

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86 / 2

397 SCOMM10 : LOCAL GOVERNMENT STUDY 1979

**PROJECT STATUS SUMMARY
FOR**

DATE: 2-6-79

PAGE: 9 OF 10

REAA NO. _____

~~Dept. of Natural Resources~~ _____

DISTRICT: _____

PROJECT	PROJECT NUMBER	FUNDING SOURCE	FUNDING AMOUNT	BRIEF SCOPE	COST TO DATE	PROJECT STATUS	COMPLETION DATE
Anchorage	H60001	113/78	475,000	Bldg. Add'n		A/E Selection	9-79
Glennallen Fire Control Center		113/78	362,000			Contemplating Revised Program to include Parks	
Plamer P.M.C. Chemical Storage	H80018	279/76				Project Maybe Cancelled	
Palmer P.M.C. Plant Storage	H80017	279/76				Bids Rejected Project on Hold	
Plamer P.M.C. Green House	H80012	279/76				85% Complete C.O. in Progress, Delayed Completion	
Plamer P.M.C. Office Lab	H80014	153/77				99.5% Complete	

PROJECT STATUS SUMMARY
FOR

DATE: 2-6-79

PAGE: 10 OF 10

REAA NO. _____

DISTRICT: _____

Dept. of Public Safety

PROJECT	PROJECT NUMBER	FUNDING SOURCE	FUNDING AMOUNT	BRIEF SCOPE	COST TO DATE	PROJECT STATUS	COMPLETION DATE
Sitka	H80345	279/76	50,000	Trooper Academy	35,000	A/E Selection	
Fairbanks	J10007	139/78	100,000			Site Selection	1981

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

Don Smith
402 West Third Avenue - Suite 8
Anchorage Alaska 99501
Phone 276-4329

*check w/
Dick Hadden
find status
of \$110 million*

Dear Fellow Alaskan,

My congratulations to you! You are one of only 10,835 Alaskans that have never missed voting in all state elections since 1970. There are not too many of us who obviously are concerned about our state and government.

As a concerned citizen, I'd like to ask you to read this letter and then possibly give me some help.

Are you aware that last year the Legislature appropriated \$110 million dollars for construction of Rural High Schools? Also did you know that two years before, in 1976, voters authorized \$59 million in bonds which was supposed to take care of the rural high school construction problem?

To date the funds amount to over \$170 million and it's my understanding that additional money will be requested of the legislature during this session.

Did you know that this \$170 million builds schools in every village with 8 or more high school students? A school for 8 kids by the way costs over \$600,000.

Did you know that this expenditure of \$170 million is for approximately 2,300 rural students.

Finally, did you know that there has never been a long term fiscal analysis made of this program? I'm guessing that the costs for Teachers and all operations, repairs and maintenance will exceed another \$500 million within 15 years.

This program is a financial disaster and must be stopped before it goes any further. The program needs to be reviewed and re-evaluated.

Certainly there's a need for improved High School conditions in rural Alaska, but not at a price tag of almost \$700 million and particularly when it's only serving 2,300 students. There has to be a better way!

over please

Page Two.
Rural High School letter

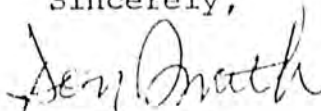
Please help me! Enclosed is a petition which asks the legislature to stop this program and re-evaluate it. Given a little time, I'm sure that a different plan can be developed which will at least provide schools in the larger villages and provide boarding facilities for students from the more remote areas.

Time is of the essence. Please show this letter and petition to your friends, neighbors and co-workers and ask them to sign. I would like to present the petitions to the legislature by the 5th of April, which by the way will be the 82nd legislative day. This is still enough time for the legislators to act on this question.

Finally, this effort is a bit expensive so your contribution to defray some of the mailing and printing costs would be gratefully appreciated. You do not have to send in money to participate. If you do, please make out your check to the Sensible Rural High School Fund. You will be sent a receipt for your contribution.

Thank you for reading this letter. With your help we might be able to stop this mistake from going any further and for the sake of all Alaskans develop a program that can work and still be fiscally sound.

Sincerely,


Don Smith

ps. If you can't go out and obtain signatures, please sign the petition and return it to me.

PETITION TO THE LEGISLATURE

We the undersigned Alaskans **strongly urge** that a review and re-evaluation be made of the Rural High School Construction Program. We **ask** that **all funds** be frozen until a new plan is developed. The new plan should:

1. Call for no school to accomodate less than 250 students.
2. Have only **one** High School in each Rural Education Attendance Area.
3. Require a study of the programs total life-cycle costs.
4. Not allow the building of a High School where an already functioning High School exists.

Should the Legislature not take action this session it is our intention to promote and circulate an initiative petition to place this question on the 1980 election ballot.

PLEASE WRITE CLEARLY!

Name

Address

City

Zip Code

[illegible]

Please return in two weeks

Return to Don Smith · 402 West Third Avenue · Suite 8 · Anchorage, Alaska 99501 · Phone 276-4329

Xerox this form if you need more copies.

STEAVE HOLE 2200

PROCESS

How much will it cost
to implement.

Roles of REA's, DOE & DOT

Is there a plan to implement
the Hootch Decision

Was an inventory of analysts
+ prepared to realize
what was needed?

Schedule of construction

Who prepares the plans. the REA

Who's accountable

Were eligible communities
districts identified

General Fund? Bond?

Where in budget do we find
figures.

WHAT ABOUT OTHER SCHOOL
CONSTRUCTION.

HOW IS LIFE CYCLE COSTING
WORKING.

BIA TRANSFERS

WHAT IS FACILITY/TRANSPORTATION
OPTIONS FOR HOUSING STUDENTS.

WHAT CAPITAL MONEY DO. BOROUGH'S
RECEIVE?

RURAL SCHOOL CONSTRUCTION

IN FY 78 PLANNING WAS COMMENCED ON DEVELOPING A RURAL SCHOOL CONSTRUCTION BUDGET FOR 110 MILLION DOLLAR PROGRAM FOR CONSTRUCTION, REMODELING AND EQUIPPING SCHOOLS IN ALASKA.

GENERAL FUND APPROP.

OVERVIEW

How FAR ALONG IS
THE PROGRAM?

Sept of 80

PROJECTS ARE TO
BE COMPLETED.

EXPENDITURES BY
YEAR

BY

ALUMINUM
REINFORCING
USE.

WHERE HAS CONSTRUCTION
TAKEN PLACE?

How ARE PROJECTS
FINANCED
FEDS,
STATE

— ONCE BUILT
IS TRUCK
INVESTMENTS NO
LOCAL CURRENCY

THE MONEY GOES
TO DISTRICT
DEVELOPMENT

— BUREAU LEVEL —

Accounting of
FUNDING —

Construction Request

STATE OF ALASKA
Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3100-Sen.

DEPARTMENT Legislature

ATTENTION Sen. Welch - Sen. Stanger

- | | |
|--|--|
| ☐ Approval | ☐ Note & Return |
| ☐ Signature | ☐ Initial & Return |
| ☐ Comment | ☐ Return As Requested |
| ☐ Contact Me | ☐ Return For Approval |
| ☐ Prepare Reply | ☐ Necessary Action |
| ☐ For Your File | ☐ Your Information |

Remarks:

FROM: _____
MAIL STATION NUMBER 2500

DEPARTMENT Edue

BY Chris Loush DATE 3/6/70

02-002 (REV. 10/73)

CONSTRUCTION SCHEDULE

TOBELUK SITES

SCHOOL DISTRICT	TOBELUK SCHEDULE	BOND ISSUE	STATUS OF FACILITY	ANTICIPATED DATES	
				BID	COMPLETION
Alaska Gateway					
Dot Lake	E		Transported		
Mentasta Lake	B		Transported		
Northway	D	74-76	Completed		
Tetlin	E		Opted Out		
Aleutian Chain					
Akutan	F	78	Programming	4/79	9/79
Atka	F	78	Programming	4/79	9/79
Belkofski	F		Closed	-	-
False Pass	F		Sufficient Space	-	-
Nelson Lagoon	F	78	Programming	4/79	9/79
Nikolski	F	78	Programming	4/78	9/79
Sand Point	D	74-76	Completed		
Bering Strait					
Brevig Mission	E	78	Programming	4/79	8/80
Council	F		Closed	-	-
Diomedes	E	78	Programming	4/79	8/80
Elim	C	78	Programming	4/79	8/80
Gambell	D	76	Completed		
Gambell	D	78	Programming	2/79	9/79
Golovin	E	78	Programming	4/79	8/80
Koyuk	E	78	Programming	2/79	9/79
St. Michael	D-C	78	Programming	4/79	8/80
Savoonga	D	76	Completed		
Shaktoolik	E	78	Programming	4/79	8/80
Shishmaref	D	74-76	Completed		
Stebbins	C	78	Programming	4/79	8/80
Teller	C	76	Completed		
White Mountain	C	76	Completed		
Chatham					
Angoon	D-C	74	Completed		
Angoon	D-C	76	Construction	10/78	9/79
Chugach					
Tatitlek	F	-	Awaiting Federal or State Funding		
Iditarod					
Anvik	E	76	Completed		
Holy Cross	D	76	Completed	4/79	10/78
Lime Village	F		No Entitlement	-	-
Nikolai	E	78	Programming	4/79	10/79
Takotna	F	76	Completed		
Telida	B		No Entitlement	-	-
Grayling	E	78	Programming	4/79	10/79
Shageluk	E	76	Completed		
Shageluk	E	78	Programming	4/79	10/79

SCHOOL DISTRICT	TOBELUK SCHEDULE	BOND ISSUE	STATUS OF FACILITY	ANTICIPATED DATES BID COMPLETION	
Kuspuk					
Chuathbaluk	C	76	Construction	-	12/79
Crooked Creek	C	78	Programming	2/79	10/79
Kalskag	C	76	Construction	-	12/79
Kalskag	C	78	Programming	2/79	12/79
Red Devil	F		Existing Space	-	-
Sleetmute	C	78	Programming	3/79	12/79
Stony River	F	78	Programming	3/79	12/79
Lake & Peninsula					
Chignik	F	78	Programming	-	9/79
Chignik Lagoon	F		Sufficient Space	-	-
Chignik Lake	E	78	Programming	3/79	10/79
Egegik	E		Opted Out	-	-
Igiugig	F	78	Programming	3/79	10/79
Ivanof Bay	F		Closed	-	-
Kokhanok	E	76-78	Programming	3/79	10/79
Newhalen	E	76-78	Design	3/79	10/79
Nondalton	C	76	Construction	3/78	1/79
Pedro Bay	F		Sufficient Space	-	-
Perryville	E	78	Programming	3/79	9/79
Pilot Point	F		Opted Out	-	-
Port Heiden	F	78	Programming	3/79	10/79
Lower Kuskokwim					
Akiachak	C	78	Programming	3/79	8/80
Akiak	E	74-76	Construction	5/78	8/79
Atmautluak	C	76	Remodeling Complete		
Atmautluak	C	78	Programming	3/79	8/80
Chefornak	C	72	Remodeling Complete		
Chefornak	C	78	Programming	3/79	8/80
Eek	C	77	Remodeling Complete	3/79	8/80
Eek	C	78	Programming	3/79	8/80
Goodnews Bay	C	78	Programming	3/79	8/80
Kasigluk	C		Opted Out - Now Requesting H.S.		
Kipnuk	C-D	72	Remodeling Complete		
Kipnuk	C-D	74-76	Construction	5/79	8/79
Kongiganak	C-D	74-76	Completed		
Kwethluk	C	78	Programming	3/79	8/80
Kwigillingok	C	72	Remodeling Complete		
Kwigillingok	C	76-78	Programming	3/79	8/80
Mekoryuk	C	78	Programming	3/79	8/80
Napakiak	C		Opted Out - Now Requesting H.S.		
Napaskiak	C	78	Programming	3/79	8/80
Newtok	C	78	Programming	3/79	8/80
Nightmute	E	78	Programming	3/79	8/80
Nunapitchuk	C	76-78	Programming	3/79	8/80
Oscarville	F	78	Programming	3/79	8/80
Quinhagak	C	78	Programming	3/79	8/80
Toksook Bay	D	74-76	Completed		
Tuluksak	C	72	Remodeling Complete		
Tuluksak	C	78	Programming	3/79	8/80
Tuntutuliak	C	78	Programming	3/79	8/80
Tununak	C	77	Remodeling Complete		
Tununak	C	78	Programming	3/79	8/80

SCHOOL DISTRICT	TOBELUK SCHEDULE	BOND ISSUE	STATUS OF FACILITY	ANTICIPATED DATES	
				BID	COMPLETION
Lower Yukon					
Chevak	D	74-76	Completed		
Fortuna Ledge	C	76-78	Design	3/79	5/80
Hooper Bay	D		Completed		
Kotlik	C	76	Design	2/79	2/80
Pilot Station	C	76-78	Design	3/79	5/80
Pitka's Point	E	78	Programming	2/79	9/79
Russian Mission	E	78	Programming	2/79	9/79
Scammon Bay	C	78	Programming	2/79	9/79
Sheldon Point	E	78	Programming	2/79	9/79
Northwest Arctic					
Ambler	C	76	Completed		
Buckland	C	76	Completed		
Deering	E	76	Completed		
Kivilina	D	74	Completed		
Kobuk	F		Opted Out		
Noatak	C-D	76	Completed		
Noatak	C-D	78	Design	4/79	9/80
Shungnak	D	74	Completed		
Pribilof Region					
St. George Island	E	76	Construction	1/78	9/79
St. Paul Island	D	78	Construction	1/78	9/79
Southeast Islands					
New Kasaan	F	76	Complete		
Southwest Region					
Aleknagik	B	78	Design	2/79	12/79
Aleknagik N. Shore	B	78	Design	2/79	12/79
Clark's Point	E		Opted Out		
Ekwok	E	78	Programming	2/79	12/79
Koliganek	C	78	Programming	2/79	12/79
Levelock	E	76	Construction	3/78	12/78 3/79
Manokotak	C-D	76-78	Construction	3/78	2/79
New Stuyahok	C-D	76	Construction	3/78	2/79
New Stuyahok	C-D	78	Design	2/79	12/79
Ohgsenakale	F		Sufficient Space		
Togiak	D	74-76	Completed		
Twin Hills	E	76	Construction	3/78	12/78 3/79
Twin Hills	E	78	Design	2/79	12/79
Yukon Flats					
Arctic Village	E	76-78	Design	3/79	9/79
Beaver	F		Opted Out		
Birch Creek	F		Space Available	-	-
Chalkyitsik	F		Adequate Space	-	-
Circle	F	76	Remodeling	10/78	4/79
Rampart	F	76	Design	1/79	8/79
Stevens Village	F		Opted Out		
Venetie	F	78	Programming	3/79	9/79

<u>SCHOOL DISTRICT</u>	<u>TOBEI.UK SCHEDULE</u>	<u>BOND ISSUE</u>	<u>STATUS OF FACILITY</u>	<u>ANTICIPATED DATES</u>	
				<u>BID</u>	<u>COMPLETION</u>
Yukon Koyukuk					
Allakaket	C	76-78	Design	2/79	8/79
Bettles	F		Sufficient Space	-	-
Hughes	F		Opted Out		
Huslia	E	76-78	Design	2/79	8/79
Kaltag	D		Completed		
Koyukuk	D-E	76	Design	3/79	8/79
Manley Hot Springs	F	78	Programming	1/80	8/80
Minto	E	76	Construction	5/78	4/79
Ruby	E	76	Construction	8/77	4/79

SCHEDULE C

MAJOR CONSTRUCTION SITES

LOCATION	1976 BOND ALLOCATION		1978 BOND REQUEST	
	Square Ft.	\$	Square Ft.	\$
1. Akiachak	-	-	8800	1,927,200
2. Allakaket	-	200,000	3019	546,500
3. Ambler	6980	1,957,286	-	-
4. Angoon 1974 720,000	6480	1,152,000	-	-
5. Atmautluak	-	720,000	6480	627,900
6. Buckland	5040	1,727,247	-	-
7. Cheforiak	-	-	6480	1,464,500
8. Chuathbaluk	-	480,000	4455	526,900
9. Crooked Creek	750	20,000	2160	488,200
10. Eek	-	-	4455	926,700
11. Elim	-	-	4455	1,087,100
12. Fortuna Ledge	1500	400,000	2500	640,000
13. Goodnews Bay	-	-	8800	1,927,200
14. Kalskag (Upper & Lower)	-	488,000	8800	1,544,800
15. Kasiqruk OPT Out	-	-	-	-
16. Kipruk 1974 920,000	9760	835,000	-	-
17. Koliganek	-	-	2000	400,000
18. Kongiganak 1974 Funds	-	-	-	-
19. Kotlik	9056	2,100,000	-	-
20. Kwethluk	-	-	12090	2,647,800
21. Kwigillingok	-	810,000	6480	518,400
22. Manokotak 1974 - 345,000	6000	846,733	8800	850,800
23. Mekoryuk	-	-	6480	1,399,700
24. Napakiak OPT Out	-	-	-	-
25. Napaskiak	-	-	8800	1,927,200
26. New Stuyahok	3500	720,000	8800	1,022,400
27. Newtok	-	-	6480	1,471,000
28. Noatak Pre Design	-	500,000	5460	1,419,600
29. Nondalton E/S15100	-	2,208,000	-	-
30. Nunapitchuk	-	1,290,000	8800	663,600
31. Pilot Station	1500	400,000	3125	665,700
32. Quinhagak	-	-	8800	1,927,200
33. Scammon Bay	-	-	6480	1,471,000
34. Stebbins	-	-	8800	2,288,000
35. Tuluksak	-	-	6480	1,328,400
36. Tuntutuliak	-	-	8800	1,927,200
37. Tununak	-	-	8800	1,927,200
TOTAL	65666	16,812,110	185,870	35,562,200

SUMMARY

GRAND TOTAL - ALL PAGES

29,001,688

65,702,600

Both years - 1976 & 1978

94,704,288

Note: E/S denotes combined elementary and secondary school construction project

SCHEDULE D

SITES WITH PRE - 1976 CONSTRUCTION FUNDS

LOCATION	1976 BOND ALLOCATION		1978 BOND REQUEST	
	Square Ft.	\$	Square Ft.	\$
1. Angoon	-	1,152,000*	-	-
2. Cheval	-	-	-	-
3. Gambell	-	915,000	2800	778,400
4. Holy Cross	-	1,000,000	-	-
5. Hooper Bay	-	-	-	-
6. Kaltag	-	-	-	-
7. Kipnuk	-	835,000*	-	-
8. Kivalina	-	-	-	-
9. Kongiganak	-	-	-	-
10. Manokotak	-	1,006,000*	-	** 850,800
11. New Stuyahok	-	720,000*	-	** 1,022,400
12. Ncatak	-	500,000*	-	** 1,419,600
13. Northway	-	-	-	-
14. St. Paul Island	-	750,000	-	1,159,300
15. Sand Point	-	-	-	-
16. Savoonga	-	406,000	-	-
17. Shishmaref	-	286,480	-	-
18. Shungnak	-	-	-	-
19. Togiak	-	-	-	-
20. Toksook Bay	-	-	-	-
21. Unalakleet	-	203,000	-	-
TOTAL	-	3,560,480	-	1,937,700

* These amounts are included in the total for 1976 bond allocations under Schedule C. To avoid double counting, these amounts have not been added to the total under Schedule D.

** These amounts are included in the total for 1978 bond allocations under Schedule C. To avoid double counting, these amounts have not been added to the total under Schedule D.

STATE OF ALASKA DEPARTMENT OF GENERAL INVESTIGATION

SCHEDULE F

LOCATION	1976 BOND ALLOCATION		1978 BOND REQUEST	
	Square Ft.	\$	Square Ft.	\$
1. Akutan	-	-	600 New	-
2. Atka	-	-	1976 Remod	289,300
3. Beaver	-	-	1960 Remod	159,500
4. Belkofski (Closed)	-	-	-	-
5. Bettles (1974)	-	-	-	-
6. Birch Creek (Lease)	-	-	-	-
7. Chalkyitsik (Remod Exist.)	-	20,000	-	-
8. Chignik	-	26,500	4455	882,100
9. Chignik Lagoon	E/S?	5,000	-	-
10. Circle	Convert Teacherage	75,000	-	-
11. Council Continue Lease	-	-	-	-
12. False Pass Existing Space	-	-	-	-
13. Hughes OPT Out	-	-	-	-
14. Igiugig	-	-	1100	217,800
15. Ivanof Bay (Closed)	-	-	-	-
16. Kobuk OPT Out	-	-	-	-
17. Lime Village E/S 1974	560,000	-	-	-
18. Manley Hot Springs E/S	-	-	1100	254,100
19. Nelson Lagoon	-	-	1100	234,300
20. Nikolski	-	-	1100	234,300
21. New Kasaan	E/S 960	79,000	-	-
22. Oghsenakaie Existing Space	-	-	-	-
23. Oscarville	-	-	1100	225,500
24. Pedro Bay Existing Space	-	-	-	-
25. Pilot Point	-	-	-	-
26. Platinum	-	-	1100	225,500
27. Pt. Heiden	-	-	1100	223,300
28. Rampart	E/S Remodel	175,000	-	-
29. Red Devil Existing Space	-	-	-	-
30. Steven's Village	-	75,000	-	-
31. Stony River	-	-	1100	254,100
32. Takotna	800	152,000	-	-
33. Tatitlek	Remodel	50,000	4455	990,000
34. Venetie Existing Space	-	-	6480	1,225,000
35. Wales Existing Space	-	-	-	-
36. White Mountain	Remodel	522,320	-	-
TOTAL	1760	1,209,820	18811	5,324,800

SCHEDULE E

LOCATION	1976 BOND ALLOCATION		1978 BOND REQUEST	
	Square Ft.	\$	Square Ft.	\$
1. Aleknagik	Remodel	16,000	1620	362,900
2. Akiak	1974 600,000 E/S9760	547,000	-	-
3. Anvik	Remodel	43,800	1620	385,600
4. Arctic Village	E/S ?	100,000	2835	1,425,100
5. Brevig Mission	-	-	4455	1,158,300
6. Chionik Lake	E/S ?	7,000	4455	822,100
7. Clark's Point	OPT Out	-	-	-
8. Deering	1976 450,000 E/S6980	1,589,612	-	-
9. Diomede	-	-	4455	1,345,500
10. Dot Lake	E/S 1974 500,000	-	-	-
11. Egegik	-	-	1500	318,000
12. Ekwok	-	-	7285	1,442,500
13. Golovin	-	-	4455	1,087,100
14. Grayling	-	-	4455	1,083,100
15. Huslia	-	200,000	3380	611,200
16. Kokhanok	1977 200,000 Design	26,300	1600	316,800
17. Koyuk	-	-	4455	1,158,300
18. Koyukuk	1974 400,000 Design	343,000	-	-
19. Levelock	1974 240,000 2000+	420,000	-	-
20. Minto	7740	1,000,000	-	-
21. Newhalen	?	90,000	4455	430,000
22. Nightmute	-	-	4455	949,000
23. Nikolai	-	-	3655	851,700
24. Perryville	-	-	4455	832,100
25. Pitka's Point	-	-	4455	944,500
26. Ruby	E/S7740	1,733,911	-	-
27. Russian Mission	-	-	4455	949,000
28. St. George Island	?	250,000	-	-
29. St. Michael	-	-	6480	1,624,800
30. Shageluk	1140	160,000	3655	981,100
31. Shaktoolik	-	-	4455	1,087,100
32. Sheldon Point	-	-	4455	944,500
33. Sleetmute	-	-	2000	462,000
34. Teller	?	635,000	4455	558,300
35. Tetlin	OPT Out	-	-	-
36. Twin Hills	INS 515,000 E/S4000	257,455	2160	817,300
TOTAL	39360	7,419,278	95,705	22,877,900

SEE 43.18.105
13 " 100

- ✓ 195/1972- \$16,000,000 General Obligation Bonds
- 204/1972- Operating and Capital Budget
- 147/1974- Operating and Capital Budget
- 209/1975- Operating and Capital Budget
- 131/1976- \$59,290,000 General Obligation Bonds
- ~~142/1976- Teacher Sick Leave Bank~~
- 155/1977- General Funds
- 113/1978- Operating and Capital Budget
- 134/1978- \$110,000,000 General Fund
- ✓ 142/1974- 40,337,000

77- 80%
100%

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

2 THIRD JUDICIAL DISTRICT

3 ANNA TOBELUK, et al.,)

4 Plaintiffs,)

5 vs.)

6 MARSHALL LIND, et al.,)

7 Defendants.)

8 No. 72-2450

9 AGREEMENT OF SETTLEMENT

10 WHEREAS, a civil action has been brought by Alaska
11 Native (Eskimo, Indian and Aleut) children of secondary school
12 age to secure the provision of secondary schools in their
13 communities of residence, in which plaintiffs allege (a)
14 a pattern and practice of racial discrimination against
15 Alaska Natives in the non-provision of local secondary schools,
16 in violation of the constitution and laws of the United States
17 and Alaska (U.S. Const. Amend. XIV; 42 U.S.C. §§1981, 1983,
18 2000d; Alaska Const. Art. I §1); and (b) a disparity between
19 the manner in which secondary education is provided to the
20 plaintiffs and the manner in which such education is offered to
21 most other Alaska school children, which unduly burdens the
22 exercise of plaintiffs' right to a public education, which is
23 not justified by either a rational basis or a compelling state
24 interest, and which is therefore violative of Article I §1 of
25 the Alaska Constitution; and
26 *EQUAL RIGHTS, OPPORTUNITIES
AND PROTECTION.*

27 WHEREAS, defendants allege that while they desire to
28 provide secondary education facilities as set forth herein,
29 and intend to do so within the limits of public funds, they
30 have no constitutional obligation to provide the secondary
31 facilities set out in this agreement; and
32

1 WHEREAS, the parties in order to avoid lengthy liti-
2 gation, wish to resolve this matter by means of settlement;
3 NOW, THEREFORE, the parties, through their attorneys,
4 subject to the approval and order of this Court, hereby agree
5 as follows:

6 STATEMENT OF AGREED FACTS

7 Jurisdiction

8 1. Jurisdiction is vested in this court by
9 AS 22.10.020.

10 Plaintiffs

11 2. The named plaintiffs are Alaska Native children of
12 secondary school age. They have completed the 8th grade, and
13 are between the ages of 14 and 20. The named plaintiffs
14 reside in six villages in various parts of the state. Each of
15 these villages has an elementary school. In the villages of
16 Akiachak, Kwigillingok, Mekoryuk, and Nunapitchuk, the
17 elementary school is operated by the United States Department
18 of the Interior's Bureau of Indian Affairs. In the villages of
19 Allakaket and Kongiganak, a public elementary school is
20 operated. There are no public secondary schools (comprising
21 grades 9-12) in these communities. In order to attend
22 secondary school, the plaintiffs must leave their homes and
23 families for nine months each year in order to participate
24 in boarding programs.^{1/} Some of the named plaintiffs have
25 attended school in Anchorage, Bethel, Fairbanks, Kodiak,
26 Sitka, Unalakleet, Wrangell, or Chemawa (Oregon); some have
27 dropped out of these programs thus terminating their classroom
28 education; others have not continued their schooling beyond
29 the 8th grade level available in their community of residence.

30
31 ^{1/} "Boarding programs" as used herein means boarding home
32 programs and dormitory programs.

Defendants

3. Defendants Katherine T. Hurley, August Anderson, Beverly Horn, Thelma Langdon, Darwin Heine, Malcolm Roberts, Jan Hohman, as members of the State Board of Education of the State of Alaska, are responsible, pursuant to AS 14.07.020(1) and AS 14.07.075, for formulating statewide educational policy, administering funds to provide certain educational services, and directing the operations of the State Department of Education, which has general supervision over the public schools of the state.

4. Defendant Marshall L. Lind is the Commissioner of Education and, as such, is the principal executive officer of the Department of Education.

Class

5. This action is properly maintained as a class action. The named plaintiffs represent a class whose members are Alaska Native children of secondary school age who reside in communities in the unorganized borough wherein (1) a public elementary school is operated, or an elementary school is operated by the Bureau of Indian Affairs; (2) a secondary school comprising grades 9-12 is not so operated, nor is daily transportation to such a secondary school available; and (3) a majority of resident children eligible to attend secondary school are Native.

6. The class consists of approximately 2663 Alaska Native children living in the 126 communities set forth in Schedule B, attached hereto. Because there are no accurate data on the number of children out of school, the exact size of the class is uncertain.

7. The class is so numerous that joinder of all members is impracticable. There are questions of law and fact common to the class, the claims of the plaintiffs are typical

1 of the claims of the class, and the plaintiffs have fairly and
2 adequately protected the interests of the class. Separate
3 actions by individual members of the class would create a risk
4 of inconsistent adjudications with respect to the individual
5 members of the class and would thereby establish incompatible
6 standards of conduct for the defendants. The defendants have
7 acted on grounds generally applicable to the class, thereby
8 making appropriate final injunctive or corresponding declaratory
9 relief with respect to the class as a whole.

10 8. Notice to members of the plaintiff class shall be
11 given as follows:

12 (a) by the Department of Education, by mailing
13 to the local school committee in each community set forth in
14 Schedule B, attached hereto, a Notice of Settlement in a form
15 approved by the Court; and

16 (b) by delivery of a joint press release of the
17 parties to the television and radio stations, newspapers, and
18 wire services in the state.

19 General Facts

20 9. Prior to the turn of the century, a dual school
21 system emerged unofficially in Alaska as resentment grew among
22 the relatively few whites over emphasis on education for Natives
23 and a belief that integrated schools would give only inferior
24 education. In towns such as Juneau, Douglas and Sitka, where
25 there were proportionately greater white populations, segregated
26 schools were established. Segregated schools were also
27 established at Bethel, Nome, Egegik, Chitina, Ft. Yukon, and,
28 as of 1929-30, at least a dozen other locations. In at least
29 12 of these communities there was a secondary school for non-
30 Natives only. With the increase in population caused by the
31 Gold Rush in the late 1890's, agitation grew for the establish-
32 ment of a separate system of schools for the non-Native popula-
tions. In 1900, Congress provided for the establishment and

1 local control of independent schools for whites within
2 incorporated towns. By 1903, 9 incorporated town schools for
3 white children had been established; as of 1917-18, there were
4 15 such schools, six of which graduated between 1 and 13
5 students each from secondary school.

6 10. Two statutes enacted by Congress in the early
7 1900's gave official sanction to this dual system. Under a
8 1917 amendment to the Alaska Organic Act, the Territorial
9 Legislature was empowered "to establish and maintain schools
10 for white and colored children and children of mixed blood
11 who lead a civilized life in said territory..." Act of March
12 3, 1917, ch. 167, 39 Stat. 321. In the second statute, the
13 Nelson Act originally passed in 1905, the federal government
14 assumed responsibility for the education of Alaska Natives in the
15 following terms:

16 The education of the Eskimos and Indians in
17 Alaska shall remain under the direction and
18 control of the Secretary of the Interior,
19 and schools for and among the Eskimos and
20 Indians of Alaska shall be provided for by
21 an annual appropriation, and the Eskimo and
22 Indian children of Alaska shall have the same
23 right to be admitted to any Indian boarding
24 school as the Indian children in the States
25 or Territories of the United States.
26 Act of Jan. 27, 1905, Title IX, ch. 1, §309,
27 33 Stat. 619.

28 The Nelson Act clarified previous legislation and extended it
29 to rural areas, relieving the U.S. Bureau of Education of
30 responsibility for the education of white and mixed blood
31 children, while the education of these children was provided
32 by the Territory and local municipal authorities. The Bureau
continued maintenance of a few white schools until local
authorities gradually became able to assume full responsibility.
The number of so-called Nelson schools--for children of white
or mixed blood leading "a civilized life" in communities outside
of incorporated towns--grew from 10 in 1907 to 46 in 1918.

11. The pre-statehood pattern of sending Native children away from their home villages to secondary boarding schools, which is reflected in the current system of secondary education, was generated by the dual school system. This pattern developed from the federal government's policy of sending Native children away from their home villages to secondary boarding schools, while territorial officials undertook to provide local secondary schools for white and mixed-blood children for whose education the Territory was responsible. The key to the federal government's program of acculturating Alaska Natives lay in the special education of the most intellectually advanced youth. In spite of many criticisms, the U.S. Bureau of Education continued this policy of sending the brightest children to boarding schools for a basically vocational education, and then returning them to their villages. Most were sent to Indian schools in the United States. However, the deleterious effects of sending children to school so far away, including health hazards and sociological maladjustments, soon became evident, and in 1925 the federal government initiated a program of establishing vocational boarding schools within Alaska. Schools were opened in Eklutna, near Anchorage; at Kanakanak, on Bristol Bay; and at White Mountain, on the Seward Peninsula. These schools were eventually superceded by Mt. Edgecumbe, a BIA boarding school for Natives established at the former naval air station of Sitka in 1947. Rural Native students were presented with the choice of either staying at home and forgoing attendance at a secondary school or leaving home and attending Mt. Edgecumbe. When enrollment at Mt. Edgecumbe eventually exceeded the school's capacity, the BIA began admitting Native Alaskans to Indian boarding schools in other states. Hundreds of Alaska Natives entered boarding schools in Chemawa, Oregon and Chilocco, Oklahoma.

12. While secondary school opportunities for Natives were generally limited to enrollment in the boarding schools, secondary schools for whites were started in an increasing number of communities, including those with small secondary enrollments. By 1950-51, there were 34 public secondary schools in the state. Only 5 had enrollments exceeding 100; 24 had enrollments under 50, and 12 had enrollments of 10 or fewer. As of 1958-59, there were 34 public secondary schools in the state. Only six of these schools were in communities with a school population at least 50 per cent Native.

13. The cumulative effect of instituting boarding programs for Natives, while local secondary schools were generally provided where non-Natives resided, is indicated by the relative proportions of Native and non-Native secondary school age children who presently reside in communities which have elementary schools but not secondary schools. The proportion of such "unhoused" Native children to the total Native secondary school population in the state (including public and BIA schools) is 42 per cent. The proportion of "unhoused" non-Native children to the total non-Native secondary school population in the State (including public and BIA schools) is .4 per cent.

14. At the time statehood was attained, a vestige of the dual system existed in Alaska, in that the BIA operated schools for Alaska Natives while Alaska's territorial legislature and Department of Education provided schools primarily attended by non-Natives. This vestige has hindered the State's provision of secondary schools in villages wherein the BIA operates elementary schools. The state followed a policy through the early 1970's of leaving to the discretion of the BIA, in the villages wherein the BIA operates elementary schools, the extent and nature of primary and secondary

1 education, including whether a local secondary school should
2 be operated in such villages. The state's policy included not
3 constructing secondary schools in villages which had BIA elementary
4 schools.

5 15. After 1966, the state adopted a policy of
6 constructing regional secondary schools and dormitories and
7 developing boarding home programs. While affording a greater
8 number of Natives residing in the unorganized borough a
9 secondary education within the state, these efforts did not
10 completely eradicate the pattern--generated by the former dual
11 school system established prior to statehood--of requiring a
12 large proportion of Native children to board away from home
13 if they wished to attend a secondary school. Boarding Home
14 Programs have existed in Anchorage, Bethel, Fairbanks, Kodiak,
15 Nome and a number of villages. A total of 32 boarding home
16 programs are now operating, with a total enrollment of 851
17 students. Dormitories have been operated in Bethel, Nome,
18 and Kodiak. The only dormitory now operating is in Bethel,
19 with 175 students.

20 16. Since 1967 the State has reduced the number of
21 Native students leaving the state for a secondary education
22 from 850 to 39 in 1975. These 39 students continued to attend
23 secondary schools outside the state by choice, in order to
24 complete programs of study.

25 17. In the late 1960's officials in the Department
26 of Education concluded that the regional secondary school
27 program was failing to provide all the benefits originally
28 envisaged, and had detrimental effects upon some of the students
29 which outweighed the benefits they were deriving from the
30 program. Furthermore, technological advances enhanced the
31 quality of secondary education which could be provided in
32 rural locations. In 1970, the Department discontinued the
construction of dormitories and large regional secondary schools

and began a program of providing local secondary schools. Since 1970, this program has resulted in the unorganized borough in the completion of 11 local secondary schools with 7 more presently under construction, and funds appropriated for an additional 6. As a result of steps taken prior to the negotiation of this agreement, 29 of the 140 predominantly Native communities in the unorganized borough which presently have an elementary school will, by 1977, have a local secondary school, grades 9 to 12, or daily access to such a school. There are 26 predominantly non-Native communities in the unorganized borough which presently have an elementary school. Sixteen of these communities have had local secondary schools or daily access to such schools within the last three years or will have such schools or daily access by 1977.^{2/} There are a total of 170 communities in the unorganized borough which have elementary schools.

18. The absence of local secondary schools in each of the 126 villages set forth in Schedule B, attached hereto, is attributable at least in part to the pattern of secondary education produced by the dual school system established prior to statehood.

19. Approximately 2783 secondary school age children reside in communities in the unorganized borough which have a public elementary school or an elementary school operated by the Bureau of Indian Affairs, but which do not have a secondary

^{2/} Of the 10 predominately non-Native communities without local secondary schools, 9 are located in the southeastern portion of the state. These 9 communities are "logging camps", which are constructed temporarily on U.S. Forest Service land leased for a period of approximately twenty years for the purpose of conducting logging operations. Seven of the 10 villages have projected secondary enrollments of 7 or fewer students; 3 of the villages have projected secondary enrollments of 13-18 students.

1 school through the 12th grade nor daily access to such a school.
2 The State Department of Education refers to such children for
3 statistical purposes as "unhoused". Over 95 percent (2663)
4 of these unhoused children are Native; less than 5 percent
5 (120) are non-Native. This compares with a 1974-75 secondary
6 student population enrolled in the unorganized borough school
7 district of 1301 Native and 617 non-Native children,^{3/} and a
8 secondary student population enrolled state-wide in public and
9 BIA schools of 6288 Native and 28,105 non-Native children.

10 20. Members of the plaintiff class enrolled in the
11 boarding program have experienced accelerated drop-out rates,
12 psychological and social problems, including disruption of
13 family life and loss of sense of identity, and failure to live
14 up to educational potential. Studies of drop-out rates
15 indicate far higher rates among Native children attending
16 boarding programs than among Native children residing at home
17 while attending secondary school. This drop-out problem is
18 in part attributable to severe homesickness often experienced by
19 students in the boarding program. Some children who have
20 finished the eighth grade in their villages have never gone
21 away to attend secondary school. Others, while enrolled in
22 a boarding program, have transferred on numerous occasions
23 from program to program, without attaining discernible
24 educational benefits from any program.

25 21. Dormitory and boarding home programs have
26 high costs in relation to the educational benefits provided
27 Typically, school absenteeism has been high. Furthermore,
28 many village students are unable to benefit from the wide

29 ^{3/} These figures do not include 11 Native and 1,056 non-Native
30 children enrolled in on-base secondary schools. Prior to the
31 establishment of AUBSD, these on-base schools have been
32 operated by the Alaska State-Operated School System. All
children attending on-base elementary schools were
provided secondary schools or daily access to such schools.

1 range of courses available at urban schools because they
2 do not have the academic background to take advantage of
3 them. Frequently, they end up in courses for slow learners.
4 Yet these are the most expensive secondary school programs.
5 In FY 1974, the rural boarding program cost an average of
6 \$4,200 per student per year for education and boarding,
7 while dormitory programs cost \$5,600 per student per year.
8 The per student cost of local secondary school programs
9 in the unorganized borough in FY 1974 was approximately
10 \$2,000. In FY 1975, the per student instructional cost for rural
11 secondary school programs was approximately \$2,300. For rural
12 boarding home programs, the cost was approximately \$4,600
13 per student. The cost of dormitory programs remained
14 substantially higher. Actual costs per student in dormitory
15 programs may end up higher because of the high drop-out rate,
16 while the dormitory's fixed costs remain the same.

17 22. Harmful effects have resulted from the boarding
18 programs. Village students placed in both dormitory and
19 boarding home programs often do not receive the guidance
20 necessary to enable them to cope with town life or with
21 emotional problems which they experience. Also, the sending
22 of Native children to secondary schools outside of their villages
23 has had harmful effects on village cultural and family life
24 and on the student's relationship to each. When the student
25 who attends a boarding program returns to his village in the
26 summer, he finds it difficult to readjust to village life
27 because of the increasing differences between himself and
28 the other members of his village. He is unable to fully
29 identify with either the town or village way of life. Such
30 students are in the process of becoming what anthropologists
31 term "marginal" people: usually, they are not assimilated into
32 the town culture with which they must contend in order to
attend secondary school, while at the same time they have become

1 estranged from the village way of life. For many of these
2 students, secondary school graduation represents the point of
3 no return. If they have come this far, it is unlikely that
4 they will ever return to the village permanently.

5 23. Although village children who choose not to
6 board away from home to attend secondary school are eligible to
7 enroll in correspondence study, this program has in the past
8 been unsatisfactory for most such children.^{4/} This is so in
9 large part because, for most students, parental interest and
10 supervision are essential if the student is to complete correspondence
11 courses successfully, and most village parents have not had
12 sufficient formal education to supervise such courses
13 effectively. Though the Department has greatly upgraded the
14 elementary and secondary correspondence program in recent years
15 by increasing the budget therefor from \$81,405 in 1970 to
16 \$848,373 for the unorganized borough for 1975-76; secondary
17 correspondence courses, which have been obtained from programs
18 in Nebraska and Illinois, have not been sufficiently adapted
19 to the educational needs and the culture of village children.
20 Furthermore, the problem of parental inability to supervise a
21 secondary school course of study continues to limit the effective-
22 ness of the correspondence program for many students.

23
24 ^{4/} Historically, the number of children in the plaintiff
25 class who have been served by secondary correspondence is small,
26 as indicated by the overall figures for correspondence
27 participation. For example, as of June, 1973, there were 60
28 active secondary students enrolled in correspondence studies
29 statewide out of a total of between 600-700 elementary and
30 secondary students. Between 1959 and 1972, 41 students
31 received diplomas via correspondence study. Between 1960
32 and 1963, 7 students received high school diplomas after
having completed 2 years or more study via secondary correspondence.
The number of these students, if any, who meet the criteria of
membership in the plaintiff class is not known.

1 24. Small secondary schools have long been an
2 accepted and, unlike the boarding programs, a successful
3 feature of the State's educational program, and it has been
4 the Department's policy since 1970 to construct such schools
5 in Native villages in the unorganized borough.

6 25. A 9th grade program was provided beginning
7 in 1971-72 to accomodate 8 students in Anderson Village, and
8 successive grades were added yearly through 1974-75, when 52
9 students were enrolled in grades 9-12, notwithstanding that
10 such students had daily access to a larger secondary school
11 in Nenana; a secondary school facility, including a gymnasium,
12 chemistry laboratory, workshop, home economics room and
13 academic classrooms, has been constructed in Thorne Bay (1974-
14 75 enrollment, grades 9-12; 23); secondary school instruction,
15 under the supervision of a certificated teacher, was begun in
16 Whittier in 1974-75 (enrollment, grades 9-11: 8); secondary
17 school instruction under the supervision of the certificated
18 elementary school teacher employed in the community, utilizing
19 correspondence materials, was provided in Gustavus in 1972-73
20 for 5 students and in 1972-73 for 2 students, in Cape Pole
21 in 1972-73 for 5 students, in Port Alice in 1973-74 for 5
22 students, and in Paxson in 1972-73 for 1 student, in 1973-74
23 for 2 students, and in 1974-75 for 1 student. The communities
24 of Anderson Village, Thorne Bay, Whittier, Gustavus, Cape Pole,
25 Port Alice, and Paxson are predominantly non-Native. Of the
26 126 communities on Schedule B, attached hereto, 5 have larger
27 projected secondary enrollments than the 1974-75 enrollment
28 of Anderson Village; 48 have projected secondary enrollments
29 equal to or larger than the 1974-75 enrollment of Thorne Bay;
30 111 have projected secondary enrollments equal to or larger
31 than the enrollment of Gustavus in 1971-72, Cape Pole in
32 1972-73, or Port Alice in 1973-74; and all have larger
projected secondary enrollments than the enrollment of Gustavus

1 in 1972-73 or Paxson in 1972-75.

2 26. Prior to the intiation of this action, local
3 secondary schools were not provided in other large
4 Native communities. The largest such community was Barrow,
5 which did not have a secondary school through the 12th grade
6 until 1974-75, when enrollment, grades 9-12, was 161.

7 27. Though the cost of constructing rural schools
8 has quadrupled since 1966, the per-pupil operating costs of
9 boarding programs is and historically has been far higher
10 than the per-pupil costs of rural schools, since the State
11 must assume the financial burden of housing, feeding and
12 supervising children who do not reside at home. When
13 construction costs for new secondary school facilities are
14 included in the per-pupil costs of providing local secondary
15 schools, the long-range costs remain comparable to, and in
16 many instances lower than, the costs of providing boarding
17 programs.

18 28. In addition to the fiscal costs of operating
19 boarding programs, there may be heavy social costs, in
20 addition to those set forth in paragraphs 20 and 22, above.
21 Because of these social costs, the State may well bear increased
22 costs for social services--including welfare, rehabilitative
23 programs, and law enforcement--which will be lessened to the
24 extent that children living at home with their families in
25 their own villages are not subjected to the problems which
26 have arisen in the boarding programs.

27 29. The parties agree that the relief herein
28 provided, whereby each community set forth on Schedule B,
29 attached hereto, will be afforded the opportunity to have its
30 own secondary program, is an educationally sound approach for
31 a number of reasons. It is the present policy of the State
32 Board of Education and the Commissioner to provide local
secondary schools because, based upon the best information

1 currently available, such schools offer the greatest educational
2 benefits for most students in the unorganized borough at
3 the lowest over-all costs. The assumed educational benefits
4 of larger secondary schools have not materialized for most
5 village students. The majority of such students have not
6 enrolled in specialized curricula but in basic courses which
7 can be taught in village schools. Village secondary schools
8 offer a basic skills curriculum, which can be enriched
9 by a variety of supplementary programs, in a personal
10 atmosphere and in small-group situations. Local traditions,
11 customs, and skills can be transmitted from the adult generation
12 without the severe social dislocation inherent in removing
13 adolescents from familiar surroundings.

14 30. The parties further agree that it is an
15 educationally sound approach, based upon the best information
16 currently available, to offer to each community set forth on
17 Schedule B, attached hereto, the opportunity to choose not to
18 have a secondary school program, to have a partial program,
19 or to have a four-year program, in accordance with the
20 regulatory provisions set forth in Schedule A, attached hereto.

CONSENT DECREE

1
2 1. The provisions of the regulations set forth
3 in Schedule A, attached hereto, are hereby incorporated
4 herein as provisions of this Consent Decree. No change
5 in the regulations which affects plaintiffs' entitlements
6 thereunder shall be permitted.

7 2. The Commissioner of the Department ("Department"
8 herein means the Department of Education as defined by AS
9 14.07.010, sec. 1, ch. 98 SLA 1966) shall designate a person
10 who shall be responsible for administering the implementation
11 of this Consent Decree. This person shall have such administra-
12 tive authority, fiscal resources and staff support, including
13 clerical assistance, as are necessary effectively to administer
14 this decree. Attorneys for the plaintiffs shall be entitled to
15 frequent access to this person to review and make inquiries
16 regarding the implementation of this decree.

17 3. The Department shall ensure that no later
18 than November 1, 1976, the governing body of the appropriate
19 school district shall notify the residents of all communities
20 identified in Schedule B, attached hereto, of the community's
21 entitlement to a secondary school, pursuant to 4 AAC 05.040.
22 The Department shall require that the governing body of
23 the school district, at the time it provides written notification,
24 file with the Commissioner a copy of such written notice
25 (or, if a form is used a copy of such form), together with
26 a statement of the date(s) such notification was provided to
27 each community. On request of the local school committee
28 in any community identified in Schedule B, attached hereto,
29 the Department shall within a reasonable time conduct a
30 meeting in such community at which the entitlements secured
31 by this decree will be explained. In any community which
32 requests that a secondary school not be conducted in such

community, the Department shall, in any subsequent school year, on request of the local school committee, promptly conduct such a meeting.

4. The Department shall conduct an inventory during 1976 in all communities identified in Schedule B, attached hereto, except those which have expressed their opposition to a secondary school in accordance with 4 AAC 05.050, of public facilities which could be converted, either temporarily or permanently, into secondary classroom space. In conducting this inventory, the Department shall contact the local school committee in each village, and shall incorporate in the inventory report the committee's view regarding the conversion of facilities to secondary classroom space.

5. The Department shall prescribe by regulation that the governing body of a school district, with the assistance of the local school committees, shall conduct, no later than June 1, 1977, and May 1 of each subsequent school year, a survey of secondary school-age children who are not enrolled in school. The Department shall require that the information gathered by each survey shall be submitted to the Department by the governing body of the school district. The Department shall ensure that the governing body of the school district establishes a program to encourage each secondary school-age child who is not enrolled in secondary school, as identified in the annual survey, to finish secondary school.

6. The Department shall secure compliance with the provisions of 4 AAC 05.040 regarding the establishment of local secondary schools in accordance with the following schedule:

(a) In any community wherein there is available a suitable facility in which to conduct a local secondary school (or certain grades thereof), a local secondary school (or those grades which can be reasonably accommodated in the facility) shall be established as soon as practicable,

1 with classes commencing no later than Fall, 1977.

2 (b) In any community where an existing
3 public facility may be temporarily rendered suitable by
4 means of renovation at a cost not to exceed \$10,000, the
5 renovation, subject to the availability of funds, shall
6 be undertaken and a secondary school shall thereafter be
7 established as soon as practicable.

8 (c) In any community wherein there is available
9 no suitable facility in which to conduct a local secondary
10 school, and wherein no existing public facility may be rendered
11 suitable by renovation under subparagraph (b) above, major
12 renovation will be undertaken or a new secondary school
13 facility shall be constructed as soon as practicable. The
14 Department shall take all reasonable steps to ensure that
15 construction of each such secondary school facility for
16 which construction funds are provided in a 1976 bond issue
17 is completed no later than Fall, 1977, or, if such facility
18 is designated on Schedule C, attached hereto, as a major
19 facility, no later than Fall, 1978; and that each such secondary
20 school facility for which construction funds are provided
21 in a 1978 bond issue is completed no later than Fall, 1979,
22 or if such facility is designated on Schedule C, attached
23 hereto, as a major facility, no later than Fall, 1980.

24 7. The Department agrees that money presently
25 available to the State for rural secondary school construction,
26 heretofore unexpended, shall be expended at the sites specified
27 in Schedule D, attached hereto, in the amounts necessary to
28 provide at each site a comprehensive secondary education
29 facility, which shall include, but not necessarily be limited
30 to, academic classrooms, facilities appropriate for instruction
31 in vocational education and home economics, indoor physical
32 education space and related support facilities and mechanical
space. The Department further agrees and represents that

1 construction of facilities at these sites shall be completed
2 no later than Fall, 1977.

3 8. (a) Funds from ch. 131 SLA 1976 shall
4 be utilized in a total amount not less than \$20,000,000 for
5 the purpose of paying the costs of rural secondary school
6 construction. The parties recognize that the Department
7 cannot guarantee passage of this bond issue by the voters.
8 If this bond issue is not passed, the plaintiffs reserve
9 their remedies under law.

10 (b) The Department shall exercise its best
11 efforts to secure legislative approval of an act providing
12 for the issuance of general obligation bonds in an amount
13 not less than the sum of \$20,570,000 (multiplied by the
14 appropriate inflationary factor derived in accordance with
15 subparagraph (d) below) and the amount, if any, determined
16 pursuant to paragraphs 12 and 13 below, for the purpose
17 of paying the costs of rural secondary school construction
18 at the sites set forth in Schedule C, and at the sites and
19 in the amounts determined pursuant to paragraphs 12 and 13,
20 and providing that the question of whether such bonds shall
21 be issued shall be submitted to the voters at the
22 State general election in November, 1978. Such best efforts
23 shall include, but not necessarily be limited to, recommending,
24 in the Governor's Capital Budget for Fiscal Year 1979,
25 construction of rural secondary schools at the sites set forth
26 in Schedule C and those determined pursuant to paragraphs 12
27 and 13, and good faith testimony before the legislature by
28 appropriate personnel of the Department on behalf of such
29 recommendations. The Department represents that it has
30 consulted with the Governor as to the provisions of this Consent
31 Decree, and that the Governor is committed to securing approval
32 by the legislature, and thereafter by the voters, of a bond issue

1 in an amount not less than the sum of \$20,570,000 (multiplied
2 by the appropriate inflationary factor) and the amount, if
3 any, determined pursuant to paragraphs 12 and 13, below, for
4 the purpose of paying the costs of rural secondary school
5 construction at the sites designated herein. The parties
6 recognize that the Department cannot guarantee passage of
7 a bond issue by either the legislature or the voters. If
8 a bond issue is not passed, or if lesser amounts are made
9 available, the plaintiffs reserve their remedies under law.

10 (c) In the event the voters approve ch. 131
11 SLA 1976, the sum to be recommended pursuant to subparagraph
12 (b), above, in the Governor's Capital Budget for Fiscal Year
13 1979 may be reduced as follows: the amount of \$20,570,000
14 set forth in subparagraph (b) above, may be reduced by
15 subtracting therefrom amounts, if any, in excess of \$20,000,000
16 which are utilized in accordance with this decree.

17 (d) The inflationary factor to be applied
18 to the amounts set forth in Schedule C, for the purpose of
19 determining amounts to be made available in a 1978 bond
20 issue, shall be computed according to the formula,

21 $I = 1 + r_1 + r_2 (1 + r_1)$ in which:

22 (1) I = the inflationary factor;

23 (2) r_1 = the rate of increase in average building
24 construction costs in Alaska in the 12
25 months preceding November, 1976; and

26 (3) r_2 = the rate of increase in average building
27 construction costs in Alaska in the 12
28 months preceding November, 1977.

29 The rate of increase in average building construction costs
30 shall be computed as the product obtained from multiplying
31 1.25 by the percent change in building construction costs in
32

1 the Seattle metropolitan area, as reported by Dodge Building
2 Cost Services, McGraw-Hill Systems Company, or shall be
3 determined by such other means to which the parties, through
4 their attorneys, may hereafter agree.

5 9. Rural secondary school construction funds
6 made available pursuant to paragraph 8, above, shall be
7 utilized as follows:

8 (a) Sufficient funds shall be made available
9 to ensure, at each of the 37 "Major Construction Sites"
10 set forth in Schedule C, the provision of comprehensive
11 secondary education facilities at each site, which shall
12 include, but not necessarily be limited to, academic classrooms,
13 facilities appropriate for instruction in vocational education
14 and home economics, indoor physical education space and related
15 support facilities and mechanical space. Such facilities
16 shall in other respects conform to Minimum Guidelines for
17 the construction of small secondary schools, hereafter to
18 be promulgated by the Department.

19 (b) Sufficient funds shall be made available
20 to ensure, at each of the 35 sites designated in Schedule C
21 as "Construction Sites for Projected Enrollments of 11 - 20
22 Students", the provision of secondary education facilities
23 including classroom and indoor physical educational space
24 and related support facilities and mechanical space. The
25 funds may be used for construction of new secondary facilities
26 or renovation of existing public facilities.

27 (c) Sufficient funds shall be made available
28 to ensure, at each of the 36 sites designated in Schedule C
29 as "Sites of Minimal Construction or Renovation", the
30 provision of adequate secondary classroom space. The funds
31 shall be expended for the construction of secondary education
32 facilities or the renovation of existing public facilities.

1 10. Residents of each community in which a facility
2 is to be constructed or renovated pursuant to this decree
3 shall be afforded an opportunity, prior to final approval
4 of the architectural plan for such construction or renovation,
5 to present their ideas on the design of the facility in
6 their community. Such ideas shall, to the extent practicable,
7 be incorporated into the architectural plan. To the maximum
8 extent consistent with education needs, a design for a school
9 building constructed pursuant to this decree shall provide
10 for multiple use of the building for community purposes.

11 11. Any resident of a community specified in
12 Schedules C or D who is between the ages of 20 and 25 and has
13 completed the 8th grade but has not completed the 12th grade
14 shall be entitled for the purpose of earning a high school
15 diploma to attend, without payment of tuition, the local
16 secondary school established in his community pursuant to this
17 decree.

18 12. Should additional funds be necessary for the
19 provision of adequate secondary school facilities, pursuant
20 to paragraph 9 and 4 AAC 05.040, at any location in the
21 unorganized borough whether or not such location is specified
22 in Schedule C, the Department shall seek additional capital
23 funds in sufficient time to permit construction of such
24 facilities to commence no later than Spring, 1979.

25 13. In determining whether additional funds are
26 necessary, pursuant to the preceding paragraph, the
27 Department shall take the following steps:

28 (a) The Department shall prepare a report,
29 which shall be filed with the court and provided to attorneys
30 for the plaintiffs no later than September 1, 1977, setting
31 forth in reasonable detail the information upon which the
32 Department has based or intends to base its determination.

1 The Department shall make available to attorneys for the
2 plaintiffs such additional information as reasonably bears
3 upon the determination.

4 (b) The Department shall, at the time the
5 Department submits its capital budget request for Fiscal
6 Year 1979 to the Department of Administration, provide to
7 attorneys for the plaintiffs a copy of such budget request,
8 together with the report (unless such information is plainly
9 set forth in the capital budget request) of the amounts,
10 by site, for which the Department is requesting funding
11 pursuant to this decree.

12 (c) In the event that plaintiffs object
13 that the amounts for secondary school construction which
14 the Department has determined to be necessary, under the
15 provisions of this paragraph, are insufficient in any respect,
16 the plaintiffs shall within 21 days of the filing by the
17 Department of the reports required by this paragraph, file with
18 the court, and provide to the Department, plaintiffs'
19 objections to the Department's determinations. If objections
20 have been filed, the Department's capital budget request shall
21 not be submitted to the legislature until the court shall have
22 determined, after notice and hearing, the amounts which shall
23 be included in such budget request in order to carry out the
24 provisions of paragraph 12 of this decree.

25 14. The Department shall revise the Small Secondary
26 Schools Administrative Manual, First Edition, September, 1971,
27 to accord with the provisions of this decree.

28 15. The Department shall exercise its best efforts
29 to ensure that no school, required by this decree, fails to
30 operate because of a shortage of teacher housing. However,
31 nothing in this paragraph shall be interpreted as requiring
32 the Department to provide teacher housing directly.

1 16. The Department shall file with the court,
2 and provide to attorneys for plaintiffs, reports every four
3 months regarding the Department's progress in implementing
4 this decree. The first such report shall be filed within
5 four months of the date on which this decree is approved
6 by the court. Each report shall specify in reasonable detail
7 the actions taken to implement each provision of this decree,
8 except that no further report need be made as to any provision
9 which has been fully implemented. Each report shall describe
10 progress made in planning and executing construction at
11 each site specified on Schedule C. Each report shall include
12 a copy of the materials received or prepared by the Department
13 (unless such copy was included with a previous report) which
14 are specified in the provisions of paragraphs 1,3,4, and 5
15 of this Consent Decree.

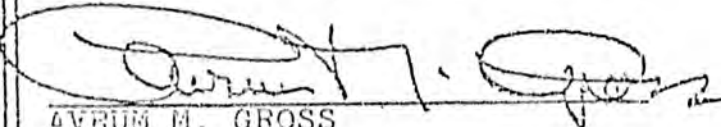
16 17. The Department shall exercise its best efforts
17 to make available, during Fiscal Year 1977, a minimum of
18 \$100,000 for the implementation of this decree. Such sum
19 shall be utilized solely for the purpose of providing grants
20 to local districts for the renovation of existing public
21 facilities for the purpose of operating, during the 1976-77
22 school year, secondary school programs in any community
23 specified in Schedule C. Any unexpended balance of this amount
24 shall thereafter be available to implement the provisions of
25 this decree.

26 18. The court shall retain jurisdiction of this
27 action until such time as the construction provided for
28 herein has been substantially completed at each of the sites
29 on Schedule C and the other provisions of this Consent
30 Decree have been substantially fulfilled. On or about October 1,
31 1980, there shall be a general review of the progress to
32 determine whether, in light of said progress, the jurisdiction
of the court over this case shall terminate.

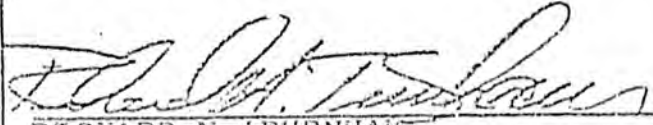
19. The parties agree that it is desirable to minimize, where possible, judicial involvement in the internal affairs of the Department. Therefore, the parties agree to make good faith efforts to resolve by negotiation all disagreements arising under this Consent Decree.

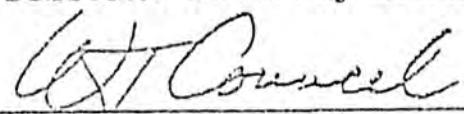
20. The parties agree that all of the foregoing provisions of this Consent Decree are contingent upon the approval by the voters of the issuance of general obligation school construction bonds as provided in ch. 131 SLA 1976. In the event said bond issue fails of passage and funds are not available to carry out the commitments made in this Consent Decree, the foregoing provisions of this Consent Decree shall be null and void. The parties further agree that, notwithstanding a failure of said bond issue to be approved, the facts set forth in the Statement of Agreed Facts shall be considered established and the parties shall not relitigate such facts.

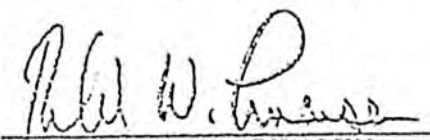
DATED Sept 13, 1976.


AVRUM M. GROSS
Attorney General

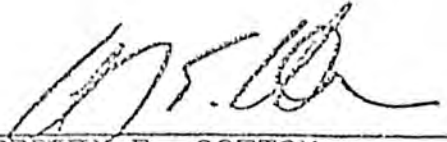

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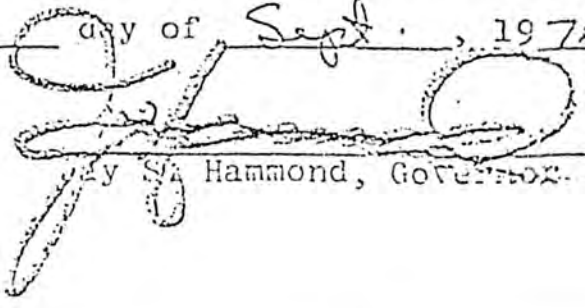

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Approved this 3 day of Sept, 1976.


Jay S. Hammond, Governor

SCHEDULE A

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EDUCATION

4 AAC 05.010

4 AAC 05.020

4 AAC is amended by adding a new chapter to read:

CHAPTER 05. LOCAL EDUCATION

Section

- 10. Purpose
- 20. Definitions
- 30. Local education
- 40. Establishment of local schools
- 50. Requests that no local secondary school or only a partial school program be established
- 60. Extensions of time in which to establish local schools
- 70. Program planning and evaluation
- 80. School curriculum and personnel
- 90. Discontinuation of schools

4 AAC 05.010. PURPOSE. (a) The purpose of this chapter is to ensure that, consistent with the desires of parents and of local communities, the school-age children in the State of Alaska have the opportunity to attend an elementary or secondary school in the local communities in which they reside.

(b) Nothing in this chapter is intended to require the construction of a new facility in which to conduct a school established pursuant to this chapter, if there exists in the community a suitable facility in which the school may be conducted. (Eff. / /, Reg.)

AUTHORITY: AS 14.07.020(1) & (2)
AS 14.07.060

4 AAC 05.020. DEFINITIONS. In this chapter, unless the context requires otherwise:

- (1) "commissioner" means the Commissioner of Education;
- (2) "community" means a home-rule city, city of any class, and incorporated and unincorporated villages;
- (3) "department" means the Department of Education;
- (4) "local school committee" or "committee" means the community school committee established pursuant to AS 14.14.170 or, if there is no such committee in the community, the BIA advisory school board, or a borough school district advisory school board established pursuant to AS 14.12.035, if there is no BIA advisory school board, or borough school district advisory school board, the village or city council;
- (5) "school" means a program of instruction which complies with all statutes, regulations and requirements applicable to the operation of public schools in the state. (Eff. / /, Reg.)

AUTHORITY: AS 14.07.020(1) & (2)
AS 14.07.060

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EDUCATION

4 AAC 05.030

4 AAC 05.040

4 AAC 05.030. LOCAL EDUCATION. (a) Every child of school age has the right to a public education in the local community in which he resides.

(b) Neither the department nor a district may require a child to live away from the local community in which he resides to obtain an education. (Eff. / /, Reg.)

AUTHORITY: AS 14.03.080(a)
AS 14.07.020(1) & (2)
AS 14.07.060

4 AAC 05.040. ESTABLISHMENT OF LOCAL SCHOOLS. (a) The governing body of a district shall provide an elementary school in each community in which eight or more children are available to attend elementary school.

(b) Unless the local school committee of the community requests that no secondary school be provided in that community pursuant to sec. 50 of this chapter, the governing body of the school district shall provide a secondary school or, if so requested by the local school committee, a partial secondary school program in each community in the district in which:

(1) there is one or more children available to attend a secondary school; and

(2) there is, or there is required to be pursuant to (a) of this section, an elementary school operated by the district, or there is an elementary school operated by the Bureau of Indian Affairs.

(c) If the conditions in (a) or (b) of this section are satisfied on the effective date of this section and there is at that time no elementary or secondary school, respectively, in operation, a local elementary or secondary school required to be established under this section should be in operation by September 1, 1976 if there is a suitable facility in the community in which to conduct the school. A school must be in operation no later than September 1, 1977, unless the commissioner has granted additional time in which to comply with this section pursuant to sec. 60 of this chapter. If a school is not in operation by September 1, 1976, the governing body shall provide to the commissioner a first interim report on Dec. 1, 1976, and a second interim report on February 15, 1977, containing information he considers necessary to demonstrate that adequate planning and preparations are being made to begin operation of schools required by this section no later than September 1, 1977. Applications for additional time beyond September 1, 1977 in which to establish a school required by this section must be filed with the commissioner no later than February 15, 1977.

(d) If the conditions contained in subsections (a) or (b) of this section are first satisfied at some time after the effective date of this section and there is at that time no elementary or secondary school, respectively, in operation, a local elementary or secondary school required to be established by this section must be in operation no later than September 1 of the school year following the date on which the conditions were first satisfied, unless the commissioner has granted additional time in which to comply with this section pursuant to sec. 60 of this chapter.

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4 AAC 05.040

4 AAC 05.050

(c) For purposes of this section, a school-age child who has not completed the eighth grade is considered available to attend a local elementary school, and a school-age child who has completed the eighth grade but not the twelfth grade is considered available to attend a local secondary school, unless he or she:

(1) is provided daily access to a school of the appropriate grade level by being transported a reasonable distance;

(2) desires to enroll or is enrolled and desires to remain enrolled in a private school or a program of private tutoring in which the teachers are certificated according to AS 14.20.020;

(3) desires to enroll or is enrolled and desires to remain enrolled in a full-time program of correspondence study approved by the department;

(4) has a physical or mental condition which medical authority determines will make attendance impractical;

(5) is in custody of a court or law enforcement officials; or

(6) is under suspension or has been denied admittance pursuant to AS 14.30.045. (Eff. , Reg.)

AUTHORITY: AS 14.07.020(1) & (2)
AS 14.07.060

4 AAC 05.050. REQUESTS THAT NO LOCAL SECONDARY SCHOOL OR ONLY A PARTIAL SCHOOL PROGRAM BE ESTABLISHED. (c) Sec. 40 of this chapter applies to any given community unless its local school committee has requested, by formal action of the committee at a public meeting, that only a partial secondary school program be provided in that community. *Any secondary school*

(b) The governing body of a school district shall provide a partial local secondary school program in conformity with the committee's request in any community where the local school committee has requested, by formal action of the committee at a public meeting, that only a partial secondary school program be provided in that community.

(c) The governing body of a district shall require any committee making a request under (a) or (b) of this section to file with the request the name, age, and grade level of each child who is available to attend secondary school and who, by reason of the request, will not be afforded a local secondary school. The governing body shall by written notice promptly inform the parents of each of these children that the governing body will review the committee's action if so requested by a parent, or the parent's designated representative, within 60 days of the board's mailing to the parent of the notice. If a review is requested, the governing body shall afford the parent, or the parent's designated representative, an opportunity to be heard. The governing body shall determine whether it will provide a local secondary school for any child on whose behalf a review is sought, taking into account the educational or other best interests of the child,

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4 AAC 05.050

4 AAC 05.060

the desires of the child's parents, and the feasibility of providing a local school for the child. The governing body's decision must be in writing, must set out the facts upon which it is based, and must, within 45 days after the parent's mailing to the governing body a request for a review, be mailed to the parent, and a copy sent to the commissioner, Pouch F, Juneau, Alaska 99811 and the local school committee. The governing body's decision is final.

(d) A committee's request under (a) or (b) of this section remains effective until formal action is taken to rescind it by the committee at a meeting open to the public. However, a committee's initial request remains effective until the close of one full school year after the request was made even though rescinded earlier; thereafter, rescissions made during a school year but before February 1 of that school year shall be given effect for the following school year and thereafter. Requests under (a) or (b) of this section and subsequent notices of rescission of these requests must be submitted by the committee, in writing, to the governing body of the school district in which the community is located and must contain an explanation of the reason for which it is being made. The committee shall also send a copy of the request or notice of rescission to the commissioner, Pouch F, Juneau, Alaska 99811.

(e) For a request or subsequent rescission of a request made under this section to have effect, the local school committee must have conducted a public hearing on the proposed request or rescission of the request after giving residents of the community reasonable notice of the hearing. A record must be kept of the persons speaking at the hearing and the substance of their testimony. (Eff. / / , Reg.)

AUTHORITY: AS 14.07.020(1) & (2)
AS 14.07.060

4 AAC 05.060. EXTENSIONS OF TIME IN WHICH TO ESTABLISH LOCAL SCHOOLS.

(a) A district may apply to the commissioner for additional time in which to establish an elementary or secondary school required under sec. 40 of this chapter. The application must be in writing and must set out: (1) the community affected; (2) a detailed statement of the reason why a school cannot be provided by the date specified in sec. 40(c) and (d) of this chapter; (3) a description of the steps taken or to be taken to achieve compliance with sec. 40 of this chapter; (4) an estimate of the date upon which compliance can be achieved; (5) the number of children available to attend school but unhoused; and (6) if the reason the district is unable to comply with sec. 40 of this chapter is that it lacks a suitable facility in the community, the estimated size and cost of the facility required and a proposed timetable for construction of a suitable facility.

(b) Upon receipt of an application for an extension of time in excess of 90 days, the commissioner shall provide a copy of the application to the

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EDUCATION

4 AAC 05.060

local school committee in the community affected and shall notify the committee that comments and information relating to the application will be considered by him if he receives it within 30 days after the date of mailing that notice. The commissioner shall also notify the committee that he or his designee will conduct a public hearing on the application in the community if the committee so requests and presents to him a genuine issue of material fact. A similar notice, summarizing the application, shall be provided to the village or city council and to each postal customer in the community by the commissioner.

(c) A hearing under (b) of this section shall be conducted as soon as practicable after the receipt of a bona fide request. The commissioner shall provide reasonable notice of the hearing, at least 20 days in advance, to the committee, the village or city council and to each postal customer in the community. A record must be kept of the persons at the hearing and the substance of their testimony. The proceedings must, if necessary, be translated into the Native language of the persons at the hearing. The application and such further information as may have been submitted by the district, or a summary of it, must be read at the hearing.

(d) The commissioner, upon reviewing an application, may require the district to submit additional information and may investigate the facts surrounding the application on his own motion. He shall, within a reasonable period, render his decision, in writing, setting out the facts upon which it is based and taking into account reasonable alternatives to an extension of time which may be available. If the commissioner approves the application, he shall require the district to take all reasonable steps to establish an elementary or secondary school at the earliest practicable time and shall set forth a timetable for establishing the school. The total amount of additional time allowed, including later modifications, may not exceed one year, unless further time is necessary for the construction or major renovation of a suitable facility.

(e) Later modifications to an approved compliance date may be requested in the same manner as the initial application for additional time under this section. An allowance of additional time or subsequent modification of an approved compliance date may be shortened or revoked by the commissioner if the conditions upon which the approval of additional time were based cease to exist.

(f) An application by a regional educational attendance area school board for additional time, for the reason that there is no suitable facility in the community in which to establish an elementary or secondary school required by this section, is considered a recommendation to the commissioner for construction of a new facility pursuant to AS 14.08.101(7).

(Eff. / /, Reg.)

AUTHORITY: AS 14.07.020(1) & (2)
AS 14.07.060
AS 14.08.101(7)

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EDUCATION

4 AAC 05.070

4 AAC 05.080

4 AAC 05.070. PROGRAM PLANNING AND EVALUATION. (a) For each of the first three years of operation of a school established under sec. 40 of this chapter, the chief school administrator of a school district shall develop and have approved by the governing body of that district, annually and no later than that body's first meeting in October, an educational plan for each school established.

(b) After the close of each school year for which an educational plan must be developed under (a) of this section, but no later than the governing body's first meeting in September, the chief school administrator shall prepare and submit to the governing body of the school district an evaluation of each new school operated by the district.

(c) The chief school administrator of a district shall assure maximum on-going local community participation in the development and preparation of the educational plans and evaluations of the plans required by this section.

(d) Copies of the plans and evaluations developed under this section must be maintained on file for public inspection in the school district office. A copy of each plan and evaluation must also be filed with the commissioner, Pouch F, Juneau, Alaska 99811. A copy must also be furnished to the local school committee of the community in which the school to which the plan or evaluation relates is located. (Eff. / / , Reg.)

AUTHORITY: AS 14.07.020(1) & (2)
AS 14.07.060

4 AAC 05.080. SCHOOL CURRICULUM AND PERSONNEL. (a) The curriculum of a local school may be supplemented through the use of correspondence course materials approved by the commissioner. This use is not grounds for shortening the day in session, as prescribed by AS 14.03.040, for any student.

(b) The governing body of a district shall employ, for each school, certificated teachers for the instruction of the pupils enrolled in it as necessary to provide the educational program described in the plan developed under sec. 70(a) of this chapter.

(c) The governing body of a district may make provision for the employment of qualified residents of the community served by the school who hold an appropriate certificate (e.g., emergency or recognized expert) to teach particular skills or courses, and for the employment as teacher aides of qualified residents of the community served who do not hold an appropriate certificate. (Eff. / / , Reg.)

AUTHORITY: AS 14.07.020(1) & (2)
AS 14.07.060

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EDUCATION

4 AAC 05.090
4 AAC 09.050

4 AAC 05.090. DISCONTINUATION OF SCHOOLS. Once provision of a school in a community has been initiated by undertaking major renovation of an existing facility or construction of a new facility, that school may only be discontinued through action of the governing body of the district. Plans for discontinuation of a school under this section must be submitted to the department for approval and may not be executed until they are approved. Plans will be considered approved if the department does not disapprove them within 90 days after submission. (Eff. / / , Reg.)

AUTHORITY: AS 14.07.020(1) & (2)
AS 14.07.060

2. 4 AAC 06.020. SECONDARY EDUCATION. Repealed. (Eff. / / , Reg.)

3. 4 AAC 06.027(b) is amended to read as follows:

(b) Pupils may be required to attend schools in other districts, subject to the provisions of Ch. 5 of this title, when, in the judgment of the commissioner, the best interests of the state will be served. Either the district of residence or the district named as the attendance area may appeal the commissioner's decision to the state board. The decision of the state board will be final. (Eff. 7/9/72, Reg. 42; am / / , Reg.)

4. 4 AAC 09.030(8) is repealed. (In effect before 7/28/59; am 6/9/61, Reg. 3; am 10/14/68, Reg. 27; am 8/30/75, Reg. 55; am / / , Reg.)

5. Note to Publisher: Change title of 4 AAC 09.030 to read "Tuition costs".

6. A new section, 4 AAC 09.050, is adopted to read as follows:

4 AAC 09.050. SECONDARY BOARDING PROGRAMS. (a) The governing body of a district shall make available, at no cost to the student or his parent, a basic boarding program to all secondary school age children in the district who do not have daily access to a school of the appropriate grade level by being transported a reasonable distance.

(1) A basic boarding program must provide for each student:

(A) suitable living accommodations including room and board and supervision while the student is not in school which satisfy the applicable requirements of state law and regulations;

(B) round trip transportation to and from the student's usual home; and

(C) daily access to a school offering the appropriate grade level.

(2) Students in a basic boarding program shall be placed in accordance with their best interests, taking into account special educational needs.

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4 AAC 09.050

(3) To qualify for funding by the department of education, a district's basic boarding program must satisfy the requirements of (1) and (2) of this subsection. Applications for funding must contain the following:

(A) the name, village and grade level of each student;

(B) the location of each student's boarding placement and;

(C) a budget showing transportation, room and board, and out-of-school supervision costs.

(4) Costs for items other than transportation, room and board, and out-of-school supervision must be borne by the district.

(b) The governing body of a district may provide, at no cost to the student or his parents, a supplemental boarding program open to secondary school age children in the district who have daily access to a school program of the appropriate grade level, but who have special needs that cannot be provided for in their local school program.

(1) A supplemental boarding program shall provide for each student:

(A) suitable living accommodations including room and board and supervision while the student is not in school which satisfy the applicable requirements of state law and regulations;

(B) round trip transportation to and from the student's usual home; and

(C) daily access to a school offering the appropriate grade level.

(2) Criteria for eligibility and participation in a supplemental boarding program must be established by the governing body. Notice of the eligibility criteria must be provided at least annually to the parents of the children who have daily access to a school of the appropriate grade level.

(3) All costs of a supplemental boarding program must be borne by the district unless funds are otherwise provided by the state or federal government.

(c) No student may be suspended or expelled from a boarding program without due process of law. A student suspended or expelled from a boarding program is not thereby considered unavailable to attend a local secondary school required by 4 AAC 05.040. (Eff. / /, Reg.)

AUTHORITY: AS 14.07.020(1) & (2)
AS 14.03.030(5) & (10)
AS 14.07.060

SCHEDULE B

- | | |
|--------------------|------------------------|
| 1. Akiachak | 34. Ekwok |
| 2. Akiak | 35. Elim |
| 3. Akutan | 36. False Pass |
| 4. Allakaket | 37. Fortuna Ledge |
| 5. Aleknagik | 38. Gambell |
| 6. Ambler | 39. Golovin |
| 7. Angoon | 40. Goodnews Bay |
| 8. Anvik | 41. Grayling |
| 9. Arctic Village | 42. Holy Cross |
| 10. Atka | 43. Hooper Bay |
| 11. Atmautluak | 44. Hughes |
| 12. Beaver | 45. Huslia |
| 13. Belkofski | 46. Igiugig |
| 14. Bettles | 47. Ivanof Bay |
| 15. Birch Creek | 48. Kalskag |
| 16. Brevig Mission | 49. Kaltag |
| 17. Buckland | 50. Kasigluk |
| 18. Chalkyitsik | 51. Kipnuk |
| 19. Chefornak | 52. Kivalina |
| 20. Chevak | 53. Kobuk |
| 21. Chignik | 54. Kokhanok |
| 22. Chignik Lagoon | 55. Koliganek |
| 23. Chignik Lake | 56. Kongiganak |
| 24. Chuathbaluk | 57. Kotlik |
| 25. Circle | 58. Koyuk |
| 26. Clark's Point | 59. Koyukuk |
| 27. Council | 60. Kwethluk |
| 28. Crooked Creek | 61. Kwigillingok |
| 29. Deering | 62. Levelock |
| 30. Diomede | 63. Lime Village |
| 31. Dot Lake | 64. Lower Kalskag |
| 32. Eek | 65. Manley Hot Springs |
| 33. Egegik | 66. Manokotak |

SCHEDULE B

-2-

67.	Nekoryuk	101.	Savoonga
68.	Mentasta Lake	102.	Scammon Bay
69.	Minto	103.	Shageluk
70.	Napakiaak	104.	Shaktoolik
71.	Napaskiak	105.	Sheldon Point
72.	Nelson Lagoon	106.	Shishmaref
73.	Newhalen	107.	Shungnak
74.	New Kasaan	108.	Sleetmute
75.	New Stuyahok	109.	Stebbins
76.	Newtok	110.	Steven's Village
77.	Nightmute	111.	Stoney River
78.	Nikolai	112.	Takotna
79.	Nikolski	113.	Tatitlek
80.	Noatak	114.	Telida
81.	Nondalton	115.	Teller
82.	Northway	116.	Tetlin
83.	Nunapitchuk	117.	Togiak
84.	Oghsenakale	118.	Toksook Bay
85.	Oscarville	119.	Tuluksak
86.	Pedro Bay	120.	Tuntutuliak
87.	Perryville	121.	Tununak
88.	Pilot Point	122.	Twin Hills
89.	Pilot Station	123.	Unalakleet
90.	Pitka's Point	124.	Venetie
91.	Platinum	125.	Wales
92.	Pt. Heiden	126.	White Mountain
93.	Quinhagak		
94.	Rampart		
95.	Red Devil		
96.	Ruby		
97.	Russian Mission		
98.	St. George		
99.	St. Michael		
100.	St. Paul Island		

SCHEDULE C

CONSTRUCTION SITES

LOCATION

ESTIMATES

MAJOR CONSTRUCTION SITES

1. Akiachak	Not bid. This Spring	\$1,260,000
2. Allakaket	Full Burned Elem 1/79	690,000
3. Ambler	Done - Addition Spring	930,000
4. Angoon	done	500,000
5. Atmautluak		720,000
6. Buckland	done	630,000
7. Cheformak	This Spring	720,000
8. Chuathbaluk	?	630,000
9. Crooked Creek	?	630,000
10. Eek	This Spring	630,000
11. Elim	?	630,000
12. Fortuna Ledge	This Spring	720,000
13. Goodnews Bay	" "	870,000
14. Kalskag	(upper & lower) Partly Completed	990,000
15. Kasigluk	No funds - moved to school until last fall. This winter said I don't want one.	1,110,000
16. Kipnuk	Under construction	470,000
17. Koliganek	This Spring	690,000
18. Kongiganak	done	1,050,000
19. Kotlik	This Spring	1,230,000
20. Kwethluk		1,770,000
21. Kwigillingok		810,000
22. Manokotak	Partly done / Finish This Spring	1,100,000
23. Mekoryuk	Bid This Spring	690,000
24. Napakiak	No funds - three weeks ago they said wait school building before they decide.	960,000
25. Napaskiak	This Spring	1,020,000
26. New Stuyahok	Partially Completed - Finish This Spring	1,000,000
27. Newtok	This Spring	690,000
28. Noatak	" "	770,000
29. Nondalton	done	690,000
30. Nunapitchuk	This Spring	1,290,000
31. Pilot Station	" "	1,050,000
32. Quinhagak	" "	1,170,000
33. Scammon Bay	" "	810,000
34. Stebbins	?	1,050,000
35. Tuluksak	This Spring	780,000
36. Tuntutuliak	" "	840,000
37. Tununak	" "	1,080,000
TOTAL		\$32,670,000

CONSTRUCTION SITES FOR PROJECTED ENROLLMENTS OF 11-20 STUDENTS

Estimate per site : \$200,000

TOTAL (35 sites): \$7,000,000

- | | |
|------------------------------------|--|
| 1. Akiak Under Construction | 19. Minto Partially Completed |
| 2. Anvik This Spring | 20. Newhalen Not known |
| 3. Arctic Village " Partially done | 21. Nightmute This Spring |
| 4. Brevig Mission ? | 22. Nikolai " " |
| 5. Chignik Lake ? | 23. <u>Ferryville</u> |
| 6. Clark's Point ? | 24. Pitka's Point This Spring |
| 7. Deering done | 25. Ruby But not completed |
| 8. Diomedea ? | 26. Russian Mission This Spring |
| 9. Dot Lake | 27. St. George Island Under construction |
| 10. <u>Egegik</u> None Requested | 28. St. Michael ? |
| 11. Ekwok don't know | 29. Shageluk partially done |
| 12. Golovin ? | 30. Shaktolik ? |
| 13. Grayling Partially completed | 31. Sheldon Point This Spring |
| 14. Huslia " " " " " " | 32. Sleetmute Partially done |
| 15. Kokhanok This Spring | 33. Teller Partially Completed |
| 16. Koyuk ? | 34. Tetlin Not started |
| 17. Koyukuk This Spring | 35. <u>Twin Hills</u> Secondary School Partially Completed |
| 18. Levelock Under Construction | |

1 kid -
Cotton vest
\$60,000
\$100

estimated is \$20,000
d that sep
only need 100,000
Cotton advice on our budget
document a saving
of expenditure

SCHEDULE C

PAGE 3

SITES OF MINIMAL CONSTRUCTION OR RENOVATION

Estimate per site: \$ 25,000

TOTAL (36 Sites) : 900,000

- | | |
|-------------------------------|------------------------|
| 1. Akutan | 18. Manley Hot Springs |
| 2. Atka | 19. Nelson Lagoon |
| 3. Beaver | 20. Nikolski |
| 4. Belkofski | 21. New Kasaan |
| 5. Bettles | 22. Oghsenakale |
| 6. Birch Creek | 23. Oscarville |
| 7. Chalkyitsik | 24. Pedro Bay |
| 8. Chignik | 25. Pilot Point |
| 9. Chignik Lagoon | 26. Platinum |
| 10. Circle | 27. Pt. Heiden |
| 11. Council | 28. Rampart |
| 12. False Pass | 29. Red Devil |
| 13. Hughes | 30. Steven's Village |
| 14. Igiugig | 31. Stoney River |
| 15. Ivanof Bay. <i>Closed</i> | 32. Takotna |
| 16. Kobuk | 33. Tatitlek |
| 17. Lime Village | 34. Venetie |
| | 35. Wales |
| | 36. White Mountain |

*see note. don't
need gas.*

SCHEDULE D

Presently Committed Construction Funds

	<u>Site</u>	<u>Amount</u>
1.	Angoon	720,000
2.	Chevak #	
3.	Gambell	1,400,000
4.	Holy Cross	440,000
5.	Hooper Bay #	
6.	Kaltag	2,212,000
7.	Kipnuk	1,000,000
8.	Kivalina	2,300,000
9.	Kongiganak	2,200,000
10.	Manokotak	400,000
11.	New Stuyahok	200,000
12.	Ncatak	400,000
13.	Northway	1,800,000
14.	St. Paul Island	1,000,000
15.	Sand Point	1,000,000
16.	Savoonga	1,600,000
17.	Shishmaref	2,492,000
18.	Shungnak	2,800,000
19.	Togiak	1,835,000
20.	Toksook Bay	2,100,000
21.	Unalakleet	2,000,000

Construction of secondary schools at Chevak and Hooper Bay has been undertaken by the Federal Government with no commitment of State funds.

*All done except
Kipnuk - under
construction*

Regional School Boards may apply for a grant from DOT for all or part of the funds allocated for their construction, repair or improvement projects

School construction repair and improvement shall be carried out by DOT unless funds for a project are granted to a Regional School Board

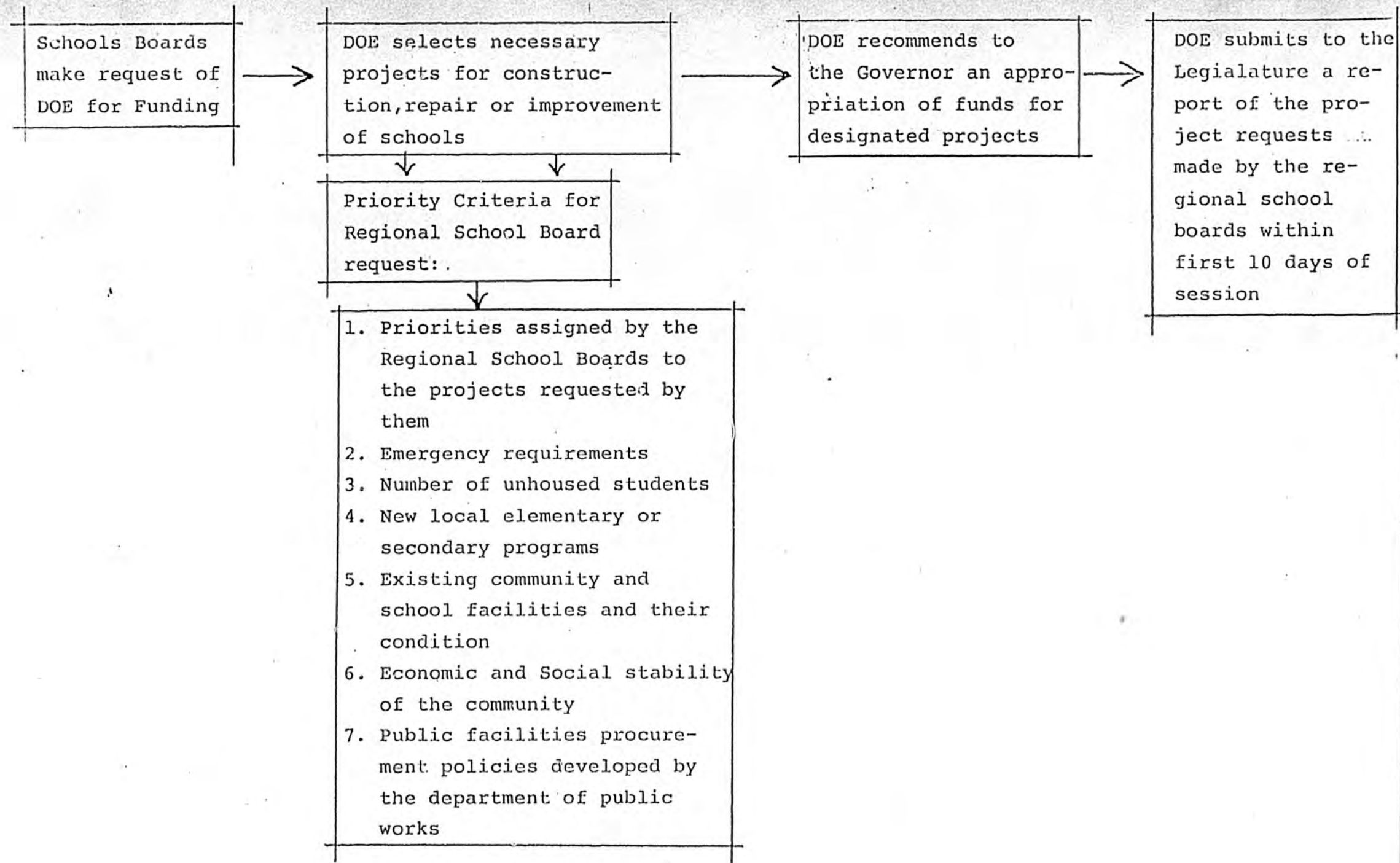
When a regional school board applies for a grant of funds, the department shall grant funds to a regional school board¹. for a school construction, repair, or improvement project, and, if the request is for all funds allocated, shall provide for the assumption by the regional school board of all of the department's responsibilities relating to the planning, design, and construction of an educational facility. Thereafter, the board shall

1. Select the appropriate professional personnel to develop the designs;
2. Approve or disapprove the appropriate designs or revised designs; and
3. Undertake construction, repair or improvement of the educational facility.

Ownership of supplies and equipment purchased with funds appropriated for school construction, repair, or improvement vests in the regional school board receiving them.

Title or sufficient interest determined acceptable by the department to an approved site for a school building to be constructed, repaired or improved by a regional school board shall be vested in the state or in the respective regional school board.

- 1./ To carry out the purpose of this section, the Department of Transportation and Public Facilities shall adopt regulations relating to the application for and the making and the manner of administration of grants wherein the responsibility for school construction, repair, and improvement is assumed by regional school boards.



Alaska Statutes

Title 35. Public Buildings, Works, and Improvements.

Chapter

- 05. Administration (§§ 35.05.010 — 35.05.050)
- 07. State Participation in Flood Control Projects (§ 35.07.010)
- 10. Public Works (§§ 35.10.010 — 35.10.200)
- 15. Construction Procedures (§§ 35.15.010 — 35.15.120)
- 20. Acquisition and Disposition of Property (§§ 35.20.010 — 35.20.070)
- 25. General Provisions (§§ 35.25.010 — 35.25.020)
- 27. Art Works in Public Buildings and Facilities (§§ 35.27.010 — 35.27.030)

Chapter 05. Administration.

Section

- 10. Planning and construction
- 20. Rules and regulations
- 30. Duties of department

Section

- 40. Powers of department
- 50. Federal aid

Sec. 35.05.010. Planning and construction. The department is responsible for the planning and construction of public works (§ 1 art III title I ch 152 SLA 1957)

Revisor's note. — The following executive order signed by Governor William A. Egan was transmitted to the legislature on January 22, 1962. It was not disapproved by the legislature during the 1962 session and therefore became law under the provisions of § 23 art III of the state constitution and AS 24.30.130.

"EXECUTIVE ORDER NO. 14.
Pursuant to Section 23, Article III,
Constitution of the State of Alaska, I

hereby reassign from the Department of Public Works to the Department of Fish and Game the function of constructing, maintaining, and operating vessels predominantly utilized by the Department of Fish and Game. I consider this transfer of function necessary for efficient administration.

"Dated at Juneau, Alaska, this 30 day of June, 1961."

Sec. 35.05.020. Rules and regulations. The department shall adopt rules and regulations which it considers necessary to carry out the purpose of this title. (§ 1 art III title I ch 152 SLA 1957)

Cross reference. — As to regulations concerning prequalification of contractors, see notes to AS 35.15.050.

Publication of regulations concerning

bidding and letting of contracts in Administrative Code. — See same catchline in note to AS 35.15.050.

Sec. 35.05.030. Duties of department. The department has the following powers and duties: (1) direct approved public works planning and construction; (2) employ assistants and employees; (3) certify and approve vouchers; (4) prepare a departmental budget; (5) review the annual public works program. (§ 2 art IV title I ch 152 SLA 1957)

Sec. 35.05.040. Powers of department. The department may (1) acquire property; (2) exercise the power of eminent domain; (3) take immediate possession of real property, or any interest in it under a declaration of taking or by other lawful means; (4) acquire rights-of-way for present or future use; (5) dispose of excess property or property rights; (6) accept and dispose of federal funds or property available for public works construction, maintenance, or equipment; (7) enter into contracts or agreements relating to public works with the federal government and political subdivisions, and also enter into contracts with a foreign government if approved by the federal government; (8) exercise any other power necessary to carry out the purpose of this title; (9) lease or grant land or any interest in land to the Alaska State Housing Authority on terms and conditions prescribed by the department; (10) procure directly materials, labor and contractual services for planning, designing and constructing public facilities of the state. (§ 2 art III title I ch 152 SLA 1957; am § 15 ch 99 SLA 1965; am § 3 ch 216 SLA 1975)

Cross reference. — See Editor's note to Article 5 of AS 35.10.

Effect of amendment. — The 1975 amendment added (10).

Sec. 35.05.050. Federal aid. Legislative assent to federal aid for Alaska, including aid given to Alaska through a department or agency of the federal government, is given. The department may apply for, contract, and do all things necessary to cooperate with the United States Government for the construction of public works under federal acts. (§ 1 art II title III ch 152 SLA 1957)

Chapter 07. State Participation in Flood Control Projects.

Section

- 10. State assumption of nonfederal flood control project costs

Revisor's note (1971). — In ch. 129, SLA 1971, AS 35.07 appeared as AS 35.30.

Sec. 35.07.010. State assumption of nonfederal flood control project costs. To the extent that funds are made available by the legislature, the state shall assume 90 per cent of the nonfederal costs of

planning, land acquisition, construction and maintenance of flood control projects authorized within the state by the United States before or after June 6, 1971, except that the state shall assume the full share of nonfederally funded costs with respect to those facilities which are primarily state responsibilities, including but not limited to highways and roads, parks and recreation, and fish and game facilities. The state shall participate in federal flood control projects under this section only as to those projects authorized and approved by the Department of Public Works. (§ 1 ch 129 SLA 1971)

Chapter 10. Public Works.

Article

1. Public Works Planning and Construction (§§ 35.10.010 — 35.10.080)
2. Boat Harbor, Dike, Jetty, and Breakwater Facilities (§§ 35.10.090 — 35.10.120)
3. Financial Provisions (§§ 35.10.130 — 35.10.135)
4. Prohibitions and Penalties (§§ 35.10.140 — 35.10.150)
5. Public Facility Procurement Policy (§§ 35.10.160 — 35.10.200)

Article 1. Public Works Planning and Construction.

Section	Section
10. Standard plans and specifications and limitation on cost	40. Failure of contractor to perform work
15. Architectural barrier regulations: enforcement	50. Duty of department to examine and report on existing public buildings
20. Consultation with municipal planning commissions	60. Inspection and testing of materials
25. Compliance with local building codes	70. Research on public works
30. Inspection and supervising public works construction	80. Statement of work authorized, completion schedule, and recommendations

Sec. 35.10.010. Standard plans and specifications and limitation on cost. The department shall prepare and adopt plans and specifications and determine standards for the construction of each public work. Each public work shall be limited in cost to the amount of the appropriation made for that purpose. The plans and specifications may be amended from time to time as the department considers advisable. This section does not apply to the construction of school buildings in incorporated cities, unless the construction is done in whole or in part with state funds, or to the construction of school buildings when the construction amounts to less than \$2,000. (§ 1 art III title III ch 152 SLA 1957)

Am. Jur. reference. — 43 Am. Jur., Public Works and Contracts, § 1 et seq.

Sec. 35.10.015. Architectural barrier regulations: enforcement. (a) The Department of Public Works shall prepare, promulgate and enforce regulations governing the construction of public buildings and facilities by or for the state, including the University of Alaska, and its political

subdivisions, whether financed in whole or in part by federal funds, to insure that the public buildings and facilities are accessible to, and usable by, the physically handicapped, aged or infirm. The regulations of the department shall conform to a standard comparable to the applicable provisions of federal law or regulation and to the publication entitled "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped" or any amendments to this publication as approved by the American Standards Association, Incorporated, under the sponsorship of the National Society for Crippled Children and Adults and the President's Committee on Employment of the Physically Handicapped.

(b) The department shall develop and maintain an inventory of all public buildings and facilities with respect to their compliance with the regulations adopted under (a) of this section. The department shall make an annual report to the governor and the legislature describing work performed in the preceding calendar year to upgrade public buildings and facilities to conform with the regulations. In addition, the department shall develop cost estimates and recommended priorities for the upgrading of public buildings and facilities that do not conform with the regulations adopted under (a) of this section and shall include these estimates and the recommended priorities in the annual report to the governor and the legislature.

(c) In this section, "public facilities" includes vessels owned by the state and operated by the division of marine transportation of the Department of Public Works as a part of the Alaska marine highway system. All ferries owned or operated by the state shall be equipped with elevators or other passenger lifting equipment, ramps, or other facilities and devices to ensure that these vessels are accessible to and usable by physically handicapped, aged or infirm passengers. In this subsection, "accessible to and usable by" means that a physically handicapped, aged or infirm passenger can board, disembark and move between decks and about the public areas aboard a state ferry with personal comfort and with safety to himself, other passengers and members of the crew. (§ 1 ch 119 SLA 1966; am § 1 ch 48 SLA 1972; am §§ 1, 2 ch 249 SLA 1976)

Effect of amendments. — The 1972 amendment inserted "including the University of Alaska" in the first sentence of present subsection (a).

The 1976 amendment, in the first sentence of present subsection (a), substituted "shall prepare, promulgate and enforce" for "is responsible for preparing and promulgating," inserted "whether financed in whole or in part by federal funds" and added "aged or infirm" to the end of the sentence. The amendment also substituted "to a standard comparable to the applicable provisions of federal law or regulation and" for "as far as it is feasible"

in the second sentence of present subsection (a), and added subsections (b) and (c).

Editor's note. — Section 3, ch. 249, SLA 1976, provides: "After June 25, 1976, no ferry may be constructed, lengthened, completely renovated, or purchased for use or entered into service by the division of marine transportation of the Department of Public Works as a part of the Alaska marine highway system that does not include adequate facilities and devices to ensure that the vessel is accessible to and usable by physically handicapped, aged or infirm passengers. Some staterooms and all

restrooms, indoor passageways, outdoor weather decks, and other public areas aboard the vessel shall be so designed and constructed as to permit access and use by physically handicapped, aged or infirm passengers, including but not limited to those persons occupying a wheelchair."

Section 4, ch. 249, SLA 1976, provides: "After June 25, 1976, no public building or

facility in the state may be planned, designed, financed, constructed, opened to public use, or otherwise placed in operation unless it meets the standards established under AS 35.10.015, as amended by sec. 1 of this Act."

Legislative committee report. — For report on ch. 119, SLA 1966, see 1966 House Journal, p. 889.

Sec. 35.10.025. Compliance with local building codes. A public building shall be built in accordance with applicable local building codes including the obtaining of required permits. This section applies to all buildings of the state and corporate authorities of the state. (§ 1 ch 89 SLA 1968)

Sec. 35.10.030. Inspection and supervising public works construction. The department shall supervise and inspect the construction of public works and shall see that the work performed in constructing, repairing, altering or improving public works is in accordance with the drawings and specifications for them, that the interests of the state are fully protected, and that no person, firm, or corporation employed on any work performs the work in any other or different manner than is provided by the contract and the plans and specifications. (§ 3 art III title III ch 152 SLA 1957)

Sec. 35.10.040. Failure of contractor to perform work. If a contractor or person in charge of the construction of a public building in the state fails to perform the work in a good and workmanlike manner and does not perform the work in accordance with the plans and specifications of the contract, the department shall direct what legal action, if any, shall be taken. (§ 4 art III title III ch 152 SLA 1957)

Am. Jur. reference. — 43 Am. Jur., Public Works and Contracts, § 48.

Sec. 35.10.050. Duty of department to examine and report on existing public buildings. The department shall, from time to time, examine all existing public buildings and report the condition of each and any necessary additional construction which is needed on them. (§ 4 art III title III ch 152 SLA 1957)

Sec. 35.10.060. Inspection and testing of materials. The department may inspect and test materials, supplies, equipment and machinery used by a contractor constructing or maintaining public works, and may develop methods and procedures for inspection and testing. (§ 5 art III title III ch 152 SLA 1957)

Sec. 35.10.070. Research on public works. The department may gather, investigate and compile information concerning the use, construction and maintenance of public works, the practices and methods of efficient organization, financing and such other information, data and statistics of the state and the extent of natural resources of building materials in the state. The department shall disseminate this information, together with recommendations it considers advisable. (§ 6 art III title III ch 152 SLA 1957)

Sec. 35.10.080. Statement of work authorized, completion schedule, and recommendations. Not later than February 1 of each year, the department shall prepare a statement showing the public works authorized within the past six-year period and the completion schedule as of that date, together with recommendations regarding the need for additional public works construction, if any. (§ 7 art III title III ch 152 SLA 1957)

Article 2. Boat Harbor, Dike, Jetty, and Breakwater Facilities.

Section	Section
90. Application for federal funds	110. Contracting with communities for local participation
100. Determining need and priority of projects	120. Leasing marine or harbor facilities

Sec. 35.10.090. Application for federal funds. The department shall apply in the name of the state, as applicant, to the appropriate federal agency for the construction or assistance in the construction of boat harbor, dike, jetty or breakwater harbor facilities where the facilities are necessary, feasible and appropriate to the local economy. (§ 1 art IV title III ch 152 SLA 1957)

Sec. 35.10.100. Determining need and priority of projects. The department shall prepare the preliminary determination of need for each such project and its feasibility and appropriateness through representations and data submitted to it by the residents of each community desiring a project, and from other information available to it. The department shall approve and make the final determination of those projects, and their order or priority for which application is made. (§ 2 art IV title III ch 152 SLA 1957)

Sec. 35.10.110. Contracting with communities for local participation. The department may contract with a community for the participation of the community either in the financing of projects or, instead of local financial participation, to contract with the community for its installing necessary piling, floats, and related equipment and facilities whether at the community's direct expense or through local volunteer labor, after completion of the basic boat harbor, dike, jetty, or breakwater facilities. (§ 3 art IV title III ch 152 SLA 1957)

Sec. 35.10.120. Leasing marine or harbor facilities. The department may lease for a period up to 50 years or may sell for a nominal sum to an incorporated city, public utility district, or other incorporated area marine or harbor facilities constructed or rebuilt with territorial funds or state funds or with territorial or state and federal matching funds. The intent of this section is to allow cities, public utility districts, and other incorporated areas to lease or purchase marine or harbor facilities so that they may enforce municipal ordinances on them and legally assess fees to meet maintenance costs. (§ 1 ch 162 SLA 1955)

Revisor's note. — All other sections in this title have a common source, ch 152 SLA 1957. This section is all of ch 162 SLA 1955.

Article 3. Financial Provisions.

Section

- 130. Construction within appropriations and limits imposed by legislature
- 135. Public facility planning fund

Sec. 35.10.130. Construction within appropriations and limits imposed by legislature. Each public work shall be constructed in a completed manner within the appropriation and limits imposed by the legislature. (§ 1 art V title III ch 152 SLA 1957)

Sec. 35.10.135. Public facility planning fund. There is established within the Department of Administration, Division of Budget and Management a public facility planning fund. The fund is a capital fund and consists of (1) money appropriated by the legislature, (2) money reimbursed to it from the proceeds of the sales of general obligation bonds and revenue bonds issued for projects and (3) money reimbursed to it from appropriations for any projects; for which money from the fund has been spent. The fund is available for expenditure, on a reimbursable basis, only for the purposes of providing working capital for facility program planning and for facility procurement planning as specified in this chapter. All expenditures from the fund are subject to an independent audit which shall be made annually and reported to the governor and the legislature. (§ 1 ch 57 SLA 1973; am § 1 ch 58 SLA 1976)

Effect of amendment. — The 1976 amendment rewrote this section.

Editor's note. — Section 3, ch. 58, SLA 1976, provides: "The fund balances remaining in the state operated schools advance planning revolving fund established in sec. 18, ch. 147, SLA 1974 and in the Department of Public Works public facility procurement planning fund established in sec. 2, ch. 216, SLA 1976 and

in the state capital improvement advance planning fund established in sec. 1, ch. 57, SLA 1973 are transferred as of the effective date of the Act to the public facility planning fund established in sec. 1 of this Act."

Legislative committee report. — For report on ch. 58, SLA 1976 (CSHB 624 am S), see 1976 House Journal, p. 557.

Article 5. Public Facility Procurement Policy.

Section

- 160. Findings and purpose
- 170. Duties of department
- 180. Physical facility procurement and planning policies

Section

- 190. Coordination by department
- 200. Definitions

Editor's note. — Section 2, ch. 216, SLA 1975, provides: "There is within the Department of Public Works a public legislature for the purpose of providing procurement planning working capital and is available on a reimbursable basis for procurement planning. The fund shall be used by the commissioner to develop facility procurement planning methodologies for submission for review by the legislature by January 1, 1976. The

facility procurement planning fund. The fund is a working capital reserve fund and consists of money appropriated by the commissioner shall prepare a report delineating the various procurement policies which shall govern the expenditures of capital funds by the state and shall delineate the amounts of preplanning funds necessary for the implementation of these policies."

Sec. 35.10.160. Findings and purpose. The legislature finds that since the needs of the state for physical facilities of all kinds are diverse the planning, design and construction of public facilities should be executed in accordance with facility procurement policies development by the Department of Public Works and reviewed annually by the legislature. (§ 1 ch 216 SLA 1975)

Legislative committee report. — For am S), see 1975 House Journal, p. 894; 1975 report on ch. 216, SLA 1975 (SCS CSHB 429 Senate Journal, p. 1370.

Sec. 35.10.170. Duties of department. In addition to other duties prescribed by statute, the department shall

- (1) develop facility procurement policies for the planning, design, construction, maintenance and operation of public facilities of the state;
- (2) develop and maintain an inventory of physical facilities currently owned or occupied by the state;
- (3) make projections of future public facility needs of the state, analyze facilities needed, and establish methodology for program planning and facilities project planning, design and construction, based upon

(A) a justification of the level of service anticipated by the program agency, utilizing population projections and estimates approved by the governor;

(B) consideration of the geographical area to be served by the facility and relevant data concerning the agency's existing public facilities in that area;

(C) the date by which the services are to be provided;

(D) alternative program methods for providing the services; and
(E) pertinent data requested by the department in accordance with procedures developed under § 180 of this chapter;
(am § 1 ch 168 SLA 1978)

(4) engage in experimental projects as necessary relating to any available or future method of facility procurement, design or construction and any method of improving existing design, planning and construction techniques;

(5) develop life cycle costs of public facilities of the state;

(6) develop life cycle costing methodologies for the following special purposes:

(A) budget forecasting to support facility program planning and analysis,

(E) systematic cost estimating to forecast planning, design and construction,

(C) budget forecasting to support development of annual maintenance and operating strategies and life cycle cost plans,

(D) alternative methods of space acquisition and space equalization which will maximize the effectiveness of public funds;

(7) apply for and accept, on behalf of the state, grants from the federal government or an agency of it or from another state foundation, corporation, association or individual for any of the functions or purposes of the department and may expend any of the money received under this section for any of the functions or purposes. (§ 1 ch 216 SLA 1975)

Sec. 35.10.186. Physical facility procurement and planning policies. (a) The department shall develop and keep current by periodic revision physical facility procurement and planning policies for rural schools, public buildings, and other state facilities, and shall develop regulations and guidelines for the implementation of these policies.

(b) In developing and revising these policies the department shall seek public review and evaluation by any reasonable means and shall

(1) consult and cooperate with officials of the federal government, local governments, other political subdivisions of the state and other interested persons regarding physical facility procurement planning;

(2) request and receive from an agency or other unit of the state government the assistance and data needed to carry out the requirements of this section.

(c) The commissioner shall submit copies of proposed policies and plans annually, within 10 days after the legislature convenes, to the legislature. The legislature may approve, reject or modify the policies and plans by concurrent resolution. If the legislature fails to act during the legislative session, the policies and plans are approved. (§ 1 ch 216 SLA 1975)

Sec. 35.10.190. Coordination by department. (a) The department shall coordinate the procurement of physical facilities for the state to insure the greatest cost savings of planning, design and contractual techniques.

(b) When the state or an agency of the state determines that a public facility is to be constructed or renovated, it shall, unless exempted by regulations of the department, submit to the department an application for a certificate that the proposed facility complies with adopted facility procurement policies. The department may reject the application but if it does so it shall state in writing the reasons for the rejection. If a written statement that the application is rejected does not issue within 30 days after receipt of the application by the department, unless the department and the applicant have agreed upon an extension of time for consideration, the certificate of compliance shall not be required. Except as provided otherwise by regulation or by this section, no public facility of the state may be constructed or renovated by the state unless a certificate that the facility complies with adopted facility procurement has been issued. (§ 1 ch 216 SLA 1975)

Sec. 35.10.200. Definitions. In §§ 160 — 200 of this chapter,

(1) "life cycle costs" means analytic techniques which provide data to describe the first cost of procurement of public facilities and the maintenance cost, operation cost and occupancy cost of the facilities;

(2) "policies" includes but is not limited to budget accounting and cost planning techniques, facility design techniques, and contractual techniques for the procurement of labor, materials and contractual services;

§ 35.15.010 PUBLIC BUILDINGS, WORKS AND IMPROVEMENTS § 35.15.030

Chapter 15. Construction Procedures.

Section	Section
10. Construction by department	90. Use of appropriated funds
30. Advertisement, bids, contracts, and informal bids	110. Title to site and completion of project
80. Local control of state public works projects	120. Definitions

Sec. 35.15.010. Construction by department. (a) Except as provided in AS 44.33.300, it shall be the general policy of the department to require the construction of all public works under bid contract. However, when the estimated cost of a construction project is less than \$100,000, or when it appears to be in the best interests of the state, the department may perform the work, notwithstanding any other provisions of law. A complete record shall be kept by the commissioner or his designee of all transactions entered into under this section including names of employees involved in the transactions.

(b) Construction or professional services in connection with the construction of a public work performed by the department under (a) of this section which have an estimated cost exceeding \$5,000 may not be performed by the department unless the commissioner determines, in writing, that the cost to the state will be less than that incurred as a result of a formally advertised or negotiated contract. The determination of the commissioner shall be supported by findings of fact which shall set out enough facts and circumstances to clearly justify the determination. The determinations and findings shall be maintained as a permanent record of the department.

(c) In this section, "professional services" means architectural, engineering, or land surveying services. (§ 1 art III title IV ch 152 SLA 1957; am § 5 ch 277 SLA 1976; am § 1 ch 143 SLA 1977; am § 4 ch 104 SLA 1978)

Cross reference. — For provisions requiring consistency with local government plans and ordinances before commencing construction of a public project, see AS 35.30.010 et seq.

Effect of amendments.

The 1977 amendment, in present

subsection (a), substituted "\$100,000" for "\$20,000" in the second sentence and added the third sentence.

The 1978 amendment added subsections (b) and (c).

Sec. 35.15.020. Request for public bids. The department may request bids and award contracts for construction work. The department may require the contractor to furnish equipment, labor, materials, and supplies for the project, or it may elect to furnish the materials and supplies. If the department elects to provide materials and supplies for a project, it shall make the election at the time it adopts the construction program. The department shall request bids for the total of the materials and supplies for a project according to the class, type, and nature of the materials and supplies, and may award a contract upon the basis it considers efficient and economical, whether upon the basis of delivery to the construction project directly or to a central storehouse or storehouses maintained by the department. Those materials and supplies so purchased by the department may be delivered to the project site without expense to the contractor, or it may sell them to the contractor at cost and make the materials and supplies a part of the construction cost. (§ 3 art III title IV ch 152 SLA 1957)

Sec. 35.15.030. Advertisement, bids, contracts, and informal bids.

When the estimated cost of any construction under this chapter exceeds \$100,000, the department shall, except as provided in § 10 of this chapter and in AS 44.33.300, proceed to advertise, request bids, and award the contract in the manner provided in §§ 40 and 50 of this chapter. When any proposed construction contract is for a sum less than \$100,000, it is discretionary with the department whether the contract is advertised and awarded in accordance with §§ 40 and 50 of this chapter. In all events the department shall request informal bids from as many contractors as can be requested conveniently. A complete record shall be kept by the commissioner or his designee of all transactions entered into under this section including names of employees involved in the transactions. (§ 4 art III title IV ch 152 SLA 1957; am § 31 ch 71 SLA 1972; am § 6 ch 277 SLA 1976; am § 2 ch 143 SLA 1977)

Effect of amendments.

The 1977 amendment substituted "under this chapter exceeds \$100,000" for "exceeds \$20,000" in the first sentence,

substituted "\$100,000" for "\$20,000" in the second sentence, and added the fourth sentence.

Sec. 35.15.040. Procedures for the award of contracts. (a) If federal funds are used, the award of the contract shall comply with federal law and the rules and regulations promulgated under it and with state law to the extent it is consistent with federal law.

(b) In all other cases, the award of the contract shall comply with this title, and AS 37.05, and the rules and regulations promulgated under them and which are consistent with this title. (§ 5 art III title IV ch 152 SLA 1957)

Sec. 35.15.050. Award of contracts. The department shall award the contract to the lowest responsible bidder, or it may reject all bids. If no satisfactory bid is received, the department may readvertise the project. The department shall make the award in compliance with applicable federal law and the regulations promulgated under it, with this title, and in compliance with AS 37.05, and the rules and regulations promulgated under it, where they are not in conflict with this title and federal law. (§ 6 art III title IV ch 152 SLA 1957)

The purpose of this section and the Fiscal Procedures Act (AS 37.05) is not only to protect the state and the public purse from uneconomic contracts let because of failure to request competitive bids and because of possible favoritism, but also to insure that contractors are insured a certain amount of "fair play" in dealing with the state government and in competing with one another for state contracts. 1959 Op. Atty. Gen., No. 27.

The department has authority to require contractors to set up a system of prequalification of contractors as a prerequisite for bidding on state construction projects. 1959 Op. Atty. Gen., No. 27.

And under such system to require contractors to furnish periodic and

financial statement. — 1959 Op. Atty. Gen., No. 27.

Without following the Administrative Procedure Act. — The department would not be required to follow the Administrative Procedure Act (AS 44.62) in adopting regulations to implement a program of prequalification of contractors. 1959 Op. Atty. Gen., No. 27.

Publication of regulations concerning bidding and letting of contracts in Administrative Code. — A policy of publishing regulations concerning bidding and letting of contracts in the Administrative Code is consistent with the Alaska Administrative Procedure Act, since these regulations are regulations in which an important portion of the public has a vital interest and since they are of

great use to the portion of the public interested in dealing and contracting with the state. 1959 Op. Atty. Gen., No. 27.

Am. Jur. reference. — 43 Am. Jur., Public Works and Contracts, §§ 11 to 50.

Sec. 35.15.060. Prior contracts unaffected. Sections 10 -- 60 of this chapter do not apply to contracts entered into before April 1, 1957. (§ 8 art III title IV ch 152 SLA 1957)

Sec. 35.15.080. Local control of state public works projects. (a) A municipality or, if the public work is an educational facility, a regional educational attendance area established under AS 14.08 m.c., by resolution of its governing body, request the assumption of all of the department's responsibilities relating to the planning and construction of a public works project of the state which is to be located within the boundaries or operating area of the municipality or regional educational attendance area and which would otherwise be constructed in the manner provided in § 10 of this chapter. After receipt of the request, the department

(1) shall provide for the assumption by the municipality or regional educational attendance area of all of the department's responsibilities relating to the planning, design and construction of an educational facility;

(2) may provide by agreement for transfer to and assumption by the municipality of the department's responsibilities relating to the planning, design, and construction of a public works project, unless the commissioner determines that assumption of responsibilities by the municipality is not practicable or not in the best interests of the state.

(b) If the commissioner of transportation and public facilities determines that assumption of responsibilities by a municipality under (a)(2) of this section is not practicable or not in the best interests of the state, he shall notify the governing body of the municipality of his finding and specify reasons for it. If the governing body requests reconsideration of the decision, he shall hold a hearing in the municipality within 30 days following mailing of the request. Following the hearing, he may affirm, modify or reverse his initial decision and shall specify in writing the reasons.

(c) A municipality may request joint assumption of responsibilities with the department relating to the planning, design and construction of a public works project. A regional educational attendance area may request joint assumption of responsibilities with the department relating to the planning, design and construction of an educational facility. Two or more municipalities or regional educational attendance areas may by mutual agreement provide for cooperative assumption of responsibilities relating to the planning and construction of a public works project. If two or more municipalities or regional educational attendance areas request assumption of responsibilities for a project and meet the standard of practicability set out in (a)(2) of this section, the commissioner shall determine which municipality or regional educational attendance area is best able to direct planning, design, and construction of the project and enter into an agreement with that municipality or regional educational attendance area, or provide for joint or cooperative administration, as the parties may agree or the commissioner may determine. Decisions of the commissioner under this subsection are final.

(d) Provisions of this title governing planning, design, and construction of public works by the department, and regulations adopted under the provisions, govern the administration of projects assumed by a municipality or regional educational attendance area under this section. For that purpose the provisions supersede any conflicting provisions of ordinance or charter of a municipality.

(e) An organized borough may plan and construct public works under this section and make an agreement with the department for that purpose irrespective of restrictions of other provisions of law on the acquisition and exercise of borough powers. Borough exercise of the power conferred under this subsection does not preclude exercise by a city of the borough of the same power within the city.

(f) To carry out the purpose of this section, the commissioner of transportation and public facilities shall adopt regulations relating to the application for and the making and the conditions of agreements and the local assumption of responsibilities for the planning, design and construction of public works under this section. He shall include in grant contracts terms and conditions requiring a regional school board and its contractors to adhere to the provisions of AS 36.05.010 with respect to the payment of wage rates on construction projects, and AS 36.10.010 with respect to employment preference, and may require different terms in agreements for different projects to meet local conditions and unique requirements and to assure compliance with the public facilities procurement policies developed by the department under AS 35.10.160 — 35.10.200. If necessary, the commissioner may require as a condition of an agreement approval of the agreement by the federal government. Regulations adopted, amended or repealed by the department under this section which relate to educational facilities shall be developed in conjunction with the Alaska Association of School Boards and the Alaska Association of School Administrators and reviewed by those associations before final action on the regulations is taken by the department.

(am §§ 6, 7 ch 147 SLA 1978)

Effect of amendment. — The 1978 amendment, effective July 1, 1978, in subsection (a), inserted "all of" near the middle of the first sentence and in the second sentence, inserted the item (2) designation, added item (1), and inserted "transfer to and," deleted "or regional educational attendance area" following "assumption by the municipality" and "or area" following "of responsibilities by the municipalities," and substituted "a public works project" for "the public works project," all in item (2). The amendment also deleted the former third sentence of subsection (a), which read "The parties may by mutual agreement provide for joint or cooperative assumption of responsibilities by the department and the municipality or regional educational attendance area," and

inserted "for the planning, design and construction of public works" in the first sentence, inserted the language beginning "shall include in grant contracts" and ending "with respect to employ-

in the first sentence of subsection (b), substituted "commissioner of transportation and public facilities" for "commissioner of public works" and "under (a)(2) of this section" for "or regional educational attendance area under this section" and deleted "or area" following "body of the municipality." In subsection (c), the amendment added the present first through third sentences, inserted "(a)(2) of" in the present fourth sentence, and substituted "municipality or regional educational attendance area" for "subdivision or area" in the present fourth sentence. In subsection (f), the amendment substituted "commissioner of transportation and public facilities" for "commissioner of public works" in the first sentence, in-

serted "ment preference, and" in the second sentence, and added the fourth sentence.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 35.15.090. Use of appropriated funds. Upon assumption by a municipality or regional educational attendance area of the department's responsibilities under § 80(a)(1) of this chapter, or upon execution of an agreement under § 80(a)(2) of this chapter, state funds appropriated for a public works project which is the subject of the assumption or the agreement shall be transferred to a special account in the state treasury. A municipality or regional educational attendance area administering the project under the assumption or agreement may draw on the account for costs of the project, under fiscal control of the department. If an agreement provides for joint or cooperative administration of the project, payment of costs shall be made to the party incurring the costs. (§ 1 ch 57 SLA 1976; am § 8 ch 147 SLA 1978)

Effect of amendment. — The 1978 amendment, effective July 1, 1978, added the language beginning "Upon assumption by a municipality" and ending "§ 80(a)(1) of this chapter, or" to the beginning of the first sentence, substituted "§ 80(a)(2)" for "§ 80" and inserted "the assumption or" in the first sentence, and inserted "assumption or" in the second sentence.

Sec. 35.15.100. Responsibility of department. When a municipality or regional educational attendance area has assumed responsibility for a public works project in accordance with §§ 80 — 120 of this chapter, the department is relieved of responsibility to the extent it is assumed by the municipality or regional educational attendance area. The department may provide technical assistance on the responsibility assumed if requested to do so by the municipality or area and shall be reasonably compensated for that assistance from the account established under § 90 of this chapter. (§ 1 ch 57 SLA 1976)

Sec. 35.15.110. Title to site and completion of project. (a) Before advertisement for bids or construction contract negotiations, the department shall approve both the project site and the land interest in the site, except that, if the project involves construction of an educational facility, title or sufficient interest determined acceptable by the department to an approved site for a school building shall be vested in the municipality, the regional educational attendance area or the state before advertisement for bids or initiation of construction contract negotiations.

(am § 1 ch 62 SLA 1978; am § 9 ch 147 SLA 1978)

Effect of amendments. — The first 1978 amendment, effective June 10, 1978, rewrote subsection (a), which formerly read "Title acceptable to the department to a suitable project site shall be vested in the state before work is begun on the site."

The second 1978 amendment, effective July 1, 1978, added the exception to the end of subsection (a).

As the rest of the section was not affected by the amendments, it is not set out.

(b) Responsibility for maintenance of the project shall be established in the original contract agreement. The department shall participate in the final inspection of the project and approve of the final documents on the project. (§ 1 ch 57 SLA 1976)

Sec. 35.15.120. Definitions. In §§ 80 — 120 of this chapter

(1) "construction" or any derivative of the term "construct" means, in addition to the meaning given in AS 35.25.020, selecting and acquiring a project site and necessary rights-of-way and easements, providing for and connecting to utilities, and building, supervising and inspecting the public works project;

(2) "governing body" means in the case of a municipality, its assembly or council, and, in the case of a regional educational attendance area, its regional school board;

(3) "municipality" means a general law or home rule city or organized borough, including but not limited to a unified municipality organized under AS 29.68.240 -- 29.68.440. (§ 1 ch 57 SLA 1976)

Chapter 20. Acquisition and Disposition of Property.

Section	Section
10. Acquisition of land, rights-of-way, and materials by purchase or eminent domain	50. Authority to purchase property for the purpose of exchange
20. Declaration of taking	60. Sale of obsolete equipment and material
30. Acquisition of excess lands	70. Vacating of lands or rights in land
40. Authority to condemn or acquire publicly owned property for the purpose of exchange	

Sec. 35.20.010. Acquisition of land, rights-of-way, and materials by purchase or eminent domain. The department, on behalf of the state and as part of the cost of constructing or maintaining a public work, may purchase, acquire, take over, or condemn under the right and power of eminent domain land in fee simple or easements which it considers necessary for present public use, either temporary or permanent, or which it considers necessary and reasonable for the public use. By the same means, the department may obtain material including clay, gravel, sand, or rock, or the land necessary to obtain the material, and the necessary land or easements to provide access to it. The department may acquire the land or material notwithstanding the fact that the title to it is in the state or a department, agency, commission or institution of the state. (§ 1 art I title IV ch 152 SLA 1957)

This section and AS 35.20.020 grant to the Department of Public Works eminent domain powers, as well as the right to employ a declaration of taking in eminent domain proceedings. Tallman v. State, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).
Am. Jur. reference. -- 18 Am. Jur., Eminent Domain, § 1 et seq.

Sec. 35.20.020. Declaration of taking. A declaration of taking, in the form of an order signed by the commissioner of the department, declaring that the real property, or an interest in it, or any easement is necessary for the public use of the state is sufficient to vest title in the

state. However, a declaration of taking is not effective until eminent domain proceedings have been instituted in the proper court, and a copy of the declaration of taking is filed in the office of the recorder located in the recording district where the land is located. The department may pay or have paid, from the appropriate fund, into court the amount it considers represents a reasonable valuation for the lands, easement or materials taken. (§ 1 art I title IV ch 152 SLA 1957)

This section and AS 35.20.010 grant to the Department of Public Works eminent domain powers, as well as the right to employ a declaration of taking in eminent domain proceedings. Tallman v. State, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Sec. 35.20.030. Acquisition of excess lands. When a part of a parcel of land is taken and the remainder is in such shape or condition as to be of little value to its owner, or gives rise to claims or litigation concerning severance or other damage, the department may acquire the whole parcel and may sell the remainder or exchange it for other property needed for public works. (§ 2 art I title IV ch 152 SLA 1957; added by § 3 ch 122 SLA 1960)

Sec. 35.20.040. Authority to condemn or acquire publicly owned property for the purpose of exchange. When property which is devoted to or held for another public use for which the power of eminent domain may be exercised is taken for purposes set out in this title, the department may, with the consent of the person or agency in charge of the other public use, condemn the real property to be exchanged for the real property so taken. This section shall not limit the authorization of the department to acquire, other than by condemnation, property for those purposes in any other manner. (§ 2 art I title IV ch 152 SLA 1957; added by § 3 ch 122 SLA 1960)

Sec. 35.20.050. Authority to purchase property for the purpose of exchange. When the commissioner formally declares that it is in the best public interest of the state to do so, the department may acquire by purchase or otherwise privately or publicly owned land or an interest in it for the purpose of exchanging it for privately or publicly owned land which the department is authorized by law to acquire. (§ 2 art I title IV ch 152 SLA 1957; added by § 3 ch 122 SLA 1960)

Sec. 35.20.060. Sale of obsolete equipment and material. The department may sell, exchange or otherwise dispose of obsolete machinery, equipment and material no longer needed, required or useful for construction or maintenance purposes. Money derived from the sale of the property shall be credited to the fund from which the purchase was originally made. (§ 3 art IV title IV ch 152 SLA 1957)

Sec. 35.20.070. Vacating of lands or rights in land. The department may vacate land, or part of it, or rights in land acquired for public work

purposes by executing and filing a deed in the appropriate recording district. Upon vacating, title reverts to the persons, heirs, successors, or assigns in whom it was vested at the time of the taking. The department may transfer land considered no longer necessary for public works purposes to the Department of Natural Resources for disposal. The proceeds of disposal by the Department of Natural Resources shall be credited to the funds from which the purchase was originally made. (§ 4 art IV title IV ch 152 SLA 1957)

Chapter 25. General Provisions.

Section

- 10. Purpose and intent
- 20. Definitions

Sec. 35.25.010. Purpose and intent. The purpose of this title is to establish a public works department capable of carrying out a public works planning and construction program which will provide public buildings necessary to efficient government, and boat harbors, jetties, dikes and breakwaters necessary to the economy of Alaska communities, all of which is to the advantage and benefit of the general welfare of the public. (§ 2 art I title I ch 152 SLA 1957; am § 32 ch 71 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "department" for "division" near the beginning of this section. **Legislative committee report.** — For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

Sec. 35.25.020. Definitions. In this title, unless the context otherwise requires,

- (1) "construction" or any derivative of the term "construction" means construction, reconstruction, alteration, improvement or major repair;
- (2) "department" means the Department of Public Works;
- (3) "excess lands" means lands acquired for the state in excess of land required for a public work, when the remaining portion of a parcel of land acquired is left in a shape or condition as to be of little or no value to its owner, or to give rise to claims or litigation concerning severance or other damage;
- (4) "maintenance" means the preservation of each type of facility as nearly as possible in its original condition as constructed, or as improved;
- (5) "public building" means a building owned or controlled and held by the state for government or public use;
- (6) "public works" means all fixed works constructed or maintained by the Department of Public Works or any of its divisions, and includes but is not limited to work on a public building, boat harbor, jetty, dike, breakwater, or airport. (§ 3 art I title I ch 152 SLA 1957; am §§ 1, 2 ch 122 SLA 1960; am § 1 ch 96 SLA 1962)

Chapter 27. Art Works in Public Buildings and Facilities.

Section

- 10. Purpose
- 20. Art requirements for public buildings and facilities

Section

- 30. Definitions

Sec. 35.27.010. Purpose. The state recognizes its responsibility to foster culture and the arts and the necessity for the viable development of its artists and craftsmen. The legislature declares it to be a state policy that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for state buildings and other public facilities. (§ 1 ch 54 SLA 1975)

Legislative committee report. — For report on ch. 54, SLA 1975 (CSHB 133 [Finance]), see 1975 Senate Journal, p. 939.

Sec. 35.27.020. Art requirements for public buildings and facilities.

(a) Plans for public buildings and facilities constructed after June 30, 1975 and for remodeling or renovation after June 30, 1975 where the total cost of the remodeling or renovation is \$250,000 or more shall contain provisions for the inclusion of works of art including but not limited to sculptures, paintings, murals, or objects relating to Native art.

(b) The department, before preparing plans and specifications for public works and facilities, shall consult with the Alaska State Council on the Arts regarding the desirability of inclusion of works of art.

(c) At least one per cent or, in the case of a rural school facility, at least one-half of one per cent of the construction cost of a building or facility approved for construction by the legislature after the enactment date of this chapter will be reserved for the following purposes: the design, construction, mounting and administration of works of art in the public building or public facility.

(d) Public buildings and facilities with an overall construction cost of less than \$250,000 are exempt from the requirements of this chapter unless inclusion of works of art in their design and construction is specifically authorized by the department.

(e) The artist who executes these works of art shall be selected by the architect for the department with the approval of the department, after consultation with the Alaska State Council on the Arts and the principal user of the public buildings or facilities. (§ 1 ch 54 SLA 1975)

(f) The artist who executes these works of art in the public schools shall be selected by the superintendent of a school district in which a public school is to be built with the approval of the school board. Should the department find in the best interest of the state that the selection of the artist who executes these works of art by the superintendent may result in a cost overrun to the state or delay of construction, the department shall make the selection of the artist in consultation with the superintendent.

(g) The architect, superintendent, department, and the Alaska State Council on the Arts shall encourage the use of state cultural resources in these art works and the selection of Alaska resident artists for the commission of these art works.

(am §§ 1, 2 ch 96 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "or, in the case of a rural school facility, at least one-half of one percent of the construction cost" for "of the overall construction cost" in

subsection (c) and added subsections (f) and (g).

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 35.27.030. Definitions. In this chapter

(1) "department" means the Department of Public Works;

(2) "public facilities" includes schools, office buildings, court buildings and other facilities which are designed for substantial public use, as well as the vessels of the state ferry system.

(3) "construction cost" is that cost expended for the actual construction of the facility, exclusive of the costs of land acquisition, site investigation, design services, administrative costs, equipment purchases and any other costs not specifically incurred within the construction contract or contracts awarded for the construction of the facility. (§ 1 ch 54 SLA 1975; am §§ 3, 4 ch 96 SLA 1977)

Effect of amendment. — The 1977 amendment inserted "schools, office buildings, court buildings and other

facilities which are designed for substantial public use" in paragraph (2) and added paragraph (3).

Chapter 30. Consistency With Local Government Plans and Ordinances.

Section	Section
19. Review and approval by local planning authorities	30. Waiver
20. Compliance with municipal ordinances	40. Definitions

Cross reference. — As to construction procedures, see AS 35.15.010 et seq.

Sec. 35.30.010. Review and approval by local planning authorities.

(a) Except as provided in (b) of this section, before commencing construction of a public project,

(1) if the project is located in a municipality, the department shall submit the plans for the project to the planning commission of the municipality for review and approval;

(2) if the project is located within two miles of a village, the department shall submit the plans to the village council for review and comment.

(b) Prior approval by a municipal planning commission may not be required before the commencement of construction of a highway or local service road if

(1) the Department of Transportation and Public Facilities and the municipality have entered into agreement for the planning of the project under AS 19.20.060 or 19.20.070 and the plans for the project are completed in accordance with the terms of that agreement;

(2) the municipality has adopted a municipal master highway plan under AS 19.20.080 and the highway or local service road is consistent with the plan adopted; or

(3) the Department of Transportation and Public Facilities has entered into agreement with the municipality for the planning of transportation corridors under AS 19.10.280 and the plans for the project are completed in accordance with the provisions of that agreement.

(c) If final disapproval by resolution of the governing body of the affected municipality or village is not received within 90 days from the date the project was submitted to the municipality or village, the department may proceed with the project. (§ 3 ch 143 SLA 1977)

Sec. 35.30.020. Compliance with municipal ordinances. A department shall comply with local planning and zoning ordinances and other regulations in the same manner and to the same extent as other landowners. (§ 3 ch 143 SLA 1977)

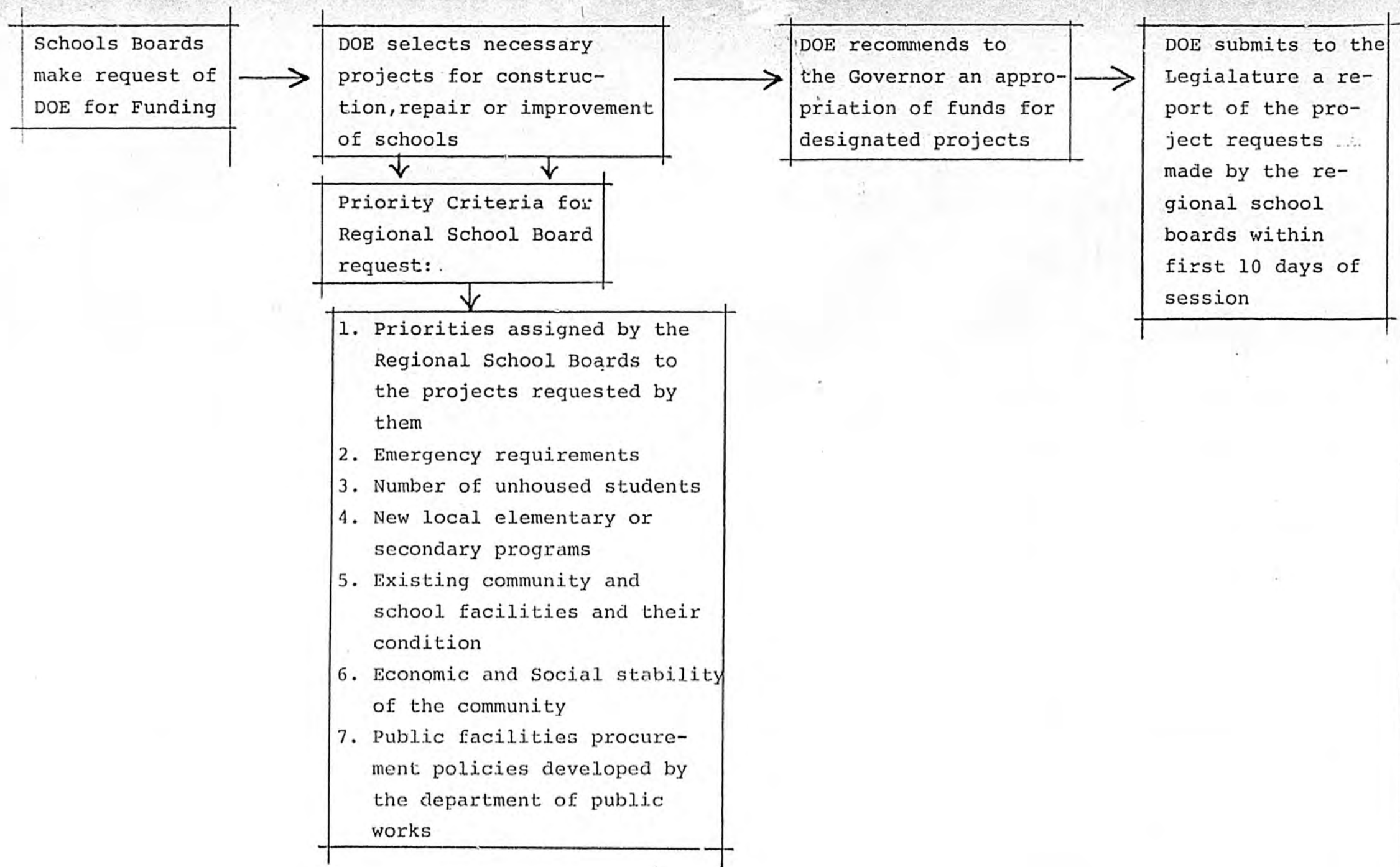
Sec. 35.30.030. Waiver. If a department clearly demonstrates an overriding state interest, waiver of local planning authority approval and the compliance requirement may be granted by the governor. The governor shall issue specific findings giving reasons for granting any waiver under this section. (§ 3 ch 143 SLA 1977)

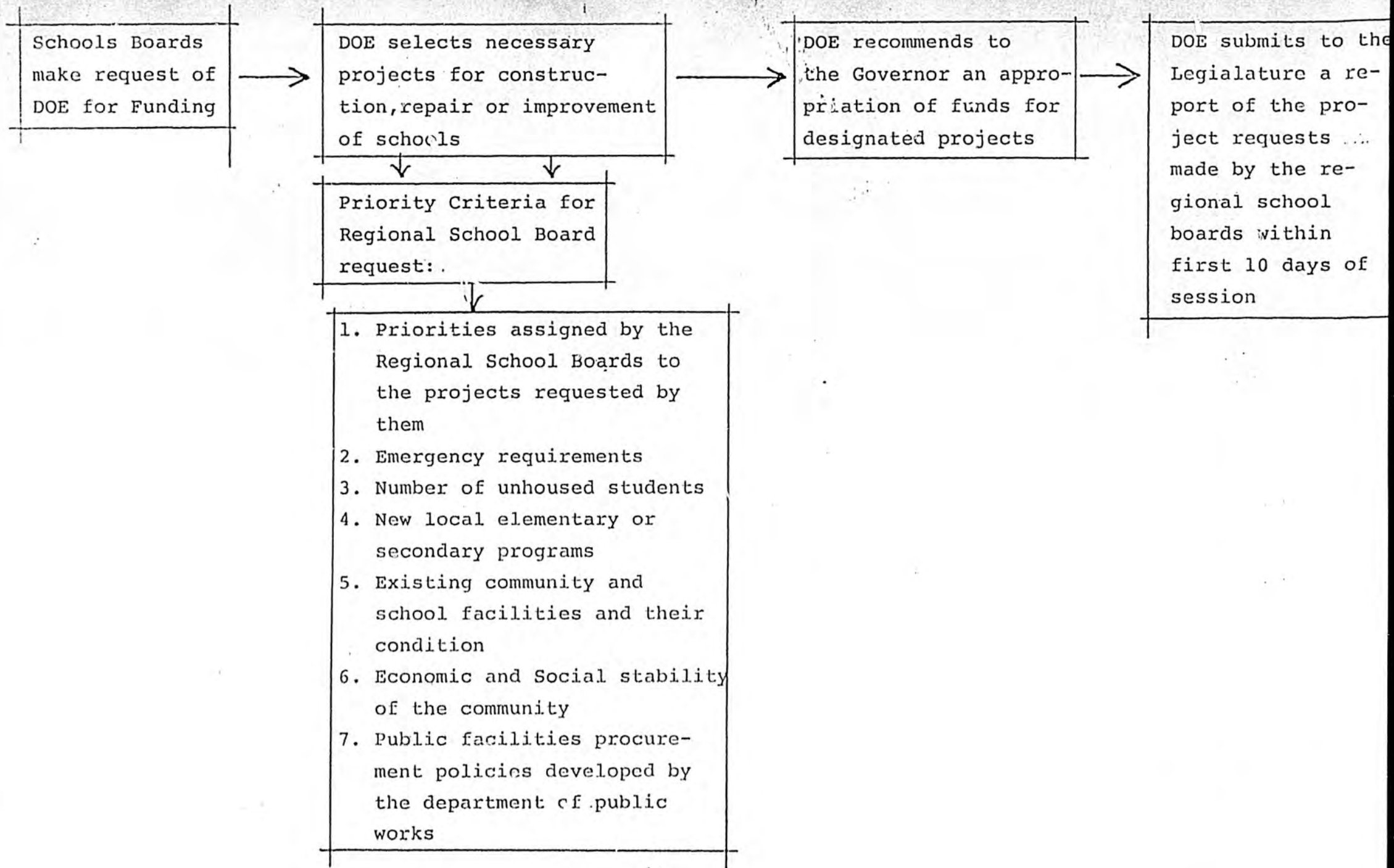
Sec. 35.30.040. Definitions. In this chapter

(1) "department" means the Department of Transportation and Public Facilities, and the University of Alaska;

(2) "public project" means a public building or other structure, public work, or other facility, highway, or local service road constructed or maintained by a department; the term includes the acquisition by purchase or agreement of land and rights in land for materials and the extraction or removal of materials necessary for completion of a highway under AS 19.05.080 — 19.05.120;

(3) "village" means an unincorporated community of the unorganized borough where at least 25 people reside as a social unit. (§ 3 ch 143 SLA 1977)





Regional School Boards may apply for a grant from DOT for all or part of the funds allocated for their construction, repair or improvement projects

School construction repair and improvement shall be carried out by DOT unless funds for a project are granted to a Regional School Board

When a regional school board applies for a grant of funds, the department shall grant funds to a regional school board¹. for a school construction, repair, or improvement project, and, if the request is for all funds allocated, shall provide for the assumption by the regional school board of all of the department's responsibilities relating to the planning, design, and construction of a educational facility. Thereafter, the board shall

1. Select the appropriate professional personnel to develop the designs;
2. Approve or disapprove the appropriate designs or revised designs; and
3. Undertake construction, repair or improvement of the educational facility.

Ownership of supplies and equipment purchased with funds appropriated for school construction, repair, or improvement vests in the regional school board receiving them.

Title or sufficient interest determined acceptable by the department to an approved site for a school building to be constructed, repaired or improved by a regional school board shall be vested in the state or in the respective regional school board.

- 1./ To carry out the purpose of this section, the Department of Transportation and Public Facilities shall adopt regulations relating to the application for and the making and the manner of administration of grants wherein the responsibility for school construction, repair, and improvement is assumed by regional school boards.

Regional School Boards may apply for a grant from DOT for all or part of the funds allocated for their construction, repair or improvement projects

School construction repair and improvement shall be carried out by DOT unless funds for a project are granted to a Regional School Board

When a regional school board applies for a grant of funds, the department shall grant funds to a regional school board¹. for a school construction, repair, or improvement project, and, if the request is for all funds allocated, shall provide for the assumption by the regional school board of all of the department's responsibilities relating to the planning, design, and construction of a educational facility. Thereafter, the board shall

1. Select the appropriate professional personnel to develop the designs;
2. Approve or disapprove the appropriate designs or revised designs; and
3. Undertake construction, repair or improvement of the educational facility.

Ownership of supplies and equipment purchased with funds appropriated for school construction, repair, or improvement vests in the regional school board receiving them.

Title or sufficient interest determined acceptable by the department to an approved site for a school building to be constructed, repaired or improved by a regional school board shall be vested in the state or in the respective regional school board.

- 1./ To carry out the purpose of this section, the Department of Transportation and Public Facilities shall adopt regulations relating to the application for and the making and the manner of administration of grants wherein the responsibility for school construction, repair, and improvement is assumed by regional school boards.

Regional School Boards may apply for a grant from DOT for all or part of the funds allocated for their construction, repair or improvement projects

School construction repair and improvement shall be carried out by DOT unless funds for a project are granted to a Regional School Board

When a regional school board applies for a grant of funds, the department shall grant funds to a regional school board¹. for a school construction, repair, or improvement project, and, if the request is for all funds allocated, shall provide for the assumption by the regional school board of all of the department's responsibilities relating to the planning, design, and construction of a educational facility. Thereafter, the board shall

1. Select the appropriate professional personnel to develop the designs;
2. Approve or disapprove the appropriate designs or revised designs; and
3. Undertake construction, repair or improvement of the educational facility.

Ownership of supplies and equipment purchased with funds appropriated for school construction, repair, or improvement vests in the regional school board receiving them.

Title or sufficient interest determined acceptable by the department to an approved site for a school building to be constructed, repaired or improved by a regional school board shall be vested in the state or in the respective regional school board.

- 1./ To carry out the purpose of this section, the Department of Transportation and Public Facilities shall adopt regulations relating to the application for and the making and the manner of administration of grants wherein the responsibility for school construction, repair, and improvement is assumed by regional school boards.