

ALASKA LEGISLATURE

1831

HOUSE and SENATE FINANCE COMMITTEE FILES, 1997-1998

SENATE FINANCE
COMMITTEE

Amendment Number: #16

Bill Number: SB 334

Sponsor: Torgerson Date: 4/1/98

Logged In By: Mindy

AMENDMENT

Offered to Senate Finance

BY: Senator Torgerson - move
adopt. w/out objection

TO: CSSB 334(FIN), Draft Version "L", dated 3/31/98

Page 11, Line 8 (Subsection (I)) DELETE

(i) [and (g)]

Page 11, Lines 20-24 (Subsection (j)) DELETE

(j) [A management assessment fee collected under this subsection shall be deposited in the human resource investment account in the general fund. The legislature may make appropriations from the account for the operation of the Alaska Human Resource Investment Council. Nothing in this subsection creates a dedicated fund.]

0-LS1529L
Cramer
3/31/98

*move for adact
Sen. Jorgus*

CS FOR SENATE BILL NO. 334(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATE FINANCE COMMITTEE**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to guidelines and standards for state training programs;
2 relating to the Alaska Human Resource Investment Council; extending the
3 termination date of the state training and employment program; and providing for
4 an effective date."

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

6 * **Section 1.** AS 44.19.620(a) is amended to read:

7 (a) The Alaska Human Resource Investment Council is established in the
8 Office of the Governor. The council consists of the following voting members, not to
9 exceed 21 [26]:

10 (1) the lieutenant governor or the lieutenant governor's designee;

11 (2) [THE COMMISSIONERS OF COMMERCE AND ECONOMIC
12 DEVELOPMENT, COMMUNITY AND REGIONAL AFFAIRS, EDUCATION,
13 HEALTH AND SOCIAL SERVICES, AND LABOR, OR EACH RESPECTIVE
14 COMMISSIONER'S DESIGNEE;

- 1 (3)] one representative from the University of Alaska;
- 2 (3) [(4)] four additional representatives of education, with one from
- 3 local public education, one from secondary vocational education, one from a
- 4 postsecondary vocational education institution, and one from adult basic education;
- 5 (4) [(5)] four representatives of business and industry, with at least one
- 6 representative from the private industry councils appointed under 29 U.S.C. 1512 and
- 7 subject to reconstitution under 29 U.S.C. 1515;
- 8 (5) [(6)] four representatives of organized labor whom [THAT] the
- 9 governor shall appoint from lists of nominees submitted by recognized state labor
- 10 organizations; the governor may reject a list submitted under this paragraph and
- 11 request that another list be submitted;
- 12 (6) [(7)] at least one representative from an organization representing
- 13 employment and training needs of Alaska Natives;
- 14 (7) [(8)] at least one representative of a community-based service
- 15 organization;
- 16 (8) [(9)] at least one representative who has personal or professional
- 17 experience with developmental disabilities; and
- 18 (9) [(10)] at least one and up to four additional members of the private
- 19 sector to ensure a private sector majority and regional and local representation on the
- 20 council.

21 * Sec. 4. AS 44.19.620 is amended by adding new subsections to read:

22 (c) The commissioners of commerce and economic development, community

23 and regional affairs, education, health and social services, and labor serve as advisory,

24 nonvoting members of the council.

25 (d) A member of the council under (a) or (c) of this section may appoint a

26 designee to serve in place of the member named in (a) of this section. The member

27 shall appoint the designee in writing.

28 * Sec. 3. AS 44.19.621(a) is amended to read:

29 (a) Members of the Alaska Human Resource Investment Council other than

30 those listed in AS 44.19.620(a)(1) and (c) [(2)] are appointed by the governor and

31 serve at the pleasure of the governor. The governor may appoint one person to fill

1 two or more of the places listed in AS 44.19.620(a) if the person is qualified in all
2 of the areas the person represents. A member appointed to fill more than one
3 place under this subsection is entitled to only one vote and may appoint only one
4 designee to replace the member in the event the member is unable to attend a
5 meeting.

6 * Sec. 4. AS 44.19.621(b) is amended to read:

7 (b) The voting members of the council other than those listed in
8 AS 44.19.620(a)(1) and (c) [(2)] serve for staggered four-year terms and may serve
9 until a successor is appointed. An appointment to fill a vacancy shall be made in the
10 same manner as the original appointment and for the balance of the unexpired term.

11 * Sec. 5. AS 44.19.622 is amended to read:

12 **Sec. 44.19.622. Compensation.** Members of the Alaska Human Resource
13 Investment Council listed in or appointed under AS 44.19.620(a), including a designee
14 of a member attending in place of the member, serve without compensation but are
15 entitled to per diem and travel expenses authorized by law for boards and commissions
16 under AS 39.20.180. Nonvoting members of the council appointed under
17 AS 44.19.620(b) serve without compensation and are not entitled to per diem and
18 travel expenses. A commissioner appointed under AS 44.19.620(c) or the
19 commissioner's designee is entitled to per diem and travel expenses as a state
20 employee.

21 * Sec. 6. AS 44.19.623 is amended to read:

22 **Sec. 44.19.623. Officers.** The Alaska Human Resource Investment Council
23 shall elect a chair and a vice-chair from among the members listed in or appointed
24 under AS 44.19.620(a)(4) [AS 44.19.620(a) WHO ARE FROM THE PRIVATE
25 SECTOR. THEY SHALL ALSO ELECT A VICE-CHAIR]. The chair and vice-chair
26 serve in their positions at the pleasure of the council.

27 * Sec. 7. AS 44.19.624 is amended to read:

28 **Sec. 44.19.624. Meetings, quorum, and committees.** (a) The Alaska Human
29 Resource Investment Council shall meet not more than two times in a calendar year
30 at the call of the chair to conduct its business. A majority of the members listed in or
31 appointed to the council under AS 44.19.620(a) constitutes a quorum.

1 (b) The council shall establish an executive committee and four permanent
2 standing committees as described in (c) - (g) of this section. The chair of a
3 permanent standing committee must be from the private sector. The council may
4 establish additional standing committees and special committees or subcommittees,
5 not necessarily consisting of council members, to advise and assist the council in
6 carrying out its functions assigned by federal or state statute. The permanent
7 standing committees are

8 (1) the assessment and evaluation committee;

9 (2) the policy and planning committee;

10 (3) the employment and placement committee; and

11 (4) the workforce readiness committee.

12 * Sec. 8. AS 44.19.624 is amended by adding new subsections to read:

13 (c) The executive committee consists of the chair and vice-chair of the council,
14 the immediate past chair of the council, and the chairs of the four standing committees
15 described in (d) - (g) of this section. The executive committee has the duties and may
16 exercise the powers of the council between meetings of the council. The executive
17 committee shall

18 (1) report to the council in a timely fashion on actions taken on behalf
19 of the council; and

20 (2) supervise the affairs of the council between regular meetings of the
21 council.

22 (d) The assessment and evaluation committee shall

23 (1) assess and evaluate programs, initiatives, and the delivery of
24 services to help to ensure equitable distribution of quality education, training, and
25 employment services statewide, especially to rural areas and to programs serving
26 economically disadvantaged citizens;

27 (2) call for and monitor the workforce development system for
28 increased accountability in performance and continuous quality improvement along the
29 goals and strategies of the council's overall statewide strategic plan for workforce
30 development;

31 (3) use evaluation and performance measures to gauge customer

- 1 satisfaction within the workforce development system; and
- 2 (4) perform other duties assigned by the council.
- 3 (e) The policy and planning committee shall
- 4 (1) build policies regarding day-to-day operations and long-term
- 5 responsibilities of the council;
- 6 (2) work to increase awareness of the council and its mission
- 7 throughout the state;
- 8 (3) work with all other committees on a statewide strategic plan for
- 9 workforce development; and
- 10 (4) perform other duties assigned by the council.
- 11 (f) The employment and placement committee shall
- 12 (1) ensure the statewide strategic plan for workforce development
- 13 addresses
- 14 (A) customer needs at the local level;
- 15 (B) moving welfare recipients into the workforce;
- 16 (C) promoting the hiring of state residents in jobs that have
- 17 traditionally been filled by out-of-state workers;
- 18 (D) tailoring employment and training programs to suit state
- 19 business, industry, and economic development needs;
- 20 (2) monitor the coordination of service delivery to promote efficiency
- 21 and to prevent overlap of services among programs; and
- 22 (3) perform other duties assigned by the council.
- 23 (g) The workforce readiness committee shall
- 24 (1) provide oversight for training, education, and employment programs
- 25 to ensure the programs are delivering education and training that is relevant to local
- 26 market needs and the career goals of state residents;
- 27 (2) build partnerships between employers and quality workforce training
- 28 programs;
- 29 (3) work to connect the state public and private education systems with
- 30 business, government, and labor to ensure that state residents are receiving workforce
- 31 readiness skills throughout the education process; and

1 (4) perform other duties assigned by the council.

2 * Sec. 9. AS 44.19.626(b) is amended to read:

3 (b) The council shall

4 (1) facilitate the development of statewide policy for a coordinated and
5 effective employment training and education system in this state;

6 (2) identify the human resource investment needs in the state and
7 develop a plan to meet those needs;

8 (3) review the provision of services and the use of money and resources
9 by the human resource programs listed in AS 44.19.625;

10 (4) assume the duties and functions of the state councils described
11 under the laws relating to the federal human resource programs listed in AS 44.19.625;

12 (5) advise the governor, [AND] state and local agencies, and the
13 University of Alaska on the development of state and local standards and measures
14 relating to applicable human resource programs;

15 (6) submit, to the governor and the legislature, a biennial strategic plan
16 to accomplish the goals developed to meet human resource investment needs;

17 (7) monitor for the implementation and evaluate the effectiveness of the
18 strategic plan developed by the council;

19 (8) adopt regulations that set standards for the percentage of a
20 grant that may be used for administrative costs; the regulations must clearly
21 identifv and distinguish between expenses that may be included in administrative
22 costs and those that may not be included in administrative costs; the percentage
23 allowed for administrative costs may not exceed the lesser of 15 percent or the
24 amount permitted under the requirements of a federal program, if applicable;

25 (9) report annually to the legislature, by the 30th day of the regular
26 legislative session, on the performance and evaluation of training programs in the
27 state subject to review under (f) of this section; and

28 (10) identify ways for agencies operating programs subject to
29 oversight by the council to share resources, instructors, and curricula through
30 collaboration with other public and private entities to increase training
31 opportunities and reduce costs;

1 (11) [(8)] adopt regulations under AS 44.62 (Administrative Procedure
2 Act) to carry out the purposes of AS 44.19.620 - 44.19.627.

3 * **Sec. 10.** AS 44.19.626 is amended by adding new subsections to read:

4 (d) The council shall provide oversight for employment-related education
5 training programs operated by the state or operated under contract with the state that
6 are described in (f) of this section. The council shall require a training program listed
7 in (f) of this section to meet the requirements of this subsection. The council shall,
8 by regulation, establish appropriate penalties for programs and individuals who fail to
9 meet the requirements of this subsection. The council may recommend to the
10 legislature changes to enhance the effectiveness of the training programs it oversees
11 under this section. A training program described in (f) of this section funded with
12 money appropriated by the legislature must

13 (1) meet the standards adopted by the council concerning the
14 percentage of a grant that may be spent on administrative costs;

15 (2) be operated by an institution that holds a valid authorization to
16 operate issued under AS 14.48 by the Alaska Commission on Postsecondary Education
17 if the program is a postsecondary educational program operated by a postsecondary
18 educational institution subject to regulation under AS 14.48;

19 (3) provide to the Department of Labor the information required by the
20 department for the preparation of the statistical information necessary for the council
21 to evaluate programs by the standards set out in (e) of this section.

22 (e) The council shall develop standards that encourage agencies to contract for
23 training programs that maximize the program's class size. The council shall adopt
24 standards for the evaluation of training programs listed in (f) of this section with
25 regard to the following:

26 (1) the percent of former participants who have a job one year after
27 leaving the training program;

28 (2) the median wage of former participants seven to 12 months after
29 leaving the program;

30 (3) the percent of former participants who were employed after leaving
31 the training program who received training under the program that was related to their

1 jobs or somewhat related to their jobs seven to 12 months after leaving the training
2 program;

3 (4) the percent of former participants of a training program who
4 indicate that they were satisfied with or somewhat satisfied with the overall quality of
5 the training program;

6 (5) the percent of employers who indicate that they were satisfied with
7 the quality of the work of new employees who had recently completed the training
8 program.

9 (f) The following training programs are subject to the provisions of (d) and (e)
10 of this section:

11 (1) in the Department of Administration: Alaska Professional
12 Development Institute, providing continuing education and training for employed
13 workers;

14 (2) in the Department of Community and Regional Affairs or operated
15 by the department:

16 (A) One Stop Career Center;

17 (B) Job Training Partnership Act programs, assisting
18 communities in moving toward a self-sustainable economy and providing
19 training;

20 (C) state training and employment program (AS 23.15.620),
21 providing training and employment services for people who are unemployed or
22 likely to become unemployed, fostering new jobs, and increasing training
23 opportunities for workers severely affected by fluctuations in the state economy
24 or adversely affected by technology advances in the workplace;

25 (3) in the Department of Education or operated by the department:

26 (A) employment-related adult basic education;

27 (B) School-to-Work;

28 (C) vocational education and Tech Prep;

29 (D) Alaska Career Information System;

30 (E) high school completion project;

31 (F) Kotzebue Technical Center;

1 (G) Alaska Vocational Technical Center;

2 (4) in the Department of Health and Social Services: Alaskans on
3 Temporary Assistance Plan employment education and job training programs;

4 (5) in the Department of Labor:

5 (A) unemployment insurance grants provided under the federal
6 training relocation assistance program;

7 (B) Alaska works programs, assisting with the welfare-to-work
8 program;

9 (C) state training employment program, coordinated with the
10 Department of Community and Regional Affairs.

11 (g) The council shall assess the programs listed in this subsection and make
12 recommendations to the legislature in its report required under (b)(9) of this section
13 about whether to include one or more of these programs under the requirements of (f)
14 of this section:

15 (1) in the Department of Community and Regional Affairs or operated
16 by the department:

17 (A) local government assistance training and development,
18 including the rural utility business advisory program;

19 (B) energy operations, providing training in management and
20 administration of electric utilities and bulk fuel storage systems;

21 (2) in the Department of Corrections:

22 (A) Correctional Academy, training individuals applying for a
23 correctional officer position;

24 (B) inmate programs, providing vocational technical training and
25 education courses for inmates preparing to be released from a correctional
26 facility;

27 (C) correctional industries program, providing inmates with jobs
28 while they are incarcerated;

29 (3) in the Department of Environmental Conservation:

30 (A) remote maintenance worker program, providing training and
31 technical assistance to communities to keep drinking water and sewage disposal

- 1 systems running, and providing on-the-job training to local operators;
- 2 (B) water and wastewater operator training and assistance;
- 3 (C) federal drinking water operator training and certification;
- 4 (4) in the Department of Military and Veterans' Affairs: educational
- 5 benefits for members of the Alaska National Guard and the Alaska Naval Militia;
- 6 (5) in the Department of Public Safety:
- 7 (A) fire service training to maintain emergency training skills
- 8 for existing fire fighter staff and volunteers and individuals interested in
- 9 becoming fire fighters;
- 10 (B) Public Safety Training Academy, training trooper recruits;
- 11 (6) in the Department of Transportation and Public Facilities:
- 12 (A) engineer-in-training program, providing on-the-job training
- 13 for apprentice engineers to enable them to gain the experience necessary to be
- 14 certified;
- 15 (B) statewide transportation improvement program, offered by
- 16 the United States National Highway Institute;
- 17 (C) local technical assistance program, transferring technical
- 18 expertise to local governments;
- 19 (D) Native technical assistance program, transferring technical
- 20 expertise to Native governments;
- 21 (E) border technology exchange program, to coordinate highway
- 22 issues with the Yukon Territory;
- 23 (7) in the Department of Education: vocational rehabilitation client
- 24 services and special work projects;
- 25 (8) in the Department of Labor: employment services, including job
- 26 development, assisting individuals in finding employment, and assisting employed
- 27 individuals in finding other employment.
- 28 (h) The University of Alaska shall evaluate the performance of its training
- 29 programs using the standards set out in (e) of this section and shall provide a report
- 30 on the results to the council for inclusion in the council's annual report to the
- 31 legislature.

1 (i) The council shall review each program listed in (f) of this section to
2 determine whether it is in compliance with the standards set out in (d) and (e) of this
3 section. If the council finds that a program has failed to comply with the standards
4 set out in (d) and (e) of this section, it shall notify the program director of the failure.
5 If the program director fails to improve the performance of the program within a
6 reasonable time, the council shall notify the governor and the legislative budget and
7 audit committee that the program is out of compliance. A contract entered into by a
8 state agency relating to a training program set out in (f) and (g) of this section must
9 contain terms consistent with this section.

10 (j) A department that operates or contracts for a training program listed in (f)
11 of this section shall pay to the council a management assessment fee not to exceed .75
12 percent of the program's annual operating budget. The total amount received as
13 management assessment fees may not exceed the council's authorized budget for the
14 fiscal year. The council shall, by regulation, establish a method to determine annually
15 the amount of the management assessment fee. If the amount the council expects to
16 collect under this subsection exceeds the authorized budget of the council, the council
17 shall reduce the percentages set out in this subsection so that the total amount of the
18 fees collected approximately equals the authorized budget of the council for the fiscal
19 year. The council shall adopt regulations under AS 44.62 (Administrative Procedure
20 Act) necessary to administer this subsection. A management assessment fee collected
21 under this subsection shall be deposited in the human resource investment account in
22 the general fund. The legislature may make appropriations from the account for the
23 operation of the Alaska Human Resource Investment Council. Nothing in this
24 subsection creates a dedicated fund.

25 (k) Upon the enactment of a new federal or state program relating to work
26 force development, the council shall

27 (1) advise the governor and the legislature on whether the council
28 should provide oversight for the new program under this section; and

29 (2) make recommendations necessary to streamline and coordinate state
30 efforts to meet the guidelines of the new program.

31 (l) For purposes of this section, "program"

1 (1) does not refer to the overall activities of an individual institution
2 or individual fields of study or courses that are not associated with programs for which
3 the council has oversight responsibility;

4 (2) may include a certificate or associate degree course or a course that
5 is not for credit, whether it is offered by a public or private institute or contracted for
6 by the private sector, so long as it is related to employment.

7 * **Sec. 11.** Section 6, ch. 116, SJA 1996, is amended to read:

8 Sec. 6. AS 23.15.620, 23.15.625, 23.15.630, 23.1^c 635, 23.15.640, 23.15.645,
9 23.15.651, and 23.15.660 are repealed June 30, 2002 [1998].

10 * **Sec. 12. TRANSITION.** Notwithstanding the requirement in AS 44.19.623, as amended
11 by sec. 6 of this Act, that the chair and the vice chair of the council be members of the
12 council appointed under AS 44.19.620(a)(4), as amended by sec. 1 of this Act, a member who
13 is serving as chair or vice chair of the council on the day before the effective date of this Act
14 may continue to serve in that capacity until the expiration of the member's term of office.
15 However, if the vice-chair is a commissioner of a department of state government, the office
16 becomes vacant on the effective date of this Act and the council shall elect a vice chair who
17 meets the requirements of AS 44.19.623, as amended by sec. 6 of this Act.

18 * **Sec. 13.** This Act takes effect immediately under AS 01.10.070(c).

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- (B) water and wastewater operator training and assistance;
- (C) federal drinking water operator training and certification;
- (4) in the Department of Military and Veterans' Affairs: educational benefits for members of the Alaska National Guard and the Alaska Naval Militia;
- (5) in the Department of Public Safety:
 - (A) fire service training to maintain emergency training skills for existing fire fighter staff and volunteers and individuals interested in becoming fire fighters;
 - (B) Public Safety Training Academy, training trooper recruits;
- (6) in the Department of Transportation and Public Facilities:
 - (A) engineer-in-training program, providing on-the-job training for apprentice engineers to enable them to gain the experience necessary to be certified;
 - (B) statewide transportation improvement program, offered by the United States National Highway Institute;
 - (C) local technical assistance program, transferring technical expertise to local governments;
 - (D) Native technical assistance program, transferring technical expertise to Native governments;
 - (E) border technology exchange program, to coordinate highway issues with the Yukon Territory;
 - (F) in the Department of Education: vocational rehabilitation client services and special work projects;
- ~~(7) in the Department of Education: vocational rehabilitation client services and special work projects.~~
- (h) The council shall review each program listed in (f) of this section to determine whether it is in compliance with the standards set out in (d) and (e) of this section. If the council finds that a program has failed to comply with the standards set out in (d) and (e) of this section, it shall notify the program director of the failure. If the program director fails to improve the performance of the program within a reasonable time, the council shall notify the governor and the legislative budget and

per Terry Kramer - (F) should be deleted (7) should stay

duplicate of 22-23

SENATE FINANCE
COMMITTEE

Amendment Number: #8A

Bill Number: SB 334

Sponsor: Torgerson Date: 5/31/98

Logged In: By: Mindy

AMENDMENT
CSSB 334 (K)

Offered to Senate Finance

BY: Senator Torgerson moved
no object adopted

1)

Page 6, Line 27 (New Subsection (10)) INSERT

(10) "Identify ways for operating agencies to share resources, instructors, and curricula through collaboration with other public and private entities to increase training opportunities and reduce costs."

- Renumber accordingly

2)

Page 6, Line 11 (Subsection (5)) DELETE

(4) [and]

Page 6, Line 11 (Subsection (5)) INSERT

(5) after governor "1"

(5) after agencies "and the University of Alaska"

3)

Page 6, Line 30 (Section 10) DELETE

(d) [oversee]

Page 6, Line 30 (Section 10) INSERT

(d) After 'shall' "provide oversight for employment related education"

SENATE FINANCE
COMMITTEE

Amendment Number: #9
Bill Number: SB 334
Sponsor: Torgerson Date: 3/31/98
Logged In By: Mimi

AMENDMENT
CSSB 334 (K)

Offered to Senate Finance

BY: Senator Torgerson - moved
no objection adopted

to be placed in
appropriate location
by drafter

1)
Page 7, Line 8 (New Subsection) INSERT

- For purpose of this section the term "program" shall not refer to the overall activities of individual institutions nor shall it refer to individual fields of study or courses not associated with programs under the council. Program evaluations include certificate or associate degree courses and courses offered that are not for credit, related to employment offered by the institutions or contracted for by the private sector.

*Amending
to place
in applic.
location*

1 council shall require a training program listed in (f) of this section to meet the
2 requirements of this subsection. The council shall, by regulation, establish appropriate
3 penalties for programs and individuals who fail to meet the requirements of this
4 subsection. The council may recommend to the legislature changes to enhance the
5 effectiveness of the training programs it oversees under this section. A training
6 program described in (f) of this section funded with money appropriated by the
7 legislature must

8 (1) meet the standards adopted by the council concerning the
9 percentage of a grant that may be spent on administrative costs;

10 (2) be operated by an institution that holds a valid authorization to
11 operate issued under AS 14.48 by the Alaska Commission on Postsecondary Education
12 if the program is a postsecondary educational program operated by a postsecondary
13 educational institution subject to regulation under AS 14.48;

14 (3) provide to the Department of Labor the information required by the
15 department for the preparation of the statistical information necessary for the council
16 to evaluate programs by the standards set out in (e) of this section.

17 (e) The council shall develop standards that encourage agencies to contract for
18 training programs that maximize the program's class size. The council shall adopt
19 standards for the evaluation of training programs listed in (f) of this section with
20 regard to the following:

21 (1) the percent of former participants who have a job one year after
22 leaving the training program;

23 (2) the median wage of former participants seven to 12 months after
24 leaving the program;

25 (3) the percent of former participants who were employed after leaving
26 the training program who received training under the program that was related to their
27 jobs or somewhat related to their jobs seven to 12 months after leaving the training
28 program;

29 (4) the percent of former participants of a training program who
30 indicate that they were satisfied with or somewhat satisfied with the overall quality of
31 the training program;

SENATE FINANCE
COMMITTEE
Amendment Number: #10
Bill Number: SB 334
Sponsor: Torgerson Date: 3/31/98
Logged In By: Mindy

AMENDMENT
CSSB 334 (K)

Offered to Senate Finance

BY: Senator Torgerson - moved
adopted 4-30-98 by vote

- 1)
Page 8, Line 11 (Subsection (A)) DELETE
(A) [assisting people to find work and to reduce dependence on public assistance;]

- 2)
Page 8, Line 22 (Subsection (3)) DELETE
(A) [program]

Page 8, Line 22 (Subsection (3)) INSERT
(A) "employment related" adult basic education

- 3)
Page 8, Lines 27 (Subsection (3)) DELETE
(F) [operations]

Page 8, Line 28 (Subsection (3)) DELETE
(G) [operations]

- 4)
Page 8, Line 29 (Subsection (4)) DELETE
(4) [Alaska works programs;]

Page 8, Line 29 (Subsection (4)) INSERT
(4) after services: "Alaskans on Temporary Assistance Plan employment education & job training programs:"

SENATE FINANCE
COMMITTEE

Amendment Number: #11
Number: SB 334
Sponsor: TORGERSON Date: 3/31/98
Logged In By: Mindy

AMENDMENT
CSSB 334 (K)

Offered to Senate Finance

BY: Senator Torgerson -- moved
adopted w/out objection

1)

Page 9, Line 1-3 (Subsection (F)) DELETE

(A) [Employment services, including job development, assisting individuals in finding employment, and assisting employed individuals in finding other employment;]

- Reorder sections (B)(C) and (D)

Page 10, Line 26 (Subsection (G)) INSERT

(8) In the Department of Labor

(A) Employment services, including job development, assisting individuals in finding employment, and assisting employed individuals in finding other employment;

- Number accordingly

2)

Page 10, Line 26 (New Subsection (h)) INSERT

(h) "The University of Alaska shall evaluate the performance of its training programs using the standards set out in (e) of this section and shall provide a report on the results to the council for inclusion in the council's annual report to the legislature."

- Renumber accordingly

SENATE FINANCE
COMMITTEE
Amendment Number: #12
Bill Number: SB 334
Sponsor: Torgerson Date: 3/8/98
Logged In By: Mindy

AMENDMENT
CSSB 334 (K)

Offered to Senate Finance

BY: Senator Torgerson - moved
adopt w/out
objection

1)
Page 11, Line 13 (New Section 11) Renumber accordingly

- "Upon enactment of new federal or state programs relating to work force development, the council shall advise the governor and the legislature on integrating the federal or state programs into the state's human resource investment council and make recommendations necessary to streamline and coordinate state efforts to meet federal or state guidelines."

SENATE FINANCE
COMMITTEE #13
Amendment Number: #13
Bill Number: SB 334
Sponsor: Torgerson Date: 3/31/98
Logged in by: Mindy

AMENDMENT
CSSB 334 (K)

Offered to Senate Finance

BY: Senator Torgerson - moved
adopt no objection

1)

Page 10, Line 22-23 (Subsection (F)) DELETE

(F) [in the Department of Education: vocational rehabilitation client services and special work projects;]

SENATE FINANCE
COMMITTEE

Amendment Number: #14
Bill Number: SB 334
Sponsor: TORGERSON Date: 3/31/98
Logged In By: Mindy

0-LS1529\K.2

Cramer

3/31/98

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON -
maced

TO: CSSB 334(FIN), Draft Version "K" dated 3/30/98

no objection - adopt

1 Page 11, lines 5 - 9:

2 Delete "of three-fourths of one percent of the program's annual operating budget. A
3 department that operates or contracts for a training program listed in (g) of this section shall
4 pay to the council a management assessment fee of one-half of one percent of the program's
5 annual operating budget."

6 Insert "not to exceed .75 percent of the program's annual operating budget. The total
7 amount received as management assessment fees may not exceed the council's authorized
8 budget for the fiscal year. The council shall, by regulation, establish a method to determine
9 annually the amount of the management assessment fee. If the amount the council expects
10 to collect under this subsection exceeds the authorized budget of the council, the council shall
11 reduce the percentages set out in this subsection so that the total amount of the fees collected
12 approximately equals the authorized budget of the council for the fiscal year. The council
13 shall adopt regulations under AS 44.62 (Administrative Procedure Act) necessary to
14 administer this subsection."

SENATE FINANCE
COMMITTEE

0-LS1529\K.1

Amendment Number: # 15

Cramer

Bill Number: SB 334

3/30/98

Sponsor: Torgerson Date: 3/31/98

Logged In By: Mindy

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON -
moved

TO: CSSB 334(FIN), Draft Version "K"

adopt w/out objct

1 Page 1, line 2, following " ; ":

2 Insert "extending the termination date of the state training and employment
3 program;"

4 Page 11, following line 12:

5 Insert a new bill section to read:

6 "* Sec. 12. Section 6, ch. 116, SLA 1996, is amended to read:

7 Sec. 6. AS 23.15.620, 23.15.625, 23.15.630, 23.15.635, 23.15.640, 23.15.645,
8 23.15.651, and 23.15.660 are repealed June 30, 2002 [1998]."

9 Renumber the following bill sections accordingly.

moved to adopt
Sen Jaeger
Sen Adams object removed
to adopt that object.

0-LS1529AK
 Cramer
 3/30/98

CS FOR SENATE BILL NO. 334(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to guidelines and standards for state training programs; and
 2 relating to the Alaska Human Resource Investment Council; and providing for an
 3 effective date."

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

5 * **Section 1.** AS 44.19.620(a) is amended to read:

6 (a) The Alaska Human Resource Investment Council is established in the
 7 Office of the Governor. The council consists of the following voting members, not to
 8 exceed 21 [26]:

- 9 (1) the lieutenant governor or the lieutenant governor's designee;
- 10 (2) [THE COMMISSIONERS OF COMMERCE AND ECONOMIC
- 11 DEVELOPMENT, COMMUNITY AND REGIONAL AFFAIRS, EDUCATION,
- 12 HEALTH AND SOCIAL SERVICES, AND LABOR, OR EACH RESPECTIVE
- 13 COMMISSIONER'S DESIGNEE;
- 14 (3)] one representative from the University of Alaska;

1 (3) [(4)] four additional representatives of education, with one from
2 local public education, one from secondary vocational education, one from a
3 postsecondary vocational education institution, and one from adult basic education;

4 (4) [(5)] four representatives of business and industry, with at least one
5 representative from the private industry councils appointed under 29 U.S.C. 1512 and
6 subject to reconstitution under 29 U.S.C. 1515;

7 (5) [(6)] four representatives of organized labor whom [THAT] the
8 governor shall appoint from lists of nominees submitted by recognized state labor
9 organizations; the governor may reject a list submitted under this paragraph and
10 request that another list be submitted;

11 (6) [(7)] at least one representative from an organization representing
12 employment and training needs of Alaska Natives;

13 (7) [(8)] at least one representative of a community-based service
14 organization;

15 (8) [(9)] at least one representative who has personal or professional
16 experience with developmental disabilities; and

17 (9) [(10)] at least one and up to four additional members of the private
18 sector to ensure a private sector majority and regional and local representation on the
19 council.

20 * **Sec. 2.** AS 44.19.620 is amended by adding new subsections to read:

21 (c) The commissioners of commerce and economic development, community
22 and regional affairs, education, health and social services, and labor serve as advisory,
23 nonvoting members of the council.

24 (d) A member of the council under (a) or (c) of this section may appoint a
25 designee to serve in place of the member named in (a) of this section. The member
26 shall appoint the designee in writing.

27 * **Sec. 3.** AS 44.19.621(a) is amended to read:

28 (a) Members of the Alaska Human Resource Investment Council other than
29 those listed in AS 44.19.620(a)(1) and (c) [(2)] are appointed by the governor and
30 serve at the pleasure of the governor. The governor may appoint one person to fill
31 two or more of the places listed in AS 44.19.620(a) if the person is qualified in all

1 of the areas the person represents. A member appointed to fill more than one
2 place under this subsection is entitled to only one vote and may appoint only one
3 designee to replace the member in the event the member is unable to attend a
4 meeting.

5 * Sec. 4. AS 44.19.621(b) is amended to read:

6 (b) The voting members of the council other than those listed in
7 AS 44.19.620(a)(1) and (c) [(2)] serve for staggered four-year terms and may serve
8 until a successor is appointed. An appointment to fill a vacancy shall be made in the
9 same manner as the original appointment and for the balance of the unexpired term.

10 * Sec. 5. AS 44.19.622 is amended to read:

11 **Sec. 44.19.622. Compensation.** Members of the Alaska Human Resource
12 Investment Council listed in or appointed under AS 44.19.620(a), including a designee
13 of a member attending in place of the member, serve without compensation but are
14 entitled to per diem and travel expenses authorized by law for boards and commissions
15 under AS 39.20.180. Nonvoting members of the council appointed under
16 AS 44.19.620(b) serve without compensation and are not entitled to per diem and
17 travel expenses. A commissioner appointed under AS 44.19.620(c) or the
18 commissioner's designee is entitled to per diem and travel expenses as a state
19 employee.

20 * Sec. 6. AS 44.19.623 is amended to read:

21 **Sec. 44.19.623. Officers.** The Alaska Human Resource Investment Council
22 shall elect a chair and a vice-chair from among the members listed in or appointed
23 under AS 44.19.620(a)(4) [AS 44.19.620(a) WHO ARE FROM THE PRIVATE
24 SECTOR. THEY SHALL ALSO ELECT A VICE-CHAIR]. The chair and vice-chair
25 serve in their positions at the pleasure of the council.

26 * Sec. 7. AS 44.19.624 is amended to read:

27 **Sec. 44.19.624. Meetings, quorum, and committees.** (a) The Alaska Human
28 Resource Investment Council shall meet not more than two times in a calendar year
29 at the call of the chair to conduct its business. A majority of the members listed in or
30 appointed to the council under AS 44.19.620(a) constitutes a quorum.

31 (b) The council shall establish an executive committee and four permanent

1 standing committees as described in (c) - (g) of this section. The chair of a
2 permanent standing committee must be from the private sector. The council may
3 establish additional standing committees and special committees or subcommittees,
4 not necessarily consisting of council members, to advise and assist the council in
5 carrying out its functions assigned by federal or state statute. The permanent
6 standing committees are

7 (1) the assessment and evaluation committee;

8 (2) the policy and planning committee;

9 (3) the employment and placement committee; and

10 (4) the workforce readiness committee.

11 * Sec. 8. AS 44.19.624 is amended by adding new subsections to read:

12 (c) The executive committee consists of the chair and vice-chair of the council,
13 the immediate past chair of the council, and the chairs of the four standing committees
14 described in (d) - (g) of this section. The executive committee has the duties and may
15 exercise the powers of the council between meetings of the council. The executive
16 committee shall

17 (1) report to the council in a timely fashion on actions taken on behalf
18 of the council; and

19 (2) supervise the affairs of the council between regular meetings of the
20 council.

21 (d) The assessment and evaluation committee shall

22 (1) assess and evaluate programs, initiatives, and the delivery of
23 services to help to ensure equitable distribution of quality education, training, and
24 employment services statewide, especially to rural areas and to programs serving
25 economically disadvantaged citizens;

26 (2) call for and monitor the workforce development system for
27 increased accountability in performance and continuous quality improvement along the
28 goals and strategies of the council's overall statewide strategic plan for workforce
29 development;

30 (3) use evaluation and performance measures to gauge customer
31 satisfaction within the workforce development system; and

- 1 (4) perform other duties assigned by the council.
- 2 (e) The policy and planning committee shall
- 3 (1) build policies regarding day-to-day operations and long-term
- 4 responsibilities of the council;
- 5 (2) work to increase awareness of the council and its mission
- 6 throughout the state;
- 7 (3) work with all other committees on a statewide strategic plan for
- 8 workforce development; and
- 9 (4) perform other duties assigned by the council.
- 10 (f) The employment and placement committee shall
- 11 (1) ensure the statewide strategic plan for workforce development
- 12 addresses
- 13 (A) customer needs at the local level;
- 14 (B) moving welfare recipients into the workforce;
- 15 (C) promoting the hiring of state residents in jobs that have
- 16 traditionally been filled by out-of-state workers;
- 17 (D) tailoring employment and training programs to suit state
- 18 business, industry, and economic development needs;
- 19 (2) monitor the coordination of service delivery to promote efficiency
- 20 and to prevent overlap of services among programs; and
- 21 (3) perform other duties assigned by the council.
- 22 (g) The workforce readiness committee shall
- 23 (1) provide oversight for training, education, and employment programs
- 24 to ensure the programs are delivering education and training that is relevant to local
- 25 market needs and the career goals of state residents;
- 26 (2) build partnerships between employers and quality workforce training
- 27 programs;
- 28 (3) work to connect the state public and private education systems with
- 29 business, government, and labor to ensure that state residents are receiving workforce
- 30 readiness skills throughout the education process; and
- 31 (4) perform other duties assigned by the council.

1 * Sec. 9. AS 44.19.626(b) is amended to read:

2 (b) The council shall

3 (1) facilitate the development of statewide policy for a coordinated and
4 effective employment training and education system in this state;

5 (2) identify the human resource investment needs in the state and
6 develop a plan to meet those needs;

7 (3) review the provision of services and the use of money and resources
8 by the human resource programs listed in AS 44.19.625;

9 (4) assume the duties and functions of the state councils described
10 under the laws relating to the federal human resource programs listed in AS 44.19.625;

11 (5) advise the governor and state and local agencies on the development
12 of state and local standards and measures relating to applicable human resource
13 programs;

14 (6) submit, to the governor and the legislature, a biennial strategic plan
15 to accomplish the goals developed to meet human resource investment needs;

16 (7) monitor for the implementation and evaluate the effectiveness of the
17 strategic plan developed by the council;

18 (8) adopt regulations that set standards for the percentage of a
19 grant that may be used for administrative costs; the regulations must clearly
20 identify and distinguish between expenses that may be included in administrative
21 costs and those that may not be included in administrative costs; the percentage
22 allowed for administrative costs may not exceed the lesser of 15 percent or the
23 amount permitted under the requirements of a federal program, if applicable;

24 (9) report annually to the legislature, by the 30th day of the regular
25 legislative session, on the performance and evaluation of training programs in the
26 state subject to review under (f) of this section; and

27 (10) [(8)] adopt regulations under AS 44.62 (Administrative Procedure
28 Act) to carry out the purposes of AS 44.19.620 - 44.19.627.

29 * Sec. 10. AS 44.19.626 is amended by adding new subsections to read:

30 (d) The council shall oversee training programs operated by the state or
31 operated under contract with the state that are described in (f) of this section. The

1 (5) the percent of employers who indicate that they were satisfied with
2 the quality of the work of new employees who had recently completed the training
3 program.

4 (f) The following training programs are subject to the provisions of (d) and (e)
5 of this section:

6 (1) in the Department of Administration: Alaska Professional
7 Development Institute, providing continuing education and training for employed
8 workers;

9 (2) in the Department of Community and Regional Affairs or operated
10 by the department:

11 (A) One Stop Career Center, assisting people to find work and
12 to reduce dependence on public assistance;

13 (B) Job Training Partnership Act programs, assisting
14 communities in moving toward a self-sustainable economy and providing
15 training;

16 (C) state training and employment program (AS 23.15.620),
17 providing training and employment services for people who are unemployed or
18 likely to become unemployed, fostering new jobs, and increasing training
19 opportunities for workers severely affected by fluctuations in the state economy
20 or adversely affected by technology advances in the workplace;

21 (3) in the Department of Education or operated by the department:

22 (A) adult basic education program;

23 (B) School-to-Work;

24 (C) vocational education and Tech Prep;

25 (D) Alaska Career Information System;

26 (E) high school completion project;

27 (F) Kotzebue Technical Center operations;

28 (G) Alaska Vocational Technical Center operations;

29 (4) in the Department of Health and Social Services: Alaska works
30 programs;

31 (5) in the Department of Labor:

1 (A) employment services, including job development, assisting
2 individuals in finding employment, and assisting employed individuals in
3 finding other employment;

4 (B) unemployment insurance grants provided under the federal
5 training relocation assistance program;

6 (C) Alaska works programs, assisting with the welfare-to-work
7 program;

8 (D) state training employment program, coordinated with the
9 Department of Community and Regional Affairs.

10 (g) The council shall assess the programs listed in this subsection and make
11 recommendations to the legislature in its report required under (b)(9) of this section
12 about whether to include one or more of these programs under the requirements of (f)
13 of this section:

14 (1) in the Department of Community and Regional Affairs or operated
15 by the department:

16 (A) local government assistance training and development,
17 including the rural utility business advisory program;

18 (B) energy operations, providing training in management and
19 administration of electric utilities and bulk fuel storage systems;

20 (2) in the Department of Corrections:

21 (A) Correctional Academy, training individuals applying for a
22 correctional officer position;

23 (B) inmate programs, providing vocational technical training and
24 education courses for inmates preparing to be released from a correctional
25 facility;

26 (C) correctional industries program, providing inmates with jobs
27 while they are incarcerated;

28 (3) in the Department of Environmental Conservation:

29 (A) remote maintenance worker program, providing training and
30 technical assistance to communities to keep drinking water and sewage disposal
31 systems running, and providing on-the-job training to local operators;

1 audit committee that the program is out of compliance. A contract entered into by a
2 state agency relating to a training program set out in (f) and (g) of this section must
3 contain terms consistent with this section.

4 (i) A department that operates or contracts for a training program listed in (f)
5 of this section shall pay to the council a management assessment fee of three-fourths
6 of one percent of the program's annual operating budget. A department that operates
7 or contracts for a training program listed in (g) of this section shall pay to the council
8 a management assessment fee of one-half of one percent of the program's annual
9 operating budget. A management assessment fee collected under this subsection shall
10 be deposited in the human resource investment account in the general fund. The
11 legislature may make appropriations from the account for the operation of the Alaska
12 Human Resource Investment Council. Nothing in this section creates a dedicated fund.

13 * **Sec. 11. TRANSITION.** (a) Notwithstanding the requirement in AS 44.19.623, as
14 amended by sec. 6 of this Act, that the chair and the vice chair of the council be members of
15 the council appointed under AS 44.19.620(a)(4), as amended by sec. 1 of this Act, a member
16 who is serving as chair or vice chair of the council on the day before the effective date of this
17 Act may continue to serve in that capacity until the expiration of the member's term of office.
18 However, if the vice-chair is a commissioner of a department of state government, the office
19 becomes vacant on the effective date of this Act and the council shall elect a vice chair who
20 meets the requirements of AS 44.19.623, as amended by sec. 6 of this Act.

21 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).

SENATE FINANCE
COMMITTEE

0-LS1529\H.1

Amendment Number: #1

Cramer

Bill Number: SB 334

3/24/98

Sponsor: Torgerson Date: 3/24/98

AMENDMENT Proposed By: Mindy

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: CSSB 334(FIN), Draft Version "H"

*moved by Torgerson
w/o objection,
adopted*

1 Page 10, following line 19:

2 Insert a new subsection to read:

3 "(h) A department that operates or contracts for a training program listed in
4 (f) of this section shall pay to the council a management assessment fee of three-
5 fourths of one percent of the program's annual operating budget. A department that
6 operates or contracts for a training program listed in (g) of this section shall pay to
7 the council a management assessment fee of one-half of one percent of the program's
8 annual operating budget. A management assessment fee collected under this
9 subsection shall be deposited in the human resource investment account in the general
10 fund. The legislature may make appropriations from the fund for the operation of the
11 Alaska Human Resource Investment Council. Nothing in this section creates a
12 dedicated fund."

not offered

SENATE FINANCE
COMMITTEE

Amendment Number: #2

0-LS1529\H.2

Bill Number: SB 334

Cramer

Sponsor: Torgan Date: 3/24/98

3/24/98

Logged In By: Minda

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: CSSB 334(FIN), Draft Version "H", dated 3/24/98

1 Page 10, following line 19:

2 Insert a new subsection to read:

3 "(h) The council shall review each program listed in (f) of this section to
4 determine whether it is in compliance with the standards set out in (d) and (e) of this
5 section. If the council finds that a program has failed to comply with the standards
6 set out in (d) and (e) of this section, it shall notify the program director of the failure.
7 If the program director fails to improve the performance of the program within a
8 reasonable time, the council shall notify the governor that the program is out of
9 compliance. The governor shall direct the office of management and budget to
10 withhold money due the program until the program has complied with the standards
11 set out in (d) and (e) of this section. A contract entered into by a state agency
12 relating to a training program set out in (f) and (g) of this section must contain terms
13 consistent with this subsection."

SENATE FINANCE
COMMITTEE

0-LS1529H.4

Amendment Number: # 3

Cramer

Bill Number: SB 334

3/25/98

Sponsor: Torgerson Date: 3/25/98

Logged In By: Mindy

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: CSSB 334(FIN), Draft Version "H"

*moved by Torgerson
Sen. Pearce objection -
removed
w/o objection, adopted*

- 1 Page 4, lines 28 - 29:
- 2 Delete "human resource investment strategic plan"
- 3 Insert "strategic plan for workforce development"

- 4 Page 5, lines 6 - 7:
- 5 Delete "strategy for workforce investment"
- 6 Insert "strategic plan for workforce development"

SENATE FINANCE
COMMITTEE

Amendment Number: # 4.

Bill Number: SB 334

Sponsor: Torgerson Date: 3/26/98

Logged In By: Mindy

Amendment
To
CS SB 334 (FIN)

Offered in the Senate Finance Committee

BY: Senator John Torgerson

*moved by Torgerson
w/o objection, adopted*

Delete:

Page 8, line 25 and 26

Insert:

Page 10, line 20 add new subsection

(F) Vocational rehabilitation client services and special work projects.

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: CSSB 334(FIN), Draft Version "H"

*moved by Torgerson
w/o objection, adopted*

- 1 Page 4, line 31, following "system":
- 2 Insert ";
- 3 (4) perform other duties assigned by the council"

- 4 Page 5, line 7, following "investment":
- 5 Insert ";
- 6 (4) perform other duties assigned by the council"

- 7 Page 5, line 18, following "programs":
- 8 Insert ";
- 9 (3) perform other duties assigned by the council"

- 10 Page 5, line 27, following "process":
- 11 Insert ";
- 12 (4) perform other duties assigned by the council"

- 13 Page 9, line 8:
- 14 Delete "evaluate"
- 15 Insert "assess"

SENATE FINANCE
COMMITTEE

Amendment Number: 6
Bill Number: SB 334
Sponsor: Torgerson Date: 3/27/98
Logged In By: J. Soltau

*moved by Torgerson
w/o objection, adopted*

AMENDMENT

To
CS SB 334 (Fin)

Offered in the Senate Finance Committee

BY Senator Torgerson

Page 10, following line 19

“(h) The council shall review each program listed in (f) of this section to determine whether it is in compliance with the standards set out in (d) and (e) of this section. If the council finds that a program has failed to comply with the standards set out in (d) and (e) of this section, it shall notify the program director of this failure. If the program director fails to improve the performance of the program within a reasonable time, the council shall notify the governor, and the legislative budget and audit committee, that the program is out of compliance. A contract entered into by a state agency relating to a training program set out in (f) and (g) of this section must contain terms consistent with this section.”

Amended #7
Torpersen
w/o object
adopted

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standing committees as described in (c) - (g) of this section. The chair of a permanent standing committee must be from the private sector. The council may establish additional standing committees and special committees or subcommittees, not necessarily consisting of council members, to advise and assist the council in carrying out its functions assigned by federal or state statute. The permanent standing committees are

- (1) the assessment and evaluation committee;
- (2) the policy and planning committee;
- (3) the employment and placement committee; and
- (4) the workforce readiness committee.

* Sec. 8. AS 44.19.624 is amended by adding new subsections to read:

(c) The executive committee consists of the chair and vice-chair of the council, the immediate past chair of the council, and the chairs of the four standing committees described in (d) - (g) of this section. The executive committee has the duties and may exercise the powers of the council between meetings of the council. The executive committee shall

- (1) report to the council in a timely fashion on actions taken on behalf of the council; and
- (2) supervise the affairs of the council between regular meetings of the council.

(d) The assessment and evaluation committee shall

- (1) assess and evaluate programs, initiatives, and the delivery of services to help to ensure equitable distribution of quality education, training, and employment services statewide, especially to rural areas and to programs serving economically disadvantaged citizens;
- (2) call for and monitor the workforce development system for increased accountability in performance and continuous quality improvement along the goals and strategies of the council's overall statewide human resource investment strategic plan;
- (3) use evaluation and performance measures to gauge customer satisfaction within the workforce development system.

SENATE FINANCE
COMMITTEE

Amendment Number: 8
Bill Number: CSSB 334 (FIN)
Sponsor: Torgerson Date: 3/27/98
Logged In By: J. Sc. L. ...

AMENDMENT

moved by Torgerson
w/o objections, adopted

Torgerson

OFFERED IN THE SENATE

TO: CSSB 334(FIN)

Page 7, line 21

(3) the percent of former participants who were employed after leaving the training program who [EVALUATE THE TRAINING RECEIVED] received training under the program [AS] that was related to their jobs or somewhat related to their jobs seven to 12 months after leaving the training program;

S B

3 3 5

SFIN

FILE

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 1
 Bill Version: CSSB 335(L&C)
 (S) Publish Date: 4-23-98

Revision Date: _____
 Title: An Act relating to barbers, hairdressers, manicurists,
and cosmetologists.
 Sponsor: Senate Labor and Commerce
 Requestor: Senate Labor and Commerce

Department: Commerce and Economic Development
 BRU: Occupational Licensing
 Component: Operations

COMPONENT SERIAL NO. 1844

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	8.5	8.5	8.5	8.5	8.5	8.5
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	45.7	14.3	14.3	14.3	14.3	14.3
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	55.2	23.8	23.8	23.8	23.8	23.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	79.0	0.0	47.6	0.0	47.6	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts	55.2	23.8	23.8	23.8	23.8	23.8
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	55.2	23.8	23.8	23.8	23.8	23.8

Estimate of any current year (FY 98) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CSSB 335(L&C) establishes a licensing category for manicurists to be regulated by the Board of Barbers and Hairdressers. The number of individuals that would be affected by the bill is not known therefore, a number of assumptions are made in this fiscal note. Information obtained from the Business Licensing files indicate there are approximately 295 manicure/pedicure salons licensed to do business. For the purposes of this fiscal note, we have doubled the number (590) assuming that most salons would have more than one manicurist. An explanation of the costs is attached.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by Commissioner: Deborah B. Sedwick
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 4/21/98
 Date: 4/21/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO.: CSSB 335(L&C)

ANALYSIS: (Continued)

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS

PERSONAL SERVICES

Funding to add 2.5 months of time to an existing PPT Occupational Licensing Examiner I position, Range 12, GGU 8.5

The increase time to the existing position will be responsible for the licensing of manicurists.

TRAVEL

No travel is anticipated 0.0

CONTRACTUAL SERVICES 45.7

Contractual Services are based on the following costs -

Examinations: \$32.5

Examination costs at \$55 per candidate x 590 candidates.
(Note: Exam candidates pay the State for the cost of the examination. In turn, the State pays the examination agency for use of its examinations. This is considered to be a pass-through cost.) After the first year, the assumption is made that at least 20 applicants will take the examination each year at a cost of \$1.1 (20 x \$55).

Exam Facilities: \$2.8

Examination facility rentals: one day exams at \$125 per site based on:

- 12 exams in Anchorage (\$125 x 12 = \$1,500)
- 6 exams in Fairbanks (\$125 x 6 = \$750)
- 4 exams in Juneau (\$125 x 4 = \$500)

Continuation of CSSB 335(L&C) Fiscal Note

Proctor Fees: \$3.5
 Based on one-day exams, 8 hours per day, with at least two proctors at each exam. The proctor fee is \$10 per hour x 8 hrs = \$80 x 2 proctors = \$160 per exam x 22 exams = \$3,520.

Regulations: \$5.2
 - One public notice printed in three newspapers, estimated at \$200 per paper x 3 = \$600
 - Printing of regulations consisting of 6 pages, back-to-back, at \$12 per 100 x 6 pages = \$72 x 6 (to produce 600 copies) = \$432
 - Postage for 600 pieces x .32 = \$192
 - Printing and mailing costs to current licensees (3,838) of the new statute and regulation changes, \$4.0

Daily Communication Costs: \$1.0

Printing Costs: \$0.7
 Applications and other forms will be needed to implement the licensing requirements. A large supply will be required for the initial mailing and to have forms available in each division office. Assuming application forms are at least 3 pages, back-to-back, at \$12 per 100 x 3 pages = \$36 x 20 (to produce 2,000 copies) = \$720

SUPPLIES \$1.0

TOTAL: **\$55.2**

REVENUE/FUND SOURCE:

AS 08.01.065 requires all licensees to pay the costs of regulating their profession. The general fund program receipts from the licensing of manicurists will be expected to cover the direct costs shown in this fiscal note and a share of administrative indirect costs like other licensing programs.

SB

336

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: May 2, 1998

FURTHER REFERRALS:

Date of Committee Action: 5/5/98

The FINANCE Committee considered:

CSSB 336(L&C)

CS FOR SENATE BILL NO. 336(L&C)

WORKERS' COMP: EXEMPT HOCKEY PLAYERS

"An Act relating to excluding professional hockey team members from workers' compensation coverage."

recommends it be replaced with the following committee substitute _____

the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) label 3/23/98

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Theriault</i>	Theriault			<input checked="" type="checkbox"/>	
<i>Glenn Pude</i>	Mulder	<input checked="" type="checkbox"/>			
<i>Terry Martin</i>	Martin			<input checked="" type="checkbox"/>	<i>may 19</i>
<i>Vic Kohring</i>	Kohring	<input checked="" type="checkbox"/>			
<i>John J. Davies</i>	J. Davies	<input checked="" type="checkbox"/>			
<i>Ben J. Grusendorf</i>	Grusendorf			<input checked="" type="checkbox"/>	
<i>John G. Davis</i>	G. Davis			<input checked="" type="checkbox"/>	
<i>John Kelly</i>	Kelly			<input checked="" type="checkbox"/>	

CHAIR'S SIGNATURE

Gene Theriault
Theriault

FISCAL NOTE

No. 1
 Bill Version: CSSB 336(LC)
 (S) Publish Date: 3-23-98

**STATE OF ALASKA
 1998 LEGISLATIVE SESSION**

Revision Date (Note if correction) _____ Dept. Affected Labor
 Title Workers' Comp: Exempt Hockey Players BRU Workers' Compensation
 Component Workers' Compensation
 Sponsor Senate L&C
 Requester Senate L&C Component Serial No. 344

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This proposed bill amends AS 23.30.230(a) to include persons employed as a player or coach of a professional hockey team as persons not covered by workers' compensation. The passage of this bill is not anticipated to result in any noticeable activity.

Prepared by Paul Grossi, Director Phone 465-2790
 Division Workers' Compensation Date 3/13/98
 Approved by Commissioner: Tom Cashen Date 3/13/98
 Agency Labor

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*workers comp
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KELLY R. MONEY
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* ADMITTED IN FLORIDA, IOWA
** ADMITTED IN GEORGIA ONLY

July 19, 1996

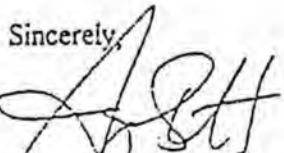
Walt Edwards
Vice President/Business Operations
1659 Folkstone Road
Tallahassee, FL 32312

Re: Eastern Indoor Soccer League

Dear Walt:

I have enclosed a copy of § 440.09(8) and 440.02(15)(c)(3), Florida Statutes, which discusses exemption of professional athletes from Florida's Workers Compensation requirements in certain situations as you requested. As you will notice, professional soccer players are not specifically mentioned, although a plain reading of the language of the statute seems to include them. I took a quick look at the case law and found no cases specifically including or excluding professional soccer.

As always, please call with any questions.

Sincerely,

Tammy deSoto Cicchetti

TdC/nw



MAY 5 1998

Office of Senator Loren Leman
State Capitol, Room 115
Juneau, AK 99801

May 5, 1998

Re: SB 336

Dear Mr. Leman:

On behalf of the Anchorage Aces Professional Hockey Team and the Players, we would like to thank you for introducing SB 336. We understand that this will require your effort as well as your that of your staff and are in full support of this bill.

This bill is very crucial to keeping the Aces in Alaska. The Aces have provided professional hockey to the State of Alaska for the past three years and are very close with the community of Anchorage. The players love Anchorage and want to continue to be a part of this community. The players and management are willing to be available for any testimony or support of this bill. Please let me know if we can be of assistance.

Sincerely,

A handwritten signature in cursive script that reads "Derek Donald".

Derek Donald, General Manager/Player

Alaska State Legislature

Senate



Official Business

State Capitol
Juneau, AK. 99801-1182

Senate Labor & Commerce Committee

Sponsor Statement

SB 336: "An Act relating to excluding professional hockey team members from worker's compensation coverage

This bill amends Worker's Compensation provisions by adding professional hockey teams to the list of persons not covered under AS 23.30.230. In exchange for this exemption, a team owner would have to provide a medical and disability program to cover the players (and anyone else associated with the team who is in the same Worker's Comp risk category, e.g., coaches, assistant coaches, but not office personnel) 100% of the time - whether on duty, travel or their own time. The owner is responsible for the cost of the premiums on this coverage. The idea is taken from Florida's approach to this problem.

The committee was asked to introduce this legislation by the sole professional hockey team in the state, the Anchorage Aces.

The Department of Labor, Division of Worker's Compensation has reviewed the legislation and is neutral on the bill.

- 440.525 Examination of carriers.
 440.53 Effect of unconstitutionality.
 440.54 Violation of child labor law.
 440.55 Proceedings against state.
 440.572 Authorization for individual self-insurer to provide coverage.
 440.585 Workers' compensation group self-insurance fund application disclosure.
 440.59 Reporting requirements.
 440.591 Administrative procedure; rulemaking authority.
 440.593 Electronic reporting.
 440.60 Application of laws.

440.01 Short title.—This chapter may be cited as the "Workers' Compensation Law."

History.—s. 1 on 17481, 1935; s. 1536 Supp. 1956; s. 23, ch. 74-300; s. 1, 124, ch. 79-40; s. 27, ch. 79-312; s. 43, ch. 89-209; s. 59, ch. 90-257; s. 52, ch. 91-1.

440.015 Legislative intent.—It is the intent of the Legislature that the Workers' Compensation Law be interpreted so as to assure the quick and efficient delivery of disability and medical benefits to an injured worker and to facilitate the worker's return to gainful reemployment at a reasonable cost to the employer. It is the specific intent of the Legislature that workers' compensation cases shall be decided on their merits. The workers' compensation system in Florida is based on a mutual renunciation of common-law rights and defenses by employers and employees alike. In addition, it is the intent of the Legislature that the facts in a workers' compensation case are not to be interpreted liberally in favor of either the rights of the injured worker or the rights of the employer. Additionally, the Legislature hereby declares that disputes concerning the facts in workers' compensation cases are not to be given a broad liberal construction in favor of the employee on the one hand or of the employer on the other hand, and the laws pertaining to workers' compensation are to be construed in accordance with the basic principles of statutory construction and not liberally in favor of either employee or employer. It is the intent of the Legislature to ensure the prompt delivery of benefits to the injured worker. Therefore, an efficient and self-executing system must be created which is not an economic or administrative burden. The Division of Workers' Compensation shall administer the Workers' Compensation Law in a manner which facilitates the self-execution of the system and the process of ensuring a prompt and cost-effective delivery of payments.

History.—s. 8, ch. 90-201; s. 6, ch. 91-1; s. 1, ch. 93-415.

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(1) "Accident" means only an unexpected or unusual event or result that happens suddenly. A mental or nervous injury due to stress, fright, or excitement only, or disability or death due to the accidental acceleration or aggravation of a venereal disease or of a disease due to the habitual use of alcohol or controlled substances or narcotic drugs, or a disease that manifests itself in the fear of or dislike for an individual because of the individu-

al's race, color, religion, sex, national origin, age, or handicap is not an injury by accident arising out of the employment if a preexisting disease or condition is accelerated or aggravated by an accident arising out of and in the course of employment, only acceleration of death or acceleration or aggravation of the preexisting condition reasonably attributable to the accident is compensable, with respect to death or permanent impairment.

(2) "Adoption" or "adopted" means legal adoption prior to the time of the injury.

(3) "Carrier" means any person or fund authorized under s. 440.38 to insure under this chapter and includes a self-insurer, and a commercial self-insurance fund authorized under s. 624.462.

(4) "Casual" as used in this section shall be taken to refer only to employments when the work contemplated is to be completed in not exceeding 10 working days, without regard to the number of men employed, and when the total labor cost of such work is less than \$100.

(5) "Child" includes a posthumous child, a child legally adopted prior to the injury of the employee, and a stepchild or acknowledged child born out of wedlock dependant upon the deceased, but does not include married children unless wholly dependent on him. "Grandchild" means a child as above defined of a child as above defined. "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but does not include married brothers or married sisters unless wholly dependent on the employee. "Child," "grandchild," "brother," and "sister" include only persons who at the time of the death of the deceased employees are under 18 years of age, or under 22 years of age if a full-time student in an accredited educational institution.

(6) "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this chapter.

(7) "Construction Industry" means for-profit activities involving the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, "construction" refers to the act of construction or the result of construction. However, "construction" shall not mean a landowner's act of construction or the result of a construction upon his or her own premises, provided such premises are not intended to be sold or resold.

(8) "Date of maximum medical improvement" means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer reasonably be anticipated, based upon reasonable medical probability.

(9) "Death" as a basis for a right to compensation means only death resulting from an injury.

(10) "Department" means the Department of Labor and Employment Security.

(11) "Disability" means incapacity because of the injury to earn in the same or any other employment the wages which the employee was receiving at the time of the injury.

(12) "Division" means the Division of Workers' Compensation of the Department of Labor and Employment Security.

- 440.525 Examination of carriers.
- 440.53 Effect of unconstitutionality.
- 440.54 Violation of child labor law.
- 440.55 Proceedings against state.
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- 440.50 Application of laws.

440.01 Short title.—This chapter may be cited as the "Workers' Compensation Law."

History.—s. 1, ch. 17481, 1935; s. 1, ch. 1573, Supp. 1939; s. 23, ch. 78-300, L.S. 1, 12a, ch. 79-49, s. 21, ch. 78-312, s. 43, ch. 88-289, s. 58, ch. 90-221, s. 22, ch. 91-1.

440.015 Legislative Intent.—It is the intent of the Legislature that the Workers' Compensation Law be interpreted so as to assure the quick and efficient delivery of disability and medical benefits to an injured worker and to facilitate the worker's return to gainful reemployment at a reasonable cost to the employer. It is the specific intent of the Legislature that workers' compensation cases shall be decided on their merits. The workers' compensation system in Florida is based on a mutual renunciation of common-law rights and defenses by employers and employees alike. In addition, it is the intent of the Legislature that the facts in a workers' compensation case are not to be interpreted liberally in favor of either the rights of the injured worker or the rights of the employer. Additionally, the Legislature hereby declares that disputes concerning the facts in workers' compensation cases are not to be given a broad liberal construction in favor of the employee on the one hand or of the employer on the other hand, and the laws pertaining to workers' compensation are to be construed in accordance with the basic principles of statutory construction and not liberally in favor of either employee or employer. It is the intent of the Legislature to ensure the prompt delivery of benefits to the injured worker. Therefore, an efficient and self-executing system must be created which is not an economic or administrative burden. The Division of Workers' Compensation shall administer the Workers' Compensation Law in a manner which facilitates the self-execution of the system and the process of ensuring a prompt and cost-effective delivery of payments.

History.—s. 8, ch. 90-221; s. 6, ch. 91-1; s. 1, ch. 93-413.

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(1) "Accident" means only an unexpected or unusual event or result that happens suddenly. A mental or nervous injury due to stress, fright, or excitement only, or disability or death due to the accidental acceleration or aggravation of a venereal disease or of a disease due to the habitual use of alcohol or controlled substances or narcotic drugs, or a disease that manifests itself in the fear of or dislike for an individual because of the individual's

race, color, religion, sex, national origin, age, or handicap is not an injury by accident. An injury of the employment if a preexisting disease or anomaly is accelerated or aggravated by an accident arising out of and in the course of employment, only acceleration of death or acceleration or aggravation of the preexisting condition reasonably attributable to the accident is compensable, with respect to death or permanent impairment.

(2) "Adoption" or "adopted" means legal adoption prior to the time of the injury.

(3) "Carrier" means any person or fund authorized under s. 440.38 to insure under this chapter and includes a self-insurer, and a commercial self-insurance fund authorized under s. 624.462.

(4) "Casual" as used in this section shall be taken to refer only to employments when the work contemplated is to be completed in not exceeding 10 working days, without regard to the number of men employed, and when the total labor cost of such work is less than \$100.

(5) "Child" includes a posthumous child, a child legally adopted prior to the injury of the employee, and a stepchild or acknowledged child born out of wedlock dependent upon the deceased, but does not include married children unless wholly dependent on him. "Grandchild" means a child as above defined of a child as above defined. "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but does not include married brothers or married sisters unless wholly dependent on the employee. "Child," "grandchild," "brother," and "sister" include only persons who at the time of the death of the deceased employee are under 16 years of age, or under 22 years of age if a full-time student in an accredited educational institution.

(6) "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this chapter.

(7) "Construction industry" means for-profit activities involving the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, "construction" refers to the act of construction or the result of construction. However, "construction" shall not mean a landowner's act of construction or the result of a construction upon his or her own premises, provided such premises are not intended to be sold or resold.

(8) "Date of maximum medical improvement" means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer reasonably be anticipated, based upon reasonable medical probability.

(9) "Death" as a basis for a right to compensation means only death resulting from an injury.

(10) "Department" means the Department of Labor and Employment Security.

(11) "Disability" means incapacity because of the injury to earn in the same or any other employment the wages which the employee was receiving at the time of the injury.

(12) "Division" means the Division of Workers' Compensation of the Department of Labor and Employment Security.

(13)(a) "Employee" means any person engaged in any employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors.

(b) "Employee" includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous.

1. Any officer of a corporation may elect to be exempt from this chapter by filing written notice of the election with the division as provided in s. 440.05.

2. As to officers of a corporation who are actively engaged in the construction industry, no more than three officers may elect to be exempt from this chapter by filing written notice of the election with the division as provided in s. 440.05.

3. An officer of a corporation who elects to be exempt from this chapter by filing a written notice of the election with the division as provided in s. 440.05 is not an employee.

Services are presumed to have been rendered to the corporation if the officer is compensated by other than dividends upon shares of stock of the corporation which he owns.

(c) "Employee" includes a sole proprietor or a partner who devotes full time to the proprietorship or partnership and, except as provided in this paragraph, elects to be included in the definition of employee by filing notice thereof as provided in s. 440.05. Partners or sole proprietors actively engaged in the construction industry are considered employees unless they elect to be excluded from the definition of employee by filing written notice of the election with the division as provided in s. 440.05. However, no more than three partners in a partnership that is actively engaged in the construction industry may elect to be excluded. A sole proprietor or partner who is actively engaged in the construction industry and who elects to be exempt from this chapter by filing a written notice of the election with the division as provided in s. 440.05 is not an employee. For purposes of this chapter, an independent contractor is an employee unless he meets all of the conditions set forth in subparagraph (d)1.

(d) "Employee" does not include:

1. An independent contractor, if:

a. The independent contractor maintains a separate business with his own work facility, truck, equipment, materials, or similar accommodations;

b. The independent contractor holds or has applied for a federal employer identification number, unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal requirements;

c. The independent contractor performs or agrees to perform specific services or work for specific amounts of money and controls the means of performing the services or work;

d. The independent contractor incurs the principal expenses related to the service or work that he performs or agrees to perform.

e. The independent contractor is responsible for the satisfactory completion of work or services that he performs or agrees to perform and is or could be held liable for a failure to complete the work or services;

f. The independent contractor receives compensation for work or services performed for a commission or on a per-job or competitive-bid basis and not on any other basis;

g. The independent contractor may realize a profit or suffer a loss in connection with performing work or services;

h. The independent contractor has continuing or recurring business liabilities or obligations; and

i. The success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

However, the determination as to whether an individual included in the Standard Industrial Classification Manual of 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449, or a newspaper delivery person, is an independent contractor is governed not by the criteria in this paragraph but by common-law principles, giving due consideration to the business activity of the individual.

2. A real estate salesperson or agent, if that person agrees, in writing, to perform for remuneration solely by way of commission.

3. Bands, orchestras, and musical and theatrical performers, including disk jockeys, performing in licensed premises as defined in chapter 562, if a written contract evidencing an independent contractor relationship is entered into before the commencement of such entertainment.

4. An owner-operator of a motor vehicle who transports property under a written contract with a motor carrier which evidences a relationship by which the owner-operator assumes the responsibility of an employer for the performance of the contract, if the owner-operator is required to furnish the necessary motor vehicle equipment and all costs incidental to the performance of the contract, including, but not limited to, fuel, taxes, licenses, repairs, and hired help; and the owner-operator is paid a commission for his transportation service and is not paid by the hour or on some other time-measured basis.

5. A person whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer.

6. A volunteer, except a volunteer worker for the state or a county, municipality, or other governmental entity. A person who does not receive monetary remuneration for his services is presumed to be a volunteer unless there is substantial evidence that a valuable consideration was intended by both employer and employee. For purposes of this chapter, the term "volunteer" includes, but is not limited to:

a. Persons who serve in private nonprofit agencies and who receive no compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees in the same agency or, if such agency does

not have salaried employees who receive mileage and per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the division; and

b. Volunteers participating in federal programs established under Pub. L. No. 93-113.

7. Any officer of a corporation who elects to be exempt from this chapter.

8. A sole proprietor or officer of a corporation who actively engages in the construction industry, and a partner in a partnership that is actively engaged in the construction industry, who elects to be exempt from the provisions of this chapter. Such sole proprietor, officer, or partner is not an employee for any reason until the notice of revocation of election filed pursuant to s. 440.05 is effective.

9. An exercise rider who does not work for a single horse farm or breeder, and who is compensated for riding on a case-by-case basis, provided a written contract is entered into prior to the commencement of such activity which evidences that an employee/employer relationship does not exist.

10. A taxicab, limousine, or other passenger vehicle-for-hire driver who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues.

(14) "Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustee of any person. If the employer is a corporation, parties in actual control of the corporation, including, but not limited to, the president, officers who exercise broad corporate powers, directors, and all shareholders who directly or indirectly own a controlling interest in the corporation, are considered the employer for the purposes of ss. 440.105 and 440.106.

(15)(a) "Employment," subject to the other provisions of this chapter, means any service performed by an employee for the person employing him.

(b) "Employment" includes:

1. Employment by the state and all political subdivisions thereof and all public and quasi-public corporations therein, including officers elected at the polls.

2. All private employments in which four or more employees are employed by the same employer or, with respect to the construction industry, all private employment in which one or more employees are employed by the same employer.

3. Volunteer firefighters responding to or assisting with fire or medical emergencies whether or not the firefighters are on duty.

(c) "Employment" does not include service performed by or as:

1. Domestic servants in private homes.

2. Agricultural labor performed on a farm in the employ of a bona fide farmer, or association of farmers,

who employs 5 or fewer regular employees and who employs fewer than 12 other employees at one time for seasonal agricultural labor that is completed in less than 30 days, provided such seasonal employment does not exceed 45 days in the same calendar year. The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, fish, and truck farms, ranches, nurseries, and orchards. The term "agricultural labor" includes field foreman, timekeepers, checkers, and other farm labor supervisory personnel.

3. Professional athletes, such as professional boxers, wrestlers, baseball, football, basketball, hockey, polo, tennis, jai alai, and similar players, and motorcycle teams competing in a motor racing event as defined in s. 549.08.

4. Labor under a sentence of a court to perform community services as provided in s. 318.193.

(16) "Misconduct" includes, but is not limited to, the following, which shall not be construed in pari materia with each other:

(a) Conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of his employee; or

(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of an employer's interests or of the employee's duties and obligations to his employer.

(17) "Injury" means personal injury or death by accident arising out of and in the course of employment, and such diseases or infection as naturally or unavoidably result from such injury. Damage to dentures, eyeglasses, prosthetic devices, and artificial limbs may be included in this definition only when the damage is shown to be part of, or in conjunction with, an accident. This damage must specifically occur as the result of an accident in the normal course of employment.

(18) "Parent" includes stepparents and parents by adoption, parents-in-law, and any persons who for more than 3 years prior to the death of the deceased employee stood in the place of a parent to him; and were dependent on the injured employee.

(19) "Permanent impairment" means any anatomic or functional abnormality or loss determined as a percentage of the body as a whole, existing after the date of maximum medical improvement, which results from the injury.

(20) "Person" means individual, partnership, association, or corporation, including any public service corporation.

(21) "Self-insurer" means:

(a) Any employer who has secured payment of compensation pursuant to s. 440.38(1)(b) or (6) as an individual self-insurer;

(b) Any employer who has secured payment of compensation through a group self-insurance fund under s. 624.4621;

(c) Any group self-insurance fund established under s. 624.4621;

(d) A public utility as defined in s. 364.02 or s. 366.02 that has assumed by contract the liabilities of contractors or subcontractors pursuant to s. 440.57; or

(e) Any local government self-insurance fund established under s. 624.4622.

(22) "Spouse" includes only a spouse substantially dependent for financial support upon the decedent and living with the decedent at the time of the decedent's injury and death, or substantially dependent upon the decedent for financial support and living apart at that time for justifiable cause.

(23) "Time of injury" means the time of the occurrence of the accident resulting in the injury.

(24) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury and includes only the wages earned and reported for federal income tax purposes on the job where the employee is injured and any other concurrent employment where he is also subject to workers' compensation coverage and benefits, together with the reasonable value of housing furnished to the employee by the employer which is the permanent year-round residence of the employee, and gratuities to the extent reported to the employer in writing as taxable income received in the course of employment from others than the employer and employer contributions for health insurance for the employee or the employee's dependents. However, housing furnished to migrant workers shall be included in wages unless provided after the time of injury. In employment in which an employee receives consideration for housing, the reasonable value of such housing compensation shall be the actual cost to the employer or based upon the Fair Market Rent Survey promulgated pursuant to s. 8 of the Housing and Urban Development Act of 1974, whichever is less. However, if employer contributions for housing or health insurance are continued after the time of the injury, the contributions are not "wages" for the purpose of calculating an employee's average weekly wage.

(25) "Weekly compensation rate" means and refers to the amount of compensation payable for a period of 7 consecutive days, including any Saturdays, Sundays, holidays, and other nonworking days which fall within such period of 7 consecutive days. When Saturdays, Sundays, holidays, or other nonworking days immediately follow the first 7 days of disability or occur at the end of a period of disability as the last day or days of such period, such nonworking days constitute a part of the period of disability with respect to which compensation is payable.

(26) "Construction design professional" means an architect, professional engineer, landscape architect, or surveyor and mapper, or any corporation, professional or general, that has a certificate to practice in the construction design field from the Department of Business and Professional Regulation.

(27) "Individual self-insurer" means any employer who has secured payment of compensation pursuant to s. 440.38(1)(b) as an individual self-insurer.

(28) "Domestic individual self-insurer" means an individual self-insurer:

(a) Which is a corporation formed under the laws of this state

(b) Who is an individual who is a resident of this state or whose primary place of business is located in this state or

(c) Which is a partnership whose principals are residents of this state or whose primary place of business is located in this state.

(29) "Foreign individual self-insurer" means an individual self-insurer:

(a) Which is a corporation formed under the laws of any state, district, territory, or commonwealth of the United States other than this state;

(b) Who is an individual who is not a resident of this state and whose primary place of business is not located in this state; or

(c) Which is a partnership whose principals are not residents of this state and whose primary place of business is not located in this state.

(30) "Insolvent member" means an individual self-insurer which is a member of the Florida Self-Insurers Guaranty Association, Incorporated, or which was a member and has withdrawn pursuant to s. 440.385(1)(b), and which has been found insolvent, as defined in paragraph (31)(a), paragraph (31)(b), or paragraph (31)(c), by a court of competent jurisdiction in this or any other state, or meets the definition of paragraph (31)(d).

(31) "Insolvency" or "insolvent" means:

(a) With respect to an individual self-insurer:

1. That all assets of the individual self-insurer, if made immediately available, would not be sufficient to meet all the individual self-insurer's liabilities;

2. That the individual self-insurer is unable to pay its debts as they become due in the usual course of business;

3. That the individual self-insurer has substantially ceased or suspended the payment of compensation to its employees as required in this chapter; or

4. That the individual self-insurer has sought protection under the United States Bankruptcy Code or has been brought under the jurisdiction of a court of bankruptcy as a debtor pursuant to the United States Bankruptcy Code.

(b) With respect to an employee claiming insolvency pursuant to s. 440.25(5), a person is insolvent who:

1. Has ceased to pay his debts in the ordinary course of business and cannot pay his debts as they become due; or

2. Has been adjudicated insolvent pursuant to the federal bankruptcy law.

(32) "Arising out of" pertains to occupational causation. An accidental injury or death arises out of employment if work performed in the course and scope of employment is the major contributing cause of the injury or death.

(33) "Soft-tissue injury" means an injury that produces damage to the soft tissues, rather than to the skeletal tissues or soft organs.

(34) "Catastrophic injury" means a permanent impairment constituted by:

(a) Spinal cord injury involving severe paralysis of an arm, a leg, or the trunk;

(b) Amputation of an arm, a hand, a foot or a leg involving the effective loss of use of that appendage.

(c) Severe brain or closed-head injury as evidenced by:

Severe sensory or motor disturbances.

- 2 Severe communicative disturbances.
- 3 Severe complex integrated disturbances of cerebral function;
- 4 Severe episodic neurological disorders; or
- 5 Other severe brain and closed-head injury conditions at least as severe in nature as any condition provided in subparagraphs 1.-4.:

(a) Second-degree or third-degree burns of 25 percent or more of the total body surface or third-degree burns of 5 percent or more to the face and hands;

(b) Total or industrial blindness; or

(c) Any other injury that would otherwise qualify under this chapter of a nature and severity that would qualify an employee to receive disability income benefits under Title II or supplemental security income benefits under Title XVI of the federal Social Security Act as the Social Security Act existed on July 1, 1952, without regard to any time limitations provided under that act.

(35) "insurer" means a group self-insurers fund authorized by s. 624.4621, an individual self-insurer authorized by s. 440.38, a commercial self-insurance fund authorized by s. 624.462, an assessable mutual insurer authorized by s. 628.6011, and an insurer licensed to write workers' compensation and employer's liability insurance in this state. The term "carrier," as used in this chapter, means an insurer as defined in this subsection.

(36) "Statement," for the purposes of ss. 440.105 and 440.106, includes, but is not limited to, any notice, representation, statement, proof of injury, bill for services, diagnosis, prescription, hospital or doctor record, X ray, test result, or other evidence of loss, injury, or expense.

History.—s. 2, ch. 17481, 1936; s. 1, ch. 17482, 1936; s. 1, ch. 17483, 1936; CGL 1936 Supp. 586677; s. 1, ch. 78412, 1937; s. 1, ch. 20817, 1941; s. 1, ch. 26228, 1953; s. 1, ch. 20778, 1955; s. 1, ch. 67-184, s. 1, ch. 37-226, s. 1, ch. 52-100, s. 1, ch. 66-104, s. 1, ch. 67-354, s. 17, 38, ch. 68-102, s. 1, ch. 71-60, s. 162, ch. 71-377; s. 1, ch. 72-243, s. 1, ch. 73-127, s. 1, ch. 73-233, s. 118, ch. 73-333, s. 1, ch. 74-441; s. 1, ch. 74-121, s. 1, ch. 74-197, s. 1, ch. 75-209, s. 1, ch. 77-174, s. 1, ch. 77-299; s. 1, ch. 79-300, s. 15, ch. 79-7, s. 2, 124, ch. 79-40, s. 21, ch. 79-312, s. 1, ch. 80-238, s. 3, ch. 81-119, s. 1, ch. 83-305, s. 1, ch. 84-267, s. 9, ch. 86-171; s. 1, ch. 87-300, s. 1, ch. 88-202, s. 2, ch. 92-811, s. 3, 43, ch. 85-289, s. 9, 56, ch. 90-201, s. 4, 7, 52, ch. 81-1, s. 1, ch. 81-2, s. 2, ch. 83-415, s. 117, ch. 94-119; s. 59, ch. 94-218.

*Note.—Transferred to s. 624.4622 by s. 81, ch. 93-415.
 *Note.—Redesignated as subparagraph (31)(a)1, by s. 2, ch. 93-415.
 *Note.—Redesignated as subparagraph (31)(a)2, by s. 2, ch. 93-415.
 *Note.—Redesignated as subparagraph (31)(a)3, by s. 2, ch. 93-415.
 *Note.—Redesignated as subparagraph (31)(a)4, by s. 2, ch. 93-415.

440.021 Exemption of workers' compensation from chapter 120.—Workers' compensation adjudications by judges of compensation claims are exempt from chapter 120, and no judge of compensation claims shall be considered an agency or a part thereof. Communications of the result of investigations by the division pursuant to s. 440.185(4) are exempt from chapter 120. In all instances in which the division institutes action to collect a penalty or interest which may be due pursuant to this chapter, the penalty or interest shall be assessed without hearing, and the party against which such penalty or interest is assessed shall be given written notice of such assessment and shall have the right to protest within 20 days of such notice. Upon receipt of a timely notice of protest and after such investigation as may be necessary, the division shall, if it agrees with such protest, notify the protesting party that the assessment has been revoked. If the division does not agree with the protest, it shall refer the matter to the judge of compensation claims for

determination pursuant to s. 440.25(3) and (4). Such action of the division is exempt from the provisions of chapter 120.

History.—s. 2, ch. 17481, 1936; CGL 1936 Supp. 586677; s. 1, ch. 17482, 1936; s. 1, ch. 17483, 1936; s. 1, ch. 20778, 1955; s. 1, ch. 67-184, s. 1, ch. 37-226, s. 1, ch. 52-100, s. 1, ch. 66-104, s. 1, ch. 67-354, s. 17, 38, ch. 68-102, s. 1, ch. 71-60, s. 162, ch. 71-377; s. 1, ch. 72-243, s. 1, ch. 73-127, s. 1, ch. 73-233, s. 118, ch. 73-333, s. 1, ch. 74-441; s. 1, ch. 74-121, s. 1, ch. 74-197, s. 1, ch. 75-209, s. 1, ch. 77-174, s. 1, ch. 77-299; s. 1, ch. 79-300, s. 15, ch. 79-7, s. 2, 124, ch. 79-40, s. 21, ch. 79-312, s. 1, ch. 80-238, s. 3, ch. 81-119, s. 1, ch. 83-305, s. 1, ch. 84-267, s. 9, ch. 86-171; s. 1, ch. 87-300, s. 1, ch. 88-202, s. 2, ch. 92-811, s. 3, 43, ch. 85-289, s. 9, 56, ch. 90-201, s. 4, 7, 52, ch. 81-1, s. 1, ch. 81-2, s. 2, ch. 83-415, s. 117, ch. 94-119; s. 59, ch. 94-218.

440.03 Application.—Every employer and employee as defined in s. 440.02 shall be bound by the provisions of this chapter.

History.—s. 1, ch. 17481, 1936; CGL 1936 Supp. 586677; s. 1, ch. 17482, 1936; s. 1, ch. 17483, 1936; s. 1, ch. 20778, 1955; s. 1, ch. 67-184, s. 1, ch. 37-226, s. 1, ch. 52-100, s. 1, ch. 66-104, s. 1, ch. 67-354, s. 17, 38, ch. 68-102, s. 1, ch. 71-60, s. 162, ch. 71-377; s. 1, ch. 72-243, s. 1, ch. 73-127, s. 1, ch. 73-233, s. 118, ch. 73-333, s. 1, ch. 74-441; s. 1, ch. 74-121, s. 1, ch. 74-197, s. 1, ch. 75-209, s. 1, ch. 77-174, s. 1, ch. 77-299; s. 1, ch. 79-300, s. 15, ch. 79-7, s. 2, 124, ch. 79-40, s. 21, ch. 79-312, s. 1, ch. 80-238, s. 3, ch. 81-119, s. 1, ch. 83-305, s. 1, ch. 84-267, s. 9, ch. 86-171; s. 1, ch. 87-300, s. 1, ch. 88-202, s. 2, ch. 92-811, s. 3, 43, ch. 85-289, s. 9, 56, ch. 90-201, s. 4, 7, 52, ch. 81-1, s. 1, ch. 81-2, s. 2, ch. 83-415, s. 117, ch. 94-119; s. 59, ch. 94-218.

440.04 Waiver of exemption.—

(1) Every employer having in his employment any employee not included in the definition "employee," or excluded or exempted from the operation of this chapter may at any time waive such exclusion or exemption and accept the provisions of this chapter by giving notice thereof as provided in s. 440.05, and by so doing be as fully protected and covered by the provisions of this chapter as if such exclusion or exemption had not been contained herein.

(2) When any policy or contract of insurance specifically secures the benefits of this chapter to any person not included in the definition of "employee" or whose services are not included in the definition of "employment" or who is otherwise excluded or exempted from the operation of this chapter, the acceptance of such policy or contract of insurance by the insured and the writing of same by the carrier shall constitute a waiver of such exclusion or exemption and an acceptance of the provisions of this chapter with respect to such person, notwithstanding the provision of s. 440.05 with respect to notice.

(3) A corporate officer who has exempted himself by proper notice from the operation of this chapter may at any time revoke such exemption and thereby accept the provisions of this chapter by giving notice as provided in s. 440.05.

History.—s. 4, ch. 17481, 1936; CGL 1936 Supp. 586677; s. 2, ch. 18413, 1937; s. 2, ch. 27773, 1955; s. 4, ch. 70-142, s. 2, ch. 74-187, s. 25, ch. 78-300, s. 124, ch. 79-40, s. 31, ch. 79-312, s. 43, ch. 85-289, s. 58, ch. 80-201, s. 52, ch. 91-1.

440.05 Election of exemption; revocation of election; notice; certification.—

(1) Each corporate officer who elects not to accept the provisions of this chapter or who, after electing such exemption, revokes that exemption shall mail to the division in Tallahassee notice to such effect in accordance with a form to be prescribed by the division.

(2) Each sole proprietor or partner who elects to be included in the definition of "employee" or who, after such election, revokes that election must mail to the division in Tallahassee notice to such effect, in accordance with a form to be prescribed by the division.

(3) Each sole proprietor, partner, or officer of a corporation who is actively engaged in the construction industry and who elects an exemption from this chapter or who, after electing such exemption, revokes that exemption, must mail a written notice to such effect to the division on a form prescribed by the division. The notice of election to be exempt from the provisions of

this chapter must be notarized and under oath. The election must list the name, federal tax identification number, social security number, and all certified or registered licenses issued pursuant to chapter 489 held by the person seeking the exemption. The form must identify each sole proprietorship, partnership, or corporation that employs the person electing the exemption and must list the social security number or federal tax identification number of each such employer. In addition, the election form must provide that the sole proprietor, partner, or officer electing an exemption is not entitled to benefits under this chapter, must provide that the election does not exceed exemption limits for officers and partnerships provided in s. 440.02, and must certify that any employees of the sole proprietor, partner, or officer electing an exemption are covered by workers' compensation insurance. Upon receipt of the notice of the election to be exempt and a determination that the notice meets the requirements of this subsection, the division shall issue a certification of the election to the sole proprietor, partner, or officer. The certificate of election must list the names of the sole proprietorship, partnership, or corporation listed in the request for exemption. A new certificate of election must be obtained each time the person is employed by a new sole proprietorship, partnership, or corporation that is not listed on the certificate of election. A copy of the certificate of election must be sent to each workers' compensation carrier identified in the request for exemption. The certification of the election is valid until the sole proprietor, partner, or officer revokes his election. Upon filing a notice of revocation of election, a sole proprietor, partner, or officer who is a subcontractor must notify his contractor.

(4) A notice given under subsection (1), subsection (2), or subsection (3) is not effective until 30 days after the date it is mailed to the division in Tallahassee. However, if an accident or occupational disease occurs less than 30 days after the effective date of the insurance policy under which the payment of compensation is secured or the date the employer qualified as a self-insurer, such notice is effective as of 12:01 a.m. of the day following the date it is mailed to the division in Tallahassee.

(5) Any contractor responsible for compensation under s. 440.10 may register in writing with the workers' compensation carrier for any subcontractor and shall thereafter be entitled to receive written notice from the carrier of any cancellation or nonrenewal of the policy.

(6) The division may assess a fee, not to exceed \$50, with each request for election or renewal of election under this section. The funds collected by the division shall be used to administer this section and to audit the businesses that pay the fee for compliance with any requirements of this chapter.

History.—s. 1, ch. 17481, 1973; C.S.L. 1936, 5962(1), 15, 17, 32, ch. 64-105, s. 2, ch. 70-148, s. 1, ch. 70-439, s. 3, ch. 74-197, s. 2, ch. 73-269, s. 22, ch. 78-300, s. 24, ch. 79-40, s. 21, ch. 79-312, s. 42, ch. 89-289, s. 56, ch. 90-271, s. 32, ch. 91-1, s. 2, ch. 91-2, s. 3, ch. 93-415.

440.055 Notice requirements.—An employer who employs fewer than four employees, who is permitted by law to elect not to secure payment of compensation under this chapter, and who elects not to do so shall post clear written notice in a conspicuous location at

each worksite directed to all employees and other persons performing services at the worksite of their lack of entitlement to benefits under this chapter.

History.—s. 10, ch. 90-201, s. 4, ch. 91-1, s. 4, ch. 93-415.

440.06 Failure to secure compensation; effect.—Every employer who fails to secure the payment of compensation under this chapter as provided in s. 440.38 may not, in any suit brought against him by an employee subject to this chapter to recover damages for injury or death, defend such a suit on the grounds that the injury was caused by the negligence of a fellow servant, that the employee assumed the risk of his employment, or that the injury was due to the comparative negligence of the employee.

History.—s. 4, ch. 17481, 1973; C.S.L. 1936, 5962(1), s. 5, ch. 70-148, s. 23, ch. 78-300, ss. 4, 124, ch. 78-40, s. 21, ch. 75-312, s. 43, ch. 89-289, s. 56, ch. 90-201, s. 62, ch. 91-1.

440.075 When corporate officer rejects chapter; effect.—Every corporate officer who elects to reject this chapter shall, in any action to recover damages for injury or death brought against the corporate employer, proceed as at common law, and the employer in such suit may avail itself of all defenses that exist at common law.

History.—s. 4, ch. 74-197, s. 23, ch. 78-300, s. 124, ch. 78-40, s. 21, ch. 75-312, s. 43, ch. 89-289, s. 56, ch. 90-201, s. 62, ch. 91-1.

440.077 When a sole proprietor, partner, or officer rejects chapter; effect.—A sole proprietor, partner, or officer of a corporation who is actively engaged in the construction industry and who elects to be exempt from the provisions of this chapter may not recover benefits under this chapter.

History.—s. 2, ch. 91-2.

440.09 Coverage.—

(1) The employer shall pay compensation or furnish benefits required by this chapter if the employee suffers an accidental injury or death arising out of work performed in the course and the scope of employment. The injury, its occupational cause, and any resulting manifestations or disability shall be established to a reasonable degree of medical certainty and by objective medical findings. Mental or nervous injuries occurring as a manifestation of an injury compensable under this section shall be demonstrated by clear and convincing evidence.

(a) This chapter does not require any compensation or benefits for any subsequent injury the employee suffers as a result of an original injury arising out of and in the course of employment unless the original injury is the major contributing cause of the subsequent injury.

(b) If an injury arising out of and in the course of employment combines with a preexisting disease or condition to cause or prolong disability or need for treatment, the employer must pay compensation or benefits required by this chapter only to the extent that the injury arising out of and in the course of employment is and remains the major contributing cause of the disability or need for treatment.

(c) Death resulting from an operation by a surgeon furnished by the employer for the cure of hernia as required in s. 440.15(6) shall for the purpose of this chapter be considered to be a death resulting from the accident causing the hernia.

(1) If an accident happens while the employee is employed elsewhere than in this state, which would entitle him or his dependents to compensation if it had happened in this state, the employee or his dependents are entitled to compensation if the contract of employment was made in this state, or the employment was principally localized in this state. However, if an employee receives compensation or damages under the laws of any other state, the total compensation for the injury may not be greater than is provided in this chapter.

(2) Benefits are not payable in respect of the disability or death of any employee covered by the Federal Employer's Liability Act, the Longshoremen's and Harbor Worker's Compensation Act, or the Jones Act.

(3) Compensation is not payable if the injury was occasioned primarily by the intoxication of the employee; by the influence of any drugs, barbiturates, or other stimulants not prescribed by a physician; or by the willful intention of the employee to injure or kill himself, herself, or another.

(4) An employee shall not be entitled to compensation or benefits under this chapter if any administrative hearing officer, court, or jury convened in this state determines that the employee has knowingly or intentionally engaged in any of the acts described in s. 440.105 for the purpose of securing workers' compensation benefits.

(5) If injury is caused by the knowing refusal of the employee to use a safety appliance or observe a safety rule required by statute or lawfully adopted by the division, and brought prior to the accident to the employee's knowledge, or if injury is caused by the knowing refusal of the employee to use a safety appliance provided by the employer, the compensation as provided in this chapter shall be reduced 25 percent.

(6) Except as provided in this chapter, a construction design professional who is retained to perform professional services on a construction project, or an employee of a construction design professional in the performance of professional services on the site of the construction project, is not liable for any injuries resulting from the employer's failure to comply with safety standards on the construction project for which compensation is recoverable under this chapter, unless responsibility for safety practices is specifically assumed by contracts. The immunity provided by this subsection to a construction design professional does not apply to the negligent preparation of design plans or specifications.

(7)(a) To ensure that the workplace is a drug-free environment and to deter the use of drugs and alcohol at the workplace, if the employer has reason to suspect that the injury was occasioned primarily by the intoxication of the employee or by the use of any drug, as defined in this chapter, which affected the employee to the extent that the employee's normal faculties were impaired, and the employer has not implemented a drug-free workplace pursuant to ss. 440.101 and 440.102, the employer may require the employee to submit to a test for the presence of any or all drugs or alcohol in his system.

(b) If the employee has, at the time of the injury, a blood alcohol level equal to or greater than the level

specified in § 316.193, or if the employee has a positive confirmation of a drug as defined in this act, it is presumed that the injury was occasioned primarily by the intoxication of, or by the influence of the drug upon, the employee. In the absence of a drug-free workplace program, this presumption may be rebutted by clear and convincing evidence that the intoxication or influence of the drug did not contribute to the injury. Percent by weight of alcohol in the blood must be based upon grams of alcohol per 100 milliliters of blood. If the results are positive, the testing facility must maintain the specimen for a minimum of 90 days. Blood serum may be used for testing purposes under this chapter; however, if this test is used, the presumptions under this section do not arise unless the blood alcohol level is proved to be medically and scientifically equivalent to or greater than the comparable blood alcohol level that would have been obtained if the test were based on percent by weight of alcohol in the blood. However, if, before the accident, the employer had actual knowledge of and expressly acquiesced in the employee's presence at the workplace while under the influence of such alcohol or drug, the presumptions specified in this subsection do not apply.

(c) If the injured worker refuses to submit to a drug test, it shall be presumed in the absence of clear and convincing evidence to the contrary that the injury was occasioned primarily by the influence of drugs.

(d) The division shall provide by rule for the authorization and regulation of drug-testing policies, procedures, and methods. Testing of injured employees shall not commence until such rules are adopted.

(8) If, by operation of s. 440.04, benefits become payable to a professional athlete under this chapter, such benefits shall be reduced or setoff in the total amount of injury benefits or wages payable during the period of disability by the employer under a collective bargaining agreement or contract for hire.

History.— s. 9, ch. 17461, 1953; CCL 1934 Supp. 500000; s. 3, ch. 18413, 1937; s. 1, ch. 28226, 1953; s. 1, ch. 57-253; s. 2, ch. 73-127; s. 3, ch. 74-187; s. 3, ch. 75-209; s. 2, ch. 77-290; s. 23, ch. 78-300; s. 124, ch. 78-40; s. 21, ch. 79-312; s. 7, ch. 86-171; ss. 4, 5, 6, 42, ch. 88-209; ss. 11, 64, ch. 90-201; ss. 9, 32, ch. 91-1; ss. 5, 63, ch. 93-415.

Repealed by s. 3, ch. 92-277.

440.091 Law enforcement officer; when acting within the course of employment.—If an employee:

(1) Is elected, appointed, or employed full time by a municipality, the state, or any political subdivision and is vested with authority to bear arms and make arrests and his primary responsibility is the prevention or detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state;

(2) Was discharging that primary responsibility within the state in a place and under circumstances reasonably consistent with that primary responsibility; and

(3) Was not engaged in services for which he was paid by a private employer, and he and his public employer had no agreement providing for workers' compensation coverage for that private employment;

the employee shall be deemed to have been acting within the course of employment. The term "employee" as used in this section includes all certified supervisory and command personnel whose duties include, in whole

SB

337

SFIN

FILE

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB337

Revision Date (Note if correction) _____	Dept. Affected _____	Office of the Governor _____
Title <u>Relating to mandatory incorporation of certain</u>	BRU _____	Elective Operations _____
<u>boroughs in the unorganized borough</u>	Component _____	Elections _____
Sponsor <u>Senate Finance Committee</u>	Component Serial No. <u>#21</u>	
Requester <u>Senate Finance Committee</u>	_____	

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual	25.4	25.2	64.5	19.8		
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	25.4	25.2	64.5	19.8	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF	25.4	25.2	64.5	19.8		
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	25.4	25.2	64.5	19.8	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The contractual costs shown above reflect the cost of conducting the elections for initial borough officials. The division of elections used a schedule prepared by Local Boundary Commission staff to determine the year in which elections for the various boroughs will occur. The FY01 estimate is significantly larger because of the incorporation of boroughs that include two large REAAs.

The contractual line shows the cost of advertising, printing and shipping ballots, payment of election boards, absentee voting officials and state review boards.

Prepared by <u>Dana LaTour</u>	Phone <u>465-5347</u>
Division <u>Division of Elections</u>	Date <u>3/16/98</u>
Approved by <u>C. Lt. Governor Fran Ulmer</u>	Date <u>3/16/98</u>
Agency <u>Office of the Lieutenant Governor</u>	

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FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 337

1998 LEGISLATIVE SESSION

Revision Date:

Department Affected: Education

Title: Mandatory borough incorporation

BRU: K-12 Support

Component: Foundation Program

Sponsor: Senate Finance

Requester: Senate Finance

COMPONENT SERIAL NO. 141

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0	0	0	0	*	*
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	*	*

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
---------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

Estimate of current year (FY98) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)

There will be a cost to the foundation program if this legislation becomes law. Title 29 allows newly formed boroughs two years after incorporation to assume educational duties. This legislation becomes law only if a version of SB36 is enacted into law. The fiscal impact to the foundation program will not occur until FY03. The department is unable to determine the actual fiscal impact due to the continuing changes to SB36.

Prepared by: Eddy Jeans, School Finance Manager

Phone: 465-8687

Division: Education Support Services

Date: 4/13/98

Approved by Commissioner: Shirley J. Holloway, Ph. D.

Agency: Department of Education

Date: 4/13/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 337

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>
Title <u>An Act relating to the mandatory incorporation of</u>	BRU <u>Civil Division</u>
<u>certain boroughs in the unorganized borough ...</u>	Component <u>Governmental Affairs</u>
Sponsor <u>Senate Finance Committee</u>	
Requester <u>Senate Finance Committee</u>	Component Serial No. <u>2207</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services		113.2	113.2	113.2	113.2	113.2
Travel		10.3	10.3	10.3	10.3	10.3
Contractual		68.2	68.2	68.2	68.2	68.2
Supplies		1.8	1.8	1.8	1.8	1.8
Equipment		6.5				
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	200.0	193.5	193.5	193.5	193.5

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF		200.0	193.5	193.5	193.5	193.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	200.0	193.5	193.5	193.5	193.5

Estimate of any current year (FY98) cost: _____

POSITIONS

POSITIONS	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Full-time		1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 337 would require the Department of Community and Regional Affairs to prepare a third class borough incorporation proposal for each of the model boroughs identified for formation in the report issued in 1995 by the Local Boundary Commission entitled "Model Borough Boundaries." The bill has the effect of including most of the unorganized borough within the boundaries of a borough, with the exception that the few areas not organized under the bill will be annexed to existing municipalities. Thus, 18 new boroughs would be established, and areas of 5 existing boroughs would be expanded. These changes would take place over a four year period, beginning in FY99, based on a sliding scale of the estimated full and true value of taxable property in the areas to be incorporated. In addition, the bill designates the new third class boroughs as school districts, excluding first class and home rule city school districts within the new borough boundaries.

Prepared by Joan M. Kasson
 Division Attorney General's Office

Approved by Commissioner Bruce M. Botelho, Attorney General
 Agency Department of Law

Phone 465-5370
 Date 3/20/98

Date 3/20/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 337

ANALYSIS CONTINUATION

The Department of Law believes that the mandatory incorporation of the unorganized borough into a large number of third class boroughs will result in considerable litigation involving opponents residing in several areas of the unorganized borough. Additional litigation is anticipated from first class and home rule cities within the boundaries of the proposed third class boroughs, as an anticipated result of the legislation would be a redistribution of certain revenues currently collected by these cities.

The department estimates a full-time equivalent attorney will be needed to defend the bill if enacted, as well as out-of-pocket trial costs. These costs will begin in FY00 and continue for three or four years, until all the litigation is resolved.

The cost estimate is based on the FY98/99 attorney cost schedule (\$133,500), and includes the weighted overhead costs of clerical support, space, communications, supplies, and other standard overhead costs. One-time new equipment costs are not included in the rate, and are added separately (\$6,500). Additionally, \$10,000 for case-specific travel and \$50,000 for experts and depositions will be required.

Revision Date: _____ Dept. Affected: Revenue
 Title: Mandatory Borough Incorporation BRU: Revenue Operations
 Component: Oil and Gas Audit
 Sponsor: (S) FIN
 Requestor: (S) FIN COMPONENT SERIAL NO. 115

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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RANGE OF CHANGE IN REVENUES (4 Mills) to (15 Mills)	(5,449,812.0) to (20,436,796.0)	(5,231,379.0) to (19,617,672.0)	(5,022,124.0) to (18,832,965.0)	(4,822,046.0) to (18,082,675.0)	(4,629,311.0) to (17,359,919.0)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1001 CBRF						
1048 University of AK receipts						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The state anticipates a loss of AS 43.56 (Oil and Gas Production and Pipeline Transportation Property) tax revenue when newly created municipalities levy a property tax against this property. Since the tax paid to the municipality is a credit against the state tax, the state's share of AS 43.56 revenue will be reduced.

Per conversation with the State Assessor's office, even though the proposals for third class status must be submitted by July 1, 1999, incorporation would probably not occur until FY 2000. And, while a phase-in is anticipated by Sec. 2 of SB 337, the proposed third class boroughs have full and true values that when added to oil and gas properties, subject them to the earliest proposal requirement. The above analysis presents a range from 4 mills, which is the minimum local effort required for school funding, to 15 mills, which is slightly lower than the rate seen in other organized municipalities along the pipeline corridor.

Prepared by: Richard Brewer Phone: 343-9268
 Division: Oil and Gas Audit Division Date: March 18, 1998
 Approved by Commissioner: Deborah Vogt, Deputy Commissioner Date: March 18, 1998
 Agency: Revenue

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 337

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act relating to the mandatory incorporation of BRU: Resource Development
certain boroughs in the unincorporated borough. Component: Land Development
 Sponsor: S FIN
 Requestor: S FIN Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES	20.0	20.0	52.8	52.8	105.6	211.2
TRAVEL	1.0	1.0	3.0	3.0	5.0	10.0
CONTRACTUAL	0.5	0.5	2.0	2.0	10.0	20.0
SUPPLIES	1.0	1.0	1.0	1.0	2.0	3.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	22.5	22.5	58.8	58.8	122.6	244.2
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	22.5	22.5	58.8	58.8	122.6	244.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
1007 I/A						
TOTAL	22.5	22.5	58.8	58.8	122.6	244.2

Estimate of any current year (FY98) cost: \$ None

POSITIONS

FULL-TIME	0	0	1	1	2	4
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS:

(Attach a separate page if necessary)

The primary impact of this bill for DNR will be that each of the new boroughs would be entitled to a municipal land entitlement grant under AS 29.65. The grant is 10% of the maximum amount of vacant, unappropriated, unreserved state land within the borough. DNR is required to notify the borough of its entitlement within two and a half years of its incorporation. Total entitlements may exceed 2 million acres.

In FY 99 and 00, DNR's role will be to assist DCRA in developing approximate acreages of municipal entitlements for inclusion in the incorporation proposals. In FY 01 and four (4) subsequent years, DNR will need to calculate and certify borough entitlements. DNR assumes approximately 16 new boroughs will form, and certification will take one staff person (Natural Resource Officer II) an average of three months per borough. Starting in FY 03, DNR will need additional staff (2 in FY 03, 4 in FY 04) to process these new municipal entitlements, which are estimated to exceed 2 million acres.

* It is impossible to project the exact amount of revenue these conveyances will eventually remove as leases and permits are transferred from state to borough ownership.

Prepared by: Jane Angvik /rm Phone: 269-8503
 Division: Land Date: 17-Mar-98
 Approved by Commissioner: [Signature] Date: _____
 Agency: Natural Resources

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FISCAL NOTE

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An Act relating to the mandatory BRU: Local Gov't Assistance
incorporation of certain boroughs in Component: Local Boundary Commission
 Sponsor: Senate Finance Committee
 Requestor: Senate Finance Committee **COMPONENT SERIAL NO.** 674

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES		61.6	61.6	61.6	61.6	0.0
TRAVEL		26.0	29.0	30.8	50.4	
CONTRACTUAL		50.5	50.5	50.5	76.5	
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	138.1	141.1	142.9	188.5	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		138.1	141.1	142.9	188.5	
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	138.1	141.1	142.9	188.5	0.0

POSITIONS:

FULL-TIME	0	1	1	1	1	0
PART-TIME						
TEMPORARY						

Estimate of current (FY98) Impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Local Boundary Commission:

Implementation of this legislation would have no significant impact on the Local Boundary Commission staff. Local Boundary Commission considerations are discussed in the attached pages under the heading "Fiscal Impacts on the Local Boundary Commission."

Prepared by: Michael Cushing, Research Analyst Phone: 465-4751
 Division: Municipal and Regional Assistance Division Date: 3/17/98
 Approved by Commissioner: [Signature] Date: 3/17/98
 Agency: Community & Regional Affairs

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FISCAL NOTE

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An Act relating to the mandatory BRU: Local Gov't Assistance
Incorporation of certain boroughs in ... Component: State Assessor
 Sponsor: Senate Finance Committee
 Requestor: Senate Finance Committee COMPONENT SERIAL NO. 673

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	164.6	223.5	223.5	223.5	223.5	223.5
TRAVEL	30.0	22.5	15.6	14.0	10.0	10.0
CONTRACTUAL						
SUPPLIES	3.0	3.0	3.0	1.5	1.5	1.5
EQUIPMENT	10.5	3.5	2.5	2.0	2.0	2.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	208.1	252.5	244.6	241.0	237.0	237.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	208.1	252.5	244.6	241.0	237.0	237.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	208.1	252.5	244.6	241.0	237.0	237.0

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME						
TEMPORARY						

Estimate of current (FY98) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Office of the State Assessor:

Implementation of this legislation would have significant impact on the Office of the State Assessor. The above figures represent the department's preliminary assessment of the minimum impacts of this legislation. The department awaits further clarification of this legislation through the committee process. The department's final assessment of fiscal impacts could be much higher than the figures presented here. Details are discussed in the attached pages under the heading "Fiscal Impacts on the Office of the State Assessor."

Prepared by: Michael Cushing, Research Analyst Phone: 465-4751
 Division: Municipal and Regional Assistance Division Date: 3/17/98
 Approved by Commissioner: [Signature] Date: 3/17/98
 Agency: Community & Regional Affairs

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FISCAL NOTE

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An Act relating to the mandatory BRU: _____
incorporation of certain boroughs in Component: _____
 Sponsor: Senate Finance Committee
 Requestor: Senate Finance Committee **COMPONENT SERIAL NO.** _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	1,500.0	1,900.0	2,300.0	3,200.0	1,800.0
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1,500.0	1,900.0	2,300.0	3,200.0	1,800.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	1,500.0	1,900.0	2,300.0	3,200.0	1,800.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY98) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Organizational Grants:

The requirement for organizational grants is discussed in the attached pages under the heading "Fiscal Impacts Related to Organizational Grants." Recent organizational grants have been budgeted under the Capital Budget.

Prepared by: Michael Cushing, Research Analyst Phone: 465-4751
 Division: Municipal and Regional Assistance Division Date: 3/17/98
 Approved by Commissioner: [Signature] Date: 3/17/98
 Agency: Community & Regional Affairs

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Attachment: Fiscal Note Analysis for Senate Bill 337

Effects of SB 337

1. Requires DCRA to prepare third class borough incorporation petitions for each area defined by model borough boundaries; in doing so, DCRA would be required to conduct at least one public hearing in every community with a population of 500 or more;
2. Requires DCRA to estimate the value of taxable property in the areas defined by model borough boundaries on or before January 1, 1999;
3. Requires filing of petitions with the LBC for the incorporation of boroughs in areas with taxable property of:
 - a) \$550 million or more by July 1, 1999;
 - b) \$350 million to \$549,999,999.99 by July 1, 2000;
 - c) \$75 million to \$349,999,999.99 by July 1, 2001;
 - d) \$74,999,999.99 or less by July 1, 2002.
5. Provides that the LBC may ask DCRA to alter a borough incorporation petition within 6 months of the filing of a petition;
6. Requires the Division of Elections to conduct a borough incorporation election 31 to 120 days after being notified that the LBC accepted a petition;

Additionally, SB 337 expresses the expectation that those areas not subject to borough incorporation petitions would be subject to petitions for annexation to adjacent existing organized boroughs and unified municipalities.

For purposes of this fiscal note, the department assumes that petitions for incorporation of new boroughs and annexation to existing boroughs and unified municipalities will be prepared and filed according to the following schedule:

FY, 2000

1. Incorporation of Prince William Sound Borough;
2. Incorporation of Copper River Basin Borough;
3. Incorporation of Upper Tanana Basin Borough
4. Incorporation of Yukon Flats Borough
5. Incorporation of Yukon Koyukuk Borough

FY 2001

1. Annexation of Nenana to the Denali Borough
2. Annexation of Livengood, Central and Circle Hot Springs to the Fairbanks North Star Borough
3. Incorporation of Aleutians-West Borough
4. Incorporation of Lower Kuskokwim Borough
5. Incorporation of Wrangell/Petersburg Borough

FY 2002

1. Incorporation of Bering Straits Borough
2. Incorporation of Southwest Region Borough
3. Incorporation of Prince of Wales Island Borough
4. Annexation of Hyder and Meyers Chuck to the Ketchikan Gateway Borough
5. Incorporation of Lower Yukon Borough

FY 2003

1. Incorporation of Aleutians Military (Adak)
2. Incorporation of Pribilof Islands Borough
3. Incorporation of Glacier Bay Borough
4. Incorporation of Chatham Borough
5. Annexation of Skagway and Klukwan to the Haines Borough
6. Annexation of Hobart Bay to the City and Borough of Juneau
7. Incorporation of Kuspuk Borough
8. Incorporation of Iditarod Borough
9. Incorporation of Annette Islands Borough

Anticipated Fiscal Impacts of SB 337 on DCRA

This proposal places substantial new demands on the department. The department believes that much of the effort can be performed by existing staff and resources; however, some additional staff would be needed. The incremental expenditures presented in this fiscal note reflect those demands that cannot be met by existing staffing and resources. With regard to this department, there are three areas of fiscal impact that need to be addressed:

- Local Boundary Commission support
- State Assessor support
- Organizational Grants.

Fiscal Impacts on these areas are discussed in the following pages.

Fiscal Impacts on the Local Boundary Commission (LBC)

The additional LBC activity resulting from implementation of this legislation would significantly increase the requirement for department LBC staff support. The department believes one additional Local Government Specialist IV (Range 19) would be needed to accommodate the increased work load.

DCRA assumes there will be a total of 24 incorporation and annexation petitions prepared under this bill. A contractor would be used to prepare the petitions at the cost of \$5,600 for each petition.

Once a petition is filed, certain procedural steps are mandated by law. These include publication of notice of filing of the petitions, analysis of the petitions, publication of draft and final reports concerning petitions, conducting public informational meetings concerning the proposed boroughs, publishing notice of the hearings of the Local Boundary Commission (LBC), hearings of the LBC, decisional meetings of the LBC, preparation of decisional statements, opportunity for reconsideration by the LBC, and implementation of the decisions of the LBC including coordination with the Division of Elections, preparation of the federal Voting Rights Act pre-clearance submissions and filing of legislative review proposals for annexation.

Personal Services.

One Local Government Specialist IV, Range 19 (\$61,588 in FY 98)

Travel.

Senate Bill 337 requires that during the process of preparing incorporation proposals, the department shall hold at least one public hearing in each city or community with a population of at least 500 in the region covered by the proposal and consider recommendations regarding the proposal. There are 43 communities in the unorganized borough with populations of 500 or more. It is assumed that travel costs associated with each hearing will average \$600. The number of hearings to be conducted each year reflects the schedule for the preparation of petitions outlined earlier.

FY 2000 - 5 DCRA hearings at \$600 each = \$ 3,000
FY 2001 - 10 DCRA hearings at \$600 each = \$ 6,000
FY 2002 - 13 DCRA hearings at \$600 each = \$ 7,800
FY 2003 - 15 DCRA hearings at \$600 each = \$ 9,000
Total - 43 DCRA hearings at \$600 each = \$25,800

DCRA is also required by existing law to hold informational meetings on each incorporation proposal. These hearings would be held after the period allowed for the filing of responsive briefs and after the publication of DCRA's preliminary report on the proposal. Informational meetings are authorized, but not required by law for annexation petitions. Given the manner in

Fiscal Note Analysis for Senate Bill 337

3/17/98

Page 4

which SB 337 annexation petitions would be initiated, it is assumed in this fiscal note that DCRA would hold such meetings with regard to the annexation proposals. Travel costs associated with informational meetings are projected to be as outlined below:

FY 2000	5 informational meetings at \$600 each	\$3,000
FY 2001	5 informational meetings at \$600 each	\$3,000
FY 2002	5 informational meetings at \$600 each	\$3,000
FY 2003	9 informational meetings at \$600 each	\$5,400
total	24 informational meetings at \$600 each	\$14,400

Existing State law requires that the Local Boundary Commission conduct hearings on each incorporation in the territory proposed for incorporation, and on each annexation proposal in or near the territory proposed for annexation. The cost of travel associated with such hearings is projected to be as follows:

FY 2000	5 borough incorporation hearings at \$4,000 each	\$20,000
FY 2001	3 borough incorporation hearings and 2 borough annexation hearings at \$4,000 each	\$20,000
FY 2002	4 borough incorporation hearings and 1 borough annexation hearing at \$4,000 each	\$20,000
FY 2003	7 borough incorporation hearings and 2 borough annexation hearing at \$4,000 each	\$36,000
total	19 borough incorporation and 5 borough annexation hearings at \$4,000 each	\$96,000

Contractual.

The contractual expenses relating to the development of the petitions are projected to be as follows:

FY 2000 - 5 petitions at \$5,600 each = \$28,000
FY 2001 - 5 petitions at \$5,600 each = \$28,000
FY 2002 - 5 petitions at \$5,600 each = \$28,000
FY 2003 - 9 petitions at \$5,600 each = \$50,400
Total - 24 petitions at \$5,600 each = \$134,400

Other contractual expenses such as publication of reports and the provision of public notice as required by law are projected to be \$2,000 per incorporation and annexation proceeding. These costs are tallied by fiscal year as follows:

FY 2000 - 5 proceedings at \$2,000 each = \$10,000
FY 2001 - 5 proceedings at \$2,000 each = \$10,000
FY 2002 - 5 proceedings at \$2,000 each = \$10,000
FY 2003 - 9 proceedings at \$2,000 each = \$18,000
Total - 24 proceedings at \$2,000 each = \$48,000

Another contractual expense relates to compensation to the Local Boundary Commission. If Senate Bill 337 became law, the department believes that it would be even more appropriate to provide compensation to the Local Boundary Commission, at least during the years needed to implement the provisions of SB 337.

For the past several years, the Commission has averaged nearly 20 meetings per year. Even currently, the Commission is at the point where the demands placed on members may exceed what can reasonably be asked of volunteers. Consider, for example, that:

- ❖ The Commission formulates fundamental policies that have important statewide political, economic and social implications. Such responsibilities dictate that the Commission dedicate substantial time preparing for hearings. This entails reviewing petitions, responsive briefs, reports, and written comments. Often, the record before the Commission on a single issue exceeds 1,000 pages. Some have exceeded 5,000 pages.
- ❖ There are 161 municipal governments in Alaska today, four times the number that existed at statehood. Even then, the Public Administration Service – which played a consulting role in setting the framework for State government – recommended to the First Session of the First Alaska Legislature that members of the Commission be compensated.
- ❖ As a consequence of the four-fold increase in the number of municipalities since statehood, and an expansion of the scope of the Commission's responsibilities, its duties have grown substantially since its creation. Initially, the Commission was responsible only for municipal annexations and detachments. The courts handled other municipal boundary matters. Over the years, responsibility for municipal incorporations, dissolutions, mergers, consolidations

and city reclassifications has shifted from the courts to the Commission. Not only has this relieved the courts of a substantial burden, but all municipal boundary issues are now placed before a single expert body.

- ❖ Travel and participation at meetings of the Commission takes members away from their livelihoods, often requiring substantial financial sacrifice on the part of each Commission member.
- ❖ Meetings are often held in remote locations. This involves extended travel, often under arduous conditions.

This fiscal note assumes that the legislature would provide for compensation of members of the Local Boundary Commission at the rate of \$150 per day, including days spent traveling. It assumes that the Commission would be compensated at the rate of \$50 per day for meetings held by teleconference.

Expenses associated with compensation for the Commission

Fiscal Year	Meetings in Person Relating to Matters Other than SB 337	Meetings by Teleconference Relating to Matters Other than SB 337	Meetings in Person Relating to SB 337	Meetings by Teleconference Relating to SB 337
FY 2000	22,500	2,500	11,250	1,250
FY 2001	22,500	2,500	11,250	1,250
FY 2002	22,500	2,500	11,250	1,250
FY 2003	22,500	2,500	20,250	2,250

Fiscal Impacts on the Office of the State Assessor

This bill requires the Office of the State Assessor to complete Full Value Determinations (FVDs) for an additional nineteen organized boroughs, in addition to the existing sixteen boroughs. The FVDs for these sixteen boroughs has been accomplished for the last five years with a small staff of two. The creation of these nineteen additional boroughs makes this continued effort impossible. Since the formation of these new boroughs will affect the local contribution to educational funding, it is possible that one or more of the boroughs could decide to implement a local property tax. If that were to occur, this office would be required to assist in developing initial assessment rolls and provide training to the local assessors office or in developing Requests For Proposals for assessment contract services. The requirement for the full value determinations, and the possibility of the implementation of tax levy and collection will require the addition of an Assistant State Assessor (Range 20), an appraiser (new job class, Range 18) and a clerical position (Administrative Clerk III, Range 10) in FY 99. An additional appraiser position (Range 18) will be required in FY 00 through FY 04.

Fiscal Impacts Related to Municipal Organizational Grants

Alaska Statutes (AS 29.05.190) provide for organizational grants to newly incorporated boroughs to defray the start-up costs of establishing local government until the borough can establish its local revenue generation mechanisms. Every borough formed after December 31, 1985 is entitled to organizational grants of \$300,000 for the first full or partial fiscal year, \$200,000 for the borough's second year, and \$100,000 for the third year. The following table presents the anticipated activity and order of borough incorporation and the cumulative schedule of organizational grant requirements. It is assumed that incorporation of boroughs would occur in the same fiscal year that DCRA borough proposals are presented to the LBC.

Borough	Incorporation Date	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Copper River Basin	FY 2000	\$300,000	\$200,000	\$100,000			
Prince William Sound	FY 2000	\$300,000	\$200,000	\$100,000			
Upper Tanana Basin	FY 2000	\$300,000	\$200,000	\$100,000			
Yukon Flats	FY 2000	\$300,000	\$200,000	\$100,000			
Yukon Koyukuk	FY 2000	\$300,000	\$200,000	\$100,000			
Aleutians West Region	FY 2001		\$300,000	\$200,000	\$100,000		
Lower Kuskokwim	FY 2001		\$300,000	\$200,000	\$100,000		
Wrangell/Petersburg	FY 2001		\$300,000	\$200,000	\$100,000		
Bering Straits	FY 2002			\$300,000	\$200,000	\$100,000	
Lower Yukon	FY 2002			\$300,000	\$200,000	\$100,000	
Prince of Wales Island	FY 2002			\$300,000	\$200,000	\$100,000	
Southwest Region	FY 2002			\$300,000	\$200,000	\$100,000	
Aleutians (Military)	FY 2003				\$300,000	\$200,000	\$100,000
Annette Island Reserve	FY 2003				\$300,000	\$200,000	\$100,000
Chatham	FY 2003				\$300,000	\$200,000	\$100,000
Glacier Bay	FY 2003				\$300,000	\$200,000	\$100,000
Iditarod Region	FY 2003				\$300,000	\$200,000	\$100,000
Kuspuk	FY 2003				\$300,000	\$200,000	\$100,000
Pribilof Islands	FY 2003				\$300,000	\$200,000	\$100,000
TOTALS		\$1,500,000	\$1,900,000	\$2,300,000	\$3,200,000	\$1,800,000	\$700,000

19 March, 1988

State Finance Committee Member
Juneau, Alaska

Dear Senator,

Our community is very concerned over SB #337 on which you are holding hearings. It shows little understanding of the burden you would be placing on the small private holdings within the large expanses of land in the interior of Alaska. I would like to invite you to come and visit Eagle City, so we can introduce you to rural Alaska. If your purpose is to depopulate rural Caucasian communities, you are on the right tract.

Eagle City, with a population of 165 mainly Caucasian residents, has been incorporated since 1901 and has been struggling to keep its head above water ever since. Volunteerism holds the area together. There is no economic base in or near the city. It is a small island surrounded by native and federal lands. The closest community is 179 miles away by a summer road only and there is nothing between us and the Arctic Ocean. Most of the residents seek a semi-subsistence life style without an emphasis on materialism and are not looking for services from the government. As the old saying goes, 'You can't get blood out of a turnip.'

As far as education is concerned, it was you state legislators flush with oil money who insisted upon building these outlandish large school buildings in all the rural communities, which has created this financial dilemma. So now you want to not only tax the areas for education and to maintain large expensive buildings, but also shove an additional and unnecessary form of expensive government on us. **MANDATING BOROUGHES IN THE UNORGANIZED BOROUGHES, IS SIMPLY NOT VIABLE.**

We are not looking for a free hand out. Personally, I feel that any services requested should have a user's fee. Below are suggestions which could relieve the high property taxes used for education all over the state **WHICH WOULD BE EQUITABLE FOR ALL ALASKA RESIDENTS, INCLUDING THE RURAL AREAS.** I have lived in Fairbanks and Anchorage and am well acquainted with their high property taxes.

1. Reinststitute the old 'school tax' which is shared by all employed persons working in the state.
2. Support a sales tax election, with the proceeds to be used for education to relieve the property tax burden.
3. Cap the annual dividends at \$1,000 and invest the remainder for an education fund.

Please consider some realistic methods of meeting your financial problems, and put the states problems ahead of your next election to office with your pact "No new taxes."

Sincerely,

Elva R. Scott

Elva R. Scott, Asst. Mayor
Eagle City Council