

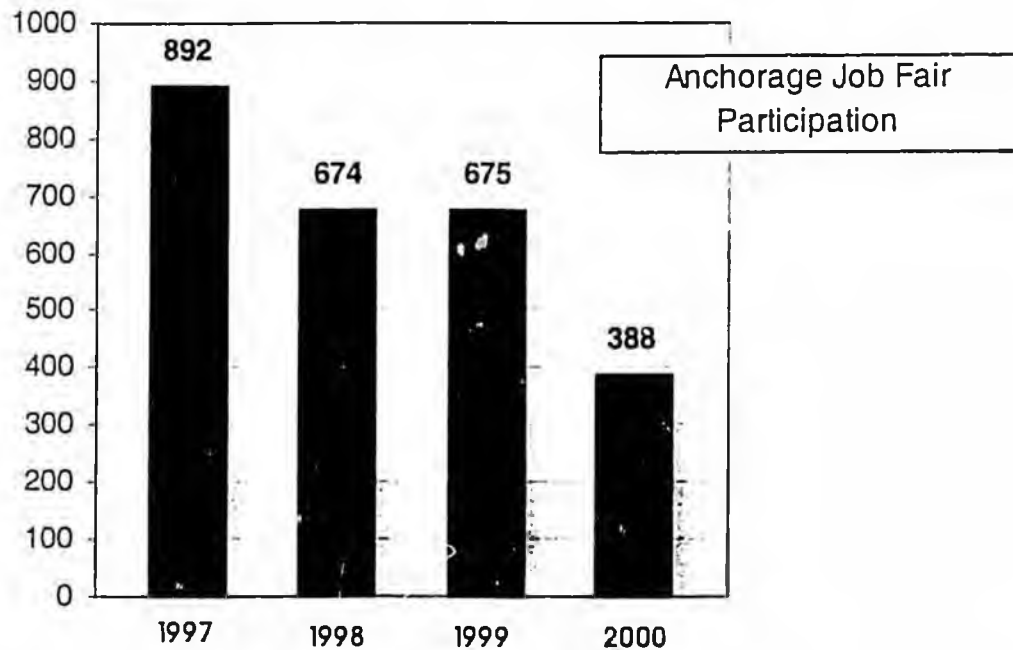
**ALASKA LEGISLATURE**

**2353**

**HOUSE and SENATE FINANCE COMMITTEE FILES,**

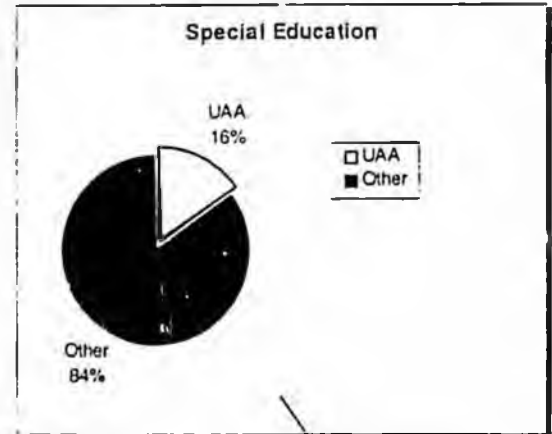
**2001 - 2002**

## ATP Job Fair Attendance 1997-2000



The April Job Fair, once considered the 7<sup>th</sup> largest event in the state, has seen the impact of the teachers shortage. District could spend four full days interviewing candidates, now we see them snagging them up before they doors even open.

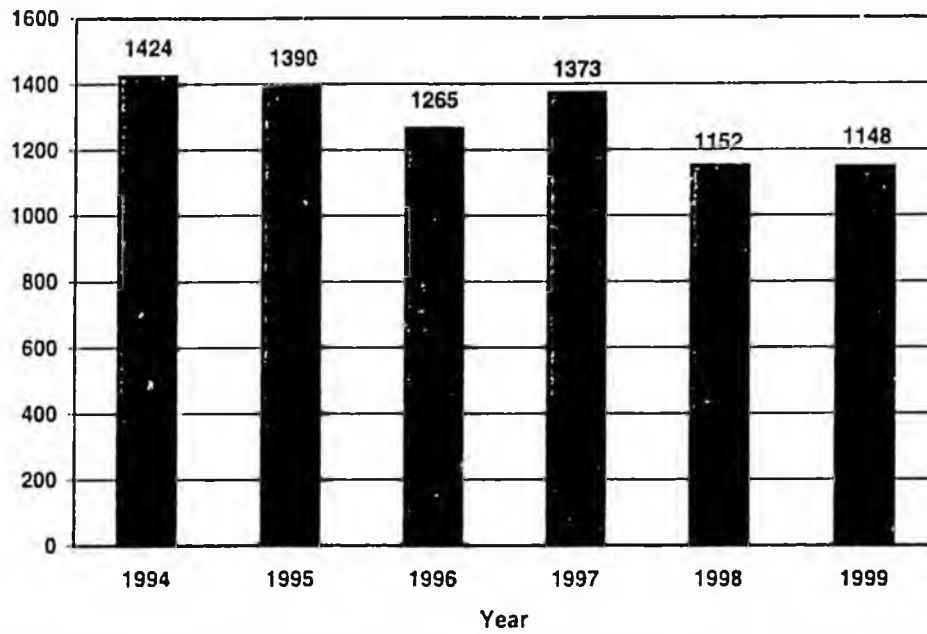
We expect 400 applicants this year.



Special Education is one of the highest demand areas, as you can see the UAA system just doesn't have the capacity to meet the needs of the state.

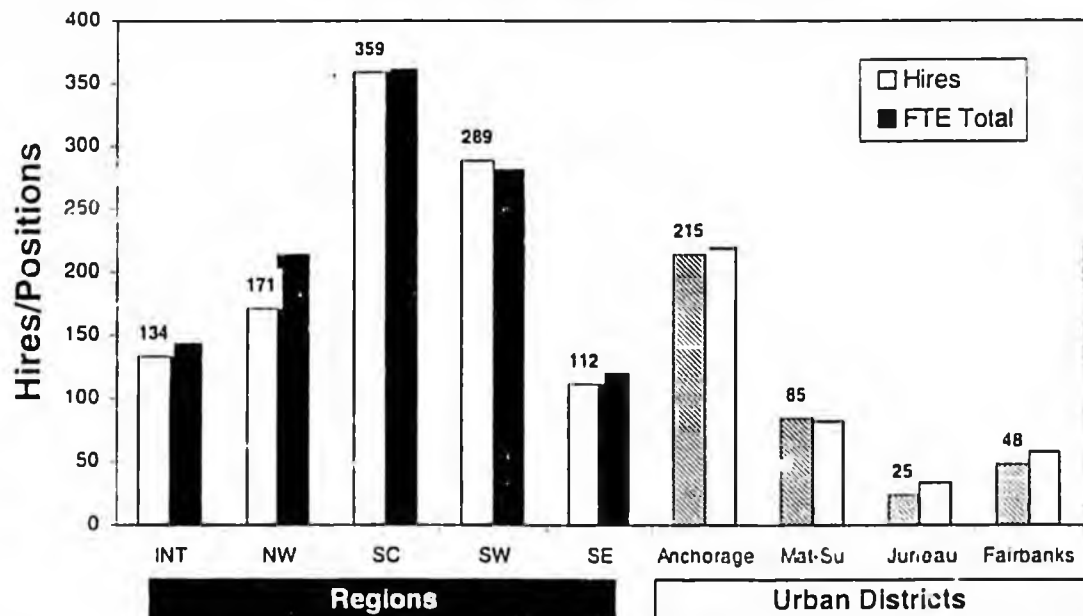
This graph only indicates the number of teachers produced, not the number of teachers placed. It is assumed to be below 10% as many teachers in the program are teaching on waivers.

### ATP Registrant Pool 1994-1999



This graph indicates the number of teachers/principals who registered with our services. FY 2000 was less than 900.

### Positions Filled By Region



March 15, 2001

Neal Lacy  
1800 Red Fox Dr  
Wasilla, Alaska 99654  
re: SB 86

Dear Senator,

My name is Neal Lacy and I am a teacher. I have taught marine mechanics and small engines at Wasilla High School for 11 years. Prior to this I taught marine mechanics at Mat-Su College for five years. In 1989, the Department of Education flew me to Juneau to write the curriculum for outboard mechanics for the state. They recognized me as an "expert in my field."

A limited certificate is for teachers that possess skills and experience for which there is no college program. Marine mechanics, drafting, nursing, construction trades, ROTC, automotive service, native studies, sign language are some of them. In my case, I obtained a limited vocational certificate when I taught snowmobile repair to students from the Summer Educational Enhancement project with the Lower Yukon School District. I qualified for this certificate because of my skills, college teaching experience and 12 years of industry experience.

SB 86 is important. It gives schools a chance to hire talented business professionals who are technically up to date, can improve our vocational education, and produce a first class work force. It also corrects a serious flaw in the teacher certification system.

The A certified teachers and limited certified teachers do the same work (grading, school duties, curriculum development and discipline) but limited certified teachers can never achieve tenure. This might not seem like much, but in the teaching profession, it's everything. It annoys me to know the teaching establishment thinks less of me just because I don't have a bachelors degree and have not been through a college teaching program. During my years teaching at the Mat-Su College many teachers, principals and superintendents took my class for credit to retain their certificates. This hardly seems fair. I have taught the teachers. During 11 years of being a public high school teacher, I have been evaluated just like an A certified teacher and have met those standards year after year. I as well as my fellow limited certified teachers deserve tenure.

Over the years of researching the problem I have found two major problems. First, the Commissioner of Education, Shirley Holloway, is vehemently opposed to any teacher who has not gone through a college teaching program. In dealing with the teacher shortage, this is not "thinking outside the box." Second, my own union, NEA, looks down on me like subhuman scum and believes we infect the teaching pool because we can think on our feet.

In conclusion, passing this bill is the right thing to do. It puts good people in the class which is good for our kids. The fact that Shirley Holloway and NEA is against it means it must be the right thing to do.

Sincerely from a good teacher,

Neal Lacy



[Fwd: CSSB86]

**Subject:** [Fwd: CSSB86]

**Date:** Wed, 04 Apr 2001 09:01:22 -0900

**From:** Pete Kelly <Senator\_Pete\_Kelly@Legis.state.ak.us>

**Organization:** Alaska State Legislature

**To:** Kristopher Knauss <Kristopher\_Knauss@Legis.state.ak.us>

---

**Subject:** CSSB86

**Date:** Wed, 04 Apr 2001 13:35:17 -0400

**From:** "Daniel Sheehan" <DSHEEHAN@cbasyracuse.org>

**To:** <Senator\_Pete\_Kelly@legis.state.ak.us>

Thank you for bringing up CSSB 86 before the HESS committee.

I spoke with Robin Taylor two years ago about the practice of Alaskan School districts assigning teachers outside their areas of certification.

Teachers should be trained in the subjects they teach. If a teacher has been working in a subject area for 5 years or more it should be recognized as on the job training. I retired from my teaching position in Alaska because my district had moved me from one subject area to another one time too often. I am now teaching in another state and earning more money and have a lower cost of living. Don't listen to NEA or the School districts when they ask for the "freedom" to assign teachers outside their areas of training. They are doing a great disservice to teachers and children.

Thank you, Dan Sheehan [Mickey23@hotmail.com](mailto:Mickey23@hotmail.com)

**Cheryl Cornell, M.Ed.  
P.O. Box 71575  
Fairbanks, AK 99707**

**May 1, 2001**

**Senator Pete Kelly  
Juneau, AK**

**Dear Senator Kelly,**

**I am writing this letter of support for Senate Bill 86 regarding teaching subject matter in areas of expertise without requiring teacher certification.**

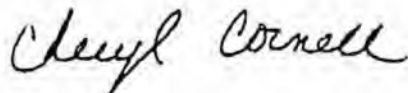
**I applaud your insight, as there will soon be a shortage of teachers nationwide, due to early retirement and lower numbers of college students selecting teaching as a career.**

**I myself would benefit greatly from this bill, as I have already obtained a Masters in Education degree, focusing on Special Education. Unfortunately I was unable to complete my student teaching due to emergency surgery, and did not become teacher certified as a result. I opted to do an internship at Children's Hospital in Boston, Massachusetts in the area of adapted computer technology. I was a single parent and could not afford to return to college for another semester in order to become teacher certified. My degree was completed at Bridgewater State College in Massachusetts. This was the first teachers college in the United States, and remains at the forefront in teacher education.**

**This bill would allow me the opportunity to teach and use the methods and skills I have obtained, as well as become teacher certified.**

**Thank you for your efforts.**

**Sincerely,**



**Cheryl Cornell, M.Ed.**

**SB**

**86**

SFIN

FILE

**SENATE FINANCE COMMITTEE REPORT**

REPORTED OUT
APR 20 2001
SENATE FINANCE COMMITTEE

DATE: 4/11/01

FURTHER:

DATE TURNED IN TO OFFICE: 20 April 2001

Finance Committee considered **SENATE BILL NO. 86**

*TEACHER EMPLOYMENT & SUBJECT EXPERTISE*

"An Act relating to employment of teachers who have subject-matter expertise; and providing for an effective date."

and recommends:

- be replaced with CS SB 86 (FIN)
- adopt previous CS CS forthcoming ( )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
E & ED	3/16/01		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John Gustafson</i>	✓			
<i>Sydney Gray</i>	✓			
<i>William Hoffman</i>	X			
<i>Michael O'Connell</i>	✓			
<i>Samuel Weisler</i>	✓			
<i>John D. Leonard</i>	✓			
<i>John W. ...</i>	✓			
COCHAIR: <i>David ...</i>	✓			
COCHAIR: <i>John ...</i>	✓			

APR 20 2001

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 86  
(S) Publish Date: 4/11/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Education & Early Development  
Title: An Act relating to employment of teachers who BRU: Teaching & Learning Support  
have subject-matter expertise Component: Teacher Certification  
Sponsor: Senator Kelly  
Requester: Senate HESS Component Number: 1240

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill adds a new section, 14.20.015, that allows for exceptions from some teacher certification requirements for persons hired as subject matter expert teachers. Someone hired as a subject-matter teacher must still meet specific criteria: must have at least a baccalaureate degree, must have majored in the subject matter that person will be teaching, must have at least five years of work experience in that subject matter, must pay the fees required for criminal background check and certification, and may be required by a district to complete a competency examination.

This is a zero fiscal note for the department.

Prepared by: Barbara Thompson, Deputy Director Phone 465-8727  
Division: Teaching & Learning Support Date/Time 3/15/01 12:00 AM  
Approved by: Bruce Johnson, Deputy Commissioner of Education Date 3/16/01  
Agency: Department of Education & Early Development

For distribution information, call the Governor's Legislative Office

*adopted*

22-LS0539\S  
Cramer  
4/19/01

**CS FOR SENATE BILL NO. 86( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY

Offered:  
Referred:

Sponsor(s): SENATORS KELLY, Donley, Taylor, Wilken, Leman

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to employment of teachers who have subject-matter expertise; and  
2 providing for an effective date."

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

4 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 FINDINGS, PURPOSE, AND LEGISLATIVE INTENT. (a) The legislature finds  
7 that

8 (1) there is a shortage of qualified teachers in the state;

9 (2) individuals with subject-matter expertise offer a valuable resource in a  
10 wide variety of subjects to schools in this state;

11 (3) the state needs to encourage individuals with subject-matter expertise to  
12 become teachers.

13 (b) It is the purpose of this Act to increase

14 (1) the options available to local school districts to improve the quality of

1 instruction offered to their students; and

2 (2) the flexibility of local school districts in the way they provide instruction  
3 in subject areas that the local school district finds to be a local priority or a special need.

4 (c) It is the specific intent of this Act to place authority for regulating subject-matter  
5 expert teachers with local school boards and regional educational attendance areas and to limit  
6 the authority of the state Board of Education and Early Development with respect to subject-  
7 matter expert teachers only to the duties specifically given to the board in this Act.

8 \* Sec. 2. AS 14.20 is amended by adding a new section to read:

9 **Sec. 14.20.022. Subject-matter expert limited teacher certificate.** (a)

10 Notwithstanding AS 14.20.020, a person may be issued a subject-matter expert limited  
11 teacher certificate, valid only in the subject-matter in which the person has expertise,  
12 upon compliance with the requirements of this section. A subject-matter expert  
13 teacher may only be employed to teach subjects in which the person has satisfied the  
14 education or experience requirements set out in (b)(1) of this section.

15 (b) To be eligible for a subject-matter expert limited teacher certificate, a  
16 person shall

17 (1) hold at least a baccalaureate degree from an institution of higher  
18 education accredited by a recognized regional or national accrediting association or  
19 approved by the commissioner and

20 (A) have majored or minored in the subject that the person will  
21 be teaching; or

22 (B) have at least five years experience in the subject matter that  
23 the person will be teaching;

24 (2) have submitted fingerprints to the department to be used for a  
25 criminal history background check and have been found by the department to be  
26 suitable for employment as a teacher under AS 14.20.020(f);

27 (3) be currently enrolled in an approved post-baccalaureate teacher  
28 education program at a regionally accredited institution meeting the requirements of  
29 AS 14.20.020(b) that provides for completion of the regular teacher certificate  
30 education requirements within two years after receipt of a subject-matter expert  
31 limited teacher certificate under this section; and

1 (4) pay the fee required by the department under AS 14.20.020(c) to  
2 defray the cost of the criminal history background check; the amount may not exceed  
3 the fee required for application for an initial regular teacher certificate.

4 (c) Before a school district or regional educational attendance area determines  
5 whether to hire a person as a subject-matter expert teacher under this section, the  
6 school district or regional educational attendance area shall administer a competency  
7 examination.

8 (d) A subject-matter expert limited teacher certificate is valid for one school  
9 year and may be renewed for one additional school year upon a showing of substantial  
10 progress towards completion of the teacher education program required under (b)(3) of  
11 this section.

12 (e) A school district or regional educational attendance area that employs a  
13 subject-matter expert teacher shall provide a mentor who is an experienced teacher for  
14 the subject-matter expert teacher for at least the first year of the subject-matter expert  
15 teacher's employment in the school district or regional educational attendance area.

16 (f) A person employed as a subject-matter expert teacher under this section is  
17 considered a certificated employee for purposes of AS 14.25 (teachers' retirement  
18 system). Employment as a subject-matter expert teacher under this section counts as  
19 employment for purposes of acquiring tenure under AS 14.20.150; however, a person  
20 holding a subject-matter expert limited teacher certificate under this section is not  
21 entitled to tenure until the person receives a teacher certificate under AS 14.20.020.

22 (g) The department shall adopt regulations necessary to implement this  
23 section.

24 (h) In this section, "subject-matter expert teacher" is a teacher qualified to  
25 teach under (b) of this section.

26 \* Sec. 3. This Act takes effect July 1, 2001.

Withdrawn

22-LS0539\S.2  
Cramer  
4/19/01

SENATE FINANCE  
COMMITTEE

Amendment Number: 1

Bill Number: SB 86

Sponsor: Olson Date: 4/20

Logged In By: Codie

AMENDMENT

By Olson

OFFERED IN THE SENATE

TO: CSSB 86( ), Draft Version "S"

1 Page 1, line 1, following "":

2 Insert "relating to the reemployment of certain retired teachers and retired school  
3 administrators;"

4

5 Page 3, line 26:

6 Delete all material.

7 Insert new bill sections to read:

8 **\*\* Sec. 3.** AS 14.20 is amended by adding a new section to read:

9 **Sec. 14.20.135. Reemployment of retired teachers and retired**  
10 **administrators.** (a) A school district or regional educational attendance area that has  
11 an average daily membership (ADM) of fewer than 4,500 students and that has or  
12 anticipates having a shortage of teachers qualified to teach in a particular discipline or  
13 specialty or a shortage of administrators may, by resolution, adopt a policy that  
14 permits the employment of retired teachers who are qualified to teach in the discipline  
15 or specialty or retired administrators in accordance with this section. The policy must  
16 describe the circumstances that constitute a shortage. If a shortage of teachers or  
17 administrators exists in the district or attendance area as described in the policy, the  
18 district or attendance area shall notify the administrator of the teachers' retirement  
19 system (AS 14.25) that it is hiring under this section.

20 (b) Employment as a retired teacher or retired administrator under this section  
21 does not affect a retired member's rights or duties under the teachers' retirement  
22 system (AS 14.25).

23 (c) A retired teacher or retired administrator reemployed under this section is a  
24 temporary employee.

1 (d) The salary to be paid to a retired teacher or retired administrator  
 2 reemployed under this section shall be set by the school district or regional educational  
 3 attendance area. A retired teacher or retired administrator reemployed under this  
 4 section is not entitled to tenure rights under AS 14.20.150, is not entitled to health  
 5 benefits because of the reemployment, and does not accrue leave.

6 (e) The school district or regional educational attendance area shall advise the  
 7 division of retirement benefits in the Department of Administration when  
 8 employing a retired teacher or retired administrator under this section.

9 (f) A school district or regional educational attendance area may not employ  
 10 under this section a teacher who participated in a retirement incentive program under  
 11 ch. 26, SLA 1986, ch. 89, SLA 1989, ch. 65, SLA 1996, or ch. 4, TSSLA 1996.

12 \* Sec. 4. AS 14.25.043 is amended to read:

13 **Sec. 14.25.043. Reemployment of retired members.** Except as provided in  
 14 (b) of this section, if [IF] a retired member again becomes an active member, benefit  
 15 payments may not be made during the period of reemployment. The retirement  
 16 benefit must be suspended for the entire school year if the teacher is reemployed as an  
 17 active teacher for a period equivalent to a year of service. During the period of  
 18 reemployment, deductions from the member's salary will be made in accordance with  
 19 AS 14.25.050. Upon subsequent retirement, the retired member is entitled to receive  
 20 an additional benefit based on the credited service and the average base salary during  
 21 the period of reemployment in accordance with AS 14.25.110. If the initial benefit  
 22 payments to which the retired member is eligible have been actuarially reduced  
 23 because the member retired early under AS 14.25.110(b), the member shall also  
 24 receive an incremental benefit based on the amount of the actuarial reduction imposed  
 25 by AS 14.25.110(j) on the first benefit and the length of time that the employee was  
 26 reemployed and not receiving retirement benefits. The amount of the incremental  
 27 benefit is equal to the difference between the normal retirement benefit to which the  
 28 member would have been entitled had the member taken a normal retirement and the  
 29 early retirement benefit that the member has been receiving based on the member's  
 30 initial period of employment multiplied by the total number of months that the  
 31 member did not receive retirement benefits because of reemployment and that amount

1 actuarially adjusted to be paid over the expected lifetime of the member.

2 \* **Sec. 5.** AS 14.25.043(a), as amended by sec. 4 of this Act, is amended to read:

3 (a) **If** [EXCEPT AS PROVIDED IN (b) OF THIS SECTION, IF] a retired  
4 member again becomes an active member, benefit payments may not be made during  
5 the period of reemployment. The retirement benefit must be suspended for the entire  
6 school year if the teacher is reemployed as an active teacher for a period equivalent to  
7 a year of service. During the period of reemployment, deductions from the member's  
8 salary will be made in accordance with AS 14.25.050. Upon subsequent retirement,  
9 the retired member is entitled to receive an additional benefit based on the credited  
10 service and the average base salary during the period of reemployment in accordance  
11 with AS 14.25.110. If the initial benefit payments to which the retired member is  
12 eligible have been actuarially reduced because the member retired early under  
13 AS 14.25.110(b), the member shall also receive an incremental benefit based on the  
14 amount of the actuarial reduction imposed by AS 14.25.110(j) on the first benefit and  
15 the length of time that the employee was reemployed and not receiving retirement  
16 benefits. The amount of the incremental benefit is equal to the difference between the  
17 normal retirement benefit to which the member would have been entitled had the  
18 member taken a normal retirement and the early retirement benefit that the member  
19 has been receiving based on the member's initial period of employment multiplied by  
20 the total number of months that the member did not receive retirement benefits  
21 because of reemployment and that amount actuarially adjusted to be paid over the  
22 expected lifetime of the member.

23 \* **Sec. 6.** AS 14.25.043 is amended by adding a new subsection to read:

24 (b) A retired teacher or a retired administrator reemployed under a policy  
25 adopted in accordance with AS 14.20.135 shall continue to receive benefits under this  
26 chapter during the period of reemployment. The benefit payments shall be based on  
27 the member's accrued credited service and the member's average base salary in effect  
28 before the period of reemployment. Employment under AS 14.20.135 does not  
29 constitute employment for purposes of this chapter; a retired teacher or retired  
30 administrator hired under AS 14.20.135 is not entitled to accrue credited service for  
31 the period of reemployment.

1 \* Sec. 7. AS 39.30.090(b)(1) is amended to read:

2 (1) "eligible employee" means

3 (A) an employee who has served in permanent full-time or  
4 part-time employment with the same governmental unit for 30 days or more,  
5 except

6 (i) an emergency or temporary employee; or

7 (ii) a retired teacher or retired administrator  
8 employed by a school district or regional educational attendance  
9 area in accordance with AS 14.20.135;

10 (B) an elected or appointed official of a governmental unit,  
11 effective upon taking the oath of office; and

12 (C) a contractual employee of the legislative branch of state  
13 government under AS 24.10.060(f) if the employee's personal services contract  
14 provides that the employee is entitled to coverage;

15 \* Sec. 8. AS 39.30.090(b)(1), as amended by sec. 7 of this Act, is amended to read:

16 (1) "eligible employee" means

17 (A) an employee who has served in permanent full-time or  
18 part-time employment with the same governmental unit for 30 days or more,  
19 except

20 [(i)] an emergency or temporary employee; [OR

21 (ii) A RETIRED TEACHER OR RETIRED  
22 ADMINISTRATOR EMPLOYED BY A SCHOOL DISTRICT OR  
23 REGIONAL EDUCATIONAL ATTENDANCE AREA IN  
24 ACCORDANCE WITH AS 14.20.135;]

25 (B) an elected or appointed official of a governmental unit,  
26 effective upon taking the oath of office; and

27 (C) a contractual employee of the legislative branch of state  
28 government under AS 24.10.060(f) if the employee's personal services contract  
29 provides that the employee is entitled to coverage;

30 \* Sec. 9. AS 14.20.135 and AS 14.25.043(b) are repealed.

31 \* Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 REPORT TO LEGISLATURE. Beginning in 2002 and ending in 2005, the  
3 administrator of the teachers' retirement system shall report to the legislature by the 30th day  
4 of the regular legislative session concerning the effect of secs. 3, 4, 6, and 7 of this Act on the  
5 retirement system.

6 \* Sec. 11. Sections 5, 8, and 9 of this Act take effect July 1, 2004.

7 \* Sec. 12. Except as provided in sec. 11 of this Act, this Act takes effect July 1, 2001."

# Alaska State Legislature

*Session:*  
State Capitol  
Juneau, AK 99801  
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*Interim:*  
119 N. Cushman  
Fairbanks, AK 99701  
Phone: (907) 456-8161

Senator Pete Kelly  
District P

## CS for Senate Bill 86 ( ) Version 22-LS0539\S

### **“An Act relating to employment of teachers who have subject-matter expertise; and providing for an effective date.”**

Alaska is facing a shortage of competent teachers that can provide a quality education for our youth. Senate Bill 86 expands the application pool by including those with subject matter experience and expertise to obtain a teaching certificate.

Under this legislation, local school districts have the authority to hire persons holding at least a baccalaureate degree from an accredited institution. Applicants must major or minor in the area they wish to teach and have at least five years work experience in their subject matter expertise.

SB 86 implements a limited teaching certificate for those subject matter teachers. Subject matter teachers are authorized to teach in a classroom pending they enroll in a post-baccalaureate teaching program. Once the program is completed, subject matter educators are qualified for a regular teaching certificate.

The limited subject matter certificate requires the local school to provide an experienced teacher to mentor the subject matter educator. This will assist the new educator in becoming familiar with the process during the first year of employment. This legislation also requires subject matter educators to pass a competency examination on their area of expertise before they are employed.

SB 86 implements safeguards that require subject matter teachers to submit fingerprints and pay fees for a criminal history background check so that the department can deem applicants suitable for employment.

# Alaska State Legislature

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Senator Pete Kelly  
District P

## CS for Senate Bill 86 ( )

Version 22-LS0539\5

### Sectional Analysis

**“An Act relating to employment of teachers who have subject-matter expertise; and providing for an effective date.”**

**\* Section 1.**

This section gives the purpose and legislative intent of the bill. It is the findings of (a) this act that (1) there is a shortage of qualified teachers in the state and (2) those subject-matter experts could offer a valuable resource to the classroom. Also, that (3) the state should encourage those individuals with subject-matter expertise become teachers.

It is the purpose of this legislation that (b)(1) the options available to local school districts to improve the quality of instruction offered to the students. Also, the legislation gives school districts the (2) flexibility in the way they provide instruction in subject areas that are considered a local priority or special need.

(c) The intent of the Act is to regulate subject matter educators by use of local school boards and regional educational attendance areas limiting the authority of the Board of Education and Early Development.

**\* Sec. 2.** AS 14.20 is amended by adding a new section to read:

14.20.022 (a) This section outlines the requirements for a subject matter limited teaching certificate. The limited certificate is valid only for teaching in the area of expertise for the subject-matter educator.

To be eligible for the limited certificate (b) the person must hold at least a baccalaureate degree from an accredited institution or be approved by the Commissioner. Applicants must (A) have majored or minored in the subject the person will be teaching. The person must also (B) have at least five years work experience in the subject matter. (2) The person wishing to teach must submit fingerprints to the department to be used for a criminal history background check. The department will deem the person suitable for employment under AS 14.20.020 (f).

14.20.022(b)(3) requires subject-matter expertise teachers to be currently enrolled in an approved post-baccalaureate teacher education program at an accredited institution. Once completed during a two-year maximum period, subject-matter expertise teachers will qualify to receive a regular teaching certificate.

14.20.022(b)(4) Applicants must pay a fee to the department under AS 20.020 (c) that covers the criminal history background check, which does not exceed the fee required for the initial regular certificate.

14.20.022(c) requires local school districts to administer a competency examination for subject matter teachers. The examination must be taken prior to employment.

14.20.022(d) limits the subject-matter expertise certificate to one school year and may be renewed for one additional school year upon showing substantial progress towards completion of the teaching education program.

14.20.022(e) requires local school districts to provide a mentoring program for subject-matter expertise teachers. The school district must provide an experienced teacher to mentor the new educator. This will assist to ease the process for the new teacher.

14.20.022(f) states that a person employed by a local school district or regional educational attendance area is considered to be a certified teacher or a certified employee for all purposes of AS 14.25 (teacher's retirement system). Employment under this section counts toward acquiring tenure under AS 14.20.150; however a subject-matter teacher cannot receive tenure until they receive a teaching certificate under AS 14.20.020.

14.20.022(g) allows the Department to adopt regulation necessary to implement this legislation. In this section, (h) refers to a "subject-matter expert teacher" is qualified to teach under (b) of this section.

**\*Sec. 3**

This establishes an effective date on the bill. This legislation would become effective July 1, 2001.

March 15, 2001

Neal Lacy  
1800 Red Fox Dr  
Wasilla, Alaska 99654  
re: SB 86

Dear Senato.,

My name is Neal Lacy and I am a teacher. I have taught marine mechanics and small engines at Wasilla High School for 11 years. Prior to this I taught marine mechanics at Mat-Su College for five years. In 1989, the Department of Education flew me to Juneau to write the curriculum for outboard mechanics for the state. They recognized me as an "expert in my field."

A limited certificate is for teachers that possess skills and experience for which there is no college program. Marine mechanics, drafting, nursing, construction trades, ROTC, automotive service, native studies, sign language are some of them. In my case, I obtained a limited vocational certificate when I taught snowmobile repair to students from the Summer Educational Enhancement project with the Lower Yukon School District. I qualified for this certificate because of my skills, college teaching experience and 12 years of industry experience.

SB 86 is important. It gives schools a chance to hire talented business professionals who are technically up to date, can improve our vocational education, and produce a first class work force. It also corrects a serious flaw in the teacher certification system.

The A certified teachers and limited certified teachers do the same work (grading, school duties, curriculum development and discipline) but limited certified teachers can never achieve tenure. This might not seem like much, but in the teaching profession, it's everything. It annoys me to know the teaching establishment thinks less of me just because I don't have a bachelors degree and have not been through a college teaching program. During my years teaching at the Mat-Su College many teachers, principals and superintendents took my class for credit to retain their certificates. This hardly seems fair. I have taught the teachers. During 11 years of being a public high school teacher, I have been evaluated just like an A certified teacher and have met those standards year after year. I as well as my fellow limited certified teachers deserve tenure.

Over the years of researching the problem I have found two major problems. First, the Commissioner of Education, Shirley Holloway, is vehemently opposed to any teacher who has not gone through a college teaching program. In dealing with the teacher shortage, this is not "thinking outside the box." Second, my own union, NEA, looks down on me like subhuman scum and believes we infect the teaching pool because we can think on our feet.

In conclusion, passing this bill is the right thing to do. It puts good people in the class which is good for our kids. The fact that Shirley Holloway and NEA is against it means it must be the right thing to do.

Sincerely from a good teacher,

Neal Lacy



[Fwd: CSSB86]

**Subject:** [Fwd: CSSB86]  
**Date:** Wed, 04 Apr 2001 09:01:22 -0900  
**From:** Pete Kelly <Senator\_Pete\_Kelly@Legis.state.ak.us>  
**Organization:** Alaska State Legislature  
**To:** Kristopher Knauss <Kristopher\_Knauss@Legis.state.ak.us>

---

**Subject:** CSSB86  
**Date:** Wed, 04 Apr 2001 13:35:17 -0400  
**From:** "Daniel Sheehan" <DSHEEHAN@cbasyracuse.org>  
**To:** <Senator\_Pete\_Kelly@legis.state.ak.us>

Thank you for bringing up CSSB 86 before the HESS committee.

I spoke with Robin Taylor two years ago about the practice of Alaskan School districts assigning teachers outside their areas of certification. Teachers should be trained in the subjects they teach. If a teacher has been working in a subject area for 5 years or more it should be recognized as on the job training. I retired from my teaching position in Alaska because my district had moved me from one subject area to another one time too often. I am now teaching in another state and earning more money and have a lower cost of living. Don't listen to NEA or the School districts when they ask for the "freedom" to assign teachers outside their areas of training. They are doing a great disservice to teachers and children.  
Thank you, Dan Sheehan [Mickey23@hotmail.com](mailto:Mickey23@hotmail.com)

[Fwd: SB86]

**Subject:** [Fwd: SB86]

**Date:** Wed, 28 Mar 2001 09:47:40 -0900

**From:** Pete Kelly <Senator\_Pete\_Kelly@Legis.state.ak.us>

**Organization:** Alaska State Legislature

**To:** Kristopher Knauss <Kristopher\_Knauss@Legis.state.ak.us>

HILARIOUS!!!

Isn't this Pete's bill?!?!?!?

---

**Subject:** SB86

**Date:** Sat, 24 Mar 2001 01:16:02 -0900

**From:** Mike <shaymf@alaska.com>

**To:** "senator\_pete\_kelly@legis.state.ak.us" <Senator\_Pete\_Kelly@legis.state.ak.us>

Mr. Kelly,

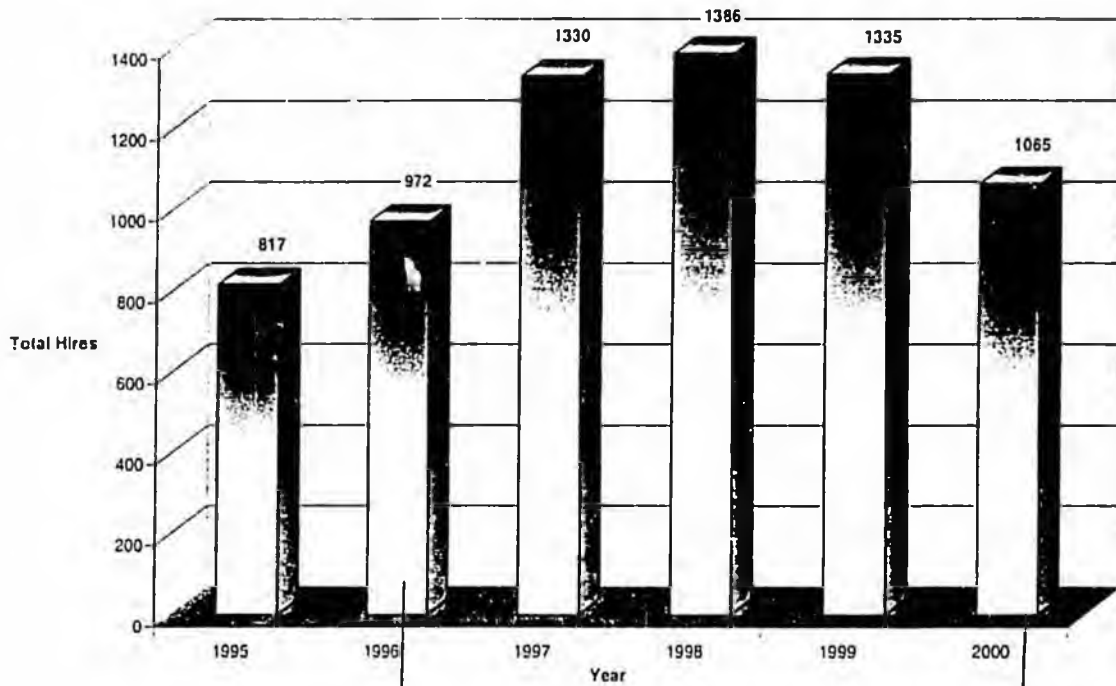
I would like to voice strong support for SB86 concerning hiring subject matter experts to teach in grades 9-12. I am a junior at UAF majoring in mathematics and plan to teach high school after graduation in Dec 2002.

I have almost 20 years experience as a weather forecaster in the USAF. I am the weather shop chief, spent 4 years in high schools as a recruiter for the Air Force, have managed unit training programs and of course spent countless hours in the classroom myself.

There are many people like myself who could step right in and fill the critical need for math and science teachers now. Without this bill I will have to complete the normal license process which will set me back at least 18 months and thousands of dollars.

Michael Shay

Total Hires - Six Year Overview

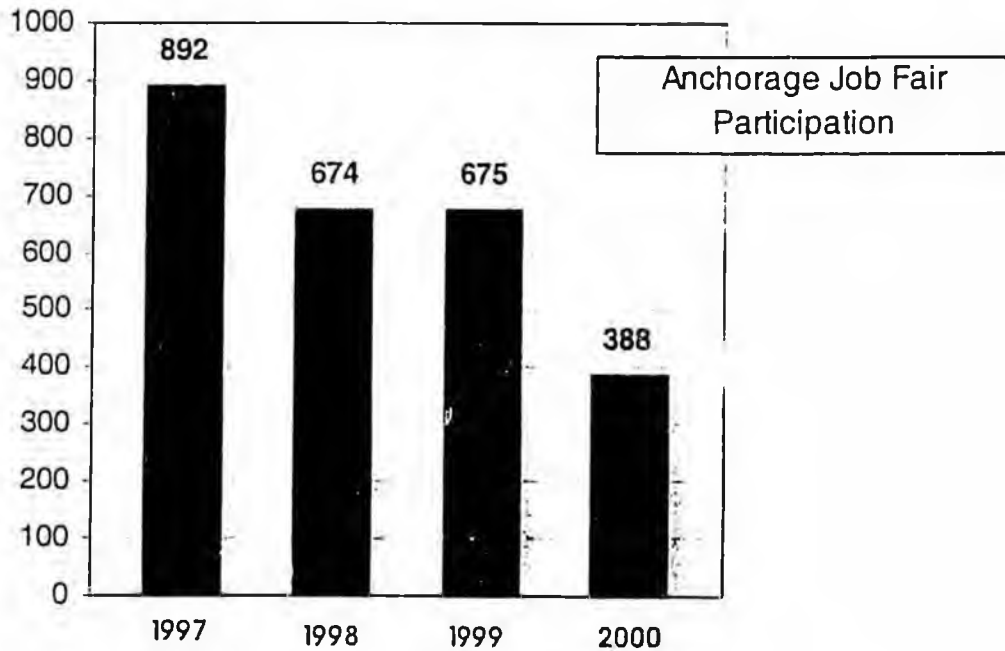


Just a few years ago it seemed everyone wanted to teach in Alaska, now that has changed as the Lower 48 has increased reciprocity and lessened the red tap on certification requirements. In addition adding higher salaries and signing bonuses has drawn many teachers to the Lower 48.

The American Federation of Teachers at <http://www.aft.org/> has some excellent data on salaries and cost of living.

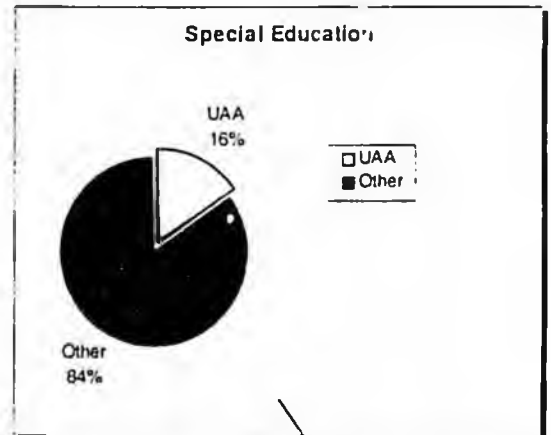
Don't let this number fool you. 88.7 vacancies went unfilled at the start of the school year. Of those 88.7 vacancies 60.2 of them were in Special Education areas.

## ATP Job Fair Attendance 1997-2000



The April Job Fair, once considered the 7<sup>th</sup> largest event in the state, has seen the impact of the teachers shortage. District could spend four full days interviewing candidates, now we see them snagging them up before they doors even open.

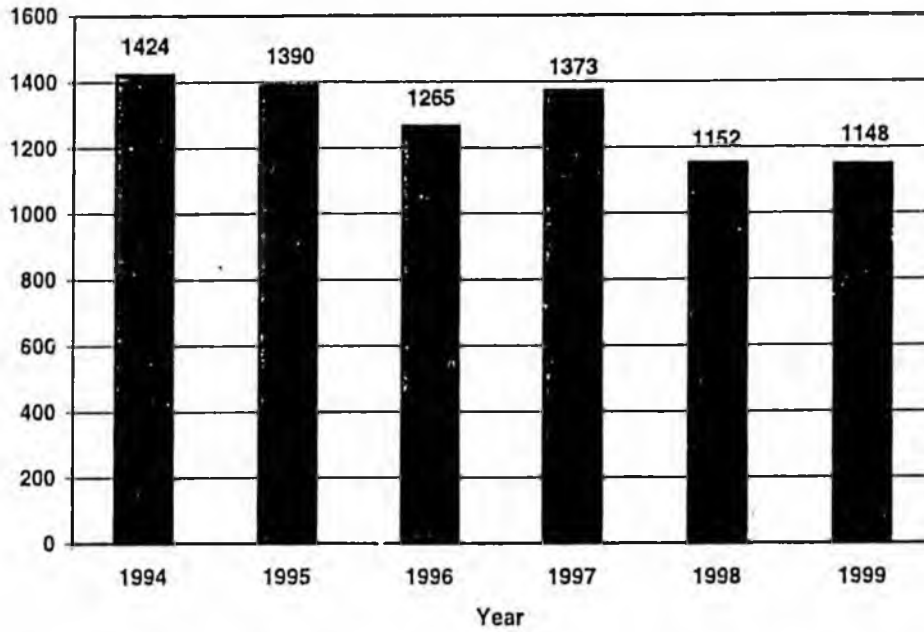
We expect 400 applicants this year.



Special Education is one of the highest demand areas, as you can see the UAA system just doesn't have the capacity to meet the needs of the state.

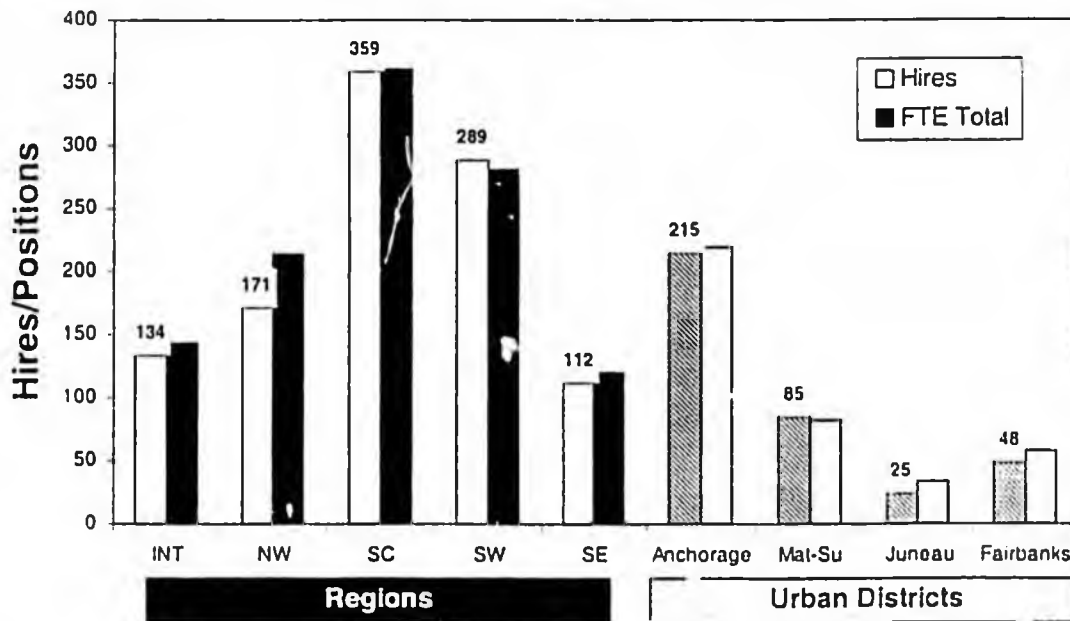
This graph only indicates the number of teachers produced, not the number of teachers placed. It is assumed to be below 10% as many teachers in the program are teaching on waivers.

### ATP Registrant Pool 1994-1999



This graph indicates the number of teachers/principals who registered with our services. FY 2000 was less than 900.

### Positions Filled By Region



**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 2/13/01

FURTHER: Finance

Date of 5-Day Notice: 03/16/01  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 04/10/01

Health, Education and Social Services Committee considered

SENATE BILL NO. 86

"An Act relating to employment of teachers who have subject-matter expertise; and providing for an effective date."

and recommends:

- be replaced with CS SB 86 (HES)
- adopt previous CS ( )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
Education & Early Development	3/16/01		x	1

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Erin Wiley</i>	✓			
<i>Andrew D. Thomas</i>	✓			
<i>Anthony Lauch</i>	✓			
<i>Blaise Davis</i>			✓	
CHAIR: <i>Lydia Green</i>	✓			

SENATE FINANCE COMMITTEE

SIGN-IN

SB 86 - TEACHER EMPLOYMENT & SUBJECT EXPERTISE

NAME: Bruce Johnson Subject/Bill No: 86

Co./Dept./Title: EED Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

**S B**

**8 7**

SFIN

FILE

SB 87

was referred to the  
Senate Finance  
Committee

No hearing was held  
on this bill

**S B**

**8 8**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/9/01

FURTHER:

REPORTED OUT  
  
MAR 26 2001  
  
SENATE FINANCE  
COMMITTEE

DATE TURNED IN TO OFFICE: 27 March 2001

Finance Committee considered SENATE BILL NO. 88  
METROPOLITAN PLANNING ORGANIZATIONS

"An Act relating to metropolitan planning organizations and to establishment of a metropolitan planning organization for the Anchorage metropolitan area; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

- Senate Bill:**  
 same title  
 new title
- House Bill:**  
 same title  
 technical title  
 new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DOT PF	2/20/01		✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>		x		
<i>[Signature]</i>		x		
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>			✓	

MAR 26 2001

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 88  
(S) Publish Date: 2/21/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
Title: An act relating to metropolitan planning BRU: Central Region Planning  
organizations and to establishment... Component: Central Region Planning  
Sponsor: Senator Phillips  
Requester: Senate Transportation Component Number: 557

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

Prepared by: Dennis R. Poshard Phone 465-3904  
Division: Commissioner's Office Date/Time 2/20/01 11:11 AM  
Approved by: Joseph L. Perkins, P.E. Date 2/20/01  
Agency: Commissioner

For distribution information, call the Governor's Legislative Office



**ALASKA STATE LEGISLATURE**  
**SENATOR RANDY PHILLIPS**  
Senate District L

Session (Jan-May)  
State Capitol, Rm 103  
Juneau, AK 99801  
(907) 465-4949  
(907) 465-4979 Fax  
Toll Free Anchorage Area  
800-478-4950

Interim  
P.O. Box 142  
Eagle River, AK 99577  
(907) 694-4949  
(907) 694-4948 Fax

March 8, 2001

Honorable Dave Donley  
Honorable Pete Kelly  
Senate Finance Committee  
State Capitol  
Juneau, AK 99801

Re: SB 88 Metropolitan Planning Organization  
**Sponsor Statement**

Dear Senators Donley and Kelly,

SB88, "An Act relating to metropolitan planning organizations and to establishment of a metropolitan planning organization for the Anchorage metropolitan area," would add two legislators on certain metropolitan planning organizations.

The purpose of SB88 is to assist in making the Anchorage Metropolitan Area Transportation Study, (AMATS), more responsive to the needs of communities. Many legislators feel that they are asked to approve state funding for the development of a multi-modal transportation system--including those projects that have not been established as local community priorities. Legislators have a direct link to constituents and community councils where many of the needs are initiated, and therefore, should have more input into the AMATS Policy Committee.

SB88 adds two legislators from the Anchorage Caucus to the AMATS Committee, increasing the voting Policy Committee from five to seven representatives, and will provide a more adequate level of citizen representation.

Sincerely,

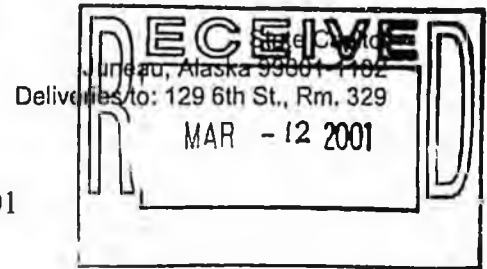
A handwritten signature in black ink, appearing to read "Randy Phillips".

Senator Randy Phillips

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101



## MEMORANDUM

March 10, 2001

**SUBJECT:** Hawaii Constitution and "dual office" holding by legislators  
(SB 88)

**TO:** Senator Randy Phillips

**FROM:** George Utermohle  
Legislative Counsel

RECEIVED

MAR 19 2001

Senate Finance  
Committee

You have asked whether the Constitution of the State of Hawaii has a provision analogous to article II, section 5 of the Constitution of the State of Alaska regarding "dual office" holding by legislators.

The answer to your question is yes.

Article II, section 5, Constitution of the State of Alaska states:

**Disqualifications.** No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

The analogous provision of the Hawaii Constitution, article III, section 8 states:

### DISQUALIFICATIONS OF MEMBERS

No member of the legislature shall hold any other public office under the State, nor shall the member, during the term for which the member is elected or appointed, be elected or appointed to any public office or employment which shall have been created, or the emoluments whereof shall have been increased, by legislative act during such term. The term "public offices," for the purposes of this section, shall not include notaries public, reserve police officers or officers of emergency organizations for civilian defense or disaster relief. The legislature may prescribe further disqualifications.

Senator Randy Phillips

March 10, 2001

Page 2

The annotations to this section of the Hawaii Constitution that are contained in the Hawaii Revised Statutes do not cite to any court cases that have construed this provision.

If you would like me to pursue this issue in greater depth, please contact me.

GU:lmb

01-081.lmb

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

P.O. BOX 110300  
DIAMOND COURT HOUSE, 6<sup>TH</sup> FLOOR  
JUNEAU, ALASKA 99811-0300  
PHONE: (907)465-3600  
FAX: (907)465-6735

March 14, 2001

The Honorable Jerry Ward  
Alaska State Senate  
State Capitol, Room 423  
Juneau, AK 99811

Re: SB 88 relating to metropolitan planning organizations and the metropolitan planning organization for the Anchorage metropolitan area

Dear Senator Ward:

On February 20, 2001, I testified before the Senate Transportation Committee that the provisions of SB 88 that appoint a senator and a representative to sit on the Anchorage area metropolitan Transportation Study board violate the dual office holding provisions of the Alaska Constitution. At the end of my testimony you asked that I put my conclusion in writing.

Art. II, § 2 of the Alaska Constitution provides:

**SECTION 5. DISQUALIFICATIONS.** No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

(Emphasis added). Under these provisions a member of the legislature may not hold any other office during the member's term. Similar provisions prohibiting dual office holding exist for the governor in Art. III, § 6, and for justices of the supreme court and judges under Art. IV, § 14.

The Department of Law has issued three formal attorney general's opinions regarding dual office holding, which I have enclosed with this letter. In the past inter-branch task forces, have been formed to assemble and disseminate information, but did not assume any

The Honorable Jerry Ward  
Re: SB 88

March 14, 2001  
Page 2

duties assigned any branch of government. These sorts of bodies have not been seen to violate the constitution's prohibitions against dual office holding. On the other hand, if a legislator, or a judge, holds a position in an executive branch agency or a political subdivision, and the duties of the position require the office holder to take action regarding the management of the agency, the prohibition against dual office holding is violated.

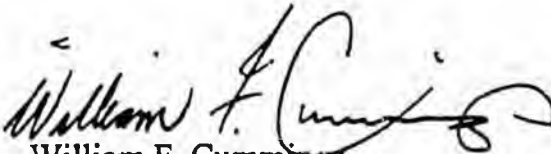
Under SB 88, a senator and a representative will be appointed to sit on the board that allocates federal surface transportation money in the Anchorage area. At the present time there are three voting members of the board appointed by the mayor of Anchorage and two state employees, who sit in an advisory capacity. Under the bill, the board's composition and functioning change. Three members voting members will still be appointed by the mayor. In addition, two voting members would be appointed by the governor, and two voting members by the presiding officers of the Senate and the House of Representatives, a senator and a member of the House of Representatives whose districts include at least a portion of the Municipality of Anchorage. A quorum of the board is a majority of the voting members.

We believe that the prohibition against dual office holding by legislators would be violated. The board would be making decisions on which projects will receive allocated federal money, when they will receive it, and in what order specific projects will be built. These functions are clearly more than collection or dissemination of information and under current practice, these functions are clearly municipal managerial responsibilities.

If you have any questions on this matter, please feel free to contact me.

Sincerely yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:   
William F. Cummings  
Assistant Attorney General

WFC:pvp

Enclosure(s)

cc: Mike Abbott, Legislative Director  
Deborah Behr, Dept. of Law  
Chrystal Smith, Dept. of Law  
Don Smith, Senate Transportation Committee  
Senator Randy Phillips, Attn: Kim Ross

# STATE OF ALASKA

DEPARTMENT OF LAW

OPINION NO. 26  
JAY S. HARRING, GOVERNOR

June 29, 1976

The Honorable Lowell Thomas, Jr.  
Lieutenant Governor  
State of Alaska  
Pouch A, State Capitol  
Juneau, Alaska 99811

Re: Legality of legislators running  
for other house following increase  
in legislative salary.

Dear Lieutenant Governor Thomas:

You have asked whether, under Warwick v. State, 548 P.2d 384 (Alaska 1976), a member of one house of the legislature may run for a seat in the other house, when the pay for that seat in the other house has been increased by the legislature in which the candidate served. While the Alaska courts have not ruled on the issue, it is our view that the answer is yes.

The question arises from Article II, section 5 of the Alaska Constitution which provides in part:

During the term for which elected  
and for one year thereafter, no legis-  
lator may be nominated, elected, or  
appointed to any other office or position

The Honorable Lowell Thomas, Jr.  
Lieutenant Governor

June 29, 1976  
Page Two

of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

The purpose of the prohibition is to remove temptation and improper motives from considerations of legislators in voting for increased salaries or the creation of new offices. Warwick v. State, supra, at 388. Because prohibitions like this are contrary to general public policy which favors eligibility for office, they are usually given a literal construction and are rarely expanded beyond their literal terms. Id. at 389. Where there is doubt as to their coverage, courts have emphasized that when the office is elective, the preference for eligibility is stronger, since voters thereby exercise a direct control. Id.

In connection with legislative office,

the relevant terms of the prohibition are as follows:

During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office . . . the salary or emoluments of which have been increased, while he was a member. Alaska Constitution. art. II, §5 (emphasis added).

Reading the prohibition purely literally, it does not apply to a legislator's running for a seat in the other house of the legislature. His office, that of a "legislator," remains the same. While the term of office differs (four years for members of the senate, two years for members of the house) and the constituency may differ, the "office" of "legislator" is constant.

This literal interpretation gives full effect to the purpose of the prohibition (to prevent improper motives in voting on a salary increase). Indeed, expanding the coverage of the provision would not further the purpose of the section but would in fact be irrational. This is so because the members of both houses receive the same salary and emoluments. There is

The Honorable Lowell Thomas, Jr.  
Lieutenant Governor

June 29, 1976  
Page Four

no question that, following a salary increase, a legislator may run for re-election to his own seat. No possible purpose is served then by barring a legislator from running for a seat in the other house.

The question you have raised was touched on by Judge Carlson in his opinion in Warwick but not in any detailed fashion. In his Memorandum of Decision, Judge Carlson noted that originally, the proposed section 5 contained an express provision allowing election to the other house of the legislature and that it was stricken from the final document. This, in the Judge's passing view appeared to raise questions concerning eligibility in situations like this, though as he noted, "this does not appear to have been the framers' intent". In fact, however, the exception Judge Carlson made reference to had no relation to the prohibition in issue here. It was, rather, an exception to an altogether different prohibition, and both that prohibition and that exception were deleted by the framers.

As originally proposed, section 5 provided:

No legislator or other elective or  
appointive officer of this state shall

The Honorable Lowell Thomas, Jr  
Lieutenant Governor

June 29, 1976  
Page Five

file or run for election to any other state office until his services have been terminated, but a member of one house of the legislature may be nominated or elected to the other house. 6 Proceedings Alaska Constitutional Convention, App. V, at 30 (emphasis added).

This is the prohibition and exception which were deleted by the framers. The purpose of that provision was not to eliminate temptation and improper motivation in voting on salary increases or creating offices but rather to "prevent any state official from using his office or expense account as a vehicle for campaigning for another office." Committee on Legislative Branch, Commentary, on file with Legislative Affairs Agency; quoted by the lower court in its Memorandum Decision, supra, at 10 and in Begich v. Jefferson, 441 P.2d 27, 30, text and n. 7 (Alaska 1968). The framers decided that this prohibition went too far in that it would, with but the single exception expressed in the provision, require any public official who sought higher office to resign. Accordingly, they deleted the prohibition, including the exception, which—without the prohibition—was meaningless. 3 Proceedings Alaska

The Honorable Lowell Thomas, Jr.  
Lietenant Governor

June 29, 1976  
Page Six

Constitutional Convention 1801-1816. The distinction between the two prohibitions and their respective exceptions was noticed and described in the course of the debate. Id. at 1803 (dialogue of Taylor and Sundborg).

Accordingly, while the Supreme Court has limited the exceptions to the operation of section 5 to those expressly made by the Alaska Constitution, Warwick v. State, supra; Segich v. Jefferson, supra, no exception is required here, because the prohibition has no application to a legislator's running for legislative office and it should not be expanded to apply to one's doing so. Cf. Warwick v. State, supra, at 389.

Sincerely yours,

Avrum M. Gross  
Attorney General

AMG:db:RMP

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
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ORIGINAL  
COPIES

# STATE OF ALASKA

DEPARTMENT OF LAW

JAY S. HAMMOND, GOVERNOR

OFFICE OF THE ATTORNEY GENERAL

FOUCH. R. - STATE CAPITOL  
SHELDON 99511

December 27, 1976

The Honorable Christopher R. Cooke  
Judge of the Superior Court  
P. O. Box 555  
Bethel, Alaska 99559

Re: Prohibition against  
dual office holding.

Dear Judge Cooke:

You have asked whether as a judge you may also continue to be a regent of the University of Alaska. Your situation is that you are a member of the Board of Regents and have recently been appointed to the Superior Court. Judges of the Superior Court are prohibited from holding "any other office or position of profit under the United States, the State, or its political subdivisions." Art. IV, §14 (emphasis added).

### Introduction

While the answer to your question should be plain on its face, there exist in Alaska a number of commissions in the executive branch whose membership includes legislators and one commission whose membership includes two legislators and the Chief Justice of the State Supreme Court. The question is whether these memberships offend the prohibition against dual office holding, and if not, whether membership on the Board of Regents by a governor, legislator or judge

is also valid. It is our opinion that neither the prohibition against dual office holding nor the separation of powers doctrine absolutely forbids the formation of inter-branch commissions but that the Board of Regents is not an inter-branch commission, and a judge may not, therefore, sit as a regent while holding office. \*/

Discussion

At the outset it should be noted that the prohibition against dual office holding is literally enforced in Alaska. Id. v. Jefferson, 441 7 (Alaska 1968). The purpose of the prohibition is ". . . to guard against conflicts of interest, self-aggrandizement, concentration of power, and dilution of separation of powers in regard to the exercise. . . of the executive, judicial, and legislative functions of our state government." Id., at 35. The Alaska Supreme Court has concluded that the very limited exceptions to the prohibition necessarily result in its very broad application. Id., at 30-33. In essence, because only service in the armed forces and election to or employment by a constitutional convention are excluded, the prohibition must include all other offices and positions of profit. Id.

Judges and justices are not only prohibited from holding any other office under the United States and the State (as are legislators) but also from holding any office

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\*/ By the same token, neither a legislator, art. II, §5, nor the Governor, art. III, §6, may sit as a regent.

of a political subdivision (as is the governor). Plainly, the framers of our constitution imposed a broad bar against conflicts of interest on the judiciary and the chief executive. Alaska Constitution, Art. II, §5; art. III, §6; art. IV, §14. In essence, that is the legal context in which your question arises. We turn next to the existing situation with respect to the inter-branch commissions and the board of regents.

The Alaska Commission on Postsecondary Education consists of persons who represent the University of Alaska, the State Judicial Council (SJC), the Department of Education, the general public, vocational education groups, local college advisory councils, and the legislature. AS 14.40.903(a). The commission is "advisory," on the one hand, AS 14.40.909(a), and something of a clearinghouse, on the other. AS 14.40.909(b)(2)(4). However, it does appear to exercise some sovereign, executive powers. AS 14.40.909(b)(1), (4), (5), and (6), and AS 14.40.909(c) (in part). To the extent that it does so, the presence of members of the legislature on the commission appears to violate the prohibition against dual office holding, Alaska Constitution, art. II, §5, and the separation of powers doctrine. Hampton, Jr. & Co. v. United States, 276 U.S. 394, 405-406 (1928); Book v. State Office Bldg. Comm., 149 N.E. 2d 273, 296 (Ind. 1958); Saxby v. Sonnemann, 149 N.E. 526, 528 (Ill. 1925). \*/

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\*/ Because it is not germane to your question, we do not discuss the highly questionable method employed for appointing the members of this commission under AS 14.40.903(a). Suffice to say that they are of dubious validity. Buckley v. Valeo, 424 U.S. 1 (1976). Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

The Governor's Commission on the Administration of Justice, AS 44.19.746--758, is essentially an intra-governmental, inter-branch clearinghouse. It is a means for providing advice and exchanges of information and recommendations between the branches on matters of criminal justice. While this commission may incidentally exercise some administrative power, AS 44.19.756, there is nothing to indicate that this exercise is not in furtherance of each branch's separate powers or that any branch encroaches upon or tries to exercise the powers of another. The executive functions of the commission's staff are expressly under the executive branch. AS 44.19.758. Were the legislative or judicial members of this commission to exercise powers of the executive branch, the validity of their membership would be much in doubt. Since all laws are presumed to be constitutional, and there is nothing to show that the law establishing the governor's Commission on the Administration of Justice is being applied in an unconstitutional manner, it is proper to view the membership of the legislators and the Chief Justice as additional to their other duties, i.e., as legislative and judicial functions, representing their respective branches of the government. \*/

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\*/ We do not comment on the apparent disparity between the state and federal laws on how this representation should be achieved. Compare AS 44.19.748 and 754 with 42 U.S.C.A. §3723. Suffice to say that there is nothing wrong per se with such representation qua representation.

Again, we emphasize that, were the legislators or the chief justice to exercise the administrative or law enforcement powers of the executive branch through their membership on this commission, then the prohibition against dual office holding, Alaska Constitution, art. II, §5, and art. IV, §14, and the separation of powers doctrine would be violated.

The Commission on the Conference of the Law of the Sea, AS 44.19.789, also in the office of the governor and also with members from the legislature, is essentially an advisory group. It gathers and disseminates information. Since both the executive and legislative branches may perform such functions, no reason appears why they may not do them together. Cf., Buckley v. Valeo, 424 U.S. 1 (1976). The legislators appointed to this commission may in no way exercise or encroach on the powers of the executive branch. They serve on it merely as representatives of the legislative branch in furtherance of its law making functions.

The Alaska International Development Commission, AS 44.19.400, is also in the office of the governor. Its members include, inter alia, the State's congressional delegation and a state senator and representative. AS 44.19.410. The Governor is chairman. AS 44.19.430. Its functions are almost purely advisory and informational, i.e., it has no power to execute. AS 44.19.440. The presence of legislators on this commission is plainly in a representative capacity and violates neither the prohibition against dual office holding nor the separation of powers doctrine.

The Rural Affairs Commission is also in the office of the governor, AS 44.19.720, and legislators may be appointed to it. AS 44.19.722(b). This commission's sole functions are to gather and to disseminate information and make recommendations. As with similar bodies discussed above, no reason occurs why legislators may not serve on such a body in a representative capacity.

Again, we emphasize that we are observing--as we must--the presumption that a statute is constitutional. Nothing on the face of the several statutes examined here--with the exception of AS 14.40.909(b)(1), (4)--(6) and AS 14.40.909(c) (in part)--requires the members of one branch to exercise the powers of another branch or to exercise the powers of another office, i.e., each merely performs additional duties in his capacity as legislator, governor, administrator, and, in one instance, as chief justice. Accordingly, absent a factual showing of encroachment--or of acting in another capacity--we find no other constitutional offense. See, e.g., State v. Powell, 142 N.E. 401, 403 (Ohio 1924). If--in fact--an encroachment or dual office holding were to exist, then the presumption of constitutionality would be rebutted, and our opinion would be different.

The Board of Regents of the University of Alaska is altogether different from these advisory and clearinghouse commissions. "The University of Alaska shall be governed by a board of regents." Alaska Constitution, Art. VII, §3. Its function is to ". . . formulate policy and appoint the president of the university." Id. The latter is ". . . the

executive officer of the board." Id. Governing, formulating university policies, and appointing university presidents are executive functions. Compare, Bradner v. Hammond, 533 P.2d 1 (Alaska 1976). At any event, it seems rather obvious that they are not functions of the judicial branch. Compare, Alaska State-Operated School System v. Mueller, 536 P.2d 99, 103 (Alaska 1975).

In establishing the Alaska Commission on Post-secondary Education, the Alaska Legislature expressly affirmed . . . the legal authority for the operation and management of the statewide university system remains with the Board of Regents of the University of Alaska . . . ." AS 14.40.901(b). This authority over the "operation and management" of the university arises from the Alaska Constitution, Art. VII, §3, and is more particularly provided for by statute. AS 14.40.170, 250, 280, 350, and 360. All the powers devolved upon the board are essentially administrative, i.e., to execute in accordance with law.

It simply is not within the province of the office of a judge of the Superior Court to manage and control the university's property and invest its money, execute its leases, select its lands, hire and fire its presidents, set salaries, and otherwise manage the university. These are not judicial functions.

You suggest that the position of regent is neither an office nor a position of profit as those terms are used in the constitution. The very limited exceptions from the application of those terms expressly made in the constitution,

The Honorable Christopher R. Cooke

December 27, 1976

Page Eight

Art. II, §5 (legislators), Art. XII, §3 (general exemption), precludes our arriving at that conclusion. While not a position of profit, i.e., non-salaried employment, the position of regent of the University of Alaska is--under its definition--an office of the State. First, it is one of the few offices provided for by the constitution. Art. II, §1. Second, regents are appointed to their positions by the Governor, subject to confirmation by the legislature. *Id.* They have fixed terms of office. AS 14.40.140. They exercise a specific and significant share of the sovereign power of the State which is expressly provided for by constitution and statute. These factors are those which characterize an office of government. See, Beigich v. Jefferson, 441 P.2d 27, 31 n. 10 (Alaska 1968). Both Black's and Words and Phrases so thoroughly confirm this view that further citation would be wastefully redundant.

A judge does not sit on the Board of Regents in a representative capacity of the judicial branch. When he sits as a regent he is not exercising judicial power but rather certain executive powers of control vested in the regents over the State's sole institution of higher learning. This he may not do. Alaska Constitution, Art. IV, §14. The University of Alaska is an instrumentality of the State, and membership on its Board of Regents is necessarily an office under the State. Compare, University of Alaska v. National Aircraft Leasing, Ltd., 536 P.2d 121 (Alaska 1975) with, Beigich v. Jefferson, 441 P.2d 27 (Alaska 1968).

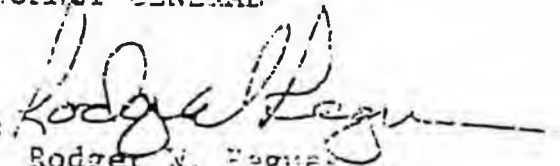
The Honorable Christopher R. Cooke

December 27, 1976  
Page Nine

Accordingly, it is our view that it would be improper for you to continue to serve as a regent of the University of Alaska. We would appreciate your resignation from that office at your earliest convenience.

Sincerely,

AVRUM M. GROSS  
ATTORNEY GENERAL

By:   
Rodger W. Fegus  
Assistant Attorney General

cc: Hon. Jay Hammond, Governor  
Hon. Robert Boochever, Chief Justice  
Mr. Robert Hiatt, President, University of Alaska  
Mr. Arthur H. Snowden, Administrative Director,  
Alaska Court System

November 16, 1977

The Honorable George Rohman  
Senator  
Pouch V  
Juneau, Alaska 99311

Re: Constitutionality of  
legislators serving on  
state bond committee -  
Our file J-66-265-78

Dear Senator Rohman:

You have asked whether it would be constitutional for the chairman of the House and Senate Finance committees to be members of the State Bond Commission.

The short answer is no.

The Alaska Constitution provides for the separation of powers between the legislative, judicial, and executive branches of the government. Wardner v. Hammond, 553 P.2d 1 (Alaska 1976); Laage v. Martin, 379 P.2d 447 (Alaska 1963). The doctrine of the separation of powers precludes one branch from exercising the power of another. Hampton Jr. & Co v. United States, 276 U.S. 394 (1928). Nor may one branch intrude into the functions of another. Mahury v.

Senator Hohman  
November 16, 1977  
Page 12

Madison 5 U.S. (1 Cranch) 137, 170-171 (1803); Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). The State Bond Committee is within the executive branch and performs executive functions. AS 37.15.101 - 160; cf., Walker v. Alaska State Mtg. Ass'n., 416 P.2d 245 (Alaska 1966). Accordingly, membership on the committee by members of the legislature would violate the separation of powers doctrine.

Additionally, the Alaska Constitution prohibits members of the legislature from holding any other office. Alaska Const., art. II, §5; Begich v. Jefferson, 441 P.2d 27 (Alaska 1968). While some jurisdictions allow inter-branch committees for financial matters, e.g., Woodward v. Riley, 152 So 2d 41 (La. 1963), the prohibitions contained in art. II, §5 are literally and strictly enforced in Alaska. Warwick v. State ex rel. Chance, 548 P.2d 384 (Alaska 1976); Begich v. Jefferson, 441 P.2d 27 (Alaska 1968). Membership on the state bond committee would constitute dual-office holding for legislators and violate the prohibition. Cf., Booz v. State Office Bldg. Comm., 169 N.E. 2d 273 (Ind. 1958); Opinion of the Justices, 17 N.E. 2d 307, 310-317 (Mass. 1939).

Finally, the appointing authority for offices in the executive branch is the governor. Bradner v. Hammond,

Senator Rohman  
November 16, 1977  
Page #3

513 P.2d 1 (Alaska 1976); Alaska Const., art. III, §25, 26. He appoints the heads of the principal departments, and therefore, no problem arises from a statute which provides for several of them to serve, ex officio, as members of the bond committee, i.e., they are, in fact, appointed by the governor. But if the law were to designate legislative committee chairmen, i.e., persons appointed by the legislature or its officers, to hold an office in the executive branch, then there would be a serious constitutional problem. Buckley v. Valeo, 424 U.S. 1 (1976); cf., Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

It is not our opinion that either the separation of powers doctrine or the prohibition against dual-office holding absolutely forbids the formation of inter-branch committees. Those inter-branch committees which are established as clearinghouses for an exchange of ideas and advice on a given subject and which do not exercise sovereign power, i.e., which do not make, execute, or declare the law, do not offend either prohibition. (cf., Buckley v. Valeo, 424 U.S. 1 (1976); State v. Powell, 142 N.E. 401 (Ohio 1924). But acting for the State to carry out the laws which authorize the issuance of bonds is, by definition, executing law, and that function does fall within the terms of the

Senator Hoffman  
November 15, 1977  
Page 4

prohibition. Put another way, discussing and advising on  
the matter may be done by an inter-branch committee; decid-  
ing upon and acting on the matter may not.

Very truly yours,

AVRIL M. GROSS  
ATTORNEY GENERAL

cc: Rodger W. Pague  
Assistant Attorney General.

RWP:jeh



U.S. Department  
of Transportation

Federal Highway  
Administration

Alaska Division

[www.fhwa.dot.gov/akdiv](http://www.fhwa.dot.gov/akdiv)

P.O. Box 21648  
Juneau, Alaska 99802-1648  
907-586-7418

February 22, 2001

HDA-AK  
Adm-Gen 11

Senator Randy Phillips  
State Capitol, Room 103  
Juneau, AK 99801-1182

RECEIVED

MAR 19 2001

Senate Finance  
Committee

Dear Senator Phillips:

Thank you for your phone call of February 22. You specifically asked "Is there anything in Federal law precluding participation of State Legislators on the AMATS Policy Board." We offer the following for your consideration:

The Federal regulations on MPO membership are contained in Title 23 CFR Section 450.306. In general, they provide considerable flexibility in recognition of the variation in local government authority across the United States and the need to give each State and its local officials the flexibility to determine the institutional form of each MPO. Providing the provisions of Title 23 CFR Section 450 are followed, Federal regulations do not preclude the participation of State legislators on the AMATS Policy Board.

Sincerely,

David C. Miller  
Division Administrator

§ 450.214 Phases of new requirements.

The State shall, by January 1, 1996, identify the official statewide transportation plan, described under § 450.214, to be used as a basis for subsequently approved STIPs. Until such a plan is identified, but no later than January 1, 1996, the State may identify existing plans and policies which can serve as the official interim plan. STIP development shall be based upon a transportation plan which serves as the official plan (including an interim plan, if appropriate, prior to January 1, 1995, provided that all factors identified in § 450.208 are considered).

Subpart C—Metropolitan Transportation Planning and Programming

§ 450.200 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 134 and section 8 of the Federal Transit Act, as amended, which require that a Metropolitan Planning Organization (MPO) be designated for each urbanized area and that the metropolitan area has a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs that consider all transportation modes and supports metropolitan community development and social goals. These plans and programs shall lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods.

§ 450.202 Applicability.

The provisions of this subpart are applicable to agencies involved in the transportation planning, program development, and project selection processes in metropolitan planning areas.

§ 450.204 Definitions.

Except as otherwise provided in subpart A of this part, terms defined in 23 U.S.C. 101(a) are used in this part as so defined.

§ 450.208 Metropolitan planning organization: Designations and redesignation.

(a) Designations of metropolitan planning organizations (MPOs) made after December 18, 1991, shall be by agreement among the Governor(s) and units of general purpose local governments representing 75 percent of the affected metropolitan population (including the central city or cities as defined by the Bureau of the Census), or in accordance with procedures established by applicable State or local law. To the extent possible, only one MPO shall be designated for each UZA or group of contiguousUZAs. More than one MPO may be designated within an UZA only if the Governor(s) determines that the size and complexity of the UZA make designation of more than one MPO appropriate.

(b) The designation shall clearly identify the policy body that is the forum for cooperative decisionmaking that will be taking the required approval actions as the MPO.

(c) To the extent possible, the MPO designated should be established under specific State legislation, State enabling legislation, or by interstate compact, and shall have authority to carry out metropolitan transportation planning.

(d) Redesignation (designation of a new MPO(s) to replace an existing MPO) shall occur by agreement of the Governor and affected local units of government representing 75 percent of the population in the entire metropolitan area. The central city(ies) must be among the units of local government agreeing to the redesignation.

(e) Nothing in this subpart shall be deemed to prohibit the MPO from utilizing the staff resources of other agencies to carry out selected elements of the planning process.

(f) Existing MPO designations remain valid until a new MPO is redesignated, unless revoked by the Governor and local units of government representing 75 percent of the population in the area served by the existing MPO (the central city(ies) must be among those desiring to revoke the MPO designation), or as otherwise provided under State or local procedures. If the Governor and

local officials decide to redesignate an existing MPO, but do not formally revoke the existing MPO designation, the existing MPO remains in effect until a new MPO is formally designated.

(g) Redesignation of an MPO in a multistate metropolitan area requires the approval of the Governor of each State and local officials representing 75 percent of the population in the entire metropolitan planning area. The local officials in the central city(ies) must be among those agreeing to the redesignation.

(h) Redesignation of an MPO covering more than one UZA requires the approval of the Governor and local officials representing 75 percent of the population in the metropolitan planning area covered by the current MPO; the local officials in the central city(ies) in each urbanized area must be among those agreeing to the redesignation.

(i) The voting membership of an MPO policy body designated/re-designated subsequent to December 18, 1991, and serving a TMA, must include representation of local elected officials, officials of agencies that administer or operate major modes or systems of transportation, e.g., transit operators, sponsors of major local airports, maritime ports, rail operators, etc. (including all transportation agencies that were included in the MPO on June 1, 1991), and appropriate State officials. Where agencies that operate other major modes of transportation do not already have a voice on existing MPOs, the MPOs (in cooperation with the States) are encouraged to provide such agencies a voice in the decisionmaking process, including representation/membership on the policy body and/or other appropriate committees. Further, where appropriate, existing MPOs should increase the representation of local elected officials on the policy board and other committees as a means for encouraging their greater involvement in MPO processes. Adding such representation to an MPO will not, in itself, constitute a redesignation action.

(j) Where the metropolitan planning area boundaries for a previously designated MPO need to be expanded, the membership on the MPO policy body

and other committees, should be viewed to ensure that the added area has appropriate representation.

(k) Adding membership (e.g., local elected officials and operators of modes or systems of transportation, representatives of newly urbanized areas) to the policy body or expansion of the metropolitan planning area do not automatically require redesignation of the MPO. To the extent possible, it is encouraged that this be done without a formal redesignation. The Governor and MPO shall review previous MPO designation, State or local law, MPO bylaws, etc., to determine if this can be accomplished without a formal redesignation. If redesignation is considered necessary, the existing MPO will remain in effect until a new MPO is formally designated. The existing designation is formally revoked in accordance with the procedures of this section.

§ 450.208 Metropolitan planning organization: Metropolitan planning area boundaries.

(a) The metropolitan planning area boundary shall, as a minimum, coincide with the UZA(s) graphic area fixed within period cover plan described. The boundary metropolitan consolidated area, as defined Census. For designated as a finance area Air Act Amendment for transportation under the O. metropolitan include at least nonattainment except as otherwise provided in § 450.210(f) of a formal Governor an metropolitan less than the attainment entire nonattainment

03-07-2001 10:31 AM From: ENVA ALASKA DIV 0075867420 T-524 P.001/001 F-980 FAX TRANSMITTAL Kim Pass 465 4979 RECEIVED State Finance Committee

# SENATE COMMITTEE REPORT

DATE: 2/21/01

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 3-8-01

Community and Regional Affairs Committee considered

SENATE BILL NO. 88

"An Act relating to metropolitan planning organizations and to establishment of a metropolitan planning organization for the Anchorage metropolitan area; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
ADOT	2/21		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>	✓			

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 2/13/01

FURTHER: CRA  
Finance

Date of 5-Day Notice: 2-15-01  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 2-21-01

Transportation Committee considered      SENATE BILL NO. 88

"An Act relating to metropolitan planning organizations and to establishment of a metropolitan planning organization for the Anchorage metropolitan area; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

- Senate Bill:**  
 same title  
 new title  
**House Bill:**  
 same title  
 technical title  
 new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DOTPF	2/2/01		✓	1

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>		✓		
Adrian L. Taylor				
<i>[Signature]</i>				
<del><i>[Signature]</i></del>	<del> </del>			
CHAIR: John J. Concedery	✓			

*✓ To let  
legislators out  
of Anch. To sit  
on PMATS*

SENATE FINANCE COMMITTEE

SIGN-IN

SB 88-METROPOLITAN PLANNING ORGANIZATIONS

NAME: Bill Cummings Subject/Bill No: SB-88  
Co./Dept./Title: Dep of Law/Assistant AG Phone: 6711  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

SB 88-METROPOLITAN PLANNING ORGA

Scheduled  
but not  
heard

3/22/01

NAME: Bill Cummings Subject/Bill No: SB 88  
 Co./Dept./Title: Law / Assistant Atty Gen Phone: 465-6711  
 Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: Tom BRIGHAM Subject/Bill No: SB 88  
 Co./Dept./Title: DOT:PF PLANNING DIR. Phone: 465-4070  
 Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
 Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
 Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions



**SB**

**91**

SFIN

FILE

**SENATE FINANCE COMMITTEE REPORT**

REPORTED OUT  
APR 03 2002  
SENATE FINANCE  
COMMITTEE

DATE: 4/12/01

FURTHER:

DATE TURNED IN TO OFFICE: 3 April 2002

Finance Committee considered **SENATE BILL NO. 91**

*ABORTION: INFORMED CONSENT; INFORMATION*

"An Act relating to information and services available to pregnant women and other persons; and ensuring informed consent before an abortion may be performed, except in cases of medical emergency."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS SB 91 (HES)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

- Senate Bill:**  
 same title  
 new title
- House Bill:**  
 same title  
 technical title  
 new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
<del>HES</del>	<del>4/12/02</del>	<del>227.5</del>		
Replaced With:				
HES	4/9/02	110.0		

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

Motion was to report bill from Cmte with "fluxuating f/n's"

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John Beer</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>John C. ...</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>...</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>...</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>...</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>John A. ...</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>...</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COCHAIR: <i>...</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COCHAIR: <i>...</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CS SB91 (HES)  
( ) Publish Date: \_\_\_\_\_

F... on Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Health & Social Services  
Title: INFORMED CONSENT FOR ABORTION BRU: State Health Services  
Component: Maternal, Child, & Family Hlth  
Sponsor: WARD  
Requestor: SENATE (FIN) Component Number: 290

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	109.0	89.0	39.0	89.0	89.0	89.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>110.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( 0 )</b>						
---------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	110.0	90.0	90.0	90.0	90.0	90.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--do not abbrevia						
<b>TOTAL</b>	<b>110.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>

Estimate of any current year (FY2002) cost: \_\_\_\_\_

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

**CONTRACTUAL:** \$109.0 in Year 1; \$89.0 subsequent years  
Professional services contract for compilation of information and production of booklet - \$25.0 in Year 1 for initial production; \$5.0 in subsequent years for updates  
Printing - \$2.50 per booklet x 20,000 booklets = \$50.0/year  
Postage - \$4.0/year  
Advertising - monthly advertisement in AK papers = \$30.0/year

**SUPPLIES:** \$1.0  
Supplies for mailing (envelopes, boxes, mailing labels, etc.)

Prepared by: Karen E. Pearson, MS Phone 465-3090  
Division: Public Health Date/Time 4/3/2002 12:43 p.m.  
Approved by: Elmor A. Lindstrom, Deputy Commissioner Date \_\_\_\_\_  
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

REPORTED 001  
 APR 03 2002  
 SENATE SERVICES

# FISCAL NOTE

NOTE: Bill R/O with "fluxuating" f/n - This was subsequently replaced 4/3/02 12:43pm

STATE OF ALASKA 2002 LEGISLATIVE SESSION  
 Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CS SB 91 (HES)  
 ( ) Publish Date: \_\_\_\_\_  
 Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Health & Social Services  
 Title: INFORMED CONSENT FOR ABORTION BRU: State Health Services  
 Component: Maternal, Child, & Family Hlth  
 Sponsor: WARD Component Number: 290  
 Requestor: SENATE (FIN)

## Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	75.0	75.0	75.0	75.0	75.0	75.0
Travel	10.0	10.0	10.0	10.0	10.0	10.0
Contractual	140.5	140.5	140.5	140.5	140.5	140.5
Supplies	2.0	2.0	2.0	2.0	2.0	2.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>227.5</b>	<b>227.5</b>	<b>227.5</b>	<b>227.5</b>	<b>227.5</b>	<b>227.5</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( 0 )						
--------------------------	--	--	--	--	--	--

## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	227.5	227.5	227.5	227.5	227.5	227.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Othe (Specify Type-do not abbrevia						
<b>TOTAL</b>	<b>227.5</b>	<b>227.5</b>	<b>227.5</b>	<b>227.5</b>	<b>227.5</b>	<b>227.5</b>

Estimate of any current year (FY2002) cost: \_\_\_\_\_  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

## POSITIONS

Full-time	1	1	1	1	1	1
Part-time	1	1	1	1	1	
Temporary						1

**ANALYSIS:** (Attach a separate page if necessary)  
**PERSONNEL: \$75.0**  
 0.5 FTE Advanced Nurse Practitioner to 1) develop the booklet with required information and update annually, 2) conduct on-going review and provide updates when new information becomes available, 3) provide quality assurance, and 4) train providers on new requirements.  
 1.0 FTE Administrative Clerk II to 1) maintain database of providers, 2) compile information for booklet, 3) box and ship booklets, 4) maintain inventory, and 5) prepare and process advertising orders.  
**TRAVEL: \$10.0**  
 Travel to areas in Alaska to do training on the new requirements.

Prepared by: Karen E. Pearson, MS Phone 465-3090  
 Division: Public Health Date/Time 04/02/2002  
 Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 04/03/2002  
 Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

FISCAL NOTE #

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. CS SB 91 (HES)

ANALYSIS CONTINUATION

CONTRACTUAL: \$146.5

Printing - \$5.00 per booklet x 20,000 booklets = \$100.0/year

Storage - \$200.0 per month x 12 months = \$2.4/year

Postage - \$20.00 per box x 400 boxes = \$8.0/year

Advertising - monthly advertisement in AK papers = \$30.1/year

SUPPLIES: \$2.0

400 boxes for shipping x \$5.00 per box = \$2.0/year



**SENATOR JERRY WARD**  
ALASKA STATE LEGISLATURE

SPONSOR STATEMENT FOR SB 91

Ensuring Informed Consent

SB 91 elevates Alaska's current informed consent requirement from regulation to statute. This legislation would ensure that a patient is given the appropriate information about an abortion procedure without obstructing a physician's ability to tailor information to the individual needs of the patient.

Since the early 1970s, Alaska regulations have required physicians to advise patients seeking abortion of the "medical implications and the possible emotional and physical sequelae of the procedure." (12 AAC 40.070). However, Alaska's informed consent regulation lacks specificity and is not uniform in its application.

SB 91 requires the Department of Health and Social Services to develop a pregnancy informational pamphlet to be made available to the public. The pamphlet would list factual, nonbiased information about pregnancy and abortion, as well as pregnancy and abortion alternative resources, and state services available to women in Alaska.

SB 91 reinforces the current ethical standards by protecting them from possible systematic abuse in the future, putting a statutory safeguard into place for both women and physicians.

# ALASKA STATE LEGISLATURE



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Wasilla, Alaska 99654  
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(907) 465-3805 Fax

## SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

### PROPOSED SENATE HESS COMMITTEE SUBSTITUTE FOR

### SB 91 ABORTION: INFORMED CONSENT; INFORMATION

SB 91 would require the Department of Health & Social Services to prepare an informational pamphlet relating to pregnancy and pregnancy alternatives under guidelines described in the bill.

The proposed Senate Health, Education and Social Services Committee substitute for SB 91 addresses the distribution of the pamphlet. The committee substitute replaces subsection (c) of Section 1, which begins on page 3, line 9, to read as follows:

The department shall advertise the availability of the information required under (a) of this section and distribute the information free of charge on request and in appropriate volume to the requester. The department shall also place the information in public hospitals, clinics, or other health facilities throughout the state and, upon request of an administrator, in a private hospital, clinic, or health facility so that members of the public may obtain the information voluntarily, without request.

SENATOR LOREN LEMAN, VICE-CHAIR  
SENATOR JERRY WARD, SENATOR GARY WILKEN, SENATOR BETTYE DAVIS

### SB 91 – Backup Information

This bill requires the Department of Health to prepare and distribute an informational pamphlet, applying similar methods and standards for the preparation and distribution of the information found in the Alaska Statute 18.05.035.

## Title 18. HEALTH, SAFETY, AND HOUSING

### Chapter 18.05. ADMINISTRATION OF PUBLIC HEALTH AND RELATED LAWS

#### Sec. 18.05.035. Planned parenthood information.

The department shall prepare information regarding planned parenthood. The department shall place the information in public hospitals, clinics, or other health facilities throughout the state, and upon request of its administrator, in a private hospital, clinic, or health facility, so that members of the public may obtain the information voluntarily, without request. The department shall also advertise the availability of the information and distribute it to any person upon written request.

History –

(Sec. 1 ch 57 SLA 1966)

## Alaska Civil Liberties Union

*An Affiliate of the American Civil Liberties Union*

P. O. Box 201844, Anchorage, AK 99520-1844

Phone: (907) 258-0044 Fax: (907) 258-0288 Email: akclu@alaska.net

To: All members of the Alaska Senate  
From: Jennifer Rudinger, Executive Director  
Date: Friday, April 20, 2001

Re: Opposition to (CS)SB 91 – MANDATORY EXTRA "COUNSELING" FOR ABORTION

The US Supreme Court's 1992 decision in Planned Parenthood of Southeastern Pennsylvania v. Casey upheld, among other restrictions, a Pennsylvania law requiring that physicians provide women with state-prepared anti-choice materials prior to the abortion procedure. The law forces a doctor to provide every woman seeking an abortion with information that is intended to discourage the procedure -- even if the information is irrelevant, unnecessary, and ultimately harmful to her health.

Such "biased counseling" laws are currently enforced in more than a dozen states. In a number of other states, these laws have been enacted but are enjoined or otherwise unenforced. Often introduced under the deceptive label of "Informed Consent" or "Women's Right to Know," biased counseling laws in fact serve to hamper women's access to abortion.

Alaska, however, is one of several states that evaluate restrictions on women's reproductive choices under the stricter standard of judicial review established by the US Supreme Court in 1973 in Roe v. Wade. Therefore, the Casey analysis and conclusion do not apply when an Alaska court reviews laws such as (CS)SB 91, and it is our opinion that (CS)SB 91 may be unconstitutional under the Alaska Supreme Court's decision in Valley Hospital Association, Inc. v. Mat-Su Coalition for Choice, et al. in 1997.

Aside from our concerns that (CS)SB 91 may violate the Alaska Constitution, there are many reasons why the bill is bad public policy.

### 1. This Mandatory Extra "Counseling" Gives Women Inaccurate and Irrelevant Medical Information.

Mandatory extraneous lectures do not give women accurate or meaningful medical information. (CS)SB 91 puts words in doctors' mouths and forces them to run through a litany of conceivable pro's and con's for abortion and for all alternatives to abortion -- even when those alternatives are not in the patient's best interest and may even *harm* her. Yet, women who are seeking prenatal care in order to carry a pregnancy to term are *not* forced to waste time and money listening to a diatribe about their options and alternatives to

pregnancy and childbirth, even though the mortality risk of full-term pregnancy and childbirth is more than 20 times *greater* than that of a first-trimester abortion.

**2. (CS)SB 91 refers to "possible psychological effects that have been associated with having an abortion," substituting politicians' judgment for that of doctors.**

This reference is misleading because no such psychological harms have been proven to exist. In fact, according to a 1987-88 investigation by the former Surgeon General of the United States, Dr. C. Everett Koop (who is no champion of choice), as well as a study by the World Health Organization, there is no medical evidence that abortion causes psychological injury. On the contrary, relief is the most common reaction to a voluntary abortion, whereas women who are forced to continue unwanted pregnancies suffer adverse and sometimes severe psychological consequences. It should be left to doctors to decide, based on their best medical judgment, what risks and benefits are relevant to their particular patients and what medical information is scientifically sound.

**3. Requiring That Physicians Deliver These Extraneous Lectures Makes Access to Quality Reproductive Health Care More Difficult and Expensive.**

(CS)SB 91 prohibits a trained counselor, nurse, or other health care practitioner from providing this mandatory lecture to the patient, requiring instead that a doctor deliver the state's message. This requirement has a direct effect on women's health. Many clinics experience serious difficulty in finding doctors willing and able to perform abortions, and the few doctors who are available often find themselves barely able to meet the needs of their patients. By prohibiting doctors from delegating counseling and related tasks to other trained professionals, these laws make it far more difficult for clinics to provide women with the quality health care they deserve. Furthermore, since a doctor's time costs much more than that of a nurse, clinician, social worker, or counselor, the doctor-only stipulation drives up the costs of abortion and other health services provided by clinics.

**4. Informed Consent Is Already Required For All Medical Procedures.**

A woman must already give her informed consent before undergoing any surgical procedure, including abortion. The standards of the medical profession, as well as state laws, ensure that health care practitioners provide women with accurate and unbiased information regarding the risks and benefits of their various treatment options and obtain their informed consent. (CS)SB 91 singles out abortion from all other medical procedures. Implicit in the requirement of this lecture is the assumption that women do not adequately think through their abortion decision and that the State must do their thinking for them. This assumption reflects a lack of respect for women's moral decision-making. In fact, virtually all women have carefully considered their decision to have an abortion by the time they arrive at the clinic. Clinics in Alaska routinely refer for additional counseling the small number of women who remain ambivalent.