

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

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without establishing any permanent racially defined institution, rights, privileges, or obligations, without creating a reservation system, without wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States government and the State of Alaska; [Emphasis supplied]

The establishment of full sovereign tribal status for Alaska Native villages could violate this expressed Congressional intent by establishing "racially defined institutions, rights, privileges, and obligations" and by "adding to the categories of property and institutions enjoying special tax privileges."

Other sections of ANCSA indicate that Alaska Native villages and groups must incorporate as profit or non-profit corporations under Alaska law (Sections 3(j), 8(a)-(c) and 14 (h)(2)). Section 14 (c) requires each village corporation to convey at least 1280 acres of land to the State in trust for a future municipal corporation where there is no village corporation already in existence. Finally, Section 21(d) provides that land conveyed to Native Corporations under ANCSA was to be immune from State and local taxation only for 20 years, not forever, as would be the case for Indian country controlled by sovereign tribes.

No part of ANCSA recognized Alaska Native villages as tribes nor granted to or recognized in them or in IRA councils any governmental power even over the land conveyed to them.

Section 19(a) of ANCSA clearly revoked all Native reserves in Alaska except for Metlakatla. The revocation included the statutory Klukwan reserve, the six IRA reserves, including Venetie and all of the other Executive Order and administrative reserves.

Section 19(b) gave village corporations within revoked reserves the option of acquiring surface and subsurface title to the entire acreage of the reserve instead of surface title to from 69,120 to 161,280 of selected acreage (depending on village population) plus money distributions.

Several such village corporations, including those for the villages of Venetie and of Arctic Village in the Venetie reserve, chose the first option of receiving surface and subsurface title to the revoked Venetie reserve. In 1974, Congress granted \$100,000 to six of these village corporations, including Venetie and Arctic Village. The others were Elim, in a former Executive Order reserve of 316,000 acres, Tetlin in a former Executive Order reserve of 768,000 acres and Gambell and Savoonga in a former Executive Order "reindeer station" reserve of 1,205,000 acres.

The Klukwan village corporation elected under Section 19(b) of ANCSA, to take title to the former 894 acre statutory Klukwan reservation, even though by doing so they waived their entitlement to the 23,040 acres and fund distributions to which Southeast Alaska villages were entitled. However, in 1976, Congress amended Section 16 of ANCSA twice to allow Klukwan village corporation to participate in the benefits of the Act to the same extent as other Southeast villages and to select 23,040 acres in addition to the 894 acre former reserve. To regain these benefits, the village corporation was required to convey "free of trust" the former reserve acreage to the Chilkat Indian Village IRA Council.

This was the only mention of any IRA Council in ANCSA. The failure of the Act to deal specifically and conclusively with the other IRA Councils is unfortunate. The role of these councils has been left undetermined, and has been the subject of continuing controversy. Even though the original intent of the IRA seemed to be that the councils it authorized would have a trust land-based jurisdiction, only a few councils in Alaska ever achieved any land reserve. ANCSA revoked all those reserves except Metlakatla. This left all of the other Alaska IRA Councils in the uncertain and confusing situation of possessing some theoretical authority without any geographic reservation in which to exercise that authority. It is the State's position that the few IRA Councils which own land, like those in Venetie and Klukwan, have no more governmental authority on that land than does any other landowner. Attempts to gain governmental authority represent a departure from the status quo and from established legal authorities and, if pursued, will probably require a judicial or legislative resolution. Nonetheless, despite ANCSA, these attempts have continued.

AFTER ANCSA

Federal Legislation

Federal legislative developments after passage of ANCSA indicate a steady effort on the part of some Alaska Natives to establish the status of Alaska Native villages as sovereign tribes. Most federal legislation which seems to confer or recognize tribal status in Alaska Native villages is related to social or welfare type programs rather than to governmental powers. Nonetheless, these statutes can be and are being used to argue a pattern of Congressional intent that Alaska Native villages be considered to have the same governmental powers as do Indian tribes in the lower 48 states, or at least a pattern of Congressional recognition of villages as tribes.

Some examples of the language used by Congress are contained in Appendix C.

According to Tribal-State Relations: A New Paradigm for Local Government in Alaska,¹⁶ the federal government has also dealt administratively with Alaska Native villages as tribal governments. An example cited is the recognition by the Secretary of the Interior of several villages as exercising law and order functions such as tribal criminal ordinances, tribal police, tribal courts, and tribal penal institutions. This recognition was accorded under the Omnibus Crimes Control and Safe Streets Act, P.L. 90-351, Section 601(b).

An Assistant Solicitor, Department of the Interior, from Washington, D.C. stated at a recent conference¹⁷ that Congress has passed 14 separate pieces of legislation since ANCSA which treat Alaska Native villages as tribes.¹⁸ Apparently, the State of Alaska was unaware of consideration of these pieces of Congressional legislation or at least of their inclusion of language recognizing or treating Alaska Native villages as tribes. Beginning in 1978, the State began expressing its position that villages were not and could not be tribes. In that year, the Attorney General's office wrote to Don Young in opposition to S. 2502, one of the early versions of the proposed Tribal-State Compact Act.¹⁹ In 1979 the Attorney General's office also opposed the definition of "tribe" in the food stamp regulations at 7 CFR 2712 (quoted in Appendix C). The Attorney General's office also opposed the definition of "tribe" in another 1979 bill which would have amended the Indian Self-Determination Act to include only regional corporations as tribes in Alaska rather than village corporations and councils.

The proposed Tribal-State Compact Act, although not yet enacted, has been reintroduced twice since 1978 (S. 1181 in 96th Congress; S. 563 in 97th Congress). The Attorney General's office has continued to oppose the definition of "tribe" and of "Indian country" in these bills to include any Alaska Native group or land except the Metlakatla Indian Community and their reservation.²⁰

¹⁶ By Michael Walleri (1980) at page 16.

¹⁷ Conference on Intergovernmental Relations Involving Unincorporated Communities in Alaska (March 23-24, 1981, in Fairbanks).

¹⁸ See Executive Summary of conference, page 6.

¹⁹ 9/12/78 letter from Assistant Attorney General Froehlich to Representative Don Young.

²⁰ 5/6/80 letter from Assistant Attorney General Meacham to Michael Walleri and 5/20/81 letter from Assistant Attorney General Meacham to Senator DeConcini.

The proposed Tribal-State Compact Act would enable tribes, as defined in the Act, to enter treaties or compacts with state government, apportioning law making and law enforcement authority between them. The State's opposition to inclusion of Alaska Native villages other than Metlakatla in the proposed act has been based on its position that no other Native government exists in Alaska with any authority which could be apportioned in a compact with the State. The proposed act is apparently intended primarily to deal with problems and conflicts between reservation Indian tribes and states in the "Lower 48". It seems that some Alaska Natives view inclusion of Alaska Native villages in the scope of the proposed act as a step toward establishing sovereign tribes with local governmental powers as an alternative to incorporation as municipalities.

The last hearing on S. 563 was held on May 11, 1981, and the Attorney General's office is in the process of obtaining a transcript of the proceedings.

State Legislation

As in the federal realm, there also have been State legislative developments which may further the attempts of some Alaska Natives to gain recognition as sovereign tribes with governmental powers. A list and brief description of these statutes, with the year in which they were enacted or last amended, follows:

- AS 04.21.040 (1980) - Defines "local governing body" as used in Title 4: Alcoholic Beverages, as including traditional village councils, but specifically excluding village corporations. It also excludes IRA village councils by omission.
- AS 18.75.040 (1966) - Grants village councils authority to adopt dog control ordinances, destroy loose dogs, and otherwise control dogs in a 20-mile radius around a village.
- AS 29.89.090 - Grants "revenue sharing" state aid to Native village governments, defined as IRA or traditional village councils, paramount chiefs or village corporations.
- AS 35.30.010(a)(2) (1977) Requires plan review and comment of public projects by village councils.
- AS 41.20.480(b) (1978) - Allows village councils to submit nominations to the governor for appointment to the Wood-Tikchik State Park Management Council.

- AS 44.47.150 (1975) - Requires approval of appropriate village entity, including traditional village council, of transfers of land received by the State in trust for future municipalities under Section 14 (c)(3) of ANCSA. IRA Councils are excluded by omission.
- AS 44.74.070 (1962) - Allows transfer of State automotive and construction equipment to a political subdivision of the State including IRA village councils, but excluding traditional councils by omission.
- AS 44.83.170(b)(2) (1980) - Allows the Alaska Power Authority to make loans for power projects for which a village council is responsible.
- AS 46.40.130(a)(2) (1977) - Allows organization of a coastal resource service area to be initiated by resolution of traditional village councils. IRA councils are excluded by omission.
- AS 46.40.180(a) - Requires review and approval of a district coastal management program by traditional village councils. IRA councils are excluded by omission.
- AS 46.07 - (Village Safe Water Act) Refers to "village governing body" without defining it.

In addition to these existing Alaska statutes, several bills now pending in the Alaska legislature also refer to Native village councils directly or indirectly. A list of these bills with their status and brief description follows:

- HCSSB 126 (C&RA) - Supplemental appropriation for State revenue sharing to Native village governments as defined in AS 29.89.050.
became law on 4/6/81
6 SLA 1981
- CSSB 168 (Fin) am - State assistance for capital projects could be granted only to incorporated or federally-chartered entities that do not possess sovereign immunity in unincorporated communities. This would exclude Section 16 IRA councils and traditional councils, but not section 17 IRA councils.
In House Finance
since 6/6/81
- CSHB 190 (C&RA) - Would amend AS 29.89.050 to increase state aid to Native village governments to \$50,000 and add reference to 1936 IRA amendments.
In House Finance
since 3/18/81

SB 341
In Senate C&RA since
3/27/81

- Would add a new AS 29.70 to recognize IRA (but not traditional) Councils and village corporations as Native village governments.

Another bill, SB 350 (in Senate C&RA since 3/31/81), would add a new AS 18.53 to create regional service authorities for each Native non-profit regional corporation in the unorganized borough similar to the regional housing authorities created in AS 18.55.966(a).

In addition, there is a Village Public Safety Officer program administered without specific statutory authorization by the Department of Public Safety. The department contracts with Native regional corporations to provide state-trained public safety officers in villages. The program was first created with funding from the 1980 legislature. In FY 1981, only 6 of the 52 village public safety officers (VPSOs) were in unincorporated villages. The program is expected to nearly double in FY 1982 and the increase in the number of VPSOs will probably mean that many more will be in unincorporated villages.²¹ This could increase the likelihood that some IRA and traditional councils will attempt to use the VPSO as "tribal police" to enforce council ordinances.

Sovereign Immunity

Sovereign immunity from suit is a less controversial attribute of Alaska Native village IRA Councils than is full tribal governmental sovereignty. The Alaska Supreme Court has held that the IRA Council for the Metlakatla Indian Community was immune from suit even though it had purchased insurance, Atkinson v. Maldane, 569 p2d 151 (Ak 1977). The Federal District Court has agreed that the Metlakatla IRA Council possess sovereign immunity, Parker Drilling Co. v. Metlakatla Indian Community, 451 F. Supp. 1127 (D. Ak 1978). The Federal District Court has also recognized sovereign immunity for the Chilkat Indian Village (Klukwan) IRA Council, Johnson v. Chilkat Indian Village, 457 F Supp 394 (D. Ak 1978).

Both the Metlakatla and Klukwan IRA Councils are organized under Section 16 of the IRA (25 USC 476) rather than Section 17 (25 USC 477) which authorized the organization of Native business entities. Likewise, both have had jurisdiction over Congressionally created reservations, although the Klukwan IRA council now holds fee title to its

²¹ Colonel Anderson, Alaska State Trooper Director, at Conference on Intergovernmental Relations Involving Unincorporated Communities in Alaska, 3/23-3/24, Fairbanks, p.3 Executive Summary

Representative Pappy Moss
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former reservation under Section 16(d) of ANCSA. A recent informal Attorney General's opinion has given significance to the first but not the second common factor.²² The opinion states that Section 16 IRA Councils are immune from suit and that therefore the State cannot judicially enforce any contracts with the councils. However, it specifically states that Section 17 IRA Councils are not immune from suit. The opinion seems to apply to all IRA Councils, not just those with present or former statutory reserves. It describes all IRA Councils as tribal governments but distinguishes them from local governments which, under Article X, Section 2 of the Alaska Constitution, can only be cities and boroughs.

CONCLUSION

The informal opinion mentioned above partially illustrates the core of the current controversy between the State and those Alaska Natives who claim tribal sovereignty. First, the distinction between tribal governmental powers and local governmental powers is often blurred. Second, the Alaska Constitution imposes two critical prohibitions against State recognition, funding and authorization of tribal governments as local governments. These are the prohibition against the establishment of racially defined institutions (Article I, Section 1) and the prohibition against use of public funds for private purposes (Article IX, Section 6).

On the other hand, some Alaska Native villages are reluctant to incorporate as local governments (e.g., second class cities) because they fear that opening voting and office holding to non-Natives will result in non-Native control of the political process and, in turn, the incorporated village.²³ Also, some of the smaller Alaska Native villages simply cannot financially support a municipal government of the scale currently required for second class cities.

The solution to this dilemma is not likely to be found in the near future. It very likely may require extensive litigation and/or both State and federal legislation. The distinctions between Alaska Native villages and "Lower 48" Indian tribes have not been recognized as clearly as they could be by Congress or the courts.

²² 4/27/81 memorandum from Assistant Attorney General Pegues to Com'r McAnerney.

²³ The Special Relationship of Alaska Natives to the Federal Government, David Case, 1978, page 149.

APPENDIX A

REFERENCE DOCUMENTS

STATE CORRESPONDENCE

- 5/22/81 - 1 p Memorandum from Assistant Attorney General Cummings to Cowles (DOTPF)
- 1 p memorandum (5/19/81) from Assistant Attorney General Cummings to Cowles (DOTPF)
 - 4 pp draft license for Venetie school sites
- 5/20/81 - 2 pp Letter from Attorney General Condon to Senator DeConcino objecting to S. 563 (Tribal-State Compact Bill of 1981) definitions of "tribe" and "Indian country".
- 7 pp analysis of bill enclosed.
- 5/18/81 - 2 pp Letter from Assistant Attorney General Mezham to Peter Taylor, Counsel to Senate Select Committee on Indian Affairs, regarding S. 563, asking for transcript of 5/11/81 hearing, sending 9/15/78 Solicitor's Opinion and mentioning 5/20/81 Condon letter.
- 5/8/81 - 1 pp Memorandum from Assistant Attorney General Cummings to Assistant Attorney General Koester regarding proposed Venetie school license.
- 5/6/81 - 5 pp Letter from Assistant Attorney General Koester to Regional Solicitor Jack Allen regarding 4/23/81 Solicitor's Opinion on conveyances from municipalities to US to IRA Council to tribe members. (Objection - municipal disposal not for public purpose.)
- 4/27/81 - 5 pp Memorandum from Assistant Attorney General Pegues to Com'r McAnerney regarding revenue sharing with IRA and traditional council which states that Section 16 IRA Councils have sovereign immunity, but cites only Metlakatla cases.

Reference Documents
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- 6/3/80 - 1 pp Memorandum from Dep. Com'r Cowles to Assistant Attorney General Meacham. Thanks for 5/20/80 letter to Mueller and 5/6/80 letter to Walleri.
- 5/21/80 - 6 pp Letter from Assistant Attorney General Meacham to Senator Stevens regarding S. 1181 (Tribal St Compact bill of 1980) regarding state objections to definitions of "tribe" and "Indian country."
- 5/20/81 - 3 pp Letter from Assistant Attorney General Meacham to Com'r Mueller regarding state's jurisdiction in former Venetie Reserve.
- Enclosed:
- 2 pp 4/4/80 letter from Walleri to Attorney General Gross regarding negotiating a tribal state compact.
 - 8 pp 5/6/80 letter from Assistant Attorney General Meacham to Walleri responding to 4/4/80 letter and giving state's position that IRA councils have no governmental power after ANCSA.
- 5/8/80 - 2 pp Letter from Assistant Attorney General Meacham to Solicitor Leshy regarding Indian country. IRA councils in Alaska, and ANCSB. (Expresses some doubt as to federal position.)
- 5/6/80 - 12 pp Opinion letter from Assistant Attorney General Meacham to Michael Walleri (TCC) - same as attached to 5/20/80 letter to Com'r Mueller, but double spaced.
- 5/5/80 - 1 p Memorandum from Assistant Attorney General Mertz to Assistant Attorney General Meacham relaying DEC opinion request.
- 5/1/80 - 1 p Memorandum from Com'r Mueller to Deputy Attorney General Condon - opinion request regarding DEC jurisdiction in Venetie Chandalar reserve.
- 3/21/80 - 10 pp Memorandum from Legislative Counsel Guthrie to TCC proposed amendments to HB 533 concerning municipal civil penalties.

Reference Documents
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- 9/12/78 - 3 pp Letter from Assistant Attorney General Froehlich to Representative Young regarding State's objections to tribe definition in S 2502 (Tribal-State Compact bill of 1978).
- 4/4/78 - 33 pp Letter from Assistant Attorney General Donohue to Com'r Gallagher giving State's position that Section 16 IRA businesses are subject to state taxes when doing business anywhere but on a reservation and that Metlakatla is the only reservation in the state.

VENETIE AND TANANA CHIEFS' CONFERENCE CORRESPONDENCE

- 4/29/81 - 4 pp License from Venetie to Department of Transportation and Public Facilities proposed for Venetie and Arctic Village high schools.
- 4/23/81 - 1 pp Letter from Chief Williams to Governor Hammond regarding 4/24/81 meeting.

Enclosed:

- 4/17/81 letter from Chief Williams to BIA Director Zuni complaining that BIA personnel told Assistant Attorney General Froehlich in 9/78 that Metlakatla is the only IRA in Alaska with true law making and enforcement powers.
- 9/12/78 Froehlich "polemic" v. S.2502 5/21/80 Meacham "diatribe" v. S 1181)
- 1/25/40 Venetie IRA Constitution and Bylaws
- 6/18/34 IRA Act
5/1/36 Alaska amendment
- 12/18/79 Anchorage Daily News clipping regarding patent of Venetie and Arctic Village land.

Reference Documents
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- 4/22/81 - 5 pp Letter from Chief Williams to Governor Hammond regarding tribal position on sovereignty and proposing joint resolutions:
- Enclosed:
- Proposed State resolutions:
 - A - claims for more land and water with BIA petitions and correspondence since 1951.
 - B - hydro cooperative agreement.
 - C - transportation and utility corridor with 43 USC 1761.
 - D - Removal of non-tribal people.
 - E - Tribal fish hatcheries paid for and protected by state.
 - 1/25/40 Venetie IRA Constitution and Bylaws
 - 12/17/79 patent of 1.8 M acres to Neets Ai Corporation and Venetie Indian Corporation
 - 9/1/79 deeds of 1.8 M acres from both corporations to Venetie IRA
 - 4/26/79 Neets Ai and Venetie Indian Corporation resolutions delegating Venetie IRA to act for it
 - 10/23/80 resolutions of dissolution by both corporations.
- 6/11/80 - 4 pp Memorandum from Walleri (TCC) to Irwin (Nenana) rejecting 9/15/78 Solicitor's Opinion refusing to take village corporation land in trust.
- 4/4/80 - 2 pp Letter from Walleri (TCC) to Attorney General Gross proposing tribal state compact.

U.S. DEPARTMENT OF INTERIOR SOLICITOR'S OPINIONS

- 4/23/80 - 8 pp From Regional Solicitor Jack Allen to Juneau Area Director of BIA regarding validity of conveyance of municipally owned land to BIA to Regional Housing Authorities to individual (rebutted by Assistant Attorney General Coester 5/6/81 and distinguished from 9/15/78 Solicitor's Opinion
- 9/15/78 - 4 pp From Associate Solicitor (DC) for Indian Affairs Fredericks to Assistant Secretary of Interior for Indian Affairs. BIA may not accept Venetie Village Corporation land in trust for IRA council (rebutted by Walleri (TCC) 6/11/80)
- 2/24/32 - 13 pp From Solicitor Finney to Secretary of the Interior Wilbur. Indians and natives of Alaska have not been recognized as independent tribes, but are wards of US and in same position as other Indians.

OTHER MATERIAL

A. Alaska Bills - 1981

HCSSB 125 (C&RA) -- Supplemental Revenue Sharing. Authorizes grants to Native village governments "as defined in AS 29.89.050.

Law since 4/16/81

CSSB 168 (Fin) am -- Capital projects. Authorizes grants to incorporated or federally chartered entities in unincorporated communities.

In House Finance since 6/6/81

CSHB 190 (C&RA) -- State aid to Native village governments. Amends AS 29.89.050 to increase grants to \$50,000 and to add reference to 5/1/36 amendment to Indian Reorganization Act.

In House Finance since 3/18/81

SB 341 -- Native village governments. Amends AS 29 by adding a new Chapter 70 recognizing IRA councils or village corporations as equal to second class cities.

In Senate C&RA since 3/27/81

SB 350 -- Authorizing Regional Service Authorities. Amends AS 18 by adding a new Chapter 53 authorizing regional service authorities for same groups as AS 18.55.996; authorizes regional housing authorities.

In Senate C&RA since 3/31/81

B. Federal Laws

1934-1936	Indian Reorganization Act (IRA) 25 USC 461 et seq.
1953-1958	PL 280 - 18 USC 1162 Crim 28 USC 1360 Civ
1971	Alaska Native Claims Settlement Act (ANCSA) 43 USE 1601 et seq.
1973	State and Local Fiscal Assistance Act 48 USC 353(a)
1974	Housing & Community development Act 42 USC 1437(a)(7) and 5302(a)(1)
1974	Comprehensive Employment Training Act 29 USC 872
1975	Indian Self-Determination Act 25 USC 450 et seq.
1978	Indian Child Welfare Act 25 USC 1901 et seq.
1978	Food Stamp Act of 1978 7 USC 2001 et seq. Regs. 7 CFR 272

C. Reports

3/81	Summary of Conference on Intergovernmental Relations Involving Unincorporated Communities in Alaska Tanana Chiefs' Conference
3/81	State Studies on State-Tribal Relations comm on State-Tribal Relations (NCSL and AILC)

- 1980 Tribal-State Relations: A New Paradigm for Local
Government in Alaska
Walleri/TCC
- 1978 The Special Relationship of Alaska Natives to the
Federal Government
Case/ANF
- 10/68 Alaska Natives and the Land Federal Field Comm. for
Development Planning in Alaska.

APPENDIX B

~~License~~
(PROPOSED) L I C E N S E

This agreement made this 29th day of April, 1981, between the NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT, a sovereign entity and the governing body and owner/trustee of the ancestral lands and waters of the Neets'AI Gwich'In Athapaskan Tribe by authority of Congress (48 Stat. 984), including the Venetie Indian Reservation, herein called "Licensor", and
State of Alaska, Department of Transportation and
Public Facilities

(name)

P. O. Box 1467

(address)

Juneau, Alaska 99802

herein called "Licensee".

In consideration of the mutual promises herein contained the parties agree as follows:

1. GRANT OF LICENSE

Licensor hereby grants to Licensee a License to occupy and use, subject to all of the terms and conditions hereof, the following described premises (geographic location and local name of area of requested entry): High school, storage and generator building, teacher living quarters and grade school located at Arctic Village on the Venetie Indian Reservation; high school located at Venetie on the Venetie Indian Reservation.

2. LIMITATION TO DESCRIBED PURPOSE

The premises may be occupied and used by Licensee solely for the following purposes, subject to all of the terms and conditions hereof: Maintenance and operation of the existing school facilities for the benefit of students residing on the Venetie Indian Reservation at a fully funded level consistent with the criteria set forth by the local Indian School Boards on the Venetie Indian Reservation. In furtherance of these purposes, all State of Alaska agents and employees will abide by the terms of this License.

- A. All structures and additions to initial structures to be approved by NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT.
- B. All structures to be maintained in good condition at all times.
- C. All structures to become the property of the NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT at the termination of this License.

3. TIME LIMITATION

This License shall be in effect for the period beginning _____, 1981 and continuing until December 31st, 2080, unless this Agreement is terminated as provided herein.

4. FEE ARRANGEMENT

The Licensee shall pay the Licensor an annual fee of \$10.00 per year, payable on January 1st of each year.

- A. If Licensee is a business, Ordinance Number 78-1 will be applicable,
- 1) Any and all business (person[s], partnership, or corporation engaged in commerce, manufacturing or service[s]; profit-seeking enterprise or concern) conducted within the exterior boundaries of the ancestral lands and waters of the Neets'AI Gwich'In Athapaskan Tribe, including the Venetie Indian Reservation by non-Tribal person[s] or by Tribal Member[s] residing elsewhere will be subject to a five percent (5%) Gross Receipts Tax; 2) said Tax is payable the first day of each month; 3) ten percent (10%) penalty will be added for late payment per month; 4) payments sixty (60) days in arrears without the written permission of the Tribal Government Council will be cause to terminate this Agreement; 5) a copy of Licensee's annual federal income tax statement will be furnished to Licensor by May 1 of the following year, failure to do so will be cause to terminate this Agreement.

5. REGULATIONS

The Licensee agrees to abide by the Constitution and By-Laws of the NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT and the following regulations:

1. The non-Tribal Licensee will be in the company of an enrolled Tribal member at all times when outside the immediate vicinity of Arctic Village or Venetie and shall carry his/her properly executed License with him/her at all times for presentation upon demand.
2. Under no circumstances whatsoever will intoxicating liquors, marijuana or any other mind altering narcotic substance be transported onto or used by Licensee while on the lands or waters of the Tribe.
3. There will be no removal of petrified wood, rocks, valuable minerals, substances or artifacts from the lands or waters of the Tribe.
4. There will be no overnight camping, campfires, garbage or debris disposal upon the lands or waters of the Tribe, except in designated areas with the proper approval.
5. Entering upon the lands and waters of the Tribe by any type of aircraft or helicopter or watercraft is expressly forbidden except in designated areas with proper approval.
6. There will be no fishing, hunting, trapping, berry picking or other subsistence privileges whatsoever.
7. Firearms, off-road vehicles and motorcycles are prohibited.

6. TERMINATION

This Agreement shall terminate at the end of the period stated in paragraph three (3). If the Licensee has violated any regulation enumerated in paragraph five (5) or violated any other term or condition of this License, the NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT may revoke this License and subject the Licensee to prosecution under any applicable Tribal or Federal law.

7. CONDITION OF PREMISES

Licensor does not warrant or represent that the premises are safe, healthful, or suitable for the purposes for which they are permitted to be used under the terms of this license.

8. PERSONAL LICENSE ONLY

This License is personal to the Licensee and shall not inure to the successor or assigns of the Licensee.

9. CONSENT REQUIRED FOR ASSIGNMENT OR SUB-LICENSE

No assignment of this License or any interest therein and no Sub-License for any purpose shall be made or granted by Licensee without the prior written consent of the Licensor.

10. INDEMNIFICATION

Licensee agrees that entry by this License and the exercise of his/her/their privileges hereunder are at his/her/their own risk. Licensee shall indemnify Licensor for any and all liability for personal injuries, property damages, loss of life or property, and any other cost or expense resulting from, arising out of, or in any way connected with, the occupation or use of the premises by Licensee or the failure on the part of the Licensee to perform fully the Licensee's promises herein.

11. LICENSEE HAS NO INTEREST OR ESTATE

Licensee agrees that he/she/they do not have and shall not claim at any time any interest or estate of any kind or extent whatsoever in the premises by virtue of this License or his/her/their occupancy or use hereunder.

12. AUTHORIZATION

LICENSEE MUST SUBMIT AFFIDAVIT OF AUTHORIZATION TO SIGN THIS LICENSE WHICH CITES THE FEDERAL OR STATE OR ORGANIZATION STATUTES AND ANY APPLICABLE REGULATIONS WHICH IMPLEMENT SAME OR LICENSE WILL BE DENIED.

Licensee

By: _____

Its: _____

Date: _____

CERTIFICATION

We, the undersigned, NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT Council hereby certify that said Council is composed of nine Members (9), of whom _____ were present at a meeting held this 29th day of April, 1981, and that the foregoing License is hereby issued by the affirmative vote of _____ Council Members.

Name _____ Title _____

Name _____ Title _____

Name _____ Title _____

Name _____ Title _____

Name _____ Title _____

Name _____ Title _____

Name _____ Title _____

Name _____ Title _____

Name _____ Title _____

APPENDIX C

SOME FEDERAL STATUTES WHICH REFER TO ALASKA NATIVE VILLAGES AS "TRIBES"

State and Local Fiscal Assistance Act of 1973
31 USC 1227:

(4) Indian tribes and Alaskan native villages. If within a county area there is an Indian tribe or Alaskan native village which has a recognized governing body which performs substantial governmental functions, then before applying paragraph (1) there shall be allocated to such tribe or village a portion of the amount allocated to the county area for the entitlement period which bears the same ratio to such amount as the population of that tribe or village within that county area bears to the population of that county area.... (emphasis added)

Housing and Community Development Act of 1974
42 USC 5302:

(a) As used in this chapter--

(1) The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose or political subdivision of a State; Guam, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; the Trust Territory of the Pacific Islands; and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States....(emphasis added)

42 USC 1437a:

(7) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States. (Emphasis added)

Comprehensive Employment Training Act (CETA) of 1974
29 USC 871:

(c)(1) In carrying out his responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands or groups (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971) having a governing body, for the provision of manpower services under this subchapter.... (Emphasis added)

Indian Self Determination Act of 1975
25 USC 450b:

For the purposes of this Act, the term---

(a) "Indian" means a person who is a member of an Indian tribe:

(b) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; (Emphasis added)

Indian Child Welfare Act of 1978
25 USC 1903:

(8) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indian, including any Alaska Native village as defined in section 1602(c) of Title 43; (emphasis added)

Food Stamp Act of 1978
7 USC 2012:

(p) "Tribal organization" means the recognized governing body of an Indian tribe (including the tribally recognized intertribal organization of such tribes), as the term "Indian tribe" is defined in the Indian Self-Determination Act, as well as any Indian tribe, band, or community holding a treaty with a State government.

The regulations adopted in 1979 under the Food Stamp Act of 1978 include the following definition:

7 CFR 271.2:

"Indian tribe" means (1) any Indian tribe, Band, Nation, or other organized Indian group on a reservation for example, a Rancheria, Pueblo or Colony, and including any Alaska Native Village or regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), that is on a reservation and is recognized as eligible for federal programs and services provided to Indians because of their status as Indians; (Emphasis added)

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

Legal opinion offered the committee suggests
that the school should be limited to only
local students, although non-native children
would already reside in the State. Committee.

James Kleinfeld, 1001 1/2 1st Street
San Francisco, CA
Secretary of UAF

The Board of Education is hereby
advised that the school is open at
the University. The committee has
utility and insurance allows it to
be open to all citizens. Although
all services are provided at
the University, the local
community is being served
by the University. The Board
of Education is hereby advised
that the school is open to all
citizens. The Board of Education
is hereby advised that the school
is open to all citizens.

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

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

JAY S. HAMMOND
GOVERNOR

NEWS RELEASE



FOR INFORMATION CONTACT:
Chuck Keeschulte
Press Secretary
Office of the Governor
Pouch 2, Juneau, Alaska 99811

Bus. Phone: (907) 465-3500
Res. Phone: (907) 586-1089

HAMMOND DISMISSES BIA SCHOOL TRANSFER PLAN
3-26-82
#45

FOR IMMEDIATE RELEASE

JUNEAU--Alaska Governor Jay Hammond today, expressing disappointment with the "responsiveness of the Bureau of Indian Affairs," said the state will be turning to Congress to work out a reasonable transfer schedule for the assumption of Bureau of Indian Affairs day schools in the state.

Hammond is a March 25 letter to Ken Smith, the assistant secretary of Indian Affairs in the U.S. Department of Interior, said Alaska for several reasons can not enter into either of two agreements proposed by the BIA for state takeover of 37 BIA day schools in rural Alaska.

Hammond said the BIA proposal, presented to the state on March 10, called for Alaska either to take over the operation of 16 day schools this coming school year (1982-83), or under option II take over the operation of all 37 schools this coming year with the state receiving approximately \$5.9 million to help defray the operating costs. Under both options the federal government would pay for the operation of the Mt. Edgecumbe boarding school in 1982-83.

MORE

Hammond thanked Smith for agreeing to operate Mt. Edgcombe for the coming year but said the BIA proposals for operation of the day schools fail because they do not address the policy issue of Native involvement in the transfer of the schools, and because the proposals don't give enough time to work out an orderly transfer or provide reasonable resources to accomplish a transfer.

Hammond said it is an absolute necessity to prevent the disruption of the education of 2,500 Native students in the BIA schools that more time be given to plan the transfer of the schools and upgrade the facilities to state health and safety code standards.

Hammond said that given current revenue estimates, that either of the two options would have an "enormous impact" on the state's "strained" budget. He said given the operating costs for the schools, either \$8.9 million or \$18.5 million under options I and II respectively; plus the upgrade safety costs, that it would cost the state approximately \$24.5 million or \$52.9 million to accept either option I or II.

Hammond said either course was unrealistic given that the BIA position on the transfer came so late in the state's budget cycle. Hammond also said the state can't enter into an agreement with the BIA until there is a resolution of the issue of Native village concurrence with the transfer of schools.

Hammond said that under former BIA interpretations Public Law 93-638 (the Indian Selfdetermination and Education Assistance Act) required the consent of villages before schools could be transferred. So far only about 10 of the 37 have done so. MORE

Hammond said the state is committed to establishing a single educational system in the state and has spent more than \$80 million in construction and maintenance of the 46 BIA schools which have already been transferred to the state's system since statehood.

"I had hoped that transfer of the remaining 37 schools could be worked out in the same cooperative fashion as in the past. I cannot, however, agree to a proposal that addresses only budget concerns and does not seriously address the larger policy issue affecting our Native citizens, nor does it propose a method whereby educational programs can be transferred without severe disruption of educational services statewide," Hammond wrote Smith.

"Frankly, I am most disappointed in the apparent lack of responsiveness within the policy making levels of your agency to the legitimate concerns raised by the state and our Native citizens in this matter.

"I am, therefore, left with little choice but to lay our case before Congress, and with the aid of our Congressional delegation, ask that body's help in fashioning a more equitable approach to resolution of this issue," Hammond said.

BIA sets school deadline

BETHEL (AP) — The Bureau of Indian Affairs is giving the state until the end of the month to decide which option it wants to pursue in the transfer of 37 day schools from federal to state control.

According to the BIA officials, the state can either:

—Accept the transfer of 16 schools at the end of the current school year.

—Accept transfer of all the schools at the end of the current school year.

If the state chooses to do the latter, the federal government will turn over all of the money it has earmarked for operating the schools, less whatever personnel costs are involved in relocating the BIA staff now working in the schools.

Under the first option, Shaw said, no federal money would be transferred to the state.

Mount Edgumbe boarding school at Sitka, also operated by the BIA, is to remain open for at least another year.

LKSD prepares for transfer of 20 BIA schools

by Richard Goldstein

*Tunulka
Duumas*

The protestations of the state's government notwithstanding, it appears that the Bureau of Indian Affairs has washed its hands of its 37 elementary day schools in Alaska and will turn over their operation to Juneau, effective this spring.

That, at least, is the view from the Delta, where Lower Kuskokwim School District Superintendent Carl Peterson and his staff have been preparing for the past few months for the following scenario: the absorption by the LKSD of all 20 of the BIA schools located within the district's boundaries.

When the Bureau initially indicated its intentions last fall, it was hoped that its departure from the education business in Alaska might be strung out over several years.

That would have given the State Department of Education, the LKSD, and the several other impacted REAAs ample time to plan for the transition.

But as the winter progressed, it became clear that neither the Bureau nor its parent body, the Dept. of Interior, had any real interest in prolonging the changeover beyond the end of the school year, this spring.

The state, however, has adamantly refused to read the handwriting on the wall and has continued to try to negotiate a multi-year phase out of the BIA schools. This, despite assurances given on February 23, to Governor Hammond by Interior Secretary James Watt that it was his very definite intent to transfer all of the 37 day schools, and Mt. Edgecumbe boarding high school in Sitka, this year.

Mr. Watt also reportedly offered the state \$10 million as a final settlement to be used in the running of the 38 schools.

The federal government's determination not to yield to the state's phase out approach has been underscored by two recent events: a published report by the BIA in the February 26 Federal Register of its plan to divest itself this spring of all 38 schools, and the news that a directive was delivered last month to BIA Alaskan education workers that their 1982-83 contracts will not be renewed.

Locally the problems posed by the mass transfer of 20 schools will be severe, but not insurmountable, according to Superintendent Peterson. Already the largest REAA in the state with 26 schools spread over an area the size of the state of Ohio, the district

has so far received notice from eight of those 20 BIA schools that they want to join the LKSD. The schools are located in the villages of Nightmute, Kwigillingok, Kweinatuk, Goodnews Bay, Quinhagak, Oscarville, and Napaskiak.

Mr. Peterson said that IRA councils in three other villages — Kipnuk, Tununak and Mekoryuk are in the process of making similar notifications to the district.

That would bring to 11 the number of BIA schools who will be transferring to the district, come what may. Of the remaining nine BIA schools in our area, a few have indicated their distinct unwillingness to join the district.

According to LKSD administrative assistant Susan Murphy, Chefornak, Tuluskak and Akiachak want to remain within the Bureau's framework. If they want to continue in that regard, their future may become legally cloudy. Their BIA funding will end in May and they may not receive funding from the state unless their IRA councils request to join the state system as in the case of the eight BIA schools named above.

Please turn to page 34

BIA from page 1

There have been unconfirmed rumors of lawsuits by some villages against the federal government's unilateral withdrawal from its educational commitment and its abandonment of the 'special trust relationship' between Washington and the federally recognized tribal councils.

The legal situation may be especially acute regarding three villages — Akiak and Akiachak in the area served by the LKSD and Chevak, served by the Lower Yukon School District.

The IRA councils in those three villages have invoked Public Law 93-638, the Indian Education and Self Determination Act, and have contracted directly with the federal government to run their own schools, apart from the usual BIA operation.

But their unique position was not noted by the Bureau last month when notification was given of non-renewal of BIA worker contracts. Their contract workers were also given the pink slips.

Of the eight schools that will join the LKSD, seven have been visited by the district's transition team, led by Joe Calderera.

Mr. Calderera, normally the director of the district's special education department was temporarily reassigned this year to coordinate the absorption of the BIA schools.

During his visits to the villages, he has been accompanied by other LKSD personnel, including plan and facilities staff who have inspected the BIA school sites.

4/19/82 // Mt. Erechmike

- + study group on Nat achievements
- Louise Kusler
- Pass Nat 2. Kubokun,
- + John Dapsevich, Sitka

Day schools - ~~\$~~ 18, 750

Mt. Edgemule - \$ 28,000 million

Superintendent has survey

- Costs in sewer & water are
Charge. Pub Health Services
holds title to property.

Carol Burger -

Have we had in the past very large
members of working party. AFDC?

AFDC

FOOD STAMPS

FUEL AID

earned income tax credit

Asst. ^{Sec. of} ~~Education~~ ^{Education} Ken Sm

Bob Davis

Total #1
Buckey #1
TO GO - two options
operate Edgemont State takes all 37 schools &
state gets \$4 million difference
Edgemont dept. transfer to state
to difference in costs \$10,800,000
state gets whatever left from
Mt. Edgemont.

#2 Immediate closure of 16
schools operate rest of day schools
and Mt. Edgemont for 1 yr.

certain funds for completion of 3 schools.

substantial cost for 1979 estimate

\$109 million including Edgemont

1981 DOE estimate

16 schools \$15,663 million

only classrooms & grounds

Questions about Mt Edgecumbe - Information

1. ~~Total~~ Budget (all sources) for ^{each of} ~~the~~ ^{three} past ~~3~~ years.
2. Number of administrators, certificated staff, and other employees for each of ~~the~~ past three years.
3. Student enrollment, ^{by grade,} average daily attendance, number of graduates, ⁱⁿ each of ^{the} past three years.
4. Communities from which students ^{are enrolled} ~~come~~, each of last three years.
5. Rules governing students, disciplinary measures.
6. Statistics on medical care for students for each of last three years.
7. If school is liable ^{to suit} for injuries to students, how ~~is~~ insurance ^{is} handled.
8. List of items (other than shelter, food, ~~and~~ medical care, ~~and~~ and classroom needs) furnished students. Which costs, if any, are not borne by the Federal government? (E.g. travel, pocket money, clothing)
9. Results of any longitudinal studies showing success rates of graduates in college.

Pony Mallott - Comm. Study Group on Native Achievement
support keeping Mt. Edgecumbe as an
alternative High School.
broader curriculum
less teacher burn-over.

Susan Murphy - AA Lower Kuskokwim Sch. District.
opposes continuance of Mt. Edgecumbe.

Pam Deal - conflict w/ state prog. - local high school,
correspondence, boarding home programs.

Dr. Pincus - Dep. Comm. H+S - haven't viewed
facility; need more max. security than min. sec.

John Dapewitch - mayor Sitka.

Vince Casey - Pres. State Bd. of Ed.

single educational delivery system is
the greatest need. An alternative school
should add to what is already available
both in urban & in rural areas.
would divert local resources!

public schools
money through DHS
remove subsection (c) 3.00/child

Joellen Hanko - Internal Audit.

John O'Meara

Pat Monroe

John Fugh

Dick Luther - 2900

SB 800

Public Safety
Dept. of Law

normal retirement 55 yrs of age 30 yrs. service
based on top 3 yrs.

Indians have preference for all positions
~~for Indian~~ including raises/transfers etc.
since 1972 2 1/2% for non-native

of Mt. Edgecumbe Class -

- 25 yrs service at any age
but lose 2% for each year
under 55.

little opportunity for any employees
to get another job.

fed. employees can buy into 15 yrs.
of retirement for education people only

FHS has title to all facilities - will go back
to AHS who will declare them surplus
and ~~dispose~~ dispose of them.

B.L.M. will gain title to houses & they
will be lost.

Don Anderson - facility manager. - 3 volumes, 1979

Engineering Survey 3 yrs ago ~~to~~

\$20-30 million in code upgrade (all codes)
including operations facility & housing.
Mastodon / PHS ~~part~~ cost of operating &

maintenance. some cuts should be passed to PHS.

Sen. Furgueson - Bill to upgrade BIA school
Bill to make Edgemulle REAA
\$2.8 funding for Mt. Edgemulle.

Charlie - Intro.

FBKS

Extra

Federal

Cash.

Charlie - Wrap up / transition to audio

Gary Craun - Rep. Dir State Fire Marshall
3 men in field currently evaluating
BIA schools.

1 in Bethel

2 in Nome / Kutzhue

will do 37 day schools.

~~supports~~ lot 16 are priority - reports
should start to come to Juneau by April 1
will do Mt. E. at request of DOE.
have been there on request before.

^{first 5 yrs} 30 yr $1\frac{1}{2}\%$ / ^{2nd 5 yrs} 2% / ^{3rd 5 yrs} $2\frac{1}{2}\%$ highest 3 yrs 48/18
 5 yrs

lose 8/10% of seniors

18 kids from Barrow
 most of all from Kuvethluk (28-30)
 Arch 3d
 None increase

since 1976 - written justification

ans: ① broader range of courses

② discipline, attendance, alcohol/drugs

maintain all swcs (except for CG) on island

\$1 million reimbursed

410 dorm capacity

PL 95-561 formula for trans - Xmas-trip, too

1979 - Fire & safety insp.

- some deficiencies structural

CH 2 m. Hill

17.5 \$ in 1979 dollars to bring to code under consol. plan

198
 323 | 6,300,000
 323
 3070
 2807
 2630

Ca

The Federal government has notified the state that Mt. Edgecumbe High School will be closed after the 1982-83 school year. A number of persons have suggested that the state should take ~~it~~ over the school. ~~In order to learn more of the~~ To inform its members and ~~to report to~~ the senate at large, the

As a preparatory step the school has been told not to enroll any ^m first-year students in that year.

Prepare a report (Governor) on state plans
- no reference to Leg. hearing.
statewide teleconference

The Senate HESS Committee visited the Mt. Edgcomb High School on March 18, 1982. All buildings associated with the educational program, including dormitories, were toured. A meeting was held with administrators, staff members, & counselors preceding a question and answer session with students from the school.

FACILITY

The Boarding facility is a large complex of buildings, including several classroom buildings, two dormitories and two hangars converted to a double gymnasium and a vocational training area (including wood shop, sheet metal, welding and auto mechanics). ^{In add. to identified Ed. Programs like the school offers music, art, ~~foreign~~ ^{foreign} language, psychology, audio visual, aviation, etc.}

Although the structures are dated, they appear to be attractively maintained. Mt. Edgcomb has been deleted from funding for structural upgrading for several years in the BIA budget. An evaluation of the facility was done in 1979 by the BIA, and recommends over \$23 million in necessary improvements. (1982 dollars)

BUDGET

FY 82
EDUCATION \$ 2,795,451
facility management \$ 3,520,300

The requested budget for FY 83 is 3,565,400 reflecting a lowered enrollment caused by exclusion of the ¹⁹⁸³ freshman class. Included in this budget is transportation money for students

What will become of the Mt. Edgecumbe property should the school be discontinued is uncertain. Ownership is with the Indian Health Service but disposal would occur through the Bureau of Land Management. Presumably following a method giving Fed. agencies first priority, then native organizations.

Although considerable negotiation ^{for} turning the 37 BIA day schools over to the Dept of Ed. has occurred in the last several months, no such discussions over the future of Mt. Edgecumbe have been included. Uncertainty over the schools' continuance has been blamed for decreasing enrollments.

TOTAL ENROLLMENT	
75/76	569
76/77	382
77/78	462
78/79	461
79/80	461 (38)
80/81	431 (32)
81/82	323

At this time, no freshmen will be admitted for the 82/83 school year with final classes in May of 83.

Senator Stevens had scheduled a ~~hearing~~ ^{hearing} on March 19 before the

Senate Appropriations Committee "to determine ^{are} plans for an orderly transition and for upgrading and repair of the facilities". Due to the Senator's illness, the hearing was cancelled and has not been rescheduled at this writing. What the

provided on a yearly basis for travel to and from school and for emergencies.

All staff have decreased since 1980, there are currently 135 total employees for education and facility management.

Because the campus is so large and includes operation of utilities for the whole island (including the PHS hospital) there are significant demands on human & financial resources. Road & housing maintenance have been discontinued.

A comprehensive consolidation plan was drafted ^{by BIA} in 1980 to reduce the ~~area~~ physical size of land, buildings and utilities to a core area. This plan significantly reduced operating costs by eliminating ^{costs} housing and road maintenance.

The Dept. of Interior's 1983 budget will propose \$9 million dollars to fund Mt. Edgecumbe and the day schools remaining open.

Two options have been offered to the state relating to operation of the day schools, both of ~~them~~ which terminate Mt. Edgecumbe following 8/2/83 school year.

The BIA predicts that the massive program cut back will allow for few federal job opportunities, however some staff can carry over 15 yrs of state retirement if hired.

Students.

The population at Mt. Edgecumbe represents statewide participation, with students from a variety of urban and rural areas enrolling from northern and S.C. Alaska. Nearly half of the population from the Bethel area.

Parents and students have indicated their criteria for attendance as: isolation at home, socialization, more ^{curriculum} opportunities, and academic achievements. Also noted was a perception of better access to alcohol and drugs combined with discrimination in public schools. Many students come from families whose past generations have attended Mt. Edgecumbe, and view the school as a tradition.

According to Federal policy, the Dept. of the Interior must ~~ensure~~ that Alaska Native entities exercise self-control ~~in~~ ⁱⁿ planning, priority, all aspects of the education process.

Alaska natives have the right to elect to leave Mt. Edgecumbe or contract ~~for~~ ^{for} BIA services. However the decision to close Mt. Edgecumbe, ^{and ~~the~~ 37 day schools} was made in the absence of Native participation and has been viewed by some to indicate a termination of the Federal-Native relationship. Some tribes and entities have already agreed to this termination through notification that 10 day schools will be turned over to the state in May of 1982.

The BIA has indicated that the state educational high school boarding program is their ~~best~~ option for Mt. Edgecumbe students, ~~even though~~ while acknowledging that some enrollees are drop outs from the state program and that the Al. Nat. Assoc. conducted a study showing a 66% drop out rate for native students in public schools. In addition, ^{native} transfers from Anch. schools are not graduating from other high schools in the state.

A 1980 survey indicated that half of the students at M.E.H.S. come from villages with no schools, or partial high schools that do not include their grade level. Significant transition time to create placements in the ^{state} boarding program will be needed. The students indicating inability to cope with public school systems ~~and~~ ^{so accommodate these young people} ~~and~~ ^{and} ~~social~~ ^{and} ~~readers~~ ^{and} ~~attending~~ ^{attending} M.E.S., there

35 CFR
Part 31a.4,
"the Assist."

remains the same option. The small increase
of students in village schools would
not generate sufficient revenue to
provide variation, ^{curriculum} expansion of local
schools.

H

B

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STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

March 16, 1982

JAY S. HAMMOND, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

DOCUMENT NO. 81-82

The Honorable Fred E. Brown
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Brown:

Enclosed is our report on the physical plant conditions of Alaska's rural hospitals and nursing homes. This report complements our initial report on construction needs among the state's 200 clinics which we recently provided to you. Both inventories were supported by a capital appropriation made to the Department by the Legislature for fiscal year 1982.

These reports were prepared to assist us in our long range planning as well as to guide the state in considering resource allocations for health facility construction. This increasing trend toward state assistance in health facility construction underscores the need for a systematic approach to allow the most urgent needs to be met in a timely manner.

A complete set of the reports is being placed on file with the State Library, the Legislative Library, and the Senate and House HESS committees. A full set of reports is also available for review in the Division of State Health Planning and Development. Each facility which participated has also been sent a copy of its report.

If you have any questions or comments on this report, you may wish to contact Phoebe A. Lindsey, Director of the Division of State Health Planning and Development at 465-3038.

Sincerely,



Helen D. Beirne
Commissioner

Enclosure

POSITION PAPER
ON
WORK DRAFT PAPER
CS HOUSE BILL NO. 844 (HESS)

For an Act entitled: "An Act relating to the financing of rural health facility improvements and maintenance."

Committee Substitute for House Bill 844 creates a fund in the Department of Health & Social Services for the purpose of providing grant funds for improvement and maintenance of rural health facilities.

The Department has historically supported the establishment of a formalized health facility construction program in Alaska to better guide the allocation of limited resources. The recently distributed report on the physical condition of 15 rural hospitals and nursing homes is a first step in the development of a systematic approach to health facility construction. Other components of a system for health facility construction should include:

- facility long range plans
- a statewide plan for medical facilities
- certificate of need review
- a funding mechanism
- periodic inventories of health facility physical plants

The CS for House Bill 844 would create a fund within the Department of Health and Social Services for plant improvements and maintenance at rural health facilities. The bill provides that the Statewide Health Coordinating Council will make recommendations to the Commissioner of the Department as to the prioritization of projects and that the Commissioner would make grants to rural health facilities based on those recommendations.

Although the concept of providing state assistance to rural health facilities is strongly supported by the Department, the bill would be improved with further clarification.

The bill would make improvement and maintenance funds available regardless of ownership of the facility. The Department believes the bill would be improved by limiting distribution of State funds to only non-profit and community owned facilities.

It can be argued that the state has a responsibility for ensuring access to quality health care facilities to its citizens by providing grants funds when other sources of funding are non-existent or insufficient; however, the Department does not believe the state has the responsibility stated in section 18.25.40(d) of assuring that state grants are sufficient to enable a facility to satisfy the financial requirements of the physical plant improvement or maintenance recommended by the Statewide Health Coordinating Council. The responsibility of assuring that sufficient funds are available to meet total project costs properly lies with the municipality or local administrative entity which desires State assistance. In this regard, a grantee should be required to demonstrate the availability of total project funding before any state grant funds are expended, but the balance of the project costs sought from other sources would probably be more readily found once a commitment is made for the State grant.

To increase accountability for the use and disbursement of grant funds, a provision should be included in the bill which would permit the Department to provide grant funds for health facility improvement and maintenance to a municipality (or local administrative entity) where a rural health facility is located. Experience gained under the Hill-Burton program indicates that this step provides a form of local audit responsibility and a valuable neutral link for necessary administrative transactions without undue cost or delay.

To address these concerns the Department suggests revising the language in section 18.25.140(d) of CS HB 844 as follows:

18.25.140(d) The commissioner of Health and Social Services shall review the recommendations of the Statewide Health Coordinating Council and may make grants from the fund under AS 18.25.130 to a municipality (or local administrative entity) for physical plant improvements and maintenance. The local match for improvements and maintenance shall be sufficient to enable the municipality or local administrative entity to satisfy the remaining balance of total financial requirements of the physical plant improvement or maintenance supported by a State grant made under this section.

CS HB 844 provides a definition of the scope of the term "rural health facilities." The Department believes the bill should be further clarified by including definitions for the scope of the terms "maintenance" and "improvements."

The Department supports the use of a review body in recommending priorities for making grants. The Department recommends expansion of this concept to include review by experts knowledgeable in health facility financing and community support capabilities. This review body would evaluate proposals for health facility improvements and maintenance, determine whether current financing mechanisms such as revenue sharing, the Alaska Medical Facilities Authority, bond sales or other financing mechanisms are available to the health facility and what level of state support is needed. On the basis of this review and recommendation the Commissioner of Health and Social Services could then make grants from the fund established under AS 18.25.130.

The question may arise as to whether a program of this type would encourage the proliferation of unneeded facilities. The certificate of need program would serve to limit the development of hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers, intermediate care facilities, and ambulatory surgical facilities, whether private, municipal, state or federal. Although the CSHR 844 definition of rural health facilities is not entirely consistent with the coverage of the certificate of need program, there are very few facilities eligible for grants under CSHR 844 which are not required to obtain a certificate of need and this is not seen as a significant problem.

The certificate of need review addresses the following aspects of proposed health facility construction which are pertinent to a consideration of state financial assistance:

- . the need for additional acute care beds in the hospital service area:

- . the relationship of the project to other health care providers in the area:
- . the anticipated impact of the project on hospital operating costs, revenues, and patient charges:
- . the financial feasibility of the project:
- . the cost-effectiveness of constructing shelled-in space for future use.

With requests for health facility assistance increasing in number and in scope, the establishment of a systematic approach to health facility construction can guide the allocation of limited state resources.

Recommended by: Phoebe A. Lindsey
Phoebe A. Lindsey, Director
State Health Planning
& Development

Date: March 25, 1982

Approved by: Helen D. Beirne
Helen D. Beirne, Commissioner
Department of Health
& Social Services

Date: 3/30/82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

I. REQUEST
 Bill/Resolution No. CS House Bill 844
 Title An Act Relating to the Financing of Rural Health Facility Improvements
 Requested by HESS

II. FISCAL DETAIL
 Agency Affected Department of Health & Social Services
 Program Category Affected 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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	57.0	62.7	69.0	75.0	83.0	91.0
200 TRAVEL	30.0	33.0	36.0	40.0	44.0	48.4
300 CONTRACTUAL	150.0	165.0	180.0	200.0	220.0	242.0
400 COMMODITIES	1.0	1.1	1.2	1.3	1.5	1.7
500 EQUIPMENT	1.5	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	22704.0	32191.0	24118.0	26354.0	33565.0	36921.0
TOTAL	22943.5	32454.8	24404.0	26670.0	33913.5	37304.1

FUNDING (Thousands of Dollars)

GENERAL FUND	22943.5	32454.8	24404.0	26670.0	33913.5	37304.1
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

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

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

(See Attached)

IV. DATE March 9, 1982 PREPARED BY Dave W. Williams *rw*
 AGENCY State Health Planning & Development *gcc*
 PHONE 465-3015
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Haugen
 33-001 (Rev. 12/81)

This fiscal note has been prepared considering the full impact which could be expected under this CSHB 844. Even though not all rural health facilities eligible for state assistance under CSHB 844 will necessarily desire state assistance. This fiscal note assumes that all facilities eligible under CSHB 844 would desire and receive state assistance. This may not necessarily be true. Assumptions regarding expenditure levels made by the Department in preparing this fiscal note are as follows:

Line 100

This line indicates the equivalent of salary and benefit costs for one staff position with appropriate qualifications. Duties of the proposed staff would include oversight of the required annual inventory of rural health facilities, review of requests for state assistance, and the research for and preparation of reports regarding grant requests as necessary under provisions within this Bill.

Line 200

This line reflects necessary travel to rural health facility sites during the update of the annual inventory of rural health facilities and the cost of periodic review of rural health facility construction projects.

Line 300

This line shows probable costs for consultants for mechanical, electrical, and structural engineers required for updating the annual inventory of rural health facilities.

Line 400

This line shows expenditure for necessary office supplies.

Line 500

This line shows necessary expenses for office equipment.

Line 700

The estimated grant expenditures shown on this line are provided to outline the dimension of need, but cannot be interpreted as a recommended level of state support.

These expenditures for grants are based upon the recent inventory of 15 rural hospitals and nursing homes. The inventory found numerous and serious deficiencies at the surveyed facilities. The fiscal note shows the probable grant expense to the state for correcting the noted deficiencies spread over the next six years. Grant expenses for subsequent years (1989 and beyond) should decline once the noted deficiencies are corrected.

The inventory report gave estimated 1982 construction costs for the correction of deficiencies which were noted at each facility. The inventory report cost estimates do not include costs for fees, equipment, inflation, site acquisition, and other project costs. To arrive at total project costs, the inventory report cost estimates must be adjusted by a factor between 125% and 160%. In preparing this fiscal note the Department has used a factor of 150% with inflation calculated at 10% a year. In estimating the grant expenditures under this bill the Department

has assumed each rural health facility would bear 20% of the total project costs. Under the provisions of CSHR 844 the local portion of costs may be adjusted to meet the needs of each facility and, therefore, may be higher or lower than the assumed 20%.

DRAFT FOR
PARR 4/24/82

Support FROM
AK HOSP. ASSOC.
DENNIS DEWITT

Original sponsors: Haugen, Cato,
Fuller, et al

Offered: 3/31/82
Referred: Finance

1 IN THE HOUSE BY THE HEALTH, EDUCATION AND
2 SOCIAL SERVICES COMMITTEE

3 CS FOR HOUSE BILL NO. 844 (HESS) am
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 TWELFTH LEGISLATURE - SECOND SESSION

6 A BILL
7 For an Act entitled: "An Act relating to the financing of ~~rural~~ health
8 facility improvements and maintenance."

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

10 * Section 1. FINDINGS AND PURPOSE. The legislature finds and declares
11 that ~~rural~~ health facilities constitute an integral part of the health ser-
12 vices of the state. The purpose of this Act is to assist those ~~rural~~ health
13 facilities that are unable to secure reasonable alternative means of financ-
14 ing to secure the capital necessary to improve and maintain their physical
15 plants so that those health facilities can continue to provide quality health
16 care.

17 Sec. 2. AS 18.25 is amended by adding new sections to read:

18 ARTICLE 5. FINANCING OF ~~RURAL~~ HEALTH FACILITY
19 IMPROVEMENTS AND MAINTENANCE.

20 Sec. 18.25.130. ~~RURAL~~ HEALTH FACILITY IMPROVEMENTS AND MAINTENANCE
21 FUND. There is created a ~~rural~~ health facility improvements and mainte-
22 nance fund in the department of Health and Social Services. Money
23 appropriated to the fund shall be used for grants to ~~rural~~ health facil-
24 ities in accordance with AS 18.25.140.

25 Sec. 18.25.140. GRANTS TO ~~RURAL~~ HEALTH FACILITIES FOR IMPROVEMENTS
26 AND MAINTENANCE. (a) By November 1 of each year the Statewide Health
27 Coordinating Council (AS 18.07.011) shall recommend priorities for
28 making grants from the ~~rural~~ health facility improvements and maintenance
29 fund. The recommendations shall be transmitted to the commissioner of
30 health and social services, the governor, and the legislature.

1 (b) The Department of Health and Social Services shall provide the
2 Statewide Health Coordinating Council with an inventory of ~~rural~~ health
3 facilities and other appropriate information that would be helpful to
4 the council in recommending priorities for making grants. The Department
5 of Health and Social Services shall ~~annually~~ ^{AS NECESSARY} update the inventory, pro-
6 vided to the Statewide Health Coordinating Council.

7 (c) In developing recommendations for making grants under this
8 section, the Statewide Health Coordinating Council shall consider

9 (1) the condition of the existing physical plant of a ~~rural~~
10 health facility;

11 (2) the ability of the ~~rural~~ health facility to continue to
12 provide quality health services;

13 (3) the need in the community for additional services;

14 (4) the ability of the ~~rural~~ health facility to meet current
15 licensure standards; and

16 (5) other related data that would assist the council in
17 establishing grant priorities.

18 (d) The commissioner of health and social services shall review
19 the recommendations of the Statewide Health Coordinating Council and
20 shall ~~make grants from the fund established under AS 18.25.130 to rural~~

21 *of GRANT ASSISTANCE FROM THE FUND ESTABLISHED UNDER AS 18.25.130 FOR*
~~health facilities for physical plant improvements and maintenance. ^{AS NEEDED}~~

22 ~~amount shall be sufficient to enable the facility to satisfy the financial~~
23 ~~requirements of the physical plant improvement or maintenance recommended~~

24 ~~by the council. The commissioner may not make ^{RECOMMENDATIONS}~~
25 than that proposed by the council unless the commissioner

26 (1) makes written findings of fact to justify the modifica-
27 tion of the priorities recommended by the council;

28 (2) provides the council with a copy of the written findings;
29 and

POSITION PAPER

HOUSE BILL NO. 844

For an Act entitled: "An Act relating to the financing of rural health facility improvements and maintenance."

House Bill 844 creates a fund in the Department of Health & Social Services for the purpose of providing grant funds for improvement and maintenance of rural health facilities.

The Department has historically supported the establishment of a formalized health facility construction program in Alaska to better guide the allocation of limited resources. The recently distributed reports on the physical condition of the 200 + clinics in the state and on 15 rural hospitals and nursing homes are a first step in the development of a systematic approach to health facility construction. Other components of a system for health facility construction should include:

- facility long range plans
- a statewide plan for medical facilities
- certificate of need review
- a funding mechanism
- periodic inventories of health facility physical plants

House Bill 844 would create a fund within the Department of Health and Social Services for plant improvements and maintenance at rural health facilities. The bill provides that the Statewide Health Coordinating Council will make recommendations to the Commissioner of the Department as to the prioritization of projects and that the Commissioner would make grants to rural health facilities based on those recommendations.

Although the concept of providing state assistance to rural health facilities is strongly supported by the Department, the bill would benefit from further clarification. The bill as outlined would provide total state funding of improvements and maintenance at rural health facilities. It can be argued that the state has a responsibility for ensuring access to quality health care facilities to its citizens by providing grants funds when other sources of funding are non-existent or insufficient; however, the Department does not believe the state has a responsibility to totally fund all health facility improvement or maintenance, whether rural or urban. In this regard the bill could be improved by a change in section 18.25.140(d) indicating assistance is to be given in areas which would otherwise be denied adequate facilities, because community tax bases are limited and an attempt at total community financing of a project would cause hardship or prevent its realization.

The bill also would make improvement and maintenance funds available regardless of ownership of the facility. The Department believes the bill would be improved by limiting distribution of state funds to only non-profit and community owned facilities.

Health Facilities currently receive construction and operating assistance under the health facility revenue sharing statute (AS 29.89 and AS 29.90). The revenue sharing statutes provide for this assistance to a broad range of health facilities including hospitals, public health centers, maternity homes, community mental health centers, facilities for the mentally or physically handicapped, nursing homes and convalescent centers. House Bill 844 should define the types of health facilities to be covered by this act. A definition section should also include definitions for the scope of "maintenance" and "improvements."

The Department supports the use of a review body in recommending priorities for making grants. The Department recommends expansion of this concept to include review by experts knowledgeable in health facility financing and community support capabilities. This review body would evaluate proposals for health facility improvements and maintenance, determine whether current financing mechanisms such as revenue sharing, the Alaska Medical Facilities Authority, bond sales or other financing mechanisms are available to the health facility and what level of state support is needed. On the basis of this review and recommendation the Commissioner of Health and Social Services could then make grants from the fund established under AS 18.25.130.

Under the bill the Statewide Health Coordinating Council (SHCC) is required to recommend priorities for making grants. The bill limits the considerations of the SHCC to four points:

- 1) the condition of the existing physical plant of a rural health facility;
- 2) the ability of the rural health facility to continue to provide quality health services;
- 3) the need in the community for additional services; and
- 4) the ability of the rural health facility to meet current licensure standards

Other considerations may impact a decision of prioritizing the need for grant funds. The body which is to make those prioritizations should not be restricted to these four points. The Department suggests that fifth consideration should be added:

- 5) Other considerations such as those addressed in the certificate of need review

The question may arise as to whether a program of this type would encourage the proliferation of unneeded facilities. The certificate of need program will serve to limit the development of these facilities covered by the program such as hospitals and nursing homes but would not restrict the construction of other facilities such as birthing centers and health clinics.

The certificate of need review addresses the following aspects of proposed health facility construction which are pertinent to a consideration of state financial assistance:

- . the need for additional acute care beds in the hospital service area;
- . the relationship of the project to other health care providers in the area;
- . the anticipated impact of the project on hospital operating costs, revenues, and patient charges;
- . the financial feasibility of the project;
- . the cost-effectiveness of constructing shelled-in space for future use

With requests for health facility assistance increasing in number and in scope, the establishment of a systematic approach to health facility construction can guide the allocation of limited state resources.

Recommended by: Phoebe A. Lindsey
Phoebe A. Lindsey, Director
State Health Planning
& Development

Date: March 10, 1982

Approved by: Helen D. Beirne
Helen D. Beirne, Commissioner
Department of Health
& Social Services

Date: 3-10-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

I. REQUEST
 Bill/Resolution No. House Bill 844
 Title An Act Relating to the Financing of Rural Health Facility Improvements
 Requested by _____

II. FISCAL DETAIL
 Agency Affected Department of Health and Social Services
 Program Category Affected 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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	57.0	62.7	69.0	75.0	83.0	91.9
200 TRAVEL	30.0	33.0	36.0	40.0	44.0	48.4
300 CONTRACTUAL	300.0	330.0	360.0	400.0	440.0	484.0
400 COMMODITIES	1.0	1.1	1.2	1.3	1.5	1.7
500 EQUIPMENT	1.5	-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	389.5	426.8	466.2	517.1	569.0	626.0

FUNDING (Thousands of Dollars)

GENERAL FUND	28,400	36,600	24,900	30,000	30,000	30,000
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	--0-	-0-	-0-	-0-	-0-

POSITIONS

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

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

(See Attached)

IV. DATE March 8, 1982 PREPARED BY Dave W. Williams
 AGENCY State Health Planning & Development
 Original: Legislative Finance PHONE 465-3015
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

JCC

III Analysis

The fiscal note has been prepared considering the maximum impact which can be expected under this bill, given the possible coverage of all rural health facilities (private, municipal, state or federal, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, ambulatory surgical centers, health centers, health clinics, birthing centers,...)

An inflation rate of 10 percent has been assumed. The figures reflect the cost of having a consultant firm provide annual inventory of all rural health facilities.

Expenditures

Line 100 indicates the equivalent of salary and benefit costs for one staff position with appropriate qualifications. Duties of the proposed staff would include oversight of the required annual inventory of rural health facilities.

Line 200 reflects necessary travel to widely scattered areas for oversight of the consulting firm providing the inventory. Also included is the cost of periodic review of numerous on going and extensive construction projects.

Line 300 shows probable consultant requirements for engineering speciality investigation, travel, land etc. The inventory would result in reports not unlike the inventory of facilities accomplished in 1981. Telephone office rental and maintenance would be included.

Line 400 would provide for office supplies involved.

Line 500 would be necessary expenditures for office equipment.

General fund costs assume current estimates for actual surveyed facility needs spread over six years and extended to include approximately 200 health facilities in remote locations.

The costs of this program would be sharply reduced if "rural health facility" was defined to include only hospitals and nursing homes. The cost of providing an inventory would be substantially reduced if hospitals/nursing homes were required to submit annually updated long-range plans for each facility.

POSITION PAPER
ON
WORK DRAFT PAPER
CS HOUSE BILL NO. 844 (HESS)

For an Act entitled: "An Act relating to the financing of rural health facility improvements and maintenance."

Committee Substitute for House Bill 844 creates a fund in the Department of Health & Social Services for the purpose of providing grant funds for improvement and maintenance of rural health facilities.

The Department has historically supported the establishment of a formalized health facility construction program in Alaska to better guide the allocation of limited resources. The recently distributed report on the physical condition of 15 rural hospitals and nursing homes is a first step in the development of a systematic approach to health facility construction. Other components of a system for health facility construction should include:

- facility long range plans
- a statewide plan for medical facilities
- certificate of need review
- a funding mechanism
- periodic inventories of health facility physical plants

The CS for House Bill 844 would create a fund within the Department of Health and Social Services for plant improvements and maintenance at rural health facilities. The bill provides that the Statewide Health Coordinating Council will make recommendations to the Commissioner of the Department as to the prioritization of projects and that the Commissioner would make grants to rural health facilities based on those recommendations.

Although the concept of providing state assistance to rural health facilities is strongly supported by the Department, the bill would be improved with further clarification.

The bill would make improvement and maintenance funds available regardless of ownership of the facility. The Department believes the bill would be improved by limiting distribution of State funds to only non-profit and community owned facilities.

It can be argued that the state has a responsibility for ensuring access to quality health care facilities to its citizens by providing grants funds when other sources of funding are non-existent or insufficient; however, the Department does not believe the state has the responsibility stated in section 18.25.40(d) of assuring that state grants are sufficient to enable a facility to satisfy the financial requirements of the physical plant improvement or maintenance recommended by the Statewide Health Coordinating Council. The responsibility of assuring that sufficient funds are available to meet total project costs properly lies with the municipality or local administrative entity which desires State assistance. In this regard, a grantee should be required to demonstrate the availability of total project funding before any state grant funds are expended, but the balance of the project costs sought from other sources would probably be more readily found once a commitment is made for the State grant.

To increase accountability for the use and disbursement of grant funds, a provision should be included in the bill which would permit the Department to provide grant funds for health facility improvement and maintenance to a municipality (or local administrative entity) where a rural health facility is located. Experience gained under the Hill-Burton program indicates that this step provides a form of local audit responsibility and a valuable neutral link for necessary administrative transactions without undue cost or delay.

To address these concerns the Department suggests revising the language in section 18.25.140(d) of CS HB 844 as follows:

18.25.140(d) The commissioner of Health and Social Services shall review the recommendations of the Statewide Health Coordinating Council and may make grants from the fund under AS 18.25.130 to a municipality (or local administrative entity) for physical plant improvements and maintenance. The local match for improvements and maintenance shall be sufficient to enable the municipality or local administrative entity to satisfy the remaining balance of total financial requirements of the physical plant improvement or maintenance supported by a State grant made under this section.

CS HB 844 provides a definition of the scope of the term "rural health facilities." The Department believes the bill should be further clarified by including definitions for the scope of the terms "maintenance" and "improvements."

The Department supports the use of a review body in recommending priorities for making grants. The Department recommends expansion of this concept to include review by experts knowledgeable in health facility financing and community support capabilities. This review body would evaluate proposals for health facility improvements and maintenance, determine whether current financing mechanisms such as revenue sharing, the Alaska Medical Facilities Authority, bond sales or other financing mechanisms are available to the health facility, and what level of state support is needed. On the basis of this review and recommendation the Commissioner of Health and Social Services could then make grants from the fund established under AS 18.25.130.

The question may arise as to whether a program of this type would encourage the proliferation of unneeded facilities. The certificate of need program would serve to limit the development of hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers, intermediate care facilities, and ambulatory surgical facilities, whether private, municipal, state or federal. Although the CSHB 844 definition of rural health facilities is not entirely consistent with the coverage of the certificate of need program, there are very few facilities eligible for grants under CSHB 844 which are not required to obtain a certificate of need and this is not seen as a significant problem.

The certificate of need review addresses the following aspects of proposed health facility construction which are pertinent to a consideration of state financial assistance:

- . the need for additional acute care beds in the hospital service area:

- . the relationship of the project to other health care providers in the area:
- . the anticipated impact of the project on hospital operating costs, revenues, and patient charges:
- . the financial feasibility of the project:
- . the cost-effectiveness of constructing shelled-in space for future use.

With requests for health facility assistance increasing in number and in scope, the establishment of a systematic approach to health facility construction can guide the allocation of limited state resources.

Recommended by:

Phoebe A. Lindsey
Phoebe A. Lindsey, Director
State Health Planning
& Development

Date:

March 25, 1982

Approved by:

Helen D. Beirne
Helen D. Beirne, Commissioner
Department of Health
& Social Services

Date:

3/30/82

POSITION PAPER/Department of Health & Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

I. REQUEST

Bill/Resolution No. CS House Bill 844
 Title An Act Relating to the Financing of Rural Health Facility Improvements
 Requested by HESS

II. FISCAL DETAIL

Agency Affected Department of Health & Social Services
 Program Category Affected 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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	57.0	62.7	69.0	75.0	83.0	91.0
200 TRAVEL	30.0	33.0	36.0	40.0	44.0	48.4
300 CONTRACTUAL	150.0	165.0	180.0	200.0	220.0	242.0
400 COMMODITIES	1.0	1.1	1.2	1.3	1.5	1.7
500 EQUIPMENT	1.5	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	22704.0	32191.0	24118.0	26354.0	33565.0	36921.0
TOTAL	22943.5	32454.8	24404.0	26670.0	33913.5	37304.1

FUNDING (Thousands of Dollars)

GENERAL FUND	22943.5	32454.8	24404.0	26670.0	33913.5	37304.1
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

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

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

(See Attached)

IV. DATE March 9, 1982 PREPARED BY Dave W. Williams *ml*
 AGENCY State Health Planning & Development *JCC*
 Original: Legislative Finance PHONE 465-3015
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Haugen
 33-001 (Rev. 12/81)

This fiscal note has been prepared considering the full impact which could be expected under this CSHB 844. Even though not all rural health facilities eligible for state assistance under CSHB 844 will necessarily desire state assistance. This fiscal note assumes that all facilities eligible under CSHB 844 would desire and receive state assistance. This may not necessarily be true. Assumptions regarding expenditure levels made by the Department in preparing this fiscal note are as follows:

Line 100

This line indicates the equivalent of salary and benefit costs for one staff position with appropriate qualifications. Duties of the proposed staff would include oversight of the required annual inventory of rural health facilities, review of requests for state assistance, and the research for and preparation of reports regarding grant requests as necessary under provisions within this Bill.

Line 200

This line reflects necessary travel to rural health facility sites during the update of the annual inventory of rural health facilities and the cost of periodic review of rural health facility construction projects.

Line 300

This line shows probable costs for consultants for mechanical, electrical, and structural engineers required for updating the annual inventory of rural health facilities.

Line 400

This line shows expenditure for necessary office supplies.

Line 500

This line shows necessary expenses for office equipment.

Line 700

The estimated grant expenditures shown on this line are provided to outline the dimension of need, but cannot be interpreted as a recommended level of state support.

These expenditures for grants are based upon the recent inventory of 15 rural hospitals and nursing homes. The inventory found numerous and serious deficiencies at the surveyed facilities. The fiscal note shows the probable grant expense to the state for correcting the noted deficiencies spread over the next six years. Grant expenses for subsequent years (1989 and beyond) should decline once the noted deficiencies are corrected.

The inventory report gave estimated 1982 construction costs for the correction of deficiencies which were noted at each facility. The inventory report cost estimates do not include costs for fees, equipment, inflation, site acquisition, and other project costs. To arrive at total project costs, the inventory report cost estimates must be adjusted by a factor between 125% and 160%. In preparing this fiscal note the Department has used a factor of 150% with inflation calculated at 10% a year. In estimating the grant expenditures under this bill the Department

has assumed each rural health facility would bear 20% of the total project costs. Under the provisions of CSHB 844 the local portion of costs may be adjusted to meet the needs of each facility and, therefore, may be higher or lower than the assumed 20%.

Position Paper

Senate HESS Draft

SENATE CS for House Bill 844 (HESS) am

"An Act relating to the financing of health facility improvements and maintenance."

The Senate HESS draft of CS for House Bill 844 (HESS) am creates a health facility improvement and maintenance fund for which all nonfederal, nonstate health facilities may apply. Types of facilities eligible for funding include those licensed by the state under AS 18.20.010 - 18.20.130 and public health centers, maternity homes, community mental health centers, out patient clinics and rural health clinics.

The Department supports a health facility maintenance and improvement program based on an application process which includes the identification of the level of community support, as is provided in Section 18.25.140.

This draft, however, has several apparent deficiencies and inconsistencies which need to be resolved. These are as follows:

- 1) The purpose of the bill is to assist those health facilities in securing the capital necessary to improve and maintain their physical plants so that these health facilities can continue to provide quality health care. The draft limits the type of state assistance which may be offered to city grants. A bill providing for state assistance for health facility construction should consider the use and availability of other types of State assistance such as loans, loan guarantees or revenue sharing funds, or the backing of tax-exempt bonds available through the Alaska Medical Facility Authority.
- 2) The bill should require that state funds be provided to the municipality or local government in which the facility making application is located. This provision would increase accountability for the use and disbursement of state funds and would permit participation by citizens and local government in the planning of the medical facility. Experience gained under the Hill-Burton program indicates that this step provides a form of local audit responsibility and a valuable neutral link for necessary administrative transactions without undue cost or delay.
- 3) Section 18.25.150 prohibits funding for any health facility operated or wholly supported by the state or federal government. The following section, 18.26.60, permits the state to be an applicant, presumably for a facility it owns and/or operates. The definition of eligible health facilities as those licensed by the state would also suggest that state facilities could be applicants, since state facilities such as the Alaska Psychiatric Institute are licensed by the state. The Department believes that state facilities should not be prioritized with other facilities for state funds. The Department does not believe that federal facilities at this time should be eligible for this assistance, however, as the federal government has its own maintenance and improvement program for its facilities.

- 4) The funding/budgeting process is unclear. If the Department's prioritized list, prepared by the Statewide Health Coordinating Council (SHCC), is to be presented to the Governor, the logical form for this presentation would be the Executive Budget process. If such a process were followed, there would be no need for a special fund. Such a process would also require that the SHCC recommend its priorities well in advance of November 1 in order to fit with current budget development schedules. The Department recommends that the appropriate funding mechanism is the Executive Budget process.
- 5) The purpose for requiring in Section 18.25.150 three separate categories of facility prioritization is unclear and would seem to refute the prioritization process, particularly when only one fund is created. The Department recommends that the requirement for these categories be removed from the bill.

The Department recognizes that many health facilities throughout the state are in need of state assistance for construction. With requests for health facility assistance increasing in number and in scope, the establishment of a systematic approach to health facility construction can guide the allocation of limited state resources.

Recommended by: Phoebe A. Lindsey
Phoebe A. Lindsey, Director
Division of State Health
Planning & Development

Date: April 30, 1982

Approved by: Helen D. Beirne
Helen D. Beirne, Commissioner
Department of Health and
Social Services

Date: 4-30-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

I. REQUEST

Bill/Resolution No. SENATE HESS Draft CS for House Bill 844 (HESS) am
 Title An Act Relating to the Financing of Rural Health Facility Improvements
 Requested by SENATE HESS Date April 30, 1982

II. FISCAL DETAIL

Agency Affected Department of Health & Social Services
 Program Category Affected 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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	57.0	62.7	69.0	75.0	83.0	91.0
200 TRAVEL	19.0	24.9	22.0	25.3	27.8	30.6
300 CONTRACTUAL	10.0	11.0	12.1	13.0	220.0	17.0
400 COMMODITIES	1.0	1.1	1.2	1.3	1.5	1.7
500 EQUIPMENT	1.5	-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	88.5	99.7	105.2	114.6	332.3	140.3

FUNDING (Thousands of Dollars)

GENERAL FUND	88.5	99.7	105.2	114.6	332.2	140.3
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

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

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

(See Attached)

IV. DATE April 30, 1982 PREPARED BY Dave W. Williams *DW*
 AGENCY State Health Planning & Development *JCC*
 Original: Legislative Finance PHONE 465-3015
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Haugen
 33-001 (Rev. 12/81)

III. ANALYSIS

The recently completed report on rural hospitals and nursing homes sets out a five year construction plan for rural hospitals and nursing homes. This report serves as the base for information provided in this fiscal note. Assuming that state funds would be 85% of construction costs, the cost for operating the CSIB 844 program would be approximately .6% of grant funds. The cost of the program is not expected to be significantly changed under the senate committee substitute since the costs are mainly related to the annual inventory update and an increased workload for review of hospital and nursing home construction plans.

To inventory facilities such as public health clinics and community mental health centers, the department would expect to use a less intensive approach than for hospitals. The approach for these types of facilities would be to use survey forms which request information about the physical plant and pertinent features of its operations. The survey would be followed by onsite visits as appropriate.

Line 100

This line indicates the equivalent of salary and benefit costs for one staff position with appropriate qualifications. Duties of the proposed staff would include maintenance of the inventory of rural health facilities, review of requests for state assistance, and the research for an preparation of reports regarding grant requests as necessary under provisions with in this Bill.

Line 200

This line reflects necessary travel to health facility sites during the maintenance of the inventory of health facilities and the cost of periodic review of health facility construction. The costs shown here are based mainly upon the cost of inventorying hospitals and nursing homes.

Line 300

This line shows probable costs for consultants for mechanical, electrical, and structural engineers required for maintaining the inventory of rural health facilities and for assessing code compliance of construction documents. During FY 82 a full inventory of rural hospitals and nursing homes was completed. This full inventory should be repeated every five years. The FY 87 figures consider the cost of completing a full inventory in that year.

Line 400

This line shows expenditure for necessary office supplies.

Line 500

This line shows necessary expenses for office equipment.

Line 700

This fiscal note does not estimate the amount of grant funds which may be provided under the program set out in CSHB 844.

In estimating the grant expenditures under this bill the department has assumed each rural facility would bear 15% of the total project costs. The local portion of costs may, in practice, be higher or lower than 15% and is undefined by this bill.

1/17/54
Senate Hess

SENATE HESS DRAFT

Conflict w/
State.
Include laws
change

CS FOR HOUSE BILL NO. 844 (HESS) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the financing of health facility improvements and maintenance."

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

* Section 1. FINDINGS AND PURPOSE. The legislature finds and declares that health facilities constitute an integral part of the health services of the state. The purpose of this Act is to assist those health facilities in securing the capital necessary to improve and maintain their physical plants so that those health facilities can continue to provide quality health care.

* Section 2. AS 18.25 is amended by adding new sections to read:

ARTICLE 5. FINANCING OF HEALTH FACILITY
IMPROVEMENTS AND MAINTENANCE.

Sec. 18.25.130. HEALTH FACILITY IMPROVEMENTS AND MAINTENANCE FUND. There is created a health facility improvements and maintenance fund in the Department of Health and Social Services. Money appropriated to the fund shall be used for grants to health facilities in accordance with AS 18.25.140.

Sec. 18.25.140. GRANTS TO HEALTH FACILITIES FOR

IMPROVEMENTS AND MAINTENANCE.

(a) By November 1 of each year the Statewide Health Coordinating Council (AS 18.07.011) shall recommend priorities for making grants from the health facility improvements and maintenance fund. The recommendations shall be transmitted to the commissioner of health and social services, the governor, and the legislature.

(b) The Department of Health and Social Services shall provide the Statewide Health Coordinating Council with an inventory of health facilities, population served, services rendered and other appropriate information that would be helpful to the council in recommending priorities for making grants. The Department of Health and Social Services shall update the inventory provided to the Statewide Health Coordinating Council as necessary.

(c) In developing recommendations for making grants under this section, the Statewide Health Coordinating Council shall consider

(1) the condition of the existing physical plant of a health facility;

(2) the ability of the health facility to continue to provide quality health services; and the need for services in relation to other facilities in geographic proximity to the community.

(3) the need in the community for additional services;

(4) the ability of the health facility to meet current licensure standards; and

(5) the capabilities of federal and state health facilities and the existence of any cooperative agreements with the facilities and any expected changes within the forthcoming three year period.

(6) other related data that would assist the council in establishing grant priorities.

(d) The commissioner of health and social services shall review the recommendations of the Statewide Health Coordinating Council and shall provide to the Governor a prioritized list of health facilities in need of grant assistance from the fund established under AS 18.25.130 for physical plant improvements and maintenance. The amount of each grant shall be set after considering the ability of the community to contribute to the cost of the project. The commissioner may not make recommendations in an order other than that proposed by the council unless the commissioner

(1) makes written findings of fact to justify the modification of the priorities recommended by the council;

(2) provides the council with a copy of the written findings; and

(3) allows the council a reasonable length of time to respond to the written findings.

Sec. 18.25.150. APPROPRIATION GUIDELINES.

*include
@ loans*

(2) "health facility" means;

(a) a facility which is licensed, when required, by the state under AS 18.20.010 - 18.20.130 and which is owned or operated or both by a municipality or by a nonprofit corporation or other nonprofit sponsor;

(b) includes a public health center, maternity home, community mental health center, out patient clinic, or rural health clinic.

*definition??
physician
practice?*

(a) proposed appropriations for the health facility improvements and maintenance fund in the governor's annual budget submitted under AS 37.07 shall include

(1) an itemized listing of projects proposed to be financed, divided into three categories:

(A) inpatient health facilities with more than 100 beds; *Anchor - FPOs*

(B) inpatient health facilities with 100 or less beds; *all other hospitals.*

(C) ^{*OTHER*} health facilities ~~servicing communities with populations of less than 4500 people;~~

(2) the amount proposed to be granted to each facility from the fund and

(3) the estimated cost of each proposed project.

(b) proposed appropriations under this section shall not include any funding for health facility operated or wholly supported by the ~~state or~~ federal government

Sec. 18.25.160 APPLICATION FOR IMPROVEMENTS AND
MAINTENANCE PROJECTS.

The state, a political subdivision of the state, or a public or other nonprofit agency requesting funds for a facility improvement and maintenance project shall apply to the department. The application shall conform to federal and state requirements.

Sec. 3 AS 18.25.120 is amended by adding a new paragraph to read:

Possible Options
Designing a Funding
Mechanism for Hospital/Health Care
Facility Construction
in Alaska

HB 844
file

1. Develop annually a comprehensive long-range health facilities plan for the construction and maintenance of health care facilities for no less than the next five succeeding years. Each hospital or health care facility desiring state funds must submit plans including fund strategies, for no less than the next five succeeding years. The Department would evaluate these submissions and prepare cumulative statewide plans reflecting all requests. The Plan shall include detailed description of projects for the following year to include an itemization of the estimated cost and the total cost of all projects. State Health Coordinating Council would review the plan and offer recommendations to the Commissioner for funding. The Commissioner reviews the plan and recommendations, and submits decisions for next year funding as part of the Department's capital budget. The budget request is reviewed by the Budget Review Committee. The Governor's decisions on funding is included as part of his Capital Budget submission to the legislature and are included as part of the General Appropriations Act.
2. Establish a pool of hospital/health care facility construction funds the Department to which hospitals/health care facility submit application and plans if they desire state assistance. The fund would, if the application is approved, allow a grant for design monies so that plans are architecturally drawn and take into account community needs. These plans are then "costed out" and the requests for funding from state based on need are submitted to the Department for consideration. SHCC or another body designed to review proposals for funding. Advantage of this option would be flexible in allocating funds to match with specific plans and facility needs.
3. Have Department of Transportation and Public Facilities design all hospitals/health care facilities based on community requests. Contracts are let to appropriate bidders and DOT budget for hospitals/health care facilities, as part of its budget. The hospital/health care facility is then turned over to the local community for operation.
4. Have Alaska Hospital Association submit a plan to the Department for funding hospital/health care facility requests for the upcoming year. The Department reviews proposals and in light of existing funds, submits top priority projects as part of the Capital Budget Submission.
5. Require that all major hospital and health care facility construction be approved by referendum by the voters on a statewide election. The legislature would vote on which items to be included. The people would approve spending of state money for this purpose.

Can be done
as a part of

the DOT

6. Designate a portion of General Revenue Sharing Money to be used for hospital/health care facility construction projects. (i.e. \$1 out of \$100 is to be used for this purpose.)
7. Provide no additional funds to communities to general hospitals above the general revenue sharing funds. Local communities can then decide if they are willing to offset costs with these funds.
8. Provide for direct appropriation for municipalities for hospital/health care facility construction through municipal grant account administered by the Department of Administration. The legislature would decide on projects and earmark funds directly for specific projects named.

KEY POINTS

To Consider In Designing A Funding Mechanism For Hospital/Health Care Facilities Construction in Alaska

1. Should the state assume the entire health facility construction? Should there be a community participation on a sliding scale basis?
2. Should the state assist in construction to proprietary facilities (Careage North, Nakoyia)?
3. What facilities should be included?
 - a) Hospitals
 - b) Long-term care facilities
 - c) Clinics
 - d) Health centers
 - e) Residential care facilities
 - f) Transitional facilities
 - g) Alcohol and drug abuse treatment facilities
 - h) Birthing centers
 - i) Doctor's offices
 - j) Others
4. Which facilities should be included in Plan?
 - a) All
 - b) Those who are receiving any state money from any service (i.e. Medicaid, Catastrophic Illness, etc.)
 - c) Only those that desire state funds for construction or maintenance
5. How should funds be appropriated by legislature?
 - a) Pool
 - b) Specific amount for specific facility.
6. Who should design the construction plans for facility?
 - a) Hospital/health facility
 - b) Hospital/health facility with state technical assistance
 - c) State with hospital/health facility assistance
 - d) State (similar to case in state owned building - we would lease for operations)
7. Which state department should be the lead agency for administration?
 - a) Transportation and Public Facilities
 - b) Revenue
 - c) Health and Social Services
 - d) Administration
 - e) Community and Regional Affairs

8. Should a review body be employed in the process? If so, which one?
 - a) SHCC
 - x) b) Medical Care Advisory Board - *subcommittee*
 - c) Budget Review Committee and/or Legislative Budget and Audit
 - d) Medical Facility Review Authority
 - e) New committee designed for this purpose

9. Should the state let contracts or grants design funds to hospitals/health facilities to insure estimates are correct and facilities are designed to meet community needs, prior to requesting funds from the actual site clearing and construction?

10. Should a referendum of the people be required to approve major projects?

11. Should the construction funds be granted for limited time period (i.e. two to three years)?

12. Should funds be limited only to meeting construction projects designed to bring facility up to state health and safety codes?

IN THE

BY THE

BILL NO. _____
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

For an Act entitled: "An Act relating to State Health Facilities Plan"

* Section 1. AS 44.29 is amended by adding a new Article to read:

Article 4. STATE HEALTH FACILITIES PLAN.

*Sec. 44.29.200. STATE HEALTH FACILITIES PLAN. (a) The commissioner shall develop a comprehensive long-range health facilities plan for the state and their construction. The program shall annually project proposed construction and maintenance of health facilities for not less than the next succeeding five years. In developing and revising the state plan, the commissioner shall consider means and cost of improving and operating existing facilities. The plan shall be based on information supplied by Alaska health facilities. All health facilities receiving state funds for services or construction must submit plans annually to the department in a form specified by regulation. The commissioner shall also consider the recommendation of the State Health Coordinating Council. The plan shall be submitted to the governor for his review and approval and submitted by the governor to the legislature.

(b) In developing and revising the plan, the commissioner shall seek public review and evaluation by any reasonable means and may

(1) consult and cooperate with officials and representatives of the federal government, other governments, and local agencies and authorities, interested corporations, and other organizations concerning problems affecting

construction and maintenance of health facilities for not less than the next succeeding five years. In developing and revising the state plan, the commissioner shall consider means and cost of improving and operating existing facilities. The plan shall be based on information supplied by Alaska health facilities. All health facilities receiving state funds for services or construction must submit plans annually to the department in a form specified by regulation. The commissioner shall also consider the recommendation of the State Health Coordinating Council. The plan shall be submitted to the governor for his review and approval and submitted by the governor to the legislature.

(b) In developing and revising the plan, the commissioner shall seek public review and evaluation by any reasonable means and may

(1) consult and cooperate with officials and representatives of the federal government, other governments, and local agencies and authorities, interested corporations, and other organizations concerning problems affecting health care services in the state; and

(2) request from any agency or other unit of the state government or if a political subdivision of it, or from a public authority, the assistance and data that may be necessary to enable the commissioner to carry out the responsibilities under this section; every such entity shall provide this assistance and data requested.

(c) Copies of this plan, as revised, shall be kept on file as a public document in the Office of the Commissioner and at each regional health office of the department.

(d) The plan shall include a description of projects planned for design and construction for the following year. The description is in addition to the long-range plan required by (a) of this section. The description shall include an itemization of the estimated cost for each project and the total cost to all projects. The commissioner shall propose and forward to the Governor for his review and approval and inclusion, as approved, in the capital budget a construction program which includes projects to be undertaken during the following year, including recommended project priorities. Funds for health facility construction projects and necessary contingencies shall be itemized as allocations within the bill for the General Appropriations Act.

Sec. 44.29.210. DEFINITIONS. In AS 44.29.200 - 44.29.210 of this chapter:

(1) "commissioner" means the commissioner of health and social services.

(2) "construction" means the erection, building, alteration, reconstruction, improvement, extension or modification of health care facility, including lease or purchase of equipment, excavation or other necessary action.

(3) "health care facility" means a private, municipal, state or federal hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney disease treatment center (including free-standing hemodialysis units), intermediate care facility, and ambulatory surgical facility; the term excludes the office of private physicians or dentists whether in individual or group practice.

* Sec. 2. This act takes effect July 1, 1982.

DRAFT

*Speak of the need for
a national approach*

This memorandum proposes one approach to a workable health care facilities construction program. What will be presented is not entirely new, but parallels the procedure which the department followed in allocating and disbursing funds from the 1970, 1972, and 1974 health facilities construction funds appropriated by the Legislature. The forms necessary for the program are available and most of the hospitals and long-term care facilities in Alaska are familiar with the procedures of the program which will be outlined in this memorandum.

The text of this memorandum will begin with a description of certain methodologies of the design and construction of health care facilities. These methodologies are well established within the health care industry and the architecture and construction industries. This memorandum will then present a description of the proposed health care facilities construction program and define certain terms necessary to an understanding of the program. The construction program will be discussed as is pertinent to the construction of hospitals and long-term care facilities. The same basic approach may be modified to also include the construction of other health care facilities such as health clinics and health centers.

BACKGROUND INFORMATION

The design and construction of a health care facility generally follows six basic steps:

- I. Perception of the need for a building program;
- II. Completion of a need survey and feasibility evaluation;
- III. Organization of a construction planning committee;
- IV. Deciding upon the planning, design and construction approach;
- V. Development of a planning, design and construction schedule, and
- VI. Opening of the completed facility.

Any State health facilities construction program should allow for the continuance of these steps to avoid confusion and hostilities from the groups involved.

- I. Perception of the need for a building program.

Typically, the perception of the need for a building program results from clearly observable facility inadequacies: The facility is too small, too old, does not provide sufficient space for a recently

perceived need such as a birthing room, long-term care rooms, ultrasound services, etc. As such, the need for a building program is generally perceived on a local level by physicians, facility staff, the community served by the facility and is approved by the facilities board of directors. The State may point out the need for a building program as a result of licensure or architectural surveys; however, it is essential that the people who work in the facility and are served by the facility be involved in the development of a solution to an identified need if the solution is to be acceptable.

II. Completion of a need survey and feasibility evaluation.

Once a need has been perceived, active planning begins with a need survey and feasibility evaluation. The work required by the need survey will depend upon the parameters of the perceived need. If the perceived need is to meet a code requirement the need survey may simply be a statement of the facts. If the perceived need is for a new facility the need survey would be more extensive, identifying what services the community desires, what services may reasonably be offered in the community, workloads for those services, etc. The most important point to determine with the need survey is whether the perceived need is an actual need. *This step is often given little or no attention when, as a result of the present affluence of Alaska, funding is provided directly sans formal request.*

III. Organization of a Construction Planning Committee

A construction planning committee is generally organized for the purpose of determining alternative approaches to design and construction for an extensive remodeling or expansion of a facility or the construction of a new facility. In accomplishing its task the committee works with a professional planning and design team. The construction planning committee generally interviews a number of professional planning teams and submits an analysis and recommendation to the facilities board of directors as to which of the teams would best suit the facilities needs and desires. The board of directors then makes the actual selection, typically after several meetings and many hours of laborious and often times heated debate.

The professional planning and design team works with the construction planning committee in gathering and weighing the considerations of physicians, staff, the administration, the community and other affected groups. The design of a new facility or expansion/remodeling of an existing facility is not taken at all lightly by such persons; therefore, it is important that any governmental construction assistance program not ignore such persons or attempt to usurp the leading role of either the committee or the facilities board of directors.

IV. Deciding upon the Planning, Design, and Construction Approach

Once a professional planning and design team has been selected the facility should decide upon the approach to be taken toward construction.