

ALASKA DIGITAL ARCHIVE COLLECTIONS

1474 SHESS SB 130 - SB 136 (#1) 1994

SB 130 — proposed amended language

(b) education offered by a religious organization and conducted solely for that organization or organization's membership and intended for development and work within the organization and for which an academic degree is not awarded. ~~(as recognized by the commission.)~~

by Romberg

POSTSECONDARY INSTITUTIONS WITH RELIGIONS AFFILIATION
CURRENTLY AUTHORIZED TO OPERATE IN ALASKA
UNDER AS 14.48, THE STATE'S POSTSECONDARY
INSTITUTION REGULATORY STATUTE

1. Alaska Bible College
Glennallen, Alaska
Pres. Don Campbell
2. Alaska Bible Institute
Homer, Alaska
Rev. Raymond L. Arno
3. Alaska Pacific University
Anchorage, Alaska
Pres. Glenn Olds
4. Arctic Bible Institute
Palmer, Alaska
Rev. Russell W. Arnold
5. Brigham Young University
Provo, Utah
Pres. Dallin H. Oaks
6. Charismatic Bible School of Anchorage
Anchorage, Alaska
Rev. Jerry Wilkinson
7. Christianview College of Alaska
Juneau, Alaska
Pastor Goerge McNeven
8. Muldoon Bible Institute
Anchorage, Alaska
Sid Robertson, Director
9. St. Herman's Theological Seminary
Kodiak, Alaska
Father Joseph Kreta
10. Seattle Pacific University
Seattle, Washington
Pres. David L. McKenna
11. Sheldon Jackson College
Sitka, Alaska
Pres. Hugh Holloway
12. Southern Methodist University
Dallas, Texas
Pres. James H. Zumberge

by this chapter; however, the commission may promulgate regulations to permit the rendering of legitimate public information services without the permit;

(4) instruct or educate, or offer to instruct or educate, enroll or offer to enroll, contract or offer to contract or award an educational credential, or contract with an institution or person to do so, in or outside the state, unless that person is in compliance with the minimum standards set out in AS 14.48.060, the criteria established by the commission under AS 14.48.050(1), and the regulations promulgated by the commissioner under AS 14.48.050(7);

(5) use the term "university" or "college" without authorization to do so from the commission;

(6) grant, or offer to grant, educational credentials, without authorization to do so from the commission. (§ 1 ch 25 SLA 1976)

• **Sec. 14.48.030. Exemptions.** (a) Institutions exclusively offering instruction at one, some or all levels from preschool through grade 12 are exempt from the provisions of this chapter.

(b) The following educational programs or services and educational institutions are exempt from the provisions of this chapter or portions of them, as determined by the commission:

(1) education sponsored by a bona fide trade, business, labor, professional, or fraternal association or organization, recognized by the commission and conducted solely for that association's or organization's membership, or offered on a no-fee basis;

(2) education solely avocational or recreational in nature and institutions offering avocational or recreational education exclusively;

(3) education offered by charitable organizations, recognized by the commission, if the education is not advertised or promoted as leading toward educational credentials;

(4) nonprofit postsecondary educational institutions offering undergraduate or graduate educational programs conducted in the state, but not by correspondence, which are acceptable for credit toward an associate, bachelor's or graduate degree;

(5) postsecondary educational institutions established, operated, and governed by the United States, a state or its political subdivisions. (§ 1 ch 25 SLA 1976; am § 1 ch 50 SLA 1977)

Effect of amendment - The 1977 amendment rewrote this section.

Sec. 14.48.040. Commission to administer chapter. The Alaska Commission on Postsecondary Education shall administer this chapter and may hire necessary personnel. The commission may obtain from departments, commissions and other state agencies information and

ERWIN, SMITH & GARNETT

ATTORNEYS AT LAW
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ROBERT C. ERWIN
FLOYD V. SMITH
RICHARD W. GARNETT III
JAMES BENDELL
JULIE SIMON

December 11, 1980

Honorable Mike Colletta
SRA Box 1458-K
Anchorage, Alaska 99502

Re: State Regulation of Religious Colleges

Dear Mike:

I am writing on behalf of the Abbott Loop Christian Center. As you may know, Abbott Loop operates a Bible college. The program of the college is directed toward deepening the student's knowledge and understanding of the Bible. Other courses relate to counselling and other pastoral functions in a Christian ministry.

When originally founded the college did not seek or obtain any sort of State approval. In fact, the statute which then applied to post secondary education contained a specific exemption for religious instruction. (A.S. 14.47.040(5))

Later, the school did become State approved. It did so in order that its students would be entitled to VA benefits if otherwise qualified. Since that time the involvement by the State, primarily through the VA program, has increased steadily. The college has been required to submit detailed course plans, schedules, enrollment figures and the like. On several occasions the State certifying authority has withheld approval until changes were made. Recently, the college realized that it could not conscientiously submit to such a State role in its religious instruction. Accordingly, it has opted not to seek further approval for VA purposes.

However, a problem remains in that the college seems to come within the technical coverage of the new statute providing for regulation of post secondary educational institutions (A.S. 14.48.010-210). Significantly, this enactment omits an exemption for religious institutions. This omission may have been a mere oversight.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to exemption of post secondary religious instruction from state regulation.

Section 1. A.S. 14.48.030 is amended by adding a new subparagraph (b)(6) to read:

(b)(6) programs or courses of instruction on religious subjects given under the auspices of a religious organization.

Section 2. This Act takes effect immediately in accordance with A.S. 01.10.070(c).

Honorable Mike Colletta
Page 2.
December 11, 1980

In any event, we do not believe that the State has a legitimate interest in regulation of such institutions, and certainly not an interest which would override the right of a church to provide for post secondary instruction in the manner it deems appropriate.

The amendment we have suggested would simply restore the exemption which formerly appeared.

You will recall that in 1977 the legislature largely exempted elementary and secondary private schools from State regulation. (A.S. 14.30.010(a)(1)-(C)) State regulation of religious post secondary education seems even less warranted than regulation of elementary and secondary schools. Accordingly, I would not expect any serious objection to the proposed amendment.

The Elders at Abbott Loop asked me to contact you and request your assistance in causing this suggested amendment, or another of similar effect, to be introduced in the coming legislative session. We would very much appreciate your help in this matter. If you would like to discuss any aspect, please feel free to contact me or Dick Benjamin or Dick Strutz at Abbott Loop. Thank you for your consideration.

Very truly yours,



Richard W. Garnett III

RWG:jm
Encl.

ERWIN, SMITH & GARNETT

ATTORNEY'S AT LAW
1345 WEST 9TH AVENUE, SUITE 201
ANCHORAGE, ALASKA 99501
PHONE (907) 276-3125

ROBERT C ERWIN
FLOYD V SMITH
RICHARD W GARNETT III
JAMES BENDELL

March 2, 1981

The Honorable Mike Colletta
Senate Majority Leader
Pouch V
Juneau, Alaska 99811

Re: SB 130

Dear Mike:

Thank you for your letter of February 11. We very much appreciate your work in connection with this matter. We have no strenuous objection to the wording provided by legislative counsel. The wording that I originally suggested was taken directly from the exemptions to payment of unemployment security tax under AS 23.20.526(9).

The exemption provided in the bill you sent is possibly somewhat broader than the original language because it refers to "education offered by" a religious organization, not just "religious education". Naturally, we are interested in as little state regulation as possible, and so welcome that nuance.

In theory, we would be concerned about the requirement that a religious organization be "recognized by the commission" in order to qualify for the exemption. We would prefer that that phrase be omitted so that the exemption would apply to "education offered by a bona fide religious organization." However, we do not regard this as a terribly serious problem because of the commission's presumed reasonableness in recognizing religious organizations and, more basically, because of the constitutional limitations on its discretion in that regard.

Again, we are grateful for your help and would appreciate information as to the progress of the bill.

Best personal regards.

Richard W. Garnett III

rick

RWG/jec

cc: Dick Benjamin
Abbott Loop



ABBOTT LOOP CHRISTIAN CENTER

2626 ABBOTT ROAD, ANCHORAGE, ALASKA 99507 907-344-4577
Preaching and teaching the gospel of the Lord Jesus Christ

March 3, 1981

Ephesians 4:11
And he gave some:

Apostles
Richard C. Benjamin
Richard K. Strutz

Prophets
Tom Abbott
Tom Edmondson

Evangelists
Daniel Bradford

Pastors
James M. Brenn
Wayne Coggins
John Custer

Teachers
Jim Feeney

Senator Mike Colletta
Alaska State Legislature
SRA Box 1458-K
Anchorage, Alaska 99502

Dear Mike:

I want to thank you, Mike, for introducing Senate Bill 130. It would be a great help to us if this were to go through. As far as the changes made by the Legislative Counsel, they seem to be o.k. to me. It does broaden the scope of our intent somewhat in that we were looking to exclude only programs and courses on religious subjects. Nor do I fully understand all that being recognized by the Commission entails. But all in all it looks great and if we have to drop back to our original intent of covering only religious subjects, that will be just fine.

Thanks again for all your help, Mike.

Sincerely,

Dick Strutz
Dick Strutz

DS:mg

See sponsor file

SB130

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

POUCH F - STATE OFFICE BUILDING
JUNEAU, ALASKA 99811
(907) 465-2854

Statement on SB 130

Under AS 14.48 institutions offering postsecondary education in Alaska must be authorized to do so. An institution wishing to operate in Alaska must submit an application and undergo a review and visitation. There is also a \$100 fee assessed in accordance with AS 14.48.090. The purpose of imposing certain minimum standards is to provide consumer protection for Alaskan postsecondary students.

AS 14.48.030(b) provides that certain institutions are exempt from the provisions of AS 14.48, or portions thereof, as determined by the Commission. There are currently five such exemption classifications and this bill, SB 130, would add a sixth. These would then include:

(1) education sponsored by a bona fide trade, business, labor, professional or fraternal association or organization, recognized by the commission and conducted solely for that association's or organization's membership, or offered on a no-fee basis;

(2) education solely avocational or recreational in nature and institutions offering avocational or recreational education exclusively;

(3) education offered by charitable organizations, recognized by the commission, if the education is not advertised or promoted as leading toward educational credentials;

(4) nonprofit postsecondary educational institutions offering undergraduate or graduate educational programs conducted in the state, but not by correspondence, which are acceptable for credit toward an associate, bachelor's or graduate degree;

(5) postsecondary educational institutions established, operated, and governed by the United States, a state or its political subdivisions;

(6) education offered by a bona fide religious organization recognized by the commission.

Position of Commission

The Commission on Postsecondary Education opposes any attempt to categorically exempt religious postsecondary education institutions from AS 14.48. Such a blanket exemption could lead to the type of abuse which this process was intended to eliminate.

There have been problems in Alaska in the past, and one institution with which problems did occur, was a religious institution. If a blanket exemption had been in effect at the time, credits and degrees would have been offered in Alaska which were felt to be far below our adopted standards.

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POSITION PAPER

SENATE BILL NO. 131

"An act extending certain benefits to the permanently and totally disabled."

A. Section 1 of this bill would amend the Aid to the Disabled (AD) statutes by adding to the Department's duties the new task of certifying whether applicants, who are not financially needy by AD standards, are permanently and totally disabled. Certifications of disability would be used by these persons 50 to 65 years of age to qualify for various benefits previously available only to certain persons over 65.

There is a lack of specificity in the definition of "permanently and totally disabled" within existing Alaska AD statutes. AS 47.25.960 only defines a "permanently and totally disabled person" as one who is a "needy resident of the State who is not eligible for assistance from another public agency or department providing similar services in the State". Lacking clearer statutory guidance, the Department employs the definition of disability used by the Social Security Administration from Titles II and XVI of the Social Security Act.

Currently, approximately 85% of all Aid to the Disabled disability determinations are being done by a special unit within the Department of Education, Division of Vocational Rehabilitation. This unit operates under exclusive contract with the federal Social Security Administration; it determines disability for both Social Security disability insurance applicants and disabled applicants for federal welfare payments under the Supplemental Security Income (SSI) program. The Department follows this unit's determination in qualifying its clients for the AD Program. To reach even a minimally reasonable degree of accuracy is a time consuming process, involving a determination by highly trained staff applying very complex measurements to laboriously gathered medical, social and psychological data and costs approximately \$600 per determination.

This Social Security definition may not be satisfactory to meet the intent of the new program proposed by SB 131. We recommend consideration be given to changing SB 131 to provide a more complete definition of "permanently and totally disabled". We further recommend that this consideration be done with a view toward making disability determinations for this new class of persons both simple and inexpensive. The attached fiscal note assumes the "worst case" alternative of Vocational Rehabilitation conducting the disability determinations under contract with the Department at \$600 per determination.

B. Sections 2 through 7 of SB 131 would provide certain tax and other benefits to the disabled between 50 and 65. The Department does not oppose the concept behind this expansion of benefits previously provided only to qualified elderly persons. However, it wishes to note that measures which decrease the amounts paid for housing may have a negative effect on some Aid to the Disabled recipients, whose maximum payment level is based in part on their rent.

C. Section 8 of SB-131 would add Pioneer's Home Eligibility for this group. We view this as extremely desirable for those older disabled persons whose living situation and degree of disability make independent living difficult, but who cannot qualify for or afford regular nursing home care.

Recommended by:

Rod Betit

Rod Betit, Director
Division of Public
Assistance

Date:

2/11/81

Approved by:

Helen D. Beirne

Helen D. Beirne
Commissioner

Date:

2/11/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 131

Title "An Act extending certain benefits to the permanently and totally disabled."

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Education

Program Category Affected Education

BRU, Program, or Subprogram(s) Affected Vocational Rehabilitation

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		114.4				
200 TRAVEL		8.0				
300 CONTRACTUAL		31.5				
400 COMMODITIES		1.5				
500 EQUIPMENT		4.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		320.0				
TOTAL		479.4				

→ ADD 10% each year.

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)		479.4				
RSA From DHSS						

POSITIONS

FULL TIME		4.0				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

SEE ATTACHED.

IV. DATE February 10, 1981

PREPARED BY

R. Betit
Rod Betit

AGENCY

Health & Social Services

PHONE

465-3355

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Karsha Halber, 2/10/81

SENATE BILL NO. 131

BUDGET FOR VOCATIONAL REHABILITATION

	<u>New Monthly Salary</u>	<u>Annual</u>	<u>23 1/2% Benefits</u>
<u>100</u> Staff			
1 Adjudicator R/18	2640	31680	7445
1 Adjudicator R/16	2291	27492	6461
2 Clerical R/8	1393	33432	7857
		92604	21763
	TOTAL COST (FY81 SALARY)		114,367
<u>200</u> Training Travel			3,000
Employee Hire Expenses			5,000
	TOTAL TRAVEL		8,000
<u>300</u> Phone/postage			2,000
Form/printing			1,000
Copier			1,500
Rent/Util 500 sq. ft. @ \$2/sq. ft.			12,000
Medical Consultant 4 hrs./wk. @ \$20/hr.			15,000
	TOTAL CONTRACTUAL		31,500
<u>400</u> Commodities			1,500
<u>500</u> Equipment			4,000
<u>700</u> Grants			
Medical, transportation, housing at \$400/determination			20,000
	TOTAL		\$479,367

By:

R. Bell

Date:

2/10/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 131

Title "An Act extending certain benefits to the permanently and totally disabled."

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Departments of Health & Social Services and Education

Program Category Affected Social Services

BRU, Program, or Subprogram(s) Affected Eligibility Determination BRU

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		479.4	527.3	580.1	638.1	701.9
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		479.4	527.3	580.1	638.1	701.9
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No data exists indicating how many Alaskans may be eligible, or how many of those may choose to apply. Projected costs assume well over 800 applications per year, with approximately 800 disability determinations. This assumption is based on an informal 1980 estimate from Division of Vocational Rehabilitation. No costs are involved in DPA certifying any current assistance recipients as disabled.

The responsibility for determining disability would be contracted to Division of Vocational Rehabilitation. Vocational Rehabilitation's budget breakdown is attached for the RSA amount of 479.4. The new positions would be established in Vocational Rehabilitation rather than DHSS.

IV. DATE February 10, 1981

PREPARED BY Rod Betit

AGENCY Health & Social Services

PHONE 465-3355

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Mark Herbert M&B Approved

Date 2/8/81

SEC. 2. MOTOR VEHICLE REGISTRATION TAX EXEMPTION

Assume 80% of the eligible population own a motor vehicle, or 740. Average payment for FY 79 and FY 80 for the senior citizen portion of the program was just under \$19 per affidavit.

Since the fee schedule is set by statute, no inflationary increase is predicted. It is assumed the eligible population may increase 10% each year.

FY 82 - 814 X \$19 = \$15,466	FY 85 - 1,083 X \$19 = \$20,577
FY 83 - 895 X \$19 = \$17,005	FY 86 - 1,191 X \$19 = \$22,629
FY 84 - 984 X \$19 = \$18,696	

SEC. 3. HOMEOWNER PROPERTY TAX EXEMPTION

The FY 80 Senior Citizen Program shows 82% of the eligible applicants were homeowners and 18% were renters. It is assumed that about 30% of the otherwise eligible applicants are in institutions, other housing not subject to property tax or do not apply for various reasons.

The Senior Citizen Program indicates a 12% increase in number of applicants and 10% increase in average tax per application each year. FY 80 average tax was \$560.

924 minus 30% = 647 X 82% = 531

FY 82 - 595 X \$626 = \$372,470	FY 85 - 836 X \$834 = \$697,224
FY 83 - 666 X \$689 = \$458,874	FY 86 - 936 X \$917 = \$858,312
FY 84 - 746 X \$758 = \$565,468	

SEC. 4. SEWER AND WATER ASSESSMENT DEFERMENT

Assume no more than 2% of homeowners apply for deferment each year. Average deferment in FY 80 was \$3,055, assume 10% increase each year.

FY 82 - 12 X \$3,697 = \$44,364	FY 85 - 17 X \$4,920 = \$83,640
FY 83 - 13 X \$4,066 = \$52,858	FY 86 - 19 X \$5,412 = \$102,828
FY 84 - 15 X \$4,473 = \$67,095	

SEC. 5 and 6. RENTER PROPERTY TAX EQUIVALENCY PAYMENT

See Sec. 3 assumptions; 647 X 18% = 116 at 12% annual increase. Under the new formula, average payment per applicant for FY 80 would be about \$334 plus 5% for removal of payment limit = \$351 at 10% annual increase.

FY 82 - 130 X \$386 = \$50,180	FY 85 - 184 X \$515 = \$94,750
FY 83 - 146 X \$425 = \$62,050	FY 86 - 206 X \$567 = \$116,802
FY 84 - 164 X \$468 = \$76,752	

Four separate programs show increased activity. A clerk typist II will be required to handle increased typing, filing and audit procedures.

100 Personal Services	Clerk Typist II	Range 07
Salary	1,319/mo.	= 15,828
Benefits	@ 15.37%	= 2,433
FICA		= 2,004
Health Insurance		= <u>1,848</u>
		\$22.1

Travel to the major population centers will be required for the first year of operation to assure that eligiblj applicants are aware of the new benefits and to prepare appropriate agencies to assist applicants. Reduced travel will be required annually to maintain awareness.

Anchorage/Mat-Su - 3 days & Fairbanks - 1 day	\$300
Kenai Peninsula - 1 day & Kodiak - 1 day	\$500
Southeast - 2 days	\$150
200 Travel	= 950
Per Diem	= <u>525</u>
	\$ 1.5

There is no space available for the new position at the present site of program operation in Juneau.

300 Contractual	
Office Space - 47 sq. ft. @ \$1.50 sq.ft./mo.	.9
Telephone	1.0
Postage	.3
Printing and Advertising - first year	1.8
Printing and Advertising - annual	.4
Copier	<u>.2</u>
	4.6
400 Commodities	.3
500 Equipment	
Desk	524
5-Drawer File Cabinet	296
Chair	155
Calculator	<u>274</u>
	1.3
Total Administrative Cost - First Year	\$29.5
Annual:	\$25.6

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 131
 Title An Act extending certain benefits to the permanently and totally disabled
 Requested by Colletta and Bradley Date February 10, 1981

II. FISCAL DETAIL

Agency Affected Community and Regional Affairs
 Program Category Affected Social-Economic Assistance to the Aged
 BRU, Program, or Subprogram(s) Affected Senior Citizen Tax Relief

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		22.1	24.3	26.7	29.4	32.3
200 TRAVEL		1.5	.8	.9	1.0	1.1
300 CONTRACTUAL		4.6	3.1	3.4	3.7	4.1
400 COMMODITIES		.3	.3	.4	.4	.5
500 EQUIPMENT		1.3	.3	-0-	.3	-0-
600 LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.		482.5	590.8	728.0	896.2	1,100.6
TOTAL		512.3	619.6	759.4	931.0	1,139.6

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		512.3	619.6	759.4	931.0	1,138.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Sec. 1, 7 and 8 do not affect this agency, therefore fiscal data is provided only for Secs. 2 - 6. Assume operation to begin with FY 82.

Information from the Department of Health and Social Services, Division of Public Assistance indicate that while no actual data exists, it may be reasonable to assume 2,800 permanently and totally disabled and that about 33% of these people are age 50 and over. Therefore, a figure of 924 will be used for total eligible population in FY 81. See attached for analysis of fiscal impact for each program affected.

IV. DATE February 10, 1981

PREPARED BY LaDonna Brown
 AGENCY Community and Regional Affairs
 PHONE 465-4739

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

A D M E N D M E N T

By COLLETTA

PAGE] LINE 23:

Delete Sec. 2 in its entirety and renumber successive sections.

Legislative history report. — For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138.
A statutory prohibition of welfare benefits to residents of less than a year

creates a classification which constitutes an invidious discrimination denying such residents equal protection of the laws. Shapiro v. Thompson, 394 U.S. 618, 89 S. Ct. 1822, 22 L. Ed. 2d 600 (1969).

Article 6. Aid to the Permanently and Totally Disabled Act.

Section
790. Eligibility for assistance
800. Application for assistance
810. Amount of assistance
820. Residence in institutions
830. Investigation of applicant
840. Granting of assistance
850. Appeal
860. Payment when recipient incapacitated
870. Review of eligibility
880. Alienation and attachment
890 — 900. [Repealed]
905. Property taken under eminent domain powers

Section
910. Action against person liable for care of the recipient
920. Recovery of allowances improperly granted
925. Cancellation of warrants
930. Agreements with federal government
940. Purpose
950. Obtaining assistance by fraud
960. Definitions
970. Short title

Sec. 47.25.790. Eligibility for assistance. Financial assistance may be given under AS 47.25.790 — 47.25.970, so far as practicable under the conditions in this state, to a permanently and totally disabled person who is eligible under the regulations of the department. All regulations of the department shall be made available to all interested persons. (§ 1 ch 63 SLA 1963)

A statutory prohibition of welfare benefits to residents of less than a year creates a classification which constitutes an invidious discrimination denying such

residents equal protection of the laws. Shapiro v. Thompson, 394 U.S. 618, 89 S. Ct. 1822, 22 L. Ed. 2d 600 (1969).

Sec. 47.25.800. Application for assistance. A person requesting assistance shall apply for it, either for himself or by another in his behalf, upon forms furnished under the regulations prescribed by the department. (§ 1 ch 63 SLA 1963)

Sec. 47.25.810. Amount of assistance. The amount of assistance for a permanently and totally disabled person shall be determined by the department with regard to the resources and needs of the person and the conditions existing in each case. Where possible, assistance shall be sufficient to provide reasonable subsistence compatible with decency and health and according to the standards of assistance established by the department and with the standards established under Title XVI of the Social Security Act. When benefit amounts under Title XVI of the Social Security Act are increased as a result of an increase in the cost of living, the state shall pass along the increase to recipients, and shall

increase the amount percentage of the state the benefit amount services and remedial maximum amount per annum § 4 ch 234 SLA

Effect of amendment. — Amendment, effective July 1, retroactive to July 1, language beginning "standards established" in second sentence, and in sentence.

Editor's note. — Section 1975, as amended by § 1, provides: "For purposes of state contribution to rec 47.25.430(a), 47.25.640, and

Sec. 47.25.820. R 47.25.790 — 47.25.970 is

(1) a patient of a medical institution or institution for tubercular

(2) has been diagnosed patient in a medical

(b) A patient or person leave the institution 47.25.970 instead of institution. (§ 1 ch 63 SLA 1963)

Sec. 47.25.830. I promptly investigate eligibility. (§ 1 ch 63 SLA 1963)

Sec. 47.25.840. I investigation, the department applicant is eligible — 47.25.970, the providing R, and the department shall not

Sec. 47.25.850. I upon, or is denied, granted an opportunity department appoint a reasonable time designated to conduct by the regulations ch 63 SLA 1963)

§ 47.25.820 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.25.850

increase the amount of the state contribution to recipients by a percentage of the state contribution equal to the percentage increase in the benefit amounts under Title XVI. Direct payments for medical services and remedial care may not be considered in determining the maximum amount payable. (§ 1 ch 63 SLA 1963; am § 1 ch 9 FSSLA 1967; am § 4 ch 234 SLA 1970; am § 3 ch 172 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 28, 1975, and retroactive to July 1, 1974, added the language beginning "and with the standards established" to the end of the second sentence, and rewrote the third sentence.

Editor's note. — Section 4, ch. 172, SLA 1975, as amended by § 1, ch. 83, SLA 1976, provides: "For purposes of determining the state contribution to recipients under AS 47.25.430(a), 47.25.640, and 47.25.810 as of

July 1, 1976, the Department of Health and Social Services shall establish levels of need not exceeding \$334 a month for an individual recipient."

Legislative history reports. — For report on ch. 234, SLA 1970 (FCCS HCS CSSB 386), see 1970 House Journal, p. 1478.

For report on ch. 172, SLA 1975 (CSHB 393 [Finance]), see 1975 House Journal, p. 1195.

Sec. 47.25.820. Residence in Institutions. (a) No payment under AS 47.25.790 — 47.25.970 may be made to or in behalf of an individual who is

(1) a patient of a public institution, except as a patient in a public medical institution or an individual who is a patient in a public or private institution for tuberculosis or mental diseases; or

(2) has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result of the diagnosis.

(b) A patient or guest of an institution may, at any time he wishes to leave the institution, apply for assistance under AS 47.25.790 — 47.25.970 instead of the support and maintenance provided in the institution. (§ 1 ch 63 SLA 1963)

Sec. 47.25.830. Investigation of applicant. The department shall promptly investigate each applicant to determine the applicant's eligibility. (§ 1 ch 63 SLA 1963)

Sec. 47.25.840. Granting of assistance. Upon the completion of its investigation, the department shall decide promptly whether or not the applicant is eligible for and should receive assistance under AS 47.25.790 — 47.25.970, the amount of assistance, the manner of paying or providing it, and the date on which the assistance shall begin. The department shall notify the applicant of its decision. (§ 1 ch 63 SLA 1963)

Sec. 47.25.850. Appeal. An applicant whose application is not acted upon, or is denied, discontinued, or modified by the department shall be granted an opportunity for fair hearing before a representative of the department appointed for that purpose. The hearing shall be held within a reasonable time after demand for it is made. If a representative is designated to conduct the hearing, the representative shall be governed by the regulations prescribed for that purpose by the department. (§ 1 ch 63 SLA 1963)

Sec. 47.25.860. Payment when recipient incapacitated. If a person receiving assistance is incapable of taking care of himself or the funds granted under AS 47.25.790 — 47.25.970, the department may direct the payment of the funds to his legally appointed guardian or to another person designated by the department for his benefit. (§ 1 ch 63 SLA 1963)

Sec. 47.25.870. Review of eligibility. Assistance grants under AS 47.25.790 — 47.25.970 shall be reviewed by the department as frequently as it considers necessary, and the amount of assistance may be changed or entirely withdrawn if the review of the circumstances warrants this action. (§ 1 ch 63 SLA 1963)

Sec. 47.25.880. Alienation and attachment. Assistance granted under AS 47.25.790 — 47.25.970 is inalienable by assignment or transfer and is exempt from garnishment, levy, or execution under the laws of this state. (§ 1 ch 63 SLA 1963)

Sec. 47.25.890. State's claim for assistance.

Repealed by § 7 ch 234 SLA 1970.

Editor's note. — The repealed section derived from § 1, ch. 63, SLA 1963.

Legislative history report. — For report on ch. 234, SLA 1970 (FCCS HCS CSSB 386), see 1970 House Journal, p. 1478.

Sec. 47.25.900. Security and lien.

Repealed by § 7 ch. 234 SLA 1970.

Cross reference. — See *Editor's note* to AS 47.25.890.

Editor's note. — The repealed section derived from § 1, ch. 63, SLA 1963.

Sec. 47.25.905. Property taken under eminent domain powers. If a recipient's property is taken for urban renewal or other public purposes and the recipient expresses his intent to purchase a personal dwelling, the proceeds which are paid the recipient as a result of the taking shall be paid by the taking authority into an escrow account under escrow instructions approved by the department. If the proceeds are paid into such an account and are applied by the recipient within one year to the purchase of a personal dwelling, the proceeds may not cause a reduction of the amount of assistance to which the recipient would otherwise be entitled. The department shall inform the recipient of the provisions of this section at the time of the taking. (§ 1 ch 60 SLA 1968; am § 5 ch 234 SLA 1970)

Legislative history reports. — For report on ch. 60, SLA 1968 (CSHB 283 am. 386), see 1968 House Journal, p. 840. For report on ch. 234, SLA 1970 (FCCS HCS CSSB 386), see 1970 House Journal, p. 1478.

Sec. 47.25.910. Assistance to recipient. If, during the course of the department's investigation, it finds that a person is unable to provide the support and care for a person liable for the assistance against the name of the state by the recovery of the amount together with the cost of the action. (§ 1 ch 63 SLA 1963)

Sec. 47.25.920. Recovery of cost of the action. If the department finds that a person has been improperly granted the assistance was an allowance and notice against the person be instituted in the amount paid to the cost of the action.

Sec. 47.25.925. Recovery of aid to recipient of aid to death of the recipient. Administration and

(b) Aid to the recipient of the death of the recipient to the Department claimed by the recipient within 90 days of the death.

(c) The state shall pay the deceased recipient payment on warrant. (§ 2 SLA 1964)

Sec. 47.25.930. Transfer of funds. The department may transfer any federal agency funds available to the recipient transferred to the recipient — 47.25.970 for the purpose of this section. (§ 1 ch 63 SLA 1963)

Sec. 47.25.940. Provision of funds. to furnish funds

Sec. 47.25.910. Action against person liable for care of the recipient. If, during the continuance of an allowance, the department finds that a person liable for the support of the recipient of assistance is able to provide the necessary care and support of the recipient and the person liable for the care and support of the recipient fails or refuses to support and care for the recipient, the state has a cause of action for the assistance against the person liable. The action shall be brought in the name of the state by the attorney general against the person liable for the recovery of the amount of money, with interest, paid to the recipient together with the costs and disbursements of the action. (§ 1 ch 63 SLA 1963)

Sec. 47.25.920. Recovery of allowances improperly granted. If the department finds that aid to a permanently and totally disabled person has been improperly granted, it shall investigate and, if it appears that the assistance was improperly granted, the department may cancel the allowance and notify the recipient. The state then has a cause of action against the person who received the improper allowance. The action may be instituted in the name of the state by the attorney general to recover the amount paid to the person, with interest, together with the necessary cost of the action. (§ 1 ch 63 SLA 1963)

Sec. 47.25.925. Cancellation of warrants. (a) Warrants issued to a recipient of aid to the permanently and totally disabled after the date of death of the recipient shall be returned to the Department of Administration and canceled.

(b) Aid to the permanently and totally disabled warrants issued before the death of the recipient but not repudiated at death shall be returned to the Department of Administration and shall be canceled, unless claimed by the authorized representative of the estate of the recipient within 90 days of the date of death.

(c) The state shall not be liable to the estate, heirs, or creditors of the deceased recipient of aid to the permanently and totally disabled for payment on warrants cancelled under (a) and (b) of this section. (§ 4 ch 52 SLA 1964)

Sec. 47.25.930. Agreements with federal government. The department may enter into agreements, arrangements or contracts with any federal agency, department or official under which funds made available to the federal agency, department or official may be transferred to the department and spent in accordance with AS 47.25.790 — 47.25.970 for aid to the permanently and totally disabled. (§ 1 ch 63 SLA 1963)

Sec. 47.25.940. Purpose. The purpose of AS 47.25.790 — 47.25.970 is to furnish financial assistance so far as practicable to needy

permanently and totally disabled persons, and to help them obtain self-support or self-care. (§ 1 ch 63 SLA 1963)

Sec. 47.25.950. Obtaining assistance by fraud. A person is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500, or by imprisonment in a jail for not more than six months, or by both, if he

(1) by statement, representation or impersonation which he knows is false, or by another fraudulent device, obtains or attempts to obtain or aids or abets a person to obtain

- (A) assistance to which he is not entitled;
- (B) greater assistance than he is entitled to; or
- (C) payment of a forfeited grant or allowance; or

(2) aids or abets in buying or otherwise disposing of the property of the recipient of assistance for the purpose of voiding liability for the assistance granted. (§ 1 ch 63 SLA 1963)

Sec. 47.25.970. Definitions. In AS 47.25.790 — 47.25.970

(1) "assistance" means money payments to, or medical care in behalf of, or any type of remedial care recognized by the department in behalf of needy individuals 18 years of age or older who are totally and permanently disabled;

(2) "department" means the Department of Health and Social Services;

(3) "permanently and totally disabled person" means a needy resident of the state who is not eligible for assistance from another public agency or department providing similar services in the state;

(4) "public medical institution" means a public hospital or medical institution, except an institution for the treatment of tuberculosis or mental disease. (§ 1 ch 63 SLA 1963; am § 3 ch 105 SLA 1967; am § 64 ch 32 SLA 1971; am § 6 ch 104 SLA 1971)

Legislative history report. — For report on ch. 32, SLA 1971 (H.R. 111 am. 1971 House Journal); 138

A statutory prohibition of welfare benefits to residents of less than a year

creates a classification which constitutes an invidious discrimination denying such residents equal protection of the laws. *Shapiro v. Thompson*, 394 U.S. 618, 89 S. Ct. 1322, 22 L. Ed. 2d 600 (1969)

Sec. 47.25.970. Short title. AS 47.25.790 — 47.25.970 may be cited as the Aid to the Permanently and Totally Disabled Act. (§ 1 ch 63 SLA 1963)

Article 7. Food Stamp Program.

- Section 975. Food stamp program
- 990. Duties of department
- 993. Reporting change of status

- Section 985. Penalties
- 990. Definitions

Sec. 47.2 authorized (b) House assistance (c) Food stores which program. E permitted to for the pur ammunition regulations SLA 1965;

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Legislative on ch. 116, SLA House Journal

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Introduced: 2/2/81
Referred: Health, Education & Social Services and Finance

1 IN THE SENATE BY COLLETTA AND BRADLEY BY REQUEST
2 SENATE BILL NO. 131
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act extending certain benefits to the permanently
7 and totally disabled."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 47.25 is amended by adding a new section to read:
10 ARTICLE 6A. CERTIFICATION OF THE PERMANENTLY AND TOTALLY DISABLED.

11 → Sec. 47.25.971. CERTIFICATION OF THE PERMANENTLY AND TOTALLY
12 DISABLED. A person 50 years of age or over who, under regulations
13 adopted by the department under AS 47.25.790, either (1) is eligible
14 for financial assistance under AS 47.25.790 - 47.25.970, or (2) except
15 ? for the income and resources requirements, would be eligible for finan-
16 cial assistance under AS 47.25.790 - 47.25.970, may obtain written
17 certification from the department of his permanent and total disability.

18 (b) The department shall adopt regulations prescribing procedures
19 under which a person may apply for and obtain certification of his
20 permanent and total disability under (a) of this section.

21 (c) In this section, "department" means the Department of Health
22 and Social Services.

23 * Sec. 2. AS 28.10.411(c) is amended to read:

24 (c) A resident who is 65 years of age or older or who is 50 years
25 of age or older and certified as permanently and totally disabled under
26 AS 47.25.971 is entitled to an exemption from tax under this section
27 for one motor vehicle subject to registration. No exemption may be
28 granted except upon written application for the exemption on a form
29 prescribed by the department.

1 * Sec. 3. AS 29.53.020(e) is amended to read:

2 (e) The real property owned and occupied as a permanent place of
3 abode by a resident 65 years of age or over or by a resident 50 years
4 of age or over who has been certified as permanently and totally dis-
5 abled under AS 47.25.971, is exempt from taxation of the assessed value
6 of the real property. Only one exemption may be granted with respect
7 to the same property and, if two or more persons are eligible for an
8 exemption with respect to the same property, the parties shall decide
9 between or among themselves which shall receive the benefit of the
10 exemption. No real property may be exempted under this subsection
11 which the assessor determines, after notice and hearing to the parties
12 concerned, has been conveyed to the applicant primarily for the purpose
13 of obtaining the exemption. The determination of the assessor is
14 appealable under AS 44.62.560 - 44.62.570.

15 * Sec. 4. AS 29.63.065(a) is amended to read:

16 (a) The real property owned and occupied by a resident 65 years
17 of age or over, or by a resident 50 years of age or over who has been
18 certified as permanently and totally disabled under AS 47.25.971, or by
19 the spouse, widow, widower, or minor heir of the original applicant, on
20 which is located only his permanent abode which is a single-family
21 residence, is exempt from (1) special sewer assessments levied by a
22 home rule or general law municipality after September 2, 1975 and (2)
23 special water assessments levied by a home rule or general law munic-
24 pality after September 2, 1975. Only one exemption may be granted with
25 respect to the same property, and, if two or more persons are eligible
26 for an exemption with respect to the same property, the parties shall
27 decide between or among themselves which shall receive the benefit of
28 the exemption. No real property may be exempted under this subsection
29 which the municipality determines, after notice and hearing to the

1 parties concerned, has been conveyed to the applicant primarily for the
2 purpose of obtaining the exemption. The determination of the municipal-
3 ity is appealable under AS 44.62.560 - 44.62.570.

4 * Sec. 5. AS 29.73.060(a) is amended to read:

5 (a) A resident of the state (1) who is 65 years of age or older
6 or (2) who is 50 years of age or older and certified as permanently and
7 totally disabled under AS 47.25.971 who rents a permanent place of
8 abode is eligible for tax equivalency payments from the state through
9 the Department of Community and Regional Affairs.

10 * Sec. 6. AS 29.73.060(d) is amended to read:

11 (d) If two or more persons occupy a residence as tenants, not all
12 of whom are eligible for tax equivalency payments under this section,
13 the assessor shall determine equitable partial payments to be made to
14 the eligible tenants. However, tax equivalency payments to an eligible
15 applicant may not be reduced because the spouse is less than 65 years
16 of age or because the spouse is not certified as being permanently and
17 totally disabled under AS 47.25.971. If all occupants in a residence
18 are eligible for tax equivalency payments under this section, the occu-
19 pants shall decide between and among themselves which shall receive
20 payment.

21 * Sec. 7. AS 38.05.098(a) is amended to read:

22 (a) The real property occupied as a permanent place of abode by a
23 resident who is 65 years of age or over, or who is 50 years of age or
24 over and certified as permanently and totally disabled under AS 47.25.
25 971, and leased by that resident from the state in accordance with AS
26 38.05.070 - 38.05.105 is exempt from the payment of annual lease rent.
27 Only one exemption may be granted for the same property, and, if two or
28 more persons are eligible for an exemption for the same property the
29 parties shall decide between or among themselves which shall receive

1 the benefit of the exemption. An exemption may not be granted for a
2 portion of the lease which is used by the leaseholder for a purpose
3 other than his permanent place of abode.

4 * Sec. 8. AS 47.25.030 is amended to read:

5 Admin. Sec. 47.25.030. ADMISSION ON PAYMENT. A citizen of the United
6 States who is over 65 years of age or 50 years of age and certified as
7 permanently and totally disabled under AS 47.25.971 and who is a resi-
8 dent of the state and has been a resident for not less than 15 years
9 continuously immediately preceding his application, but who is not
10 destitute, may on application be admitted to the home upon his agreement
11 to pay to the state a sum for each day as the Department of Administra-
12 tion considers sufficient to compensate the state for the cost of care
13 and support of the person at the home. When this agreement is entered
14 into the Department of Administration may receive the security for the
15 payments, which it considers expedient.

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FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 133

Title An Act relating to memorials to Alaskan veterans.

Requested by Senate State Affairs Committee Date 2/4/81

II. FISCAL DETAIL

Agency Affected Dept. of Transportation & Public Facilities

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL *						

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

* Senate Bill 134 contains the appropriation for this purpose, and we assume that all Departmental costs related to this project will be charged against those funds.

If this memorial is to be in the nature of an artwork for which a particular artist is desired, we would suggest that (a) the Department of Military Affairs, or some other agency not bound by AS 35.15.030, be directed to construct this memorial, or (b) a change be made to exempt this work from AS 35.15.030, or (c) the memorial committee be authorized to select the artist or contractor.

IV. DATE February 5, 1981

PREPARED BY Ron B. Lind

AGENCY Dept. of Transportation & Public Facilities

PHONE 465-3900

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 134 - An Act making a special appropriation to the Dept. of
 Title Transportation & Public Facilities for construction of a memorial to Alaskan Veterans
 Requested by Senate State Affairs Committee Date 2/4/81

II. FISCAL DETAIL

Agency Affected Dept. of Transportation & Public Facilities
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	200.00					
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	200.00	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	200.00					
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Assume that the total cost of this project will be charged against this appropriation. A problem may be encountered by having DOT/PF as the agency contracting for this service if the memorial chosen is in the nature of an artwork for which a particular artist was desired; because AS 35.15.030 states that when a contract for construction exceeds \$100,000, it shall be awarded to the lowest responsive bidder.

IV. DATE February 5, 1981 PREPARED BY Ron B. Lind
 AGENCY Dept. of Transportation & Public Facilities
 PHONE 465-3900
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

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DR. M. G. FALCONER
DR. J. C. FALCONER
DR. G. L. HALL
DR. T. F. HARBOUR
DR. W. D. FAULKNER
OPTOMETRISTS

ANCHORAGE EYE AND CONTACT LENS CENTER

1345 W. NINTH AVE. PHONE: 272-2337

ANCHORAGE, ALASKA 99501

testimony

I am Dr. Maynard Falconer, Anchorage optometrist and member of the Board of Examiners in Optometry. S.B. 136 authorizing the use of ophthalmic drugs by optometrists is proposed jointly by the Board of Examiners in Optometry and the Alaska Optometric Association. This legislation will allow the Board to license optometrists for procedures currently being taught in optometry schools but not permitted under the present Alaska law.

In recent years, Alaska has fallen behind in its ability to license graduates to current standards of practice. It is now in a minority of states that do not permit optometrists to use drugs.

PUBLIC BENEFITS OF THE LEGISLATION

1. Availability of Services.

Ophthalmologists are located in only five Alaska cities: Anchorage, Fairbanks, Juneau, Ketchikan, and Soldotna. Optometrists are located at the following cities not served by ophthalmologist: Sitka, Kodiak, Valdez, Bethel, North Pole, Wasilla, Palmer, and Kenai. In most of these cities, a patient with minor eye disease has no practical recourse

but to see a general physician who does not have the optometrist's degree of training in differential diagnosis or the instruments with which to accomplish the diagnosis. Since optometrists make trips to many rural and bush areas, they can provide basic eye health services to villages now principally served by health aides with six to twenty-four weeks of training and having only radio contact for doctor consultation.

2. Quality of Services.

Besides their obvious value to the health aide system, optometrists can serve as a valuable resource to physicians in cities not served by an ophthalmologist. This occurs with the optometrists employed by the Native Health Corporation in Bethel (not bound by the drug restrictions of the Alaska optometry law). General physicians, to their credit, tend to refer patients to the most qualified practitioner in their area. It is not surprising, therefore, that M.D.s in Kodiak have endorsed previous drug usage bills in optometry.

3. Cost of Services.

Just as a general practitioner charges a lower fee (typically half) than does a specialist for doing similar work (obstetrics, pediatrics, etc.), so an optometrist (a generalist and primary care provider with respect to the eye) can be expected to charge less for treating minor eye diseases than does the ophthalmologist (the specialist).

We expect this legislation to be opposed by ophthalmologists who, for economic reasons, wish to see the optometry law retain its present restrictions.

Let me review ophthalmologists' major criticism with answers to the criticism.

1. Ophthalmologists claim optometrists are not competent and their training programs are inadequate, particularly as to qualifications of faculty and clinical experiences available to their students.

Optometry schools receive state and federal funds and are accredited by both regional and professional accrediting organizations. It is not in the interest of schools or the profession at large to allow inadequate programs to exist in this sensitive area for the sake of saving money. All optometric faculties include M.D.s and Ph.D.s in such specialized fields as physiology, pharmacology, biochemistry, and microbiology. Many are present or past members of medical school faculties. With drugs, as in other areas of the professional curriculum, optometrists are trained well beyond the level at which they must function in day-to-day practice. While it is impossible to have too much clinical experience, optometry students enjoy more than adequate exposure to the common eye diseases they must deal with. In their two years of clinic experience, they see much more eye

pathology than general medical students but less than residents (trainees) in ophthalmology. Many rare eye diseases will not be seen in a three-year residency in ophthalmology.

2. Optometrists can detect abnormalities but cannot diagnose. Treatment requires, first of all, an accurate diagnosis.

Optometrists can diagnose some eye diseases; definitive diagnosis of others requires specialized examination by the ophthalmologist. At still other times, consultation with the specialist will allow a diagnosis to be made. The same is true for a general physician or for a specialist whose case lies partly in the province of another specialist. No practitioner is going to be foolish enough to treat a case if he isn't sure what it is and if more competent authority is reasonably available.

3. Optometrists study the eye but they are not trained in broad medical principles. The general physician knows the entire body and can generalize certain principles to the eye even though he may not have as many hours of study specifically in the eye as the optometrist.

Optometrists study general anatomy, physiology, pathology and pharmacology precisely because certain general principles need to be understood before considering a particular organ system like the eye. The educational model is similar to

dentistry. In both professions, the body as a whole is studied in less detail than is done by medical students because neither are treating kidney disease or setting broken legs. Yet the necessary general principles are learned. Both dentists and optometrists are medically trained in ways that are appropriate to their respective fields of work.

4. Given drugs for diagnosis and some treatment, optometrists would go in over their heads and attempt to be ophthalmologists.

This is not the case in other fields and there is no evidence that it has happened or will happen in optometry. Malpractice insurance rates are no higher in drug states than in non-drug states. Besides a basic conservatism common to all professionals, optometrists are constrained by the knowledge that their malpractice insurance coverage does not extend to activities that are outside their recognized scope of practice.

5. Defining procedures "as taught by schools and colleges of optometry" is too general and could allow the optometry board to do almost anything.

"As taught" is purposely general to allow the board to react to continuing changes in the education of the profession.

It is the responsibility of the board, as an agency of the State of Alaska, to know the areas in which optometrists are trained and educated, to examine them for competence and license or fail to license them accordingly. Most board members are also practitioners. It is not in their interest to license fellow practitioners to do procedures that could bring discredit to the profession or raise malpractice insurance rates. This is also true of other health care regulatory boards.

6. Drug usage by optometrists constitutes competition in the historical province of ophthalmology.

Ophthalmologists, nationally and in Alaska, tend to concentrate in urban areas where they spend a majority of their time practicing optometry. In the last fifteen years, they have entered the field of contact lenses, an area pioneered by optometry. Much earlier, their predecessors (oculists) entered the optometrists' field of refraction after abandoning the belief, common among Victorian era physicians, that glasses weakened the eyes. Competition both ways is appropriate. It is not in the public interest to exclude a qualified bidder from the marketplace.

I have gone over the benefits to the public of the legislation and criticism by ophthalmology and our answers. An additional area of great concern to the optometrist and

to the Board of Examiners in Optometry is the optometrists' legal liability.

A most recent court settlement involving an Alaska optometrist demonstrated how the Alaska optometrist is legally liable to detect and diagnose ocular disease even though state law prohibits him from the use of ophthalmic drugs, which aid in that detection process. In this case, a retinal detachment was present which, by testimony from Dr. Richardson (ophthalmologist), would have been next to impossible to detect without the use of ophthalmic drugs. A recent newspaper article by Dr. Harrison, ophthalmologist practicing in Anchorage, stated when asked about diagnosing a retinal detachment that "Only a special examination through a dilated pupil can make the diagnosis".

This bill permits optometrists to use those essential procedures being taught in optometry schools yet not permitted under present Alaska law. I hope you will support S.B. 136 vigorously for it benefits the Alaska public.

TESTIMONY FOR SENATE BILL 136

February 27, 1981

P.W. Bach

Gentlemen of the Committee, I'm Phillip Bach, an optometrist in private practice in Anchorage, and a member of the Board of Examiners in Optometry. I don't stand on ceremony, so my background and degrees are listed on the VITA attached to the end of this testimony.

Since I have been a professor at various times, it is my assignment to describe to you, briefly, the nature of optometric education. I'll also touch on the similarities and differences between the training of an O.D. and that of an M.D.

Professional education can be broken down into three general phases. In graduate school these phases are usually called theory courses, methods courses, and practicum. In optometry they are called didactic courses, clinic preparation or pre-clinic, and clinical experience. In Exhibit 1 of your handout, I have placed in these three categories, the courses of the Pennsylvania College of Optometry, a school I recently visited.

Didactic courses are taught in the classrooms and laboratories. They are designed to provide a fund of background knowledge which serves as a basis for exercising professional judgment. You will note that these courses are taught chiefly by professors whose doctorates are in the basic science areas, like physiology, pharmacology, pathology, clinical medicine and clinical optometry. Thus ODs, MDs and PhDs teach in this phase.

In the pre-clinic phase, students are taught to apply this knowledge to general and special areas of optometry. Instruction takes place in special clinic-like facilities designed for the purpose. The instructors in this phase are primarily ODs, who teach the clinical procedures and relate theory to practice. Students develop proficiency in individual procedures by practicing the procedures on each other.

In the clinic phase, students examine and care for real patients under the teaching and supervision of a clinic staff consisting of 37 optometrists, 5 ophthalmologists and several miscellaneous professionals in related fields. In the regular clinic, there is one supervising doctor for every 2 student clinicians. In this role, clinicians treat minor eye diseases, and refer major diseases to an ophthalmological care module located in the clinic. Cases having particular teaching value are seen in pathology clinics conducted by an ophthalmologist and attended by clinicians from the primary care module in which the case originated. (There are 4 primary care modules).

Clinicians later undergo an externship, where they spend time in field settings, such as Veterans Administration hospitals, Public Health Service clinics and private practices. At the end of this training, they receive the O.D. degree and are eligible to take state and national board examinations for licensure.

To explore another foundation of professional judgment, it is instructive to look at the type of students who enter the four year optometry program. I have long held the belief that a school is only as good as its students. It is one thing to be exposed to knowledge;

it is another thing to retain and apply it. Optometry schools require a minimum of two to three years of pre-optometric college study, with specific course requirements to be completed during that time. In practice, only exceptionally qualified students are admitted with less than four years of college and a completed major. This is shown in Exhibit 2. For each school, the number of entrants having two, three or four years of college are shown in the first three columns. For all the schools collectively, the percentage of entrants who have four or more years of college is 72%. Broad college experience is desirable because it demonstrates the student's ability to sustain a program of study, particularly in upper division college courses; and it helps to develop the so-called well rounded person, which all professions seek.

An even more direct indication of the quality of the students is their grade point average, shown in column 4. Again, for the schools as a whole, these GPAs average out to 3.3 on a 4.0 scale, which is a high B average. Thus the schools draw their students from the top third of the college class. While grade point average does not correlate particularly well with success in practice, it does show a student's ability to get through difficult courses in the professional curriculum. And since most schools require in pre-optometry, courses like organic chemistry and differential calculus, these high grade point averages were not earned in basket weaving courses.

What sort of practitioner is produced by this educational system? An ophthalmologist? No. A general practitioner in medicine? No. A person capable only of determining a spectacle prescription and fitting contact lenses? Certainly not! The system produces a doctor in the field of health care, a professional whose training has been carefully focused and tailored to produce a generalist of the eye and visual system, a provider of primary care in the eye field. In terms of disease, primary care means diagnosis and treatment of some eye diseases, preliminary diagnosis and referral of other diseases to a specialist for further evaluation and treatment. The specialist is usually an ophthalmologist, but since the eye is a window to the body as a whole, referral may also be made to a neurologist, internist or other health care practitioner.

Exhibit 3 shows schematically where the optometrist fits in between the general practitioner and the ophthalmologist in terms of his knowledge of eye diseases. His knowledge is intermediate between the two but closer to that of the ophthalmologist. For primary care, his knowledge, office instrumentation and continuing education is far superior to the general practitioner, who must spread himself across the entire body. While the O.D. program is not short, doctors of optometry feel their educational model is more efficient and cost effective for primary eye care than that of the ophthalmologist, who first goes through four years of general medical school and receives much training that he will never use, then undergoes a three year residency heavily oriented toward surgical procedures which also are not invoked in primary eye care.

Such a system produces an expensively trained specialist, who in order to earn a specialist's level of income, must charge higher fees for rendering primary care or see more patients in the same period of time. Moreover, they are less accessible due to their smaller numbers and uneven geographic distribution. The optometric model is very similar to that of dentistry. While dentists do not seem cheap, their services would almost certainly be more expensive were they performed by medical specialists having 11 years of higher education instead of 8.

It has been suggested by opponents of the bill that ODs are narrowly trained in drug usage, without the background of the MD to handle adverse reactions that might occur. Nothing could be further from the truth. Like physicians, dentists and podiatrists, optometrists are medically trained, in ways that meet the unique requirements of their field. It is one of the hallmarks of training in a profession, that the practitioner is trained well beyond the level at which he must function in routine practice. The extra training gives him the depth with which to make proper decisions in unusual cases that come along. This is particularly true in the drug area, where the optometrist is grounded in general pharmacology as a preparation for ocular pharmacology. Moreover, the OD, by using relatively few drugs, is highly expert not only in their usage, but in knowing what symptoms to look for and in the proper use of remedial procedures. For the drugs we are talking about, remedial procedures are

relatively few. For instance, it is not uncommon for mild allergic reactions to occur with antibiotic drops or ointments. When this happens, the remedial procedure is to discontinue use of the drug. If these drugs were inherently dangerous they would not be prescribed for use at home. As a matter of common sense, no school is going to teach its students to do something that could be dangerous to the public without also teaching them the proper remedy.

In summary, an established and respected profession, optometry, offers your constituents a health care capability that is not being utilized in Alaska due to an antiquated optometry law. Authorizing Alaskan optometrists to provide their profession's primary eye health services will allow faster and more available routine treatment, better referral, save patients' time, money and travel, and not cost a dime of taxpayers' money.

VITA

Phillip W. Bach

Education

- 1961 Graduated, West Anchorage High School
- 1961-4 Attended Alaska Methodist University
- 1965-7 Attended Illinois College of Optometry, Chicago
- 1969-9 Attended Pacific University College of Optometry and Pacific University, Forest Grove, Oregon
- 1969 Bachelor of Science (psychology), Pacific University
- 1969 Doctor of Optometry, Pacific University College of Optometry
- 1970-5 Attended Graduate School, Purdue University, LaFayette, Indiana
- 1975 PhD (special education and physiological psychology), Purdue University

Experience

- 1970 Graduate Assistant, Purdue University
- 1971-4 Graduate Instructor, Purdue University
- 1974 Assistant Professor of Education, Western Illinois University, Macomb, Illinois (summer session)
- 1975 to Present Private practice in optometry, Anchorage, Alaska
- 1975 (Sept. - Oct.) Consultant to Alaska Unorganized Borough School District
- 1972 to Present Contributing Editor, "Growing Child", a monthly child development newsletter, circulation 125,000
- 1978 Part Time Instructor, Department of Education, University of Alaska, Anchorage (spring semester)

Activities and Affiliations

- 1978 to Present Member, Board of Directors, Anchorage Community Mental Health

Center (Secretary, 1979, 1980; Vice-President, 1981)

1975 to
Present Member, Polaris Squadron, Civil Air Patrol (Mission Pilot,
Safety Officer)

1980,
1981 Member, Anchorage Symphony (some concerts)

1975 to
Present Member, American Optometric Association

1975 to
Present Member, Alaska Optometric Association (Vice-President, 1980)

Exhibit #1

Phases of Professional Study,
Pennsylvania College of Optometry

A. Theory (years 1 through 4)

Course	Type of Instructor
Gross Anatomy	O.D., M.S., Anatomy
Microanatomy	M.S., Anatomy
General Biochemistry	Ph.D., Physiology
General Physiology	Ph.D., Physiology
Endocrinology	Ph.D., Physiology
General Pathology	M.D.
General Pharmacology	Ph.D., Pharmacology
Medical Urgencies and Emergencies	M.D.
Clinical Medicine	M.D.
Theoretical Optics I & II	Ph.D., Optics
Physiological Optics I, II, III & IV	Ph.D.s Physiological Optics and Ph.D., Psychology
Ophthalmic Optics I & II	O.D.
Neuroscience	O.D., M.S., Anatomy
Electrodiagnostic Methods	Ph.D., Physiological Optics
Ocular Biology I & II	O.D., and Ph.D., Anatomy
Ocular Pharmacology and Therapeutics	Ph.D., Pharmacology
Diseases of the Eye I & II	M.D., Ophthalmology
Ophthalmic Pathology	M.D., Ophthalmology
Primary Care, Optometric Procedures I, II, III	O.D.
Contact Lens Practice	O.D.
Strabismus/Amblyopia	O.D.

Theory (cont.)

Pediatric Optometry	O.D.
Vision Rehabilitation	O.D.
Neuro-Optometry	O.D.
Health Care I (Public Health)	O.D., M.P.H.
Health Care II (Epidemiology)	O.D., M.P.H.
Health Care III (Health Care Policy and Organisation)	O.D., M.P.H.
Environmental Optometry	O.D.
Practice Management and Development	O.D.

B. Clinic Preparation (years 1 and 2)

Primary Care, Optometric Procedures I, II & III Laboratory	}	14 O.D.s 1 Ophthalmologist 1 Ph.D.s
Contact Lens Practice Laboratory		
Strabismus/Amblyopia Laboratory		
Pediatric Optometry Laboratory		
Vision Rehabilitation Laboratory		
Professional Practice I, II & III		

C. Clinical Experience - at Eye Institute (years 3 and 4)

Professional Practice IV & V (general clinics)	}	37 O.D.s 5 Ophthalmologists 1 Ph.D.s 5 Other
Advanced Professional Practice (specialty clinics)		
External Education Patient Care (Home examinations and screenings)		

Clinical Experience (cont.)

Externship I, II
(experience in settings and institutions
away from Eye Institute)

Electives:

Biological Science Research

Visual Science Research

Health Care Research

Human Interpersonal Relations

Advanced Professional Practice

Clerkship I, II
(observing in various practices)

Externship III

Selected Topics in Optometry

Theory and Clinical Practice of
Low Vision Rehabilitation :



Appropriate faculty & staff

Exhibit #1a

Pennsylvania College of Optometry Faculty

OD	MD	PhD	Other
Alexander*	Borska	Barker, P.	Brookes (MBA)
Barker, F.*	Toland* (& OD)	Carroll (& OD)	Clugh (BS)
Berman		Feinbloom	Davis (BS)
Blaustein*		Levy	Lewis, D. (BA)
Bressler		Lewis, T. (& OD)	Lombardi (MS)
Brilliant*		Myers (& OD)	Lynch (MB, DPH)
Brown		Siegfried	Redmond (BA)
Byer* (& MS)		Singh (& OD)	
Cohen, J.		Smith	
Cohen, M.			
Cook			
Crosier, C.M.*			
Crosier, C.C.			
Cummings*			
DiStefano (& MED, MPH)			
Feinblum (& MED)			
Fink			
Freeman			
Friedman			
Friedner			
Furer			
Gottshalk			
Granatt			
Gray*	<u>OD (cont.)</u>		
Curwood	Fress*		
Hirsch	Ragone		
Hooten	Rinehart* (& MA)		
Kaplan, N.	Robinson*		
Kash, K.	Ruskiewica (& MPH)		
Kash, M. (& MED)	Seiderman (& MA)		
Kaplan, W. (& MA)	Silbert*		
Koib	Simon		
Lacey	Skolnick*		
Lobow	Solen		
Lothovits (& MED, MPH)	Spinell*		
Lothhardt*	Udvari		
Margaretten	Verma		
Norre	Volinsky* (& MS)		
Miller	Walker*		
Morrison	Walton		
Moss*	Ward (& MPH)		
Musa	Weidig		
Allen*	White*		
Syman*	Whiteaker (& MPH)		
Oleszewski* (& MS)	Williams*		
Pitto (& MS)	Yamanoto		
Poguis			

Additional degrees at Masters or higher noted

* Also on Eye Institute faculty

Exhibit #1b

Eye Institute Faculty and Staff

OD	MD	PhD	Other
Alexander	Toland (& OD)	Feinbloom	Cope (BA)
Barker, F.	Deglin (& MSc)	Lewis (& OD)	Gerushat (MA)
Bennett (& MS)	Katzman	Singh (& OD)	Smith (MEd)
Blaustein	Kay		Terwilliger (MSW)
Brilliant	Rodis (& PhD)		Watson (MA)
Byer (& MS)			
Cole			
Crosier, G.M.			
Cummings			
Freeman			
Gottshalk			
Gray			
Jordan			
Jose			
Klopper			
Lockhart			
McCulloch			
Moss			
Mullen			
Nyman			
Oleszewski (& MS)			
Pearlman-Storch			
Press			
Rinchart (& MA)			
Robinson			
Ruggiero			
Silbert			
Sholnich			
Spinell			
Volinsky (& MS)			
Valner			
White			
Williams			
Wilson			
Yerkittis			
Zaba (& MA)			
Zlotnick			

Additional degrees at Masters level or higher noted

Exhibit #2

Characteristics of Students Entering
Optometry Schools in 1979

Optometry School	Years of Pre-Optometric College Study			Mean Grade Point Average (4.0 Scale)	% Applicants Accepted
	2 yrs.	3 yrs.	4 yrs.		
University of Alabama at Birmingham, School of Optometry	0	5	35	3.36	27
University of California at Berkeley, School of Optometry	0	3	38	3.35	18
Ferris State College of Optometry (Big Rapids, Michigan)	0	0	27	3.45	23
University of Houston College of Optometry	0	13	91	3.36	19
Illinois College of Optometry (Chicago)	2	35	118	3.30	19
Indiana University, School of Optometry (Bloomington)	18	21	30	3.58	14
New England College of Optometry (Boston)	0	7	80	3.19	15
Ohio State University College of Optometry (Columbus)	11	26	23	3.46	24
Pacific University College of Optometry (Forest Grove, Oregon)	20	30	35	3.36	17
Pennsylvania College of Optometry (Philadelphia)	2	19	129	3.18	22
Southern California College of Optometry (Fullerton)	9	15	72	3.32	16
Southern College of Optometry (Memphis)	21	25	104	2.90	18
State University of New York College of Optometry (New York)	0	5	63	3.27	18

Percent of all entrants having
4 or more years of college

72

Grand mean grade point average
(weighted by class size)

3.27

Exhibit #3

Schematic Comparison: Relative
Knowledge of the Eye, Eye
Diseases and Eye Medicine

Ophthalmologist

Optometrist

General Practitioner

*Memory
copies from 6*

Dr. Jeffrey A. Gonnason

Doctor of Optometry
Medical - Dental Bldg.
140 East 5th
Anchorage, Alaska 99501

Telephone (907) 276-2080

February 20, 1981

Senator Charles H. Parr
Senate HESS Committee
Pouch V
Juneau, Alaska 99811

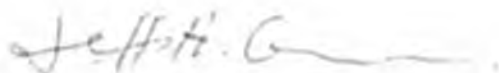
Dear Sen. Parr:

Please convey to your committee my strong support for Senate Bill #136, allowing optometrists to use those drugs and drug related procedures for which they are trained.

It is more than a little disconcerting to be recently trained in Oregon to use drugs, but not be able to use them in Alaska. It is hard to see how the patient does not come out the loser from this restriction in the range and quality of services I am qualified to perform. Furthermore, Alaska will not be able to attract a high calibre of practitioner in the future if this policy continues for long.

Please allow the Board of Examiners in Optometry to function like other health care boards in determining the appropriate activities of the professionals it oversees.

Respectfully yours,



Jeffrey A. Gonnason, O.D.

JAG:rms



Member
American Optometric Association

SITKA VISION CLINIC
T. E. MCLAUGHLIN, O.D., P.C.
BOX 488
SITKA, ALASKA 99838
—
TELEPHONE 747-6644

Senator Charles Parr, Chairman
Senate Health, Education and
Social Services Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Sen. Parr:

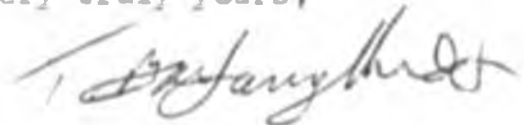
I urge your favorable consideration of SB 136, relating to ophthalmic drugs in optometry.

There are several needs together under that heading. Besides diagnostic aids, such as pupil dilating drugs, optometrists need to have the use of certain other drugs, such as antibiotic drops and ointments for eye inflammations that are not serious enough to require the services of a specialist.

For instance, painful corneal abrasions from contact lens overwear are common occurrences. Proper treatment includes instillation of a corneal anesthetic to break the pain response, followed by aspirin to hold the pain down after the anesthetic wears off (prolonged anesthetic is undesirable because it retards healing). At the same time, an antibiotic is used to guard against infection until the corneal epithelium is restored.

The optometrist has a biomicroscope with which he can monitor the progress of the healing, which usually takes 1 to 3 days. This microscope is not normal equipment for a general practitioner, and I am the only person in Sitka who has such an instrument.

Very truly yours,



Timothy E. McLaughlin, O.D.

DR. ED CRAIG
OPTOMETRIST
348 MAIN STREET
KETCHIKAN, ALASKA 99901
DIAL 228-3978

February 25, 1981

Senator Charles Parr
Pouch V
Juneau, Alaska 99811

Dear Senator Parr:

I urge your support of Senate Bill 136 which will legislate use of ophthalmic drugs by optometrists during the course of a visual examination.

While ophthalmology deals with diseases of the eye and performs surgery upon the eye, optometry is the only profession specifically licensed in the United States to deal with human vision and related problems.

The average optometrist has spent 6 years or more training for his profession. All thirteen optometry colleges now include a comprehensive study of pharmacology. The pharmacological curriculum is accepted by The Association of Schools and Colleges and is similar to that taught to medical students.

Modern technology has made sophisticated diagnostic equipment available, but their value to the patient diminishes when the law disallows them to be used in conjunction with ocular drugs. The optometrists' ability to view a larger portion of the eye with use of these drugs will result in the earlier detection of eye diseases. Of course, early detection will result in the early referral to an ophthalmologist.

Recent graduates from optometry colleges are now specifically tested in the use of ophthalmic drugs by the state boards. Having passed this examination, they should not require policing from another profession.

Respectfully,


Ed Craig, O.D.

The
ALASKA OPTOMETRIC ASSOCIATION

AFFILIATED WITH
AMERICAN OPTOMETRIC ASSOCIATION

PRESIDENT

George Hall O.D.

SEC-TREAS

Dennis Beaker O.D.

LEGISLATIVE COMM.

Maynard Falconer O.D.

Phillip Bach O.D. Ph.D.

In December, 1980, a malpractice suit against Dr. George Hall, an Anchorage optometrist, was settled out of court for \$240,000.

The suit alleged that Dr. Hall failed to make an emergency referral to an eye surgeon (ophthalmologist) when symptoms reported by his patient suggested the possibility of a detaching retina. The patient had been seen by Dr. Hall in Wasilla on a Friday afternoon, and he was seen by an ophthalmologist the following Monday as the result of Dr. Hall's non-emergency referral for further evaluation. Between the Friday referral and retinal surgery the following Wednesday, vision deteriorated steadily from 20/20 to 20/400. After surgery, vision was limited to light perception, where it remains.

In reviewing the records and testimony in the case, the attorney for the defendant concluded, in the attached summary letter, that the symptoms reported to Dr. Hall did not support the possibility of an impending retinal detachment and that signs of a detachment could only have been seen through a dilated pupil. The dilation procedure cannot be performed by Dr. Hall under present law.

This case is an illustration of the need for passage of S.B. 136 and H.B. 111, currently before the legislature. They would allow the use of ophthalmic drugs by optometrists in accordance with their education and training.

HUGHES THORSNESS GANTZ POWELL & BRUNDIN

Attorneys at Law

JOHN C. HUGHES	CARL J. D. BAUMAN	TIMOTHY R. BYRNES
DAVID H. THORSNESS	FRED B. ARVIDSON	JAMES M. SEEDORF
RICHARD G. GANTZ	ROBERT T. PRICE	BONNIE L. THIE
JAMES M. POWELL	DENNIS M. BUMP	PAUL J. ERICSON
BRIAN J. BRUNDIN	MARY R. HUGHES	GARY G. FOSTER
MARCUS R. CLAPP	FRANK A. PFIFFNER	FREDERICK J. DOSEN
KENNETH R. JACOBUS	RALPH R. BEISTLINE	MICHAEL L. LESSMEIER
GARY W. GANTZ	GORDON J. TANS	STEVEN S. TERVOOREN
JERRY E. MELCHER	R. CRAIG NESSER	GARY L. MARSHALL
JOE M. MUDDLESTON	ROBERT L. MANLEY	MATTHEW R. PETERSON
SIGURD E. MURPHY	DOORIS R. EHRENS	JOSEPH R. D. LOESCHER
RICHARD D. THALER	JAMES M. GORSKI	RONALD E. NOEL
		JAMES F. HLABEN

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3550 AIRPORT WAY
FAIRBANKS, ALASKA 99701
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• Fairbanks Office

February 9, 1981

Please reply to ANCHORAGE

Dr. M. C. Falconer
Anchorage Eye & Contact Lens Center
1345 West 9th Avenue
Anchorage, AK 99501

Re: Robinson Suit

Dear Dr. Falconer:

Now that this litigation has concluded, I wanted to take this opportunity to briefly summarize a few thoughts I had with regard to the suit.

Even though it might have been extremely hard to prove, in my opinion, the plaintiff's allegations as to what facts occurred when he met with Doctor Hall were not true. His recollection of what he told Doctor Hall is not supported by the medical records, is not supported by Doctor Hall's testimony and is not supported by the employees of Doctor Hall's office in the Matanuska-Susitna Valley. However, if the plaintiff's allegations as to what he said to Doctor Hall and the signs he exhibited were taken as total truth then there was a good possibility that a jury could determine that a reasonable person in Doctor Hall's position would have at least considered the possibility of an impending retinal detachment. However, when looking at Doctor Hall's statements, the medical records and other facts as applicable to this action it appears that the plaintiff in fact complained of a problem of long duration and that when taken together in a light most favorable to Mr. Robinson, without the ability to dilate the eye, a reasonable person in Doctor Hall's position would not have come to the conclusion that there was a possibility of a retinal detachment.

This gets to the main issue of the case which concerns the ability of an optometrist to dilate a pupil. In the workmen's compensation claim by Mr. Robinson the deposition of Doctor Kenneth Richardson was taken. On page nine of the same he states:

Dr. M. C. Falconer
February 9, 1981
Page Two

HUGHES THORSNESS GANTZ POWELL & BRUNDIN
Attorneys at Law

"I looked at both eyes. I dilated both pupils, it's worth commenting on, you have to dilate both pupils . . . "

The pertinent issue therefore is the inability of Doctor Hall as an optometrist to dilate Mr. Robinson's eye. If you were to take Mr. Robinson's testimony as being truthful then it would appear that when he visited Doctor Hall his medical condition of the eye had progressed to the extent where two things were evident. First, if the eye had been dilated the impending retinal detachment would have been readily discernible by Doctor Hall. Second, following a normal medical progressive state the detachment was already beginning and therefore harm was already done to his eye. There is no showing that the delay between the visit to Doctor Hall and the actual operation on the eye a few days later caused any additional problems to Mr. Robinson or that the end result would have differed. However, if one were to argue that the damage was increased by the delay and that the end result would have differed then it seems quite logical that one must also agree that if Doctor Hall had the ability to dilate the eye that procedure would have allowed him to determine the existence of the problem and to take immediate measures for the benefit of Mr. Robinson.

I do not purport to be cognizant of all the medical arguments pro and con having optometrists given the ability to dilate patients' eyes. It, however, appears to me that the major argument against it by ophthalmologists is the fear of a shock syndrome in some cases during the dilation process where immediate medical aid is necessary. If this is in actuality a real concern it would appear to me that a compromise could be worked out wherein every optometrist that wishes to dilate eyes would have to be accredited for the same with knowledge of the shock syndrome and how to react to it medically or alternatively will have to have on his staff for immediate access a nurse or other qualified individual to deal with the potential problem.

In conclusion I would note that the case was settled, it is my understanding, based upon the large claims of yearly earnings by Mr. Robinson that he alleges were diminished or reduced entirely because of his physical visual problem and the potential that the jury might believe his story rather than that of Doctor Hall's out of sympathy. I only wish the insurance company had contacted me or my office or Doctor Hall or the other members of his office before settling the case with plaintiff's counsel.

Very truly yours,

HUGHES, THORSNESS, GANTZ, POWELL & BRUNDIN

By


Sigurd E. Murphy

SEM:skc

Retinal detachment curable — but hurry

Thomas J. Harrison received his medical degree from the University of Oregon Medical School and did a residency in ophthalmology at Los Angeles County Hospital. He studied under a retinal diseases and surgery fellowship at the University of Iowa Medical School and is board certified in ophthalmology. He worked for the U.S. Public Health Service in Koebeue from 1952 to 1964 and has been in the private practice of ophthalmology in Anchorage since 1967. He is medical director of the Lions District Eye Foundation.

HEALTHLINE



DR. THOMAS J. HARRISON

Q. What is the retina of the eye?

A. The retina is a thin membranous layer of tissue that coats the inner back half of the eye; corresponding to the film in a camera, the retina takes the picture that you see. Without the correct function of this structure, vision is not possible.

Q. What is a retinal detachment?

A. In this disease of the retina, a tear develops in the thin membrane causing the membrane to float away from the back wall of the eye and to detach. When this happens you lose vision according to the size and position of the detachment. For example, if the detachment is small and off to one side, you lose a small portion of vision in one corner of your vision. If the detachment is more severe and the central part of the retina detaches, you will lose your central vision.

Once the retina has detached, it begins to deteriorate rapidly, separated from its chemicals and nutrients. Thus, medical evaluation is needed immediately. If surgical reattachment is done within 24 hours, most visual function will be restored. However, if surgery is delayed 8 days or more, very little vision will be returned. The optimal time for surgery is before the central part of the retina detaches. In nearly all cases good vision will return if surgery is done before a central detachment occurs.

Q. What are the symptoms of a retinal detachment?

A. The three most important signs of a retinal detachment are flashing lights, new floaters (cobwebs floating through your vision), and a veil or cloud coming down or up over the vision. Rarely are both eyes involved simultaneously with a retinal detachment; thus, the symptoms will occur in one eye only.

The two conditions which give symptoms that are most often confused with the symptoms of a retinal detachment are the visual flashes that precede a migraine headache and common floaters. Migraine flashing lights are jagged, shimmer and usually precede a headache by 10 to 15 minutes. In contrast, the retinal detachment flashing lights are similar to a flashbulb light, and there is no accompanying headache. Common floaters are the small "hairs" or "squiggles" that float in the line of vision. These are very common and are usually seen against a bright background like blue sky or snow. However, retinal detachment floaters are multiple small dots which occur suddenly in one eye in the shape of cobwebs. These spots are blood cells from the blood vessels that have been torn during the retinal tear.

Q. What do I do if retinal detachment symptoms occur?

A. Most importantly, do not delay. You should contact an ophthalmologist immediately. Only a special examination through a dilated pupil can make the diagnosis. The emergency rooms at both Alaska and Providence hospitals can help you reach an ophthalmologist on a weekend or holiday.

Healthline offers readers the chance to question local doctors about health care and medical problems of general interest. It appears twice monthly in the Alaska Life section of Sunday's edition of The Times, in cooperation with the Anchorage Medical Society. Letters should be addressed to Healthline, Providence Hospital, Pouch 6104, Anchorage 99502.

Copies memo

Roy A. Box, O.D.
Doctor of Optometry
Professional Plaza A, Suite A-102
9309 Glacier Highway
Juneau, AK 99803

— — —
Telephone (907) 789-3175

Senator Charlie Parr
Chairman Senate H & SS
Pouch V Juneau, Ak.
99811

February 25, 1981

Dear Senator Parr,

I am sure you realize SB 136 has my wholehearted and enthusiastic support. The overwhelming evidence is in favor of this legislation, and to my knowledge all of the medical opposition is based on emotional rhetoric and nothing else.

I am a member of the Alaska board of examiners in Optometry and get reams of information from all over the nation. No Board is having problems with this legislation in the states that have enacted it.

Thank you for your past support and I would urge you and your committee to give SB 136 a do pass recommendation.

Sincerely,

Roy A. Box
Roy A. Box, O.D.



Member
American Optometric Association



February 19, 1981

Senator Tim Kelly and
Senate HESS Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Gentlemen:

I know that you've been bombarded by both sides concerning drug use by doctors of optometry. I have talked to many of my Eagle River-Chugiak patients in regard to this legislation. They cannot understand that if these ophthalmic drugs are a potential help to them, why the law wasn't passed many years ago.

Since I am the only vision care doctor in this area, I am the primary entry point into the health care system for many people. I don't want to practice general medicine --- I do want to help my patients within the scope of my education, with minor eye infections, and I do want to recognize an eye health problem or a general health problem that is visible with the help of ophthalmic drugs, so I can refer the patient to the proper health care practitioner.

Ophthalmic drug use by doctors of optometry has an overwhelming benefit-to-risk ratio, as evidenced that all three military services, the Veterans Administration hospital system, and thirty two states allow their use. I have administered ophthalmic drugs extensively while serving in the Navy, using them for minor eye infections and contact lens overwear reactions, and for detecting eye tumors, diabetes, hypertension, retinal tears, vascular disruptions, brain tumors and other health problems. Also I might add that in my travels to Bush communities in Alaska, I have been asked to evaluate various eye infections and disorders and help in planning the best therapy. Since our training in this area is about one hundred times more in depth than any community health aide, this only makes sense.

I have taken several pharmacology and physiology courses that deal with ophthalmic drugs and I am licensed to use them in Oregon. Optometrists aren't going to lose if this legislation doesn't pass; it will be my patients and your constituents who will be the losers.

Sincerely,

Jeffrey G. Keene, O.D.

JGK/ml

cc: Other members of HESS Committee
Sen. Brad Bradley

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

February 23, 1981

The Honorable Charles H. Parr
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Parr,

I am writing to you in regard to Senate Bill No. 136, "an act relating to the practice of optometry, and authorizing the use of ophthalmic drugs by optometrists."

I am an optometrist employed by the Yukon-Kuskokwim Health Corporation for the past three years. I am based in Bethel and travel to villages throughout the Yukon-Kuskokwim Delta. Inasmuch as I use ophthalmic drugs routinely on all of my patients, I feel that I have a unique and positive perspective on the above mentioned Bill. I have had standing orders from the medical staff for over two years authorizing my use of ophthalmic drugs. My colleagues in private practice are denied the use of drugs by statute. They are prevented from practicing optometry as is currently taught in the colleges of optometry.

The real benefactors of this bill are the recipients of our services, the people of Alaska. This is especially true in rural Alaska where optometry is often the sole provider of vision care. I strongly feel that a thorough eye examination requires the use of ophthalmic drugs. I could cite many cases where I was able to detect ocular pathologies only because I had used drugs. These pathologies include potentially sight-destroying diseases such as narrow angle glaucoma and retinal detachments. I have also detected ocular pathology significant of systemic diseases such as diabetes and hypertension. Prompt referrals confirmed my diagnoses and proper therapy was initiated by the consulting specialist. The key point is that these pathologies would have gone undetected if I had not been able to use ophthalmic drugs. The diseases may well have progressed and caused irreversible damage.

It is a common occurrence that many ocular pathologies are detected and diagnosed by optometrists and referred to the appropriate specialist for confirmation of diagnosis and proper therapy. However, in rural Alaska, many minor eye problems are treated by community health aides, yet optometrists in private practice are not allowed the use of ophthalmic drugs. A note of irony is that while I am involved in health aide training in the village and classroom for diagnosis and treatment and/or course of action for common eye problems, I could not be able to use the drugs if I entered private practice but the health aides that I've trained could and do use the drugs.

An argument against this bill by the ophthalmologists is that optometrists will practice ophthalmology and that their practices will suffer financially. I can not understand their reasoning. First of all, no one is going to practice beyond their own capabilities. There is a natural overlapping of care provided by either

profession. The number of my referrals has increased since I have used drugs routinely on all of my patients. These referrals were based on my own professional judgement and not influenced by statute or standing orders.

In summary, my personal opinion is that all people involved would benefit by passage of Senate Bill No. 136. The patient, whose health and welfare is of primary concern, would receive optimal quality care. The optometrist would be able to practice to the full scope of his abilities and fulfill his role as a primary provider of vision care. The medical profession would receive an increase in their referrals. Both the optometric and medical profession could maintain their independence yet work together harmoniously for the common goal of quality vision care. I feel the quality of care is the bottom line and that it can only improve with passage of this bill.

I would greatly appreciate your support of Senate Bill No. 136. If you have any questions in regard to this, feel free to contact me. Thankyou for your time.

Sincerely,

John A. Drake
John A. Drake, O.D.
Tukon-Kushukwin Delta Regional Hospital
Bethel, Alaska 99559

THE PRECEDING DOCUMENT(S) MAY NOT FILM
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ORIGINAL.



DR. ROBERT W. MILLER

OPTOMETRIST

2806 C STREET

ANCHORAGE, ALASKA 99503

PHONE (907) 278-0041

February 23, 1981

The Honorable Mike Colletta
Health, Education and Social
Services Committee
Alaska State Senate
Pouch V
Juneau, Alaska, 99811

Dear Senator Colletta:

Enjoyed having you and all the others at the P.A.S.I.T.
party at my home last year. I was really saddened by Jack
Turinsky's death. He helped a lot on P.A.S.I.T.

I'd like to urge your support for SB 136. I realize
the pressure from the ophthalmologists is great since they
are trying to protect, in the eyes of the public, their
last remaining or difference from Optometry. Senator,
no one today has a career on knowledge and training.
Optometrists today are every bit as well and in many
cases better trained than ophthalmologists in the use of
drugs.

Congresses with ophthalmology appears to be impossible.
We've tried, but they refuse. I think they're scared.
General medicine as a whole seems to have no objection.

Sure this is a turf bill but one that benefits the
public and that's the whole point. Public benefit v.s.
one professional protection.

Thanks for your time Senator. I do hope you'll
help on this. Thanks again.

Best regards,

Robert W. Miller, O.D.

RW/m

cc: Senators
Charlie Parr
Terry Blinn
Vic Plonker
Tim Kelly

DR. CURTIS M. JOHNSON
OPTOMETRIST
321 SEVENTH AVENUE
FAIRBANKS, ALASKA 99701
Telephone 434-4512

February 24, 1981

Senator Charlie Parr
Pouch V
Juneau, Alaska 99801

Dear Senator Parr:

I would like to encourage the support of your HESS
committee for SB 176.

I am sure you understand the politics of this issue
and I understand the desire of some to the "HOT SEAT"
to seek a compromise when strong feelings are expressed
on two sides of an issue.

We sat down with ophthalmology last year to see if some-
thing could be worked out. Their idea of a compromise
was to allow us two drugs, in return for which we would
be required to refer to them every little deviation from
normal, whether or not, in our judgement, a referral was
necessary. Such a provision in the law would result in
many, many needless referrals, be more costly to patients
in both time and money and seriously undercut professional
judgments that optometry has worked years to attain.

In the absence of an acceptable compromise, which is very
unlikely, I think it is time for this legislation to come
to the floor in its present form. We feel that the votes
are there for passage in its present form.

Sincerely,


Curtis M. Johnson, O.D.

CU:hab

DR. M. C. FALCONER
DR. J. C. FALCONER
DR. G. L. HALL
DR. T. F. HARBOUR
DR. W. D. FAULKNER
OPTOMETRISTS

ANCHORAGE EYE AND CONTACT LENS CENTER

1345 W. NINTH AVE. PHONE: 273-2557

ANCHORAGE, ALASKA 99501

February 20, 1981

William D. Faulkner, O.D.
1345 W. Ninth Ave.
Anchorage, Alaska 99501

Senator Charlie Parr
SR Box 50599
Fairbanks, Alaska 99701

Dear Charlie,

With regard to S.B. 116, I wanted to point out one of the anomalies involved in practicing Optometry in the State of Alaska.

This is my license to practice Optometry in Oregon (1979-you may keep it). Each year the certification to use ophthalmic drugs is stamped onto the license.

Because I practice in Alaska, why should the hundreds of patients I see each year be penalized by my not being able to practice Optometry to my fullest capacity?

I would appreciate your help and guidance in securing the passage of S.B. 116. Thank you.

Sincerely,


William D. Faulkner, O.D.

WDF:ls

ALASKA VISION CLINIC

DENNIS L. ALBERT, O.D.

THE PROFESSIONAL CENTER
2221 E. NORTHERN LIGHTS - SUITE 206
ANCHORAGE, ALASKA 99504 275-7211

February 20, 1981

Senator Charlie Parr
Chairman, Senate Health, Education
and Social Services Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Parr:

This is to request that your committee approve Senate Bill 136, which you will be considering February 27.

We have a situation where recent graduates have skills that are being allowed to get rusty because they cannot use drugs in Alaska. For the same reason, some of us "older" graduates are reluctant to take the necessary post graduate training until a drug law is actually on the books and we can begin to put it to use.

Drug laws were passed to protect the public. But in recent years certain medical groups have subverted the intent of the law, through the political process, to protect themselves from competition by qualified others. When we explain this fact to our patients, they are indignant, and only too willing to write their representatives.

Thank you for your consideration of this matter.

Very truly yours,


Dennis L. Albert, O.D.

DLA:kp

DR. M. C. FALCONER
DR. J. C. FALCONER
DR. G. L. HALL
DR. T. F. HARBOUR
DR. W. D. FAULKNER
OPTOMETRISTS

ANCHORAGE EYE AND CONTACT LENS CENTER

1345 W. NINTH AVE. PHONE: 272-2557

ANCHORAGE, ALASKA 99501

February 23, 1981

The Honorable Charlie Parr
Health, Education and Social
Services Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Parr,

This letter is to urge your support of S.B. 136. As an Optometrist in this state, practicing in Anchorage for 15 years, I feel somewhat frustrated. I have been trained to use diagnostic drugs, I am required to find pathology of the eye, for which I was trained, yet the state of Alaska does not permit me the use of diagnostic agents, a tool which is often necessary to detect pathology.

This is a dangerous situation for me, as I can be sued for not detecting pathology. This is a dangerous situation for the patients as he ultimately suffers if pathology of the eye is not detected.

Most states allow Optometrists to use diagnostic pharmaceutical agents, which they were trained to use. Alaska needs to consider the patients welfare. Support S.B. 136.

Respectfully,

Jim Falconer
Jim Falconer, O.D.

cc: Senators

Terry Stinson
Vic Fischer
Tim Kelly
Mike Coletta

DR. M. C. FALCONER
DR. J. C. FALCONER
DR. G. L. HALL
DR. T. F. HARBOUR
DR. W. D. FAULKNER
OPTOMETRISTS

ANCHORAGE EYE AND CONTACT LENS CENTER

1345 W. NINTH AVE. PHONE: 272-2557

ANCHORAGE, ALASKA 99501

February 19, 1981

Senator Charlie Parr
Pouch V
Juneau, Alaska 99811

Dear Senator Parr,

I am writing to ask your support for Senate Bill 136.

You may be aware that Optometrists provide the majority of vision care in Alaska. You may not be aware that current laws prevent us from providing the best possible care. The use of diagnostic agents would enable us to provide such care.

Many Alaskans are subjected to needless and costly referrals because Optometrists are prevented from using the proper tools such as diagnostic agents to provide service.

A majority of the states recognize this fact and allow Optometrists to use diagnostic agents.

Alaska should certainly be such a state, due to its vastly dispersed population. Optometrists traveling in the bush areas, are faced with situations where the use of diagnostic agents would prevent a patient having to travel hundreds of miles for a simple condition.

There is no logical reason for Alaska to remain in the dark ages of vision care. The Alaska citizen deserves the best possible vision care, and you are in a position to assure them that they receive it. They can only receive the best care by passage of Senate Bill 136.

Sincerely,



Thomas F. Harbour, O.D.

cc: .. Stinson
Vic Fischer
Mike Colletta
Tim Kelly

February 13, 1981

Peninsula Eye Clinic

PETER E. CANNAVA, M.D.
OPHTHALMOLOGY
BOX 1628
SOLDOTNA, ALASKA 99688
TELEPHONE 262-4462

Dear *Don*,

This letter concerns the House Bill relating to the practice of optometry (House Bill? As of now).

This bill would set a dangerous precedent in our state by allowing non-medical practitioners to use drugs upon the public. Traditionally, the privilege of using drugs on humans has been reserved for those professionals who have completed a course in medicine or dentistry at a recognized school and who have passed the appropriate board exam of Alaska. For non-medical practitioners to request legislation permitting them to practice medicine would be tantamount to physicians requesting legislation permitting them to practice law. For just as an optometrist takes a course in school on drugs, so too can I take a course in school on torts!

The bill itself is terrible in its wording:

Section 1 (2): The word ascertain is used to describe what an optometrist does in deciding if ocular disease is present or not. The word ascertain comes from the French "ascertenes" plus the Latin "certus", both meaning to "find out with certainty if a disease is or is not present". The word detection from the Latin "delegere", to uncover, would be more appropriate.

Section 1 (2): They are asking for legislation to permit them to perform any procedure taught by schools of optometry. This would give them carte blanche to perform any procedure under the sun so long as it can be shown to be taught at any school of optometry by any instructor!

Section 3 (line 10): They are asking legislation to use any drug as long as it has been identified as an ophthalmic drug by the optometry board. This is almost incredible! They want carte blanche to use drugs, both diagnostic and therapeutic, by eye drop or by mouth or by injection! This means their board (non-physicians) could declare morphine an ophthalmic drug because it is occasionally used to treat eye pain and thus they would be with-in the law.

Section 3 (3): They must pass an exam given by the optometry board! For those who wish to practice medicine there is already a board exam given and it is with-stand the test of time! There are no physicians on the optometry board so this would be legislating the blind to lead the blind. (pun intended)

I hope this information proves of help in interpreting this potentially devastating bill.

Sincerely,

Peter
Peter E. Cannava, M.D.

PEC:ccw

JAMES H. PATTERSON, M.D.
Diseases and Surgery of the Eye
Subspecialty Pediatric Ophthalmology
2508 LATOUCHE
ANCHORAGE, ALASKA 99504
Telephone 807 274-2231

February 24, 1961

Charles H. Parr
Senator
Pouch V
Juneau, Alaska 99811

Dear Charlie:

During this legislative session you will be asked to vote on HB 111 or SB 136 giving the optometrists the right to use "ophthalmic drugs". It is easily documented that the present training and level of expertise of the optometrists in the state of Alaska in no way qualifies them to use medications. The wording in these bills, giving privileges for "ophthalmic drugs" approved by the Board of Examiners of Optometry opens the door for the optometrists to use both diagnostic and therapeutic drugs. For the past two sessions the optometrists have limited their request to diagnostic drugs. They now want to become physicians with the privileges of prescribing all ophthalmic medications by fiat rather than through the established mechanisms of a medical education. The use of ophthalmic drugs by optometrists would in no way increase the quality of optometric services provided to the people of the state of Alaska and would possibly give those patients or users of optometrists use of medications a false sense of security if indeed they were reassured after their examination that all things are copacetic.

I would appreciate your serious thoughts and consideration as to the full implications and ramifications of permitting optometrists the use of "ophthalmic drugs". This legislation in its present form should be defeated. As a physician I would appreciate any and all of your efforts in helping defeat this legislation in its present form.

Sincerely yours,


James H. Patterson M.D.

JHP:plz

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 136

Title An Act relating to the practice of optometry, and authorizing the use of ophthalmic
Requested by drugs by optometrists, Senate HESS Date 2-9-81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Regulation & Licensing of Professions

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 2-9-81

PREPARED BY Marjorie Olland, Regulations Specialist

AGENCY Division of Occupational Licensing

PHONE 455-2525

Original Legislative Print
at Budget and Management
Press System (For Legislative Needs)

POSITION PAPER

SENATE BILL NO. 136

"An Act relating to the practice of optometry, and authorizing the use of ophthalmic drugs by optometrists."

This bill would permit the use of selected drugs by certain optometrists and as such would delete from the definition of optometry the restriction against the use of drugs. All of these are drugs which are instilled directly into the eye.

In addition to topical anaesthetics, drugs used in examining the human eye include:

Mydriatics - cause pupil to open;

Myotics - cause pupil to close down;

Cycloplegics - cause temporary paralysis of the muscles controlling the shape of the lens.

A majority of states now allow optometrists to use diagnostic topical drugs, either through specific enabling legislation or through the lack of specific prohibitions. The issue of the use of such drugs by optometrists has been controversial. In recent years certain states have given permission while it has been denied in other states. Those in favor of the use of drugs by optometrists argue that optometric services are more widely distributed than ophthalmologic services and that the optometrist serves as an entry point for primary eye care. The use of diagnostic drugs is said to expand the ability of the optometrist to recognize eye abnormalities and to increase medical referral for diagnosis and treatment. The optometric group also states that the drugs which are proposed rarely have adverse effects.

Those opposing permissive legislation argue that the use of drugs would not materially improve the capacity of optometrists to recognize abnormalities. Optometrists are not expected to diagnose diseases of the eye, and if a departure from normal is noted, the patient is expected to be referred to a physician for diagnosis. The concern on the part of the medical community is that the optometrists would be making diagnostic judgments which the physicians do not believe them qualified to make. Moreover, the medical community notes that adverse reactions, while admittedly rare for certain of the drugs, can have extremely serious consequences when they do occur. A higher rate of predisposition to a certain type of glaucoma in Alaska Natives is cited. Use of mydriatics could possibly precipitate an attack.

Limitations are placed on the use of certain drugs by the permissive legislation of some states. None are described in the proposed Alaska bill. In Oregon, for example, the Board of Optometry is empowered to designate the diagnostic pharmaceutical agents for topical use, but provides that the designation shall be with the advice and guidance of

the Board of Medical Examiners for the State of Oregon. Rhode Island permits the use of mydriatics, miotics and topical anaesthetics while Maine permits only the use of topical anaesthetics and mydriatics. A bill which has been considered in the Ohio legislature specifically prohibits use of pilocarpine (a drug which constricts the pupil), atropine and homatropine (drugs which dilate the pupil and temporarily paralyze accommodation of the lens) and 10% phenylephrine (a strong mydriatic).

Some states define the type of training in pharmacology which would be required before an optometrist would be permitted to use diagnostic drugs. SB 136 contains such provisions.

If the Legislature chooses to authorize use of certain drugs by optometrists, the Department of Health and Social Services suggests that definitions and restrictions similar to those in use in other states may be advisable, and that the professional opinion of the medical and optometric communities should be sought to insure the health and safety of the general public.

Recommended by: David Bruce
David Bruce, Deputy Director

Date: February 26, 1981

Approved by: Helen D. Belrne
Helen D. Belrne, Commissioner

Date: 2-26-81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 136
 Title An Act relating to the practice of optometry, and authorizing the use of drugs...
 Requested by Commissioner's Office Date February 26, 1981

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
 Program Category Affected Health/Public Health
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE February 26, 1981 PREPARED BY Debra Bruce
 AGENCY Division of Public Health
 PHONE 465-3000
 Original: Legislative Finance
 Budget and Management
 Print System (For Legislative Records)

SENATE HESS WORK DRAFT FOR SENATE BILL 136

* Section 1. AS 08.72.020 is amended to read:

Sec. 08.72.020. Membership of board and terms of office. The board consists of six (FIVE) persons, appointed by the governor. Members serve staggered terms of four years.

* Section 2. AS 08.72.040 is amended to read:

08.01.125

Sec. 08.72.040. Qualifications. Four board members shall be licensed, practicing optometrists who have been residents for at least three years. One board member shall be a public member with no interest, direct or indirect, in the practices of optometry, opticianry or medicine. One board member shall be a licensed physician pursuant to AS 08.64.170. - AS 08.64.350. A person who has served two successive complete terms may not be reappointed until four years from the expiration of the second term that he served.

* Section 3. AS 08.72 is amended by adding a new section to read:

Sec. 08.72.272. Use of "Dr." or "O.D.". When the holder uses the title of "Doctor" or "Dr." as a prefix to his name, without using the word "optometrist" as a suffix to his name or in connection with it, or, without holding a diploma from an accredited school of optometry, the letters "Opt. D." or "O.D." as a suffix to his name, it constitutes a cause to revoke or suspend his certificate of registration.

* Section 4. AS 08.72.300(2) is amended to read:

(2) "optometry" is the examination, other than by the use of drugs, except diagnostic drugs as defined in this section, of the human eyes and the visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal which requires referral to other health care practitioners; or the diagnosis of an optical deficiency

or deformity, visual or muscular anomaly of the human eye, or the prescription of application of lenses, prisms or ocular exercises for the correction or relief of the human eye;

• Section 5. AS 08.72.300(3) is amended to read:

(3) "practicing optometry" is an examination, other than by the use of drugs, except diagnostic drugs as defined in this section, of the human eyes and visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal which requires referral to other health care practitioners; or the diagnosis of an optical deficiency or deformity, visual or muscular anomaly of the human eye, or the prescription of lenses, prisms, or ocular exercises for the correction or relief of the human eye, or the holding of oneself out as being able to do so:

• Section 6. As 08.72.300 is amended by adding a new subsection to read:

(7) "diagnostic drug" means a cycloplegic, mydriatic, or topical anesthetic which is listed in the official United States Pharmacopoeia, or official National Formulary, or any other supplement to either of them.

• Section 7. As 08.72. is amended by adding a new section to read:

Sec. 08.72.305. Use of drugs for diagnosis. No optometrist shall be registered or certified to practice optometry in the state of Alaska in any area that is beyond the scope of his educational training as determined by the board of optometry. Any optometrist presently registered in the state of Alaska and who desires to employ the use of diagnostic drugs must submit to the board of optometry evidence of satisfactory completion of all necessary educational requirements as made mandatory by the board. The board of optometry shall provide for continuing educational requirements by all optometrists desiring to employ diagnostic drugs.

Calif.

§ 3096

OPTOMETRY

Collateral References:

Cal Jur 2d Physicians, Dentists, and Other Healers of the Sick § 33.
61 Am Jur 2d Physicians, Surgeons, and Other Healers §§ 52, 55.

§ 3097. Harboring contagious diseases

When the holder is suffering from a contagious or infectious disease, it constitutes a cause to revoke or suspend his certificate of registration.

Added Stats 1937 ch 423.

Prior Law: Stats 1913 ch 598 § 11 subd 5 p 1102, as amended by Stats 1923 ch 164 § 8 p 306, Stats 1933 ch 280 § 6 p 849, Stats 1937 ch 147 § 1 p 411.

§ 3098. Use of "Dr." or "O. D."

When the holder uses the title of "Doctor" or "Dr." as a prefix to his name, without using the word "optometrist" as a suffix to his name or in connection with it, or, without holding a diploma from an accredited school of optometry, the letters "Opt. D." or "O. D." as a suffix to his name, it constitutes a cause to revoke or suspend his certificate of registration.

Added Stats 1937 ch 423.

Prior Law: Stats 1913 ch 598 § 11 subd 7 p 1102, as amended by Stats 1923 ch 164 § 8 p 306, Stats 1933 ch 280 § 6 p 849, Stats 1937 ch 147 § 1 p 411.

Cross References:

Illicit use of "Dr." generally: §§ 2142, 2296.

Collateral References:

Cal Jur 2d Physicians, Dentists, and Other Healers of the Sick § 34.

Attorney General's Opinions:

18 Ops Atty Gen 198 (optometrist may not himself, or associated with unlicensed persons either in a corporation, business or partnership, engage in selling of and distribution of eye glasses, packaged under title purporting to convey thought that he is "doctor" or licensed optometrist)

NOTES OF DECISIONS

Before this statute was amended in 1937, one who used the title "Dr." as a prefix to his name, and also used "Optometrist" as a suffix, gave cause for the revocation of his license, regardless of whether such use tended to defraud or mislead the general public. Davis v State Board of Optometry (1937) 61 CA 688, 217 P 197.

Under this section, a practitioner may use the word "doctor" or the title "Dr." as a prefix to his name so long as he includes the word "optometrist" as a suffix or the letters "Opt. D." or "O. D." if he is a duly registered optometrist. Linn v State Board of Optometry (1965) 68 CA2d 644, 146 P2d 956.

§ 3099. Claiming special knowledge

The holding out as having a special knowledge of optometry, as