

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3159 41

additional review when placing a child; to include language that would provide for a choice of law in the state where an adoption is finalized; and lastly, to amend language which indicated that the rules promulgated by the interstate commission would "supersede state law". State legislatures also expressed opposition to language which stipulated that the rules would "supersede state law".

The New Compact now provides for a choice of law (Article IV) in the state where the adoption will be finalized; clarifies the definition of assessment and home study and the application of each term (Article II); provides for provisional travel for prospective adoptive parents, contingent upon submission, receipt and review of required documents to verify and ensure safety (Article V); and clarifies that rules promulgated by the interstate commission shall have the force and effect of administrative rules (Article XI). A list of the revised articles is included below. In addition, please find attached the New Compact with revisions in red, the endorsement letter from the American Academy of Adoption Attorneys, a clean copy of the New Compact which does not highlight changes and may be used as enabling legislation when introducing the New ICPC in your state legislature, and the email cover memo in Word format (document).

APHSA will hold an all-state call for questions and answers (Q&A) on Thursday, January 31, 2008 at 3 p.m. E.T. For those states that are planning to introduce the New ICPC before the all-state call and have questions and (or) need assistance, please feel free to contact Carla Fults at (202) 682-0100, ext. 242. APHSA will continue to provide the states with the following services to support enactment of the New ICPC.

- Develop boiler-plate legislative testimony to be used during legislative committee hearings and/or other public events where the primary goal is education on the ICPC. The model testimony will be developed in such a manner as to be customizable for a variety of uses and for a variety of champions and staff.
- Respond to specific questions from the states.
- Convene meetings via teleconference with your attorney general or other state/agency officials to provide clarification of provisions contained within the Compact.
- If necessary, convene an on site briefing with key legislators, legislative staff, executive branch and agency officials and relevant stakeholder groups.
- Provide tailored assistance to individual states at your request.
- Provide expert(s) to testify with you.
- Work with your attorney general or your ICPC staff to include necessary state legislative language which does not alter or change the intent or foundation of the Compact.

On behalf of APHSA, I would like to extend a special thank you to the AAICPC, NAPCWA, and to the many state legal counsels, judicial and interstate administrators and staff who participated in producing this revised version of the New ICPC. If you have questions, please feel free to contact me by email at cfults@aphsa.org or at (202) 682-0100, ext. 242. Thank you in advance for your continued support of the New ICPC.

List of Articles Amended

- Article II. Definitions (Assessment, Home Study; other definitions were added to support overall changes)
- Article IV. Jurisdiction (Choice of Law)
- Article V. Placement Evaluation (Provisional Travel/Placement)
- Article XI. Rulemaking Functions of the Interstate Commission (Interstate Commission)

Attachments:

- The revised copy of the New ICPC with changes in red – Entitled “ The New Compact with revisions shown 010708”
- Endorsement letter from the American Academy of Adoption Attorneys
- Clean version of the New ICPC to be used for state introduction/enactment - Entitled “The New ICPC 2008”
- Word version of the email cover memo – Cover memo for Endorsement of the New ICPC

HB 50 Interstate Compact for the Placement of Children

Sectional Analysis for Version "C" HESS Committee Substitute

Section 1. Amendment language for title change of Compact.

Sec. 2. Repeals and reenacts Interstate Compact for the Placement of Children

Article I. PURPOSE. Provide uniform data collection; administrative rules implementing and regulating child placement in member states; provide coordination with other compacts affecting the placement of children; providing continuing jurisdiction and responsibility as if intrastate placement; promulgation of guidelines of Indian tribes; provide procedures to insure safe and suitable placement for children.

Article II. DEFINITIONS. New definitions for approved placement, assessment, child, certification, default, home study, Indian tribe, Interstate Commission for the Placement of Children, Jurisdiction, legal risk, member state, non-custodial parent, non-member state, notice of residential placement, placement, private child-placing agency, private child-placing agency, provisional placement, public child-placing agency, receiving state, relative, residential facility, rule, sending state, service member's permanent duty station, service member's state of legal residence, state, state court, and supervision.

Article III. APPLICABILITY. Interstate placement of a child in state custody as a child in need of aid or a child adjudicated delinquent or unmanageable based on the sending state; interstate placement of a child by a public child placement agency or private child placing agency as a preliminary step to a possible adoption.

Does not apply to a child in a custody proceeding in which a public child placing agency is not a party; interstate placement by one relative to another relative; placement of a non-state custody child in a residential facility by a parent; placement of a child with non-custodial parent under certain circumstances.

Article IV. JURISDICTION. The sending state retains jurisdiction over child, including power to order return of child; receiving state court shall confer with sending state court to determine forum for adjudication; sending state can terminate its jurisdiction under certain circumstances and is required to notify receiving state of that action; allows receiving state jurisdiction sufficient to deal with truancy, delinquency, crime or behavior involving a child violating receiving state laws; permits receiving state to take emergency jurisdiction for the protection of a child.

Article V. PLACEMENT EVALUATION. Sets out in the compact a process for the sending state requesting an assessment from the receiving state on placement,

provide evidence the placement is legal, certification that consent or relinquishment is in compliance, and obtain approval of public child placement agency in the receiving state. Allows the Commission to develop uniform standards for the assessment of the safety and suitability of interstates placements. A final decree of adoption cannot happen until the placement is authorized as an "approved placement" by the public child placing agency in the receiving state.

Article VI. PLACEMENT AUTHORITY. Placement cannot be made until approval is obtained from receiving state or until administrative reversal of a denial of placement.

Article VII. PLACING AGENCY RESPONSIBILITY.

- A. Sending state has financial responsibility for ongoing support and maintenance of child, including those services beyond the public services available in the receiving state. Receiving state's financial responsibility is for any assessment conducted and supervision conducted by the receiving state at the level necessary to support placement.
- B. Private child placement agencies shall be legally and financially responsible for the child as provided by law in the sending state until adoption is final and legally financial absent a contractual agreement to the contrary.
- C. Receiving state assessment shall be done in a timely manner.
- D. Public child placement agency will provide supervision and services for the child including timely reports to the sending state.
- E. Receiving state agency provides supervision and services for the child, including timely reports during the period placement.
- F. Compact does not limit receiving state from contracting for assessments, supervision or services for the child.
- G. Member states shall provide coordination among its branches of government by forming an advisory council or use of existing board.
- H. Requires each member state to have a central state compact office.
- I. Public child placement agency will oversee ICWA compliance.
- J. With consent of Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact. (Does this conflict with E?)

Article VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN.

Establishes the commission to be a joint commission of member states that shall have responsibilities, powers and duties set forth in HB 50 and additional powers as conferred by concurrent action of respective legislatures of the member states. Each member state will have a commissioner appointed by the HSS Commissioner and this member shall have legal authority to vote on policy related matters by the compact which binds the state. A majority constitutes a quorum and a member can delegate to another person from his or her state but cannot proxy their vote to another member of the commission.

The commission can appoint ex officio members who are from interested organizations and an executive committee shall be established to administer the day-to-day activities of the commission, which do not include rulemaking.

Article IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

- (A) Promulgate rules and take all necessary actions to effect the goals, purposes, and obligations enumerated in the compact.
- (B) Provide dispute resolution to member states.
- (C) Issue advisory opinions concerning interpretation of compact, bylaws, rules or actions.
- (D) Enforce compliance with compact.
- (E) Determine needs for collection of data and collect that data.
- (F) Establish and maintain offices.
- (G) Purchase and maintain insurance and bonds,
- (H) Hire or contract for services of personnel or contracts.
- (I) Establish and appoint committees and officers, including the executive committee.
- (J) Accept funds.
- (K) Lease, purchase, accept contributions or donations of real, personal or mixed properties.

- (L) Sell, convey, mortgage, pledge, lease, exchange, abandon or dispose of real or personal property.
- (M) Establish budget and make expenditures.
- (N) Adopt a seal and bylaws.
- (O) Establishes annual reporting requirements to legislatures, governors, judiciary and state advisory councils.
- (P) Coordinate public awareness of the commission and its purpose.
- (Q) Maintenance of books and records.
- (R) Perform functions necessary to achieve purposes of this compact.

Article X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.

Requirement to set up by laws within one year of first commission meeting and make all records public unless records would adversely affect the personal privacy rights or proprietary interests.

The Commission must meet at least once a year and have proper public notice. A public meeting could be closed by a two-thirds vote if discussion would include personnel issues; information privileged, proprietary or confidential in nature; accusation or a crime or censuring a person; investigative records; matters exempted by federal law; civil or legal proceedings; Meetings may be held by telecommunications or other electronic communication.

The Commission may appoint, through its executive committee, a non-voting staff director as secretary to the commission. It may also elect a chairperson and vice chairperson from among the commission members.

The commission's staff director and employees are immune from suit and liability unless the liability was caused by a criminal act or intentional or willful and wanton misconduct of such person.

Article XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.

Commission shall promulgate and publish rule that substantially conform to the principles of "Model State Administrative Procedures Act", 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) or other acts commission deems appropriate. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules.

Allows for an interested person to challenge a rule in the U.S District Court for the District of Columbia within 60 days of the rule being enacted. A majority of members may reject a rule. The new rules shall be enacted and the existing rules voided. Emergency rules can be adopted by a majority vote of the commission.

Article XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT.

The commission shall oversee the administration and operation of the compact and make sure the three branches of state government enforce the compact. The compact and its rules will be binding on compact states as administrative rules.

Requires state courts to take judicial notice of the compact and rules in any judicial or administrative proceedings. If there is a judicial challenge of a rule as provided for in Article XI, the Commission is entitled to receive service of process.

The commission shall adopt rules providing for mediation and binding dispute resolution and the cost of such actions will be the responsibility of the parties to the dispute. This would apply to disputing member states and member non-member disputes.

If the Commission determines a member has defaulted it may provide remedial training and specific TA or provide written notice of default and the means of curing the default. By a majority vote, the Commission can initiate legal action against the member state in the U.S. District Court for the District of Columbia or a federal district court where the Commission has its principal office. The relief sought may be both injunctive relief and damages.

Rule 24, Alaska Rules of Civil Procedure is amended by entitling the Commission to have standing to intervene in a judicial proceeding in a state pertains to the Compact and in which the validity of a compact provision or rule is an issue for which judicial determination has been sought.

Article XIII. FINANCING OF THE COMMISSION.

The Commission can levy on and collect an annual assessment from each member state to cover cost of operations. The Commission shall determine what formula to use and shall promulgate a rule binding upon all member states.

The Commission cannot incur any obligations prior to securing funding and shall not pledge credit of any member state without prior to being given authority to do so by that member state.

The Commission shall keep accurate books and have an annual audit by a certified or licensed public accountant.

Article XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT.

Any state is eligible to become a member of the Commission and Compact will become effective upon legislative enactment by thirty-five (35) states. Non-member states can participate on a non-voting basis.

No proposed amendments to the Compact may be enacted without unanimous consent of the member states.

Article XV. WITHDRAWAL AND DISSOLUTION.

Member states may withdraw from the compact by repealing the statute that adopted the compact and the effective date of the repeal will be the effective date of withdrawal. The withdrawing state shall be responsible for all assessments, obligations, and liabilities incurred through the effective date of the withdrawal. Reinstatement is accomplished by readopting the compact.

Dissolution of the compact occurs when only one state remains in the compact.

Article XVI. SEVERABILITY AND CONSTRUCTION.

The provision of the Compact are severable. If one or more provisions in the compact are found to be unenforceable, the remaining provisions are enforceable.

Article XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS.

A. Other Laws

Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

(B) Binding Effect of the Compact

All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

If any provision of the compact exceeds constitutional limits of a member state, that provision will be ineffective to the extent of the constitutional conflict.

Article XVIII. INDIAN TRIBES.

The Commission may promulgate guidelines to permit Indian Tribes to utilize the compact and make reasonable effort to consult with Indian tribes in promulgating guidelines.

Sec. 3. Conforming language for financial responsibility section of the Compact.

Sec. 4. Conforming language for entering into agreements with appropriate officers or agencies.

Sec. 5. Conforming language for delegation by agreement for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state.

Sec. 6. Redefines executive head from the governor to the commissioner of health and social services and provides for establishing a central compact office.

Sec. 7. Language conformance on short title of Compact.

Sec. 8. The following statutes are repealed:

AS 47.70.030. Designation of authority. The term appropriate public authority is no longer used in this title as the compact is now administered by the member states' member of the commission.

AS 47.70.070. Violations of the compact. The Commission will now determine the violations and the enforcement of the compact, so this section is no longer needed.

Sec. 9. Court Rule change to provide the Commission with notice when a judicial proceeding has been filed relating to the validity of a compact rule or provision is an amendment to Rule 4, Alaska Rules of Civil Procedure.

Rule 24, Alaska Rules of Civil Procedure is amended by entitling the Commission to have standing to intervene in a judicial proceeding in a state pertains to the Compact and in which the validity of a compact provision or rule is an issue for which judicial determination has been sought.

Sec. 10. Those sections of Art. XII(4) become effective only if Section 9 amending court rules is approved by a two-thirds majority vote of each house.

Sec. 11. Effect of Act occurs when 34 other states have ratified the Compact. The Department shall notify the lieutenant governor and the revisor of statutes when this occurs.

Sec. 12. The effective date of sections 1 through 10 is one day after the Health and Social Services notifies the revisor of statutes that 34 other states have ratified the Compact.

HB

50

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/6/08

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered CS FOR HOUSE BILL NO. 50(JUD)

HB 50 CHILD PLACEMENT COMPACT

"An Act relating to the Interstate Compact for the Placement of Children; establishing an interstate commission for the placement of children; amending Rules 4 and 24(b), Alaska Rules of Civil Procedure; and providing for an effective date."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

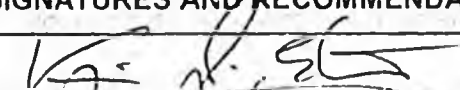

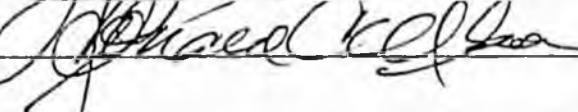

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
ADM	2/21/08			✓	1
HSS	2/21/08	✓			2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas	✓			
	Olson			✓	
CO-CHAIR:					
	Strommen			✓	

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 50(HES)
 (H) Publish Date: 2/29/08
 Dept. Affected: Health & Social Services
 RDU: Children's Services
 Component: Children's Services Management

ID(File name) HB50-DHSS-CSM-02-21-08
 Title: CHILD PLACEMENT COMPACT
 Sponsor: COGHILL
 Requester: HOUSE (HES)

Component No. 2666

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation		Information						
	Required		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES									
Personal Services						81.8	361.0	361.0	361.0
Travel						10.2	244.5	244.5	244.5
Contractual						28.2	62.1	62.1	62.1
Supplies						1.5	5.0	5.0	5.0
Equipment						2.0	5.0	5.0	5.0
Land & Structures									
Grants & Claims									
Miscellaneous									
TOTAL OPERATING			0.0	0.0	0.0	123.7	677.6	677.6	677.6
CAPITAL EXPENDITURES									
CHANGE IN REVENUES (0)									

FUND SOURCE (Thousands of Dollars)

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts				18.5	98.3	98.3	98.3
1003 GF Match				105.2	579.3	579.3	579.3
1004 GF							
1037 GF/Mental Health							
Other(Specify Type-do not abbreviate)							
Other(Specify Type-do not abbreviate)							
TOTAL	0.0	0.0	0.0	123.7	677.6	677.6	677.6

Estimate of any current year (FY2008) cost: _____

POSITIONS

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time				1	5	5	5
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

The purpose of this Interstate Compact for the Placement of Children is: to provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner; to facilitate ongoing supervision of a placement, the delivery of services, and communication between the states; to provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner; and to provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

Con't on page 2

Prepared by: Tammy Sandoval, Director
 Division: Office of Children's Services
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone: 907-465-3191
 Date/Time: 02/17/2008
 Date: 02/21/2008

STATE OF ALASKA
2008 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

The Office of Children's Services does not anticipate additional need for funding in FY 2009 or FY 2010 for the following reasons:

(1) Alaska is one of the first states to take up legislation to adopt the new language and 34 other states must also adopt the compact before it can be ratified. Ratification could take up to two years.

(2) Administrative rules and procedures will take an additional year to develop and implement.

The OCS will need to return to the Legislature for funding in 2011 and 2012 once the compact has been ratified by the states and the start date for implementation of new rules and procedures has been determined.

Once implemented, the Office of Children's Services anticipates that the establishment of an interstate commission for the placement of children, the incorporation of federal home study timelines, development and implementation of home study assessment standards, increased data collection and reporting, more interaction and support with the new commission, expanded training to include other agencies and stakeholders, and increased expenses related to membership participation will require \$677.6 annually.

Personal services: Current staffing for this program is a program coordinator (range 20) and a clerk (range 8). There are approximately 550 interstate cases, both private and custody cases. In addition, the coordinator facilitates and maintains records for private residential placements, which total about 400 cases. The program coordinator facilitates the request process; monitors supervision reports and correspondence between states; provides case management and supervision of cases; and provides liaison activities with other states, state attorneys, private attorneys, court appointed special advocates, and families. The program coordinator also provides training and technical assistance to all interested parties to ensure compliance with compact and OCS policy.

With the new requirements in HB 50, current staff levels will not be able to comply with new data and reporting requirements, higher levels of training, support of the commission, and higher levels of administrative case management and supervision in the field and in the Central, administrative office in Juneau. The OCS will need an additional case worker in Juneau to meet case management, data collection, and reporting requirements to allow the program coordinator to expand case management and supervision of cases. In addition, the program coordinator will be required to expand training to other agencies involved in the new process, including the Division of Juvenile Justice, the courts, guardians ad litem and tribes, while continuing to coordinate, act as liaison and facilitate meetings and activities of the commission. These costs will begin in 2011 as indicated in this note. In 2012, there will also be a need for four additional workers in the field in order to meet the compact's homestudy and supervision deadlines and requirements. (Continued on Page 3)

STATE OF ALASKA
2008 LEGISLATIVE SESSION**ANALYSIS CONTINUATION**

The OCS anticipates the need for a Social Worker III in the Central, administrative office in Juneau in 2011 (range 18 - \$81.8); plus an additional \$279.2 in 2012 for 4 additional Social Worker I's - Anchorage, Mat Su, Kenai and Fairbanks (3 range 15's - \$9.7 each; 1 range 15 (Fairbanks) \$70.1).

The OCS anticipates additional expenses in support of the interstate commission for the placement of children to include training, administrative support, travel, meeting and teleconference costs. In 2011, OCS estimates a need for \$10.2 to support travel for the coordinator and commission; \$28.2 contractual for interstate commission membership dues, increased overhead costs (human resources, IT, Dept. of Law services) and other related service costs; and \$3.5 for supplies and equipment. The department estimates an additional need in 2012 of \$234.3 to support travel for homestudy and supervision; \$33.9 contractual for increased overhead costs (human resources, IT, Dept. of Law services) and other related service costs; and \$6.5 for supplies and equipment.

Of the total \$677.6, the federal share will be \$98.3.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 50(HES)
(H) Publish Date: 2/29/08

Identifier (file name): HB050-DOA-OPA-2-20-08 Dept. Affected: Administration
Title: "An Act relating to the Interstate Compact for the Placement of Children . . ." RDU: Legal and Advocacy Services
Sponsor: Reps Coghill, Neuman, Wilson, Hawker, Lynn Component: Office of Public Advocacy
Requester: _____ Component Number: 43

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	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	0.0	0.0
Contractual	0.0	0.0	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	0.0	0.0
Equipment	0.0	0.0	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	0.0	0.0
Grants & Claims	0.0	0.0	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	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	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	0.0	0.0
1004 GF	0.0	0.0	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	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This bill would include Alaska among the states agreeing to set up a commission to establish rules regarding the out of state placement of children. It is not expected to have a fiscal impact on OPA.

Prepared by: Joshua P. Fink, Director
Division: Office of Public Advocacy
Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Phone: 907-269-3501
Date/Time: 2/20/08, 10:30 a.m.
Date: 2/20/2008

ALASKA STATE HOUSE OF REPRESENTATIVES



Contact:

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North Pole, AK 99705
(907)-488-5725
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Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

SPONSOR STATEMENT

HB 50 Interstate Compact for the Placement of Children

In an effort to control the language of a new interstate compact for child placement, I agreed to introduce HB 50. Throughout the last year my office has been a participant in bringing out our concerns about the original language and working on amending the language to preserve state sovereignty. The HESS committee substitute is the latest version of the compact supported by the American Public Human Services Association and the American Academy of Adoption Attorneys.

The current ICPC was drafted in 1959 to assure that children placed across state lines were placed with the same protections and services as children placed intrastate. Through the years, however, it has become evident that the ICPC has resulted in unnecessary delays in moving children across state lines, lack of accountability, and an outdated administrative process. Additionally, the current ICPC applies to all interstate placements such as placement with relative and residential treatment centers, not just those placements involving children in state custody.

The new compact holds member states to a higher standard of duty, eliminates regulation of children not in state custody, makes provisions for private child placement agencies, and brings the administrative process into the 21st century with home study incentives, definitions for new terminology, requiring consideration of interstate placements, requires cooperation between member states in sharing information, and gives foster parents more participation in the process.

HB 50 gives state child placement agencies and courts the tools to make faster interstate placements and hold all parties accountable for providing a safe, reliable home for children in out-of-state placement.

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


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 11, 2008

SUBJECT: SFIN Questions (CSHB 50(JUD))(Work Order No. 25-LS0265\K))

TO: Representative John Coghill
Attn: Rynnieva Moss

FROM: Jean M. Mischel
Legislative Counsel 

The Senate Finance Committee has three questions pertaining to the above referenced bill as follows.

1. Does the designation of the Commissioner of Health and Social Services as the "executive head" under the compact violate the constitution?

No. Article III, sec. 1 of the Constitution of the State of Alaska vests the executive power of the state in the governor. Sec. 6 of CSHB 50(JUD) designates the commissioner as the "executive head" only for a specific purpose under the Interstate Compact contained in the bill. That section amends AS 47.70.060 as follows:

Sec. 47.70.060. Executive head. As used in art. VIII(B) and XIV(B) [ART. VII] of the Interstate Compact for [ON] the Placement of Children, the term "executive head" means the commissioner of health and social services [GOVERNOR]. The commissioner is authorized to establish a central compact office in accordance with the terms of art. VII(H) [GOVERNOR IS AUTHORIZED TO APPOINT A COMPACT ADMINISTRATOR IN ACCORDANCE WITH THE TERMS OF ART. VII].

The cross references in sec. 6 to articles VIII and XIV, at page 14, line 14 and at page 24, line 30 of the bill, provide the context for the phrase "executive head" as the "executive head of the state human services administration." Section 6 of the bill clarifies that that person is in fact the commissioner.

2. Does "commissioner" include "acting commissioner"?

Yes. An acting commissioner is, by definition, empowered as a commissioner for a temporary period of time.

Representative John Coghill

April 11, 2008

Page 2

3. Does the Indian Child Welfare Act supersede HB 50?

Yes, to the extent that there is a conflict in the two laws. Although I am not aware of any conflicts established in the bill, it is possible that guidelines proposed under the bill could create unforeseen conflicts. In that instance, the bill expressly provides for deference to the federal law at page 2, line 29 and again at page 13, lines 29 - 31.

If I may be of further assistance, please advise.

JMM" .cd

08-271.med

HB 50 Interstate Compact for the Placement of Children

Sectional Analysis for Version "K" Judiciary Committee Substitute

Section 1. Amendment language for title change of Compact.

Sec. 2. Repeals and reenacts Interstate Compact for the Placement of Children

Article I. PURPOSE. Provide uniform data collection; administrative rules implementing and regulating child placement in member states; provide coordination with other compacts affecting the placement of children; providing continuing jurisdiction and responsibility as if intrastate placement; promulgation of guidelines of Indian tribes; provide procedures to insure safe and suitable placement for children.

Article II. DEFINITIONS. New definitions for approved placement, assessment, child, certification, default, home study, Indian tribe, Interstate Commission for the Placement of Children, Jurisdiction, legal risk, member state, non-custodial parent, non-member state, notice of residential placement, placement, private child-placing agency, private child-placing agency, provisional placement, public child-placing agency, receiving state, relative, residential facility, rule, sending state, service member's permanent duty station, service member's state of legal residence, state, state court, and supervision.

Article III. APPLICABILITY. Interstate placement of a child in state custody as a child in need of aid or a child adjudicated delinquent or unmanageable based on the sending state; interstate placement of a child by a public child placement agency or private child placing agency as a preliminary step to a possible adoption.

Does not apply to a child in a custody proceeding in which a public child placing agency is not a party; interstate placement by one relative to another relative; placement of a non-state custody child in a residential facility by a parent; placement of a child with non-custodial parent under certain circumstances.

Article IV. JURISDICTION. The sending state retains jurisdiction over child, including power to order return of child; receiving state court shall confer with sending state court to determine forum for adjudication; sending state can terminate its jurisdiction under certain circumstances and is required to notify receiving state of that action; allows receiving state jurisdiction sufficient to deal with truancy, delinquency, crime or behavior involving a child violating receiving state laws; permits receiving state to take emergency jurisdiction for the protection of a child.

Article V. PLACEMENT EVALUATION. Sets out in the compact a process for the sending state requesting an assessment from the receiving state on placement.

provide evidence the placement is legal, certification that consent or relinquishment is in compliance, and obtain approval of public child placement agency in the receiving state. Allows the Commission to develop uniform standards for the assessment of the safety and suitability of interstates placements. A final decree of adoption cannot happen until the placement is authorized as an "approved placement" by the public child placing agency in the receiving state.

Article VI. PLACEMENT AUTHORITY. Placement cannot be made until approval is obtained from receiving state or until administrative reversal of a denial of placement.

Article VII. PLACING AGENCY RESPONSIBILITY.

- A. Sending state has financial responsibility for ongoing support and maintenance of child, including those services beyond the public services available in the receiving state. Receiving state's financial responsibility is for any assessment conducted and supervision conducted by the receiving state at the level necessary to support placement.
- B. Private child placement agencies shall be legally and financially responsible for the child as provided by law in the sending state until adoption is final and legally financial absent a contractual agreement to the contrary.
- C. Receiving state assessment shall be done in a timely manner.
- D. Public child placement agency will provide supervision and services for the child including timely reports to the sending state.
- E. Receiving state agency provides supervision and services for the child, including timely reports during the period placement.
- F. Compact does not limit receiving state from contracting for assessments, supervision or services for the child.
- G. Member states shall provide coordination among its branches of government by forming an advisory council or use of existing board.
- H. Requires each member state to have a central state compact office.
- I. Public child placement agency will oversee ICWA compliance.
- J. With consent of Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact. (Does this conflict with E?)

Article VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN.

Establishes the commission to be a joint commission of member states that shall have responsibilities, powers and duties set forth in HB 50 and additional powers as conferred by concurrent action of respective legislatures of the member states. Each member state will have a commissioner appointed by the HSS Commissioner and this member shall have legal authority to vote on policy related matters by the compact which binds the state. A majority constitutes a quorum and a member can delegate to another person from his or her state but cannot proxy their vote to another member of the commission.

The commission can appoint ex officio members who are from interested organizations and an executive committee shall be established to administer the day-to-day activities of the commission, which do not include rulemaking.

Article IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

- (A) Promulgate rules and take all necessary actions to effect the goals, purposes, and obligations enumerated in the compact.
- (B) Provide dispute resolution to member states.
- (C) Issue advisory opinions concerning interpretation of compact, bylaws, rules or actions.
- (D) Enforce compliance with compact.
- (E) Determine needs for collection of data and collect that data.
- (F) Establish and maintain offices.
- (G) Purchase and maintain insurance and bonds.
- (H) Hire or contract for services of personnel or contracts.
- (I) Establish and appoint committees and officers, including the executive committee.
- (J) Accept funds.
- (K) Lease, purchase, accept contributions or donations of real, personal, or mixed properties.

- (L) Sell, convey, mortgage, pledge, lease, exchange, abandon or dispose of real or personal property.
- (M) Establish budget and make expenditures.
- (N) Adopt a seal and bylaws.
- (O) Establishes annual reporting requirements tot legislatures, governors, judiciary and state advisory councils.
- (P) Coordinate public awareness of the commission and its purpose.
- (Q) Maintenance of books and records.
- (R) Perform functions necessary to achieve purposes of this compact.

Article X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.

Requirement to set up by laws within one year of first commission meeting and make all records public unless records would adversely affect the person's privacy rights or proprietary interests.

The Commission must meet at least once a year and have proper public notice. A public meeting could be closed by a two-thirds vote if discussion would include personnel issues; information privileged, proprietary or confidential in nature; accusation or a crime or censuring a person; investigative records; matters exempted by federal law; civil or legal proceedings; Meetings may be held by telecommunications or other electronic communication.

The Commission may appoint, through its executive committee, a non-voting staff director as secretary to the commission. It may also elect a chairperson and vice chairperson from among the commission members.

The commission's staff director and employees are immune from suit and liability unless the liability was caused by a criminal act or intentional or willful and wanton misconduct of such person.

Article XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.

Commission shall promulgate and publish rule that substantially conform to the principles of "Model State Administrative Procedures Act", 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) or other acts commission deems appropriate. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules.

Allows for an interested person to challenge a rule in the U.S District Court for the District of Columbia within 60 days of the rule being enacted. A majority of members may reject a rule. The new rules shall be enacted and the existing rules voided. Emergency rules can be adopted by a majority vote of the commission.

Article XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT.

The commission shall oversee the administration and operation of the compact and make sure the three branches of state government enforce the compact. The compact and its rules will be binding on compact states as administrative rules.

Requires state courts to take judicial notice of the compact and rules in any judicial or administrative proceedings. If there is a judicial challenge of a rule as provided for in Article XI, the Commission is entitled to receive service of process.

The commission shall adopt rules providing for mediation and binding dispute resolution and the cost of such actions will be the responsibility of the parties to the dispute. This would apply to disputing member states and member non-member disputes.

If the Commission determines a member has defaulted it may provide remedial training and specific TA or provide written notice of default and the means of curing the default. By a majority vote, the Commission can initiate legal action against the member state in the U.S. District Court for the District of Columbia or a federal district court where the Commission has its principal office. The relief sought may be both injunctive relief and damages.

Rule 24, Alaska Rules of Civil Procedure is amended by entitling the Commission to have standing to intervene in a judicial proceeding in a state pertains to the Compact and in which the validity of a compact provision or rule is an issue for which judicial determination has been sought.

Article XIII. FINANCING OF THE COMMISSION.

The Commission can levy on and collect an annual assessment from each member state to cover cost of operations. The Commission shall determine what formula to use and shall promulgate a rule binding upon all member states.

The Commission cannot incur any obligations prior to securing funding and shall not pledge credit of any member state without prior to being given authority to do so by that member state.

The Commission shall keep accurate books and have an annual audit by a certified or licensed public accountant.

Article XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT.

Any state is eligible to become a member of the Commission and Compact will become effective upon legislative enactment by thirty-five (35) states. Non-member states can participate on a non-voting basis.

No proposed amendments to the Compact may be enacted without unanimous consent of the member states.

Article XV. WITHDRAWAL AND DISSOLUTION.

Member states may withdraw from the compact by repealing the statute that adopted the compact and the effective date of the repeal will be the effective date of withdrawal. The withdrawing state shall be responsible for all assessments, obligations, and liabilities incurred through the effective date of the withdrawal. Reinstatement is accomplished by readopting the compact.

Dissolution of the compact occurs when only one state remains in the compact.

Article XVI. SEVERABILITY AND CONSTRUCTION.

The provision of the Compact are severable. If one or more provisions in the compact are found to be unenforceable, the remaining provisions are enforceable.

Article XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS.

A. Other Laws

Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

(B) Binding Effect of the Compact

All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

If any provision of the compact exceeds constitutional limits of a member state, that provision will be ineffective to the extent of the constitutional conflict.

Article XVIII. INDIAN TRIBES.

The Commission may promulgate guidelines to permit Indian Tribes to utilize the compact and make reasonable effort to consult with Indian tribes in promulgating guidelines.

Sec. 3. Conforming language for financial responsibility section of the Compact.

Sec. 4. Conforming language for entering into agreements with appropriate officers or agencies.

Sec. 5. Conforming language for delegation by agreement for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state.

Sec. 6. Redefines executive head from the governor to the commissioner of health and social services and provides for establishing a central compact office.

Sec. 7. Language conformance on short title of Compact.

Sec. 8. The following statutes are repealed:

AS 47.70.030. Designation of authority. The term appropriate public authority is no longer used in this title as the compact is now administered by the member states' member of the commission.

AS 47.70.070. Violations of the compact. The Commission will now determine the violations and the enforcement of the compact, so this section is no longer needed.

Sec. 9. Court Rule change to provide the Commission with notice when a judicial proceeding has been filed relating to the validity of a compact rule or provision is an amendment to Rule 4, Alaska Rules of Civil Procedure.

Rule 24(b), Alaska Rules of Civil Procedure is amended by entitling the Commission to have permissive intervention in a judicial proceeding in a state pertains to the Compact and in which the validity of a compact provision or rule is an issue for which judicial determination has been sought.

Sec. 10. Those sections of Art. XII(4) become effective only if Section 9 amending court rules is approved by a two-thirds majority vote of each house.

Sec. 11. Effect of Act occurs when 34 other states have ratified the Compact. The Department shall notify the lieutenant governor and the revisor of statutes when this occurs.

Sec. 12. The effective date of sections 1 through 10 is one day after the Health and Social Services notifies the revisor of statutes that 34 other states have ratified the Compact.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

SARAH PALIN, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

April 9, 2008

RECEIVED

APR - 9 2008

Honorable Senator Bert Stedman
Alaska State Legislature
Capitol Bldg, Room 516
Juneau, Alaska 99801-1182

Dear Senator Stedman:

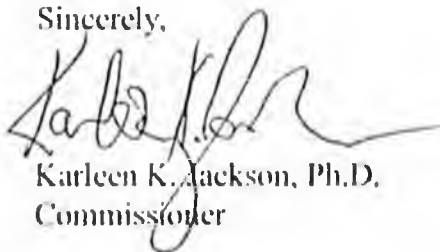
Representative John Coghill has asked that I write to you today regarding House Bill 50, the Interstate Compact for the Placement of Children (ICPC) bill.

HB 50 proposes that Alaska adopt the newly written and nationally proposed ICPC Compact. While the Department's fiscal note reflects that this legislation would result in increased operating costs beginning in FY 2011, the Department also anticipates an incalculable future cost savings. The reason we will realize cost savings is that these children will not be in Alaska's foster care system as long.

The Office of Children's Services reports that about 35 percent of the children that the Department currently sends on ICPC placements to other states are leaving the home of a non-relative, Alaska-licensed foster care provider, and entering the home of a relative in another state. Assuming that some unknown percentage of those relatives choose *not* to become licensed, and factoring in the new ICPC Compact's shortened time requirements for states to complete home studies for these children, Alaska's foster care payments for some of those children would end sooner than they do under the current ICPC Compact.

Thank you for considering HB 50 for calendaring in the Senate Finance Committee this legislative session.

Sincerely,



Karleen K. Jackson, Ph.D.
Commissioner

cc: Representative John Coghill
Tammy Sandoval, OCS Director
Marcia Pickering, ICPC Compact Administrator

REPRESENTATIVE
JOHN COGHILL
HOUSE RULES
COMMITTEE CHAIRMAN

During Interim: (June-Dec.)
3340 Badger Road
Suite 290
North Pole, Alaska 99705
(907) 488-5725
Fax (907) 488-4271

Alaska State Legislature



House of Representatives

DISTRICT 11

During Session: (Jan.-May)
State Capitol, Room 214
Juneau, Alaska 99801-1182
(907) 465-3719
Fax (907) 465-3258
1-877-465-3719

March 6, 2007

Steve Dale, Commissioner
Department for Child and Family Services
103 S Main Street
Waterbury VT 05671-9800

Dear Mr. Dale:

I introduced HB 50 in the Alaska Legislature after hearing the need at a CSG meeting for a new Interstate Compact. However, we have not scheduled the bill for committee at this time due concerns we have with the current revised ICPC.

We have met with our local ICPC administrator as well as other groups concerned with the revised ICPC and have come to the conclusion that specific items need to be addressed before we can proceed with the bill. These problems include:

- Art. XII (A)(2); Art. XII (C)(c): Enforcement issues
- Art. XIII (B): Program cost
- Art. VI. (B); Art. XI (D): Potential conflicts with state sovereignty
- Art. IX. (A) (C) (D); Art. XI (A) (D) (H): Formulation of regulations

We are strongly supportive of working with the ICPC and other states to improve the process of adopting and placing foster children in order to ensure a safe and timely procedure. This requires a process that is open and responsive. To this end we would like to have the opportunity to view the feedback that the drafters received from the various states about the concerns they had with the draft as well as suggestions for improvement.

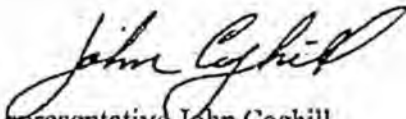
We would like to work with the commission and compact coordinators of CSG to come up with proposals to current problems that we have with the new ICPC and we look

forward to the opportunity to do this. We want an ICPC that we can fully support and will work for passage in our state legislature. However, we are just as strongly committed to block the passage of the ICPC in its current form.

The need for fixing problems that exist with the current ICPC is real and urgent and we support this effort. We look forward to hearing from you and would appreciate your comments and recommendations regarding the issues aforementioned.

Thank you for your work on the new ICPC.

Sincerely,



Representative John Coghill
Rules Chairman

cc:

Leslie McGee
Dr. Bruce Goldberg
Howard Hendrick
Carmen Hooker Odom
Chris Peterson
Lewis H. Spence
Brenda Harvey
Kevin Concannon
Jim Robertson
John Mountjoy



AMERICAN ACADEMY OF
Adoption Attorneys

P.O. Box 33053
WASHINGTON, D.C. 20033-0053
www.adoptionattorneys.org

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January 14, 2008

VIA EMAIL ATTACHMENT

Carla Fults, Project Manager
American Public Human Services Association (APHSA)
810 First Street, N.E., Suite 500
Washington, DC 20002

Dear Ms. Fults:

On behalf of the American Academy of Adoption Attorneys (AAAA), it is my pleasure to inform you that the January 7, 2008, draft of the new Interstate Compact for the Placement of Children (ICPC) that you provided to us has been approved by AAAA Board of Trustees.

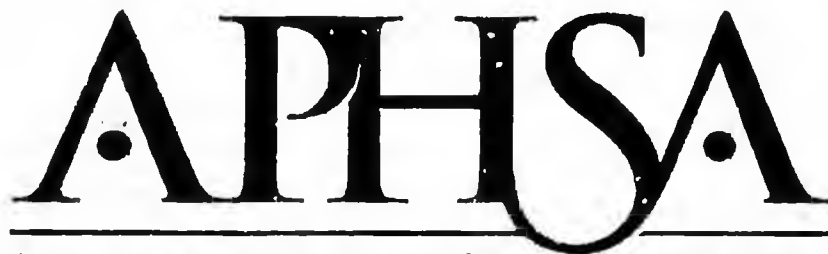
In a message to all the Fellows of the Academy sent today, I announced the official position of the Academy to recommend passage of this version by the states.

Please let me know if you need anything further at this time regarding AAAA's support of The New Compact.

Very truly yours,

Herbert A. Brail, President

HAB/cr



American Public Human Services Association

TO: Commissioners, Child Welfare Directors, Compact Administrators,
Deputy Compact Administrators and ICPC Staff

FROM: Carla Fults,
Project Manager

DATE: January 25, 2008

SUBJECT: Endorsement and Revisions of the New ICPC of the New Interstate
Compact *for* Placement of Children. (ICPC)

It is with great pleasure that I inform you that the American Academy of Adoption Attorneys (AAAA or Quad A) has agreed to full approval and support of the attached version of the New Interstate Compact *for* the Placement of Children (ICPC or New ICPC). After careful negotiation with the American Academy of Adoption Attorneys, we have successfully negotiated new provisions which address the concerns raised by various private and independent adoption groups throughout the country. The attached document is a result of contributions from state compact administrators, state legal counsels, stakeholders and child and family welfare judges. The Executive Committee of the National Council of State Human Services (APHSA Policy Council) has endorsed the attached revised version of the New Interstate Compact *for* the Placement of Children (ICPC) for introduction to state legislatures. In addition, the executive committees of the National Association of Public Child Welfare Administrators (NAPCWA) and the Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC) have endorsed the attached version of the New ICPC.

You may recall, between June, 2006 and July, 2007, approximately fifteen (15) states introduced the Proposed New Compact. However, only Ohio, Missouri and Maine were successful in passing the legislation. Private and independent adoption agencies launched an effective campaign to oppose the Proposed New ICPC, asserting that the draft did not adequately address many of the problems and barriers existing under the current ICPC. Such barriers included excessive wait times for ICPC processing before prospective adoptive parents could travel or return to their home state with a child; arbitrary requests and requirements which were not an important or necessary part of the ICPC process; and conflict of laws and unclear processes where two or more states were involved in an interstate adoption. In addition, the group argued that the Proposed New Compact needed to clarify the definition and application of an assessment compared to a home study and whether these terms would represent and require a separate and

additional review when placing a child; to include language that would provide for a choice of law in the state where an adoption is finalized; and lastly, to amend language which indicated that the rules promulgated by the interstate commission would "supersede state law". State legislatures also expressed opposition to language which stipulated that the rules would "supersede state law".

The New Compact now provides for a choice of law (Article IV) in the state where the adoption will be finalized; clarifies the definition of assessment and home study and the application of each term (Article II); provides for provisional travel for prospective adoptive parents, contingent upon submission, receipt and review of required documents to verify and ensure safety (Article V); and clarifies that rules promulgated by the interstate commission shall have the force and effect of administrative rules (Article XI). A list of the revised articles is included below. In addition, please find attached the New Compact with revisions in red, the endorsement letter from the American Academy of Adoption Attorneys, a clean copy of the New Compact which does not highlight changes and may be used as enabling legislation when introducing the New ICPC in your state legislature, and the email cover memo in Word format (document).

APHSA will hold an all-state call for questions and answers (Q&A) on Thursday, January 31, 2008 at 3 p.m. E.T. For those states that are planning to introduce the New ICPC before the all-state call and have questions and (or) need assistance, please feel free to contact Carla Fults at (202) 682-0100, ext. 242. APHSA will continue to provide the states with the following services to support enactment of the New ICPC.

- Develop boiler-plate legislative testimony to be used during legislative committee hearings and/or other public events where the primary goal is education on the ICPC. The model testimony will be developed in such a manner as to be customizable for a variety of uses and for a variety of champions and staff.
- Respond to specific questions from the states.
- Convene meetings via teleconference with your attorney general or other state/agency officials to provide clarification of provisions contained within the Compact.
- If necessary, convene an on site briefing with key legislators legislative staff, executive branch and agency officials and relevant stakeholder groups.
- Provide tailored assistance to individual states at your request.
- Provide expert(s) to testify with you.
- Work with your attorney general or your ICPC staff to include necessary state legislative language which does not alter or change the intent or foundation of the Compact.

On behalf of APHSA, I would like to extend a special thank you to the AAICPC, NAPCWA, and to the many state legal counsels, judicial and interstate administrators and staff who participated in producing this revised version of the New ICPC. If you have questions, please feel free to contact me by email at efults@aphsa.org or at (202) 682-0100, ext. 242. Thank you in advance for your continued support of the New ICPC.

List of Articles Amended

- Article II. Definitions (Assessment, Home Study; other definitions were added to support overall changes)
- Article IV. Jurisdiction (Choice of Law)
- Article V. Placement Evaluation (Provisional Travel/Placement)
- Article XI. Rulemaking Functions of the Interstate Commission (Interstate Commission)

Attachments:

- The revised copy of the New ICPC with changes in red – Entitled “The New Compact with revisions shown 010708”
- Endorsement letter from the American Academy of Adoption Attorneys
- Clean version of the New ICPC to be used for state introduction/enactment - Entitled “The New ICPC 2008”
- Word version of the email cover memo – Cover memo for Endorsement of the New ICPC

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 11, 2008

SUBJECT: SFIN Questions (CSHB 50(JUD)(Work Order No. 25-LS0265\K))

TO: Representative John Coghill
Attn: Rynnicva Moss

FROM: Jean M. Mischel
Legislative Counsel 

The Senate Finance Committee has three questions pertaining to the above referenced bill as follows.

1. *Does the designation of the Commissioner of Health and Social Services as the "executive head" under the compact violate the constitution?*

No. Article III, sec. 1 of the Constitution of the State of Alaska vests the executive power of the state in the governor. Sec. 6 of CSHB 50(JUD) designates the commissioner as the "executive head" only for a specific purpose under the Interstate Compact contained in the bill. That section amends AS 47.70.060 as follows:

Sec. 47.70.060. Executive head. As used in art. VIII(B) and XIV(B) [ART. VII] of the Interstate Compact for [ON] the Placement of Children, the term "executive head" means the commissioner of health and social services [GOVERNOR]. The commissioner is authorized to establish a central compact office in accordance with the terms of art. VII(D) [GOVERNOR IS AUTHORIZED TO APPOINT A COMPACT ADMINISTRATOR IN ACCORDANCE WITH THE TERMS OF ART. VII].

The cross references in sec. 6 to articles VIII and XIV, at page 14, line 14 and at page 24, line 30 of the bill, provide the context for the phrase "executive head" as the "executive head of the state human services administration." Section 6 of the bill clarifies that that person is in fact the commissioner.

2. *Does "commissioner" include "acting commissioner"?*

Yes. An acting commissioner is, by definition, empowered as a commissioner for a temporary period of time.

Representative John Coghill
April 11, 2003
Page 2

3. Does the Indian Child Welfare Act supersede HB 50?

Yes, to the extent that there is a conflict in the two laws. Although I am not aware of any conflicts established in the bill, it is possible that guidelines proposed under the bill could create unforeseen conflicts. In that instance, the bill expressly provides for deference to the federal law at page 2, line 29 and again at page 13, lines 29 - 31.

If I may be of further assistance, please advise.

JMM:med
08-271.med

HB

51

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 51
(H) Publish Date: 2/1/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title Recorking wine served with a meal RDU Statewide Support
Component ABC Board
Sponsor Representative Ramras
Requester House Labor & Commerce Component No. 2690

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This statute change will incur no fiscal impact on the Alcoholic Beverage Control Board.

Prepared by: Douglas B. Griffin Phone 269-0351
Division Alcoholic Beverage Control Board Date/Time 1/29/07 2:24 PM
Approved by: Commissioner Walt Monagan Date 1/29/2007
Agency Department of Public Safety

Chair, Judiciary
Labor & Commerce
Oil & Gas
Military & Veteran Affairs
1292 Sadler Way, Suite 324
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Alaska State Legislature House of Representatives



While in Session
State Capitol, Room 118
Juneau, Alaska 99801-1182
(907) 465-3004
Fax: (907) 465-2070
Toll Free: (877) 465-3004

Representative Jay Ramras
District 10

House Bill 51 Sponsor Statement

"An Act relating to recorking, sealing, or packaging of wine served with a meal and removal of recorked, sealed, or packaged wine from licensed premises."

House Bill 51 will allow the patrons of restaurants to enjoy a bottle of wine with their meals without the need to consume the entire bottle. Presently, if a customer purchases dinner and is unable to eat it all they can request a package to take the leftovers home. If it is a bottle of wine the only options are to finish it before leaving, or leave the unconsumed portion at the restaurant. Since the majority of customers chose the first option they may have had too much to safely drive.

What House Bill 51 does is allow the restaurant to recork the bottle in such a manner as to require the use of a corkscrew to reopen the bottle. In the case of non-corked bottles or at the discretion of the Alcohol Beverage Control Board the wine can be sealed.

House Bill 51 is an additional tool to curb DUI's by allowing the consumer to purchase and enjoy a bottle of wine with their dinner, and not overindulge simply because of economics.

Sec. 04.16.120. Removal or introduction of alcoholic beverages.

Statute text

(a) A person may not remove from licensed premises alcoholic beverages that have been sold or furnished for consumption only on the premises.

(b) Except as provided in this subsection, a person may not bring an alcoholic beverage into licensed premises for use or consumption by oneself or another person on the premises unless that person is a licensee, an agent, employee, or common carrier in the regular course of employment. With the permission of the licensee, a person may bring wine into premises licensed as a beverage dispensary or a restaurant or eating place for consumption by the person while eating food served at a table on the licensed premises. The beverage dispensary or restaurant or eating place may charge a corkage fee for serving wine supplied by a customer.

History

(§ 3 ch 131 SLA 1980; am § 15 ch 74 SLA 1999)



State of Alaska
Department of Public Safety
Alcoholic Beverage Control Board

Sarah Palin, Governor
Walt Monegan, Commissioner

January 30, 2007

Representative Jay Ramras
Alaska House of Representatives
State Capitol
Room 118
Juneau, Alaska 99801-1182

RE: HB 51 - Recorking Wine Served with a Meal

Dear Representative Ramras:

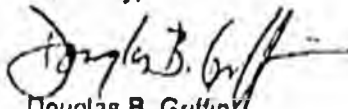
I have been asked your aide Emily Standcliff to update written communication I had with your staff last year regarding legislation you have introduced to allow for the recorking and removal from liquor licensed premises wine not consumed by a customer. It is my pleasure to do so, speaking only for myself and not the Alcoholic Beverage Control Board.

HB 51 is brief, but very specific, in describing circumstances when wine ordered and served for consumption may be resealed and removed from licensed premises. Your bill is limited to wine that has been partially consumed with a meal and requires care to reseat the bottle to address concerns regarding open containers of alcohol in a motor vehicle. Keeping the bill narrow is important so that distinctions made in Title 4 between licenses for on-premise alcohol consumption and off-premise consumption (package stores) are kept as clear and separate as possible.

Recorking provisions are found in many states. The consensus of states that allow the resealing of wine not consumed with a meal is that benefits outweigh potential problems. This bill removes one more excuse for a person to drink excessively and endanger the public by driving. Dining patrons are also able to have a wider array of choices in selecting a wine to have with their meal knowing that unfinished wine may be removed and enjoyed at a later time at home or in their hotel room.

I hope this letter proves helpful to the committee. I will be available to answer any further questions at the House Labor and Commerce Committee hearing on January 31.

Sincerely,


Douglas B. Griffin
Director

cc: Lauren Rice, Special Assistant, Department of Public Safety
Anna Carpeneti, Asst. Attorney General, Department of Law

Alcoholic Beverage Control Board
5848 E. Tudor Road - Anchorage, AK 99507 - Voice (907) 259-0350 - Fax (907) 272-9412



2005 02 18: Michigan Considers a Wine Re-corking Bill

by Joseph McConnell

There's an old piece of Internet humor that contrasts the Martha Stewart personality type with the attitudes and reactions of "the real woman." In one of its entries, it has the Martha-type saying that freezing in ice cube trays is a wonderful way of preserving leftover wine. The real woman's reaction is, "*Leftover wine?*"

We react in somewhat the same way to a bill introduced recently in the Michigan Senate by Sen. Jud Gilbert, which would permit restaurants and restaurant patrons to "re-cork" and take home wine left over at the end of a meal. Not a problem we often have. But although CII management will probably seldom take advantage of this capability, we still support it, for several reasons.

First, we applaud anything that encourages diners to order and restaurants to offer higher quality wines. The theory is, if you know that you'll be able to take home (and perhaps freeze in ice cube trays) the remains of that Chateaufort or Howell Mountain, you're more likely to order it instead of the Bonny Doon or even the Diet Slurpee. This is of particular interest when you consider people who often dine out alone; without a recorking law, dinner for one means a choice between the by-the-glass offerings, getting sloshed, or leaving good wine to the tender mercies of the kitchen staff.

And it's also argued that the bill will have some impact on drunken driving -- you won't feel economically pressured to finish your bottle, and therefore will drive more sensibly and safely on the way home. We admit that this is not the most convincing argument -- no statistics are collected here or anywhere else to show *what* an intoxicated driver was drinking, and consequently there's no basis to say that people pushing themselves to drain the last drop from a bottle of 1995 Brunello are subsequently laying waste the countryside. But if it makes the values voters happy, we're willing to play along, since the other benefits for the industry and the consumers are real enough.

The mechanics of it are not specified in the current bill's language -- presumably it would be necessary to do more than just pounding in the cork again. There's likely to be some kind of official re-seal process or something similar, letting Officer Friendly know that you're a fine upstanding oenophile who simply practices moderation, and not some Ripple-swilling Beatnik, cruising for babes with an open bottle of alcohol in your car.

In fact, if it becomes law, it might not be a bad idea for restaurants to provide a hang tag of some kind, citing the actual bill. And of course, there might be some incremental revenue to be made by selling preservation gear along with the re-corked bottle. A basic VacuVin kit, perhaps with the restaurant's label, might be a nice thing to stock and sell as an add-on.

Anyway, if you're a Michigan voter and you'd like to see the state follow the 30 other states that have similar laws, drop your Senator a line and encourage him or her to support Senate Bill 0199 2005.



State Regulations on Re-corking Wine from Restaurants

Compiled by the National Restaurant Association from state liquor authority, state restaurant association, and other sources. All information is believed to be accurate as of June 2005 and is provided with the understanding that the National Restaurant Association is not engaged in rendering legal or professional services. No warranty of accuracy is given. Please verify policies and appropriate procedures with your state and local alcohol beverage control department as other regulations may apply.

State	Rules on taking wine home from restaurants
Arizona	Patrons may re-cork and removed a partially consumed bottle of wine as long as it was purchased with a meal and the cork is replaced flush with the bottle.
Arkansas	Arkansas ABC Reg. 1.79(27) does provide that those establishments which hold an on premise permit that would allow the service of wine may allow a consumer who purchases an unsealed package of wine in conjunction with a food service and consumes a portion of the wine on the premises with the meal, to replace the cork and remove the partially filled package from the premise. Contact enforcement agency for compliance details.
California	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Colorado	Patrons may take one 1 partially consumed bottle of wine up to 750 ml purchased from an establishment with a hotel/restaurant liquor license. Restaurants are not required to do so. Those restaurants who do extend this option to customers is urged to reseal and package the wine to protect against any open container violation. (enacted 2005)
Connecticut	Patrons are allowed to take wine home when purchased with a meal. Regulations pertaining to transportation of unsealed container apply.
Delaware	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details.
Florida	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details. (enacted 2005)
Georgia	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details.
Hawaii	Legislation enacted in 2002 allows county liquor commissions to permit many licensees (incl. restaurants) to allow patrons to remove re-corked/re-sealed wine from premises. Contact enforcement agency for compliance details.
Idaho	Patrons are allowed to take wine home when purchased with a meal. Regulations pertaining to transportation of unsealed container apply.
Indiana	Patrons are allowed re-cork and take home wine purchased with a meal. The cautionary statement is to avoid any violation of the open container laws in the area that the wine will then be transported in. Local law enforcement can provide that information.
Iowa	Patrons are allowed to take wine home when purchased with a meal if the restaurant or bar has the appropriate licensing in place.

Louisiana	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Maine	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Michigan	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details. <i>(enacted 2005)</i>
Minnesota	A restaurant with an on-sale or wine license may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal, to remove the bottle when leaving the license premises provided that the bottle has been opened and the contents partially consumed.
Montana	Re-corking is permitted in businesses with all-beverage licenses or beer/wine licenses. A restaurant beer/wine license may <u>not</u> sell alcohol to go. Contact enforcement agency for compliance details.
Nevada	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
New Hampshire	Unconsumed wine purchased with a full meal may be taken from premises, provided patron is not intoxicated, bottle is properly sealed/bagged, and transported in vehicle area inaccessible to the driver.
New Jersey	Patrons are allowed to remove partially consumed wine from the premise as long as it is re-corked and placed in the trunk of the car. Not having direct access to the wine would remove the chance of receiving an open container citation.
New York	State law does allow patrons to take home <u>one</u> bottle of wine purchased with full meal. Please contact enforcement agency for compliance details.
North Carolina	If the establishment has an <u>off-premises</u> permit, then they customer can take an opened bottle of wine home by corking it. If the establishment does <u>not</u> have an off-premises license, the customer cannot. Re-corked wine must be transported in a vehicle compartment inaccessible to the driver.
Oklahoma	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Oregon	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Pennsylvania	All hotel (H) and restaurant (R) licensees may now allow patrons who have purchased a bottle of wine in conjunction with a meal, to take the unconsumed portion of the bottle with them when they leave. The bottle <u>must be resealed</u> before leaving the premises. A "meal" is defined as food prepared on the premises sufficient to constitute breakfast, lunch, or dinner; a "meal" does not include snacks such as pretzels, popcorn, chips, or similar items. This does not apply to retail dispenser (beer only or E), club, (C) or catering club (CC) licenses.
South Carolina	Nothing in the S.C. law prevents a patron from removing the open container from the restaurant. It is also legal to have the open container in a car as long as it is in the trunk or luggage compartment. Contact enforcement agency for compliance details.
Tennessee	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.

Texas	Patrons who order wine with food and have a portion of the open container remaining may remove the open container of wine from the premises. Contact enforcement agency for compliance details.
Utah	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Vermont	Vermont allows restaurants the discretion of allowing patrons to take home opened, bagged bottles of wine. **only in accordance with T 7 VSA § 222(1) Contact enforcement agency for compliance details.
Virginia	Patrons are allowed to take wine home when purchased with a meal. While it is not required to be in the trunk it is recommended that the bottle is inaccessible to the driver and passengers.
Washington	Washington law permits the unused portion of wine to be re-corked, packaged and carried out by the guest. Contact enforcement agency for compliance details.
Wyoming	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details. <i>(enacted 2005)</i>

** All states not mentioned do not allow the re-corking and removal of partially consumed wine that was purchased with a meal.

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Wine making supplies and beer making supplies for home wine or home brewing. We stock only quality Wine Cellar Supply and Bee Supply in Elkhart just outside of Goshen, South Bend, Chicago or Indianapolis. Use our great selection of high quality wine making and beer making equipment, wine making kits, beer making kits and supplies for making your favorite homebrew and home made wine and beer kits at everyday low prices. Kegging equipment, grape corks, wine bottles, beer bottles and more in stock and ready to a wide today. Cheers and Salute from Quality Wine and Ale Supply.

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Wine Corks, Wine Corkers

corks, wine corks, bottle corks, wine making kits, wine making supply, home wine making supplies, winemaking supply, wine making supplies...



Item # 17421

Champagne Floor Corker by Ferrari

Corks Champagne bottles and standard wine bottles. Uses our 1 champagne corks or any straight wine cork. Very good quality all frame and legs. Corks all standard size wine bottles including 37 1.5 ltr. and 750ml champagne bottles. Caps beer bottles too with adaptor for crown caps #17530 sold below.

\$93.95

Quantity
1



Item # 17530

Adaptor for Crown Caps - Use with Corkers Listed

For use with our #4040 La Dio Padre or our #17421 Champagne cap your beer bottles with any metal crown cap. Makes your wine versatile and capping could not be easier.

\$9.95

Quantity
1

Item # 4036

Italian Twin Lever Corker

Deluxe, adjustable push rod for regulating depth of cork insertion favorite corker.

\$19.95

Quantity
1

- Carboys
- Chemicals - Wine
- Clarifiers - Wine
- Corks
- Corkers
- Crushers - Grapes
- Destemmers - Grapes
- Demi-Johns
- Fermentors
- Filters and Pads
- Foils - Champagne



- Fruit Flavoring
- Labels and Paper
- Presses - Grapes
- Shrink Caps
- Spigots - Wood
- Sterilizing - Wine
- V-Vessel System
- Wine Storage Racks
- Wine Accesories
- Wine Glasses
- Yeast - Dry - Wine
- Yeast - Liquid
- Coming Soon:
 - Stainless Tanks



Item # 4037
Easy Twin Lever Corker
 Nylon body with spring that helps secure bottle from sliding while duty then our Italian twin lever corker.

\$24.95 Quantity
1

- Beer Making Supplies
- BYO Brew Your Own Magazine
- Beer Equipment Kits
- Beer Ingredient Kits:
 - Brewers Best Kits
 - Brew House Kits
 - Malt Extract Kits
 - Barons Beer Kits



Item # 4039
Portuguese Twin Lever Corker
 Good quality corker.

\$13.95 Quantity
1

- Additives - Beer
- Books - Beer
- Bottles - Beer
- Brewers Garden Herbs
- Brewing / Boiling Pots
- Candi & Sugars
- Caps & Cappers
- Carboys
- Chemicals - Beer
- Cleaners - Beer
- Fermentors
- Filters and Pads
- Flakes & Adjuncts
- Fruit Flavors
- Oregon Fruit
- Purees



Item # 4040
Italian Floor Corker - 'La Dio Padre' by Ferrari
 'La Dio Padre' of floor corkers. Brass crimping jaws. If you are lo this is it! Handle breaks down into two sections for easier storage standard size wine bottles including 375ml, 750ml and 1.5 ltr. Ct too with the optional adaptor for crown caps #17530 sold above.

\$89.95 Quantity
1

Item # 4042

- [Harvest Fruit Bases](#)
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- [Herbs - Dried](#)
- [Hops](#)
- [Kegging Equipment](#)
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- [V-Vessel System](#)
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Portuguese Floor Corker

Excellent, heavy duty floor corker with high quality crimping jaws and 1.5ltr bottles. Corks 375ml bottles with small block of wood placed on bottle holder. Makes a great gift!

\$49.95

Quantity



Our No. 7 first quality corks are made of natural cork, prewashed natural products, greatly improving their appearance. The corks have decorative grape leaf pattern and are chamfered. Recommended stopper for table wine only, non-wine liquid or bottle closures. Can hand so they are tight but NOT airtight. NOT recommend for lay any liquid but upright storage is ok. Great when using wine bottle with red hots, M&M's or when sending wedding or party invitation

First Quality Corks / #7 x 1-3/4

Selected Item #4050

\$3.49

Quantity



1-3/4 inch long corks provide up to 3-5 years of protection for aging quality corks are made of natural cork, prewashed and filled with greatly improving their appearance. The corks are printed with a leaf pattern and are chamfered. Best choice when using a twin le any hand corker. Floor corkers too.

First Quality Corks / # 8 x 1-3/4 Corks

Selected Item #4080

\$3.95

Quantity



1-1/2 inch long corks provide up to 2 years of protection for aging corks are made of natural cork, prewashed and filled with natural improving their appearance. The corks are printed with a decorative pattern and are chamfered. Recommended for use with floor cork

First Quality Corks / # 9 x 1-1/2 Corks

Selected Item #4062

\$3.95

Quantity

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1-3/4 inch long corks provide up to 3-5 years of protection for age. Quality corks are made of natural cork, prewashed and filled with a leaf pattern and are chamfered. Recommended for use with floor

First Quality Corks / # 9 x 1-3/4 Corks

Selected Item #4084

(A) First Quality Corks / Bag of 30 / No. 9 x 1 3/4

\$4.25

Quantity

1



Quality Wine and Ale Supply and Nomacorc® have joined forces #1 synthetic cork on the market! "What's so special about these? The answer is the manufacturing process. Other types of synthetic injection molded which is a batch process that produces corks with density and cell structure size resulting in inconsistent protection. Nomacorc® are made by a unique, patented, co-extrusion process interior and exterior sections of the cork by heat adhesion. Extrusion continuous process that provides a very consistent quality, and are exactly the same. Nomacorc® is simply a better closure because closed cell structure creates a better barrier from oxygen and prevents your wine. They have made for us a 9 x 1 1/2 cork, printed with a logo. We've tested the corks and they work best with floor corks and with hand corks too. These corks seal instantly and the bottle can be stored directly after corking. You can also use any common corker on your wine bottles. This is modern technology that preserves your wine. We are pleased to be able to offer it to you. Recommended for use with floor corks and also for twin lever corks. These corks will provide at least 3 years of protection during aging.

Nomacorc® Synthetic Corks / # 9 x 1-1/2

Selected Item #4088

(A) Nomacorc® Synthetic Corks / Bag of 30 / No 9 x 1-1/2

\$6.75

Quantity

1



1-3/4 inch long corks provide up to 5 years of protection for aging. These corks are agglomerated and non-chamfered. You will find minimal defects. High quality corks. Use with floor corks only.

Premium Twin Disc Wine Corks / #9 x 1-3/4

Selected item #4102

(A) Premium Corks / Bag of 30 / No 9 x 1 3/4

\$6.25

Quantity

1



Selected Item #4119

(A) 9 x 1-1/2 Agglomerated Superior Wine Corks - Per 1000

\$49.95

Quantity

1

This is a ridiculously unbelievable sale, a real super Superbuy! A cork supplier has closed their doors and auctioned off their left over just happened to be at the right place at the right time and score There is no compromise on quality here as all the corks are wine want to act fast because quantities are limited and when the corks are gone for good. Choose your style and length. 1000 count bag

Some types of corks:

Agglomerate Corks: (#4119)

This type of cork closure is produced from cork granules that are cork oak resins using heat treatment while under pressure. They are formed by a single molding or by extrusion. Agglomerate cork has high resistance to air and moisture. Agglomerate cork has a good seal. A mixture of clean cork granules that are pressed together and formed into wine corks are used to produce agglomerate stoppers. Agglomerate wine corks are the ideal economically produced stoppers to be used which will be consumed within two or three years.

Twin Top (Disc) or One by One Corks: (#4117 & #4111)

This is a new generation of cork stoppers, economically priced as well as high quality natural straight corks. It is comprised of an agglomerate cork, and a disc of natural cork at each end.

(Below is for customer information only for other types of corks)

Natural Straight Wine Corks:

This is a cylindrical stopper which has been punched directly from 100% natural product. Once the stopper has been punched it is sorted into correct length, sorted into various qualities by computerized sort and washed and sterilized. For added assurance, a final quality sort is done manually and random samplings are sent for laboratory testing for microorganisms, moisture control, etc. There are different grades of treatments available depending on the type of bottle, bottling method.

Ice Wine Natural Corks:

These are the highest quality corks specifically sized and treated for use in neck ice wine bottles and to withstand high sugar content

Colmated or Pore-Filled Corks:

This is a natural cork which goes through an extra operation of "colmation" inherent to all corks. This treatment improves the cork's mechanical strength. Usually the filling of the pores is performed on lower grades since they are of a quality high enough not to require pore filling. The "filling" is done using a mixture of cork particles of a granulometry and natural wax approved by the FDA. Colmated corks are a very good functional stopper.

Item # 4208

Tapered Wine Corks / Bag of 25 / No. 8

Tapered cork with 7/8 inch top, 1 1/16 inch bottom.

Quantity

Restaurateurs toast wine 'doggie-bagging' laws

By Leeann Cannon

When it comes to promoting alcoholic beverage sales, restaurateurs sometimes are forced to choose between making a profit and making sure their customers are acting responsibly.

With an increasing number of states passing "recorking" bills on partially consumed bottles of wine, many restaurateurs around the country are singing the praises of the law that they see as a blessing to their businesses. There are approximately 30 states at present, including Colorado, Connecticut, Louisiana, Michigan, New York and Texas, which allow restaurants to reseal wine for customers to take home.

While the National Restaurant Association has "not paid a great deal of attention" to the so-called wine doggie-bagging measures, according to NRA spokesman Brad Dayspring, several state-level groups have shown a devoted interest.

Andy Deloney, director of public affairs for the Michigan Restaurant Association, said the MRA believes that recorking wine will encourage sales of bottles of wine at restaurants, adding, "That's something our members are interested in." The MRA represents more than 4,500 foodservice establishments.

In May Michigan became the latest state to pass the recorking ordinance. Dubbed the "Merlot-to-go" bill by the MRA, the bill passed through the state's Senate and House on a unanimous vote.

"We really believe the law is going to have a positive impact on drunk driving," Deloney said. "Some people go into a restaurant and can't finish a whole bottle. But if they spend \$50 on it, they're going to want to get their money's worth. This is where we've created a problem. Now, rather than risking impairing oneself, customers can take the bottle home."

Although the passage of the Merlot-to-go bill was unanimous, the Michigan Legislature employed a nonpartisan Senate staff called the Senate Fiscal Agency to analyze the proposed recorking law before the final decision was made.

The bill analysis committee noted that any recorking of partially consumed bottles of wine would have to comply with Michigan's Vehicle Code, which prohibits drivers and passengers from transporting open containers of alcohol unless they're in the trunk or a separate compartment. Open container laws proved to be a concern for many states when they were considering whether or not to pass similar recorking measures.

According to Michigan legislative analyst Suzanne Lowe: "Michigan has an open container law on the books for a reason: to discourage drinking and driving. ... Reportedly 41 percent of fatal car accidents involve alcohol. The bill might contribute to this problem by creating an opportunity for people to transport opened bottles of wine."

In response to Lowe's concerns, Michigan legislature made sure the bill required that the top of the cork was even with the lip of the bottle when it was resealed, therefore making a corkscrew necessary to reopen the bottle.

In support of the bill, Lowe said that "diners who ordered a bottle instead of a glass would have a selection that was both wider and of higher quality, since most restaurants offer only limited choices by the glass, and those tend not to be the finest wines."

Many restaurateurs agree with Lowe and are counting on the bill to increase not only bottle sales in

general, but also sales of more expensive wines.

Chuck Hunt, executive vice president of the New York State Restaurant Association, said that without a doubt the recorking laws would help promote more expensive purchases of wine. "If you know you're not going to finish a bottle, you're not going to order it," Hunt added. "Now that customers can keep whatever they don't drink, they have nothing stopping them from ordering a \$40 bottle."

The New York State Legislature, which passed a recorking bill in September 2004, requires that establishments put the resealed wine bottle in a tamper-proof bag to ensure that the open container law is obeyed, according to Hunt.

"One of the big problems that arose when the law was first passed was that no one knew where to get a suitable bag," he said. "We actually got our hands on one here at the New York State Restaurant Association and sent it on to the state liquor authority. Once we got it approved, I ordered about 10,000 of them for our members."

The NYSRA boasts the membership of approximately 7,000 restaurants.

Hunt also pointed out that with the tamper-proof bags, liquor liability for restaurants is no longer a concern. "Once a restaurant seals the bag, they are not responsible," he said. "As long as the standards of proper alcohol service are met, there is no issue [with liquor liability]."

Cindy Wiendling, executive vice president of the Colorado Restaurant Association, said Colorado in May 2004 passed its "cork-and-carry" law pertaining only to restaurants with a hotel/restaurant liquor license. In April of this year, the state expanded the bill to other types of liquor licenses including brewpubs.

"We lobbied to pass the cork-and-carry law in conjunction with the state's lowering of its blood alcohol concentration standard for defining drunkenness to 0.08 percent from 0.10 percent," Wiendling said. "Our major concern with the lower BAC was that customers — especially couples — wouldn't want to order a whole bottle of wine out of fear that they might not be able to drive home safely. The recorking law mitigated some of that concern."

In addition, the CRA offers recommendations to restaurants and consumers to ensure that taking home resealed bottles of wine doesn't conflict with the Colorado statewide open container law that was passed earlier this year. The open container law does provide that recorked bottles of wine are acceptable in vehicles as long as the bottles are in the trunk or in a sealed compartment, according to Wiendling.

"The CRA suggests that restaurateurs not only recork the partially consumed bottles of wine so that the cork is even with the lip of the bottle but also apply tap to the seal and place the bottle inside a bag or box," Wiendling added. "The Colorado liquor association said that by following our recommendations, even if the driver of a vehicle didn't put the wrapped bottle in the trunk, he or she would still have a strong defense against the open container law."

According to a published report, Colorado police thus far have not reported a great increase of open-container arrests.

Restaurants Applaud State "Recorking" Laws

With recent Supreme Court decisions helping to improve sales in the wine industry, it may not be long before lawmakers tackle another issue important to both wine producers and restaurateurs: wine recorking in restaurants.

A Michigan law passed last month now allows restaurant patrons to take home unfinished bottles of wine they have purchased, provided that the wine has been recorked. Michigan joins approximately 30 other states, including California, New York, Texas and Washington, that also allow opened bottles of wine to be taken home from restaurants. The Michigan Restaurant Association, which lobbied heavily for the measure, said that recorking laws would be a boost for the restaurant industry's wine sales, since customers would be inclined to purchase entire bottles of wine instead of individual glasses.

Some lawmakers, however, are worried that recorking laws might interfere with states' drinking and driving policies, especially with open-container policies. Even the states that allow wine recorking have strict policies on transporting open containers of alcohol. Most often, wine must be completely recorked, with the cork's edge touching the lip of the bottle, or the wine bottle must be placed in a tamper-proof container. In some states, the wine must be placed in an area of the car inaccessible to the driver, such as the trunk.

Despite these concerns, many restaurants have applauded recorking measures, saying that these laws have increased sales of wine bottles—especially for their higher-priced wines. Restaurant owners say customers are more inclined to buy expensive wines if they know they can take them home.

Even so, recorking laws are not meant to supersede responsibility. Restaurant owners, who still have liability in preventing patrons from abusing alcohol, have the final say in whether opened wine bottles may be taken home.



Act No. 21
Public Acts of 2005
Approved by the Governor
May 19, 2005
Filed with the Secretary of State
May 19, 2005
EFFECTIVE DATE: May 19, 2005

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005**

Introduced by Senators Gilbert, Hammerstrom, Sanborn, McManus, Jellnek, Goschka, Bishop, George, Barcia and Switalski

ENROLLED SENATE BILL No. 199

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to these cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 1021 (MCL 436.2021), as amended by 2002 PA 725.

The People of the State of Michigan enact:

Sec. 1021. (1) The commission shall not require a licensee to sell or serve food to a purchaser of alcoholic liquor. The commission shall not require a class A hotel or class B hotel to provide food services to registered guests or to the public.

(2) Except as otherwise provided in subsection (3), a purchaser shall not remove alcoholic liquor sold by a vendor for consumption on the premises from those premises.

(3) A vendor licensed to sell wine on the premises may allow an individual who has purchased a meal and who has purchased and partially consumed a bottle of wine with the meal, to remove the partially consumed bottle from the premises upon departure. This subsection does not allow the removal of any additional unopened bottles of wine unless the vendor is licensed as a specially designated merchant. The licensee or the licensee's clerk, agent, or employee shall reinsert a cork so that the top of the cork is level with the lip of the bottle. The transportation or possession of the partially consumed bottle of wine shall be in compliance with section 624a of the Michigan vehicle code, 1949 PA 300, MCL 257.624a.

(4) This act and rules promulgated under this act do not prevent a class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from allowing its invitees or guests to possess or consume, or both, on or about its premises, alcoholic liquor purchased by the invitee or guest from an off-premises retailer, and does not prevent a guest or invitee from entering and exiting the licensed premises with alcoholic liquor purchased from an off-premises retailer.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved _____

Governor

HB

54

HFIN

FILE

Adopted

25-LS0284\N
Cook
3/19/08

CS FOR HOUSE BILL NO. 54()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES NEUMAN, Lynn

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to construction of a legislative hall or renovation of an existing building
2 for use as a legislative hall; and repealing provisions relating to relocating the capital,
3 the legislature, or any of the present functions of state government."

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

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

7 **SPECIFICATIONS FOR A LEGISLATIVE HALL.** (a) The Alaska Legislative
8 Council shall develop specifications for construction of a new legislative hall or renovation of
9 an existing building for use as a legislative hall and make those specifications available to
10 legislators and members of the public by July 15, 2009. The specifications must include a
11 method under which the aesthetic appeal of the building will be considered. The legislative
12 hall must meet all fire and building codes, including requirements of 42 U.S.C. 12101 - 12213
13 (Americans with Disabilities Act of 1990), and meet the highest construction and geotechnical
14 engineering standards. The building must contain adequate heating, ventilating, and air

1 conditioning systems, with individual controls for each system. The building must be
2 configured so that office walls are not load bearing. All office rooms must be wired for
3 computer service, telephone service, fax machines, copy machines, cable television, and
4 security cameras. Capacity for additional wiring in the entire building must be provided for.

5 The specifications may provide for the following space:

6 (1) a private office for each legislator and that legislator's staff, with the
7 offices for the Speaker of the House of Representatives and the President of the Senate to be
8 larger than other legislators' offices;

9 (2) a chamber room for each body of the legislature, each with electronic
10 voting boards and other appropriate equipment and with galleries that accommodate the
11 public and the media;

12 (3) a private lounge for legislators located on the same floor as the chambers,
13 with cooking facilities;

14 (4) adequate committee rooms, each with space for committee staff,
15 committee members, and members of the public;

16 (5) a suite of office space for use by the governor, the lieutenant governor, and
17 commissioners or other executive branch staff when they visit the legislative hall;

18 (6) one courtroom and adequate offices for judicial officers of the supreme
19 court and staff;

20 (7) at least one photocopy services room on each floor large enough for at
21 least one photocopier, photocopy and other supplies, and user;

22 (8) a public lounge and restaurant;

23 (9) rooms for security staff, documents, and supplies;

24 (10) office space for each agency of the legislative branch that the legislative
25 council determines should be located with the legislature;

26 (11) office space for the senate secretary and the chief clerk of the house of
27 representatives;

28 (12) a print shop;

29 (13) a maintenance shop;

30 (14) a media office;

31 (15) an area adequate for electronic technology and telecommunications

1 equipment and cabling;

2 (16) a rotunda or atrium of sufficient size for public meetings, celebrations,
3 and events;

4 (17) facilities for the display of Alaska historical exhibits and artifacts;

5 (18) a documents room;

6 (19) a press room with space to rent to press groups;

7 (20) a child care facility;

8 (21) adequate and efficient restrooms on each floor that exceed current code
9 requirements.

10 (b) The specifications prepared by the legislative council must address parking to
11 include at least the following:

12 (1) covered parking on the site of the legislative hall;

13 (2) additional parking on the site of the legislative hall or adjacent to the site;

14 (3) covered walkways from the parking areas required under (1) and (2) of this
15 subsection to the legislative hall; and

16 (4) parking areas for additional vehicles near the site of the legislative hall.

17 (c) Total parking provided for under (b)(2) and (4) of this section must equal or
18 exceed the amount specified in the edition of the International Building Code that is current
19 on the date specifications are completed.

20 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 PROPOSALS FOR THE LEGISLATIVE HALL. On completion of the specifications,
23 the Alaska Legislative Council shall solicit proposals for construction of the legislative hall or
24 renovation of an existing building for use as a legislative hall to be operated, maintained,
25 repaired, and managed by the legislative council for use by the legislature as the location for
26 regular sessions and for interim work. Proposals must include a firm financing commitment
27 for the project and terms on which the project site and completed legislative hall will be made
28 available to the legislature. A proposal may not require payments by the state in excess of \$1
29 per year or provide for a project completion date that is later than June 30, 2014. The proposal
30 must include indemnification of the state for all local assessments or fees other than ordinary
31 utility and municipal service charges. In evaluating each proposal, the legislative council shall

1 consider whether the proposed site

2 (1) has adequate utility services;

3 (2) has adequate airport access;

4 (3) has adequate access by road, air, or marine ferry;

5 (4) is in an area with adequate health, education, and social services facilities

6 and adequate housing opportunities.

7 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 SELECTION OF A PROPOSAL. (a) The Alaska Legislative Council shall review all
10 proposals, conduct inspections, and select a proposal or reject all proposals by December 15,
11 2010. If all proposals are rejected, the legislative council may revise the specifications and
12 establish a new schedule for the solicitation and review of additional proposals for the
13 legislative hall. If a proposal is selected, the legislative council shall submit the proposal to
14 the legislature for its consideration.

15 (b) If the legislature fails to approve the proposal by concurrent resolution adopted by
16 a majority of the members of each house within six months after it is submitted, the legislative
17 council may revise the specifications and establish a new schedule for the solicitation and
18 review of proposals for the legislative hall. A new proposal selected by the legislative council
19 is subject to approval by concurrent resolution.

20 (c) If the legislature approves a proposal by concurrent resolution, the legislative
21 council shall enter into contracts, leases, and other agreements necessary to carry out the
22 terms of the proposal. If the proposal selected is submitted by a municipality and includes a
23 site wholly or partially on state land, the legislative council shall take all action necessary to
24 arrange for the transfer of the land to the municipality at no cost, including introducing
25 legislation to accomplish that purpose.

26 (d) AS 36.30 and the contract procedures adopted by the legislative council under
27 AS 36.30.020 do not apply to the selection of a proposal under this section or to a contract,
28 lease, or other agreement entered into by the legislative council under this section.
29 AS 35.05.010 does not apply to a legislative hall project under this Act.

30 * Sec. 4. AS 44.06.050, 44.06.055, and 44.06.060, commonly referred to as the FRANK
31 initiative, are repealed.

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

3 TRANSITION. Notwithstanding AS 24.05.090 and other provisions of law, if a
4 legislative hall project is approved under this Act, beginning with the first regular session that
5 begins after completion of the project, and each regular session thereafter, the legislature shall
6 convene in that legislative hall. The revisor of statutes shall prepare a bill and submit it to the
7 Alaska Legislative Council making all changes to statutes necessary to conform to this
8 section.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 54(STA)
(H) Publish Date: 3/3/08

Identifier (file name): HB054-DOA-GS-11-27-07 Dept. Affected: Administration
Title: Construction of Legislative Hall RDU: General Services
Sponsor: Representative Neuman Component: Non Public Building Fund
Requester: _____ Component Number: 404

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	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	0.0	0.0
Contractual	0.0	0.0	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	0.0	0.0
Equipment	0.0	0.0	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	0.0	0.0
Grants & Claims	0.0	0.0	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	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	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	0.0	0.0
1004 GF	0.0	0.0	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	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time	0.0	0.0	0	0	0	0	0	0
Part-time	0.0	0.0	0	0	0	0	0	0
Temporary	0.0	0.0	0	0	0	0	0	0

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

The Division of General Services does not expect any financial impact as a result of this bill.

Prepared by: Vern Jones
Division: General Services
Approved by: Kevin Brooks Deputy Commissioner
Department of Administration

Phone: 466
Date/Time: 11/27/07 10:00AM
Date: 11/27/2007

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 54(STA)
(H) Publish Date: 3/3/08

Identifier (file name): HB054-GOV-OMB-02-14-08 Dept. Affected: All executive branch
Title: HB 54 Construction of a Legislative Hall RDU: All RDUs
Component: All Components
Sponsor: Representative(s) Neuman, Lynn
Requester: Housn State Affairs Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES	FY 2009							
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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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 Interagency Receipts								
TOTAL	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

* Costs can not be determined at this time since location of a legislative hall has not yet been determined. Once a site is selected, an impact study could be prepared at that time. Potential additional costs will include items such as travel, office space and furnishings, telephone/telecommunication services, the cost of which will vary depending on location.

Prepared by: John Boucher, Economist Phone: 465-4677
Division: Governor's Office of Management and Budget Date/Time: 2/15/08 12:40 PM
Approved by: Karen J. Rehfeld, Director Date: 2/15/2008
Governor's Office of Management and Budget

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 54(STA)
(H) Publish Date: 3/3/2008

Identifier (file name): HB54-LEG-COU-02-29-08 Dept. Affected: Legislature
Title: "An Act relating to construction of a legislative hall or renovation of an existing building for use as a legislative..." RDU: Legislative Council
Sponsor: Representative Neuman, Lynn Component: Council and Subcommittees
Requester: House State Affairs Component Number: 783

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel				12.5*				
Contractual	200.0*		50.0*	50.0*	50.0*	50.0*	50.0*	350.0*
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	200.0*		50.0*	62.5*	50.0*	50.0*	50.0*	350.0*

*PLEASE SEE PAGE 3 FOR ADDITIONAL COSTS WHICH VARY BY LOCATION.

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Ma'ch							
1004 GF	200.0		62.5	50.0	50.0	50.0	350.0
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	200.0		62.5	50.0	50.0	50.0	350.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

CS HB54(STA) states that the Alaska Legislative Council will develop specifications for construction of a legislative hall or renovation of an existing building for use as a legislative hall and make those specifications available to Legislators and members of the public by July 15, 2009. There are several requirements in the bill intended to create a building with large chambers and committee rooms, restaurant facilities, a spacious rotunda, other amenities, and room to accommodate other branches of government. The building would have modern wiring, state of the art technology, and ample parking lots. Once the specifications are developed, the Legislative Council will solicit proposals for the legislative hall. This legislation also repeals AS 44.06.050, 44.06.055, and 44.06.060, commonly referred to as the FRANK initiative.

Prepared by: Karla Schofield, Deputy Director
Division: Legislative Affairs Agency
Approved by: Pamela Varni, Executive Director
Legislative Affairs Agency

Phone: 465-6626
Date/Time: 2/29/08 2:46 PM
Date: 2/29/2008

FISCAL NOTE #3

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. CSHB 54(STA)

ANALYSIS CONTINUATION

For purposes of this fiscal note, it is assumed that entities submitting proposals would include the City and Borough of Juneau, Fairbanks North Star Borough, Kenai Peninsula Borough, Matanuska-Susitna Borough, and the Municipality of Anchorage. The Alaska Legislative Council shall review all proposals, conduct inspections, and select a proposal or reject all proposals by December 15, 2010. Total lease payments by the Legislature to the successful offeror could not exceed \$1 a year or provide a project completion date that is later than June 30, 2014. If a proposal is selected, the Legislative Council shall submit the proposal to the Legislature for its consideration.

The Legislative Affairs Agency does not have architects on staff who could either develop a building design or provide specifications for a new or renovated legislative hall. Currently, when the Legislature enters into a remodeling project, the Legislature hires architects, mechanical engineers and other professionals to provide bid documents.

This fiscal note assumes that the Alaska Legislative Council would wish to provide general requirements and the entities responding to the request for proposals would have the opportunity to design or remodel a building within the confines of the specifications, which would fit into the individual community. The individual offerors would be financially responsible for coming up with a specific design and bid documents which they would issue for the building of a legislative hall in their community.

This fiscal note does not address the feasibility of the entities responding to the proposal being able to prepare bid documents, acquire local approvals, or hold bonding elections within the timeframe envisioned by this legislation. It also does not address the social and economic impacts to Alaska communities if the Legislature relocated.

Under the scenario in this fiscal note, the Alaska Legislative Council would need to hire a professional architect or firm as a Design Competition Manager to oversee the Design Bid process. This architect would help the Alaska Legislative Council and the Legislative Affairs Agency develop the hall specifications and come up with objective measurables for what constitutes a desired level of (1) basic utility services, (2) airport access (3) road, air or ferry service (4) health, education, and social services facilities and housing opportunities. Opinions on these topics could vary. Interviews would need to be conducted with Legislators and other branches of government to ascertain their needs which the Council and the Legislative Affairs Agency could incorporate into the requirements. This professional would need to remain on board through the Design Bid process to ensure that bids submitted by the entities responding to the proposal could realistically meet the deadlines and building requirements of the Legislative Hall Request for Proposals. The Legislature would likely continue this contract through the building phase to ensure the project remained on track. Estimate \$200,000 in FY 09, \$50,000 in FY10, \$50,000 in FY 11, \$50,000 in FY 12, \$50,000 in FY 13, and \$50,000 in FY14.

For purposes of this fiscal note, it is assumed that Juneau, Fairbanks, Kenai, Wasilla, and Anchorage would submit proposals and the Legislative Council would conduct site visits. Travel costs for the members of the Legislative Council would be absorbed within existing budgets. Travel costs for Legislative Affairs Agency managers are included in this fiscal note as several managers would need to be present during the site visits to ensure a new legislative hall would meet the needs of the Legislature. Estimate \$12,500 in FY 11.

Assuming the Legislature did acquire a new hall or renovated building, the Legislature would need to operate, maintain, repair and manage the new building. The larger hall and parking facilities would increase the maintenance operating budget by an estimated 20%, after allowing for a reduced repair budget, as the hall would be in a new facility. Assuming occupancy in July 1, 2014, estimate \$300,000 per year starting in FY 15.

Assuming the Legislature moved into a new hall, the moving costs for relocating the office furniture and equipment (22 vans) could range between \$50,000 for a local Juneau move, \$330,000 for a move to Fairbanks or Anchorage, \$360,000 for a move to Wasilla, and \$430,000 if the legislative hall were located in Kenai. See Table on page 3.

Almost all positions in the Legislature could be transferred to another location if the winning proposal was located in a place other than Juneau. It is assumed approximately 65 full time employees and their families would elect to move to a new location if the Legislature relocated. The Legislature would pay between \$12,000 and \$13,000 per employee for the move. Costs would range from \$780,000 to \$845,000 depending on the destination. See Table on page 3.

FISCAL NOTE #3

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. CSHB 54(STA)

The session per diem rate paid to Legislators in Juneau fluctuates up and down. Relocating the Legislature will change the per diem rate paid to Legislators because per diem is based on location and the rate Legislators are paid is determined by the distance from their permanent home and the Capitol. Using the per diem rates in effect at this time, and determining which Legislators would receive the 75% local per diem rate, savings and increases are noted in the Table below.

The Legislature may also save on annual Legislator relocation costs if the Legislature met in another location. These estimates are also included in the Table below.

The Legislature currently has space in six state owned buildings in Juneau. If the Legislature occupies a new or remodeled building in another location, the Capitol, Capitol Annex and the Terry Miller Legislative Office Building would likely be converted to other uses. The Terry Miller Legislative Office Building reverts to the City and Borough of Juneau if not used for Legislative office purposes. If the Capitol and Capitol Annex were used for other state offices or sold to a private party, a savings to the Legislature might be realized. If the Capitol and Capitol Annex were donated to the City of Juneau or to another organization no savings to the Legislature would be realized.

The Legislature would also incur costs to reconnect phone and computer systems in the new building or to purchase a new phone system or other equipment. Many of the desks in the current Capitol are built in's. The Legislature would need to either replace these in the new or renovated hall or acquire new furniture. A contingency fund of \$300,000 is estimated.

Some costs and savings would only become apparent if the new building and/or location became a reality. This fiscal note addresses the range of costs foreseen at this time.

*TABLE - TOTAL COSTS BY LOCATION

Various Scenario's

	<u>Juneau</u>	<u>Fairbanks</u>	<u>Kenai</u>	<u>Wasilla</u>	<u>Anchorage</u>	<u>No Bids</u>
<u>One Time Costs</u>						
*On Site Travel	0.0	12.5	12.5	12.5	12.5	0.0
*Contingency Fund	300.0	300.0	300.0	300.0	300.0	0.0
65 Employee Moves	0.0	780.0	845.0	835.0	780.0	0.0
Office Move	50.0	330.0	430.0	300.0	330.0	0.0
*Architect	<u>400.0</u>	<u>400.0</u>	<u>400.0</u>	<u>400.0</u>	<u>400.0</u>	<u>0.0</u>
Total	750.0	1,822.5	1,987.5	1,907.5	1,822.5	0.0

<u>Cost for Each Future Year</u>						
Session Per Diem		-29.0	16.0	-66.0	28.0	0.0
Relocation Expenses		-30.0	-70.0	-125.0	-125.0	0.0
*Maintenance Costs	<u>300.0</u>	<u>300.0</u>	<u>300.0</u>	<u>300.0</u>	<u>300.0</u>	<u>0.0</u>
Total	300.0	241.0	246.0	109.0	203.0	0.0

* Included on the first page financial information.

ALASKA STATE LEGISLATURE

Chair:
Special Committee on Economic Development,
Trade, & Tourism

Vice Chair:
Committee on Labor and Commerce

Vice Chair:
Committee on Transportation

Member:
Committee on Community and Regional Affairs
Special Committee on Oil and Gas



Session:
Alaska State Capitol
Juneau, AK 99801-1182
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Fax: (907) 465-4822
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Wasilla, AK 99654
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Fax: (907) 376-4745

REPRESENTATIVE MARK NEUMAN

Representative_Mark_Neuman@legis.state.ak.us

Explanation of Changes to HB 54 version K to version L

- 1) Page 3 Line 26, following "must include"
Delete "details regarding the financing"
Insert "a firm financing commitment for"
- 2) Page 3 Line 28, following "required"
Delete "lease payments by the legislature"
Insert "payment by the state"
- 3) Page 3 Line 30, before "In evaluating"
Insert "The proposal must include indemnification of the state for all local assessments or fees other than ordinary utility and municipal service charges."
- 4) Page 3 Line 31, following "(1) has"
Delete "basic"
Insert "adequate"
- 5) Page 4 Line 9,
Delete "If all proposals are rejected, the legislative council may revise the specifications and solicit new proposals for the legislative hall"

Insert "If all proposals are rejected, the legislative council may revise the specifications and establish a new schedule for solicitation and review of additional proposals for the Legislative hall."
- 6) Page 4 Line 12,
Delete "(b) If the legislature fails to approve the proposal by concurrent resolution adopted by a majority of the members of each house within six months after it is submitted, the legislative council may revise the specifications and solicit new proposals for the legislative hall."

Insert "(b) If the legislature fails to approve the proposal by concurrent resolution adopted by a majority of the members of each house within six months after it is submitted, the legislative council may revise the specifications and establish a new schedule for the solicitations and review of proposals for the legislative hall."

**2007 HOUSE FINANCE
COMMITTEE VOTE SHEET**

*passed
6-4*

DATE: 3-2008

Amendment: CSHB 54(FIN)

MEMBER

Favor

Oppose

NELSON		
STOLTZE	✓	
THOMAS		✓
CRAWFORD		✓
ROSTER HARRIS	✓	
GARA		✓
HAWKER	✓	
JOULE		✓
KELLY	✓	
CHENAULT	✓	
MEYER	✓	

Yea 6

Nay 4

WD

25-LS0284\K.2
Cook
3/10/08

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 54(STA)

BY REPRESENTATIVE MEYER

- 1 Page 3, line 30, following "consider":
- 2 Insert "the cost to state residents of transportation to and from the proposed site based
- 3 on calculations involving transportation costs from at least five cities, including one city in
- 4 each judicial district. The legislative council shall also consider"

ERROR: LOGOFF
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 57
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MD

SLV

AMENDMENT 2

OFFERED IN THE HOUSE
TO: CSHB 54(STA)

BY REPRESENTATIVE CRAWFORD

- 1 Page 1, lines 2 - 3:
- 2 Delete "; and repealing provisions relating to relocating the capital, the
- 3 legislature, or any of the present functions of state government"
- 4
- 5 Page 4, line 21, following "purpose.":
- 6 Insert "This subsection does not apply to the extent its requirements are prohibited by
- 7 other law."
- 8
- 9 Page 4, lines 26 - 27:
- 10 Delete all material.
- 11
- 12 Renumber the following bill section accordingly.
- 13
- 14 Page 4, line 30:
- 15 Delete "and other provisions of law"

SLV

adopted

AMENDMENT 3

OFFERED IN THE HOUSE

BY REPRESENTATIVE MEYER

TO: CS HB 54(), Version 25-LS0284M.

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Page 4, line 1

After "consider"

Insert "the cost to state residents of transportation to and from the proposed site based on calculation involving transportation costs from at least five cities, including one city in each judicial district. The legislative council shall also consider"

adopted

AMENDMENT

7

800

OFFERED IN THE HOUSE

BY REPRESENTATIVE HAWKER

TO: CS HB 54 (Work Draft 25-LS0284L)

- 1 Page 2, lines 18-19
- 2 Delete all material

Adopted

AMENDMENT

5

SCW

OFFERED IN THE HOUSE

BY REPRESENTATIVE HAWKER

TO: CS HB 54 (Work Draft 25-LS0284\L)

- 1 Page 4, lines 30-31
- 2 Delete all material

2007 HOUSE FINANCE COMMITTEE VOTE SHEET

DATE: 3-20-08

Amendment: 5

MEMBER

Favor

Oppose

JOULE	✓	
KELLY	✓	
NELSON <i>absent</i>		
STOLTZE		✓
THOMAS	✓	
CRAWFORD	✓	
██████ HARRIS	✓	
GARA	✓	
HAWKER	✓	
CHENAULT	✓	
MEYER		✓

Yea 8

Nay 2

WD

AMENDMENT 0

OFFERED IN THE HOUSE

BY REPRESENTATIVE CRAWFORD

TO: CS HB 54 (), Version 25-LS0284L

1 Page 1, lines 2-3

2 Delete “; and repealing provisions relating to relocating the capital, the
3 legislature, or any of the present functions of state government

4

5 Page 4, line 25

6 Following “purpose.”

7 Insert “This subsection does not apply to the extent its requirements are
8 prohibited by other law.”

9

10 Page 4, lines 30-31

11 Delete all material

12

13 Renumber the following bill section accordingly

14

15 Page 5, line 3

16 Delete “and other provisions of law”

17

18

19

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2007 HOUSE FINANCE COMMITTEE VOTE SHEET

DATE: 3-20-08

Amendment: 7

MEMBER	Favor	Oppose
KELLY		✓
NELSON <i>absent</i>		
STOLTZE		✓
THOMAS		✓
CRAWFORD		✓
FOSTER HARRIS		✓
GARA	✓	
HAWKER		✓
JOULE		✓
MEYER		✓
CHENAULT		✓

Yea 1

Nay 9