12 (G) meet an educational need not specified in (A) - (F) of this
13 paragraph, identified by the department;

14 (2) prepare an estimate of the amount of money needed to finance each
15 project;

16 (3) provide to the governor, by November 1, and to the legislature
17 within the first 10 days of each regular legislative session, a revised and updated
18 six-year capital improvement project grant schedule, together with a proposed schedule
19 of appropriations.

20 * Sec. 2. AS 14.11.013(c) is amended to read:

21 (c) The department may

22 (1) modify a project request when necessary to achieve cost-
23 effective school construction;

24 (2) require that school construction in a project request be phased;
25 and

26 (3) reject project requests and omit them from the six-year schedule due
27 to

28 (A) [(1)] incomplete information or documentation provided by
29 the district;

30 (B) [(2)] a determination by the department that existing
31 facilities can adequately serve the program requirements, or that alternative