

2236

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HB

174

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HB

182

2236

**University of Alaska  
STATEMENT OF FEES**

Date Registered 1-19-83  
1-15

SPRING 1983

Name SMOYER KATHLEEN H U. of A. ID Number 571-31-0200 Birth Date 04/11/1962  
LAST FIRST

Residency ALASKA-RESIDENT Type 7 Major LCHE Campus FAYERBANKS CAMPUS

Phone \_\_\_\_\_

**FEES**

Type of Fee	Code No.	Amount
Meal Ticket		
Residence Hall		
Graduate Fee Hours		
Credit Hour Fee Hours	<u>Am</u>	<u>300</u>
Non-Resident Tuition Yes ( ) No (X)		
Health Insurance Premium		
Health Center Fee		
Campus Activity Fee	<u>AP</u>	<u>24</u>
Parking Fee		
Music Fee	<u>100</u>	<u>25</u>
	<u>62</u>	<u>75</u>
Material/Lab Fee	<u>77</u>	<u>20</u>
TVCC Material Fee		
Deferred Payment Charge		
Late Registration Charge	<u>11</u>	<u>13.00</u>

Assessor AS Total Fees 457.00  
457.00 (50)

**SCHOLARSHIP AND OTHER CREDITS**

Description	*Account Number	Amount
1 005000	00000 0774 103010	50.00
2		
3		
4		
5		

\*Must be an FAS no. or an Agency ARID

Total Scholarships 50.00

Net Fee Due 407.00

Total Deferred Payment or (check requested) \_\_\_\_\_

Cash Received or (disbursed) 407.00

**DEFERRED PAYMENT SCHEDULE**

Date Due	Amount
1	
2	
3	

**CHECK REQUEST MADE**

\_\_\_\_\_ ( )

**MEMO**

Cash	<input type="checkbox"/>	_____
Checks	<input checked="" type="checkbox"/>	_____
Total		<u>415.00</u>
Net Fee Due		<u>407.00</u>
Overpayment		<u>8.00</u>
Change		<u>130.00</u>

Fee Statement Auditor

Date Check Request Processed \_\_\_\_\_

By \_\_\_\_\_

Kathleen H. Smoyer  
SIGNATURE OF STUDENT

1014 Al 7077  
CURRENT MAILING ADDRESS

DTC 54  
Cashier No.

I agree to pay in advance, cash noted above and to pay remaining sum in accordance with the deferred payment schedule until the total principal sum of this obligation has been discharged. Although no interest accrues, I understand, and agree, that in the event of default of payment of any installment upon the date due, a further service charge will be charged against me, and that if I continue in default longer than five (5) days, I will surrender any meal ticket and student activity cards in my possession, relinquish any dormitory room and rights to continue instruction, and forfeit such portions of deposits

**STATEMENT OF BORROWER'S RIGHTS AND RESPONSIBILITIES**

**A STUDENT LOAN IS A SERIOUS LEGAL OBLIGATION. IT IS EXTREMELY IMPORTANT THAT YOU UNDERSTAND YOUR RIGHTS AND RESPONSIBILITIES. WHEN YOU, THE STUDENT BORROWER, SIGN THE REVERSE SIDE OF THIS NOTE IT MEANS THAT (1) YOU UNDERSTAND YOUR RIGHTS AND RESPONSIBILITIES, AND THAT (2) YOU AGREE TO HONOR THEM.**

**BORROWER'S RIGHTS:**

1. The lender must provide me a copy of the completed Promissory Note no later than the time the loan is disbursed and by retaining the Borrower's Copy of this note, I indicate that this right has been fulfilled. The lender must return the original Promissory Note to me when I have paid the loan in full.
2. My yearly and cumulative maximum Alaska Student Loan amounts are:

Category of Borrower	Annual Loan Limit	Aggregate Loan Limit
Undergraduate student	\$6,000	May receive loans up to 5 undergraduate academic school years.
Graduate student	\$7,000	May receive loans up to 5 graduate academic school years. (Total years may not exceed 8)

3. I am not required to provide security for this loan. The lender may require an endorser to sign the Promissory Note only if an endorsement is necessary — because I am under sixteen years of age — to make the Promissory Note a binding obligation under State law.
4. Each loan check must be payable to me. The lender will mail the check to me in care of the Student Financial Aid Office at the school I will be attending and the check will require my endorsement.
5. I have a right to a 12 month "grace period" before the repayment period begins. The grace period starts the first day after I leave school or cease to attend an eligible educational institution on a full-time basis. My first payment will be due no later than the first of the thirteenth month after I leave school or cease to attend school on a full-time basis.
6. The lender is to provide me with a repayment schedule before the repayment period begins. The provisions of this schedule must conform to the provisions under REPAYMENT in the Promissory Note.
7. I will repay this loan in monthly installments within 10 years of the date of commencing repayment. However, the following exceptions to these rules apply:
  - A. If, during the grace period I request a shorter repayment period, the lender may grant me a shorter period.
  - B. Any period described under DEFERMENT in this Promissory Note will not be included in determining the 10 year period mentioned above.
8. I have a right to prepay the whole loan or any portion of the loan at any time without penalty.
9. If I meet certain requirements, I have a right to defer payment on the loan as set forth under DEFERMENT in the Promissory Note. Also, I have a right to a six month post-deferment grace period after each period of authorized deferment.
10. The Alaska Student Loan Program normally will pay the interest that accrues on the loan both before the repayment period, during any authorized deferment period, and during the six month period following deferment. In that event, the lender may not collect or attempt to collect this interest from me. The interest on the loan may not exceed five percent (5%) per year.
11. My loan obligation will be cancelled if I become fifty percent (50%) or more permanently disabled or if I die.
12. If I am willing, but financially unable to make payments under my repayment schedule, I may request the lender to allow any of the following (forbearance or hardship status):
  - A. A short period during which I make no payments;
  - B. An extension of time for making payment; or
  - C. The making of smaller payments than were scheduled originally.
 However, the lender is not required to approve my request.
13. If the lender sells the loan or otherwise transfers the right to receive payment, I must be sent a clear notification which spells out my obligations to the party to which my loan was sold.
14. Default occurs when I fail to make an installment payment when due, or to meet other terms of the Promissory Note under circumstances where the Alaska Student Loan Program finds it reasonable to conclude that I no longer intend to honor the obligation to repay, provided that my failure persists for (a) 120 days if I repay in monthly installments, or (b) 180 days if I repay in installments due less frequently than monthly. If I default, I will owe the entire balance of the loan plus accrued interest. If I am able, but unwilling to repay my loans, the Alaska Student Loan Program may institute legal action to force me to repay my loans. If I am named in such a legal action, I will forfeit all partial cancellation benefits for which I am otherwise eligible.
15. The lender must keep on file a copy of the State laws and regulations that govern the Alaska Student Loan Program. I have a right to examine these materials if I wish.
16. I should investigate the availability of other forms of financial aid with the school's financial aid administrator. It may be to my benefit to determine my eligibility for grant, work-study and other sources of assistance before applying for a student loan. I understand that receipt of an Alaska Student Loan may eliminate any awards that I may receive from other programs.
17. If I meet the eligibility requirements listed under PARTIAL CANCELLATION in the Promissory Note, I may be entitled to up to 50% partial cancellation of the principal which was actually advanced to me, plus accrued interest of this loan through the Alaska Student Loan Program, subject to the restriction noted in item 14 in this statement.

**BORROWER'S RESPONSIBILITIES:**

1. I must use care in choosing a school. Each school must provide a prospective student with information about the school and its programs. I will consider this information carefully before deciding to attend a specific school. I understand that the State Government does not vouch for the quality of a school or its programs.
2. I must repay the loan in accordance with the repayment schedule that the lender will give me.
3. I must notify the lender promptly, in writing, if any of the following events occur before the loan is repaid:
  - A. My failure to enroll in school for the period for which the loan was intended.
  - B. My withdrawal from school or my attendance in school on less than a full-time basis.
  - C. My transfer from one school to another school.
  - D. My graduation from school.
  - E. A change in my name (e.g., maiden name to married name).
  - F. A change in my address.
  - G. A change in my Alaska residency status.
4. If I qualify for a deferment of repayment, I must (a) provide the lender with written evidence of my eligibility, and (b) notify the lender as soon as the condition for which the deferment was granted no longer exists.
5. I must use the proceeds that I receive from this loan for tuition, room and board, fees, books and supplies to attend the school named, for the period indicated on the loan application.
6. I must maintain my Alaska residency status in order to receive disbursements of my loan under the Alaska Student Loan Program.
7. I must maintain full-time student status in order to receive disbursements of my loan under the Alaska Student Loan Program.
8. I must maintain good standing, as defined for this program, in order to receive disbursements of my loan under the Alaska Student Loan Program. Good standing is defined as enrolling and completing at least a full-time student load while maintaining a grade point average of at least a "C" for an undergraduate or "B" for a graduate student.
9. I must request an application form from the Alaska Student Loan Program Office in each year which I wish to apply for a loan under the program.
10. I must submit my complete and correct Alaska Student Loan Program application form to the Alaska Student Loan Program office by May 15 in order to receive priority processing of my application.



ALASKA STUDENT LOAN PROGRAM  
REQUEST FOR WAIVER OF GOOD STANDING  
Requirements (20 AAC 15.040)

A. Student:	<i>Kathleen M. Smoyer</i>	Social Security Number	<i>574-34-9200</i>
Current Mailing Address: Street	<i>P.O. Box 2652</i>	City	<i>Fairbanks</i>
		State	<i>Alaska</i>
		Zip Code	<i>99707</i>
Institution	<i>University of Alaska - Fairbanks</i>		

B. I hereby request, for the reasons stated below, waiver of the good standing requirement for an Alaska Student Loan, as provided for in 20 AAC 15.040 (j), (k), and (l).

C. My loan was denied because of my failure to (please check):

- 1. maintain a cumulative C.P.A. of 2.0, undergraduate, or 3.0, graduate
- 2. maintain a term G.P.A. of 1.5, and/or
- 3. successfully complete a full-time student load the last term I borrowed under this program.

D. Reason for request (please check):

- Medical disability
- Death in the immediate family
- Administrative error
- Duress
- Record upon which ineligibility is based is from an attendance period five or more years in the past
- Other (Please explain)

*Explanation attached.*

E. Detailed explanation. Attach a detailed explanation of your justification for a waiver. Be specific. If you are appealing on a grade point average basis, include what your cumulative average is and how you have performed in the last couple of years (by term). If you are appealing for less than full-time attendance, include how many hours you did complete, how many you failed to successfully complete, and explain. If you are offering a time argument, include why you feel you are now more prepared for school than you were when you established your "ineligible" record. Include documentation. Transcripts may be required, doctor's certification will be required, evidence of administrative error will need verification.

F. SIGNATURE: My signature below certifies that in the absence of a Notary Public or other official authorized to administer an oath, I personally certify under penalty of perjury that the foregoing and accompanying documentation are true.\*

Signed	<i>Kathleen M. Smoyer</i>	Date	<i>Jan. 19, 1983</i>
Location: (City and State)	<i>Fairbanks, Alaska</i>		

G. Keep one copy for your files, give one copy to your Financial Aid Office, and mail original to:

Alaska Commission on Postsecondary Education  
Division of Student Financial Aid  
Pouch FP  
400 Willoughby Avenue  
Juneau, Alaska 99811

\* Under AS 09.63.020(b), a person who makes false sworn certification which he does not believe to be true, under penalty of perjury is guilty of perjury.



# ALASKA STUDENT LOAN APPLICATION

This application to be used for the 1982-83 year only. If you will be attending a Voc-Tech school, attendance must begin on or after July 1, 1982. If you will be attending a college or university, to be used from Fall 1982 through Summer 1983.

A: ASKA STUDENT LOAN PROGRAM, POUCH FP, 400 WILLOUGHBY AVENUE, JUNEAU, ALASKA 99801

**AMENDMENT**

**WARNING:** This assistance applied for herein may be provided by the State of Alaska. Any person who knowingly makes a false or misleading statement on this form shall be subject to prosecution under provision of Alaska Statute.

**PART A — TO BE COMPLETED BY STUDENT BORROWER \*IMPORTANT\* READ THE INSTRUCTIONS CAREFULLY. Student Borrower should complete Part A and forward the application to the school for completion of Part B.**

1. Student Borrower's Last Name <b>Smoyer</b>	First Name <b>Kathleen</b>	Middle Name <b>Marie</b>	2. Social Security No. <b>574-34-9200</b>	3. Date of Birth Mo. <b>4</b> Day <b>14</b> Yr. <b>62</b>
4. Permanent Mailing Address <b>P.O. Box 2652</b>	City or Town <b>Fairbanks</b>	State <b>Alaska</b>	Zip Code <b>99707</b>	
5. Current Mailing Address <b>SAME 116 40 Mile Ave Apt 3</b>	City or Town <b>Fairbanks</b>	State <b>Alaska</b>	Zip Code <b>99701</b>	
6. State of Permanent Residence: <b>Alaska</b>	7. Area Code / Home Telephone Number <b>(907) 456-7250</b>			

8. References: You must provide four references. They must be of legal age with whom you have periodic contact.

Name:	Parent/Guardian <b>Ric Smoyer</b>	Other Parent, adult relative or friend at different address <b>Patricia Egan</b>	Adult relative or friend at different address <b>Sheron Smoyer</b>	Adult relative or friend at different address <b>Pati Hemm</b>
Address:	<b>P.O. Box 2652</b>	<b>1593 Avenida Selva</b>	<b>116 40-Mile Ave.</b>	<b>733-A Kamoku</b>
City, State:	<b>Fbks., Alaska</b>	<b>Fullerton, Calif.</b>	<b>Fbks., Alaska</b>	<b>Honolulu, Hawaii</b>
Telephone #	<b>907, 456-7250</b>	<b>714, 879-1664</b>	<b>907, 456-6496</b>	<b>808, 947-5293</b>
Relationship to you:	<b>Father</b>	<b>Mother</b>	<b>Step-Mother</b>	<b>Friend</b>

9. Academic year of study for which this loan applies (check one):

UNDERGRADUATE: Freshman \_\_\_\_\_ Sophomore \_\_\_\_\_ Junior  Senior \_\_\_\_\_ 5th Year \_\_\_\_\_

or GRADUATE YEAR: 1st \_\_\_\_\_ 2nd \_\_\_\_\_ 3rd \_\_\_\_\_ 4th \_\_\_\_\_

10. List all student loans received from any source. Attach separate sheet if necessary.

NAME AND LOCATION OF LENDER	DATE & TYPE OF LOAN	UNPAID BALANCE
<b>A.S.L.P.</b>	<b>80-81</b>	<b>\$ 3000.</b>
<b>A.S.L.P.</b>	<b>81-82</b>	<b>\$ 5000.</b>
		\$
		\$
		\$

11. Are you (check one — see instructions):  
Dependent  Independent

12. Enter the total number of your dependents (see instructions):  
# **0**

List ages: \_\_\_\_\_

13. Number of terms you will attend during year for which loan applies (specify number):  
Quarters: \_\_\_\_\_ Trimester/Semester: **2** Summer: \_\_\_\_\_  
If Voc-Tech student, specify number of Weeks: \_\_\_\_\_ Months: \_\_\_\_\_

14. While in school, will you live (check one):  
With Relatives:   
On Campus:   
Off Campus:

15. Major course of study. Specify:  
**Communication Jour/Broad.**

16. Degree or Certificate being sought (Associate, B.S., M.A., Ph.D., Diploma, etc.):  
**Bachelor's**

17. Estimated cost of education for the loan period:

	Estimated cost only	Financial aid & other sources for loan period:	Institution use only:
Tuition Fees	\$ <b>612.</b>	BEOG SEIG	\$
Room & Board	\$ <b>4000.</b>	Parents, Savings, Etc.	\$
Books & Supplies	\$ <b>500.</b>	Other Educ. Loans	\$
Transportation	\$ <b>400.</b>	Other Scholar. & Grants	\$
Personal	\$ <b>774.</b>	WICHE	\$
TOTAL	\$ <b>6350.</b>	TOTAL	\$ <b>0</b>

19. Date of attendance for which loan is requested:  
From: Mo. **8** Yr. **82** To: Mo. **5** Yr. **83**

20. Amount of loan requested: **\$ 6000.**

21. Estimated date of graduation: Mo. **6** Yr. **84**

22. List any prior degrees and date(s) received: **none**

23. Type of tuition you will pay for loan period (see instructions):  
Resident  Non-Resident  No Differential

24. Student Status during loan period:  
Part-time

25. Have you/will you apply during the loan period for:  
WICHE: Yes  No  SEIG: Yes  No

26. Name and address of school you will be attending:  
Name: **University of Alaska Fairbanks** Address: **Fairbanks, Alaska 99701**

27. My signature below certifies that I have read, understand and agree to the conditions and authorizations stated in the Student Certification and Statement of Educational Purpose printed on the reverse side of this application. I declare under penalty of perjury that the foregoing is true and correct.

Signed: **Kathleen Smoyer** Dated: \_\_\_\_\_  
(Signature of Student Borrower)

**PART B — TO BE COMPLETED BY SCHOOL. When School Official completes and signs Part B, the blue copy of the application should be retained for the school records. The instruction sheet, the two white copies and the yellow copy should be sent to the applicant — see instruction sheet for further information.**

28. Name and Address of Educational Institution:  
Name: \_\_\_\_\_ Address: \_\_\_\_\_

29. OE School Code: \_\_\_\_\_

30. Area Code and Telephone Number: \_\_\_\_\_

My signature below certifies that I have read, understand, and agree to the conditions regarding the student named above in the School Certification Statement printed on the reverse side of the application.

31. Signature of Authorized School Official: \_\_\_\_\_ Name and Title: \_\_\_\_\_

33. Date: \_\_\_\_\_

**PART C — FOR ALASKA STUDENT LOAN OFFICE USE ONLY**

Loan Approved: **5950** Application Incomplete: **JUN 22 1982** Application Denied: \_\_\_\_\_

Total: **2000** (Item(s)) \_\_\_\_\_

Prior Alaska Student Loan(s)?  
Yes  No

If yes, have any entered repayment?  
Yes  No

STUDENT FINANCIAL AID Account # \_\_\_\_\_

RECEIVED

ENTERED JUN 20 1982

05 007 805C (Rev. 1/82) RETURN TO THE ALASKA STUDENT LOAN OFFICE ACCESS NUMBER: \_\_\_\_\_

**STUDENT BORROWER CERTIFICATION AND  
STATEMENT OF EDUCATION PURPOSE**

I, the student borrower, certify that the information contained in Part A of this application is true, complete and correct to the best of my knowledge and belief and is made in good faith. I hereby authorize the educational institution to pay to the Alaska Student Loan Office any refund which may be due me up to the amount of this loan. I further authorize any educational institution that I may attend to release to the Alaska Student Loan Office or subsequent holder or their agents, any requested information pertinent to this loan (e.g. employment, enrollment status, current address). I certify that I will use any funds I receive under the Alaska Student Loan Program solely for the expenses related to attendance at the educational institution named on this form for the academic period covered by this application. I understand that I am responsible for repaying any funds I receive which cannot reasonably be attributed to meeting my educational expenses at the educational institution named on this form. I further understand that the amount of any repayment is based on regulations published by the Alaska Student Loan Office. I certify that I am not now in default on an Alaska Student Loan (ASL). I authorize the Alaska Student Loan Program to issue warrants necessary to cover the proceeds of my loan, in full or in part, made payable to me and sent in care of the student financial aid office at the educational institution named on this application form.

.....  
:  
:  
:  
**SCHOOL CERTIFICATION STATEMENT**

I hereby certify that the student borrower named on this application form is neither in default nor owes a refund with respect to previous loans or grants received for attendance at this institution based on available records. I further certify that I have reviewed the information in Part A of this application, have noted any amendments to items #17 and #18 in the institutional columns, and that the information provided is true, complete, and correct to the best of my knowledge and belief.

ALASKA STUDENT LOAN PROGRAM  
POUCH FP, 400 WILLOUGHBY  
JUNEAU, ALASKA 99811

ANNUAL PERCENTAGE RATE AFTER THE BEGINNING OF THE REPAYMENT PERIOD	<b>5%</b>
DISBURSEMENT SCHEDULE —	
DATES SHOWN ARE THE STANDARD DISBURSEMENT DATES FOR A SCHOOL USING YOUR CALENDAR SYSTEM, WAR- RANTS WILL BE MAILED TO THE FINANCIAL AID OFFICE.	
	MONTH DAY YEAR
1st Disbursement	8 20 82 \$ 2,975.00
2nd Disbursement	12 15 82 \$ 2,975.00
3rd Disbursement	XXXX XXXX \$ 0.00
4th Disbursement	XXXX XXXX \$ 0.00
TOTAL LOAN AMOUNT	\$ 5,950.00

NOTE ISSUE DATE: 09/01/82

FOR ATTENDANCE AT  
[REDACTED]  
C/O STUDENT FINANCIAL AID OFFICE  
FAIRBANKS AK 99701  
FOR ATTENDANCE FROM: 08/82 TO: 05/83  
BORROWER: KATHLEEN MARIE SMOYER  
ADDRESS: P.O. BOX 2652  
FAIRBANKS AK 99707  
SOCIAL SECURITY NUMBER: 574-84 9200 01 04

PLEASE READ CAREFULLY THIS THE TERMS AND CONDITIONS OF THIS PROMISSORY NOTE AND THE STATEMENT OF BORROWER'S RIGHTS AND RESPONSIBILITIES.

YOUR REQUEST FOR A STUDENT LOAN HAS BEEN APPROVED FOR THE TOTAL LOAN AMOUNT INDICATED ABOVE. THE TERMS OF THIS PROMISSORY NOTE WILL BE INTERPRETED ACCORDING TO ALASKA STATUTE (14.40.751 to .806) AND ALASKA REGULATIONS (20 ACC 15.010 to .410) GOVERNING THE ALASKA STUDENT LOAN PROGRAM.

I, the borrower, promise to pay to the Alaska Student Loan Program, Pouch FP, 400 Willoughby Avenue, Juneau, Alaska 99811, the lender, all of the principal sum totaled above to the extent it is advanced to me, plus an amount equivalent to simple interest on this sum at the rate of five percent per year. If I fail to pay any of these amounts when they are due, I will also pay costs—including attorney's fees—that are permitted by State Regulations and are necessary for the collection of these amounts.

The lender and I understand that the following terms apply to this loan:

**REPAYMENT:**

I will repay this loan in monthly installments during a repayment period that will begin no later than the 1st of the thirteenth month (the "grace period") after I either leave school or cease to carry a full-time academic workload at an eligible educational institution (the "school"). I may, however, choose to work the repayment period begin earlier. 2. I will repay this loan within ten (10) years from the date that the repayment period begins. If, during the grace period, I request a shorter repayment period, the lender may grant me a shorter period. In that event, I may later choose to have the repayment period extended to the number of months remaining in the original 10 year repayment cycle at the time the extension is requested. Any approved period of deferment listed under DEFERMENT will not be included in determining the 10 year repayment period. 3. The particular terms and conditions of repayment that apply to this loan will be set forth in a separate document, known as a repayment schedule or a statement of loan terms, that the lender is to provide to me before the repayment period begins.

**PREPAYMENT:**

I may, at my option and without penalty, prepay all or any part of the principal and accrued interest of this loan at any time. If I do so, I will be entitled to a rebate of any unearned interest that I have paid. Any rebate I am entitled to will be calculated by multiplying the number of months the loan had been prepaid by the amount of the monthly interest charge listed on the repayment schedule or the statement of loan terms less any earned, unpaid interest listed on the repayment schedule or statement of loan terms.

**DEFERMENT:**

My loan payment will be deferred after the repayment period begins, provided I comply with the procedural requirements set forth in the regulations governing the Alaska Student Loan Program, in any of these circumstances:

1. While I am enrolled in full-time study at an eligible educational institution (12 semester or quarter hours for an undergraduate student, 9 semester or quarter hours for a graduate student, or 30 clock hours per week for a career education program student);
2. For a single period not to exceed one year while I am conscientiously seeking but unable to find full-time employment in the United States;
3. For a period not to exceed three years while I am serving as a full-time volunteer under the Peace Corps Act;
4. For a period not to exceed three years while I am serving as a full-time volunteer under the Domestic Service Act of 1973 (action programs);
5. For a period not to exceed two years while I am serving a first required Internship/Residency as part of the program of study;
6. For a period not to exceed three years while (a) I am fifty percent (50%) or more disabled as certified by a qualified physician or (b) I am unable to secure employment by reason of the care required by a spouse who is temporarily totally disabled;
7. For any period while I am serving on active duty in the Armed Forces of the United States.

I am also entitled to a six month grace period following any period of authorized deferment under this section before repayment is required to resume.

**INTEREST:**

1. The Alaska Student Loan Program will normally pay the interest that accrues on this loan prior to the repayment period, during any non-deferment grace period, and during any deferment period as specified under DEFERMENT in this promissory note. Prior to the loan repayment period, during any post-deferment grace period, and during any deferment period, the lender may not attempt to collect the interest from me. I may, however, choose to pay this interest myself.

2. Once the repayment period begins, I will be responsible for payment of all the interest that accrues on this loan, except for interest that accrues during any period described under DEFERMENT in this promissory note.
3. The Lender may add any interest that is not paid when it is due to the unpaid balance of this loan, in accordance with Alaska Regulations.

**DEFAULT:**

If I default on this loan, the lender may declare the entire unpaid amount of the loan, including interest, immediately due and payable. A default may also make me ineligible for the benefits described under DEFERMENT, INTEREST, and PARTIAL CANCELLATION in this promissory note. Under the Regulations governing this program, any of the following events could be considered a default: my failure to make a payment when it is due, my failure to notify the lender of a change in my name, address, withdrawal for full-time student status, change of schools, residency status, my failure to maintain Alaska residency, or if I falsify any document in connection with the making of this loan, whether by omission or commission.

**DISABILITY OR DEATH:**

If I become fifty percent (50%) or more permanently disabled, my obligation to pay any amount owed to this loan will be cancelled as specified under the regulations governing the Alaska Student Loan Program.

**PARTIAL CANCELLATION:**

If I receive the appropriate degree, diploma or certificate for which this loan was made, and if I reside in Alaska within one year from the time I earned my degree, diploma or certificate, then upon my providing proof of graduation to the lender, I may receive partial cancellation of up to fifty percent (50%) of the original principal of this loan. The amount advanced to me, and accrued interest when the following circumstances have been satisfied:

1. I have completed over two but less than three consecutive years of Alaska residency, 10% of the principal and interest of this loan will be cancelled upon request in writing by me;
2. I have completed over three but less than four consecutive years of Alaska residency, 10% of the principal and interest of this loan will be cancelled upon request in writing by me;
3. I have completed over four but less than five consecutive years of Alaska residency, 10% of the principal and interest of this loan will be cancelled upon request in writing by me;
4. I have completed over five but less than six consecutive years of Alaska residency, 10% of the principal and interest of writing by me;
5. I have completed over six consecutive years of Alaska residency, 10% of the principal and interest of this loan will be cancelled upon request in writing by me.

I understand that if I cease to be a resident of Alaska during the period of the eligibility for partial cancellation, I lose my eligibility for any further partial cancellation benefits.

**GENERAL:**

1. The lender must provide me with a copy of this promissory note. By signing and dating this note below, I have indicated that I have retained the borrower's copy for my records. The terms of this promissory note will be interpreted according to the Regulations and Statutes governing the Alaska Student Loan Program as listed in bold print.
2. I will use all of the proceeds that I receive from this loan solely for tuition, books, required fees, room and board.
3. I am not required to provide any security for this loan. The lender may require my parent or legal guardian to sign the promissory note only if an endorser is necessary — because I am under sixteen years of age — to make the promissory note a binding obligation under Alaska Law.
4. I will promptly notify the lender, in writing, if any of the following events occur before the loan is repaid, change of my name, change of address, change of school enrollment status or change from Alaska residency status.
5. I understand that I will not be granted ASLP loans for more than five years of undergraduate study, or five years of graduate study, or for a total of eight years of combined study. Intervening years in which a loan was not received are not counted toward the total years permitted.
6. This loan will be disbursed to me in the amounts listed above and will be disbursed in accordance with the disbursement schedule on this form.

**ACCEPTANCE:**

I have read this promissory note, including the terms and conditions on the reverse side and agree to abide by these conditions.

[REDACTED SIGNATURE]

SIGNATURE OF BORROWER

P.O. Box 2652, Fbks. (mailing)

ADDRESS OF BORROWER

Sept. 7 1982

DATE SIGNED

ENTERED SEP 10 1982

ENTERED SEP 13 1982

NAME OF ENDORSER, IF ANY  
(PLEASE PRINT)

SIGNATURE OF ENDORSER

ORIGINAL - RETURNED TO ASLP OFFICE

**STATEMENT OF BORROWER'S RIGHTS AND RESPONSIBILITIES**

**A STUDENT LOAN IS A SERIOUS LEGAL OBLIGATION. IT IS EXTREMELY IMPORTANT THAT YOU UNDERSTAND YOUR RIGHTS AND RESPONSIBILITIES. WHEN YOU, THE STUDENT BORROWER, SIGN THE REVERSE SIDE OF THIS NOTE IT MEANS THAT (1) YOU UNDERSTAND YOUR RIGHTS AND RESPONSIBILITIES, AND THAT (2) YOU AGREE TO HONOR THEM.**

**BORROWER'S RIGHTS:**

1. The lender must provide me a copy of the completed Promissory Note no later than the time the loan is disbursed and by retaining the Borrower's Copy of this note, I indicate that this right has been fulfilled. The lender must return the original Promissory Note to me when I have paid the loan in full.
2. My yearly and cumulative maximum Alaska Student Loan amounts are:

<u>Category of Borrower</u>	<u>Annual Loan Limit</u>	<u>Aggregate Loan Limit</u>
Undergraduate student	\$6,000	May receive loans up to 5 undergraduate academic school years. May receive loans up to 5 graduate academic school years. (Total years may not exceed 8)
Graduate student	\$7,000	

3. I am not required to provide security for this loan. The lender may require an endorser to sign the Promissory Note only if an endorsement is necessary — because I am under sixteen years of age — to make the Promissory Note a binding obligation under State law.
4. Each loan check must be payable to me. The lender will mail the check to me in care of the Student Financial Aid Office at the school I will be attending and the check will require my endorsement.
5. I have a right to a 12 month "grace period" before the repayment period begins. The grace period starts the first day after I leave school or cease to attend an eligible educational institution on a full-time basis. My first payment will be due no later than the first of the thirteenth month after I leave school or cease to attend school on a full-time basis.
6. The lender is to provide me with a repayment schedule before the repayment period begins. The provisions of this schedule must conform to the provisions under REPAYMENT in the Promissory Note.
7. I will repay this loan in monthly installments within 10 years of the date of commencing repayment. However, the following exceptions to these rules apply:
  - A. If, during the grace period I request a shorter repayment period, the lender may grant me a shorter period.
  - B. Any period described under DEFERMENT in this Promissory Note will not be included in determining the 10 year period mentioned above.
8. I have a right to prepay the whole loan or any portion of the loan at any time without penalty.
9. If I meet certain requirements, I have a right to defer payment on the loan as set forth under DEFERMENT in the Promissory Note. Also, I have a right to a six month post-deferment grace period after each period of authorized deferment.
10. The Alaska Student Loan Program normally will pay the interest that accrues on the loan both before the repayment period, during any authorized deferment period, and during the six month period following deferment. In that event, the lender may not collect or attempt to collect this interest from me. The interest on the loan may not exceed five percent (5%) per year.
11. My loan obligation will be cancelled if I become fifty percent (50%) or more permanently disabled or if I die.
12. If I am willing, but financially unable to make payments under my repayment schedule, I may request the lender to allow any of the following (forbearance or hardship status):
  - A. A short period during which I make no payments;
  - B. An extension of time for making payment; or
  - C. The making of smaller payments than were scheduled originally.
 However, the lender is not required to approve my request.
13. If the lender sells the loan or otherwise transfers the right to receive payment, I must be sent a clear notification which spells out my obligations to the party to which my loan was sold.
14. Default occurs when I fail to make an installment payment when due, or to meet other terms of the Promissory Note under circumstances where the Alaska Student Loan Program finds it reasonable to conclude that I no longer intend to honor the obligation to repay, provided that my failure persists for (a) 120 days if I repay in monthly installments, or (b) 180 days if I repay in installments due less frequently than monthly. If I default, I will owe the entire balance of the loan plus accrued interest. If I am able, but unwilling to repay my loans, the Alaska Student Loan Program may institute legal action to force me to repay my loans. If I am named in such a legal action, I will forfeit all partial cancellation benefits for which I am otherwise eligible.
15. The lender must keep on file a copy of the State laws and regulations that govern the Alaska Student Loan Program. I have a right to examine these materials if I wish.
16. I should investigate the availability of other forms of financial aid with the school's financial aid administrator. It may be to my benefit to determine my eligibility for grant, work-study and other sources of assistance before applying for a student loan. I understand that receipt of an Alaska Student Loan may eliminate any awards that I may receive from other programs.
17. If I meet the eligibility requirements listed under PARTIAL CANCELLATION in the Promissory Note, I may be entitled to up to 50% partial cancellation of the principal which was actually advanced to me, plus accrued interest of this loan through the Alaska Student Loan Program, subject to the restriction noted in item 14 in this statement.

**BORROWER'S RESPONSIBILITIES:**

1. I must use care in choosing a school. Each school must provide a prospective student with information about the school and its programs. I will consider this information carefully before deciding to attend the school. I understand that the State Government does not vouch for the quality of a school or its programs.
2. I must repay the loan in accordance with the repayment schedule that the lender will give me.
3. I must notify the lender promptly, in writing, if any of the following events occur before the loan is repaid:
  - A. My failure to enroll in school for the period for which the loan was intended.
  - B. My withdrawal from school.
  - C. My transfer from one school to another school.
  - D. My graduation from school.
  - E. A change in my name (e.g., maiden name to married name).
  - F. A change in my address.
  - G. A change in my Alaska residency status.
4. If I qualify for a deferment of repayment, I must (a) provide the lender with written evidence of my eligibility, and (b) notify the lender as soon as the condition for which the deferment was granted no longer exists.
5. I must use the proceeds that I receive from this loan for tuition, room and board, fees, books and supplies to attend the school named, for the period indicated on the loan application.
6. I must maintain my Alaska residency status in order to receive disbursements of my loan under the Alaska Student Loan Program.
7. I must maintain full-time student status in order to receive disbursements of my loan under the Alaska Student Loan Program.
8. I must maintain good standing, as defined for this program, in order to receive disbursements of my loan under the Alaska Student Loan Program. Good standing is defined as enrolling and completing at least a full-time student load while maintaining a grade-point average of at least a "C" for an undergraduate or "B" for a graduate student.
9. I must request an application form from the Alaska Student Loan Program Office in each year which I wish to apply for a loan under the program.
10. I must submit my complete and correct Alaska Student Loan Program application form to the Alaska Student Loan Program office by May 15 in order to receive priority processing of my application.

### Article 9. Scholarship Loans and Tuition Grants.

Section	Section
751. Loan and tuition funds created	771. Enforceability of certain contracts with minors
753. Financial aid committee	773. Repealed
755. Applications	776. Tuition grants
757. Administration of program	781. Limitation on grants
759. Undergraduate loans	786. Conditions of grants
761. Graduate loans	791. Eligibility of students
763. Conditions of loans	796. Application and certification
765. Eligibility of students	801. Fiscal and business management practices
767. Selection criteria	806. Definitions
769. Discrimination prohibited	

**Sec. 14.40.751. Loan and tuition funds created.** (a) There is created a scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under Secs. 751-806 of this chapter. All repayments of principal and interest on scholarship loans shall be paid into the scholarship revolving loan fund and shall be used to make new scholarship loans. If estimated funds available from scholarship loan repayments are inadequate to fully fund estimated scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) There is created a tuition grant fund as an account in the general fund. The funds shall be used to make tuition grants to students selected under Secs. 751-806 of this chapter.

(c) On March 1 of each fiscal year, if there is a balance of appropriated but unobligated funds in the tuition grant fund created under (b) of this section, that sum shall be automatically transferred to the scholarship revolving loan fund created under (a) of this section to make additional scholarship loans during that fiscal year.

(Sec. 1 ch 98 SLA 1971; am Sec. 1 ch 156 SLA 1972; am Secs. 1,2 ch 136 SLA 1974; am Sec. 1 ch 136 SLA 1975, retroactive to February 1, 1975)

**Sec. 14.40.753. Financial aid committee.** (a) The student financial aid committee is composed of the members of the Alaska Commission on Postsecondary Education. The commission may delegate its functions under Secs. 751-806 of this chapter to a committee of its members, with augmented membership as the commission considers appropriate. The executive officer of the commission is the executive secretary of the committee. The Alaska Commission on Postsecondary Education shall administer the program established by Secs. 751-806 of this chapter.

(b) Members of the committee serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions.

(c) The selection committee shall make an annual report reviewing the work of the committee to the governor, the legislature and the private colleges and universities where students receiving tuition grants are enrolled.

(d) The committee shall meet at least once a year. The meetings shall be held at the call of the chairman or upon petition by two members. (Sec. 1 ch 98 SLA 1971; am Sec. 2 ch 156 SLA 1972; am Sec. 5 ch 78 SLA 1974; am Sec. 3 ch 136 SLA 1974)

**Sec. 14.40.755. Applications.** (a) Applications shall be submitted to the executive secretary of the committee.

(b) A person whose loan or grant application is not recommended or presented to the committee by the executive secretary may appeal to the committee through the chairman of the committee and the committee shall consider the application. (Sec. 1 ch 98 SLA 1971; am Sec. 3 ch 156 SLA 1972; am Sec. 4 ch 136 SLA 1974)

**Sec. 14.40.757. Administration of program.** The executive secretary shall administer the programs subject to review by the committee and in accordance with the regulations prescribed by the committee. The promulgation of these regulations is subject to the Administrative Procedure Act (AS 44.62), and a summary of the regulations shall be distributed to each applicant. (Sec. 1 ch 98 SLA 1971; am Sec. 5 ch 136 SLA 1974)

**Sec. 14.40.759. Undergraduate loans.** The committee may make a loan, not to exceed \$6,000 in any one school year, to an undergraduate student eligible under AS 14.40.765. (am Sec. 1 ch 89 SLA 1981)

Sec. 14.40.761. Graduate loans. The committee may make a loan, not to exceed \$7,000 in any one school year, to a graduate student who is eligible under AS 14.40.765 and is pursuing an advanced degree. (am Sec. 2 ch 89 SLA 1981)

Sec. 14.40.763. Conditions of loans. (a) Proceeds from scholarship loans may only be used for books, tuition and required fees, and for room and board

(b) The loans may only be used to attend a career education program or a college or university approved by the commission, and, if the loans are federally insured, by the United States Commissioner of Education. (Sec. 1 ch 99 SLA 1977; am Sec. 3 ch 87 SLA 1979)

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing in a career education program, college or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection. (am Sec. 3 ch 89 SLA 1981)

(d) Scholarship loans may not be made to a student

- (1) for more than five years of undergraduate study;
- (2) for more than five years of graduate study;
- (3) for more than a total of eight years of undergraduate and graduate study. (am Sec. 4 ch 89 SLA 1981)

(e) Loans are interest bearing while a student is enrolled under (c) of this section or is receiving a deferment of payments under (k) of this section; however, a student shall be entitled to have a portion of the interest paid on his behalf and for his account in accordance with (1) of this section. (am Sec. 2 ch 99 SLA 1977; am Sec. 4 ch 87 SLA 1979)

(f) Interest on a loan given under sections 751-806 of this chapter is at the rate of five percent a year.

(g) Repayment of the principal and interest on the loan begins no later than one year after the borrower terminates his studies. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment, except as provided in (k) and (m) of this section. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than required by this subsection. (repealed and reenacted Sec. 5 ch 89 SLA 1981)

(h) Security may not be required for the loans; however, provision shall be made for payment of attorney fees and costs of court if either or both are incurred in collection of the amount owed on the loan.

(i) If a loan is in default, the commission shall notify the borrower that repayment of the remaining balance is accelerated and due by sending the borrower a notice by registered or certified mail. (am Sec. 6 ch 89 SLA 1981)

(j) A portion of a loan shall be paid on behalf of the borrower by the state if, upon completion of the course of study for which the loan was granted, the borrower is a resident of the state for at least two years. The portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 50 percent of the total loan:

- (1) two-three years residence in the state, 10 percent;
- (2) three-four years residence in the state, an additional 10 percent;
- (3) four-five years residence in the state, an additional 10 percent;
- (4) five-six years residence in the state, an additional 10 percent;
- (5) over six years residence in the state, an additional 10 percent.

(Sec. 1 ch 98 SLA 1971; am Sec. 4 ch 156 SLA 1972; am Sec. 6 ch 78 SLA 1974; am Sec. 8 ch 136 SLA 1974; am Sec. 6 ch 87 SLA 1979; repealed and reenacted Sec. 7 ch 89 SLA 1981)

The reenactment of AS 14.40.763(j) in section 7 of this Act applies to any student who has obtained a scholarship loan under AS 14.40.751-14.40.806 since July 1, 1971. (Sec. 12 ch 89 SLA 1981)

(k) Periodic installments of principal shall be deferred, but interest shall accrue and be paid unless the student is eligible for interest payment benefits under (1) of this section during any of the following:

- (1) return to student status as provided in (c) of this section;
- (2) serving on active duty as a member of the armed forces of the United States;
- (3) serving, for up to three years, as a full-time volunteer under the Peace Corps Act;
- (4) serving, for up to three years, as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

(5) for a one-time period up to 12 months in which the borrower is seeking and unable to find employment in the United States; or

(6) if the borrower becomes 50 percent or more disabled as certified by competent medical authority. (repealed and reenacted Sec. 7 ch 87 SLA 1979)

(l) The state will pay the interest on that portion of a loan that is not federally insured during

- (1) the period before the beginning of the repayment period of the loan; and
- (2) deferments under (k) of this section.

(m) In case of hardship, the committee may extend repayment of a loan for an additional period of up to five years in increments no longer than 12 months each. (am Sec. 8 ch 89 SLA 1981)

(n) repealed. (Sec. 11 ch 89 SLA 1981)

(o) The provisions of (j) of this section do not apply to a loan to a borrower named in a complaint as a defendant in an action by the state or by the commission to secure payment of the unpaid balance of a loan made under AS 14.40.759 or 14.40.761. (am Sec. 9 ch 89 SLA 1981)

(p) For purposes of this section, a person qualifies as a resident if the person is physically present in the state with the intent to remain permanently in the state or, if not physically present in the state, the person intends to return to the state and is absent due to military service. (am Sec. 9 ch 89 SLA 1981)

**Sec. 14.40.765. Eligibility of students.** (a) A person may apply for and obtain a scholarship loan if the person

- (1) is a resident of the state at the time he applies for a scholarship loan;
- (2) meets the requirements of (b) of this section; and
- (3) is

(A) enrolled as a full-time student in a career education or associate or baccalaureate or graduate degree program; or

(B) a graduate of a high school, or scheduled for graduation from a high school within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university.

(b) In addition to the requirements of (a) of this section, to obtain a scholarship loan a person must have been a resident of the state for at least two years at the time he applies for the loan. For purposes of this subsection, a person qualifies as a resident of the state if at the time he applies for the loan the person

(1) has been present in the state for at least two years unless his absence from the state during any part of the two years was due to military service; or

(2) is a person who is dependent on a parent or guardian for his care, and the parent or guardian has been present in the state for at least two years. (repealed reenacted Sec. 10 ch 89 SLA 1981)

**Sec. 14.40.767. Selection criteria.** (a) The selection committee shall grant loans based on total point accumulations under this subsection with priority going to those applicants with the highest point accumulations, except as provided in (b) of this section for loan applications completed before May 15 of each year. Points shall be awarded to applicants based upon student status and continuous Alaskan residency, according to the following schedule:

- (1) student status:
  - (A) continuing undergraduate and graduate students with existing Alaska scholarship loans . . . . . 4 points
  - (B) continuing undergraduate and graduate students without existing Alaska scholarship loans . . . . . 3 points
  - (C) freshmen . . . . . 2 points
  - (D) new graduate students without existing Alaska scholarship loans . . . . . 1 point
- (2) continuous Alaskan residency:
  - (A) students with continuous Alaskan residency of 10 years or more . . . . . 3 points
  - (B) students with continuous Alaskan residency of at least 5 years and less than 10 years . . . . . 2 points
  - (C) students with continuous Alaskan residency of more than 2 years and less than 5 years . . . . . 1 point
- (3) students attending Alaska colleges or universities . . . . . 1 point.

(b) In awarding loans the selection committee shall award loans to applicants based upon the earliest date of completed applications if

- (1) the applicant has accumulated at least 5 points under (a) of this section; and
- (2) the applicant has filed a completed application not later than May 15 of the year for which the loan is requested. (repealed and reenacted Sec. 2 ch 87 SLA 1979)

**Sec. 14.40.769. Discrimination prohibited.** The student loan program shall be carried out without regard to the race, creed, sex, color, ancestry, national origin, or membership in fraternal or political organizations of the student applying for the loan. (Sec. 1 ch 98 SLA 1971)

**Sec. 14.40.771. Enforceability of certain contracts with minors.** A written obligation entered into by a minor at least 16 years of age, evidencing a loan or other assistance received by him from any person for the purpose of furthering his education in a career education program or an institution of higher learning, is enforceable against the minor with the same effect as if he were, at the time of its execution, 19 years of age, if the person making the loan has in his records before making the loan a certification from the institution that the minor is enrolled in the institution or has been accepted for enrollment. (Sec. 1 ch 98 SLA 1971)

**Sec. 14.40.773. Repealed.** (Sec. 6 ch 156 SLA 1972)

**Sec. 14.40.776. Tuition grants.** (a) The executive secretary of the committee shall award a tuition grant to a student in an amount up to the difference between (1) the cost, in a city where there is both a four-year state university and a four-year private university or in a city where there is both a two-year state community college and a two-year private college, for the operation of the state institution on a full-time student per academic year basis, and (2) the tuition or fees paid by the student at the state institution in those locations, but in no case may the amount exceed \$2,500 plus a cost-of-living adjustment. Subject to the approval of the committee and to the availability of appropriated funds, the executive secretary may adjust the maximum grant based on a cost-of-living factor comparable to that employed in making adjustments to the state employee pay plan under AS 39.27.015. The tuition grant paid to a student may not be in an amount that would result in a student paying less in tuition or fees at a private college or university than would be required for a similar enrollment at the state institution in the same city. The grant shall be applied by the student toward his tuition at the private university or college in which he enrolls. (am Sec. 1 ch 246 SLA 1976)

(b) The computation of the cost for the operation of the state institution on a full-time student per academic year basis under (a) of this section may not include construction or capital improvement costs, debt service and expenditures for research and public service functions.

(c) The computation under (a) of this section shall be made by the executive secretary. He shall publish the accounting procedures employed in making the computation, including, but not limited to, the time period on which the computation is based and the cost figures used. This cost data shall be made available for information purposes to the officers or administrators of the state institution whose cost of operations is the basis for the computation and to the officers or administrators of the private colleges and universities in which students receiving tuition grants are enrolled. A committee consisting of a qualified member of the staff of the division of budget and management of the Department of Administration designated by the commissioner, a qualified member of the staff of the Legislative Budget and Audit Committee designated by the chairman of the committee, and one other specially qualified person in the field of accounting, business management or institutional finance appointed by the governor, shall review, and may hear an appeal from, the determination of the computation by the executive secretary. No officer, administrator or other member of the staff of a state institution whose cost of operations is under review or an officer, administrator, or other member of the staff of the private college or universities in which students receiving tuition grants are enrolled may be a member of that committee.

(Sec. 5 ch 156 SLA 1972; am Secs. 9, 10 ch 136 SLA 1974; am Sec. 2 ch 136 SLA 1975)

**Sec. 14.40.781. Limitation on grants.** (a) No grants may be made under sec. 776 of this chapter for any portion of tuition which would otherwise be paid under the terms of a federal grant program.

(b) The amount of the tuition grant under sec. 776 of this chapter that may be awarded to a student who is also the recipient of a federal grant for tuition is computed according to the formula  $G$  equals  $P$  minus  $S$  minus  $F$ , in which

- (1)  $G$  = the grant awarded;
- (2)  $P$  = the tuition and fees charged by the private college or university in which the student is enrolled;



TANANA VALLEY COMMUNITY COLLEGE  
Fairbanks, Alaska 99701

February 17, 1983

Representative Mike Davis  
P.O. Box 81435  
College, Alaska 99708

Dear Mike:

In regards to HB 174, Tanana Valley Community College supports the bill relative to students who "in total" are enrolled in 12 credits or more which makes them a full-time student within the system.

Sincerely,

Rodney Enos  
Campus President

RE/dac



**University of Alaska, Juneau**

11120 Glacier Highway

Juneau, Alaska

99801

(907) 789-2101

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April 19, 1983

Rep. Mike Davis  
Pouch V  
Juneau, AK 99811

Dear Representative Davis:

Thanks for sending me a copy of House Bill No. 174 (An Act relating to student loan eligibility). I feel that this is a constructive amendment which will allow greater flexibility for students in designating programs that will meet their educational goals.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Richard S. Lee'.

Richard S. Lee, Dean  
Juneau Douglas Community College

RSL:cs



# University of Alaska, Juneau

11120 Glacier Highway

Juneau, Alaska

99801

(907) 789-2101

To: Chancellor Paradise

FEB 15 1983

From: Dianne Schmitt, Financial Aid Officer *DS*

Chancellor

Date: February 15, 1983

University of Alaska, Juneau

RE: LEGISLATION REGARDING THE ALASKA STUDENT LOAN PROGRAM

Senate Bill # 118 reduces the time a student must be in the state before applying for a loan, but also limits loans to students who apply before graduation from high school. The one year residency requirement (reduced from two years) will put a stop to litigation in that area. However, the requirement for all loan applicants to apply while still in high school will be a detriment to the spirit of the loan program and establish a new justification for litigation.

As the UAJ Financial Aid Officer, I must oppose this bill for several reasons. 1) It is sometimes difficult for high school students to decide if they want to go to college. I know there will be many young people who will neglect to fill out the application before high school graduation and later decide to go to college. This bill is asking all seventeen year old students in Alaska to decide their life goal without experiencing life beyond the academic setting. 2) Many students do not consciously choose a career path until several years after high school and after many life experiences. This bill would not afford this type of student the same opportunity as that provided for students who begin college shortly after high school. 3) Many students wait several years after graduation from a baccalaureate program before pursuing graduate study. This bill does not mention graduate study; therefore, I am assuming that it could also be interpreted to eliminate loans for post-baccalaureate students.

House Bill # 56 asks for the loan interest rate to be raised to 7% and for the loan to be limited to the cost of tuition, room and board. This bill is acceptable.

House Bill # 174 says that a student may attend classes at two institutions to accumulate the 12 credits required for the loan program. This bill is acceptable and also beneficial to many of the students in Southeast Alaska.



# Alaska Statewide Student Association

P.O. BOX 548  
DOUGLAS, ALASKA 99824

REPRESENTING STUDENTS OF THE UNIVERSITY OF ALASKA STATEWIDE SYSTEM

ASSA requests that the following section be added to SPONSOR  
SUBSTITUTE FOR HOUSE BILL 56:

AS 14.43.120(c) is amended to read:

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing or as a part-time student in good standing in more than one institution for a total number of credits equivalent to a full-time student in a career education program, college, or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection.

At present, students enrolled at both UAF and TVCC, UAA and ACC, or Sitka CC and Sheldon Jackson may not receive scholarship loans unless they have a total of twelve credit hours at one or the other institution. This amendment would allow these perfectly legitimate, full-time students to be eligible for the loans.

Thank you.



FINANCIAL AID OFFICE

UNIVERSITY OF ALASKA, FAIRBANKS  
Fairbanks, Alaska 99701

1982-83 ALASKA STUDENT LOAN INFORMATION

As a result of recent action by the Alaska Commission on Postsecondary Education, schools are no longer required to complete Part B of the Alaska Student Loan Application.

You may submit your application (two white copies) directly to the State Loan Office, retaining the yellow student copy, the cover sheets and this letter.

BE SURE THAT YOUR APPLICATION IS COMPLETELY FILLED OUT -- over 50% of the Alaska Student Loan applications are returned to the student because of omissions. When your application is received in Juneau, you will receive a blue post card with the date received indicated. This does not mean your application is complete; only that it has been received. You will next receive a promissory note in triplicate. Sign and date the note, list the dates of disbursement (8-20-82 for Fall 1982 semester and 1-1-83 for Spring 1983 semester), keep the marigold copy, and return the white and pink copies to Juneau.

Normally, the Financial Aid Office receives Alaska Student Loan checks in time to release funds at Registration. Before releasing checks, we must determine academic eligibility for each recipient. If you are currently enrolled at the University of Alaska-Fairbanks, you must be in good standing (2.0 semester and cumulative grade point average for undergraduates and 3.0 semester and cumulative grade point average for graduate students) to be eligible for your Fall 1982 check. Entering and transfer students must be admitted IN GOOD STANDING to a program leading toward a degree or certificate. Recipients must be full-time (12 credits for undergraduate, 9 credits for graduate students) and must complete 12 and 9 respectively each semester they receive a loan to be eligible for the following term.

Courses in the following areas cannot be counted toward the full-time financial aid requirement: Tanana Valley Community College, correspondence, extension, or television.

The eligibility requirements listed above reflect current Alaska State laws and regulations. NO EXCEPTIONS CAN BE MADE BY THE UNIVERSITY OF ALASKA-FAIRBANKS FINANCIAL AID OFFICE.

Any questions regarding the status of your application should be directed to the Alaska Student Loan Office in Juneau, since the Financial Aid Office acts only as a disbursing and certifying agency.



**Anchorage Community College** *A Unit of the University of Alaska System*

April 13, 1983

Representative Mike Davis  
Pouch V  
Juneau, Alaska 99811

Dear Representative Davis:

I am writing at the request of Kerry Howard to indicate my support of HB174 in concept. I believe that students should be allowed to count credits from more than one institution toward fulfilling the requirement for eligibility for the state student loan program.

However, I believe that there should be in place a consortium agreement between the two institutions as is now in existence between ACC/UAA. This agreement should require that 75 percent of the credits required for qualification should be taken at the parent institution. The parent institution is the institution which is disbursing the aid.

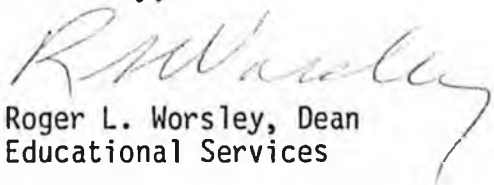
In the past, we have had problems in federal programs with students receiving aid from more than one institution. This is not the problem with the state loan, as there is only one check in this case. However, there is a lot of paperwork and staff time required in handling the state loan program. If a student were required to take 75 percent or nine credits from the parent institution, there would be an inherent commitment on the part of that student to attend that particular institution.

Another reason for this requirement is the necessity to certify academic eligibility between semesters. If a student is taking credits from more than one institution, a parent institution is required to obtain grade reports from all other institutions prior to certifying eligibility. This is simpler if consortium agreements are in effect. The time between semesters is short and the grade reporting process is lengthy. Reciprocal agreements between institutions for the release of grades is a complicated process covered by the privacy acts.

In summary, consortium agreements between cooperating institutions, with a parent institution requirement of 75 percent of the credits required for eligibility, would be a good addition to your bill in my view. Another desired addition would be for the parent institution to receive some support cost for facilitating the state loan program. Federal aid programs provide a percentage of dollars distributed to be used to administer their funds. The Alaska State Loan Program requires a lot of work on the part of our staff, but no funds are appropriated for this purpose. Our success in acquiring additional staff

through the University budget process has not been good. A five or ten percent overhead distribution to institutions handling a large volume of state loan checks would certainly be beneficial.

Sincerely,



Roger L. Worsley, Dean  
Educational Services

263-1200

RLW:cb

cc: Dr. Ed Biggerstaff, Chancellor  
Clay Walker, ACCSA



UNIVERSITY OF ALASKA, FAIRBANKS  
Fairbanks, Alaska 99701

March 9, 1983

Representative Mike Davis  
Alaska State Office Building  
Pouch V  
Juneau, AK 99811

Dear Representative Davis:

This letter is in response to your request that I provide information regarding any administrative problems that colleges and universities might encounter should House Bill 174 be enacted.

As you probably know, the loan regulations already permit schools to combine credits provided a consortium or formal transfer agreement exists between the schools involved. This permits schools to voluntarily combine credits for loan recipients. However, it is my impression that HB 174 would require that schools accept concurrent enrollment from other schools in addition to their own for the purposes of establishing academic eligibility for the Alaska Student Loan.

Our primary concern at UAF is that the collection of the information needed to certify good academic standing and satisfactory progress would be so cumbersome and time consuming that our students would experience a considerable delay in actually receiving their state loan checks. I am attaching a sample copy of the "Record of Disbursement and Receipt" form which accompanies each state loan check and which the school's Financial Aid Officer must sign before disbursing the check to the student. Please note that the school must certify that the student is/was enrolled in a degree or diploma or certificate program as a full time student and is maintaining satisfactory progress as determined by school policy. HB 174 would put schools in the position of making this certification only after a lengthy and cumbersome administrative process of 1.) collecting certification of enrollment and fee statements from each school the student is attending, 2.) collecting official transcripts at the end of each term from each school the student is attending, 3.) official evaluation of transfer credits at the end of each term by the home institution's registrar, and 4.) a combining of credits earned together with a revision of the semester and cumulative g.p.a. Even large schools with sophisticated computer capability would have to do most of this work by hand and on a student by student basis. We expect that the enactment of this bill would cause a delay in delivering ASL checks to all students of at least three to four weeks after registration. In addition, all of the certification activity would take place at the time of registration when we are most heavily involved with getting students registered for classes and assisting students with various financial aid problems.

I would also like to mention that under HB 174, our students would not be limited to a TVCC/UAF dual enrollment. We would also be required to include UA correspondence work and any other accredited school's correspondence study. There is even the possibility that an out-of-state school would offer a special extension course in Fairbanks. Chapman College did just that a few years ago when it offered MBA coursework in the Fairbanks area.

Page 2 - UAF Financial Aid

A student attending school out of state in a large metropolitan area could easily enroll in a three credit course at each of four schools. It would be very time consuming to combine those credits at one school if all of the schools had a different starting and ending date. There is also the very real possibility that there could be a combination of quarter and semester credits to evaluate. There are some schools outside that have discussed the possibility of withdrawing themselves from eligibility for the Alaska Student Loan because the regulations are so different then accepted financial aid standards for the aid their school offers. I believe there is a real risk that other schools may simply choose to not accept another state's imposition of academic regulation on their institution and opt out of participation in the Alaska Student Loan program. It is extremely difficult to serve student's needs in a timely manner when faced with a variety of conflicting financial aid standards.

Finally, I would like to confirm that UAF Financial Aid applicants for the current academic year were advised well ahead of time that they would be required to carry a minimum of 12 UAF credits per semester (undergraduates) in order to be eligible for the loan at this school. We accomplished this by publishing news releases in the student newspaper, and by attaching an instruction sheet to each Alaska Student Loan application form that was given out from this office. Because ASL regulations require a minimum of 12 credits to maintain eligibility, we suggest to students that they carry those 12 credits with UAF, then take any desired coursework from other schools in addition to that minimum course load. This gives them the flexibility of exploring other schools and subjects while maintaining their eligibility for the loan at UAF.

I hope this information is useful to you. Please call us if you have further questions. Our office phone number is 474-7256. We appreciate this opportunity to express our views and we look forward to working with you.

Sincerely,



Carol M. Thomson  
Financial Aid Advisor

/ct  
enclosure

cc: Members of the Fairbanks Legislative Delegation

STATE OF ALASKA  
ALASKA COMMISSION ON POSTSECONDARY EDUCATION  
ALASKA STUDENT LOAN PROGRAM

EXAMPLE

RECORD OF DISBURSEMENT AND RECEIPT

LOAN RECORD TO DATE FOR 33 LOAN YEAR

FOR STUDENT [REDACTED]

SSN [REDACTED]

WARRANT NO. 145525

WARRANT DATE 02/08/83

WARRANT AMOUNT: \$2,000.00

AMOUNT APPROVED: \$2,000.00

PRIOR PAYMENTS: \$0.00

TOTAL DISBURSED: \$2,000.00

SCHOOL ADDRESS

DATE MAILED 03/18/83

14

UNIVERSITY OF ALASKA-FAIRB  
FAIRBANKS AK 99701

THIS WARRANT IS FOR FULL-TIME ATTENDANCE FOR SPRING SEMESTER TERM ONLY. IF YOU CANNOT CERTIFY THAT THIS STUDENT IS/WAS ENROLLED DURING THE TERM INDICATED, THIS WARRANT MUST BE RETURNED IMMEDIATELY.

THIS WARRANT SHOULD NOT BE RELEASED TO THE ABOVE NAMED STUDENT UNTIL THE SIGNATURE OF A SCHOOL OFFICIAL APPEARS BELOW AND SHOULD BE SIGNED BY THE ABOVE NAMED STUDENT WHEN DISBURSED ALSO. FAILURE TO SIGN AND RETURN THIS FORM WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS WARRANT WILL RESULT IN NO FURTHER WARRANTS BEING ISSUED AND NO FURTHER LOANS BEING AUTHORIZED.

SCHOOL OFFICIAL'S CERTIFICATION

As the authorized school official, I certify that the above named student is/was enrolled in a degree or diploma or certificate program during the term indicated. I further certify that the student is/was enrolled in good standing as a full-time student for this period and is maintaining satisfactory progress as determined by school policy.

DURING THIS SCHOOL TERM THIS STUDENT IS PAYING (PLEASE CHECK ONE):      DURING THIS SCHOOL TERM THIS STUDENT IS (PLEASE CHECK ONE):

- Resident tuition at this school       Undergraduate       Graduate  
 Non-resident tuition at this school  
 No differential in tuition at this school

DATE      TITLE      SIGNATURE

STUDENT'S CERTIFICATION

I have this date received the above listed State of Alaska warrant and certify that it will be spent only for the legal items listed on the Promissory Note which I signed regarding this loan. I further certify that any change in my residency status, address, name, full-time student status, or finances has been reported to the Alaska Student Loan Office. I understand that if I do not maintain satisfactory academic progress as determined by the school I am attending, I will not be eligible for future loan disbursements.

DATE      STUDENT'S SIGNATURE

RETURN SIGNED ORIGINAL TO:  
ALASKA STUDENT LOAN OFFICE  
POUCH F, STATE OFFICE BUILDING  
JUNEAU, ALASKA 99811

THE STUDENT IS RESPONSIBLE FOR RETURNING THE ORIGINAL COPY OF THIS COMPLETED FORM TO THE ALASKA STUDENT LOAN OFFICE. FAILURE TO RETURN THE FORM WILL RESULT IN NO FURTHER WARRANTS BEING ISSUED.

ORIGINAL-RETURN TO ALASKA STUDENT LOAN OFFICE

Revisor's notes. — AS 14.43.125 was substituted for AS 14.40.765 to conform to the renumbering of that section by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1981 amendment substituted "\$7,000" for "\$5,000" following "not to exceed."

**Sec. 14.43.120. Conditions of loans.** (a) Proceeds from scholarship loans may only be used for books, tuition and required fees, and for room and board.

(b) The loans may only be used to attend a career education program or a college or university approved by the commission, and, if the loans are federally insured, by the United States Commissioner of Education.

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing in a career education program, college or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection.

(d) Scholarship loans may not be made to a student

(1) for more than five years of undergraduate study;

(2) for more than five years of graduate study;

(3) for more than a total of eight years of undergraduate and graduate study.

(e) Loans are interest bearing while a student is enrolled under (c) of this section or is receiving a deferment of payments under (k) of this section; however, a student is entitled to have a portion of the interest paid in accordance with (1) of this section.

(f) Interest on a loan given under AS 14.43.090 — 14.43.160 is at the rate of five per cent a year.

(g) Repayment of the principal and interest on the loan begins no later than one year after the borrower's studies are terminated. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment, except as provided in (k) and (m) of this section. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than required by this subsection.

(h) Security may not be required for the loans; however, provision shall be made for payment of attorney fees and costs of court if either or both are incurred in collection of the amount owed on the loan.

(i) If a loan is in default, the commission shall notify the borrower that repayment of the remaining balance is accelerated and due by sending the borrower a notice by registered or certified mail.

(j) A portion of a loan shall be paid on behalf of the borrower by the state if, upon completion of the course of study for which the loan was granted, the borrower is a resident of the state for at least two years. The portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 50 percent of the total loan:

- (1) two — three years residence in the state, 10 percent;
- (2) three — four years residence in the state, an additional 10 percent;
- (3) four — five years residence in the state, an additional 10 percent;
- (4) five — six years residence in the state, an additional 10 percent;
- (5) over six years residence in the state, an additional 10 percent.

(k) Periodic installments of principal shall be deferred, but interest shall accrue and be paid unless the student is eligible for interest payment benefits under (1) of this section during any of the following:

- (1) return to student status as provided in (c) of this section;
- (2) serving on active duty as a member of the armed forces of the United States;
- (3) serving, for up to three years, as a full-time volunteer under the Peace Corps Act;
- (4) serving, for up to three years, as a full-time volunteer under the Domestic Volunteer Service Act of 1973;
- (5) for a one-time period up to 12 months in which the borrower is seeking and unable to find employment in the United States; or
- (6) if the borrower becomes 50 percent or more disabled as certified by competent medical authority.

(l) The state will pay the interest on that portion of a loan that is not federally insured during

- (1) the period before the beginning of the repayment period of the loan; and
- (2) deferments under (k) of this section.

(m) In case of hardship, the committee may extend repayment of a loan for an additional period of up to five years in increments no longer than 12 months each.

(n) Repealed by § 11 ch 89 SLA 1981.

(o) The provisions of (j) of this section do not apply to a loan to a borrower named in a complaint as a defendant in an action by the state or by the commission to secure payment of the unpaid balance of a loan made under AS 14.43.110 or 14.43.115.

(p) For purposes of this section, a person qualifies as a resident if the person is physically present in the state with the intent to remain permanently in the state or, if not physically present in the state, the person intends to return to the state and is absent due to military service. (§ 1 ch 98 SLA 1971; am § 4 ch 156 SLA 1972; am § 6 ch 78 SLA 1974; am § 8 ch 136 SLA 1974; am §§ 1—4 ch 99 SLA 1977; am §§ 3 — 8 ch 87 SLA 1979; am §§ 3 — 9, 11 ch 89 SLA 1981; AS 14.40.763)

Revisor's notes. — In ch. 98, SLA 1971, AS 14.43.120(j)(2) read "four — five years . . ." This was a typographical error occurring for the first time in the enrolled version of the bill (CSHB 415 [Finance am

Sl) and has been corrected here. Effect of amendments. — The 1979 amendment deleted "approved by the commission" following "career education program" and substituted the language

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beginning "approved by the commission" for "accredited by the accreditation association for the region in which the college or university is located" in subsection (b), substituted "interest" for "non-interest" in subsection (e), added the language beginning "however, a student shall be entitled" to the end of subsection (e), rewrote subsection (g), and in subsection (j), substituted "paid on behalf of the borrower by the state" for "considered a grant," "borrower" for "grantee," and "three years" for "two years" in the first sentence, substituted "paid by the state" for "regarded as a grant" and "interest for up to a total of 40 percent" for "accrued interest" in the introductory language of the second sentence, and substituted "an additional 10 percent" for "20 percent" in paragraph (2), for "30 percent" in paragraph (3), and for "40 percent" in paragraph (4). The amendment also rewrote subsection (k) and added subsections (l), (m), and (n).

The 1981 amendment, added the second sentence of subsection (c). In subsection (d), the amendment added paragraphs (1) and (2) and in paragraph (3), substituted "a total of eight" for "six" preceding "years" and added "of undergraduate and graduate study" following "years." In subsection (i), the amendment substituted "shall" for "may" and "borrower" for "student." In subsection (m), the amendment substituted "12" for "six" preceding "months" and deleted "within the 15-year requirement of (g) of this section" following "months each." The amendment also rewrote subsections (g) and (j), added subsections (o) and (p) and repealed subsection (n) which read "Each year spent

attending a college or university in Alaska qualifies as a year of employment and residency under (j) of this section, if the borrower resides no less than three years in Alaska after completion of the course for which the loan was granted, and has a total Alaskan residency of ten years time."

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01-.5.031(c) and § 4, Chapter 58 SLA 1982.

Section 8, ch. 99, SLA 1977 provides: "The change in the repayment period of student loans set out in AS 14.40.763(g) [now 14.43.120(g)] as amended by sec. 3 of this Act and the additional basis for granting a deferment of repayment of a student loan set out in AS 14.40.763(k) [now 14.43.120(k)] as enacted by sec. 4 of this Act shall, upon request of the loan recipient, be applied retroactively to the outstanding balance of principal of and accrued interest on loans made under AS 14.40.751 — 14.40.806 [now 14.43.090 — 14.43.160] as they read before the effective date of this Act."

Section 12 of ch. 89, SLA 1981, provides: "The reenactment of AS 14.40.763(j) [now 14.43.120(j)] in sec. 7 of this Act applies to any student who has obtained a scholarship loan under AS 14.40.751 — 14.40.806 [now 14.43.090 — 14.43.160] since July 1, 1971."

**Legislative history reports.** — For a report of legislative intent concerning the loan forgiveness provisions of ch. 89, SLA 1981 (FCCSSB 120), see 1981 Senate Journal p. 1560, 1580; 1981 House Journal p. 2289.

**Sec. 14.43.125. Eligibility of students.** (a) A person may apply for and obtain a scholarship loan if the person

(1) is a resident of the state at the time of application for a scholarship loan;

(2) meets the requirements of (b) of this section; and

(3) is

(A) enrolled as a full-time student in a career education or associate or baccalaureate or graduate degree program; or

(B) a graduate of a high school, or scheduled for graduation from a high school within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university.

(b) In addition to the requirements of (a) of this section, to obtain a scholarship loan a person must have been a resident of the state for at least two years at the time of application for the loan. For purposes of

STATE OF ALASKA  
FISCAL NOTE

Revision Date 5-5, 1983

I. REQUEST

Bill/Resolution No.: HB174  
Title: Act: Student Loan Eligibility  
Sponsor: Davis, et al  
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Education  
Program Category Affected: Postsecondary Comm.  
BRU, Program of Subprogram(s) Affected:  
Student Loan Admin, Student Loan Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL	N.A.	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kerry D. *[Signature]* Phone: 465-2854  
Division: Alaska Commission on Postsecondary Education Date: 5-5-83  
Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Department: \_\_\_\_\_

Distribution:

Original to Legislative Finance  
Copy to Office of Management and Budget (for Legislature introduced bills)  
Copy to Department (for Governor introduced bills)  
Copy to Sponsor  
Copy to Requestor (if different from Sponsor)

3/8/83

May 5, 1983

Analysis (HB174):

Allowing multiple enrollments should enable additional people to apply, but we have no way of determining what that number would be. We also have indication that some schools will require such cross-documentation that those students will face weeks and months of delays in receiving funds. Therefore, we have left the fiscal impact at zero.



University of Alaska, Juneau

11120 Glacier Highway

Juneau, Alaska

99801

(907) 789-2101

To: Chancellor Paradise  
From: Dianne Schmitt, Financial Aid Officer  
Date: February 15, 1983  
RE: LEGISLATION REGARDING THE ALASKA STUDENT LOAN PROGRAM

FEB 15 1983

Chancellor

UNIVERSITY OF ALASKA, JUNEAU

Senate Bill # 118 reduces the time a student must be in the state before applying for a loan, but also limits loans to students who apply before graduation from high school. The one year residency requirement (reduced from two years) will put a stop to litigation in that area. However, the requirement for all loan applicants to apply while still in high school will be a detriment to the spirit of the loan program and establish a new justification for litigation.

As the UAJ Financial Aid Officer, I must oppose this bill for several reasons. 1) It is sometimes difficult for high school students to decide if they want to go to college. I know there will be many young people who will neglect to fill out the application before high school graduation and later decide to go to college. This bill is asking all seventeen year old students in Alaska to decide their life goal without experiencing life beyond the academic setting. 2) Many students do not consciously choose a career path until several years after high school and after many life experiences. This bill would not afford this type of student the same opportunity as that provided for students who begin college shortly after high school. 3) Many students wait several years after graduation from a baccalaureate program before pursuing graduate study. This bill does not mention graduate study; therefore, I am assuming that it could also be interpreted to eliminate loans for post-baccalaureate students.

House Bill # 56 asks for the loan interest rate to be raised to 7% and for the loan to be limited to the cost of tuition, room and board. This bill is acceptable.

House Bill # 174 says that a student may attend classes at two institutions to accumulate the 12 credits required for the loan program. This bill is acceptable and also beneficial to many of the students in Southeast Alaska.

H

B

181

2/11 MET w/ STAFF - BACK-UP PROMISED TO MONDAY  
2/17 JOANN CLK - FISCAL NOTE  
2/22 WAIT TO SEE IF THIS IS REFERRED TO LABOR & COMMERCE  
3/5 REFERRED TO LABOR & COMMERCE

DANE PALMER

2/18

Attached is the back-up  
you requested for HB 181.  
It may be transferred  
to Labor & Commerce,  
but you may need it in  
the event that doesn't  
happen. edi

An Act Relating to The Board of Psychologist and Psychological Associate Examiners

by the Senate HESS Committee

Sec. 08.86.070 is repealed and reenacted to read:

Duties of the Board. (a) The Board shall

- (1) establish examination requirements for eligible applicants for licensure to practice psychology;
- (2) examine, or cause to be examined, eligible applicants for licensure or registration;
- (3) approve the issuance of licenses to qualified applicants;
- (4) establish standards for the practice of Psychology by regulation;
- (5) conduct disciplinary proceedings in accordance with AS 08.86.010 - 08.86.230;
- (6) adopt regulations requiring proof of continued competency before a license is renewed;
- (7) prepare and submit an annual report to the department containing information concerning board activities, the number of examinations held, the number of applicants for examination, the number of persons who pass and the number who fail each examination, financial data, including receipts and expenditures, and other information the department may require;
- (8) as requested by the department, monitor the standards and availability of psychological services provided in the state and report its findings to the department;
- (9) collect, or cause to be collected, data concerning the practice of psychology by Psychologists and Psychological Associates in the state and submit the data to the department for maintenance;
- (10) establish, by regulation, educational and training requirements for Psychological Associates licensed under AS 08.86.010 - 08.86.230;
- (11) the board may adopt regulations or do any act necessary to carry out its duties under AS 08.86.010 - 08.86.230

Sec 08.86.150 (1) is amended to read:

he holds a doctoral degree with primary emphasis on psychology from an accredited school with an approved program;

Sec 08.86.180 (a) Delete:

"Psychotherapy", "Psychotherapeutic", "Psychotherapist"

Sec 08.86.180 (b) (3) Delete:

"Psychotherapist"

Continue the existence of the Board for four years.

Board of Psychologists &  
Psychological Associate Examiners  
Goals & Objectives

Objectives:

It is the board's purpose to ensure that quality psychological care is available to the public and to upgrade the standards of mental health care available in the state.

Goals:

- 1) Develop CE requirements for relicensure to become effective in the next renewal period. (1981, June 30)
- 2) Implement Psychological Associate Regulations to facilitate entry of qualified Master's level psychologists into the professional field.
- 3) Further refine the state portion of the exam with future goal to develop work sample type examination.
- 4) Continuous refining of the examination procedure & materials.
- 5) Increase the availability of Psychological services to the public by supporting legislation to include such services under 2nd party reimbursement by Medicaid & Medicare.
- 6) Act to increase public awareness of Board activities via news letters or newspaper articles, also to educate the public of the purpose & and function of of the Board & of the types of services available in the practice of psychology in Alaska.
- 7) Clarify the Board's role in developing our Aggressive Investigative Policy.
- 8) The Board would like to meet four times per year. Once in Juneau, twice in Anchorage, and once in Fairbanks, as well as offer two examinations. The Board would also like for one person to attend the National meetings.

## FY '80 Performance Report

### Board of Psychologist & Psychological Associate Examiners

This report is submitted to the Department of Commerce and Economic Development, Division of Occupational Licensing, in an attempt to assist them in evaluating the activities of the board.

#### 1. OVERVIEW

A great deal of the board's effort during FY '80 was directed toward the matter of the Sunset legislation which had placed continuation of the board in question.

Two board members travelled to Juneau twice to testify before legislative hearings and met with legislators and the Health Coalition representative. Large amounts of support in both time and dollars were contributed to this effort by both the American Psychological Association and the Alaska Psychological Association. Members of the ALPA as well as members of the Alaska Community Mental Health Directors organization met in support of board continuation and provided contact and testimony to legislators. The State and national support of the Health Coalition representative provided an important means of educating board members and professionals within the State on the necessity of their involvement in the legislative process. This was also a crucial link in providing legislators with knowledge regarding the issues involved in the delivery of high quality psychological services to the public.

A large number of the board's legislative objectives were achieved through passage of SB 583 which substantially revised and expanded the Psychology Practice Act. Passage of SB 583 was a major accomplishment in that it clarified many issues and questions arising from the original legislation governing the board and the Psychological profession in the State.

At each meeting of the board, a division investigator presented any complaints which might come under the purview of the board. Progress has been achieved in increased participation of the board in investigative matters.

Mr. Jim Parsons attended the American Association of State Psychology Boards (AASPB) national meeting in August and served as a liaison between the national organization and the State board.

understanding the practice of psychology in its various facets and has been unable to provide adequate assistance in some areas. The board received an unfavorable review by the auditors, and was discredited by the legislature. The board has had confrontations with the Department of Law, the Ombudsmans Office, and several applicants. Through it all the board has taken some positive steps to correct the problems without compromising their standards and the best interests of the public.

It should be recognized that the professional practice of psychology is still developing at the national level. Without the historical background other professions are privileged to have, it can be expected that certain problems will arise in the process. The board is doing its best with the resource at hand.

## II. BOARD ACTIVITIES

The board held a total of three meetings in FY 1979. One, September 11-12, 1978 in Anchorage, another October 20, 1978, also in Anchorage, and the third March 30, 1979 in Juneau. The board had scheduled a fourth meeting, but due to budgetary constraints, it was rescheduled for July 5-6, 1979, in FY 80. The board also held one conference call meeting April 19, 1979.

In addition to these meetings, several members were able to participate in other meetings at the State and National Level. Pam Baglien, Ph.D., and Robert Bowers met twice with the Governor's Advisory Council on Mental Health. Jim Parsons and Dorothy Whitmore, Ed.D. reported on the boards activities to the Alaska Psychological Association. Finally, Mr. Parsons attended the annual American Association of State Psychology Boards in September, 1978.

## III. EXAMINATIONS

The board administered two examinations during the period, one October 20, 1978 and the other April 20, 1979. There were four candidates for the October exam. All passed and were subsequently licensed.

There were 10 candidates for the April Examination. The exam consists of a National Multiple choice part and an essay part. One must pass both parts to be licensed. Of the 10 candidates seven passed the national exam. Of those seven, four passed the essay exam and were licensed. Two of the three who failed the National exam passed the essay portion; three who passed the National Portion failed the essay portion. Only one person failed both the essay and the National portion. A person must retake only those portions of the exam they did not pass.

## FY 79 Performance Report

### Board of Psychologist & Psychological Associate Examiners

This report is submitted to the Department of Commerce and Economic Development, Division of Occupational Licensing in an attempt to assist them in evaluating the activities of the Board.

#### I. OVERVIEW

In an overview, the board's primary objective for this past year was to develop and implement equitable regulations to carry out the provisions of the Alaska Statutes governing the practice of psychology. The board's failure to do this at an earlier date had led to conflicting policy and charges of arbitrary and capricious judgement on the part of the board. The board accomplished this for psychologist when their regulations became effective December 24, 1978. Regulations for Psychological Associates were brought up in the spring and should be ready for public hearing in the fall.

A secondary objective of the board has been to develop a more comprehensive State essay examination for licensure purposes. Alaska Statutes do not permit oral exams or interviews in the course of evaluating applicants, making it necessary for such an exam. The board opted to use the exam administered by the Florida Board for its Spring exam. The exam is comprehensive in nature with an established record and set answer key. The board did have difficulties with grading, however, taking over four months to grade and report scores to candidates.

A final concern during this year has been that of Sunset Legislation. Dan Allen of the Division of Legislative Audit was present to discuss with the board the nature of Sunset at its September 11 and 12, meeting. The board did not seriously consider the implications until its March 30, 1979 meeting. Several members had been present to testify before the House Commerce Committee via teleconference in February but the session was cancelled and never rescheduled. The board has taken several steps to remedy the problems noted in the audit report, and has defined some goals and objectives for the coming year. The board is working on Psychological Associate Regulations, has asked the division to prepare regulations requiring continuing education for relicensure, and has revised their application forms to eliminate impertinent data. The board is also seeking to define minimum competency standards for admittance to practice psychology in case the board is sunsetted and the division is called upon to make these decisions.

In summary, it has been an active year. The board has been hampered in its activities by the lack of definitive regulations, which should be alleviated with their recent passage. The division has had difficulty

#### IV. STATISTICAL DATA

There were 12 psychologist licenses issued during this period, five by exam and seven by endorsement. In addition, the board issued five temporary permits. Two of those will lapse because the candidates did not pass the April examination.

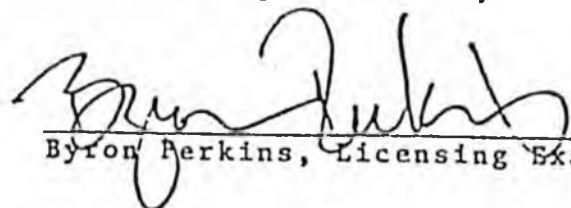
#### V.

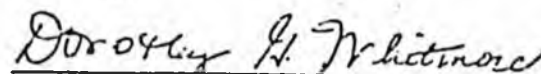
#### Expenditures for Fiscal Years 1978 and 1979\* Board of Psychologist & Psychological Associate Examiners

<u>Travel</u>	<u>FY '78</u>	<u>FY '79</u>
In-State transportation	\$1,195.00	\$2,851.00
In-State per diem	2,285.00	2,127.00
Outside transportation	9.00	--
Outside per diem	200.00	--
<u>TOTAL TRAVEL</u>	<u>\$4,419.00</u>	<u>\$4,978.00</u>
 <u>Contractual Services</u>		
Long distance telephone	\$ 163.00	\$ 637.00
Postage and mailing	13.00	83.00
Printing and binding	190.00	390.00
Advertising	484.00	277.00
Professional Services	532.00	746.00
Membership dues/fees	--	320.00
<u>TOTAL CONTRACTUAL SERVICES</u>	<u>\$1,382.00</u>	<u>\$2,453.00</u>
 <u>Supplies and Material</u>		
Office/library supplies	\$ 20.00	\$ --
 <u>GRAND TOTAL</u>	 <u>\$5,821.00</u>	 <u>\$7,431.00</u>

\*Total revenues for corresponding periods: \$2,680.00 and \$4,435.00  
Average yearly revenues were \$3,557.00.

Respectfully Submitted,

  
Byron Perkins, Licensing Examiner

  
Dorothy Whitmore, Ed.D., Chairman  
Board of Psychologist and  
Psychological Associate examiners

V EXPENDITURES FOR FISCAL YEARS 1979 AND 1980  
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL ASSOCIATE EXAMINERS

TRAVEL

In-State transportation (Examiner)	\$1,195.00	\$2,851.00	\$ 960.51
In-State per diem (Examiner)	2,285.00	2,127.00	509.85
In-State transportation (Board)	9.00	--	1,430.00
In-State per diem (Board)	200.00	--	1,020.54
TOTAL TRAVEL	\$4,419.00	\$4,978.00	\$3,920.90

CONTRACTUAL SERVICES

Long Distance Telephone	\$ 163.00	\$ 637.00	\$ 724.97
Postage and Mailing	13.00	83.00	22.97
Photo Processing	--	--	137.47
Printing and Binding	190.00	390.00	98.00
Advertising	484.00	277.00	269.53
Professional Services	532.00	746.00	692.50
Membership Dues/Fees	--	320.00	169.00
TOTAL CONTRACTUAL SERVICES	\$1,382.00	\$2,453.00	\$2,114.00

SUPPLIES AND MATERIALS

Office/Library Supplies	\$ 20.00	\$ --	\$ 91.00
GRAND TOTAL	\$5,821.00	\$7,431.00	\$6,125.90
Receipt	--	--	865.00

Board or  
Commission

Appointee

Term

---

BOARD OF PSYCHOLOGISTS AND PSYCHOLOGICAL ASSOCIATE EXAMINERS  
AS 08.86 - 5 members; 3 year terms; serves at the pleasure of the  
Governor.

Dorothy Whitmore, Ed. D.  
207 Northern Lights  
Suite 202  
Anchorage, Alaska 99503

July 1, 1980

Dick L. Madson  
Suite D, Nerland Building  
543 Third Avenue  
Fairbanks, Alaska 99701

July 1, 1980

Pam Delys-Baglien, Ph. D.  
Kodiak/Aleutian Mental  
Health Center  
Kodiak, Alaska 99615

July 1, 1981

Charles C. Bovee, Ed. D.  
P.O. Box 479  
Sitka, Alaska 99835

July 1, 1980

Paul E. Turner, Ph. D.  
Box 247  
Kenai, Alaska 99611

July 1, 1982

Dr. Mueller Continues His Media Effectiveness on Behalf of Psychology: Dr. Kenneth Mueller of the East Anchorage Psychiatric Group has continued his outstanding contribution to the advancement of Psychology as a science and profession in Alaska through his frequently occurring columns in the Living and Leisure section of the Anchorage Daily News. In early March Dr. Mueller, (a recent candidate for ALPA President-Elect) published a column that effectively synopsized some of the key concerns in support of continued licensure of Alaskan psychologists. The text of his article is reproduced below. The Executive Committee of ALPA expresses its sincere thanks to Dr. Mueller for his continued active contribution to our profession here in "The Great Land".

## When shopping for a therapist, look for the license

Finding a qualified therapist in Anchorage is no easy matter. There is a confusing array of services offered by practitioners who have a wide range of training and approaches.

As a consumer of health services, you can't be expected to evaluate the credentials of health service practitioners. However, the state can legally act in the public interest by licensing professional health practice.

If your therapist is a psychologist or a clinical social worker, here are 10 reasons why he or she should be licensed:

- This assures that when you engage a therapist, that person has had high levels of education, training and supervised experience. Licensed providers have been screened and evaluated carefully in terms of specific standards before they are allowed independently to provide services to you. The license also assures you that those standards are uniform from state to state, so if you are in therapy when you move, it is very likely the therapy can continue without major disruption.

- It provides a requirement that your therapist must continue his/her education and stay up to date on recent developments.

- It ensures privileged communications between you and your therapist (confidentiality).

- It discourages the use of facts and untested or experi-

mental forms of therapy.

- Insurance reimbursement is possible. If your therapist is licensed, your insurance company has a standard for recognition and payment of this important health benefit to its subscribers.

- It ensures an enforceable code of professional conduct. The license can be denied, suspended or revoked to counter a threat to the public welfare.

- It assures you that your therapist is a member of a profession that will police itself. For example, the ethical standards of psychologists are stricter than any other set of standards regarding independent practice.

- It demonstrates respectability and accountability. Your therapist voluntarily applies for licensure. By so doing, he/she is making an effort to upgrade the quality of professional services. Your therapist should also be active with a state association. Submitting to peer review is an act of good faith.

- It provides an opportunity for you to press for redress of grievances without costly litigation.

- It helps consumers identify reputable therapists. Licensure makes qualified therapists more accessible by making it easier to find them. According to Will Bukland of the American Psychological Association, this results in increased competition in economic terms among



dr. ken  
mueller

professionals licensed in the same category, resulting in stability of fees and lower costs.

When licensing boards are under public review, grievances often emerge about their performance. Of course, the value of licensure to you, as a potential consumer of such services, clearly outweighs the problems that occasionally re-

sult from board performance. The bath water may need changing, but the baby is worth saving.

Clinical social workers are presently working toward a licensure bill so they can more effectively police themselves. This should directly benefit those who turn to them for help.

Licensure isn't a guarantee that you and your therapist will work effectively together, but it does increase the probability of a positive outcome by assuring that your therapist has met rigorous standards.

■ Dr. Mueller is an Anchorage psychologist.

Sunset Update: Bills to continue the licensing Board were submitted in late February. The Health, Education and Social Services Committees of both houses are reportedly in favor of a four year continuation. Hearings are to be held in Juneau on the 8th of March at 3PM. Members are urged to express their support of House Bill 856 and Senate Bill 823 as soon as possible; especially if any of the following committee members are your representatives/senators: Senators Parr, Stimson, Fischer, Colletta and Kelly; Representatives Bierne, Martin, Cato, Smith and Malone.

Treasurer's Perspective: With the receipt of the Psychology Defense Fund Grant of \$5000 ALPA will be financially solvent for 1982 and able to meet the major aspects of its 1982 program, lobbying and Executive Officer costs states Treasurer Hal Post. However, very few of the membership can through with donations in excess of the basic \$65 dues assessment for 1982. This result occurred despite the resolution of the general membership at the 1981 meeting that "Members are encouraged to make additional voluntary dues contributions up to an amount equal to one day's pay." Thus far only four members have made contributions in excess of the mandatory dues. Special appreciation is expressed to Dr. Jane Krauss, Dr. Cheryl Frair, & Dr. Boy Collier for their generous contributions as well as to Dr. Joel Wieman, each of these members paid dues in a manner consistent with the spirit of the resolution made at the 1981B meeting. Other members are encouraged to consider additional payments insofar as ALPA is not likely to receive further PDF grants if licensure is continued. We'll need to carry the full burden of continuing development of our state association by ourselves.

President-Elect Frair Accepts Position: ( Dr. Cheryl Frair our newly elected President-Elect responded to the Executive Committee's request for an acceptance message with the following.)

Thank-you for your support in my becoming President-Elect of ALPA. With the major issues facing psychologists in Alaska at this time we need to remember ALPA, as our professional association, can be far stronger than any one of us alone. Over the years of my association with ALPA I have been dismayed at the factionalism and the attitude of "them" against "us". As professionals we need each others support in being better able to function as a psychologist, be it in a university or college classroom, a mental health clinic in Ketchikan, a school in Anvik, a private office in Fairbanks or at API. The development of the regional groups with representatives on the Executive Committee and the liaison with the Alaska School Psychologists Association are a start toward developing a stronger statewide association. Please join together in supporting your profession and colleagues through ALPA.

Cheryl Frair, PhD

ALPA Executive Officer Invited to Address 1982 APA Convention: ALPA EO Dr. Dennis Scholl recently received and accepted an invitation from Division 31 of APA, Division of State Psychological Association Affairs, to participate in a State Psychological Association Affairs panel at the 1982 APA convention in Washington D.C.. The panel, chaired by Dr. James Lindeman the Division 31 president-elect and faculty of the U. of Oregon Health Sciences Center, will be entitled "Perils and Plusses of the Small State Psychological Association". EO Scholl is very interested in receiving letters, records or comments from Alaskan psychologists that will broaden the data base and validate his historical perspective on ALPA. If you have information on the history of ALPA or can otherwise contribute to the breadth and accuracy of Dr. Scholl's presentation please send in your information as soon as possible to the ALPA address. It is worthwhile to note that the Division 31 officers as well as APA see ALPA's support of the EO position as a model for all small population state associations.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 856 "An Act continuing the existence of  
 Title the Board of Psychology and Psychological Associate Examiners: ...  
 Requested by House Labor & Commerce Committee Date 3-8-82

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development  
 Program Category Affected Public Protection  
 ERU, Program, Or Subprogram(s) Affected Regulation & licensing of professions  
 (Note: If more than one budget component is affected, separate line-item  
 amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Funding of the Board of Psychology and Psychological Associate Examiners is  
 already included in the department's detail budget for FY'83.

IV. DATE March 8, 1982

PREPARED BY Margorie Odland  
 AGENCY Division of Occupational Licensing

Original: Legislative Finance  
 cc: Budget and Management

PHONE 465-2535

Prime Sponsor (First Legislator Named)

## FY '82 GOALS AND OBJECTIVES

### Board of Psychologist & Psychological Associate Examiners

#### Goals:

It is the purpose and function of the board to ensure that quality psychological care is available to the public by assuring only qualified persons are admitted to practice psychology independently in the State; by actively enforcing the psychology practice act; and by promoting high standards within the profession throughout the State.

#### Objectives:

- 1) Promulgate psychological associate regulations to facilitate entry of qualified master's level psychologists into the professional field.
- 2) Promulgate regulations governing relicensure based on continued competency.
- 3) Refine the State portion of the licensing and explore the possibility of developing an examination committee.
- 4) Act to increase public awareness of board activities, and to educate the public of the purposes and function of the board, and of types of services available from psychologists in Alaska.
- 5) Meet four times this year and conduct two examinations.
- 6) Send a representative from the board to the national or regional AASPB meeting.

Dr. Turner and Dr. Baglien attended the meetings of the Governor's Advisory Council on Mental Health in February and May.

Dr. Paul Turner and Dr. Charles Bovee were new appointees during this year.

## II BOARD ACTIVITIES

The board held a total of three meetings in FY 1980. One, July 5-6, 1979 in Anchorage, another September 18-19, 1979, in Anchorage, and the third on March 24-25, 1980, also in Anchorage. The board held two conference calls, August 30, 1979, and October 11, 1979.

## III EXAMINATIONS

The board administered two examinations during the period. One, October 19, 1979 and the other, April 11, 1980, both held in Anchorage. There were five candidates for the October exam.

There were five candidates for the April examination. The exam consists of a national multiple choice part and an essay part. One must pass both to be licensed. A person may retake only those portions of the exam they did not pass.

## IV STATISTICAL DATA

### Licensed Issued:

	<u>FY '78</u>	<u>FY '79</u>	<u>FY '80</u>
Examination	9	5	12
Endorsement	5	8	3
Psychological Associate (Exam)	0	0	3
Temporary Permits	2	4	1

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 181 Date on Bill: 2/09/83  
 Title: Continuing the existence of the Board of Psychologist and Psych. Association Exam.  
 Sponsor: \_\_\_\_\_  
 Requestor: Commissioner's Office

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			-0-	-0-	-0-	-0-		
Operating			-0-	-0-	-0-	-0-		
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No cost is foreseen to the Department of Health and Social Services as a result of this legislation.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Thomas R. Branton, Deputy Director *TRB* Phone: 465-3370  
 Division: Mental Health and DD Date: 2/17/83

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Department: \_\_\_\_\_

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/8/83

POSITION PAPER

HOUSE BILL NO. 181

"An Act relating to regulation of the practice of psychology and continuing the existence of the Board of Psychologist and Psychological Associate Examiners; and providing for an effective date."

Discussion:

The Division of Mental Health and Developmental Disabilities supports the continuation of the Board of Psychologist and Psychological Associate Examiners. We believe a board composed of licensed psychologists is important to insure that persons applying for licenses have the proper qualifications and experience necessary to provide a high quality of service. Also, the board plays an important role in developing standards of service for licensed psychologists and psychological associates.

The utilization of boards such as this is common practice in the area of licensing and overseeing service delivery, especially in the area of health care. For example, the nursing profession, medical doctors, and other fields of health providers have similar boards composed of their peers.

The continuation of this board will help to insure that Alaska's growing public and private mental health system will provide a high quality of service by competent and qualified mental health professionals. The development and enforcement of standards is considered extremely important in an area such as this and should continue in order to insure the safety of the consumers of mental health care.

Recommendation:

The Department of Health and Social Services supports the passage of this bill.

Recommended by: James T. Branton for  
T. R. Branton  
Deputy Director  
Division of Mental  
Health and Developmental  
Disabilities

Date: 2/17/83

Approved by: Robert London Smith  
Robert London Smith, Ph.D.  
Commissioner  
Department of Health and  
Social Services

Date: 2/22/83

H

B

182

STATE OF ALASKA  
FISCAL NOTE

Revision Date Original, 1983

I. REQUEST CS for House  
 Bill/Resolution No.: Bill 182 (HESS)  
 Title: "...residential drug abuse..."  
 Sponsor: Representative Barnes  
 Requestor: Health, Education, and Social Services

II. FISCAL DETAIL  
 Agency Affected: Labor  
 Program Category Affected: Worker Protection  
 BRU, Program of Subprogram(s) Affected: Labor Standards and Safety

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES		65.0	68.9	73.0	77.4	82.0
200 TRAVEL		12.4	13.1	13.9	14.7	15.6
300 CONTRACTUAL		23.2	24.6	26.1	27.7	29.4
400 COMMODITIES		2.5	2.7	2.9	3.1	3.3
500 EQUIPMENT		4.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>		107.1	109.3	115.9	122.9	130.3
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND		107.1	109.3	115.9	122.9	130.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not available.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: <sup>15</sup> Robert J. Bacolas, Sr. *Robert J. Bacolas* Phone: 465-4870  
 Division: Labor Standards and Safety Date: April 26, 1983

Approved by Commissioner: <sup>15</sup> Jim Robison *Jim Robison* Date: April 26, 1983  
 Department: Labor

LEG:A:12

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

Detail Bill Analysis House Bill 182

Under this bill a large segment of the work force currently entitled to full coverage for minimum wage would no longer be covered, and as a result the Department of Labors' work load to ensure workers are not abused and unfair trade practices do not occur would be increased.

The Department will require one Wage and Hour Investigator located in Anchorage to handle the additional workload. In addition, a Clerk Typist II will be necessary to lend the investigator support and free the position to make field calls.

Assumptions:

Effective date of July 1, 1983

6% per annum inflation rate

Equipment cost in FY 1984 is a one-time item

Potential for 22 separate programs that will require monitoring (13 currently operating with an average monthly capacity of 350 clients).

LEG:A:12

1.	POSITION TITLE Wage and Hour Investigator I				RANGE/STEP 16A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER HB 182	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				ADDITION .		XX	JUSTIFICATION		
4.	TYPE OF EXPENDITURE			AMOUNT						
	1			2		3				
PERSONAL SERVICES*										
5.	Salary			30,886						
6.	Benefits			4,902						
7.	Supplemental Benefits			1,893						
8.	Fixed Benefits			2,880						
9.	TOTAL PERSONAL SERVICES			01		40,561				
10.	Travel			02		12,400				
11.	Contractual			03		12,460				
12.	Commodities			04		1,000				
13.	Equipment			05		1,500				
14.	Other									
15.	TOTAL COST					67,921				
RECEIPT CODE                      FUNDING SOURCE										
16.				Federal Receipts 1002						
17.				G.F. Match 1003						
18.	100			General Funds 1004		67,921				
19.				I-A Receipts 1005						
20.				Program Receipts 1028						
21.				Other						
FOR B&M USE ONLY										
4A KEY NUMBER _____										

This position will determine compliance with work therapy wage requirements; perform onsite inspection of facilities; interview patients and staff; re-review case records for determinations and personnel actions for wage rates.

The incumbent will be required to travel extensively throughout the State, therefore, \$12,400 has been requested for in-state travel.

Contractual services includes \$4,068 for indirect support services, \$3,400 in rent, and \$5,000 for basic operating expenses.

The equipment line items includes \$1,500 to purchase basic office equipment for this position.

**13** REQUEST FOR  
NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage and Hour

**FY 84**

Page i of 2

Revised Date \_\_\_\_\_

1.	POSITION TITLE Clerk Typist II			RANGE/STEP 7A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER HB 182	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL	ADDITION	XX	JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES*								
5.	Salary		17,657						
6.	Benefits		2,802						
7.	Supplemental Benefits		1,082						
8.	Fixed Benefits		2,880						
9.	TOTAL PERSONAL SERVICES	01	24,421						
10.	Travel	02							
11.	Contractual	03	10,725						
12.	Commodities	04	1,500						
13.	Equipment	05	2,500						
14.	Other								
15.	TOTAL COST		39,146						
<p>This position will lend clerical support to the Wage and Hour Investigator. Type correspondence for signature of composer; including preparation of technical or legal documents, complex material (i.e. regulations, form layouts and masters), transcribe from dictation, tape recording or draft. Compile Wage and Hour activity data, type statistical and/or investigative documentary reports.</p> <p>Contractual services include \$2,325 for indirect support services, \$3,400 in rent, and \$5,000 for other normal operating costs.</p> <p>The equipment line items include \$2,500 to purchase basic office equipment for this position.</p>									
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Match	1003						
18.	100	General Funds	1004	39,146					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							
<p>FOR B&amp;M USE ONLY</p> <p>4A KEY NUMBER _____</p>									

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage and Hour

**13** REQUEST FOR  
NEW POSITION

**FY 84**

Page 2 of 2

Revised Date \_\_\_\_\_

# MEMORANDUM

# State of Alaska

TO: Robert L. Cole  
Coordinator

DATE: April 12, 1982

Office of Alcoholism/Drug Abuse FILE NO: J66-484-82

TELEPHONE NO: 465-3603

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: Payment of Wages  
in Therapeutic  
Work Program

By:   
Linda Scoccia  
Assistant Attorney General

You have asked several questions regarding payment of wages to clients of Nugen's Ranch, a long-term alcohol treatment facility, for work that they do while residing at the Ranch. You state that a component of the program at Nugen's Ranch is work therapy, and that the program will develop a farm, with the clients engaging in such activities as harvesting crops, tending a greenhouse, and doing general housekeeping at the Ranch, as well as assisting nearby farmers with their crops. You also state that any proceeds in food or money will go back into facility operations.

You pose a series of questions regarding coverage of the client-workers for the above-mentioned activities under state and federal law; essentially, three issues are raised by your questions: (1) are the clients employees?; (2) if yes, are they working in covered employment?; and (3) if yes, are they exempt by virtue of their disability?

The state and federal laws which cover questions of minimum wage and overtime are, respectively, the Alaska Wage and Hour Act, AS 23.10.050-.150, and the Federal Labor Standards Act (FLSA), 29 USC §§201-219, and the regulations adopted thereunder. AS 23.10.065 /1 provides in pertinent part:

MINIMUM WAGES. An employer shall pay to each of his employees wages at a rate of not less than 50 cents an hour greater than the prevailing Federal Minimum Wage Law or \$2.60 an hour, whichever is greater, for hours worked in a pay period, whether the work is measured by time, piece, commission or otherwise.

---

/1 The federal counterpart is 29 USC §206. Since both federal and state law seem to apply, and state law is based on the federal law, see McGinnis v. Stevens, 543 P.2d 1221 (Alaska 1975), and, for purposes of this inquiry, they are virtually interchangeable, I shall not focus exclusively on either.

Both state and federal law have provisions exempting certain categories of workers from payment of the minimum wage /2 and providing, instead, for payment of less than the minimum wage. AS 23.10.070 provides in pertinent part:

Sec. 23.10.070. EXEMPTIONS FROM MINIMUM WAGE. To the extent necessary to prevent curtailment of opportunities of employment, the commissioner may by regulations or orders provide for the employment at wages lower than the minimum wage prescribed in AS 23.10.050--23.10.150 or

(1) an individual whose earning capacity is impaired by physical or mental deficiency, age, or injury, at the wages and subject to the restrictions and for the period of time which is fixed by the commissioner . . . /3

Under state regulation, however, persons participating in alcohol rehabilitation are specifically excluded /4 from the application of this statute. /5

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/2 AS 23.10.070 and 29 USC §214, respectively.

/3 The federal exemption is similar, applying to those "whose earning capacity or productive capacity is impaired by age or physical or mental deficiency or injury", 29 USC §214(c)(1).

/4 Federal regulations, 29 CFR 529.1-529.17, discussed below, exclude such persons if their earning or productive capacity is so impaired that they are not able to earn the statutory minimum wage.

/5 8 AAC 15.120 provides in part:

MINIMUM WAGE EXEMPTION FOR HANDI-  
CAPPED PERSONS.

. . . .

(f) Persons undergoing rehabilitation treatment or therapy relating to narcotics or alcoholism are not considered handicapped for the purposes of AS 23.-10.070 and this section.

Nor is the characterization of the work as "therapeutic" determinative; the question is whether the patient/client is an employee, that is, whether he or she is employed by the program. The FLSA simply defines "employ" /6 as "to suffer or permit to work". 29 USC §203(g). The test adopted by the federal courts looks to the "economic reality" of the situation in determining the existence of an employment relationship. In Souder v. Brennan, 367 F. Supp. 808 (D.C. Cir. 1973), patient-workers in state hospitals for the mentally ill and mentally retarded sought a determination that the provisions of the FLSA applied to them. The court found in their favor, and stated:

[T]he reality is that many of the patient-workers perform work for which they are in no way handicapped and from which the institution derives full economic benefit. So long as the institution derives any consequential economic benefit the economic reality test would indicate an employment relationship rather than mere therapeutic exercise. To hold otherwise would be to make therapy the sole justification for thousands of positions as dishwashers, kitchen helpers, messengers and the like.

367 F. Supp. at 813 (footnotes omitted).

After this decision, the U.S. Department of Labor promulgated, in 1975, new regulations /7 implementing the holding of this case. The regulations expressly apply to "patient-workers" in "residential centers for drug addicts or alcoholics". /8 The regulations define "employment relationship" as follows:

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/6 The Alaska Wage and Hour Act does not define "employ", but AS 23.10.145 provides:

DEFINITIONS. Terms used in AS 23.10.-050--23.10.150 shall be defined, where applicable, as they are defined in the federal Fair Labor Standards Act of 1938, as amended, or the regulations adopted under it.

/7 29 CFR 529.1-529.17

/8 29 CFR 529.2(b) and (c)

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"Employment relationship" generally arises whenever a patient is suffered or permitted to work. The total facts surrounding a given situation, other than those factors specifically excluded in this subsection, determine whether the test is satisfied. A major factor in determining whether or not an employment relationship exists under this Part is whether the work performed is of any consequential economic benefit to the institution. Generally, work shall be considered to be of consequential economic benefit if it is of the type that nonhandicapped workers normally perform, in whole or in part, in the institution or elsewhere. A patient does not, however, become an employee merely if he or she performs personal house-keeping chores, such as maintaining his or her own quarters, or receives a token remuneration for his or her services. Nor does the patient become an employee if engaged in such activities as making craft products, where the patient voluntarily engages in such activity and the products become the property of the patient making them, or the funds resulting from the sale of the products are divided among the patients participating in that program or are used for purposes of purchasing materials consumed in making the craft products. On the other hand, determination of an employment relationship does not depend on the level of performance of the patient or whether the work is of therapeutic value to the patient. /9

Thus, the critical factor in determining the existence of an employment relationship is whether the program derives any "consequential economic benefit" from the work done by the clients or patients. As the regulation further states, such a benefit usually is found if the work is of the type that is usually performed by nonhandicapped workers. In the context of your program and the therapeutic purpose of the activities enumerated above, this question is not quite as susceptible of an easy answer as it is in the case of an institution such as a mental hospital which employs its patient as "dishwashers, kitchen helpers, messengers and the like". It does not seem as likely that at Nugen's Ranch a client tending a garden, for example, would be displacing or impairing the employment opportunities of another potential employee that the program would otherwise hire to perform that task. However, this question need not be decided, with respect to the activities you have described, because the final issue raised (I have saved the best for last) resolves the problem.

AS 23.10.055 lists employees who are exempt from the provisions of the Alaska Wage and Hour Act. Subsections (1) and (2) are dispositive. Subsection (1) provides:

(1) an individual employed in agriculture which includes farming in all its branches and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including forestry and lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with the farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market;

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Subsection (2) provides:

(2) an individual employed in the catching, trapping, cultivating or farming, netting or taking of any kind of fish, shellfish, or other aquatic forms of animal and vegetable life;

Thus under Alaska law, Nugen's Ranch is not required to pay minimum wages to individuals engaged in general house-keeping /10, harvesting crops /11, tending a greenhouse, caring for animals, or fishing; nor is it required to do so under federal law. /12 It must be emphasized, however, that the inquiry is a factual one, and therefore each situation must be individually examined to determine whether the minimum wage laws apply. If clients of Nugen's Ranch were to engage in activities other than those you have described, the questions regarding applicability of the minimum wage laws would have to be looked at anew.

LS/jf

cc: Don Wilson  
Wage & Hour Divison  
Department of Labor

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/10 See 29 CFR 2(d), quoted above.

/11 Whether they perform this activity for the Ranch or for other farmers.

/12 29 USC 213(a)(5) and (6).

employer and, where appropriate, the apprenticeship agency or responsible school official, setting out that representative's findings of specific pertinent facts and conclusions and that representative's order concerning the proposed annulment or withdrawal. In proceedings instituted for annulment, the order may provide for withdrawal instead of annulment if the proof warrants such withdrawal but fails to support adequately the annulment. Such an order shall be deemed issued and effective according to its terms when mailed.

(Secretary's Order No. 16-75, dated Nov. 25, 1975 (40 FR 55913); Employment Standards Order No. 76-2, dated Feb. 23, 1976 (41 FR 9016))

[43 FR 28469, June 30, 1978]

#### § 528.6 Review.

Any employer and, when appropriate, any apprenticeship agency or responsible school official, who expressed timely objection to the proposed action prior to issuance of an order of annulment or withdrawal may obtain review, limited to the question of whether the findings of fact support the order under the regulations in this part. Application for such review shall be in writing addressed to the Administrator and mailed within 15 days after the order is issued. The Administrator may affirm, modify, or reverse the order, or may remand it for further proceedings. The order under review shall not be stayed in effect pending such review. Any aggrieved person may obtain such review of an order entered in proceedings instituted under paragraph (c) of § 528.3.

[21 FR 5316, July 17, 1956, as amended at 22 FR 5683, July 10, 1957]

#### § 528.7 Effect of order of annulment or withdrawal.

Except as otherwise expressly provided in such order, any order of annulment or withdrawal under paragraph (a) or (b) of § 528.3 shall be effective to terminate all certifications to which the regulations in this part apply in effect at the establishment where the cause for withdrawal arose or where the annulled certificate had effect. After such annulment or with-

drawal, such employer shall be ineligible to obtain or exercise the privileges granted in such a certificate until he satisfies the issuing officer that he will not again give cause for annulment or withdrawal if a certificate is issued.

(Secretary's Order No. 16-75, dated Nov. 25, 1975 (40 FR 55913); Employment Standards Order No. 76-2, dated Feb. 23, 1976 (41 FR 9016))

[43 FR 28469, June 30, 1978]

### PART 529—EMPLOYMENT OF PATIENT WORKERS IN HOSPITALS AND INSTITUTIONS AT SUBMINIMUM WAGES

- Sec.
- 529.1 Statutory language and scope of regulations.
  - 529.2 Definitions.
  - 529.3 Advisory Committee on Sheltered Workshops.
  - 529.4 Wage payments.
  - 529.5 Application for certificates.
  - 529.6 Criteria for consideration in issuance of certificates.
  - 529.7 Issuance of certificates.
  - 529.8 Terms and conditions of certificates.
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  - 529.10 Records to be kept.
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  - 529.13 Submission of information, investigations, and hearings.
  - 529.14 Relation to other laws.
  - 529.15 Issuance of certificates for experimental purposes.
  - 529.16 Amendment of this part.
  - 529.17 Review of regulations.

Authority: Sec. 14, 52 Stat. 1068, as amended (29 U.S.C. 214).

Source: 40 FR 5770, Feb. 7, 1975, unless otherwise noted.

#### § 529.1 Statutory language and scope of regulations.

(a) The Fair Labor Standards Act as amended, among other things, makes provision for the employment of handicapped persons at subminimum wages under certificate. This provision is now designated as section 14(c) of the Act. It reads as follows:

(c) (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment

under special certificates of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age or physical or mental deficiency or injury at wages which are lower than the minimum wage applicable under section 6 of this Act but not less than 50 per centum of such wage and which are commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work.

(2) The Secretary, pursuant to such regulations as he shall prescribe and upon certification of the State agency administering or supervising the administration of vocational rehabilitation services, may issue special certificates for the employment of—

(A) handicapped workers engaged in work which is incidental to training or evaluation programs, and

(B) multihandicapped individuals and other individuals whose earning capacity is so severely impaired that they are unable to engage in competitive employment, at wages which are less than those required by this subsection and which are related to the worker's productivity.

(3) (A) The Secretary may by regulation or order provide for the employment of handicapped clients in work activities centers under special certificates at wages which are less than the minimum applicable under section 6 of this Act or prescribed by paragraph (1) of this subsection and which constitute equitable compensation for such clients in work activities centers.

(B) For purposes of this section, the term "work activities centers" shall mean centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical or mental impairment is so severe as to make their productive capacity inconsequential.

(b) Authority to promulgate the regulations and issue the certificates referred to in section 14(c) has been delegated by the Secretary to the Administrator of the Wage and Hour Division (Secretary's Orders 13-71 and 15-71 (36 FR 8755 and 8756)).

(c) Patient workers whose earning or productive capacity is not impaired shall be paid at least the statutory minimum wage. For patient workers whose earning or productive capacity is impaired to the extent that they are not able to earn the statutory minimum wage, the regulations in this Part 529 govern certificates authorizing special minimum wages for patient workers in hospitals and institutions for the sick, the aged, and the mentally ill or defective with the fol-

lowing exceptions which are governed by Parts 524 and 525 of this chapter as appropriate:

(1) Patients of hospitals or institutions working for employers of that hospital or institution.

(2) Patients working in sheltered workshops, including work activity centers, as defined in Part 525, operated by the hospital or institution.

#### § 529.2 Definitions.

(a) "Administrator" means the Administrator of the Wage and Hour Division, U.S. Department of Labor, the Administrator's authorized representative.

(b) "Patient worker" or "residential worker," hereafter referred to as "patient worker," means a sick, aged, mentally ill or defective individual who receives treatment or care by hospital or institution, whether he/she is a resident or not, and has an employment relationship with such establishment, other than in a sheltered workshop program.

(c) "Hospital or institution" hereafter referred to an "institution," is public or private, nonprofit or profit, primarily engaged in (1) more than 50 percent of the income attributable to) providing residential care for the sick, the aged, or the mentally ill or defective, including but not limited to nursing homes, intermediate care facilities, rest homes, convalescent homes, homes for the elderly, infirm, halfway houses, residential centers for drug addicts or alcoholics, and the like, whether licensed or unlicensed.

(d) "Employment relationship" generally arises whenever a patient is referred or permitted to work. The total facts surrounding a given situation other than those factors specifically excluded in this subsection, determine whether the test is satisfied. A major factor in determining whether or not an employment relationship exists under this Part is whether the work performed is of any consequential economic benefit to the institution. Generally, work shall be considered to be of consequential economic benefit if it is of the type that nonhandicapped workers normally perform, in whole or

In part, in the institution or elsewhere. A patient does not, however, become an employee merely if he or she performs personal housekeeping chores, such as maintaining his or her own quarters, or receives a token remuneration for his or her services. Nor does the patient become an employee if engaged in such activities as making craft products, where the patient voluntarily engages in such activity and the products become the property of the patient making them, or the funds resulting from the sale of the products are divided among the patients participating in that program or are used for purposes of purchasing materials consumed in making the craft products. On the other hand, determination of an employment relationship does not depend on the level of performance of the patient or whether the work is of therapeutic value to the patient.

(e) "Evaluation and training" means a program, authorized pursuant to section 14(c)(2)(A) of the Act, which provides competent instruction and supervision and is designed to determine a working patient's potential and to teach adjustment to a work environment or the skills related to one or more types of work. The duration of the evaluation and training depends on the total facts of the situation, but in no case shall exceed 12 months. Time spent in an employment relationship in the institution prior to the effective date of these regulations shall be counted in determining the duration a patient worker is in evaluation and training. (Any workweek during which there was regular and recurrent engagement in work, even though small in amount, which gave rise to an employment relationship, shall be considered as a week spent in evaluation and training.)

(f) "Group minimum wage" means the minimum wage authorized pursuant to section 14(c)(1) of the Act which shall apply to all patient workers who have completed the evaluation and training program, if one has been authorized for the institution under this part (where no such program has been authorized, the group minimum wage applies immediately upon a patient's entering into an employment relationship with the insti-

tion), except for patient workers who are: Entitled to a commensurate wage higher than the group minimum wage; subject to an individual exception; or subject to a work activities center certificate, as defined in this part.

(g) "Individual exception" means authorization, pursuant to section 14(c)(2)(B) of the Act, to pay a particular patient worker whose earning or productive capacity is severely impaired less than the group minimum wage.

(h) "Work activities center" is an administrative classification given to a facility which has an approved program (other than a work activities center program as defined in Part 525), authorized pursuant to section 14(c)(3) of the Act, which is planned and designed exclusively to provide work activities for patients whose physical or mental impairment is so severe as to render their productive capacity inconsequential. The work activities shall be part of a recorded plan of therapy or care for such patients. Such activities need not, however, be restricted to a particular physical or program area of the institution, nor to a particular type of work. No program shall qualify for a work activities center certificate under this part unless the productive capacity of each individual in the program is so severely impaired as to make that person incapable of earning as commensurate pay at least 25 percent of the minimum wage under section 6 of the Act, and the patient workers are participating in the program as a part of planned therapy.

(i) "Commensurate pay" (the term used in these regulations) is intended to have the same meaning as "equitable compensation" and "wages related to the worker's productivity," which terms are used in the statute, and means wages which are commensurate with those paid nonhandicapped workers in the institution or in industry maintaining acceptable labor standards in the vicinity for essentially the same type, quality, and quantity of work. So for example, the commensurate pay of a patient worker who is 75 percent as productive, considering quality and quantity, as the average

nonhandicapped worker performing essentially similar work in the institution would be at least 75 percent of the wage paid to such nonhandicapped worker.

(j) "State agency" means the agency within the State which administers or supervises the administration of vocational rehabilitation services in any State of the United States, the District of Columbia, or any territory or possession of the United States.

(k) "The Act" means the Fair Labor Standards Act of 1938, as amended.

#### § 529.3 Advisory Committee on Sheltered Workshops.

(a) The Advisory Committee on Sheltered Workshops, appointed periodically by the Secretary of Labor, shall advise and make recommendations to the Administrator concerning the administration and enforcement of this part and the need for amendments thereto and for such other purposes as may be desired by the Administrator.

(b) The Administrator may consult with the Advisory Committee on Sheltered Workshops prior to any action taken under this part and may afford the Committee 15 days, or such additional time as may be allowed, to present its views. The Administrator may also afford the Committee an opportunity to present its views in connection with any petition for review filed, any hearing held, and any petition for amendment of these regulations, or any proposed legislation by the Secretary of Labor pertaining to the problems dealt with in these regulations.

#### § 529.4 Wage payments.

(a) A patient worker whose earning or productive capacity is not impaired shall be paid at least the statutory minimum wage. A patient worker whose earning or productive capacity is impaired to the extent that the individual is unable to earn at least the statutory minimum wage may be paid a subminimum wage but only after a certificate authorizing payment of such lower wage has been obtained from the Wage and Hour Division.

(b) Four types of certificates authorizing subminimum wages are available for patient workers in institutions:

Evaluation and training; group minimum wage; individual exception; work activities center. All but the individual exception are group certificates. Under a group certificate, the patient is certificated and not the individual patient worker. In the case of the individual exception, authority to a subminimum wage must be obtained for each individual.

(c) Evaluation and training: Patient workers subject to an evaluation and training certificate shall receive at least commensurate pay; no minimum wage guarantee is required unless the Administrator, shall determine it is the best interest of the patient workers that a minimum wage guarantee set.

(d) Group minimum wage: Patient workers subject to a group minimum wage certificate shall receive at least the minimum wage authorized in the certificate or commensurate whichever is higher. The group minimum wage shall not be less, and be more, than 50 percent of the minimum wage under section 6 of the Act.

(e) Individual exception: A patient worker subject to an individual exception shall receive not less than the minimum wage authorized in the individual exception certificate issued that patient worker or commensurate pay, whichever is higher. An individual exception shall not be less, and be more, than 25 percent of the minimum wage under section 6 of the Act.

(f) Work activities center: Patient workers subject to a work activities center certificate shall receive at least commensurate pay; no minimum wage guarantee is required unless the Administrator, shall determine it is the best interest of the patient workers that a minimum wage guarantee set.

(g) Compensable time for a patient worker starts when the individual begins to perform work involving an employment relationship.

(h) Each patient worker's work performance shall be reviewed by the institution at three monthly intervals during the first 6 months in an employment relationship, and at least every 6 months thereafter and his/her wages adjusted accordingly. The review shall relate the patient worker's

er's quantity and quality of performance to that of nonhandicapped workers receiving the prevailing wage in the institution for similar work or work requiring similar skills. If similar work or work requiring similar skills is not performed by nonhandicapped workers in the institution the prevailing wage paid nonhandicapped workers in the vicinity in industry maintaining acceptable labor standards shall be used. The review shall be made by a staff member or members who observe the patient worker(s) being rated on a continuing basis and who are familiar with appropriate nonhandicapped production standards.

(1) No part of the minimum wage and overtime earned by a patient worker can be deducted for the cost of room, board or services. The patient worker must receive his or her wages free and clear, except for legal payroll deductions. It is not the intention of these regulations, however, to preclude the institution thereafter from assessing or collecting the reasonable cost of room, board and other services actually provided to a patient worker to the extent permitted by applicable Federal or State law and on the same basis as it assesses and collects from nonworking patients.

#### § 529.5 Application for certificates.

(a) Application for a certificate for an evaluation and training program, a group minimum wage, an individual exception, or a work activities center may be filed by any institution with the Regional Office or Caribbean Director of the administrative region or area of the Wage and Hour Division, U.S. Department of Labor, in which the institution is located. Application forms may be obtained from the appropriate Office.

(b) An application for an evaluation and training certificate and for an individual exception certificate for payment of a wage below 50 percent of the minimum wage under section 6 of the Act shall also be filed with the State agency. Before the Wage and Hour Division can act on such an application, the State agency must certify that the evaluation and training program meets the standards defined

in § 529.2 or, in the case of an individual exception, that the individual's earning capacity is so severely impaired that he or she is unable to earn at least 50 percent of the minimum wage under section 6 of the Act.

(c) An institution initially applying for a certificate, other than an individual exception certificate, which does not have the information called for in the application, may be issued a temporary certificate if it meets the requirements of, and provides assurance of compliance with, this Part.

(d) Application for an individual exception certificate may be filed at the time of applying for a group minimum wage certificate or during the life of the certificate. The application must show, among other things, that the patient worker is unable to earn the minimum wage authorized in the group minimum wage certificate.

(e) An application for an individual exception filed before the patient worker has completed evaluation and training shall be considered timely. In such case, if action on the application is not completed before the expiration of the evaluation and training period, the minimum wage requested in the application by the institution (not less than 25 percent of the minimum wage) shall be the interim minimum wage.

#### § 529.6 Criteria for consideration in issuance of certificates.

The following criteria will be considered by the Administrator in determining the necessity of issuing a certificate or certificates and the conditions to be specified therein:

(a) The present and previous earnings of the patient workers.

(b) Whether the patient workers are receiving commensurate pay.

(c) The nature and extent of the disabilities of the patient workers and the degree to which these factors affect earning or productive capacity of the patient workers.

(d) Whether the conditions required for certification under this part have been met.

(e) Whether the certification by the State agency has been made in accordance with this part.

#### § 529.7 Issuance of certificates.

(a) Upon consideration of criteria specified in § 529.6, the Administrator may issue a certificate or certificates, as appropriate.

(b) If a certificate is issued, a copy shall be sent to the institution. If denied, the institution shall be notified in writing of the denial and the reasons therefor.

(c) A group minimum wage certificate may be issued for the entire institution or a department or departments of the institution.

#### § 529.8 Terms and conditions of certificates.

(a) A certificate shall specify the terms and conditions under which it is granted.

(b) A certificate shall apply to every patient worker in the program for which the certificate is granted.

(c) A certificate shall be effective for a period to be designated by the Administrator, generally for a period of 1 year. Patient workers may be paid wages lower than the statutory minimum only during the effective period of a certificate.

(d) A group minimum wage certificate shall set a special minimum wage of not less than 50 percent of the minimum wage under section 6 of the Act. An individual exception certificate shall set a special minimum wage not less than 25 percent of the minimum wage under section 6 of the Act.

(e) An evaluation and training certificate and a work activities center certificate need not set a special minimum wage other than that required by paragraph (f) of this section or provided for by § 529.4.

(f) All patient workers subject to a certificate shall be paid wages commensurate with those paid nonhandicapped workers in the institution in which they are patients or in the vicinity in industry maintaining acceptable labor standards for essentially the same type, quality, and quantity of work, but not less than the certificate rate applicable if such a rate has been authorized.

(g) Patient workers shall be paid not less than one and one-half times the regular rate for all hours worked in

excess of the maximum workweek applicable under section 7 of the Act.

(h) No patient worker shall be newly-employed under a certificate issued under these regulations while abnormal labor conditions, such as strike, a lock-out, or other similar condition, exist in the institution.

(i) Each patient worker and his or her parent or guardian shall be informed promptly orally and in writing of his or her rights under the Act.

(j) The terms of any certificate may be amended for cause, upon request of the institution, or a patient worker or his or her parent or guardian, or upon the initiative of the Administrator.

#### § 529.9 Renewal of certificates.

(a) Application may be filed for renewal of any certificate.

(b) If an application for renewal has been properly and timely filed prior to the expiration date of a certificate the certificate shall remain in effect until the application for renewal has been granted or denied.

(c) Patient workers may be paid wages less than the statutory minimum after notice that the application for renewal has been denied, if review of such denial is requested in accordance with § 529.12; *Provided, however*, that if the denial is affirmed on review, the institution shall reimburse any person covered by the certificate in an amount equal to the difference between the applicable minimum wage and any lower wage paid such person subsequent to the effective date of denial.

#### § 529.10 Records to be kept.

Every institution shall maintain and have available for inspection by the Administrator records of:

(a) Disability, which show the nature of each patient worker's disability.

(b) Productivity, which show the productivity of each patient worker on a continuing basis or at periodic intervals as defined in § 529.4(h).

(c) Prevailing wage, which show the prevailing wages paid nonhandicapped workers in the institution or in industry in the vicinity for essentially sim-

lar work to that performed by the patient workers.

(d) Production standards for an average nonhandicapped worker for each job being performed by a patient worker in the institution (for use as a norm in measuring patient worker productivity.)

(e) When an evaluation and training program is authorized by certificate, records showing which patient workers are in the evaluation and training program, and the total period of time each worker has been in such a category.

(f) When an institution holds both a work activities center certificate and a group minimum wage certificate, records showing which patient workers are under each certificate.

Records showing the patient workers whose employment conditions have been authorized.

(h) In addition, the records required under all the applicable provisions of Part 516 of this chapter.

(i) Every institution having patient workers who are entitled to benefits under the Act shall at all times display a poster, as prescribed by the Administrator, in a conspicuous place in the institution where it may be observed readily by the patient workers and other workers in the institution.

(j) Records required by this section shall be kept for the periods specified in Part 516 of this chapter.

§ 529.11 Cancellation of a certificate.

(a) The Administrator may cancel any certificate for cause. A certificate may be canceled (1) as of the date of issuance, if it is found that fraud has been utilized in obtaining the certificate or in permitting a patient worker to be employed thereunder; (2) as of the date of violation, if it is found that any of the provisions of the Act or of the terms of the certificate have been violated; or (3) as of the date of notice of cancellation, if it is found that the certificate is no longer necessary in order to prevent curtailment of opportunities for employment, or that the requirements of this part have not been complied with.

(b) If a petition for review is filed under § 529.12, the effective date of the cancellation shall be postponed

until action is taken thereon: *Provided, however,* That if the cancellation order is affirmed on review, the institution shall reimburse any person covered by the certificate in an amount equal to the difference between the applicable minimum wage and any lower wage paid such person subsequent to the effective date of cancellation.

(c) Except in cases of willfulness or those in which the public interest requires otherwise, before any certificate shall be canceled, facts or conduct which may warrant such action shall be called to the attention of the institution in writing and it shall be afforded an opportunity to demonstrate or achieve compliance with all lawful requirements.

Any person aggrieved by any action of an authorized representative of the Administrator taken pursuant to this part may, within 60 days or such additional time as the Administrator may allow, file with the Administrator a petition for review. Such review, if granted shall be made either by the Administrator or by an authorized representative who took no part in the action under review, who may, to the extent it is deemed appropriate, afford other interested persons an opportunity to present data and views.

§ 529.13 Submission of information, investigations, and hearings.

The Administrator may require at any time the submission of such information, other than that specified elsewhere in this part, as is deemed appropriate, or may conduct an investigation, which may include a hearing, prior to taking any action pursuant to this part. To the extent it is deemed appropriate, the Administrator may provide an opportunity to other interested persons to present data and views.

§ 529.14 Relation to other laws.

No provision of this part, or of any certificate issued under this part, shall excuse noncompliance with any other Federal or State law or municipal ordinance establishing higher standards

§ 529.15 Issuance of certificates for experimental purposes.

In addition to the issuance of certificates as provided in §§ 529.1 to 529.14, the Administrator may authorize the issuance of certificates to permit employment of patient workers in institutions at less than the applicable minimum wage under section 6 of the Act as part of experimental programs to increase employment opportunities for such persons. Such certificates shall be issued in such types of cases and on such terms and conditions within the scope of section 14 of the Act as the Administrator shall determine will best further any such experimental programs. Certificates issued under this section shall be limited to an effective period of not more than 1 year.

§ 529.16 Amendment of this part.

The Administrator may at any time amend his or her own motion or upon written request of any interested person setting forth reasonable grounds therefor, and after opportunity has been given to interested persons to present their views, amend or repeal any of the terms of this part.

§ 529.17 Review of regulations.

Approximately six months after the effective date of this part, the Wage and Hour Division will undertake a review of its program for administration and enforcement of this Part in cooperation with the Advisory Commission on Sheltered Workshops.

PART 530—EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

- 530.1 Definitions.
- 530.2 Restriction of homework.
- 530.3 Issuance of official forms.
- 530.4 Terms and conditions for the issuance of certificates.
- 530.5 Investigation.
- 530.6 Termination of certificates.
- 530.7 Revocation and cancellation.
- 530.8 Presentation of certificates.
- 530.9 Records and reports.
- 530.10 Delegation of authority to grant, revoke or cancel a certificate.
- 530.11 Petition for review.
- 530.12 Special provisions.

530.13 Petition for amendment of regulations.

Authority: Sec. 11, 52 Stat. 1066; U.S.C. 211, unless otherwise noted.

Source: 24 FR 729, Feb. 3, 1959, unless otherwise noted.

§ 530.1 Definitions.

(a) The meaning of the term "person," "employ," "employer," "employee," "goods," and "production," used in this part, is the same as in the Fair Labor Standards Act of 1938, amended.

(b) "Industrial homemaker" or "homemaker," as used in this part, means any employee employed or suffered or permitted to perform industrial homework for an employer.

(c) "Industrial homemaker," as used in this part, means the production by any person in or about a home, apartment, tenement, or room in a residential establishment of goods for an employer who suffers or permits such production, regardless of the source (whether obtained from an employer or elsewhere) of the materials used by the homemaker in such production.

(d) The women's apparel industry is defined as follows: The production of women's, misses' and juniors' dresses, washable service garments, blouses and neckwear from woven or purchased knit fabric; women's, misses', children's and infants' underwear, nightwear, and negligees from woven fabrics; corsets and other body supporting garments from any material; other garments similar to the foregoing; and infants' and children's outerwear.

(e) The jewelry manufacturing industry is defined as follows:

(1) (i) The manufacturing, processing, or assembling, wholly or partially from any material, of jewelry, commonly or commercially so known. Jewelry as used herein includes without limitation, religious, school, college, and fraternal insignia; articles of ornament or adornment designed to be worn on apparel or carried on or about the person, including, without limitation, cigar and cigarette cases, holders, and lighters; watch cases; metal mesh bags and metal watch bracelets; and chain, mesh, and parts for use in the

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 19, 1983

SUBJECT: Minimum wage  
(CSHB 182 (HESS))

TO: Representative Ramona L. Barnes

FROM: Russ Josephson  
Legislative Counsel



The following is the sectional analysis that you requested:

Section 1 adds a new section to AS 23.10, providing that a participant in a residential drug abuse or alcoholism treatment program may be paid less than the minimum wage for work therapy performed by the patient.

Subsection (a) stipulates that the rate of pay must be approved by the commissioner of labor and that the rate must be in compliance with federal law.

Subsection (b) provides for the adoption of regulations by the commissioner of labor regarding the payment of wages for work therapy. Several factors are to be considered in the adoption of the regulations:

- (1) Is the work the type that a participant in this type of program would do ordinarily and is the work for the mutual benefit of the patient and the program?
- (2) Would the work ordinarily be done by full-time employees?
- (3) Will the work produce income to the patient other than wages?
- (4) What is the therapeutic benefit of the work, the skill required, and the role of work therapy in the patient's treatment plan?

Representative Ramona L. Barnes  
Page 2  
April 19, 1983

(5) What is the impact of the wage scale on the program?

Section 2 adds a section to AS 47.37. Subsection (a) of this new section provides that the payment of wages for work therapy is an allowable cost, payable by a grantee with grant funds.

Subsection (b) provides that the wages may not be used for the costs of room, board or services, although reasonable costs of treatment may be assessed and collected, if done on the same basis as for non-working patients.

Subsection (c) provides that wages earned by a patient may be held in trust for the benefit of the patient and disbursed in several ways that are enumerated.

Section 3 adds a definition of "work therapy" to AS 47.-37.270.

RJ:ljb  
15/013

Phillip Volland - atty for Sargent's Ranch & other abuse programs

- 1) Speaks for the Bill
- 2) drafted lengthy legal opinion
- 3) work important to recovery rehabilitation.
- 4) treatment centers become warehouses without
- 5) small non profit don't have work.  
the financial advantages that larger can
- 6) Sargent's Ranch work clients  
\$100,000 - 9-10 hrs per week for one year

7) Sec 14 Fed law

procedure to apply for Certificate  
rate paid on level of disability

Problem - State law - reqs -

Alcohol + Drug clients can't be identified  
as handicapped workers.

8) Certificate applicant

requires no less than 50% of  
min wage.

Present law doesn't allow grantees to  
apply for wages for worker/client. This  
bill allows for this

Proposed CSHB 182 (HESS)  
Dave Palmer  
April 4, 1983

Section 1: (a) Authorization is given for exemption to the State minimum wage (AS 23.10.050 - 50 cents per hour greater than prevailing Federal minimum wage or \$2.60/hour whichever is greater) for participants in work therapy programs.

(b) The Commissioner is required to adopt regulations regarding payment for work therapy while considering specific criteria included in the bill.

Section 2: (a) Wages paid for work therapy are considered allowable operational costs and are eligible for reimbursement by grants.

(b) No part of wages earned may be deducted for room, board or services.

(c) Wages may be held in trust and disbursed, with consent for specific purposes.

Section 3: Work therapy is defined.

•No effective date.

The impetus for HB 182 is the Nugen Ranch, a treatment facility for chronic and debilitation alcoholics. A component of the treatment program is work on the ranch in exchange for minimal compensation. With the intent on establishing lost work habits, developing self esteem, and rekindling positive work attitudes, work as therapy is used at the ranch. However, Federal and State minimum wage laws apply. HB 182 provides an exemption from the State minimum wage, which exceeds the Federal minimum wage.

Exemptions to the State minimum wage currently exist (AS 23.10.070) for:

1. Individuals whose earning capacities are reduced by physical or mental deficiencies, age or injuries.
2. Apprentices (approved by the Commissioner)
3. A learner, subject to conditions set by the Commissioner.

DHSS Position: The position paper relates to HB 182, not proposed CSHB 182. It is relevant. The DHSS asks that the exemption apply to programs designed to last over 120 days. Short-term programs would be required to pay prevailing minimum wage.

Fiscal Note: The fiscal note for HB 182 is zero. However, the CSHB 182 requires the development of regulations and implies that review of programs would be necessary to assure compliance with those regulations. If not done before the hearing, the fiscal note requires revision.

You might WELCOME Phillip  
Volland AT AN APPROPRIATE TIME -  
Let the committee know he's  
here.

---

ASK Volland. I think this  
bill is AN exemption to STATE  
MIN. WAGE ONLY.

POSITION PAPER

HOUSE BILL 182

"An Act exempting participants in residential drug abuse and alcoholism treatment programs from Alaska's minimum wage provisions, and providing a wage scale."

The Department of Health and Social Services is supportive of this legislation.

The issues and remedies surrounding this proposed legislation arose with the advent of a long term care program for the chronic and significantly debilitated alcoholic. The individuals to be served by these programs have long histories of unemployment, skill depreciation, loss of positive employment experiences and loss of positive life experiences. Long term care is defined as treatment lasting from a minimum 120 days to a maximum of 2 years with an average length of 1 year.

One of the intents of long term care treatment program is to have clients engage in a form of work therapy as part of their overall treatment regime. Such work therapy will be designed to help the client re-establish or re-learn basic learning, life and employment skills. It is the intent of the long term care treatment program to be more than a warehouse for the most severely afflicted casualties of the disease alcoholism.

The Department is also concerned that clients' rights be protected. The Department is also concerned that short term treatment programs provide intensive therapy to appropriate clients. To this end the Department of Health and Social Services would recommend the following.

House Bill No. 182, lines 12 through 14 be amended to read:

(b) Participants in residential drug and alcoholism treatment programs [designed to exceed 120 days in length,] may be paid less than the minimum wage prescribed in AS 23.10.050-23.10.150 for work therapy, as defined in AS 47.37.270.

House Bill No. 182, lines 16 through 19 be amended to read:

Sec. 47.37.245. Wages of Patients. Participants in residential drug abuse and alcoholism treatment programs, [designed to exceed 120 days in length,] shall be paid for work therapy, as defined in AS 47.37.270, at the rates established under AS 33.32.050. [AS 33.32.050(a)].

These recommended changes would have the effect of limiting the applicability of the exemption from the minimum wage law. It is the Department's position that only long term care treatment programs (designed to exceed 120 days) be exempted.

**POSITION PAPER/Department of Health & Social Service**

Recommended by:

George E. Mundell  
George E. Mundell  
Acting Coordinator  
Office of Alcoholism/  
Drug Abuse

Date:

3/1/83

Approved by:

Robert London Smith  
Robert London Smith, Ph.D.  
Commissioner  
Dept. of Health &  
Social Services

Date:

3/4/83

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 182 Date on Bill: 2/9/83  
 Title: "An Act exempting participants in residential drug abuse and alcoholism treatment  
 Sponsor: Barnes, Clocksin, Bussell, Liska, Larson  
 Requestor: \_\_\_\_\_

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue			-0-	-0-	-0-	-0-		
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It do not represent the policy of the Sheffield Administration or the final estimate of its impact.

Prepared By George E. Mundell, Acting Coordinator  
 Division: Office of Alcoholism/Drug Abuse

*AAA*

Phone: 586-6201

Date: 3/1/83

Approved by Commissioner: Robert Anderson, M.D.  
 Department: Health & Social Services

Date: 3/1/83

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor

POSITION PAPER

HOUSE BILL 182

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*W.H.J.*

**POSITION PAPER/Department of Health & Social Service**

Recommended by:

George E. Mundell  
George E. Mundell  
Acting Coordinator  
Office of Alcoholism/  
Drug Abuse

Date:

3/1/83

Approved by:

Robert London Smith  
Robert London Smith, Ph.D.  
Commissioner  
Dept. of Health &  
Social Services

Date:

3/2/83

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 182 Date on Bill: 2/9/83  
 Title: "An Act exempting participants in residential drug abuse and alcoholism treatment  
 Sponsor: Barnes, Clocksin, Bussell, Liska, Larson  
 Requestor: \_\_\_\_\_

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue			-0-	-0-	-0-	-0-		
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It do not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: George E. Mundell, Acting Coordinator *AMA* Phone: 586-6201  
 Division: Office of Alcoholism/Drug Abuse Date: 3/1/83  
 Approved by Commissioner: Robert Andrew Smith, M.D. Date: 3/2/83  
 Department: 7/1/77 Health & Family Services

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor

4/20/83



Sec 2 TITLE 47 AS provides for work therapy as allowable cost

(b) language similar to fed language. Fed regs prohibit automatic deductions. This sec. would be req'd by Fed's anyway.

(c) Reflects what already exists in most DiAcc. programs. Reduces possibility of institutional theft & removes ready cash from client.

Impact on State-minimal  
Agricultural exemption - NOT PRIMARY DUTY  
of Ranch.

STATE LAW / FEDERAL LAW - REMOVE BARRIER  
Pay 50% of AK MINIMUM WAGE would be  
least that could be paid.

See: 29 CFR 529 → AVAILABLE to RESIDENTS of drug treatment centers  
8AAC 10.120(F) → RESIDENTS of drug treatment centers may

More

4/20/83

Phillip Volland teleconference

WORK THERAPY

- 1) WORK INCREASES SELF ESTEEM, EMPLOYMENT SKILLS
- 2) ELIMINATES WAREHOUSING - PRODUCTIVE WORK

COST - limited public funds

PRESENT LAW:

pay ALL MIN. WAGE 3.85/hr

50 clients = \$100,000 WAGE COSTS/yr

FEDERAL MIN. LAW SECT. 14 HANDICAPPED - CERTIFICATE

MAY ALLOW FOR PATIENT WORKER. RATE PAID BASED ON disability.

STATE LAW ALCOHOL or drug treatment <sup>clients.</sup> NOT considered handicapped

Req. change in STATE LAW to allow to apply for application to FED to pay less than min. wage. Minimum here is 50% of FED min. WAGE.

SECT. 1. Exempts from State law min. wage 8 AAC 15.120 - DRUG <sup>ALCOHOL</sup> ~~handicapped~~ <sup>handicapped</sup> NOT ~~handicapped~~

29 CFR 529 - PATIENT WORKER exemption

- (b) FACTORS taken from wage & hour opinions, FED REGULATIONS, or CASES except (5)

LAW OFFICES OF  
REESE, RICE AND VOLLAND  
A PROFESSIONAL CORPORATION

JOHN REESE  
WILSON A. RICE  
PHILIP R. VOLLAND  
VIRGINIA BONNIE LEMBO

211 H STREET  
ANCHORAGE, ALASKA 99501  
(907) 276-5231

February 18, 1983

FEB 23 1983

HB 182

Representative Barbara Lacher  
House of Representatives  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: House Bill 182

Dear Representative Lacher:

I would like to take this opportunity to comment on H.B. 182 and, in particular, address the issue of possible conflict between the proposed legislation and the federal Fair Labor Standards Act.

As you may recall, I represent Alaska Alcoholism Rehabilitation Services, Inc., the nonprofit corporation which owns and operates a long-term residential treatment center for alcoholics in Wasilla, Alaska. Last year, on behalf of my client, I advised the State Office of Alcoholism and Drug Abuse of my opinion that state and federal law required the payment of a minimum wage to patients at residential treatment centers who are engaged in work therapy. I suggested that legislation be adopted to lessen the economic impact of this problem, and sought the assistance of various legislators last year; however, the session was too far along to yield results. I presume that you have copies of my original opinion letter to SOADA, dated February 23, 1982, and my letters to Representatives Donald E. Clocksin, Patrick J. Carney, and Senator Jalmar Kerttula, dated April 2, 1982.

Since the session began this year, I have been in frequent contact with Russ Josephson of the Law Division, and this week with your aide, Joan Matthews. I am aware of your concern about possible conflict between H.B. 182 and the Fair Labor Standards Act and hope that my comments may assist you in evaluating the proposed legislation. You may feel free to share this letter with the named sponsors of the bill.

Representative Barbara Lacher  
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Page Two

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Let me begin by saying there are certain defects in H.B. 182 that I feel need correction, and that my opinion about possible solutions has changed since last year as a result of recent developments in case law. I have also proposed changes in H.B. 182 to address some problems which are not covered by the bill. Before explaining these issues in detail, let me first discuss my prior recommendations and the somewhat confusing legal principles that are involved in the state law/federal law conflict.

In my letter to SOADA of last year, I suggested that the application of the Fair Labor Standards Act (hereafter F.L.S.A.) to state-funded residential treatment centers could be avoided by adding language to state legislation which was keyed to the decision of the U.S. Supreme Court in National League of Cities v. Usery, 426 U.S. 833 (1976) (hereafter National League). This was because the National League decision held that the F.L.S.A. did not apply to wage and hour determinations which involve functions which state and local governments are created to provide, including those services which the states have traditionally afforded to their citizens. Among the services enumerated by the Supreme Court in National League was the field of "health care." The holding in National League was based on the application of the Tenth Amendment to the Constitution -- the constitutional provision which prohibits federal control over functions traditionally reserved to the states. Although the decision in National League was limited to states and their political subdivisions, the broad language used by the court suggested that the decision might also apply to state-funded, private organizations which deliver state services such as health care, and which are heavily regulated by the state.

Subsequent to the decision in National League, two federal courts specifically addressed the applicability of the holding in National League to local health care programs involving private nonprofit residential treatment centers funded by states. These two cases, Williams v. Eastside Mental Health Center, Inc., 509 F.Supp. 579 (N.D. Ala., S.D., 1980), and Richland County Assn. for Retarded Citizens v. Marshall, 660 F.2d 388 (9th Cir. 1981), were divided on the issue. Although the Richland County decision held that National League did not prohibit the application

Representative Barbara Lacher  
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Page Three

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of the Fair Labor Standards Act to a private nonprofit corporation which operated a residential home for mentally retarded adults, the Williams case reached the opposite conclusion under nearly identical circumstances. When I originally wrote my opinion letter, it appeared possible that well drafted legislation, which recognized the state's interest in treating drug addicts and alcoholics as an essential state function and which met this function through the provision of funding to private nonprofit corporations, could provide the necessary protection established under the National League decision, and therefore render such treatment centers exempt from the minimum wage requirement of the F.L.S.A.

However, after speaking with Russ Josephson last month, I updated my research on the subject. Decisions issued during the last year in federal district courts as well as the United States Supreme Court now indicate that the protection originally thought available under the National League decision is no longer applicable to private nonprofit organizations which receive state funding, regardless of whether or not they are involved in administering services otherwise provided by the state.

Since my original letter to SOADA last February, two decisions were rendered by the United States Supreme Court which involved the application of National League. These cases, Hodel v. Virginia Surface Mining and Reclamation Association, \_\_\_ U.S. \_\_\_, 101 S.Ct. 2352 (1981), and United Transportation Union v. Long Island Railroad Company, \_\_\_ U.S. \_\_\_, 102 S.Ct. 1349 (1982), set out a three-pronged test to be applied in evaluating the Tenth Amendment protection announced in National League. To claim that a federal statute would not apply under the National League principle, the challenging party would have to establish that: (1) the challenged statute regulates the "states as states"; (2) the federal regulation addresses matters that are indisputably "attributes of state sovereignty"; and (3) the states' compliance with the federal law would directly impair their ability "to structure integral operations in areas of traditional functions."

Representative Barbara Lacher  
February 18, 1983  
Page Four

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Although in National League the Supreme Court first cited fire protection, police protection, sanitation, public health, and parks and recreation as examples of services that are within the area of traditional operations of state and local governments, subsequent decisions of the U.S. district courts have refined these areas in far greater detail. See, e.g., N.L.R.B. v. Highview, Inc., 590 F.2d 174 (5th Cir. 1979) enforcement modified, 595 F.2d 339 (1979) (the care of the aged, sick and indigent); Enrique Molina-Estrada v. Puerto Rico Hwy. Auth., 680 F.2d 841 (1st Cir. 1982) (highway construction); Bonnette v. California Health & Welfare Agency, 525 F.Supp. 128 (N.D. Cal. 1981) (in-home support services for the blind, aged and disabled); Amersbach v. City of Cleveland, 598 F.2d 1033 (6th Cir. 1979) (operation of a municipal airport); and Alewine v. Cit. Council of Augusta, 505 F.Supp. 880 (S.D. Georgia 1981) (operation of a municipal transit system). The most significant development, however, has been the result of appeals in Williams v. Eastside Mental Health Center, supra, and Richland County Assn. for Retarded Citizens v. Marshall, supra, the two cases on which I based my earlier opinion.

The original Ninth Circuit decision in Richland County, which held that the Fair Labor Standards Act was applicable to private nonprofit residential treatment centers, was vacated by the Supreme Court on jurisdictional grounds in January of 1982, sub nom. Donovan v. Richland County Assn. for Retarded Citizens, \_\_\_\_\_ U.S. \_\_\_\_\_, 102 S.Ct. 713 (1982). Although the practical effect of the vacated judgment was to restore the district court's decision apparently holding the F.L.S.A. inapplicable to the treatment center, that opinion is unpublished and has little legal significance.

Of importance, however, is the chain of appeals on Williams. As you will recall, that decision held that the Fair Labor Standards Act was not applicable to a nonprofit treatment center because of its close relationship to the state via funding and regulations, and because the center served an essential state function in providing health care to citizens. The district court decision was reversed by the Eleventh Circuit on March 5, 1982 in a well-reasoned

Representative Barbara Lacher  
February 18, 1983  
Page Five

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decision. Williams v. Eastside Mental Health Center, 669 F.2d 671 (1982) (copy enclosed). The court held that the protection accorded by National League was not available to nonprofit corporations receiving funding from the state, even though they may provide health care services on behalf of the state. I encourage you to read this decision thoroughly because of the very close analogy it presents to nonprofit corporations in Alaska which provide services through state funding in the health care, drug abuse, and alcoholism fields. In August of 1982 the decision was appealed to the United States Supreme Court, and on November 2, 1982 the petition for certiorari was denied by the Supreme Court, Eastside Mental Health Center v. Williams, \_\_\_ U.S. \_\_\_, 51 U.S.L.W. 3340. The effect of the denial of certiorari is to uphold the Eleventh Circuit's decision. It is therefore clear that the Fair Labor Standards Act does apply to private nonprofit residential treatment centers in Alaska, even though those programs receive state funding, are regulated by the state and deliver services the state might otherwise choose to provide on its own. Thus, I recommend that it is futile to try to adopt legislation stating that the treatment of alcoholics and drug addicts through private nonprofit corporations serves an important state function in an attempt to pass valid legislation that will enable those programs to pay a minimum wage less than that provided under the F.L.S.A. Because it is now clear that federal law will apply to residential treatment centers, H.B. 182 must be drafted in such a way that it is consistent with the Fair Labor Standards Act.

To fully understand the issue of conflict between state and federal law, let me briefly explain two legal doctrines that come into play in this area -- "supremacy" and "preemption."

Supremacy is a constitutional principle, based on Article IV of the U.S. Constitution, that state laws are void to the extent that they actually conflict with a valid federal statute, that is, they present an obstacle to the purposes and objectives of the federal statute. It is a doctrine often confused with a similar principle based on the supremacy clause, the doctrine of preemption.

Representative Barbara Lacher  
February 18, 1983  
Page Six

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Preemption is a legal doctrine that prohibits the application of state statutes (whether in conflict with or consistent with federal statutes), if the federal legislative scheme evidences a congressional purpose to "occupy the field." Supremacy and preemption should not be confused. The preemption principle prohibits the states from legislating in a particular area; the principle of supremacy only prohibits the states from adopting legislation in conflict with federal legislation.

In the labor law area, the distinction between these two doctrines can be easily understood. The Fair Labor Standards Act did not preempt the field of labor law, Webster v. Bechtel, 621 P.2d 890 (Alaska 1980); see also 29 U.S.C. §218(a) (1975). Thus Alaska can adopt (and has adopted) its own laws governing the rates of pay for workers in the state. Nonetheless, the doctrine of supremacy prohibits this legislation from being in conflict with the Fair Labor Standards Act. Thus, Alaska cannot adopt a law that sets a lower rate of pay for workers in the state than is established under federal law. Therefore, the provisions of H.B. 182 cannot conflict with analagous provisions of the Fair Labor Standards Act.

This brings me to my analysis of H.B. 182 as presently drafted.

I have no problems with Section 1 insofar as it amends AS 23.10.070. The effect of the proposed amendment is to invalidate 8 AAC 15.120(f) which presently states that drug addicts and alcoholics are not handicapped workers with respect to AS 23.10.070. Because of problems with Section 2 of H.B. 182, however, and because of the need to address problems not covered by the proposed legislation, I have suggested some major additions to Section 1 of H.B. 182 (see discussion below).

AS 23.10.070 is analogous to Section 14 of the Fair Labor Standards Act, 29 U.S.C. 214, the "handicapped worker" provisions of the act. Thus it will be interpreted consistent with the F.L.S.A. and the regulations adopted thereunder. These regulations, codified at 29 C.F.R. 529 (copy enclosed), already provide a mechanism for the approval of the payment of subminimum wages to patient workers at "intermediate care facilities ... halfway houses, residential centers for drug addicts or alcoholics and the like whether licensed or not licensed." The practical effect

Representative Barbara Lacher  
February 18, 1983  
Page Seven

February 1983

of amending AS 23.10.070 will be that affected treatment programs will have to apply for and obtain a certificate authorizing the payment of subminimum wages pursuant to the procedure set forth in 29 CFR 529.

Section 14 of the F.L.S.A. only permits the payment of subminimum wages, upon application and approval by the Department of labor, of not less than 50 percent of the prevailing minimum wage. In other words, the provision of federal law analogous to the amendment to AS 23.10.070 proposed by H.B. 182 does not allow the payment of any wage less than 50 percent of the prevailing minimum wage in Alaska, which is now \$3.85 per hour.

Because of this fact, there is a conflict between H.B. 182 and the F.L.S.A. Section 2 of H.B. 182 sets the wages for work therapy "at the rates established under AS 33.32.050." If you refer to AS 33.32.050 you will note that the wage rate authorized therein may not exceed 50 percent of the minimum wage established under AS 23.10.065. In other words the bill, as presently written, authorizes the payment of wages less than what is required by federal law. This difference is fatal to the proposed legislation; if passed as presently written it will not survive a legal challenge based on the conflict with Section 14 of the Fair Labor Standards Act.

Another problem created by tying the wage rate to AS 33.32.050 is that AS 33.32.050 will automatically repeal in 1987. I suggest that it is imprudent to tie H.B. 182 to a law that will automatically expire four years from now. This will only mean that AS 47.37.245 would have to be amended again in 1987.

I have suggested additional amendments to Section 2 regarding the assessment of treatment fees to patient workers. My proposed subsection (b) is consistent with 29 C.F.R. 529.4(i). I have also added as subsection (c), somewhat similar to AS 33.83.50(c), clarifying a program's authority to hold wages in trust and disburse funds for appropriate purposes. As a practical matter, most residential treatment programs must hold money in trust in order to control the likelihood of intra-institutional

Representative Barbara Lacher  
February 18, 1983  
Page Eight

theft, and allocate money to the client consistent with his or her financial needs and other obligations.

I have no major problems with the definition of work therapy as defined in Section 3 of H.B. 182. I feel, however, that the present definition implies that work therapy will involve more formal "training" than actually occurs. I have suggested some minor changes in language which, I believe, more accurately reflect the concept of work therapy.

Any statutory definition of work therapy will, however, be incomplete. Litigation about this issue over the years, as well as opinions generated by the Wage and Hour Division of the Department of Labor, have only indicated the complexity of the concept. [See, e.g., Wyatt v. Stickney, 344 F.Supp. 373 (M.D. Ala. 1972), aff'd sub nom. Wyatt v. Aderholt, 503 F.2d 1305 (5th Cir. 1974); Opinion WH-375, signed by Wage Hour Administrator Ronald J. Jones, March 1, 1976; Opinion WH-334, signed by Acting Wage Hour Administrator Warren D. Landes, April 18, 1975. For instance, personal housekeeping chores are not considered work therapy under any definition, but regular building maintenance responsibilities would be considered work requiring compensation. There remains a question of whether wages need be paid for work therapy which produces saleable items from which the patients themselves profit.] Lest AS 47.37.270(14) itself be subject to future litigation, I suggest that H.B. 182 mandate the Department of Labor to adopt regulations implementing H.B. 182. Presumably, these regulations will be consistent with 29 C.F.R. 529, and reflect input from programs utilizing work therapy concepts for their clients. The end result will give programs better guidance on when wages are required to be paid.

My proposed changes in Section 1 of H.B. 182 include a mandate for the development of regulations. The guidelines I have suggested are consistent with case law as it has developed under Section 14 of the F.L.S.A.

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Finally, the impact of having to pay patients engaged in work therapy at least 50 percent of the minimum wage will be a slightly higher cost to the state than presently exists under the proposed terms of H.B. 182. Although it is now clear that the law requires the payment of wages, I am not convinced that influential members of SOADA and the legislature will meet this responsibility by budgeting sufficient funds for programs to meet this obligation without curtailing services. Last year, for instance, the Governor's Review Board on Alcoholism -- fully aware that clients would have to be paid wages for work therapy -- recommended a cut in the Nugen's Ranch budget exactly equivalent to the funds budgeted for client wages. It would be anomalous if the Legislature adopted H.B. 182, but residential treatment programs were not awarded sufficient increases in grant funds to pay even the subminimum wage. I have therefore proposed amendments in Section 2 to meet this concern.

In summary, I therefore make the following recommendations:

1. There is no need to add a purpose clause to H.B. 182, as I originally suggested, since it is now clear that the Fair Labor Standards Act, as amended, 29 U.S.C. 201, et seq., will apply to residential drug and alcohol treatment programs in light of the U.S. Supreme Court's denial of certiorari in Williams v. Eastside Mental Health Center, 669 F.2d 671 (11th Cir. 1982), cert. den., \_\_\_ U.S. \_\_\_, 51 U.S.L.W. 3340 (Nov. 2, 1982).

2. Amend Section 1 of H.B. 182 to read as follows:

(b) (1) Participants in residential drug and alcoholism treatment programs may be paid less than the minimum wage prescribed in AS 23.10.050 - 23.10.150 for work therapy, as defined in AS 47.37.270, and at rates approved by the commission pursuant to this section.

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(2) The commissioner shall promulgate regulations regarding the payment of wages for work therapy. In establishing these regulations, the commissioner shall be guided by the following standards:

(A) Whether the work performed by the patient is that which is ordinarily carried on by patients in a residential treatment program and is not for the economic benefit of the program, but solely for the mutual benefit of the participants;

(B) Whether the work performed by the patient would ordinarily be performed by full-time employees of the program;

(C) Whether the work performed by the patient is work which may produce income to the patient, other than wages;

(D) The therapeutic benefit of the work to the patient, the skill required to perform the work, and the role work therapy plays in the patient's treatment plan;

(E) The impact of the wage scale on the program, considering its size, level of funding, and the therapeutic treatment services to be provided.

3. Amend Section 2 of H.B. 182 so that it reads:

Sec. 47.37.245 WAGES OF PATIENTS.

(a) Participants in residential drug abuse and alcoholism treatment programs shall be paid wages for work therapy, as defined in AS 47.37.270. The coordinator shall make sufficient grant-in-aid funds available to programs for this purpose.

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(b) No part of the wage earned by the patient worker can be deducted for the cost of room, board or services. The program, however, after the payment of wages, may assess and collect the reasonable cost of treatment according to rates established in accordance with AS 47.37.240, and on the same basis as it assesses and collects from non-working patients.

(c) Wages earned by the patient worker may be held in trust by the program for the benefit of the patient, and disbursed by the program, with the patient's consent

(1) for the support of the patient's dependents,

(2) to pay a civil judgment,

(3) for the purchase of gifts, clothing, and items of personal use,

(4) to pay restitution or a fine,

(5) for other purposes deemed appropriate by the treatment program.

4. Amend Section 3 of H.B. 182 to read as follows:

Work therapy means an activity that involves a patient in basic employment skills and assists the patient in reintegration into a community, but does not include such activities as personal housekeeping chores or cooperative responsibilities expected of each patient in the program.

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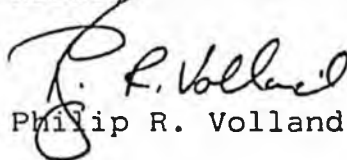
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Finally, on behalf of my clients I want to thank you for all of your efforts in getting the legislation introduced. Your attention to the problems faced by many drug and alcohol treatment programs reflects your conscientious attitude toward your constituents.

I hope that my comments have been helpful. Please keep me apprised of developments with H.B. 182 and feel free to call if I can be of further assistance.

Sincerely,

REESE, RICE AND VOLLAND, P.C.



Philip R. Volland

Enclosures

cc: Board of Directors, AARS  
Mr. and Mrs. Leonard Nugen