

ALASKA LEGISLATURE

1267

HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996

District bus routes operate within each of the district's 19 attendance centers in the valley "core" area. Very few buses travel past or near any of the private schools. Consequently, private school students do not use the district's school transportation system as incidental riders. District bus routing could not be designed to serve the district school and private school during the same time periods.

Some district students are transported 37.7 - 40.4 live route miles, one way, to or from school daily. Under the proposed regulation 4AAC27.015(d), private school students would be eligible for transportation up to 40.0 live miles, one way. This distance allowance, would, in effect, create a transportation/attendance center for each of the seven (7) private schools which covers the entire valley "core" area.

According to guidelines for transporting private school students issued by the Department on September 8, 1994, Memorandum 95-12, students who cannot access private schools as incidental riders on district buses could be transported on routes dedicated to the private school. In our district, all private school students would have to be transported on routing dedicated to their school. Using the current private school enrollment numbers given to the school district, the cost of this transportation calculated at the district's current contracted vehicle rate for a 170 day school year may run \$450,000 - \$500,000 annually.

Providing transportation to private school students raises several questions and concerns.

1. Developing and administering a transportation system for six (6) or seven (7) private schools will significantly increase the work load and administrative burden for district personnel.
2. The District would be responsible for a transportation system where it has no control or jurisdiction over student behavior/discipline on buses, school start/dismiss times and other factors which affect the operation of a cost efficient and safe transportation program.
3. The District currently uses the EDULOG transportation system for designing and maintaining the school bus transportation system. The data base for the EDULOG system relies on student resident location data, parent home and work phone numbers, etc. Developing the student data base is in itself a major project.

Keeping the data up to date may be difficult at best considering the District's access to parents whose children are enrolled in private schools. In the past the private schools have been very reluctant to share information about their students and total enrollments, names, grades, etc.

4. Managing the transportation on a daily basis will require a cooperative effort between public and private schools if the quality of service is to meet expectations.
5. What are the District's responsibilities relative to extra-curricular activity transportation? Is this transportation to be provided through the District's bus contractor also?
6. What if the private schools desire to have beginning and ending times during the day that don't coincide with the district schools beginning and ending times? Failure to cooperate could increase the costs by adding routes and buses.
7. Several churches and groups are considering establishing private schools in the borough as soon as the regulations are adopted. This will increase the costs as well as create a planning and logistics problem.
8. District budgets are planned a year in advance and bus contracts are based on five year bids. How will a district plan for those private schools that will ask for transportation after the school year has already begun? This could create a planning nightmare.

Considering the problems noted above, the District recommends that private schools operate their own transportation systems for those students who cannot be provided transportation on district buses as incidental riders.

1. Funding for private schools could flow through districts, with districts reporting the eligible operating costs for the private school operation to the Department of Education on the School Transportation Monthly Report. Funding and reporting could also be handled directly between the private school and the Department.

2. The public school proposal process to acquire transportation services provides a stable, cost effective daily vehicle rate for services. If funding and reporting goes through the districts, the district's bus contractor could be asked to provide additional vehicles to private schools at the contracted daily vehicle rate paid by districts.
3. Private schools should develop their own transportation systems; i.e., develop student data base, design bus routes and manage the transportation of their students directly with the bus contractor on a daily basis.
4. As districts enter into new service contracts with bus contractors, service for private schools could be incorporated.
5. Private schools should be required to conduct school bus safety training for students in accordance with AS 28.05.104.
6. Private schools should be required to comply with all Department regulations pertaining to operation of routes and regulations dealing with safety issues.

The District recommends the Department carefully consider the burden and additional costs to school districts if districts must provide transportation services to private schools. The difficulty of acquiring information necessary to provide transportation to public schools and the lack of jurisdiction necessary to deal with misconduct, etc., is also a major concern. Responsibility for the transportation of private school students should rest with the private schools where information, cooperation, jurisdiction and accountability are in place. In the event that the district will be responsible for the private schools transportation, it is my opinion that it will take a lot more time, communication, money and cooperation than is presently anticipated.

Sincerely,



Norm Falenske
Superintendent

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ALASKA

SEP 23 1994

CIVIL LIBERTIES UNION FOUNDATION

An Affiliate of the American Civil Liberties Union
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September 20, 1994

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Commissioner Jerry Covey
Department of Education
Goldbelt Place
801 West 10th Street, Suite 200
Juneau, AK 99801-1894

Dear Commissioner Covey:

I am writing on behalf of the Board of Directors of the Alaska Civil Liberties Union Foundation (AkCLUF) to express the AkCLUF's strong opposition to the adoption of proposed administrative regulations pending before the State Board of Education that effectively mandate school districts to provide transportation to students attending private schools. The AkCLUF is opposed to implementing these regulations because we believe that they violate both the United States and Alaska Constitutions.

The rationale underlying the regulations is based on the case of Ten Evck vs. State of Alaska. The AkCLUF disagrees with the Board's decision to use this case as a rationale for formulating regulations for two reasons. First, this lower court decision is not binding precedent and should not be the basis of administrative regulations. Secondly, had this case been appealed to the Alaska Supreme Court, we believe it would have been reversed on constitutional grounds. (As you know from previous AkCLUF correspondence, that we were critical of the State of Alaska's decision not to appeal the Ten Evck decision.) We contend that the direct benefits clause of the Alaska Constitution, as interpreted by the Alaska Supreme Court in Matthews v. Quintin (Alaska 1961), prohibits using public money to fund busing to private religious schools.

Even assuming that the Ten Evck decision would not be overruled, the facts underlying that decision are unique to Fairbanks and should not be used to implement busing regulations statewide. For example, for the purpose of comparison, the situation in Anchorage is substantially different from that in Fairbanks. Anchorage is the largest school district in Alaska and would be the one most impacted by these regulations. Applying the regulations in Anchorage will produce some constitutional problems which were not at issue in Fairbanks. We believe that implementing these regulations in Anchorage would directly benefit religious schools in Anchorage in a way that did not occur in Fairbanks. We further foresee additional constitutional problems arising in Anchorage that were not present in Fairbanks, including equal protection problems and entanglement problems. Each of these issues will be addressed below.

Equal Protection Problem

Unlike the Ten Eyck case, which dealt with bussing children to two (2) private schools in Fairbanks, there are dozens of private schools in Anchorage, both religious and secular. As written, the regulations would require the Anchorage School District to provide bussing to any student wishing to attend any private religious school within Anchorage. For example, section (d) of the regulation states that a nonpublic school student is eligible for transportation only if the student lives within a distance that is equal to or less than the farthest distance a public school student is bused by that district. In Anchorage, some public school students are bused from as far away as Girdwood. It is our understanding that the Department of Education lists some 130 "schools" within the Anchorage and Eagle River bowls that might qualify for bussing services. These sites are all clearly located within an area less than the distance between Girdwood and Anchorage, effectively making every child attending a private, religious school in Anchorage and Eagle River eligible for bussing.

Currently, the Anchorage School District only provides bus transportation to children attending the public school to which they are assigned. Any children who want to attend an alternative public school must arrange transportation for themselves. Under the proposed regulations, the unusual situation would arise that certain students in Anchorage attending alternative public schools would not be entitled to bussing, but those attending private religious or secular schools would be. This raises an obvious equal protection problem. Furthermore, it is likely that providing transportation to students attending religious schools may encourage students to choose a private religious school over a public school. If so, this additional enrollment would be a direct benefit to the religious school in violation of the Article VII, Section 1 of the Alaska Constitution.

Establishment Clause Issues

Forcing the Anchorage School District to arrange new routes to provide bussing for private school children would cause a multitude of logistical problems. Currently, children may utilize already existing bus routes to attend private schools provided that the bus drivers are not required to deviate from these routes to accommodate the private school students. There are dozens of religious schools in Anchorage. Arranging for the hundreds of children who attend religious schools to use the public school busses would require an enormous amount of resources from the public school system and would probably involve hiring additional personnel.

In Lemon v. Kurtzman (1971), the United States Supreme Court set out a three-part test to be satisfied in order to withstand an Establishment Clause challenge: (1) the law must have a secular legislative purpose; (2) the principal or primary effect of the law must neither advance nor inhibit religion; and, (3) the law must not foster "an excessive government entanglement with religion." We believe that providing transportation to students who attend private religious schools will violate the Lemon test for two reasons. First of all, many of the religious schools in Anchorage already provide transportation to their students. Undoubtedly these schools will avail themselves of the new regulations and take advantage of the publicly funded bus transportation, thereby saving the costs of providing transportation themselves. This additional money will be used to promote their educational program in other ways, thereby advancing their religious purposes. Secondly, children who wish to attend a private school may be inclined to attend a religious school instead of a secular school because of the fact that transportation is provided to the religious schools. Again, this additional enrollment at religious schools

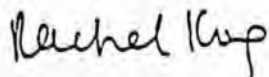
advances religion in violation of Lemon. Both of these issues pose serious federal constitutional problems.

As already mentioned, these issues were not of concern in the Fairbanks Ten Evck case. The religious schools at issue in the Ten Evck case had never previously provided transportation to their students. In ruling on the constitutionality of busing, Judge Savell specifically held that providing busing to the religious schools did not constitute a direct benefit in violation of the Alaska Constitution because the Fairbanks religious schools had never provided transportation for their pupils, therefore the schools did not receive an additional benefit from having their students bused at public expense. See Ten Evck at 22. If the public takes over providing transportation to religious school students in Anchorage, this will have the effect of enhancing religion and it would constitute a direct benefit in violation of the Alaska Constitution.

For the above reasons, the Alaska Civil Liberties Union Foundation stands ready to pursue this matter through the courts should the Board of Education decide to adopt the proposed regulations. The AkCLUF hopes the Board of Education will look closely at the impact of these regulations and determine that the regulations should not be adopted.

Either myself or co-executive director Randall Burns would be happy to discuss this matter further with you, your staff, or the members of the Board of Education, and we would be happy to answer any questions you might have. Please do not hesitate to contact this office in either event.

Respectfully yours,



Rachel King
Co-Executive Director

cc: All members, AkCLUF Board of Directors
All members, AkCLUF Litigation Committee



Anchorage School District

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Bob Cristal

MEMORANDUM

TO: State Board of Education
FROM: Bob Cristal, Superintendent
Anchorage School District *Bob Cristal*
DATE: September 20, 1994
RE: Proposed 4 AAC 27.015/Transportation of Nonpublic School Students

FROM: The Anchorage School District administration ("ASD") has reviewed the proposed regulation and numbered memoranda pertaining to the transportation of nonpublic school students. We are strongly opposed to the adoption of this regulation. The regulation will impose substantial administrative and fiscal burdens on the ASD. It will also result in a more favorable treatment of private school students over public-school students who reside within the ASD's boundaries. Additionally, it is our belief that the proposed regulation is unconstitutional and illegal. In this regard, we believe that the Department's reliance on and interpretation of the unappealed superior court decision in the Ten Eyck case is erroneous. A discussion of our concerns follows below.

1. The Proposed Regulation Will Result In Unequal Treatment Of Public School Students In Violation Of The State And Federal Constitutions:

There are approximately 130 private schools within the ASD's boundaries that are approved by the Department for public bus transportation. See ADOE List of Eligible Private Schools (September 15, 1994). These schools have a combined enrollment of approximately 2,000 students who reside within the ASD's boundaries. The Department's proposed regulation would have the ASD



transport a large percentage of these students from their homes to various private schools regardless of whether the private schools are located beyond each student's regular public school attendance area. We would note that the State does not reimburse the ASD for transporting a public school student beyond his/her regular attendance area to another ASD school of choice. Thus, for example, a public school student wishing to attend an ASD alternative school outside his/her regular attendance area must provide his/her own transportation to and from the alternative school.

Even assuming that the proposed regulation is constitutional, we are at a loss to understand why the Department believes AS 14.09.020 affords more favorable treatment to a private school student than a public school student where both attend a school outside their regular attendance area. The students are similarly situated and are entitled to equal treatment under the law. There is no rational basis for treating them differently. If the State is going to finance bus transportation for the private school student beyond his/her regular attendance area, it must also do so for similarly situated public school students.

The inequities of this situation are more pronounced in light of the fact that many public school students from low income families or single parent families are unable to attend an alternative school within the ASD or take advantage of the district's "school choice" program for lack of transportation. In addition, there are "transient" or "homeless" children in our district who, due to domestic violence or abuse or simple economic realities, move from one attendance area to another during a school year. When these children move, they must attend the new attendance

The ASD is concerned that minority students are underrepresented in alternative school programs. Lack of transportation is often cited as a reason minority children do not apply to or attend alternative programs.

area school or find private transportation to their old school. Despite studies which indicate that at-risk children, in particular, achieve better if they remain in one school setting, the state does not reimburse the district for transporting such children to a school outside of their new attendance areas. Consequently, the educational programs of homeless or economically disadvantaged children are disrupted during the school year as they move from place to place within the district.

The proposed regulation improperly treats private school students more favorably than similarly situated public school students.

2. The Proposed Regulation Violates The Direct Benefit Clause of The Alaska Constitution.

The Department bases its proposed regulation on Superior Court Judge Richard Saville's decision in Ten Evck v. State, Dept. of Education, Case No. 4FA-93-2135 Civil (Super. Ct. Jan. 25, 1994). We believe that the Department's reliance on Ten Evck is misplaced and its interpretation of the court's opinion is flawed. First, as the Department is well aware, the superior court decision was not appealed to the Alaska Supreme Court which has previously ruled that transporting students to nonpublic schools at public expense violates the Alaska Constitution's prohibition against direct benefits to non-public schools. Matthews v. Quinlan, 362 P.2d 932, 934 (Alaska 1961). The lower court's decision in Ten Evck can not overrule the Supreme Court's decision in Matthews. Moreover, the Ten Evck decision is not binding on any other court in the state. Until such time as the Alaska Supreme Court overrules Matthews, it is unconstitutional under the Alaska Constitution to transport students to private schools at public expense.

Second, in Ten Evck, the court did not decide whether "dedicated" private school bus routes were constitutional or within the scope of AS 14.09.020.

These questions were not before the court.² Thus, Ten Eyck does not lend support to the Department's contention that it is both constitutional and legal under AS 14.09.020 to require dedicated nonpublic school routes under its proposed regulation. It is our view that such routes are illegal. They provide a direct benefit to nonpublic schools in violation of the Alaska Constitution. They also go beyond the scope of AS 14.09.020 which provides for transportation to private school students "over routes the same as . . . the routes over which the children attending public schools are transported." This statutory language plainly limits public transportation for private school students to that of incidental riders on an existing route over which children attending public schools are transported. In addition, as previously discussed in paragraph 1-above, dedicated private school bus routes illegally provide more favorable treatment to private school students than similarly situated public school students.

Third, the Ten Eyck decision was narrowly based on the factual situation in Fairbanks. The court held that there was no direct or substantial benefit to the two private schools in that case because neither private school had ever provided bus transportation for their students. Ten Eyck at 22 (emphasis added). Thus, the court concluded that public bus transportation did not relieve the private schools from providing bus transportation. In Anchorage, by contrast, several of the largest private schools provide regular school bus transportation for all of their students. Nothing in the Department's proposed regulation prohibits these private schools from discontinuing bus services and instructing their entire student

The parties stipulated to the fact that the "busing" of nonpublic school students in Fairbanks conformed to AS 14.09.020. Therefore, the constitutionality of "dedicated" private school bus routes was not before the court. The court was only asked to determine if AS 14.09.020, on its face, was constitutional.

bodies to request public bus service from the ASD. Thus, in Anchorage, the Department's proposed regulation will clearly provide a direct benefit to private schools by relieving them of the financial burdens associated with pupil transportation.

The court also noted that there were waiting lists at the two Fairbanks private schools involved in the case. Thus, it questioned whether attendance was really benefitted by the provision of public bus transportation. Ten Eyck at 25. In Anchorage, however, there are currently 130 private schools many of which regularly solicit or advertise for additional students. The Department's proposed regulation would enable the private schools which do not currently provide bus transportation to gain tuition paying students who otherwise would not be able to attend private schools located far from their homes. This is a substantial benefit to private schools.

Finally, the Department's reliance on Ten Eyck as authority for the legality of its proposed regulation seems irresponsible. If the Department were confident in Judge Saville's legal conclusions, and if the Department wished to use these conclusions as the basis for state wide regulations, the Department should have appealed the lower court's decision to the Alaska Supreme Court. Massive busing of private school students over dedicated private school routes should not be mandated until such time as the Alaska Supreme Court overturns its previous ruling in Matthews v. Quinton. The Department's proposed regulation guarantees that local school districts will be embroiled in time consuming and contentious litigation. We believe such litigation will ultimately lead to the conclusion that the busing of private school students in Alaska is unconstitutional.

3. The Proposed Regulation Will Result In Excessive Entanglement Between The ASD And Parochial Private Schools In Violation Of The Establishment Clause Of Our State And Federal Constitutions.

The efficiency and cost effectiveness of ASD's pupil transportation system is predicated on the ASD's authority to set a uniform annual school calendar for all schools in the district and dictate staggered daily school hours among the district's numerous schools. The daily starting and closing times for individual schools are coordinated to achieve the most efficient use of buses. The ASD's pupil transportation office determines bus schedules within the district and these determinations largely dictate the starting and ending time of the school day of district schools. The decisions are often made over the protests of individual school communities that would prefer to start the school day at a more "convenient" hour.

As a practical matter, the Department's proposed regulation will require close alignment and integration of private school calendars (such as beginning and ending dates), holidays and daily schedules with the ASD's school calendar and schedules. In our view, this constitutes "excessive entanglement" between the ASD and parochial private schools in violation of the Establishment Clause of the state and federal constitutions. Moreover, the coordination will require a huge investment of time and staff work by the ASD.

Significantly, the regulation is silent on whether the public school or the private school has the final say over the pupil transportation schedule for the private school. As discussed above, within the ASD the pupil transportation office determines school hours based on efficient routing of buses. Under the proposed regulation, it is unclear whether ASD may dictate school calendars and school hours to a private school as a condition of providing bus transportation to private school pupils. If the district can do this, the Constitutional entanglement problem arises. If the district can't do this, the system will be chaotic and very costly.

4. The Proposed Regulation Will Impose Substantial Administrative And Fiscal Burdens On The ASD.

Even if AS 14.09.020 and the proposed regulation are constitutional (a contention we do not accept), the logistics of providing dedicated private school bus routes may be insurmountable or, at the very least, extremely costly. In this regard, the Department's estimated fiscal note is woefully inadequate and unrealistic.

The ASD is currently able to operate an efficient, cost effective pupil transportation system by creating service areas within the district. With the exception of certain outlying areas such as Girdwood and parts of Eagle River, routes are generally less than four miles. The Department's proposed regulation would require the ASD to establish much longer routes which traverse the entire Anchorage bowl. Such routes are very costly. They would be necessary, however, because private schools draw students from all areas of the district, rather than from an attendance area in close proximity to the school. Thus, in most instances, it will not be possible to "integrate" dedicated private school routes into existing ASD routes. Most likely a separate shuttle/transfer system would have to be established.

Under a shuttle/transfer system, the ASD would provide a shuttle service from each student's home to a central location where the private school students would transfer to a second bus which would take them to their individual private schools. At the end of the day, this routing would occur in reverse. Different schedules would be required for elementary and secondary students attending the same K-12 private school.

For FY 94, the ASD's per student cost for bus transportation was \$364.83 for regular students and \$5,245.69 for special education students. Special education routes are considerably more expensive because the ASD must use a shuttle/transfer system to transport special education students beyond

their regular attendance area schools. A private school shuttle system would be less efficient than the district's special education shuttle. This is so because the district assigns special education students to the closest school with an appropriate special education program. By contrast, the ASD will have no control over which private school a student chooses to attend. The proposed regulation requires the ASD to transport a private school student who lives within a distance that is equal to or less than the farthest distance a public school student is bused by that district. Currently, the ASD buses a special education student to Anchorage from Girdwood. Thus, under the proposed regulation, the ASD will be required to bus a private school student from Anchorage to a private school in Girdwood, Eagle River or perhaps even Wasilla, despite the fact that there may be numerous private schools closer to the student's home.¹

Although it is uncertain as to how many private school students would request public transportation, an estimate of the cost of transporting 1000 private school students (50%) would be, at a minimum, around \$3.0 million dollars. Based on the ASD's per pupil cost for transporting special education students by means of a shuttle/transfer system, the cost could exceed \$5.0 million. Additional personnel such as safety officers, dispatchers, routing staff and bus drivers would need to be hired. Additional buses would most likely have to be purchased.⁴ The

The regulations are at best unclear as to the rights of a private school student to be transported at public expense out of district to private schools in adjoining districts. Nor do the regulations indicate which district would be responsible for said students.

It takes 6-9 months for a new school bus to be ordered and delivered. Thus, in addition to all of the other problems created by the proposed regulation, it may be impossible to implement

Department's estimated fiscal note isn't even close to being realistic. The ASD should not be required to assume such an enormous financial burden.

In sum, even without the constitutional infirmities, the proposed regulation is an administrative and financial nightmare. The sheer logistics may be insurmountable and the costs prohibitive.

5. Additional Concerns.

The proposed regulation raises a number of unanswered questions.

a. Does the regulation require a public school district to provide "activities" transportation to private school students if it provides such transportation to public school students?

b. Will the regulation require a public school district to provide transportation back and forth between the public and private schools for those private school students who enroll part-time under the Department's proposed part-time student regulations?

c. Are private school students subject to a public school's disciplinary actions for misconduct on a public school bus? May the public school exclude a student from riding the bus?

d. Does the regulation require a public school district to transport a student to another school district? For example, must the ASD bus a student from Anchorage to a private school in Wasilla?

private school bus routes for the 1995-96 school year because the necessary additional buses simply cannot not be obtained in time.

Conclusion/Recommendation

For the reasons discussed above, the proposed regulation is unconstitutional and goes beyond the scope of AS 14.09.010. It also imposes extreme administrative and financial burdens upon the ASD. Even if these infirmities could be overcome, the specific proposal raises more questions than it answers and, as a practical matter, could not be implemented in the time frame suggested by the Department. We urge the Department to table the proposed regulation until such time as the substantial legal, logistical and financial ramifications can be studied and resolved.

The ASD is the district most heavily impacted by the proposed regulation. We are prepared to work with the Department to explore whether there are legal and more cost effective alternatives to the proposed regulation. Rather than to proceed blindly, the Department should fully analyze the costs and administrative burdens of the proposed regulation before it requires the ASD and other school districts to commit substantial time and resources to implementing dedicated private school bus routes. The Department should carefully consider whether, in this time of declining revenues, this proposal embodies a wise allocation of funds and resources. The Department should also analyze the proposed regulation as applied to the different factual situations present in different school districts. To do otherwise will only result in wasteful, unjustified and illegitimate expenditures of public funds.

Thank you in advance for your thoughtful consideration of the concerns summarized in this memorandum. I am sure that a responsible approach to the situation will lead you to further analyze this situation and ultimately reject or significantly alter any mandate for the ASD or other districts to transport private school students at public expense.



Fairbanks North Star Borough School District

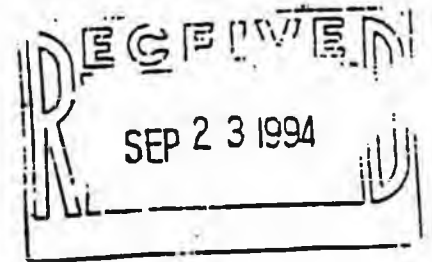
FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

520 Fifth Avenue

Fairbanks, Alaska 99701-4756

(907) 452-2000

September 15, 1994



Honorable Jerry Covey, Commissioner
Department of Education
801 West 10th Street, Suite 200
Juneau, Alaska 99501-1894

Re: Proposed Regulation 4 AAC 27.105
Action Item 95-07a
Comments of Fairbanks North Star Borough School District

Dear Commissioner Covey:

The Fairbanks North Star Borough School District thanks you for the opportunity to review and comment upon the Department's proposed regulation of busing of nonpublic school students.

1. Effect of Absence of Funding.

At the court trial in *Ten Eyck*, the School District participated to the limited extent of insisting that whatever determination was made by the court not create a risk that the School District be required to provide busing to nonpublic school students under circumstances in which the Department would not provide reimbursement to the School District for that busing. As you know, the School District's budget does not contain surplus monies by which busing may be furnished to nonpublic school students in the absence of Department funding. If, under the last sentence of AS 14.09.020, the Alaska legislature fails to fund busing for nonpublic school students, the School District should not be required to provide the service.

The reference in proposed 4 AAC 27.015(c) to 4 AAC 27.060 may not be sufficient to preserve that discretion to the School District, and may not fully reflect legislative intent. The last sentence of AS 14.09.020 implies that the legislature has reserved to itself the discretion to fund busing of public school students without funding busing for nonpublic school students. Certainly the inference may be drawn from the separate funding language in that last sentence.

2. Discretion of the School District in Providing Nonpublic Busing.

The language of 4 AAC 27.15(a) seems to provide that where the Department provides funding

September 15, 1994

Honorable Jerry Covey, Commissioner

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for nonpublic busing, the School District has no option but to provide busing for nonpublic school students. However, the statute provides "where a school district provides transportation for students attending public schools, the *department also shall* provide transportation" to nonpublic school students. (Emphasis added) Clearly the responsibility for provision of this service rests with the Department, not the local districts.

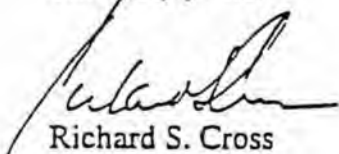
The School District suggests that the wording of 4 AAC 27.105(a) be returned to the Department's initial draft language that provided "(a) A district *may* transport students in accordance with AS 14.09.020." (Emphasis added) The ability of a school district to provide for this service at its discretion, rather than that of the Department, is a critical element in a district's ability to maintain control over staffing and funding of its pupil transportation program.

3. Miscellaneous Comments.

There appears to be a typographical or grammatical error in the last two lines of proposed 4 AAC 27.015(e). Should it not read "non-exempt schools that meet the requirements of AS 14.45.030 and exempt schools that meet the requirements of AS 14.45.100 - 14.45.130" where the underlined portion represent insertions?

Thank you for your consideration of our concerns in this matter.

Sincerely yours,



Richard S. Cross
Superintendent of Schools

4 AAC 27 is amended by adding a new section to read:

4 AAC 27.015. TRANSPORTATION OF NONPUBLIC SCHOOL STUDENTS. (a) A district shall transport nonpublic school students in accordance with AS 14.09.020.

(b) To be eligible for transportation to a nonpublic school, a student must live the required distance from the nonpublic school as set out at 4 AAC 27.010, or along a designated hazardous route as set out in 4 AAC 27.035, in addition to the other requirements of AS 14.09.020.

(c) Where not inconsistent with AS 14.09.020, the regulations that apply to the transportation of public school students also apply to the transportation of nonpublic school students, including 4 AAC 27.010 (establishment of regular routes) and 4 AAC 27.060 (reimbursement to districts).

(d) A nonpublic school student is eligible for transportation only if the student lives within a distance that is equal to or less than the farthest distance a public school student is bused by that district.

(e) In AS 14.09.020, "nonpublic schools that are administered in compliance with state law" means non-exempt schools that meet the requirements of AS 14.45.030 and exempt school meet the requirements of AS 14.45.100-14.45-130. (Eff. ___/___/___; Register ___)

Authority: AS 14.07.030

AS 14.07.060

AS 14.09.020

Alaska Department of Revenue

1995 Overview

Wilson Condon
Commissioner Of Revenue

CHILD SUPPORT ENFORCEMENT DIVISION

Child Support Enforcement is a Federal program administered as a Federal/State matching grant with the majority of operating funds provided by the Federal Government. The State, through the Child Support Enforcement Division (CSED) is responsible for the administration of the program's requirements promulgated through Federal and State statute and regulation with oversight by the Federal Government through recurrent reporting and program audits. The mission of the program is to ensure that the financial responsibility for supporting children rests with the parents rather than the taxpayer. CSED recovers monies provided for the welfare of children through public assistance from the absent parent and collects child support for non-welfare parents from the absent parent who is financially responsible.

ALCOHOLIC BEVERAGE CONTROL BOARD

The Alcoholic Beverage Control Board is responsible for control of manufacture, barter, possession and sale of alcoholic beverages within the State of Alaska. This control is exercised by board review and consideration of liquor license applications for renewal, issuance and transfer. Additionally, the board, as a quasi-judicial body, may suspend or revoke licenses and deny applications. The board may also adopt regulations. Under statute, the BRU is in the Department of Revenue for administrative purposes only.

Five board members are appointed by the Governor for overlapping three-year terms. Traditionally, members have been appointed to represent geographic areas of the state.

The board's staff is charged with enforcing compliance of alcoholic beverage statutes by over 1,800 licensees. Staff activity includes processing all license applications and fees, contacting local governments, inspecting all licensed premises, investigating alleged violations, and developing all agenda matters to be considered by the board at its monthly meetings. Additionally, the staff conducts public interest hearings on licensing matters at the direction of the board.

SHARED TAXES

This BRU accounts for all taxes and fees subject to refund provisions and subsequently issues warrants to respective communities as mandated by statutes. The following tax and license types are subject to sharing provisions:

- AS 43.35 Coin-Operated Device Tax
- AS 43.40 Aviation Fuel Tax
- AS 10.25 Electric and Telephone Co-operative Tax
- AS 04.11 Liquor License Fees
- AS 43.75 Fisheries Tax
- AS 43.77 Fishery Resources Landing Tax

This BRU is no longer funded as an operating component in order to comply with CSHB100, SLA 1989, Chapter 16. In prior fiscal years this BRU was part of the operating budget, resulting in supplemental requests each year for lack of sufficient funds. Beginning in FY91, this program was moved to the front section of the budget and is included in the operating budget request for information only.

ALASKA MUNICIPAL BOND BANK AUTHORITY

The Alaska Municipal Bond Bank Authority is organized to work with all Alaska municipalities and especially small or new and infrequent users of debt for capital projects. The Bond Bank makes it possible to: (1) borrow money in national markets to finance public projects such as schools, sewer systems, docks, roads and public buildings; (2) borrow money for these projects at the same interest rates as for larger municipalities.

The Bond Banks was created because these communities are at a disadvantage in the national financial market. Before the Bond Bank was created, these communities either paid exorbitant rates or were unable to finance capital projects.

The Bank Banks has an "A" rating. It makes capital funds available to Alaskan municipalities by selling Bond Bank bonds on the national market and loaning the proceeds to municipalities in exchange for their bonds. The advantage of the lower interest rate is passed directly to the municipality. The Bond Bank:

- Reviews, on request, the debt capacity, financial strengths and weaknesses of a municipality when considering a capital project;
- Provides market analysis of interest rate options so municipal leaders can make informed decisions about the future effect of debt payments;
- Works with the municipalities in preparing loan documents, determining debt schedules, etc.;
- Evaluates the loan request for ability to repay without undue hardship on the community in the future;
- Prepares the debt instruments for market, markets the bond issue, sells the issue at the most competitive price (negotiates for the best price in some circumstances), and issues the funds.

In FY94, the Bond Bank sold \$7,640,000 in General Obligation Bonds, \$2,500,000 in Revenue Bonds and \$3,325,000 in Revenue Refunding Bonds and earned a surplus of \$628,899 which was paid to the State of Alaska's General Fund. The Bond Bank is self-funded and does not require State General Funds. Since 1977, the Bond Bank will have paid \$18,435,503 in investment earnings to the State of Alaska which represents 99.1% of the original State of Alaska appropriation of \$18,601,413. In addition, a planned sale of \$5,260,000 General Obligation Bonds was postponed because of pending lawsuits which would have affected the ability to render adequate Bond Counsel opinion.

ALASKA PERMANENT FUND CORPORATION

The Alaska Permanent Fund was created by constitutional amendment in 1976 to preserve the benefits of Alaska's oil wealth for future generations. The principal of the Fund is inviolate, while the earnings of the Fund are disposed according to legislative appropriations and statutes. At present, 1/2 of 21% of 5 years' earnings are paid pro rata to the citizens of the State. An amount

equal to offset the effects of inflation is transferred to the principal of the Fund. The remainder (if any) of the earnings is placed in an earnings reserve account and invested along with the rest of the Fund until such time as the legislature determines the disposition of those reserves, or unless needed to meet the dividend payment or inflation-proofing requirements.

The Alaska Permanent Fund Corporation was created by statute in 1980 to serve as the manager of the assets of the Alaska Permanent Fund. The Corporation is an instrumentality of the State, and is guided by the policies established by a six-member Board of Trustees appointed by the Governor: two of the appointments are cabinet members, and four are public members. The operations, administration, and implementation of policy are vested with an executive director and, through the executive director, the staff of the Corporation.

Assets in excess of \$108.6 million from the Science and Technology Fund are placed with the Corporation, to be invested along with the assets of the Permanent Fund.

Under the Constitution, investments must be specifically set forth by the legislature. The legislature has set forth a statutory list of permissible investments, which generally are high-grade U.S. and non-U.S. fixed-income instruments, U.S. and non-U.S. equities, and U.S. real estate investments in completed and substantially-leased properties. In addition, all investments must meet the "prudent investor rule", which is the standard imposed on all large institutional funds (such as pensions funds).

The primary duties of the Corporation have remained essentially unchanged since inception in 1982, although additional investment authority has periodically been added by statute. The size of the Fund (at cost), however, has increased dramatically, rising from \$3.2 billion at June 30, 1982 to \$15 billion at June 30, 1994. It is anticipated that the Fund will rise to approximately \$16.1 billion (at cost) by the end of FY95. At current writing, the market value of the Fund is \$15 billion, and we anticipate its market value will rise to approximately \$16.7 billion by June 30, 1996. At present, the Fund is one of the 50 largest investment funds in the world.

The major goal and first priority of the Alaska Permanent Fund Corporation is to maintain the safety of the Fund's principal. To achieve that goal it is essential to provide an adequate level of investment management and administrative support. Over the long-term, other goals of the Corporation's Board of Trustees are: (a) to ensure that the Fund achieves an average real rate of return of 3% after considering effects of inflation; (b) to fully inflation-proof the Fund to maintain its value over time; and (c) to recognize the long-term importance of the Permanent Fund to the State of Alaska and its people. Investment asset allocation targets to be reached by June 30, 1997 are: (a) 45% of the Fund is to be invested in high quality fixed-income securities, of which no more than 5% is allocated to non-U.S. securities, and \$300 million has been allocated for the Alaska banks certificates of deposit program; (b) 35% of the Fund is to be invested in U.S. stocks; (c) 10% of the Fund in non-U.S. stocks; and (d) 10% of the Fund in equity real estate. To achieve these goals, the Alaska Permanent Fund Corporation must provide an adequate level of investment management, accounting, and administrative support, as well as reliable and objective information on all public policy and Fund-related investment issues to the state administration, the legislature, and the people of Alaska.

ALASKA HOUSING FINANCE CORPORATION

The Alaska Housing Finance Corporation was created in 1971 by the State of Alaska to provide Alaskans with low cost mortgage financing. AHFC's activities constitute a significant portion of the Alaskan residential housing market. The majority of funds used to purchase the mortgage loans are generated through the issuance of taxable and tax-exempt bonds.

In June 1992, Governor Hickel signed into law CSHB 595. This consolidated the housing functions of the state government under AHFC by merging the Alaska State Housing Authority (ASHA) and the energy and housing programs of the Department of Community and Regional Affairs (DCRA).

The authority of AHFC has expanded to provide for the financing, acquisition, rehabilitation, construction, weatherization, and operation of housing for low and moderate income Alaskans and citizens in rural Alaska, special needs, and senior citizen housing projects. AHFC is responsible for:

- Administering the Alaska Energy Efficient Home programs and the Housing Assistance Loan fund by providing money for rural assistance by originating, purchasing, or participating in small community housing mortgage loans.
- Providing, purchasing, or participating in senior housing mortgage loans or loans made for renovations and improvements of senior housing.
- Planning, studying, implementing, and assisting those programs for energy conservation and weatherization.
- Managing and operating low cost public housing projects; operating and administering those housing projects, provide for the construction, improvement, alteration, or repair of a housing or a public building project; arrange or contract for the financing, design, construction and acquisition of public buildings for lease to the state.
- Coordinating the State's housing strategy and homeless programs.

The goal of the Corporation's energy programs is to reduce the state's \$200 million heating bill by at least 25% by the year 2000 through cost-effective and practical energy efficiency measures and practices. The Corporation offers a comprehensive approach for improving the energy efficiency of housing in Alaska. This effort features market-driven efforts such as the Alaska Craftsman Home Program, Energy Rated Homes of Alaska as well as Weatherization.

Additionally, the Corporation administers the Supplemental and Senior Citizen Housing Development Funds.

These are critical elements of an economic development strategy to stem the high cost that Alaskans must pay just to stay warm. The \$200 million annual heating bill is a serious drain on the state's economy. In order to have self-sufficient rural economies we must have more self-sufficient homes and community facilities. The Corporation's energy programs are integral to the Corporation's efforts for rural economic development and housing assistance.

The Corporation continues to review ways to institute mortgage finance, refinance, and assistance programs that serve a public purpose in benefitting the people of the state.

During calendar year 1994, the Corporation completed a strategic planning process that resulted in goals and objectives being established to make affordable, safe and energy efficient housing available for all Alaskans. The process enabled the staff of the Corporation to investigate areas of program development that insures success of the corporation's mission.

Beginning in FY95, the Public Housing (PHD) budget was presented in both the operating and capital budgets per CSHB 595, sec 90. The Public Housing budget is primarily funded through the Department of Housing and Urban Development (HUD). PHD is the only housing authority in the nation having statewide jurisdiction.

ALASKA MENTAL HEALTH TRUST AUTHORITY

The Alaska Mental Health Trust Authority is being established in accordance with the Weiss v. State of Alaska decision. The mission of the Authority will be to administer the corpus of the settlement.

INCOME & EXCISE AUDIT DIVISION

The Income and Excise Audit Division of the Department of Revenue administers the State's tax laws to ensure collection of revenues for the State and equitable tax treatment for taxpayers. Tax types administered include: corporate income, motor fuel, tobacco, alcoholic beverages, mining license, estate, fisheries business, fishery resource landing, salmon enhancement, salmon marketing, seafood marketing assessment, coin-operated device tax and telephone and electric cooperative tax.

The division serves as a collection agency for Alaska Public Utilities Commission (APUC) by collecting and accounting for regulatory cost charges. The division administers the Shared Taxes and Fees programs by sharing a portion of revenue collected to the municipalities. The following taxes and fees are subject to sharing: electric and telephone cooperative, coin-operated device tax, aviation, motor fuel tax, liquor license fees, fisheries business tax, and fishery resource landing tax.

The division conducts field audits and desk reviews of a cross section of all tax types it administers. The division is headquartered in Juneau and maintains an audit office in Anchorage. The division establishes policies in tax matters, publishes tax rulings, and manages tax return forms. The division also administers the unclaimed property program which applies to a wide range of abandoned property. This program provides for a transfer of the custody of abandoned property remitted from holders to the State. The division seeks to locate the owners through publication of names. There is no statute of limitations to claim the property held by the division.

OIL & GAS AUDIT DIVISION

The primary services of the Oil & Gas Audit Division are to audit all royalty, production and separate accounting income tax returns; provide a forecast of revenue from these sources; assess oil and gas property tax throughout the State; conduct informal and participate in formal

hearings regarding the collection of oil and gas taxes. The Division also provides assistance and support to the Commissioner in developing long range programs to provide a stable source of revenue to the State.

The Division is comprised of five elements:

- The Audit Group administers the Oil and Gas Production Tax, Conservation Tax and Separate Accounting Income Tax for oil companies. In addition it conducts audits of Oil and Gas Royalties and net Profit Share lease agreements administered by the Department of Natural Resources.
- The Appeals Group conducts informal conferences on audit assessments and manages cases at formal hearings.
- The Petroleum Property Assessor is responsible for administration of and compliance with the Oil and Gas Property Tax (AS 43.56).
- The Economic Research and Analysis Group assists the audit group, administers the quarterly estimated tax collection program and provides forecasts of revenues to be generated from oil and gas resources.
- The Processing Group processes returns, maintains a master tax file system and establishes a statistical database on returns filed.

TREASURY MANAGEMENT

The Treasury Division is charged with the responsibility of managing the State's financial assets. This includes management of 18 separately invested funds totalling over \$9.7 billion, the collection and disbursement of all State funds and the issuance and oversight of all State debt. The Division serves as staff and investment counsel to the Alaska State Pension Investment Board (ASPIB) as well as the State Bond Committee. Funds under the management of the Treasury Division are divided into two components. This budgetary document reflects the 12 funds (\$2.4 billion) for which the Commissioner of Revenue has sole fiduciary responsibility;

12 Treasury Management funds

General Investment Fund
Alaska Bond Construction Fund
Budget Reserve Trust Fund
AHFC Special Pledge Fund
Investment Loss Trust Fund
Advance College Tuition Payment Fund
Public School Trust Fund
Alaska Children's Trust Fund
University of Alaska Trust Fund
Alaska Student Loan Corporation Custodial Funds
International Airports Construction Fund
International Airports Revenue Fund

To carry out the wide range of responsibilities assigned to the Treasury Division, the Division is structured as follows:

The Portfolio Management Section is responsible for managing the assets of the 12 funds within the appropriate statutory requirements and investment guidelines while ensuring adherence to the "prudent investor rule." Portfolio Management also assists in the development of investment policies, including asset allocation and performance measurement, and is responsible for implementation of those policies. Portfolio Management has direct responsibility for managing all fixed income investment portfolios as well as overseeing the activity of external equity and real estate managers.

The Cash Management Section functions as the State of Alaska's bank and cash control center. This section is essentially Alaska's largest bank. As the bank of the State, Cash Management collects all revenues, pays all expenditures and monitors the amount of cash available for investment on a daily basis. The agencies depend on Cash Management for the accounting, reconciliation, daily processing of all agency deposits, return items and warrant redemptions. Duties include the receipt of State taxes and royalty payments, Federal payments, investment income, State warrant redemption system, electronic payments, collection and processing of returned items and State agreement for compliance with the Federal Cash Management Improvement Act as well as managing all State banking relationships. Cash Management establishes policies and procedures to be followed by all State entities to ensure cash transactions are performed efficiently and with maximum security.

The Accounting Section is responsible for the safekeeping, accounting, auditing and reporting of all investment activity. This section is also responsible for providing automated data processing systems and administrative support for the entire Division. These duties require the preparation of monthly financial statements and reports for the funds as well as the coordination of the annual independent audit of 11 funds.

The Debt Management Section is responsible for the oversight of all State debt. This includes general obligation debt, lease-financing debt and international airport revenue debt as well as certain responsibilities related to the issuance of debt for the Alaska Housing Finance Corporation and the Alaska Industrial Development and Export Authority. This Section serves as staff to the State Bond Committee.

CHARITABLE GAMING DIVISION

The Charitable Gaming Division administers and enforces the laws and regulations of the State of Alaska in accordance with AS 05.15, AS 43.35, 15 AAC 160 and 15 AAC 035, which pertain to Games of Chance and Skill and Coin-Operated Amusement and Gaming Devices. The Division serves as the collection agency for fees, taxes, penalties, and interest due the State. The Division issues permits to qualified organizations, licenses qualified operators, distributors and manufacturers, and registers all third-party vendors being used by permittees for the sale of pull-tabs. The Division also administers a test to all members in charge and operators within the state. It ensures the qualifications of an individual to serve in the capacity of member in charge or as an operator. Tests are conducted four times a year. Failure of the test by a member in charge or operator results in the denial of a permit or license to conduct gaming.

The Division is responsible for enforcing the provisions of AS 43.35. The major focus will be on proper reporting of Class 2 and Class 3 gaming devices and payment of the taxes due.

The Division also performs inspections and audits. It conducts field inspections of gaming establishments to ensure compliance with the laws and regulations of the State. Both desk and field audits of permittees and licensees are conducted to ensure accurate reporting of income, expenses and distribution of net proceeds.

ALASKA STATE PENSION INVESTMENT BOARD

The Alaska State Pension Investment Board is required by statute to oversee the management of the pension funds that fall within their scope of responsibility. These six funds, totalling over \$7.5 billion, are as follows:

Public Employees' Retirement Trust Fund (PERS)
Teachers' Retirement Trust Fund (TRS)
Judicial Retirement Trust Fund (JRS)
Military Retirement Trust Fund (MRS)
State's Deferred Compensation Plan (ADC)
Supplemental Benefits System Investments (SBS)

The Treasury Division provides staff and a critical source of investment counsel to the ASPIB. The Division is responsible for managing the assets of the various funds. This is primarily accomplished by the Deputy Commissioner, Portfolio Management and Accounting Sections, and the Special Assistant to the Commissioner as follows:

The Deputy Commissioner is responsible for all administrative matters that come before the eight member Board. These matters include, but are not limited to, preparing for and conducting Board meetings, review of budget documents, legal matters, legislation, professional education of the Board members, and direct oversight of the Treasury Division staff.

The Portfolio Management Section is responsible for managing the assets of the funds within the appropriate statutory requirements and investment policies of the Board while ensuring adherence to the "prudent investor rule". Portfolio Management also assists in the development of investment policies, including asset allocation and performance measurement, and is responsible for the implementation of those policies. Portfolio Management has direct responsibility for managing all fixed income investment portfolios for PERS, TRS, JRS and MRS as well as overseeing the activity of external equity and real estate managers and all of the assets of SBS and ADC.

The Accounting Section is responsible for the safekeeping, accounting, auditing and reporting of all investment activity as well as automated data processing systems and administrative support. These duties require the preparation of monthly financial statements for the funds as well as the coordination of the annual independent audit of the PERS, TRS, JRS and MRS funds. Much of the automation which allows Treasury to efficiently manage and properly track investments is the result of efforts made by Accounting Section personnel.

The Special Assistant to the Commissioner is the liaison between the ASPIB, the Commissioner,

Deputy Commissioner and Treasury staff. Responsibilities of the position include preparation of Board meetings and special research projects.

The Cash Management Section, as the State's bank and cash control center, provides services for the accounting and processing of deposits and disbursements and maintains the banking relationships required for the funds.

COMMISSIONER'S OFFICE

The Commissioner's Office is responsible for the overall management of the Department's activities, including administration and enforcement of state tax laws and investment and management of nearly all state funds except those funds of separate authorities and corporations. These responsibilities are performed through the Income & Excise Audit, Oil & Gas Audit, Charitable Gaming, Treasury, Administrative Services and Permanent Fund Dividend divisions. Through the Child Support Enforcement Division, this office is also responsible for overseeing the enforcement and collection of child support obligations and orders.

The Commissioner's Office conducts numerous special project activities including ongoing review and analysis of departmental policies and procedures. In particular, this office conducts a continual review of oil and gas tax cases. These cases have priority status due to their significant impact on the state's income.

Through membership, the Commissioner provides support and financial advice to the following boards and authorities: Alaska Municipal Bond Bank Authority, State Bond Committee, Royalty Oil & Gas Advisory Board, Medical Facilities Authority, Alaska Permanent Fund Corporation, Alaska Housing Finance Corporation, Public School Advisory Board, Alaska Industrial Development & Export Authority, Alaska Student Loan Corporation, and the Alaska State Pension Investment Board.

The Commissioner also serves on the boards of the Alaska Municipal Bond Bank Authority, the Alaska Housing Finance Corporation, the Alaska Permanent Fund Corporation, the Alaska Mental Health Trust Authority, and the Alaska State Pension Investment Board. These agencies also receive administrative support from the Department. The Department also provides support services to the Alcohol Beverage Control Board; however, the Commissioner does not serve on its board of directors. The Department provides support services in the areas of budget, procurement, fiscal, personnel, data processing, supply and mail handling.

The Revenue Hearing Examiner Section conducts formal hearings on taxpayer, charitable gaming licensee, permanent fund dividend applicant and child support grievances, ultimately issuing formal written decisions. This section also reviews state and federal revenue statutes and drafts proposed statutes and regulations. It coordinates all departmental regulation adoption and amendment activities.

OIL & GAS TAX CASE REVIEW

The Oil & Gas Tax Case Review component provides funding for the Hearing Examiner Section to hear oil and gas tax case appeals. Other efforts include reviewing and approving audit plans and assessment policies; monitoring the progress of appeals; prescribing rules for settlement

discussions; requesting studies of economic, legal and other issues; and special projects to improve the state's ability and efficiency in auditing and collecting taxes.

ADMINISTRATIVE SERVICES DIVISION

The primary function of the Administrative Services Division is to provide core support services to the line divisions, corporations and other agencies so that they may focus their staff resources on meeting their program goals.

The Division is composed of four sections. The Personnel Section provides personnel and payroll services to the line divisions and other agencies attached to the Department for administrative purposes. The Fiscal/Budget Section serves as the general accounting section for the Department and is responsible for budget preparation, expenditure projections, accounts payable, travel accounting, records management and general accounting transactions. Supply/Mail Services implements the Department's purchasing policies and is responsible for general supply support. This section also provides central mail and courier services, lease management and property control. The Data Processing Section is responsible for programming and maintenance support for department-wide information systems. All data processing equipment and software purchases must be reviewed and approved by the Data Processing manager to ensure conformity with the Department's established standards and long term plans.

PERMANENT FUND DIVIDEND DIVISION

Under the provisions of AS 43.23 and 15 AAC 23, the PFD Division is responsible for annually distributing a PFD to each eligible Alaska resident. To accomplish this, the Division:

- disseminates information to the public about the program, including the eligibility and filing requirements;
- develops and distributes application forms;
- assists the public in completing and filing applications;
- annually receives and processes more than 558,000 applications;
- determines applicants' eligibility;
- provides an appeal process to those applicants determined ineligible;
- investigates potentially fraudulent applications, developing cases for criminal prosecution;
- makes payment to eligible applicants as well as assignees and garnishors of eligible applicants' PFD's;
- collects repayment of erroneously paid dividends.



Alaska Department of

NATURAL RESOURCES

OVERVIEW

January 27, 1995

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THE DEPARTMENT OF NATURAL RESOURCES

OVERVIEW

- Charged by the Constitutions with the responsibility to manage and develop Alaska's land, water, and surface and subsurface resources.
- Oversees approximately 87 million acres of uplands and 65 million acres of tidelands, shore lands, and submerged lands and manages about 40% of the nation's freshwater resources.
- Consists of 8 divisions, the Pipeline Coordinator's office, Soil & Water Board, Mental Health Trust Land "Unit", and EVOS Trustees Council Staff.
- Operates offices in 22 Alaskan communities
- 597 full-time employees and 240 part-time employees (excluding emergency fire fighting positions).

THE COMMISSIONER'S OFFICE

- Maintains offices in Juneau and Anchorage and sets departmental goals and policies and provides support services to DNR's divisions and 25 boards and commissions.
- Supports the Pipeline Coordinator's Office, the Citizen's Advisory Commission on Federal Areas, the Mental Health Trust Unit, EVOS Trustee Council staff, and the Soil and Water Conservation Board which are organizationally housed within the Commissioner's Office.
- Since 1977, Alaskans have saved 25% of the petroleum revenues received by the state. The State of Alaska annually deposits a minimum of 25% of each petroleum royalty dollar into the Permanent Fund. 65% of the Permanent Fund's principal is from the state's petroleum revenues, the majority of which comes from land managed by the Department of Natural Resources.

DIVISION OF OIL & GAS

- Ensure that prospective oil and gas lands are made available for competi-

tive leasing on a timely and predictable basis, and that the state receives full value for the sale of these resources. Three Lease sales are currently scheduled for FY'95.

- o Advance innovative programs such as exploration licensing, expanded exploration incentive credits and coalbed methane that will promote exploration and development on both state and private lands in frontier interior basins.**
- o Ensure that all royalty, rental and bonus revenues due the state from leasing and production are received, and that shared federal royalties are properly received and allocated.**
- o Ensure that the surface operations of lessees and permittees are conducted in an environmentally, socially and economically sound manner.**
- o Advocate petroleum resource development throughout the state.**
- o Develop and advocate marketing strategies for Alaska oil and gas, including negotiating royalty oil purchase agreements with in-state refineries.**
- o Provide technical and policy support on oil and gas issues for the DNR Commissioner's and Governor's office and Alaska's Congressional delegation.**

The division's programs enable Alaskans to enjoy low taxes, continued growth of the Permanent Fund, and direct and indirect employment as a result of oil and gas development and subsequent state and local spending. The division's "customers" are all of the residents of Alaska who benefit from the availability of oil and gas revenues for education, public safety, revenue sharing to communities, capital improvement projects, the Permanent Fund and other state and local programs.

DIVISION OF LAND

- o Serves the state as a real estate developer and property manager by providing land for Alaskans to own and use.**
- o Issues and maintains sales contracts for parcels of land purchased by Alaskans.**
- o Issues leases that range from set-net fishing sites or aquatic farms to shore-based fish or timber processing facilities to North Slope oil support industry sites and commercial recreational lodge sites.**

- **Makes gravel and other materials available for residential, commercial, and industrial development; and is the states survey authority to establish property boundaries.**
- **Protects the state's assets by establishing and enforcing reasonable conditions to protect the environment when authorizing land use, stopping unauthorized uses, and planning for land and resource use and conservation.**
- **Responsible for stewardship of land retained in state ownership for public access, energy development, legislatively designated public use and recreation areas, and a host of the public use purposes.**
- **Maintains offices in Juneau, Anchorage, and Fairbanks to provide these essential services to all Alaskans.**

STATE PIPELINE COORDINATOR - JOINT PIPELINE OFFICE

- **The State of Alaska, BLM and other Federal agencies formed the Joint Pipeline Office in 1990. This was in response to the clear need for a coordinated approach to monitoring and regulating the Trans-Alaska Pipeline System (TAPS) and two pending gas pipeline projects.**
- **The office includes 65 employees, representing 11 federal and state agencies. Headed by the State Pipeline Coordinator and the Federal Authorized Officer, the JPO organization includes:**

•ADNR	•USDI, BLM
•ADEC	•EPA
•ADF&G	•US DOT, OPS
•ADOL	•US Army COE*
•ADOT&PF*	•US Coast Guard*
•ADCG	

*Indicates not physically present in JPO.

- **In response to congressional hearings on problems associated with TAPS, BLM and JPO have undertaken an accelerated contracting program to identify problems, identify recommended solutions and move to oversee the correction of identified problems.**
- **Monitors pipeline activities for compliance with the conditions of the right-of-way grant and lease, permit terms and conditions, and for compliance with applicable regulations for each agency.**

- **Responsible for permitting necessary for operation and maintenance of the pipeline system, as well as planning and permitting for three proposed gas pipelines.**
- **The 800-mile pipeline currently moves around 1.6 million barrels of oil per day from Prudhoe Bay to Valdez, where tankers transport the crude to west coast refineries.**
- **The pipeline has been in operation since 1977, and has safely transported over 10 billion barrels of oil to the Valdez terminal. Oil income accounts for about 85% of State revenue.**
- **Issues involving public safety and environmental protection, pipeline integrity and complaints by Alyeska employees of harassment, lack of training and lack of a quality assurance program and the JPO's response to these problems have all been the subjects of congressional hearings and are the areas JPO works most heavily in.**

DIVISION OF FORESTRY

- **Provides wildland fire management and suppression, enforces the Forest Resources and Practices Act and manages forest land.**
- **Protects the forest's natural values while supporting Alaska's economy through development of wood products in an environmentally sound manner.**
- **Major program contributions include:**
 - **State forest management consisting of: extensive public process; timber sale planning and design; contract administration; and reforestation. The state timber sale program supports regional timber industries and maintains diverse, productive forests for all forest users. Extrinsic programs include personal use timber and firewood, beach log salvage, Christmas trees, and forest access.**
 - **Forest Resources and Practices Act enforcement to ensure that timber management on private, municipal, and state land uses the best practices to provide jobs and timber receipts without bringing harm to water quality, fish habitat, and other forest resources. Private land responsibilities include very careful decisions on variations to the Act. Research and monitoring of the effectiveness of protection in the law is underway.**

- **Fire management to protect life, property, and resources threatened by fire, and to gain the benefits of fire for habitat and forest health in areas where other values are not threatened. Fight wildland fires in the most efficient and cost-effective manner to meet statutory requirements which provide wildland fire protection to all state, municipal and private lands. The 73 emergency fire fighter crews, predominantly from rural villages, and seasonal forest technicians fight fires in the Lower 48 during times of low fire incidence in Alaska.**
- **Stewardship and Community Forestry to disseminate forest management information and federal cooperative forestry funds to private owners and municipalities bringing the benefits of fire protection equipment, more productive commercial forests and enhanced urban forests to all Alaskans.**

PARKS AND OUTDOOR RECREATION

- **Maintains a large, mostly road-accessible highly developed park and recreation system.**
- **Operates more than 133 parks, recreation areas and historic sites, the state park system receives nearly 6 million annual visits, one quarter from non-resident tourists. Offers 2,500 campsites, fishing access sites, picnic area, visitor centers, trails, public use cabins and other recreation facilities, the park system is a key component for the state's tourism industry.**
- **Parks Maintenance and Operations - The division manages over \$100 million in developed recreation facilities in a highly cost-effective manner. Revenue collected from the recreational User Fee program is invested into maintenance of restrooms, hauling trash, and repair of vandalism. Parks now collects nearly one-third of its field operations budget from campground, boat launch, RV dump station and day use entry fees. The facilities are maintained and operated by a seasonal staff, temporary employees, over 30 private contractors, and more than 600 volunteers. They provide a variety of janitorial and facility maintenance services, and assist visitors at parks and campgrounds throughout the state.**
- **Public Safety - Parks staff inform and educate the visitors about hazards related to outdoor recreation, i.e. boating safety, stream crossing, wildlife encounters, etc. Thirty-two park rangers are commissioned as Peace Officers to enforce the law within state parks. They backup temporary employees, campground hosts, and members of volunteer "Park Watch" groups in deterring crime and behavior disruptive to park visitors. The vast majority of park rangers are seasonal employees.**

- **Resource Management** - State parks receive a wide variety of recreational uses. Residents and visitors to Alaska pursue fishing, launch boats from Deep Creek, operate ATVs and snowmachines in Chugach State Park or Chena River Recreation Area, or hunt for moose in many parks. Park managers issue Park Use Permits. These permits authorize and control a variety of activities that have potential impact on park resources. These activities vary from competitive events, such as races to moving mining equipment across frozen park land to mining claims outside park boundaries.
- **Managing Commercial Uses** - State parks has developed public-private sector partnerships which allow for small business to work in state parks. In FY94, over 400 businesses were permitted or licensed to work in state parks, providing a range of services from canoe rentals to sport fishing guides.
- **Volunteerism** - State Parks has the largest volunteer program in Alaska. Park Managers recruit, train and utilize over 600 volunteer workers each year. Last year, approximately 2,000 people responded to volunteer recruitment information. The volunteer program allows the State Park system to maintain high standards and quality services in its facilities. The volunteer is motivated by opportunities to learn new skills, meet people with similar interests, see a new area of the country, and to contribute to a worthy cause.
- **Engineering Support** - Development of new campgrounds, structures and buildings and the rehabilitation, expansion, and repairs of existing facilities in over 133 park units requires program direction and oversight by registered engineers. Parks contracts for \$2-4 million in construction each year. Engineers set design standards, supervise park designs, approve plans and specifications, and guarantee that construction is performed in compliance with approved plans.
- **History and Archaeology** - Manages the State of Alaska's historic preservation programs to identify, document, protect and restore sites and building, and to educate Alaskans and visitors about heritage resources. To carry out these programs, the Office of History and Archaeology seeks partnerships with local governments, Native organizations, historical societies, non-profit organizations, private owners and other government agencies. The Alaska Historical Commission advises the Governor on programs concerning history and prehistory, historic sites and building, and geographic names.

DIVISION OF GEOLOGICAL AND GEOPHYSICAL SURVEYS

- **Generates, assembles, and disseminates geologic data and information pertaining to Alaska's subsurface estate of minerals, coal, oil and gas, construction materials, and geothermal energy.**
- **Provides strategic guidance to avoid or mitigate potential geologic hazards that could be encountered during volcanic eruptions, access corridor development, and construction of urban and rural village infrastructure.**
- **Geologic reference samples archived in the ADGGS Geologic Materials Center are a popular source of data for petroleum and minerals companies.**
- **Reports and archive materials provide the public with a primary source of Alaska geologic knowledge that is the basis for a continuing stream of Alaskan resource development and socially-oriented engineering projects.**
- **The organization and public dissemination of all types of Alaska geologic data as a prime function of the division.**
- **Geologic knowledge is fundamentally necessary for the state to generate a sustainable economy from its subsurface resources, protect the state's interest during ongoing state vs. federal land negotiations, preserve the integrity of the natural environment, and contribute to the safety of its citizens.**
- **Acts as technical consultants to agencies of the state of Alaska in matters related to resource endowments and geologic hazards.**
- **Locates, identifies, and inventories subsurface resources of economic value including minerals, coal, and geothermal energy and annually reports on mineral industry activities within the state.**
- **Conducts strategic field surveys and geologic inventories to identify the locations of potential oil and gas fields.**
- **Identifies sources of sand, gravel, and other construction materials needed by municipalities throughout rural and urban Alaska.**
- **Identifies potential sources of natural gas or coal resources needed for local heat and power generation in rural Alaska.**
- **Provides help to rural Alaskans and other agencies in assessing the character of surficial geologic units underlying and impacting sites for municipal construction projects.**

- **Makes pre-engineering assessments of access corridors to identify geologic hazards to roads, bridges, and other structures so that they can be avoided or mitigated during later design and construction of the state's infrastructure.**
- **Provides the state's direct line of communication with respect to hazards associated with volcanic eruptions.**

DIVISION OF MINING & WATER MANAGEMENT

Mining Goals

- **Was created as a direct response to budget reductions in the former Division of Water. The merged division is responsible for making available for use and development the state's mineral and water resources and for managing these resources to assure the state's best interests are met.**
- **Assures the maximum amount of the state's mineral resources are available for exploration and prudent development,**
- **Provides technical assistance and oversight as required by law to assure that other public resources are not unreasonably or unduly damaged,**
- **Maintains mining claim lease, coal lease and permit files in a cost effective and timely manner to assure revenues from the state's mineral resources are collected timely, and**
- **Makes files easily accessible to the mineral users and the public.**

Water Goals

- **Manage the state's water resources held in trust through timely and responsible adjudication of applications for water use.**
- **Ensure safety of dams,**
- **Collect, interpret, and disseminate water resource data essential for domestic and commercial uses including export, and for prudent development of Alaska's resources,**
- **Secure Quiet Title to submerged lands beneath navigable inland waters with priority to waterbodies having potential for economic development,**
- **Provide leadership in the cooperative resolution of water management issues,**

- Implement procedures that assure a fair return for appropriation and for exportation of Alaska's water.

Significant objectives are:

- Administer State Coal Mining laws and promote development of coal resources
- Complete reclamation work on dangerous abandoned mine sites
- Assist permitting large-scale mining
- Maintain mineral property records
- Develop multi-year permit program
- Monitor/expedite multi-year reclamation plans
- Process/adjudicate 7,500 new mining claims
- Process/adjudicate annual labor/rental of 30,000+ mining locations
- Process deeds/contracts for ownership transfer, 4000 properties
- Adjudicate 450 APMA's
- Assist mining companies/small operators in permitting/compliance
- Inspection of dams for safety and maintain database of dams to ensure compliance
- Accept/process 1200 water-related applications
- Develop hydrological data to protect interests of individuals and communities from unexpected flooding & erosion
- Work with Federal agencies regarding navigability of 14 million acres of submerged lands
- Work with mining industry, providing hydrologic data necessary for mining operations
- Provide coordination of Alaska Water Management Council to ensure priorities are identified

DIVISION OF AGRICULTURE

- **Represents a \$30 million renewable resource industry.**
- **In 1993 agriculture employed in excess of 1500 Alaska residents at an average hourly salary of \$7.50.**
- **The agricultural business also represents one of many opportunities to diversify the Alaskan economy by creating opportunity for in-state production and marketing of food and fiber.**
- **Supports the Alaska agricultural community through marketing and inspection services, agricultural land management and resource conservation services, competitive farm development and operating loans, and plant materials development and testing.**

Agriculture Revolving Loan Fund:

- **Conventional financing for agribusiness is generally not available in Alaska due to restricted ag land title, perceived risk, and lack of private sector experience in agricultural lending practices.**
- **In FY 94 the ARLF filled this critical gap by providing \$1.9 million of low interest farm development, chattel, operating, and product processing loans.**
- **The ARLF through the Directors office has focused a great deal of its attention toward improving the delinquency rate of an inherited portfolio by restructuring loans to low risk borrowers with a productive history.**
- **Aggressively pursued delinquent loans through settlement action and/or litigation. As a result of this aggressive asset management program the projected value of land, equipment, stocks, judgements, and cash revenue returned to the ARLF portfolio in 1993, is \$7.7 million.**

Northern Latitude Plant Materials Center/Forest Nursery:

- **Recognized as the authority in Alaska on reclamation, revegetation, wetland rehabilitation, and commercialization of plant varieties adapted to northern climates.**
- **Virus free seed stocks have also reduced the need for field applications of hazardous insecticides and fungicides which in many parts of the lower 48 have had a long term effect on water quality as well as other negative environmental impacts. Last year Alaska growers produced 13,000,000**

pounds of potatoes with a market value of \$2.4 million.

- Data collected by the PMC on plant performance as a result of out-state testing is used to develop standards and specifications required by state and federal mine land reclamation regs, state and federal highway construction projects with revegetation requirements, and bio-engineering standards for stream bank stabilization projects involving valuable fish and wildlife habitat protection.
- In July of 1993, the PMC program was expanded to include the commercial production of tree seedlings adapted to northern climates. A.S. 41.17 requires the reforestation of all harvested state, municipal, and private forest lands.

Soil & Water Conservation Board:

- The Land Conservation program within the Division is the responsibility of the Alaska Soil and Water Conservation Board and the 10 Soil and Water Conservation Districts authorized under A.S. 41.10.
- The Alaska Conservation program is part of an active network of 3,600 Soil and Water Conservation Districts throughout the lower 48 involving some 17,000 locally elected land owners.
- Federal program assistance is available in forest management, mine land reclamation, wildlife habitat enhancement, and recreational development on private lands in Alaska.
- Because the native community represents the largest private land owner in Alaska, new federal programs focused on rural economic development and multi resource management are also now available to regional and village corporations through the unique state, federal, private partnership offered by the Alaska Soil and Water Conservation Program.

Agricultural Contract Management:

- As part of the Area Planning process the division has been actively involved in the interpretation of soil surveys, land cover type mapping, and wetland inventories to effectuate the classification of these lands for inclusion into the current 595,000 acre agricultural land bank.
- From 1978 to 1989 the state actively pursued the sale and/or lease of lands for agriculture development. Although the Div. of Lands was responsible for conducting the sale of agricultural lands and the issuance of contracts,

the Div. of Agriculture has traditionally taken the lead with regard to identifying tracts for sale, disposal design, establishing the development schedules, the approval and monitoring of conservation plans, and tracking revenue and billing.

- o The Division currently administers 135 active land sale contracts, 28 grazing leases covering 151,000 acres, and 12 reindeer grazing permits involving 3.6 million acres of state land.**
- o Over the next 20 years this program will generate in excess of 5.6 million dollars in principle and interest payments to the General Fund.**
- o To effectively adjudicate these legally binding contracts for compliance, 300 on-site field inspections annually are required.**

Agricultural Product Inspection:

- o The primary mission of this program is to prevent loss of product sales due to poor quality and prevent fraud and misrepresentation of agricultural products sold in Alaska.**
- o Allows producers to comply with a number of state and federal mandated product quality regulations.**
- o The Division has a number of interagency agreements to carry out USDA inspection requirements.**
- o A majority of the inspection services provided by the Division, are required before producers can sell to wholesale, retail, and military markets in Alaska. Specialized testing, grading, analysis and inspection of plants, seeds, vegetables, fruits, eggs, nursery and green house stock are performed on farm and in retail and wholesale outlets throughout the state.**
- o In FY94, Division staff conducted over 3,000 inspections on 340,000 packaged products to facilitate commerce.**
- o The expanding demand for wholesaler inspection has resulted in an increase in federal receipts. Because agricultural product inspectors have personal contact with both producers and purchasers, they provide a key link in the development of the Alaskan agricultural industry.**

Agricultural Marketing Service:

- o The main objective of this program is the increased utilization and**

sales of competitively priced Alaskan grown commodities over similar imported products.

- **As agricultural producers become more productive, the identification of niche markets, encouragement of value added processing, and influencing the demand for local products becomes increasingly important.**
- **Alaska currently occupies an average of 25 to 30% of the "in season" fresh market share from local grown potatoes, carrots, peas, and other cole crops. With an aggressive marketing campaign and support from the local producers it is reasonable to double the instate market share within the next 2 years.**
- **Other Alaskan commodities currently targeted for promotion under the ag marketing program are red meat (both domestic and semi-domestic), berries, and dairy products.**
- **Through 52 weekly market news reports, close coordination with military purchasing agents, the printing and distribution of farm product directories, transportation and product feasibility studies, the sponsorship of producer forums, the promotion of the Alaskan Grown campaign, expansion of the state wide farmers markets, and the Divisions participation in state fairs we hope to promote the increased wholesale and retail sales of Alaska grown commodities.**

SUPPORT SERVICES DIVISION

Administrative Services

- **Administrative Support Services** which includes the Director's Office, enable the operating programs to concentrate on serving the public and make money for the state.
- Both major leases for DNR offices in Anchorage and Juneau were successfully re-negotiated saving the State in excess of \$6.0 million in lease cost over the next 5 years and avoided the disruption and cost of having to relocate.
- The Financial Service Section oversees the preparation of the operating and capital budget, and accounts for \$80.0 million in annual appropriation expenditures.
- The Human Resource Section handles payroll and personnel functions for approximately 840 permanent and 2,000 temporary and emergency employees.
- The Human Resources/Payroll Project directly contributes to the Department's success in meeting its goals by providing managers and employees with the necessary staff to ensure that a quality and motivated work force is maintained, that minimal time and expense is spent by managers on unnecessary labor disputes, and that Department staff is educated on the most current human resource related programs, laws, and rules.
- The Resource Revenue Collection and Accounting Section accomplishes revenue collection and accounting for all DNR programs. External customers are 73,000 citizens and businesses who made over 115,000 payments in FY94 providing \$800 million in revenue.
- A portfolio of 33,936 subsidiary ledgers, including 17 types of contracts which bill, note defaults, and provide customer service for 10,000 lease and sales contracts are accurately maintained.

The Recorder's Office/UCC

- Provides a safe, secure and impartial place of record for all recorded instruments affecting real property in Alaska (deeds, mortgages, liens, and mining claims to name a few) and ensures ongoing public access to all records per statutory directive.

- Permanently preserves and protects all documents entrusted to its care for the long term benefit of all Alaskans.
- Operates recording facilities in fourteen rural and urban locations covering 34 recording districts (DNR staffs and operates offices in Fairbanks, Bethel, Nome, Juneau, Ketchikan, Sitka, Anchorage, Palmer, Kenai, Homer and Kodiak, while the Alaska Court System provides minimal front line recording services in Seward, Valdez and Glennallen).
- Maintains a computerized index of approximately three million documents recorded during the past 25 years, along with thousands of original hand written index ledgers and original transcript volumes dating from the late 1800's.
- Benefits the general public, business community, and mortgage and banking institutions who cannot function effectively without the public notice protection afforded by the recordation of their documents.
- Reported record setting revenues in FY94 by processing more than 250,000 documents and generating over \$4.5 million (more than \$2 million in excess of annual operating funding).
- Administers the Uniform Commercial Code central file office, a statewide repository for an estimated 20,000 secured transactions and search requests submitted annually.
- Keeps abreast of current technology options to ensure that ongoing operations remain effective and efficient, and continues efforts to increase the number of records available to the general public in every recording facility.

Information Resource Management (IRM)

- IRM produces over 10,000 resource integration maps annually, that describe ownership, access, status, resources, and base features.
- Maintains the state's land records information system - over 190,000 cases covering 130 million acres of land, involving two million transactions.
- Distributes over 200,000 microfilmed aperture cards of land status maps and surveys annually, to DNR public information and regional offices, various boroughs, and the University of Alaska.
- Provides mainframe computer programming support for the department's

applications.

- **Maintains the state's graphic land record system of over 9,700 townships.**
- **Trains over 150 DNR employees annually in the operation of DNR's systems for tracking resource activities and revenues.**
- **Provides distributed computing systems which automate routine tasks and improve access to public information.**

PUBLIC INFORMATION CENTER

- **The DNR PIC provides "one-stop shopping" for DNR's customers. Located in Anchorage, it provides services on a state-wide basis both directly and through support of DNR information offices in other locations.**
- **Services offered the public include help with land status research and applications for department authorizations, acceptance of payments, public use cabin reservations and information on DNR programs and activities.**
- **The PIC also sells or distributes DNR publications, maps, state park use decals and other DNR products. The PIC's staff supports DNR's divisions by serving as the initial point of public contact for the department, which allows division staff to more efficiently accomplish their missions; providing public affairs support; and providing internal communications and training.**
- **The PIC advocates for good customer service within the department, and alerts DNR managers to customer concerns.**
- **The PIC is accessible for DNR customers with physical disabilities.**