

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2294 HHESS SB 354

eliminate authority to supervise the "educational component" of pre-elementary schools operated by a church or other qualifying religious organization.

Section 2 of the bill makes it clear that the system of voluntary accreditation of elementary and secondary schools established by AS 14.07.020(10) does not vest authority in DOE to "license" schools operated by a church or other qualifying religious organization.

Section 3 of the bill adds an exemption from compulsory public school attendance for children who attend an educational program operated by a church or other qualifying organization which meets the requirements set out in sections 4 -- 8 of the bill. The compulsory education statute, AS 14.30.010, which would be amended by sec. 3, currently exempts children who attend private schools which employ certificated teachers, who are tutored by certificated tutors, or who attend private schools in which the average student proficiency is not less than that found in nearby public schools, as measured by national achievement tests.

Sections 4 -- 8 of the bill would amend AS 14.45 to provide a means through which elementary and secondary schools operated by churches or other qualifying religious organizations can become partially exempt from state regulation. The exemption would not extend to laws relating to physical health, fire safety, sanitation, immunization, and physical examinations.

The requirements for exemption are set out in new AS 14.45.030 -- 14.45.040. New AS 14.45.030 requires that the religious school maintain monthly attendance records for each student, operate on a regular schedule for a school year of at least 180 days, and annually report to DOE the number of students in each grade and the school calendar. In addition, the parents of each child must file an annual notice of enrollment, signed by the parent and school administrator, with the local public school superintendent. The religious school must notify the superintendent if the child leaves school. New AS 14.45.035 requires that the religious schools administer at least one nationally standardized test, selected by the school from a list compiled by DOE, to children in grades 1, 3, 6, and 9. The test must measure achievement in English grammar, reading, spelling, and mathematics. The results must be maintained by the school and be made available to the child's parent or guardian and "authorized representatives" of the state. New AS 14.45.040 requires that the religious schools maintain "adequate" student records,

including records of immunizations, physical examinations, testing, and courses taken.

Finally, sec. 9 repeals AS 14.45.020 which authorizes DOE to provide final exam questions and diplomas for eighth graders in private and denominational schools. Apparently, this authority has not been exercised since well before statehood.

In general, SCS CSHB 357(R1s) am S would establish two categories of private schools, those which are operated by a church or other qualifying religious organization and those which are not. This gives rise to the legal question of whether or not the disparate treatment afforded each category is in keeping with the equal protection clauses of the state and federal constitutions.

Although courts have developed separate tests under each, the state and federal constitutions both require that there be reasons for treating these categories of private schools differently. The bill itself does not contain a statement of purpose. However, it has been characterized by supporters as an effort to accommodate the free exercise of religion.

The free exercise of religion is protected by the First Amendment to the United States Constitution and by art. 1, sec. 4, of the Alaska Constitution. Courts have developed a threefold test to determine whether state educational requirements impermissibly limit the free exercise of religion: (1) whether the regulated activity is motivated by and rooted in a legitimate and sincerely held religious beliefs; (2) the degree to which the parties' free exercise of religion has been burdened; and (3) whether the state has a compelling interest in the regulation which justifies the burden. Wisconsin v. Yoder, 406 U.S. 205, 32 L.Ed.2d 15, 92 S.Ct. 1526 (1972). The focus of this test is on the exercise of religion; "[t]he religious character of an organization does not provide a shield from regulation which no way affects religious beliefs or acts." In re Rabbinical Seminary Netzach Israel Ramailis, 450 F.Supp. 1078, 1081 (E.D. N.Y. 1978).

Unfortunately, the limits of permissible regulation have not been clearly established. On one hand, courts have acknowledged that religious schools combine religious and secular education and have invalidated state regulations which unreasonably interfered with the former. E.g., Lemon v. Kurtzman, 403 U.S. 602, 29 L.Ed.2d 745, 91 S.Ct. 2105, reh den 404 U.S. 876, 30 L.Ed.2d 123, 92 S.Ct. 24 (1971); State v. Whisner, 351 N.E.2d 750 (Ohio 1976). On the other hand, courts have acknowledged that

"if the state must satisfy its interest in secular education through the instrument of private schools, it has a proper interest in the manner in which those schools perform their secular educational function." Board of Education v. Allen, 392 U.S. 236, 247, 20 L.Ed.2d 1060, 88 S.Ct. 1923 (1968). For example, state regulations requiring certified teachers, a minimum curriculum, and state licensure have been approved. E.g., New Jersey State Board of Higher Education v. Board of Directors of Shelton College, 448 A.2d 988 (N.J. 1982); State v. Faith Baptist Church, 301 N.W.2d 571 (Neb. 1981), app. dism. 454 U.S. 803, 70 L.Ed.2d 72, 102 S.Ct. 75 (1982); State v. Shaver, 294 N.W.2d 883 (N.D. 1980). See also Pierce v. Society of Sisters, 268 U.S. 510, 69 L.Ed.2d 1070, 45 S.Ct. 571 (1925).

This is also an area in which courts may defer to the legislature. In State v. Rivinius, 328 N.W.2d 220, 231 (N.D. 1982), the Supreme Court of North Dakota, after approving a teacher certification requirement, indicated that "[w]e are not implying or intimating that the legislature may not work out a system that will be satisfactory to both sides -- meaning the state and the defendants -- and still accomplish the constitutional mandate." See also West Virginia State Board of Education v. Barnette, 319 U.S. 624, 638, 87 L.Ed. 1628, 63 S.Ct. 1178 (1943).

Because the United States Supreme Court has yet to resolve some of these issues, we cannot state with certainty that SCS CSHB 357(Rls) am S provides protections to religious schools beyond those which are constitutionally required. However, since it precludes various means of regulation which, at least for elementary and secondary schools, have been approved by lower courts, we believe this result to be likely. If this is true, the legislation would fall on equal protection grounds unless other reasons based on actual differences between the two categories of private schools could be found to support it. In addition, it would be subject to challenge as an aid to religion under the establishment clauses of the state and federal constitutions.

It is noteworthy that present regulatory requirements of DOE are minimal and that this bill is based on legislation, enacted in North Carolina in 1972, which has not been challenged in court. N.C. Gen. Stat. § 115-257.1, et seq. (Cum. Supp. 1979). We also acknowledge that substantial arguments can be made in its support. See generally "State Regulation of Private Religious Schools in North Carolina -- A Model Approach," 16 Wake Forest Law Review 405 (1980). Accordingly, we do not believe that veto on constitutional grounds is required.

The Honorable Bill Sheffield  
Governor  
388-095-83

July 19, 1983  
Page 5

Except as noted, this bill presents no constitutional or other major legal problems. It is possible, however, that problems of statutory interpretation could arise as DOE attempts to exercise its remaining authority in this area.

Sincerely,

Norman C. Gorsuch  
Attorney General

NCG:THR:jal

Alaska State Legislature

REP. MAE TISCHER  
CHAIRMAN



POUGH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3777

House of Representatives  
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

February 22, 1984

SENATE BILL 354  
MEMBER'S FLOOR FILE  
CONTENTS

- I. Sectional Analysis of HCS CSSB 354 (Rules) by Legal Services
- II. Comparison of House Rules and Senate versions of SB 354 by Legal Services
- III. Memorandum from Legal Services on health and safety regulation of private pre-elementary schools (HCS CSSB 354 (Rules))
- IV. Attorney General's Opinion on HCS CSSB 354 (Rules)
- V. AS 14.07.010 - 14.07.020 (Department of Education)
- VI. AS 18.70.010 - 18.70.300 (State Fire Marshall)

/wtl

STATE OF ALASKA  
THE LEGISLATURE

FOURTH STATE CAPITOL  
JUNEAU ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 16, 1984

SUBJECT: Sectional analysis of HCS CSSB 354 (Rules)

TO: Representative Mae Tischer  
Chairman, House HESS Committee

FROM: Keith B. Levy *KBL*  
Legislative Counsel

You have requested a sectional analysis of HCS CSSB 354 (Rules), "An Act relating to the regulation of private schools." The main thrust of the bill is to allow religious and other private schools to opt out of the general laws and regulations applicable to private schools if they agree to comply with certain minimal requirements.

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion while at the same time ensuring the quality of all education in the state and allowing diversity in education by encouraging private education.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.020). It provides that the department will consult with the state fire marshall and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It clarifies that the department must require physical examinations and immunizations in pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is no longer responsible for the general supervision of pre-elementary schools and nurseries except for those pre-elementary schools that receive direct state or federal funding. Supervision over public pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Section 2 also makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is

Representative Mae Tischer

Page 2

February 16, 1984

not authorized to require private schools to be licensed (AS 14.07.020(10)). Finally, section 2 defines "pre-elementary schools" for the purpose of this section (AS 14.07.020(b)).

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS 14.45 (see section 5, below) satisfies the compulsory education requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. This exemption is only available to religious and other private schools that do not receive state or federal funding and only applies to compulsory school age children. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100).

The parent or guardian of a child of compulsory school age enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the number of students enrolled in each grade and the school calendar (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades four, six, and eight at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the parent or guardian of the student. The school is required to make composite test results available annually to an authorized representative of the

Representative Mae Tischer  
Page 3  
February 16, 1984

Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the result of which are also public (AS 14.45.120(c)).

The exempt schools are also required to maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school. The administrator of the school must certify under oath or by affirmation to the Department of Education that these records are being maintained (AS 14.45.130). Finally, "religious school," as used in these sections, is defined as a private school operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140), and "private school" is defined as any school that does not receive direct state or federal funding.

It should be kept in mind that these provisions are not mandatory unless the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

KBL:ojb  
J3/106

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 11, 1984

SUBJECT: Health and safety regulation  
of private pre-elementary  
schools (HCS CSSB 354 (Rules))

TO: Representative Mae Tischer  
Chairman, House HESS Committee

FROM: Keith B. Levy *K.B.L.*  
Legislative Counsel

You have requested an opinion on the implication of HCS CSSB 354 (Rules) with respect to health and safety regulation of private pre-elementary schools. The bill, while removing the supervision of private pre-elementary schools from the Department of Education, in no way removes the power of the Department of Public Safety to regulate these schools with respect to fire safety or the Department of Health and Social Services to regulate with respect to health standards. In fact, several sections in the bill as well as other provisions of law make it clear that private pre-elementary schools may be regulated with respect to health and safety.

To begin with, AS 14.07.020(7), as amended by section 2 of the bill, provides that the Department of Education shall:

prescribe by regulation, after consultation with the state fire marshal and the state sanitarian, standards that will assure healthful and safe conditions in the public and private schools of the state including a requirement of physical examinations and immunizations in pre-elementary schools.

That section applies general health and safety standards to all the public and private schools in the state, including the pre-elementary schools. It also imposes a specific requirement of physical examinations and immunizations on pre-elementary schools. In other words, all pre-elementary

Representative Mae Tischer  
Page 2  
February 11, 1984

schools are subject to health and safety regulations generally under the bill.

Moreover, Title 18 of the Alaska Statutes sets out provisions for health and safety, all of which, if appropriate, apply to pre-elementary schools unless some specific exemption exists. There is no such exemption in HCS CSSB 354 (Rules). Specifically, AS 18.70.080 provides for the Department of Public Safety to adopt regulations for fire safety applicable to all public buildings. "Buildings" is defined very broadly in AS 18.70.300 and would clearly apply to pre-elementary schools.

In conclusion, HCS CSSB 354 (Rules), while providing that private pre-elementary schools are no longer subject to general regulation by the Department of Education, has no effect on the ability of that department and other departments to regulate these schools with respect to health and safety.

KBL:ojb  
J3/079

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 2800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 16, 1984

SUBJECT: Regulation of private schools:  
comparison of HCS CSSB 354  
(Rules) with CSSB 354 (Jud) am

TO: Representative Mae Tischer  
Chairman, Health, Education, and  
Social Services Committee

FROM: Keith B. Levy *KBL*  
Legislative Counsel

You have requested a comparison of CSSB 354 (Jud)am, the Senate version, with HCS CSSB 354 (Rules), the House version of an act relating to the regulation of private schools. The House and Senate versions are essentially the same, with only a few substantive differences. The two bills differ as follows:

(1) In the Senate version, AS 14.07.020(7) is amended to clarify the fact that the Department of Education may regulate health and safety standards in all public and private schools, including certain specific requirements in "private pre-elementary" schools. In the House version, the word "private" is removed. This is merely a technical change since under either version the department would have this power with respect to both public and private pre-elementary schools. In other words, it does not alter the department's statutory powers in this regard.

(2) The Senate version amends AS 14.07.020(8) to provide that the Department of Education has general supervision over public pre-elementary schools and those private pre-elementary schools "that are not in facilities associated with an elementary school that operates grades one through three." The House version differs in that it gives this general supervisory power to the department only with respect to pre-elementary

schools "that receive direct state or federal funding." In other words, the House version limits the department's general supervisory powers to public pre-elementary schools, and any pre-elementary school that receives money from the state or federal government.

(3) The House version removes the definition of "pre-elementary school" from AS 14.07.020(8) and places it in a new subsection (b), having the effect of applying the definition to the entire section. This is not a substantive change, but merely clarifies the fact that the definition applies throughout AS 14.07.020.

(4) The Senate version provides that the exemption provided for in AS 14.45, added by the bill, does not apply to "a facility which serves children under the age of six years and which receives state payments or subsidies" (AS 14.45.100). That sentence was removed from the House version. For several reasons, however, that sentence had no real substantive effect. To begin with, the exemption provided for in AS 14.45.100 applies only to children of compulsory school age, i.e., from 7 to 16 years of age (see AS 14.45.110). Thus, the exemption could not apply to children under the age of six. Moreover, the House version adds a definition of "private school" under AS 14.45, indicating that a private school is one that does not receive direct state or federal funding (AS 14.45.140(1)). Thus, the exemption could not apply to a school that receives government money anyway. Therefore, the removal of the second sentence of AS 14.45.100 in the House version has no substantive effect with respect to the Senate version.

(5) The Senate version requires standardized testing of certain schools for students enrolled in grades two, four, six, and ten (AS 14.45.120(a)). The House version changes the requirement to apply to students in grades four, six, and eight.

(6) The Senate version requires the chief administrative officer of certain private schools to certify that records are being maintained. The House version makes clear that this certification must be made to the Department of Education.

Effect of amendments. — The 1979 amendment substituted "or offense specified in AS 18 67 101" for "specified in AS 18 67 100" in paragraph (5).

## Chapter 70. Fire Protection.

### Article

1. Prevention and Investigation (§§ 18.70.010 — 18.70.100)
2. Fire Escapes (Repealed)
3. Mutual Fire Aid Agreements (§§ 18.70.150 — 18.70.160)
4. General Provisions (§ 18.70.300)

### Article I. Prevention and Investigation.

#### Section

10. General function of Department of Public Safety with respect to fire protection
20. Duties of Department of Public Safety
30. Investigation of fires resulting from crime
40. Cooperation with fire insurance companies
60. Power of department to inspect buildings
60. Removal of property from fire
70. Abatement of fire hazards

#### Section

75. Authority of municipal fire department officers and their personnel
80. Regulations
81. Approval of fire protection systems
82. Remote housing facilities
81. Standard fire hose and hydrant threads required
85. Sale of nonstandard equipment
90. Enforcement of regulations
95. Smoke detection devices
100. Violation

Collateral references. — 13 Am. Jur. 2d, Buildings, § 18-28; 35 Am. Jur. 2d, Fires, § 1-4.

36A C.J.S., Fires, § 15-18; 39A C.J.S., Health and Environment, § 28, 29, 47.

Fire department as pertaining to the governmental or to the proprietary branch of municipality. 9 A.L.R. 143; 33 A.L.R. 688; 81 A.L.R. 614.

Duty and liability of owner or occupant of premises to fireman or policeman

coming thereon in discharge of his duty. 13 A.L.R. 147; 85 A.L.R.2d 1205

Police power as authorizing statute imposing upon owner or occupant liability for expense of fighting fire starting on his land or property. 90 A.L.R.2d 875

Liability of one negligently causing fire for injuries sustained by person other than firefighter in attempt to control fire or to save life or property. 91 A.L.R.3d 1202.

**Sec. 18.70.010. General function of Department of Public Safety with respect to fire protection.** The Department of Public Safety shall foster, promote, regulate, and develop ways and means of protecting life and property against fire, explosion, and panic. (§ 1 ch 66 S.L.A. 1955)

#### NOTES TO DECISIONS

Common-law duty to take action concerning fire hazards after inspection. — Whether or not the state had a statutory duty to take action concerning hazards discovered at a hotel, where the state fire officials undertook to

inspect a hotel for fire hazards, and in doing so they discovered a series of conditions constituting an "extreme fire hazard," and there was evidence that they discarded some of these hazards with the manager of the hotel, promised him a more

formal notification of fire code violations, and took no further action, the state fire officials had a duty to proceed further with regard to the recognized hazards, since the state assumed a common-law duty, owed to the victims of the fire, by its affirmative conduct. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Where the state had not undertaken to inspect a hotel and eliminate the fire hazard, it did not assume any common-law duty. *State v. Jennings*, Sup. Ct. Op. No. 1319 (File No. 2322, 2423), 555 P.2d 248 (1976).

Duty to exercise reasonable care in

conducting inspections. — Once an inspection has been undertaken the state has a further duty to exercise reasonable care in conducting fire safety inspections, and liability will attach where there is a negligent failure to discover fire hazards which would be brought to light by an inspection conducted with ordinary care. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

What constitutes reasonable care will vary with the circumstances and has not been involved. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

**Sec. 18.70.020. Duties of Department of Public Safety.** The Department of Public Safety shall aid in the enforcement of all laws and ordinances and the rules and regulations adopted under AS 18.70.010 — 18.70.100 and all other laws relating to fires or to fire prevention and protection, and shall encourage the adoption of fire prevention measures by means of education, and shall prepare or have prepared for dissemination information relating to the subject of fire prevention and extinguishment. (§ 2 ch 66 S.L.A. 1955)

#### NOTES TO DECISIONS

Common-law duty to take action concerning fire hazards after inspection. — See note to AS 18.70.010. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

**Sec. 18.70.030. Investigation of fires resulting from crime.** If there is reason to believe that a fire has resulted from crime or that crime has been committed in connection with a fire, the Department of Public Safety shall report that fact in writing to the district attorney or the judicial district in which the fire occurred. If the fire occurred in an incorporated city with a regularly organized fire department, the investigation and report shall be made in conjunction with the fire official of that area. (§ 3 ch 66 S.L.A. 1955)

**Sec. 18.70.040. Cooperation with fire insurance companies.** The Department of Public Safety may assist, receive assistance from, and otherwise cooperate with an investigator or agent employed by a fire insurance company licensed to do business in the state, or with an investigator or agent employed by an association of insurance companies licensed to do business in the state. (§ 4 ch 66 S.L.A. 1955)

**Sec. 18.70.050. Power of department to inspect buildings.** The Department of Public Safety may enter any building subject to regulation under AS 18.70.080 during reasonable hours for the sole purpose of inspecting the property or abating a fire hazard. (§ 5 ch 66 S.L.A. 1955; am § 3 ch 176 S.L.A. 1968)

## NOTES TO DECISIONS

Purpose of fire inspection is to protect life and property from fire. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Common-law duty to take action concerning fire hazards after inspection. — See note to AS 18.70.010 *Adams v. State*, Sup. Ct. Op. No. 1318 (File

No. 2326), 555 P.2d 235 (1976).

Fire Inspector must obtain warrant. — Defendant could not be prosecuted for exercising his constitutional right to insist that the fire inspector obtain a warrant authorizing entry upon defendant's locked warehouse. See *v. City of Seattle*, 387 U.S. 841, 87 S. Ct. 1737, 181. Ed. 2d 913 (1967).

**Sec. 18.70.060. Removal of property from fire.** During a fire and in the absence of the owner or claimant, the Department of Public Safety may protect personal property affected by removing it. If the owner or claimant does not take charge of the property within 24 hours the Department of Public Safety may store it at the owner's or claimant's expense. (§ 1 ch 66 SLA 1955)

**Sec. 18.70.070. Abatement of fire hazards.** The Department of Public Safety may require the owner of a commercial business or public property to abate a fire hazard which exists in violation of law or regulations, and the Department of Public Safety may take appropriate action to assure such abatement. (§ 7 ch 66 SLA 1955)

## NOTES TO DECISIONS

Common-law duty to take action concerning fire hazards after inspection. — See note to AS 18.70.010. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

**Sec. 18.70.075. Authority of municipal fire department officers and their personnel.** (a) An officer of a municipal fire department or his authorized representative, while providing fire protection services, has the authority to

- (1) control and direct activities at the fire;
- (2) order a person to leave a building or place in the vicinity of the fire, for the purpose of protecting the person from injury;
- (3) blockade a public highway, street, or private right-of-way temporarily while at a fire;
- (4) trespass upon property at or near the scene of a fire at any time of the day or night;
- (5) enter a building, including a private dwelling, or upon premises where a fire is in progress, or where there is reasonable cause to believe a fire is in progress, for the purpose of extinguishing the fire;
- (6) enter a building, including a private dwelling, or premises near the scene of the fire for the purpose of protecting the building or premises or for the purpose of extinguishing the fire which is in progress in another building or premises;

(7) upon 24-hour notice to the owner or occupant, inspect for preplanning all buildings, structures, or other places within the municipality, except the interior of a private dwelling, where combustible material is or may become dangerous as a fire menace to the building;

(8) direct the removal or destruction of a fence, house, motor vehicle, or other thing which he may judge necessary to remove or destroy to prevent the further spread of the fire.

(b) An owner or occupant of a building or place specified in this section or any other person on the site of a fire or other emergency who refuses to obey the order of an officer of a municipal fire department or his authorized representative in the exercise of his official duties is guilty of a misdemeanor, and upon conviction, is punishable by imprisonment for one year, or by a fine of not more than \$1,000, or by both.

(c) In this section, "inspect for preplanning" means to conduct limited inspections for purposes of preparing a fire attack plan in the event of a future emergency, but does not include inspections for purposes of determining compliance with statutory or municipal fire code requirements. (§ 2 ch 215 SLA 1975)

**Sec. 18.70.080. Regulations.** The Department of Public Safety shall adopt rules and regulations for the purpose of protecting life and property from fire and explosion by establishing minimum standards for

- (1) fire detection and suppression equipment;
- (2) fire and life safety criteria in commercial, industrial, business, institutional or other public building, and buildings used for residential purposes containing four or more dwelling units;
- (3) any activity in which combustible or explosive materials are stored or handled in commercial quantities;
- (4) conditions or activities carried on outside a building described in (2) or (3) of this section likely to cause injury to persons or property. (§ 8 ch 66 SLA 1955; am §§ 1, 2 ch 176 SLA 1968; am § 1 ch 23 SLA 1971)

## NOTES TO DECISIONS

Common-law duty to take action concerning fire hazards after inspection. — See note to AS 18.70.010. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

**Sec. 18.70.081. Approval of fire protection systems.** Before October 30 of each year the Department of Public Safety shall prepare and make available a list of approved fire protection systems to the Department of Community and Regional Affairs, the Department of Commerce and Economic Development, and the public. (§ 1 ch 46 SLA 1980)

Sec. 18.70.082. Remote housing facilities. Any construction camp, logging camp, cannery, or oil or mining camp that has buildings not in a fire department service area in which persons are housed in dormitories or similar facilities shall be equipped with an automatic fire detection system in that portion of the building used for living or sleeping purposes. In this chapter an automatic fire detection system means a type of automatic fire detection system approved by the state fire marshal. (§ 1 ch 65 SLA 1970)

Sec. 18.70.084. Standard fire hose and hydrant threads required. All fire protection equipment to be purchased by state and municipal authorities, or any other authority having charge of public property, shall be equipped with national standard fire hose threads for fire hose couplings and hydrant fittings as adopted by the state fire marshal under AS 18.70.080. (§ 1 ch 48 SLA 1970)

Sec. 18.70.085. Sale of nonstandard equipment. No person may sell or offer for sale in Alaska any fire engine, fire hose, hydrant, or other equipment for fire protection purposes unless the equipment is fitted and equipped according to minimum standards adopted by the state fire marshal under AS 18.70.080. Fire equipment for special purposes or research programs, or special features of fire protection equipment found appropriate for uniformity within a particular protection area, may be exempted from this requirement by the state fire marshal. (§ 1 ch 48 SLA 1970)

Sec. 18.70.090. Enforcement of regulations. The Department of Public Safety and the chief of each city fire department and their authorized representatives in their respective areas may enforce the regulations adopted by the Department of Public Safety for the prevention of fire or for the protection of life and property against fire or panic. All state peace officers may assist the Department of Public Safety in the enforcement of AS 18.70.010 - 18.70.100 and the regulations adopted under it. The authority conferred in AS 18.70.010 - 18.70.100 extends to the enforcement of the provisions of AS 11.46.400 - 11.46.430. (§ 9 ch 68 SLA 1955; am § 8 ch 117 SLA 1968; am § 20 ch 168 SLA 1978)

Effect of amendments. - The 1978 amendment deleted "rules and regulations" in the first and second sentences and substituted "AS 11.46.400 -

11.46.430" for "AS 11.20.010 - 11.20.050, and 11.20.070" at the end of the third sentence.

## NOTES TO DECISIONS

City fire chief can enforce standards without delegation by state fire marshal. - The language of this section would indicate that the fire chief in each city can enforce state fire standards independently of any delegation by the state fire marshal's office. State v. Jennings, Sup. Ct. Op. No. 1319 (File Nos. 2322, 2423), 555 P.2d 248 (1976)

State not liable for city's negligence. - Where the state fire marshal's office, in accordance with its policy, had deferred to the city's fire prevention agency for the purpose of fire prevention and inspection within the city limits, and, thus, the state

fire marshal referred complaints about the hotel to the city fire marshal for action; and the city conducted inspection and initiated enforcement, there is no principal-agent relationship between the state and the city which would justify holding the state vicariously liable for the city's negligence. State v. Jennings, Sup. Ct. Op. No. 1319 (File Nos. 2322, 2423), 555 P.2d 248 (1976)

Common-law duty to take action concerning fire hazards after inspection. - See note to AS 18.70.010 Adams v. State, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 245 (1976)

Collateral references. - Power to require closing of place of amusement or other place of public assembly because of fire hazard or unsanitary conditions. 140 ALR 1048

Destruction of building in emergency. 14 ALR2d 78

Sec. 18.70.095. Smoke detection devices. Smoke detection devices shall be installed in all living units built, manufactured or sold in the state. The devices shall be of a type and deployed in a manner approved by the state fire marshal. (§ 1 ch 148 SLA 1975)

## NOTES TO DECISIONS

Applied in Northern Lights Motel, Inc. v. Sweaney, Sup. Ct. Op. No. 1386 (File No. 2476), 561 P.2d 1176, aff'd on rehearing. 563 P.2d 256 (1977)

Sec. 18.70.100. Violation. (a) A person who violates any provision of AS 18.70.010 - 18.70.100 or the published rules and regulations or orders adopted under it from which no appeal has been taken within 30 days after the issuance of a final order is, severally, for each violation, guilty of a misdemeanor, and is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both. A person aggrieved by a final order of the Department of Public Safety may appeal to the superior court within 30 days after the issuance of the order. The imposition of one penalty for a violation does not excuse the violation and a person guilty of a violation shall correct the violation within a reasonable time. When not otherwise specified, each 10 days that a prohibited condition is maintained in a separate offense.

(b) The application of the penalty prescribed in (a) of this section does not prevent the Department of Public Safety from enforcing the removal of the prohibited conditions. (§ 10 ch 66 SLA 1955; added by § 1 ch 113 SLA 1957)

Collateral references. — Giving false fire alarm by telephone as minor criminal offense. 87 ALR2d 610.

### Article 2. Fire Escapes.

Section  
110-140 (Repealed)

Secs. 18.70.110 — 18.70.140.

Repealed by § 2 ch 23 S.L.A. 1971.

Editor's notes. — The repealed article derived from § 40-4-1, A.C.L.A. 1949 to § 40-4-3, A.C.L.A. 1949; § 40-4-6, A.C.L.A. 1949.

### Article 3. Mutual Fire Aid Agreements.

Section	Section
160. Adoption of mutual fire aid agreements	160. Agreement not to affect insurance rates or liability

Collateral references. — 35 Am. Jur. 2d, Fires, §§ 1-4.  
36A C.J.S., Fires, §§ 15, 16.  
Constitutionality of statute or ordinance requiring proprietor of place of amusement to furnish fire or police protection at his own expense. 8 ALR 1628.  
Fire department as pertaining to the governmental or to the proprietary branch of municipality. 9 ALR 143; 33 ALR 688; 84 ALR 614.

Statute relating to municipal fire departments as interference with local self government. 100 ALR 1078; 141 ALR 803.

Police power as authorizing statute imposing upon owner or occupant liability for expense of fighting fire starting on his land or property. 90 ALR2d 876.

Sec. 18.70.160. Adoption of mutual fire aid agreements. A city, other incorporated entity, and other fire protection groups may organize a mutual-aid program by adopting an ordinance or resolution authorizing and permitting their fire department, fire company, emergency relief squad, fire police squad or fire patrol to go to the aid of another city, incorporated entity, or fire protection group, or territory outside of it. While extending aid under AS 18.70.160 and 18.70.160 the fire department, company, squad, or patrol has the same privileges and immunities it possesses when it performs the same functions in its own area. The ordinance or resolution may authorize the heads of the fire department to extend aid, subject to conditions and restrictions prescribed in the ordinance or resolution. (§ 1 ch 92 S.L.A. 1957)

### NOTES TO DECISIONS

This section represents an erroneous belief that cities are not liable in tort for negligence connected with fire-fighting activities. City of Fairbanks v. Schaeble, Sup. Ct. Op. No. 97 (File Nos. 112, 113), 375 P.2d 201 (1962). See contra: City of Fairbanks v. Gilbertson, 16 Alaska 690 (1957), aff'd, 262 F.2d 734 (9th Cir. 1959), where § 56-2-2 A.C.L.A. 1949 (now AS 09-65-070) was ignored by both the district court and the Court of Appeals.

A city which maintains a fire department may be held liable for injuries resulting from negligence con-

necting with the department's firefighting activities. City of Fairbanks v. Schaeble, Sup. Ct. Op. No. 97 (File Nos. 112, 113), 375 P.2d 201 (1962). See contra: City of Fairbanks v. Gilbertson, 16 Alaska 690 (1957), aff'd, 262 F.2d 734 (9th Cir. 1959), where § 56-2-2 A.C.L.A. 1949 (now AS 09-65-070) was ignored by both the district court and the Court of Appeals.

Collateral references. — Fire departments as pertaining to the governmental or to the proprietary branch of munic-

ipality. 9 ALR 143; 33 ALR 688; 84 ALR 614.

Sec. 18.70.160. Agreement not to affect insurance rates or liability. An agreement made under AS 18.70.160 and 18.70.160 shall be carried out in a manner which does not raise insurance rates. An agreement may not reduce the liability of an insurance company in case of loss during the absence of men and equipment. (§ 1 ch 92 S.L.A. 1957)

### Article 4. General Provisions.

Section  
300. Definition of building

Sec. 18.70.300. Definition of building. In this chapter "building" means a structure, installation, facility, or edifice erected or in the process of being erected and which is used or intended for use as a commercial, industrial, business, institutional, other public building, or residential building containing four or more dwelling units. (§ 4 ch 176 S.L.A. 1968; am § 27 ch 32 S.L.A. 1971)

Revisor's notes. — In ch 176, S.L.A. 1968, this section was numbered 18.70.165.

### Chapter 72. State Regulation of Fireworks.

Section	Section
10. Regulation of sale of dangerous fireworks	30. Fireworks wholesaler's license
20. Regulation of sale of suitable fireworks	40. Violation
	50. Definitions
	60. Application of chapter

14.03.140

urposes. 94

is and insti-  
or accidents  
emises and  
ol purposes.

of statute or  
inauthorized  
in school  
3d 340.

stered in  
in charge  
minister or  
or survey,  
nily affairs  
blic obser-  
nt's parent

aska flags  
ing during  
ers proper.

atriotic char-  
LR 655: 127  
47 ALR 698.

er persons  
institution  
n an emer-  
he shortest  
eld at least  
ing. (§ 1 ch

ools.

§ 14.07.010

Section  
58. Alaska School Activities Association  
59. Alaska school activities fund

EDUCATION

§ 14.07.020

Section  
60. Regulations  
70. Withholding state funds

Collateral references. — 68 Am. Jur.  
2d Schools, §§ 5-7, 37-55.  
78 C.J.S. Schools and School Districts.  
§§ 83-91.

Modern status of doctrine of sovereign  
immunity as applied to public schools and  
institutions of higher learning. 33 ALR3d  
703.

**Sec. 14.07.010. Department of Education.** The Department of Education includes the commissioner of education, the state Board of Education, and the staff necessary to carry out the functions of the department. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

Quoted in *Begich v. Jefferson*, Sup. Ct.  
Op. No. 481 (File No. 894), 441 P.2d 27  
(1968).

*Anchorage School Dist., Sup. Ct. Op. No.*  
2160 (File Nos. 4796, 4797, 4826), 617 P.2d  
490 (1980).

Cited in *Tunley v. Municipality of*

**Sec. 14.07.020. Duties of the department.** The department shall  
(1) exercise general supervision over the public schools of the state  
except the University of Alaska;

(2) study the conditions and needs of the public schools of the state  
and adopt or recommend plans for the improvement of the public  
schools;

(3) provide advisory and consultative services to all public school  
governing bodies and personnel;

(4) prescribe by regulation a minimum course of study for the public  
schools;

(5) establish, in coordination with the Department of Health and  
Social Services, a program for the continuing education of children who  
are held in detention facilities in the state during the period of  
detention;

(6) accredit those public schools which meet accreditation standards  
prescribed by regulation by the department; these regulations shall be  
adopted by the department and presented to the legislature during the  
first 10 days of any regular session, and become effective 45 days after  
presentation or at the end of the session, whichever is earlier, unless  
disapproved by a resolution concurred in by a majority of the members  
of each house;

(7) prescribe by regulation, after consultation with the Department  
of Health and Social Services, standards that will assure healthful and  
safe conditions in the public and private schools of the state; the stan-  
dards for private schools may not be more stringent than those for  
public schools;

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4); pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

Stated Anchorage

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

Collate require buildings Power physician- 12 ALR 9: Extent to attend: 477; 53 Al Kindere

(10) accredit private elementary and secondary schools which request accreditation and which meet accreditation standards prescribed by regulation by the department;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

Sec. 1

(1) est area, re

(2) Re

(3) Re

(4) Re

(5) ent

Affairs of school st

(6) pr

(7) pr building-

(8) pr

(9) acc

and trans political

(10) pr

side mot

(11) pr

person

(12) pr

(13) pr

(12) provide educational opportunities in the areas of vocational education and training, basic education, and fire-service training to individuals over 16 years of age who are no longer attending school;

(13) administer the grants awarded under AS 14.11.020. (§ 1 ch 98 SLA 1966; am § 2 ch 69 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 190 SLA 1975; am § 6 ch 50 SLA 1977; am §§ 1-3 ch 126 SLA 1978; am § 10 ch 147 SLA 1978; am § 1 ch 86 SLA 1979; am § 24 ch 59 SLA 1982; §§ 1, 2 ch 92 SLA 1982)

Revisor's notes. — A reference to AS 14.11.020 was substituted for a reference to AS 14.07.190 in paragraph (13) by the revisor of statutes under AS 01.05.031 to conform to the renumbering of that section.

The second 1978 amendment added paragraph (11).

The 1979 amendment added paragraph (12).

The first 1982 amendment substituted "of" for "and" preceding "new public elementary" in paragraph (11).

Effect of amendments. — The first 1978 amendment deleted "private, and denominational" preceding "schools" near the beginning of paragraph (6), inserted "and private" preceding "schools" in paragraph (7), added the language beginning "the standards for private schools" to the end of paragraph (7), and added paragraph (10).

The second 1982 amendment substituted "plans include" for "a plan includes" in paragraph (11), inserted "and approve" and "the" preceding "purposes of this paragraph" in that same paragraph, and added paragraph (13).

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

465-3603

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

February 6, 1984

The Honorable Mae Tischer  
Alaska State House  
Pouch V  
Juneau, AK 99811

Re: HCS CSSB 354 (HESS)

Dear Representative Tischer:

You have asked whether HCS CSSB 354 (HESS) presents legal problems.

The line between legal issues and policy issues is often unclear in controversial areas of the law. We have reviewed HCS CSSB 354 (HESS) with an eye toward the former. Accordingly, we express no view on the overall wisdom of this legislation.

HCS CSSB 354 (HESS) is structurally similar to CSHB 514 (HESS) which we addressed in our letter to you of January 23, 1984. Each bill avoids the equal protection problems which we identified during our review of SCS CSHB 357 (RIs) am S.

Although we believe that HCS CSSB 354 (HESS) presents no significant constitutional problems, there are at least two questions of statutory interpretation which could arise as this legislation is implemented.

The first question is whether the definition of pre-elementary school contained in proposed AS 14.07.020(8) adequately distinguishes between pre-elementary education and child care. We are informed that these categories are factually very similar. Child care is subject to regulation by the Department of Health and Social Services under AS 47.35.

The second question concerns the meaning of the second sentence of proposed AS 14.45.100. This sentence states that certain private pre-elementary schools are not eligible for the general exemption from state regulation contained in the first sentence of AS 14.45.100. However, this exception appears to be

superfluous since, as a result of changes made in AS 14.07.020, regulation of private pre-elementary schools would be limited to health and safety matters which the first sentence of AS 14.45.100 does not affect.

It appears that the second sentence of proposed AS 14.45.100 is intended, in part, to assure that the exemption is not available to private schools which receive public funds. If this is the case, an issue arises as to why it is limited to facilities which serve children under six years of age. We suggest that you consider deleting the phrase "which serves children under the age of six years and" or, alternatively, deleting this sentence in its entirety and adding to proposed AS 14.45.140 a definition of "private school" which addresses this issue.

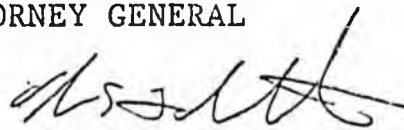
We note that the addition of a definition of "private school" to AS 14.45.140 could also be used to limit coverage of AS 14.45 to elementary and secondary schools. This seems to be the intent of language which was added to proposed AS 14.45.110(a), the effect of which is limited to that subsection. As we have indicated, coverage of pre-elementary schools seems unnecessary since agency authority to regulate them is restricted by changes made in proposed AS 14.07.020.

We have previously discussed each of these questions with your staff. If you have additional questions, please do not hesitate to contact this office.

Very truly yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:



Thomas H. Robertson  
Assistant Attorney General

THR:jal

Alaska State Legislature

REP. MAE TISCHER  
CHAIRMAN



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3777

House of Representatives  
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer  
FROM: Bill Lovell, Staff *lowell*  
DATE: February 20, 1984

RE: Comparison of HCS CSSB 354 (HESS) and HCS CSSB 354 (Rules)

I have prepared the following comparison of the HESS Committee version and the Rules Committee version of a House Committee Substitute for Committee Substitute for Senate Bill 354, "[a]n Act relating to the regulation of private schools."

Section 1 of the House Rules Committee Substitute contains no variations from the House HESS version.

Section 2 of the House Rules Committee Substitute contains six variations from the House HESS version. On the page and line(s) indicated, the House Rules Committee Substitute makes the following changes:

Page 1, line 22, creates a new subsection (a), including language currently in AS 14.07.020, except for the repositioning of the definition of "pre-elementary schools" and other changes indicated below. This change is only technical, allowing the definition of "pre-elementary schools" to be included in a new subsection (b) described below.

Page 2, line 19, deletes "private" before the phrase "pre-elementary schools" on lines 19 and 20. This change is basically technical. Since the law already mandates that standards for private schools may not be more stringent than those for public schools, it follows that similar physical examinations and immunizations must be required of both public and private pre-elementary schools. Deleting the word "private," as indicated above, clarifies this intent.

Page 2, line 23, deletes "public" after the phrase "supervision over." This change becomes basically technical when taken in conjunction with the next change in this paragraph as explained on page 2 of this analysis.

Page 2, line 24, inserts "that receive direct state or federal funding" after the phrase "pre-elementary schools." This change extends Department of Education supervisory authority to include, not only public pre-elementary schools, but all pre-elementary schools, public or private, that receive any direct state or federal funding.

Page 2, lines 26 - 28, deletes the definition of "pre-elementary schools." This definition is contained substantively in the new subsection (b) below.

Page 3, lines 21 - 23, creates a new subsection (b) that includes the definition of "pre-elementary schools" previously contained substantively in AS 14.07.020 (8), except that the definition in (b) now applies to all of AS 14.07.020, where it had previously applied only to paragraph (8).

Section 3 of the House Rules Committee Substitute contains no variations from the House HESS version.

Section 4 of the House Rules Committee Substitute contains no variations from the House HESS version.

Section 5 of the House Rules Committee Substitute contains two variations from the House HESS version. On the page and line(s) indicated, the House Rules Committee Substitute makes the following changes:

Page 5, line 25, deletes "A facility that serves children under the age of six years and receives state payments is not eligible for the exemption provided by this section." In his review of the House HESS Committee Substitute for CSSB 354, Assistant Attorney General Rick Robertson advised that the sentence indicated above was ambiguous and should be substantively modified, or deleted with subsequent changes to other related sections of the bill. Briefly, Mr. Robertson noted that the bill did not at that time authorize the Department of Education to supervise any private pre-elementary schools, beyond basic health and safety; therefore, there were no regulations from which private pre-elementary schools could be exempt. The Rules Committee Substitute deletes the indicated statement; adds a new definition of private schools which prohibits exemption by pre-elementary schools that receive direct state or federal funding; and explicitly extends Department of Education authority to include pre-elementary schools that receive direct state or federal funding.

Page 7, lines 18 - 19, inserts a definition of "private school"

Comparison of HCS CSSB 354 (HESS) and HCS CSSB 354 (Rules)  
February 20, 1984  
Page 3

for these sections. This definition effectively prohibits a school that receives any direct state or federal funding from being exempt from Department of Education regulation. The addition of this definition requires the drafter to put the definition of "private school" into a new paragraph (1) and the definition of "religious school," also contained in the House HESS version, into a new paragraph (2).

A copy of the Rules Committee Substitute with highlighted changes is being provided to each interested member of the House.

WTL:cas

Alaska State Legislature

REP. MAE TISCHER  
CHAIRMAN



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3777

House of Representatives  
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer  
FROM: Bill Lovell, Staff *lovel*  
DATE: February 20, 1984  
  
RE: Analysis of HCS CSSB 354 (Rules)

I have worked with Keith Levy of the Division of Legal Services to prepare the following analysis of the House Rules Committee Substitute for Committee Substitute for Senate Bill 354, "[a]n Act relating to the regulation of private schools."

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion or with the right of parents to choose to have their children attend private schools while at the same time ensuring the quality of all education in the state and encouraging diversity in education.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.020). The bill creates a new subsection (a) in the law, including language currently in AS 14.07.020, except for the repositioning of the definition of "pre-elementary schools" and other changes indicated below. New language provides that the department will consult with the state fire marshal and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It states that the department must require physical examinations and immunizations in pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is authorized to supervise only those pre-elementary schools which receive direct state or federal funding. Supervision of pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Finally, section 2 makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is not authorized to require private schools to be licensed (AS 14.07.020(10)). A new subsection (b) defines pre-elementary schools, as used in this section, as schools for children ages three through five years when the schools are primarily educational in purpose.

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS

14.45 (see section 5 below) satisfies compulsory attendance requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100).

The parent or guardian of a child of compulsory school age enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the school calendar and the number of students enrolled in each grade (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades four, six, and eight at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the tested student's parent or guardian. The school is required to make composite test results available annually to an authorized representative of the Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the results of which are also public information (AS 14.45.120(c)).

The exempt schools are also required to maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school. The administrator of the school must certify to the department, under oath or affirmation, that these records are being maintained (AS 14.45.130). "Private school," as used in these sections, is defined as a school that does not receive direct state or federal funding. (AS 14.45.140 (1)). Finally, "religious school," as used in these sections, is defined as a private school operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140(2)).

It should be kept in mind that these provisions are not mandatory unless

Analysis of HCS CSSR 354 (Rules)  
February 20, 1984  
Page 3

the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

KBL:WTL:cas

Alaska State Legislature

REP. MAE TISCHER  
CHAIRMAN



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3777

House of Representatives  
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: All Members of the House  
FROM: Representative Mae Tischer *MT*  
DATE: February 15, 1984  
RE: HCS CSSB 354 (Rules)

Attached please find a copy of the House Rules Committee Substitute for Senate Bill 354, "[a]n Act relating to the regulation of private schools."

My staff has done a considerable amount of preparation on this important legislation and I would be more than happy to have them provide you with any back-up material you might need.

For any additional information, please contact the House HESS Committee staff at 465 - 3777.

MMT:wtl

Attachment

DRAFT

13-1739  
Levy  
1/12/84

1 IN THE HOUSE

BY TISCHER

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act to be known as: "An Act relating to the regulation of private  
7 schools." *Purpose clause here*

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

9 \* Section 1. AS 14.07.020 is amended to read:

10 Sec. 14.07.020. DUTIES OF THE DEPARTMENT. The department shall

11 (1) exercise general supervision over the public schools of  
12 the state except the University of Alaska;

13 (2) study the conditions and needs of the public schools of  
14 the state and adopt or recommend plans for the improvement of the  
15 public schools;

16 (3) provide advisory and consultative services to all  
17 public school governing bodies and personnel;

18 (4) prescribe by regulation a minimum course of study for  
19 the public schools;

20 (5) establish, in coordination with the Department of  
21 Health and Social Services, a program for the continuing education of  
22 children who are held in detention facilities in the state during the  
23 period of detention;

24 (6) accredit those public schools which meet accreditation  
25 standards prescribed by regulation by the department; these regula-  
26 tions shall be adopted by the department and presented to the legisla-  
27 ture during the first 10 days of any regular session, and become  
28 effective 45 days after presentation or at the end of the session,  
29 whichever is earlier, unless disapproved by a resolution concurred in

1 by a majority of the members of each house;

2 (7) prescribe by regulation, after consultation with the  
3 state fire marshal and the state sanitarian [DEPARTMENT OF HEALTH AND  
4 SOCIAL SERVICES], standards that will assure healthful and safe con-  
5 ditions in the public and private schools of the state; the standards  
6 for private schools may not be more stringent than those for public  
7 schools;

8 (8) [IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND  
9 SOCIAL SERVICES,] exercise general supervision over public [AND PRI-  
10 VATE] pre-elementary schools [AND OVER THE EDUCATIONAL COMPONENT OF  
11 NURSERIES AS DEFINED IN AS 47.35.080(4)]; pre-elementary schools in  
12 this section [PARAGRAPH] means schools for children ages three through  
13 five years when the schools' primary function is educational;

14 (9) provide accredited elementary and secondary correspon-  
15 dence study programs available to any Alaskan through a centralized  
16 office of correspondence study;

17 (10) accredit private (~~elementary and secondary~~) schools  
18 which request accreditation and which meet accreditation standards  
19 prescribed by regulation by the department; nothing in this paragraph  
20 authorizes the department to require <sup>religious or</sup> ~~private sectarian and nonsec-~~  
21 tarian schools to be licensed; <sub>other</sub> <sup>religious</sup>

22 (11) review plans for construction of new public elementary  
23 and secondary schools and for additions to and major rehabilitation of  
24 existing public elementary and secondary schools and, in accordance  
25 with regulations adopted by the department, determine and approve the  
26 extent of eligibility for state aid of a school construction project  
27 begun after July 1, 1978; for the purposes of this paragraph, "plans"  
28 include educational specifications, schematic designs, and final  
29 contract documents;

1 (12) provide educational opportunities in the areas of  
2 vocational education and training, basic education, and fire-service  
3 training to individuals over 16 years of age who are no longer attend-  
4 ing school;

5 (13) administer the grants awarded under AS 14.11.020;

6 *goes to AS 14.11.020*  
7 (14) require physical examinations and immunizations in  
8 private sectarian and nonsectarian pre-elementary schools.

9 \* Sec. 2. AS 14.30.010(b) is amended to read:

10 (b) This section does not apply if a child

11 (1) is provided an academic education comparable to that  
12 offered by the public schools in the area, either by

13 (A) attendance at a private school in which the teach-  
14 ers are certificated according to AS 14.20.020;

15 (B) tutoring by personnel certificated according to  
16 AS 14.20.020; [OR]

17 (C) attendance at a private school in which the aver-  
18 age student proficiency is not less than the average proficiency  
19 found in the public schools in the area as measured by national  
20 achievement tests; the *State Board of Ed* board [DEPARTMENT] with assistance from  
21 representatives of the private schools shall adopt [PROMULGATE]  
22 regulations defining the subject areas to be tested and the  
23 minimum average scores to be achieved; or

24 *State Board of Ed*  
25 (D) attendance at an educational program operated in  
26 compliance with AS 14.45 by a private *religious or other* sectarian or nonsectarian  
27 school;

28 (2) attends a school operated by the federal government;

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

(4) is in the custody of a court or law enforcement

1 authorities;

2 (5) is temporarily ill or injured;

3 (6) has been suspended or denied admittance according to  
4 AS 14.30.045;

5 (7) resides more than two miles from either a public school  
6 or a route on which transportation is provided by the school authori-  
7 ties, except that this subsection does not apply if the child resides  
8 within two miles of a federal or private school which the child is  
9 eligible and able to attend;

10 (8) is excused by action of the school board of the dis-  
11 trict at a regular meeting or by the district superintendent subject  
12 to approval by the school board of the district at the next regular  
13 meeting;

14 (9) has completed the 12th grade;

15 (10) is enrolled in a full-time program of correspondence  
16 study approved by the department; in those school districts providing  
17 an approved correspondence study program, a student may be enrolled  
18 either in the district correspondence program or in the centralized  
19 correspondence study program;

20 (11) is equally well-served by an educational experience  
21 approved by the school board as serving the child's educational inter-  
22 ests despite an absence from school, the request for excuse is made in  
23 writing by the child's parents or guardian, and approved by the prin-  
24 cipal or administrator of the school that the child attends.

25 \* Sec. 3. AS 14.45.030 is amended to read:

26 Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a)  
27 Teachers and others in charge of private ~~sectarian or nonsectarian~~ [OR  
28 DENOMINATIONAL] schools not operated in compliance with this <sup>section</sup> chapter  
29 are not exempt from laws and regulations relating to education, and

1 shall make regular monthly attendance reports and annual reports to  
2 the commissioner in the same manner as teachers and superintendents in  
3 the public schools.

4 \* Sec. 4. AS 14.45 is amended by adding new sections to read:

5 ARTICLE 2. EXEMPT PRIVATE <sup>Religious</sup> SECTARIAN SCHOOLS.

6 Sec. 14.45.100. EXEMPTION. A private <sup>religious</sup> ~~sectarian~~ school that  
7 complies with AS 14.45.100 - 14.45.130 is exempt from other provisions  
8 of law and regulations relating to education except law and regula-  
9 tions relating to physical health, fire safety, sanitation, immuni-  
10 zation, and physical examinations.

11 Sec. 14.45.110. REQUIREMENTS OF EXEMPT SCHOOLS. (a) The parent  
12 or guardian of a child enrolled in a private <sup>Religious</sup> ~~sectarian~~ school that  
13 complies with AS 14.45.100 - 14.45.130 shall file an annual notice of  
14 enrollment in the school for the child with the local public school  
15 superintendent for the area in which the child resides on a form  
16 provided by the department. The form shall be signed by the parent or  
17 guardian and the chief administrative officer of the school and re-  
18 turned to the local public school superintendent by the parent or  
19 guardian. The school shall notify the local public school superinten-  
20 dent within a reasonable time if the child is no longer enrolled in or  
21 attending the school.

22 (b) A private <sup>Religious</sup> ~~sectarian~~ school that elects to comply with  
23 AS 14.45.100 - 14.45.130 shall maintain monthly attendance records for  
24 each student enrolled in the school, shall operate on a regular sched-  
25 ule, excluding reasonable holidays and vacations, during at least 180  
26 days of the year, and shall make an annual report to the commissioner  
27 of the number of students in each grade and the school calendar.

28 Sec. 14.45.120. STANDARDIZED TESTING REQUIREMENTS. (a) A  
29 private ~~sectarian~~ <sup>religious</sup> school that elects to comply with AS 14.45.100 -

1 14.45.130 shall administer a nationally standardized test selected by  
2 the chief administrative officer of the school to all students enrol-  
3 led in grade; ~~one, three, six, and nine~~<sup>4 8</sup> at least once each school  
4 year.

5 (b) The nationally standardized test must measure achievement in  
6 English grammar, reading, spelling, and mathematics.

7 (c) A private ~~sectarian~~<sup>religious</sup> school that elects to comply with  
8 AS 14.45.100 - 14.45.130 shall maintain records of the results of the  
9 nationally standardized tests and the records shall be made available  
10 to the parent or guardian of the student. Each school shall make  
11 composite test results for the school available annually to an autho-  
12 rized representative of the department. The composite test results of  
13 a private ~~sectarian or nonsectarian~~ school operated in compliance with  
14 this chapter are not public information unless each public school is  
15 also required to administer a nationally standardized test and the  
16 composite test results for each public school are public information. <sup>Refer to (b)</sup>

17 Sec. 14.45.130. RECORDS. A private ~~sectarian~~ school that  
18 elects to comply with AS 14.45.100 - 14.45.130 shall maintain student  
19 ~~records~~<sup>permanent</sup> reflecting immunizations, physical examinations, standardized  
20 testing, and courses taken at the school. <sup>academic achievement</sup> *The chief admin will certify the records as being kept*

21 ARTICLE 3. EXEMPT PRIVATE NONSECTARIAN SCHOOLS.

22 Sec. 14.45.150. EXEMPTION. A private nonsectarian school that  
23 complies with AS 14.45.150 - 14.45.180 is exempt from other provisions  
24 of law and regulations relating to education except law and regula-  
25 tions relating to physical health, fire safety, sanitation, immuniza-  
26 tion, and physical examinations.

27 Sec. 14.45.160. REQUIREMENTS OF EXEMPT SCHOOLS. (a) The parent  
28 or guardian of a child enrolled in a private nonsectarian school that  
29 complies with AS 14.45.150 - 14.45.180 shall file an annual notice of

1 enrollment in the school for the child with the local public school  
2 superintendent for the area in which the child resides on a form  
3 provided by the department. The form shall be signed by the parent or  
4 guardian and the chief administrative officer of the school and re-  
5 turned to the local public school superintendent by the parent or  
6 guardian. The school shall notify the local public school superinten-  
7 dent within a reasonable time if the child is no longer enrolled in or  
8 attending the school.

9 (b) A private nonsectarian school that elects to comply with  
10 AS 14.45.150 - 14.45.180 shall maintain monthly attendance records for  
11 each student enrolled in the school, shall operate on a regular sched-  
12 ule, excluding reasonable holidays and vacations, during at least 180  
13 days of the year, and shall make an annual report to the commissioner  
14 of the number of students in each grade and the school calendar.

15 Sec. 14.45.170. STANDARDIZED TESTING REQUIREMENTS. (a) A  
16 private nonsectarian school that elects to comply with AS 14.45.150 -  
17 14.45.180 shall administer a nationally standardized test selected by  
18 the chief administrative officer of the school to all students enrol-  
19 led in grades one, three, six, and nine at least once each school  
20 year.

21 (b) The nationally standardized test must measure achievement in  
22 English grammar, reading, spelling, and mathematics.

23 (c) A private nonsectarian school that elects to comply with  
24 AS 14.45.150 - 14.45.180 shall maintain records of the results of the  
25 nationally standardized tests and the records shall be made available  
26 to the parent or guardian of the student. Each school shall make  
27 composite test results for the school available annually to an author-  
28 ized representative of the department. The composite test results of  
29 a private sectarian or nonsectarian school operated in compliance with

1 this chapter are not public information unless each public school is  
2 also required to administer a nationally standardized test and the  
3 composite test results for each public school are public information.

4 Sec. 14.45.180. RECORDS. A private nonsectarian school that  
5 elects to comply with AS 14.45.150 - 14.45.180 shall maintain student  
6 records reflecting immunizations, physical examinations, standardized  
7 testing, and courses taken at the school.

8 \* Sec. 5. AS 44.27.020 is amended to read:

9 Sec. 44.27.020. DUTIES OF DEPARTMENT. The Department of Educa-  
10 tion shall

11 (1) administer the state's program of education at the  
12 elementary, secondary, and adult levels, including, but not limited  
13 to, programs of vocational education and training, vocational rehabil-  
14 itation, library services, correspondence courses, adult basic educa-  
15 tion, and fire-service training, but not including degree programs of  
16 postsecondary education or an educational program operated in compli-  
17 ance with AS 14.45 by a private sectarian or nonsectarian school;

18 (2) administer the historical library;

19 (3) plan, finance and operate related school and educa-  
20 tional activities and facilities.

21 \* Sec. 6. AS 14.45.020 is repealed.  
22  
23  
24  
25  
26  
27  
28  
29

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

465-3603

January 11, 1984

The Honorable Jan Faiks  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Re: Sectarian and Nonsectarian  
Schools

Dear Senator Faiks:


Enclosed, pursuant to your request of this afternoon, is a revision of the draft legislation you provided this office on November 17, 1983. This revision resolves the constitutional issues which we have discussed. I must emphasize, despite the fact that some changes have been made, that our efforts should not be construed as expressing support for this legislation as a matter of policy.

If you have questions in this regard, please do not hesitate to let me know.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

  
Thomas H. Robertson  
Assistant Attorney General

THR:jal  
Enclosure

IN THE \_\_\_\_\_

BY \_\_\_\_\_

\_\_\_\_\_ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of private  
sectarian and nonsectarian schools."

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

\* Section 1. The purpose of this Act is to eliminate unnecessary state  
involvement in the affairs of private schools and to protect religious  
freedom as expressed through affiliation with sectarian educational insti-  
tutions.

\* Sec. 2. AS 14.07.020(7) is amended to read:

(7) prescribe by regulation, after consultation with the  
*State fire Marshall & STATE SANITARIAN*  
~~Department of Health and Social Services~~, standards that will assure  
healthful and safe conditions in the public and private pre-  
elementary, elementary, and secondary schools of the state; the stan-  
dards for private schools may not be more stringent than those for  
public schools;

\* Sec. 3. AS 14.07.020(8) is amended to read:

(8) [IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND  
SOCIAL SERVICES,] exercise general supervision over public [AND PRI-  
VATE] pre-elementary schools [AND OVER THE EDUCATIONAL COMPONENT OF  
NURSERIES AS DEFINED IN AS 47.35.080(4)]; pre-elementary schools in  
this paragraph means schools for children ages three through five  
years when the schools' primary function is educational;

\* Sec. 4. AS 14.07.020(10) is amended to read:

(10) accredit private (pre-elementary, elementary, and  
secondary schools which request accreditation and which meet

DRAFT

accreditation standards prescribed by regulation by the department;

\* Sec. 5. AS 14.30.010(b)(1) is amended to read:

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certified according to AS 14.20.020;

(B) tutoring by personnel certified according to AS 14.20.020; or

(C) attendance at private sectarian or nonsectarian school operated in compliance with AS 14.45 [ATTENDANCE AT A PRIVATE SCHOOL IN WHICH THE AVERAGE STUDENT PROFICIENCY IS NOT LESS THAN THE AVERAGE PROFICIENCY FOUND IN THE PUBLIC SCHOOLS IN THE AREA AS MEASURED BY NATIONAL ACHIEVEMENT TESTS; THE DEPARTMENT WITH ASSISTANCE FROM REPRESENTATIVES OF THE PRIVATE SCHOOLS SHALL PROMULGATE REGULATIONS DEFINING THE SUBJECT AREAS TO BE TESTED AND THE MINIMUM AVERAGE SCORES TO BE ACHIEVED];

✓ \* Sec. 6. AS 14.45.020 and ~~AS 14.45.030~~ <sup>is</sup> ~~are~~ repealed.

\* Sec. 7. AS 14.45 is amended by adding new sections to read:

CHAPTER 45. PRIVATE [AND DENOMINATIONAL] SCHOOLS

ARTICLE 1. GENERAL PROVISIONS

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED.

*Freedom of  
Commission*  
Teachers and others in charge of private [OR DENOMINATIONAL] schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

\* Sec. 8. AS 14.45 is amended by adding new sections to read:

ARTICLE 2. EXEMPT SCHOOLS

Sec. 14.45.100. EXEMPTION FROM EDUCATION LAWS. A private sectarian or nonsectarian school operated in compliance with

AS 14.45.100 -- 14.45.140 is exempt from other provisions of state law and regulations relating to education except laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations.

Sec. 14.45.110. ATTENDANCE REPORTS OF EXEMPT SCHOOLS. (a) The parent or guardian of a child enrolled in a private sectarian or nonsectarian school that elects to comply with AS 14.45.100 -- 14.45.140 shall file with the superintendent of the public school district in which the child resides a notice of enrollment within 30 days after enrollment of the child in the school on a form provided by the department. The form must be signed by the parent and the chief administrative officer of the school.

(b) A private sectarian or nonsectarian school that elects to comply with AS 14.45.100 -- 14.45.140 shall notify the superintendent if the child is no longer enrolled in, or attending the school.

CALENDAR(?)  
Sec. 14.45.120. PROGRAM REQUIREMENTS OF EXEMPT SCHOOLS. A private sectarian or nonsectarian school that elects to comply with AS 14.45.100 -- 14.45.140 shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least 180 days of the year, and shall report to the department the school calendar and the number of students in each grade within 30 days after the start of each school year.

Sec. 14.45.130. STUDENT RECORDS OF EXEMPT SCHOOLS. (a) A private sectarian or nonsectarian school that elects to comply with AS 14.45.100 -- 14.45.140 shall maintain permanent student records, including records of daily attendance, immunizations, physical examinations, testing, courses taken at the school, and grades received.

(b) Upon reasonable notice the school shall make student records maintained under this section available for inspection by the

department.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 6, 1984

SUBJECT: Attorney General's analysis of  
HCS CSSB 354 (HESS)

TO: Representative Mae Tischer  
Chairman, Health, Education, and  
Social Services Committee

FROM: Keith B. Levy *KBL*  
Legislative Counsel



You have requested an analysis of a letter from the Attorney General concerning the latest draft of HCS CSSB 354 (HESS). The Attorney General's letter indicates that the bill presents no significant constitutional problems, an opinion with which I agree. The criticisms of the bill in the Attorney General's letter only relate to potential problems of statutory interpretation and style. They are, for the most part, matters of clarity which could be adopted, but are probably not essential.

First, the Attorney General notes that the bill does not adequately distinguish between pre-elementary schools and child care. As amended by the bill, AS 14.07.020(7) provides that the Department of Education, after consultation with the state fire marshall and the state sanitarian, regulates the health and safety aspects of private schools, including pre-elementary schools. Under AS 47.35, however, the Department of Health and Social Services regulates nurseries (child care centers). The Attorney General apparently feels that AS 14.07.020(7) should contain a clear definition of pre-elementary schools so that a nursery or pre-elementary school could not choose between the Department of Education and the Department of Health and Social Services simply by calling itself a nursery or a pre-elementary school.

While I agree that there is some potential confusion here, it is my opinion that a change is not essential. AS 47.35.080(4) defines nursery rather clearly and excludes

establishments "whose primary function is educational," i.e., pre-elementary schools. Accordingly, it is clear that D.H.S.S regulates nurseries, while D.O.E regulates the health and safety aspects of all public and private schools, including pre-elementary schools. In other words, the confusion that the Attorney General is concerned with is insignificant when the bill is read in conjunction with AS 47.35.080(4).

The second question raised by the Attorney General has to do with the second sentence of AS 14.45.100, in section 5 of the bill. That sentence, which was added as a Senate floor amendment, provides that "a facility that serves children under the age of six and receives state payments is not eligible for the exemption provided by this section."

The Attorney General points out that the sentence is superfluous since the exemption provided for in that section does not affect programs for children under compulsory school age anyway. This observation is correct, and moreover, private schools are ineligible to receive direct state aid under Art. VII, sec. 1 of the state constitution. Therefore, I agree that the sentence is unnecessary and could be removed entirely. However, since the sentence neither adds nor subtracts substantively from the bill, removing or amending it is not essential.

Finally, the Attorney General notes that the Senate amended AS 14.45.110(a) in section 5 of the bill to make clear that the section only applies to children of compulsory school age. The Attorney General points out that all of AS 14.45 was intended to apply only to compulsory school age children, and therefore this distinction should be made through-out AS 14.45, or a definition added to clarify the point.

Again, I agree with the Attorney General's analysis. It is true that some language indicating that the provisions of AS 14.45 apply only to compulsory school age children would add clarity to the bill. However, the change is not essential since the provisions of AS 14.45 indicate implicitly that they apply only to school age children. This is indicated by section 3 of the bill which amends the compulsory school attendance law to provide that compliance with AS 14.45 satisfies the compulsory attendance requirement. It also follows from the fact that a private school may elect to comply with AS 14.45 or not, as it chooses.

Representative Mae Tischer  
Page 3  
February 6, 1984

In conclusion, I agree with the Attorney General's criticisms of HCS CSSB 354 (HESS) insofar as the changes suggested would add clarity to the bill. However, these changes are not essential to the bill from a legal standpoint.

KBL:ojb  
J3/056

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY



MEMORANDUM

January 31, 1984

SUBJECT: Sectional analysis of HCS CS SB 354 (HESS)

TO: Representative Mae Tischer  
Chairman, House HESS Committee

FROM: Keith B. Levy *KBL*  
Legislative Counsel

You have requested a sectional analysis of HCS CS SB 354 (HESS), "An Act relating to the regulation of private schools." The main thrust of the bill is to allow religious and other private schools to opt out of the general laws and regulations applicable to private schools if they agree to comply with certain minimal requirements.

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion while at the same time ensuring the quality of all education in the state and allowing diversity in education by encouraging private education.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.020). It provides that the department will consult with the state fire marshall and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It clarifies that the department must require physical examinations and immunizations in private pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is no longer responsible for the general supervision of private pre-elementary schools and nurseries. Supervision over public pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Finally, section 2 makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is not authorized to require private schools to be licensed (AS 14.07.020(10)).

Representative Mae Tischer

Page 2

January 31, 1984

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS 14.45 (see section 5, below) satisfies the compulsory education requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100). The exemption is also not available to schools that serve children under the age of six and receive state funds.

The parent or guardian of a child of compulsory school age enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the number of students enrolled in each grade and the school calendar (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades four, six, and eight at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the parent or guardian of the student. The school is required to make composite test results available annually to an authorized representative of the Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the result of which are also public (AS 14.45.120(c)).

Representative Mae Tischer  
Page 3  
January 31, 1984

The exempt schools are also required to maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school. The administrator of the school must certify under oath or by affirmation to the Department of Education that these records are being maintained (AS 14.45.130). Finally, "religious school," as used in these sections, is defined as a private school operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140).

It should be kept in mind that these provisions are not mandatory unless the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

KBL:ojb  
J3/022

COMMITTEE REPORT  
HOUSE

(7)

FURTHER:

1/24/84

Date: 1-30-84

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had CSSB 354 (Jud) am

"An Act relating to the regulation of private schools."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with <sup>H</sup>CS for CSSB 354 (HESS)  same title
- new title
- and recommends THAT THE CS DO PASS
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Rich Velt

M. W. Miller

Terry Mastor

Mad. Fischer

---

---

---

---

---

---

---

---

---

---

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Richard [unclear] PASS SENATE VERSION

Mike [unclear] pass senate version

Mike Lewis PASS SENATE VERSION

---

---

---

---

---

---

---

---

---

---

Mad. Fischer  
CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 514  
 Title: Regulation of Private  
Schools  
 Sponsor: Rep. Tischer  
 Requestor: House HESS  
 Date of Request: 1-20-84

FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: \_\_\_\_\_  
Life and Protection  
 BRU, Program or Subprogram(s) Affected:  
Fire Prevention

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No fiscal impact

ANALYSIS: Attach a separate page for analysis

Prepared By: Gordon Brunton Phone: 465-4331  
 Division: Fire Prevention Date: 1-20-84  
 Approved by Commissioner: Robert J. Sundberg Date: 1-20-84  
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

12/1/83

Alaska State Legislature

REP. MAE TISCHER  
CHAIRMAN



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 585-3777

House of Representatives  
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer  
FROM: Bill Lovell, Staff *BL*  
DATE: January 30, 1984

RE: Comparison of SCS SB 354 (Judiciary) am, and HCS SB 354 (HESS)

For your convenience, I have compared the House HESS Committee Substitute of Senate Bill 354 to the version passed by the Senate.

Page 2, lines 23 - 25 After the word "schools," delete underlined material: "and private pre-elementary schools that are not in facilities associated with an elementary school that operates grades one through three".

Page 5, line 24 Delete "or subsidies."

Page 5, line 27 After the word "child," insert "of compulsory school age".

Page 5, line 29 - Page 6, line 1 Delete "of compulsory school age".

Page 6, line 19 After the word "grades," substitute "four, six and eight" for existing language "two, four, six, and ten".

Page 7, line 15 After the word "affirmation," insert "to the department".

/wt1

*minimum standards*

*definition of pre-school -*

*and*

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date:

**REQUEST**

Bill/Resolution No.: H.B. 514  
 Title: An Act relating to the regulation of private schools  
 Sponsor: Tischer, et al  
 Requestor: \_\_\_\_\_  
 Date of Request: 1/23/84

**FISCAL DETAIL**

Agency Affected: Environmental Conservation  
 Program Category Affected: NRMEC  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Environmental Quality Management

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES		0	0	0		
200 TRAVEL		0	0	0		
300 CONTRACTUAL		0	0	0		
400 SUPPLIES		0	0	0		
500 EQUIPMENT		0	0	0		
600 LAND & STRUCTURES		0	0	0		
700 GRANTS, CLAIMS		0	0	0		
800 MISCELLANEOUS		0	0	0		
<b>TOTAL OPERATING</b>		0	0	0		
<b>CAPITAL</b>		0	0	0		
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		0	0	0		
FEDERAL FUNDS		0	0	0		
OTHER		0	0	0		
<b>TOTAL</b>		0	0	0		

**POSITIONS:**

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

**SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

ANALYSIS: Attach a separate page for analysis

Prepared By: Joe Clidouhos, Director Phone: 465-2640  
 Division: Environmental Quality Management Date: 1/23/84

Approved by Commissioner: Richard Neve Date: 1/23/84  
 Agency: Environmental Conservation

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB-514  
 Title: ...regulation of private schools  
 Sponsor: Tischer  
 Requestor: Hess  
 Date of Request: 1-19-84

FISCAL DETAIL

Agency Affected: Education  
 Program Category Affected: Elementary & Secondary Education  
 BRU, Program or Subprogram(s) Affected: School Improvement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard Luther, Director Phone: \_\_\_\_\_  
 Division: Education Program Support Date: \_\_\_\_\_

Approved by Commissioner: Harvold Reynolds, Jr. Date: 1-20-84  
 Agency: Education

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •  
326 Fourth St., Suite #510 Juneau, Alaska 99801 586-9702

an organization of Alaskan School Administrators

---

January 24, 1984

The Honorable Mae Tischer  
House of Representatives  
Chairman, Health, Education  
and Social Services  
Pouch V  
Juneau, AK 99811



Dear Representative Tischer:

The Alaska Council of School Administrators would like to go on record as supporting H.B. 514 as amended. We are particularly pleased that the bill calls for a process of notifying local school districts about enrolled or non-enrolled students as found in Sec. 14.45.110. This bill enables the chief administrative officer of a district to fulfill his requirements under the compulsory attendance law AS Sec. 14.30.030.

Once again, we support the bill as written and urge its adoption.

Sincerely,

Don MacKinnon  
Executive Secretary

DM:clc



American Association of University Women  
Alaska State Division

Susan R. Clark, State Legislative  
Chair  
1109 C Street, Juneau, Ak. 99801  
(907) 586-6952

23 January 1984

The Alaska Division of AAUW would like to go on record in support of an amendment to HB 519/SP 354, relating to the regulation of private schools. On page two of the bill (in Sec. 2. AS 14.07.020.) we would recommend that (8) read as follows: "...pre-elementary schools in this paragraph means schools for children ages three through five years when the school's primary function is educational and the program operates for four or fewer hours a day." Of specific concern to us is the health and safety of pre-elementary children ages 3 through 5 who spend from five to 10 or more hours daily in care outside their home.

Without this ammendment a loophole is created or rather maintained in Alaska statute that permits any program offering care to children up to 10 hours or more a day to exempt itself from health and safety regulations governing all Alaskan day care centers - even though that program is not functionally different from a day care program. The Dept. of Education has been called to task over the last several years by both the State Division of Internal Audit and the Federal Office of Child Development for the lack of a clear definition. Says the latter: "Your statute is indeed weak, allowing for confusion and almost any interpretation..." The Dept. audit found that "neither of the statutes [D.O.E.'s wording nor D.H.S.S.'s AS 47.35.010-80] set criteria nor define what is to be considered a primarily educational facility versus a child care facility;" and "because primarily educational has not been defined, neither the regulator: Departments, the facilities themselves, nor the public has a positive definition to use in deciding whether or not a program is a preschool or daycare program. As a result, any facility may choose to be classified as a preschool, and avoid the requirement to comply with daycare standards."

One of the issues involved here is that education of pre-elementary children is different than the academic emphasis of elementary education, due to shorter attention spans, the need for more physical movement (and the need for physical rest), and the underlying necessity of children needing to learn pre-academic skills. Goals for a pre-schooler are different than those for an older child, and Early Childhood educators set out the following as desirable outcomes of a preschool education:

- a. Development of a positive self-concept, a sense of self-worth that comes from experiencing success, and a growing awareness of one's strengths as well as one's weakness.
- b. Achievement of independence in decision making and a sense of mastery over one's environment (buttons, bows and zippers...); plus an achievement of mutual interdependence - a sense of responsibility for self and others within a community or group.
- c. Movement from preoccupation with one's own biological and

- psychological needs toward involvement in outside interests and activities; finding pleasure from human interaction; seeking problems and finding satisfaction in solving them.
- d. Internalizing the concepts of problem solving abilities.
  - e. Coping with change and wider relationships.

Parents overwhelmingly want the option of an enrichment program for their children - the inclusion of life-expanding experiences not normally available in the home - and early enrichment has been shown to be important to the full development of all types and classes of children. Because of these factors all quality childcare programs at the pre-elementary level have (and all programs are encouraged to have) educational components teaching the basic life skills of self-sufficiency, socialization, and basic cognitive skills. Parents and community are no longer willing to accept custodial childcare or "warehousing" of kids as acceptable. Thus based on educational content there is no functional difference between a full day "preschool" and a good day care center. In fact in the D.O.E. audit, "of the 19 daycare programs surveyed, 18 stated they offered a preschool program." Ironically in Alaska while parents are lured by the term "preschool" into thinking they are doing better by their children, the standards for preschools are considerably lower than for daycare centers. [See attachment for comparison.]

When a young child is in care for all day every day, the program ceases to be solely a "school" and must include attention to nutritional needs, rest, staff health, adequate supervision with enough staff to attempt to meet the individual needs of each child, and enough space to meet the need to be physically active. Quality childcare is commonly described in national studies as having a tight child/staff ratio (a small number of children to each staff member). Safety in emergencies is a factor, but in normal times children under five need more individual attention than they will ever need at any other time. To form strong and positive self-concept, children need to be listened to, supported and encouraged. A large number of children can be tolerated in "school"-like situations for short periods during the day when activities are highly structured, but the emphasis must necessarily be on control. On a full time basis that can contribute to degrees of "maternal deprivation" resulting from the lack of a strong, rewarding relationship in the early years with a single close adult. "Preschools" have no child/staff ratio requirements. Similarly "pre-schools" have no minimum space requirements although the D.O.E. audit pointed out that adequate space is "absolutely necessary to ensure a quality, developmentally-orientated child care program":

"the higher the quality of space in a center, the more likely were teachers to be sensitive and friendly in their manner toward children, to encourage children in their self-chosen activities and to teach consideration for the rights and feelings of self and others. Where spatial quality was low, children were less likely to be involved and interested, were more likely to exhibit aggressive behavior, and teachers more likely to be neutral and insensitive in their manner, to use large amounts of guidance and restriction, and to teach arbitrary rules of social living."

There can be a workable definition of "pre-elementary school". Most legitimate pre-schools operate from two and a half to three

hours a day, as do most kindergartens for 5 year olds. Even elementary and high school kids do not attend school longer than about 6 hours a day, yet we permit three year olds to attend "school" 10 hours a day. We expect pre-schools to offer a fairly highly structured program for children and often the child/staff ratio is large (20 or more youngsters to 1 adult), but on a short time basis this can be acceptable. Beyond four hours the needs of small children demand more nurturing and less structured care, more space and less control, provision for a nutritional meal and snacks, a time for rest and naps, and the assurance that staff are not carriers of T.B., and assurance that an emergency plan is operable. After four hours children need more individual attention.

All 50 states regulate full-day child care, though in many states it took a tragedy to enact licencing laws. Without this amendment, Alaska is the only state not regulating full day programs which are functionally identical to day care centers. The results are a "risk to children", says the D.O.E. audit, for "programs quickly call themselves pre-elementary schools when they learn that is a means of escaping regulations." Please don't let tragedy have to happen first, before we correct what no other state will tolerate.

Preschool Standards are Lower  
Than Daycare Standards

In Alaska, the Department of Education's standards for preschools are lower than the Department of Health and Social Services standards for daycare centers. For example, the only preschool standard equal to daycare standards is the immunization standard as shown in the following table.

COMPARISON OF DAYCARE AND PRESCHOOL STANDARDS

<u>STANDARD</u>	<u>DAYCARE</u>	<u>PRESCHOOLS</u>
License Renewal	Annual	5 yrs.
Agency Review	Annual	5 yrs.
Staff Pupil Ratio	1-10	no standard
** Indoor Space	35 sq. ft.per child	no standard
Outdoor space	75 sq. ft.per child	no standard
Fire Inspection	Annual	5 years
Sanitation Inspection	Annual	5 years
Health Program	required	no standard
Prone Rest	required	no standard
Immunizations	required	required
Nutrition Program	required	no standard
* Corporal Punishment	regulated	no standard

The Department of Health and Social Services also requires that daycare programs provide opportunities and experiences to promote the individual child's physical, emotional, social and intellectual growth, as outlined below:

- opportunities for balance of active/quiet play, group and individual, and indoor and outdoor play;
- opportunities for individual self expression in conversation, imaginative play and creative expressions;
- use of games, toys, books, sand, puzzles, for intellectual and social development;
- walking excursions/field trips; and
- equipment and furniture be of sufficient quality and quantity and appropriate to a child's use.

\* The regulation reads: "Satisfactory compliance with this subsection requires that ... (7) caregivers not use any form of corporal punishment unless otherwise approved in writing by the parent of the child, and that they not use any other technique which is humiliating, shaming, frightening, or otherwise damaging to a child."

\*\* "Several studies have found that most social involvement appears to occur at medium density (35-50 sq. ft. per child), while aggressiveness occurs at higher densities (below 35 sq. ft.) and random behavior occurs in large undifferentiated settings (over 50 sq. ft.)."

Alaska State Legislature

REP. MAE TISCHER  
CHAIRMAN



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3777

House of Representatives  
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer  
FROM: Bill Lovell, Staff *Lovell*  
DATE: February 9, 1984  
RE: Analysis of HCS CSSB 354 (Rules)

For your convenience, I have prepared the following analysis of the House Rules Committee Substitute for Committee Substitute for Senate Bill 354, "[a]n Act relating to the regulation of private schools."

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion or with the right of parents to choose to have their children attend private schools while at the same time ensuring the quality of all education in the state and encouraging diversity in education.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.020). The bill creates a new subsection (a) in the law, including all language currently in AS 14.70.020. New language provides that the department will consult with the state fire marshal and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It clarifies that the department must require physical examinations and immunizations in pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is no longer responsible for the general supervision of pre-elementary schools that receive state or federal funding. Supervision of pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Finally, section 2 makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is not authorized to require private schools to be licensed (AS 14.07.020(10)). A new subsection (b) defines pre-elementary schools as being for children ages three through five years and primarily educational in purpose.

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS 14.45 (see section 5 below) satisfies compulsory attendance requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and

regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100).

The parent or guardian of a child of compulsory school age enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the number of students enrolled in each grade and school calendar (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades four, six, and eight at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the parent or guardian of the student. The school is required to make composite test results available annually to an authorized representative of the Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the results of which are also public (AS 14.45.120(c)).

The exempt schools are also required to maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school. The administrator of the school must certify to the department, under oath or affirmation, that these records are being maintained (AS 14.45.130). "Private school," as used in these sections, is defined as a school that does not receive direct state or federal funding. (AS 14.45.140 (1)). Finally, "religious school," as used in these sections, is defined as a private school operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140(2)).

It should be kept in mind that these provisions are not mandatory unless the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

**DATABANK**

# State Education Statistics

PERFORMANCE OUTCOMES<sup>1</sup>

See notes on pages 10 and 11.

State and year	ACT (scores for 28 states)					SAT (scores for 22 states)					Graduation rate		Pupil/teacher ratio		Average teacher salary	
	ACT score (1)	Rank <sup>1</sup> out of 28 (2)	% of h.s. seniors taking test (3)	Score change 1972-82 (4)	Ranking of score change <sup>1</sup> (out of 28) (5)	SAT score (6)	Rank <sup>1</sup> out of 22 (7)	% of h.s. seniors taking test (8)	Score change 1972-82 (9)	Ranking of score change <sup>1</sup> (out of 22) (10)	% (11)	Rank <sup>2</sup> out of 51 (12)	pupils/ teacher (13)	Rank <sup>2</sup> out of 51 (14)	Salary (15)	
Alabama	1982	17.2	26.0	55.2	-1.7	16.0	-	-	-	-	67.1	47	20.7	43.0	15,413	
Alabama	1972	18.3	25.5	49.8	-	-	-	-	-	-	65.4	23.9	23.9	42.0	7,737	
Alaska	1982	18.7	13	31.4	-0.9	10.0	-	-	-	-	71.0	18.0	18.0	8.5	29,000	
Alaska	1972	19.2	15.5	33.8	-	-	-	-	-	-	72.5	21.0	21.0	18.0	14,124	
Arizona	1982	16.7	13.5	41.2	-0.6	4.0	-	-	-	-	72.4	33.0	19.8	37.0	17,359	
Arizona	1972	19.3	17.5	55.5	-	-	-	-	-	-	73.8	37.0	22.2	25.5	10,136	
Arkansas	1982	17.7	20.0	56.3	-0.9	10.0	-	-	-	-	74.7	30.0	18.8	29.0	13,270	
Arkansas	1972	18.6	22.0	40.4	-	-	-	-	-	-	68.9	45.0	23.4	40.5	7,021	
California	1982	-	-	-	-	-	899	4.0	38.4	-58.0	20.0	68.9	39.0	23.1	50.0	19,648
California	1972	-	-	-	-	-	957	2.0	31.6	-	-	79.9	22.0	24.1	43.0	11,300
Colorado	1982	19.6	5.0	68.7	-0.3	1.5	-	-	-	-	78.3	22.0	18.7	30.0	17,734	
Colorado	1972	19.9	11.5	80.2	-	-	-	-	-	-	84.8	9.0	22.5	31.5	9,088	
Connecticut	1982	-	-	-	-	-	896	6.5	69.0	-49.0	16.0	71.2	37.0	15.0	1.5	17,440
Connecticut	1972	-	-	-	-	-	945	4.0	70.7	-	-	83.4	12.0	19.4	5.0	10,079
Delaware	1982	-	-	-	-	-	897	5.0	48.3	-46.0	11.5	81.8	9.0	17.8	22.5	18,025
Delaware	1972	-	-	-	-	-	943	6.0	57.2	-	-	78.0	29.8	22.3	28.0	10,211
District of Columbia	1982	-	-	-	-	-	821	21.0	53.4	18.0	1.0	55.6	50.0	18.5	27.0	22,883
District of Columbia	1972	-	-	-	-	-	803	22.0	68.2	-	-	54.8	51.0	21.2	20.0	11,022
Florida	1982	-	-	-	-	-	889	8.6	37.5	-82.0	18.0	66.4	46.0	19.9	38.5	15,583
Florida	1972	-	-	-	-	-	941	6.0	26.8	-	-	72.1	39.0	22.7	34.0	9,020
Georgia	1982	-	-	-	-	-	823	20.0	43.0	-11.0	2.0	-	-	18.8	31.5	15,444
Georgia	1972	-	-	-	-	-	854	20.0	55.0	-	-	-	-	25.2	50.0	7,710
Hawaii	1982	-	-	-	-	-	867	18.0	47.3	-64.0	22.0	64.2	4.0	22.7	48.0	20,993
Hawaii	1972	-	-	-	-	-	921	14.5	52.9	-	-	80.1	4.0	22.3	38.0	10,523
Idaho	1982	18.9	10.5	56.3	-1.0	13.0	-	-	-	-	78.9	19.0	20.9	45.0	15,146	
Idaho	1972	13.9	11.5	45.2	-	-	-	-	-	-	64.7	10.0	22.6	33.0	7,392	
Illinois	1982	111.8	16.0	67.4	-1.2	18.5	-	-	-	-	74.8	28.0	18.8	27.0	19,518	
Illinois	1972	1911	13.0	62.1	-	-	-	-	-	-	78.0	28.0	22.5	31.5	10,882	
Indiana	1982	-	-	-	-	-	860	17.0	47.0	-46.0	11.5	78.0	21.0	20.0	40.0	16,876
Indiana	1972	-	-	-	-	-	906	18.0	50.4	-	-	78.1	34.0	24.8	45.5	9,605
Iowa	1982	20.3	2.0	54.6	-1.7	27.0	-	-	-	-	85.8	3.0	16.5	11.6	16,150	
Iowa	1972	22.0	1.0	49.0	-	-	-	-	-	-	89.5	3.0	20.2	11.5	8,838	
Kansas	1982	18.9	10.5	60.8	-1.1	16.0	-	-	-	-	80.9	11.0	15.7	4.5	15,250	
Kansas	1972	20.0	9.5	56.2	-	-	-	-	-	-	82.8	15.0	19.8	8.0	8,254	
Kentucky	1982	17.5	23.5	63.7	-0.9	10.0	-	-	-	-	68.9	44.0	20.8	44.0	15,580	
Kentucky	1972	18.4	23.8	45.1	-	-	-	-	-	-	70.4	42.0	23.2	37.0	7,444	
Louisiana	1982	16.7	27.0	60.8	-1.3	20.5	-	-	-	-	64.0	46.0	19.8	35.0	14,900	
Louisiana	1972	18.0	27.0	56.7	-	-	-	-	-	-	66.5	47.0	22.4	30.0	8,849	
Maine	1982	-	-	-	-	-	890	8.0	46.5	-41.0	8.5	72.1	34.0	18.0	24.0	13,904
Maine	1972	-	-	-	-	-	931	11.0	44.2	-	-	80.9	18.0	22.2	26.5	8,750
Maryland	1982	-	-	-	-	-	839	9.5	50.3	-47.0	14.0	75.6	24.0	18.5	27.0	19,286
Maryland	1972	-	-	-	-	-	936	8.0	51.4	-	-	80.7	21.0	22.1	24.0	10,463
Massachusetts	1982	-	-	-	-	-	892	11.5	65.6	-45.0	10.0	75.9	23.0	16.8	8.5	18,288
Massachusetts	1972	-	-	-	-	-	933	10.0	68.2	-	-	77.9	30.0	21.2	20.0	9,200
Michigan	1982	18.7	13.5	51.4	0.4	3.0	-	-	-	-	72.7	32.0	22.9	49.0	21,057	
Michigan	1972	19.1	19.0	24.4	-	-	-	-	-	-	81.0	17.0	24.8	48.0	11,300	
Minnesota	1982	20.2	3.0	28.9	-1.3	18.5	-	-	-	-	88.2	1.0	17.1	16.0	17,182	
Minnesota	1972	21.4	2.0	44.3	-	-	-	-	-	-	91.5	1.0	20.8	17.0	10,253	
Mississippi	1982	15.5	28.0	74.5	0.8	7.0	-	-	-	-	63.0	49.0	19.3	34.0	13,000	
Mississippi	1972	16.3	28.0	78.5	-	-	-	-	-	-	57.6	50.0	23.1	36.0	6,520	
Missouri	1982	18.7	13.5	45.2	-1.4	23.0	-	-	-	-	75.4	23.0	17.0	15.0	15,422	
Missouri	1972	20.1	8.0	21.1	-	-	-	-	-	-	77.5	31.0	22.3	26.0	8,805	
Montana	1982	19.5	6.0	49.3	-1.8	26.0	-	-	-	-	82.2	8.0	16.5	11.5	15,967	
Montana	1972	21.1	3.0	46.5	-	-	-	-	-	-	79.0	27.0	21.2	20.0	-	
Nebraska	1982	18.9	4.0	72.8	-0.7	8.0	-	-	-	-	83.6	6.0	15.7	4.5	14,876	
Nebraska	1972	20.8	6.0	27.1	-	-	-	-	-	-	86.9	7.0	19.9	9.5	7,681	
Nevada	1982	16.3	18.0	44.5	-1.0	13.0	-	-	-	-	75.3	26.0	21.1	46.0	17,700	
Nevada	1972	19.3	17.5	51.3	-	-	-	-	-	-	75.0	35.0	24.6	45.5	10,200	
New Hampshire	1982	-	-	-	-	-	925	1.0	66.2	-47.5	14.0	78.3	13.0	16.8	13.5	13,273
New Hampshire	1972	-	-	-	-	-	972	1.0	52.1	-	-	80.7	18.0	20.8	14.5	8,685
New Jersey	1982	-	-	-	-	-	869	15.0	64.7	-47.0	14.0	78.1	15.0	15.9	7.0	18,300
New Jersey	1972	-	-	-	-	-	918	17.0	71.1	-	-	70.7	23.0	19.6	6.5	9,500
New Mexico	1982	17.8	21.5	68.8	-0.8	7.0	-	-	-	-	71.8	38.0	18.8	31.5	16,948	
New Mexico	1972	18.4	23.5	61.2	-	-	-	-	-	-	78.9	32.0	23.3	38.5	8,486	
New York	1982	-	-	-	-	-	890	6.5	61.6	-59.0	21.0	60.3	45.0	17.6	21.0	20,400
New York	1972	-	-	-	-	-	955	3.0	60.2	-	-	74.7	30.0	19.3	4.0	11,400
North Carolina	1982	-	-	-	-	-	827	19.0	48.8	-27.0	3.0	68.4	41.8	19.9	38.5	15,858
North Carolina	1972	-	-	-	-	-	849	19.0	47.4	-	-	68.8	40.0	23.3	38.5	8,183
North Dakota	1982	17.8	10.0	64.6	-1.8	20.0	-	-	-	-	87.3	2.0	16.8	13.5	14,881	
North Dakota	1972	18.6	15.5	67.3	-	-	-	-	-	-	89.0	6.0	19.9	9.5	7,396	
Ohio	1982	18.0	9.0	40.2	-1.0	13.0	-	-	-	-	77.8	10.0	18.7	26.0	16,200	
Ohio	1972	20.0	9.5	36.2	-	-	-	-	-	-	80.3	20.0	24.4	44.0	9,950	
Oklahoma	1982	17.6	21.5	51.4	-1.1	10.0	-	-	-	-	77.6	17.0	17.2	17.5	14,640	
Oklahoma	1972	18.7	21.0	58.5	-	-	-	-	-	-	70.3	24.0	23.0	35.0	7,900	
Oregon	1982	-	-	-	-	-	908	2.0	41.7	-80.0	4.0	71.7	35.0	20.3	41.0	18,500
Oregon	1972	-	-	-	-	-	929	7.0	28.8	-	-	78.2	28.0	20.7	18.0	8,485
Pennsylvania	1982	-	-	-	-	-	885	13.0	51.4	-41.0	8.5	78.8	12.0	17.3	19.5	17,690
Pennsylvania	1972	-	-	-	-	-	926	13.0	55.2	-	-	85.0	8.0	21.6	22.0	9,900
Rhode Island	1982	-	-	-	-	-	877	14.0	60.7	-60.0	17.0	72.9	31.8	16.1	10.0	19,803
Rhode Island	1972	-	-	-	-	-	927	12.0	58.8	-	-	81.1	16.8	20.6	14.5	10,000
South Carolina	1982	-	-	-	-	-	790	22.0	49.2	-33.0	7.0	64.3	47.0	19.0	33.0	14,106
South Carolina	1972	-	-	-	-	-	823	21.0	50.0	-	-	60.2	44.0	20.2	11.5	7,320
South Dakota	1982	19.1	8.0	81.9	-1.8	25.0	-	-	-	-	83.9	6.8	18.8	6.0	13,630	
South Dakota	1972	20.6	8.0	56.0	-	-	-	-	-	-	90.8	2.0	18.7	3.0	7,757	
Tennessee	1982	17.5	23.5	50.3	-0.8	7.0	-	-	-	-	68.9	40.0	20.5	42.0	14,073	
Tennessee	1972	18.3	25.5	52.8	-	-	-	-	-	-	72.4	38.0	24.7	47.0	7,970	
Texas	1982	-	-	-	-	-	858	18.0	32.4	-63.0	19.0	68.2	42.0	18.4	25.0	8,715
Texas	1972	-	-	-	-	-	921	14.5	32.2	-	-	70.2	43.0	22.0	23.0	8,378
Utah	1982	18.4	17.0	66.4	-1.3	20.5	-	-	-	-	81.4	10.0	27.4	51.0	16,612	
Utah	1972	19.7	14.0	62.5	-	-	-	-	-	-	83.3	13.0	25.3	51.0	8,538	
Vermont	1982	-	-	-	-	-	904	3.0	54.3	-31.0	6.8					

# State Performance Outcomes, Resource Inputs, and Population Characteristics, 1972 and 1982<sup>1</sup>

RESOURCE INPUTS							POPULATION CHARACTERISTICS										
Average teacher salary		Federal funds as % of school revenues		Current expenditures per pupil		Expend. as % of income per capita		Per capita income		% poverty ages 5-17		Median years education of adults		Minority % of enrollment		Handicapped % of enrollment	
Rank <sup>2</sup> out of 51 (17)	% (17)	Rank <sup>2</sup> out of 51 (18)	State comp ed program <sup>1</sup> (19)	Expenditure \$ (20)	Rank <sup>2</sup> out of 51 (21)	% (22)	Rank <sup>2</sup> out of 51 (23)	Income (\$1) (24)	Rank <sup>2</sup> out of 51 (25)	% (26)	Rank <sup>2</sup> out of 51 (27)	years (28)	Rank <sup>2</sup> out of 51 (29)	% (30)	Rank <sup>2</sup> out of 51 (31)	% (32)	Rank <sup>2</sup> out of 51 (33)
35.0	18.6	2.5	NO	1,400	48.5	21.2	32.0	8,639	48.0	23.1	3.5	12.2	45.0	37.0	13.0	9.5	20.0
42.0	18.3	3.0		1,133	50.0	15.9	50.0	3,423	49.0	29.5	4.0	10.8	43.0	34.5	7.0	-	-
1.0	9.5	22.5	NO	5,369	1.0	33.0	1.0	16,257	1.0	11.4	36.0	12.8	2.0	22.5	26.0	8.2	34.0
10.0	17.4	4.0		1,441	2.0	27.3	3.0	5,285	4.0	14.8	21.0	12.4	4.5	16.3	24.0	-	-
21.0	12.9	11.0	YES	2,305	26.0	22.7	21.0	10,173	33.0	15.8	17.0	12.6	15.5	29.8	18.0	9.3	23.0
14.0	8.4	23.5		911	22.0	21.3	17.0	4,285	30.0	17.5	18.0	12.3	10.5	27.2	13.0	-	-
49.0	16.6	2.5	NO	1,713	50.0	20.2	40.0	8,479	50.0	32.7	8.0	12.2	45.0	30.2	17.0	9.7	15.0
49.0	17.3	8.0		991	49.0	18.4	42.0	3,268	50.0	31.6	2.0	10.5	49.5	29.4	10.0	-	-
10.0	10.1	19.0	YES	2,427	22.0	19.3	46.0	12,567	5.0	14.2	22.0	12.7	6.5	45.9	6.0	8.0	39.0
3.5	6.1	36.5		532	20.0	18.4	41.0	5,062	10.0	12.1	26.0	12.4	4.5	27.6	12.0	-	-
17.0	5.9	45.5	NO	2,708	15.0	22.0	28.0	12,302	8.0	10.8	41.0	12.8	2.0	23.1	34.0	7.2	45.0
25.0	8.5	21.0		905	23.0	19.8	29.0	4,574	14.0	12.3	24.0	12.4	4.5	18.4	21.0	-	-
20.0	6.2	41.5	YES	2,693	17.0	19.5	45.0	13,748	3.0	10.4	41.0	12.6	15.5	22.0	25.3	11.2	3.0
15.0	3.1	49.5		1,110	7.0	20.3	21.0	5,464	2.0	7.2	2.0	12.2	18.0	13.0	29.0	-	-
16.0	11.3	13.0	NO	3,125	8.0	29.8	8.0	11,731	14.0	14.6	20.0	12.5	28.0	29.0	23.0	10.9	6.0
11.0	7.1	30.5		1,087	8.0	21.3	16.0	5,143	9.0	7.0	12.0	12.1	20.0	21.3	20.0	-	-
2.0	-	-	NO	3,441	3.0	23.6	18.0	14,550	2.0	26.3	2.0	12.7	6.5	9.4	1.0	1.6	51.0
5.0	14.1	8.0		1,063	11.0	18.7	39.0	5,870	1.0	23.2	12.0	12.2	18.0	36.5	1.0	-	-
32.0	10.3	17.0	YES	2,278	27.0	20.7	37.0	10,978	21.0	17.8	15.0	12.5	28.0	32.0	16.0	8.8	26.0
27.0	9.7	19.0		861	28.0	19.4	31.0	4,434	20.5	16.9	16.0	12.1	49.0	28.0	11.0	-	-
33.0	13.9	8.0	YES	1,721	49.0	18.0	49.0	9,583	37.0	20.4	9.0	12.2	45.0	37.2	12.0	9.6	14.3
43.0	10.8	15.0		788	37.0	20.0	23.0	3,531	36.0	24.4	9.0	10.8	43.0	33.7	8.0	-	-
4.0	15.8	6.0	YES	2,604	20.0	22.3	25.0	11,652	15.0	11.7	36.0	12.7	8.5	75.2	2.0	6.9	48.0
7.0	8.4	23.5		1,020	13.5	20.0	25.0	5,107	9.0	8.7	41.0	12.3	10.5	32.0	2.0	-	-
37.0	10.3	17.0	NO	1,878	44.0	20.8	35.0	9,653	43.0	13.4	26.0	12.8	15.5	6.6	45.0	7.6	40.0
46.0	12.2	12.0		732	39.0	18.7	40.0	3,906	37.0	12.0	28.0	12.3	10.5	4.5	44.0	-	-
11.0	7.1	35.5	YES	2,720	14.0	22.5	23.0	12,100	10.0	14.1	23.0	12.5	28.0	24.9	10.0	10.1	8.0
6.0	4.9	42.5		866	16.0	19.2	34.0	8,135	5.0	30.7	35.0	12.1	37.5	17.3	31.0	8.3	33.0
24.0	8.4	40.0	YES	2,008	39.0	20.0	41.0	10,021	31.0	11.0	39.0	12.4	29.0	11.3	30.0	-	-
19.0	5.4	39.5		837	34.0	19.3	32.0	4,329	29.0	9.0	45.0	12.1	29.0	8.0	46.0	9.4	22.0
27.0	8.1	43.5	NO	2,343	24.0	21.7	29.0	10,791	25.0	10.8	41.0	12.5	28.0	10.0	30.0	-	-
18.0	2.5	51.0		970	16.0	22.0	14.0	4,415	23.0	9.8	39.5	12.2	18.0	2.8	46.0	-	-
36.0	6.2	41.5	NO	2,251	29.0	19.1	47.0	11,765	13.0	10.7	43.0	12.6	15.5	17.2	32.0	8.9	27.0
36.0	6.8	32.5		854	30.0	18.8	36.0	4,549	15.0	11.5	30.5	12.3	10.5	10.3	31.0	-	-
31.0	18.0	4.0	NO	1,835	46.5	20.5	39.0	8,934	44.0	21.2	7.0	12.1	50.0	12.8	38.0	8.7	17.0
45.0	16.5	6.5		850	41.5	18.1	45.0	3,586	45.0	25.1	7.0	9.9	51.0	9.8	32.0	-	-
39.0	12.7	12.0	NO	2,002	40.5	19.6	44.0	10,231	32.0	23.1	3.5	12.2	45.0	4.4	7.0	-	-
29.0	12.5	10.0		867	26.0	24.8	5.0	3,489	48.0	30.1	3.0	10.8	43.0	41.0	5.0	-	-
46.0	9.0	24.0	NO	1,885	42.0	22.0	27.0	9,042	42.0	15.1	18.5	12.5	28.0	1.2	50.0	9.9	17.0
31.0	7.3	29.0	NO	793	36.0	21.4	15.0	3,707	42.0	14.2	22.0	12.1	29.0	0.7	48.0	-	-
12.0	8.2	31.0	YES	2,928	7.0	24.5	13.0	12,238	9.0	11.9	35.0	12.5	29.0	3.8	14.0	11.1	4.0
8.0	7.1	30.5		962	19.0	19.4	30.0	4,953	11.0	11.6	30.5	12.1	29.0	2.8	16.5	-	-
15.0	5.9	46.5	YES	2,964	10.0	24.5	12.0	12,068	11.0	12.9	39.0	12.2	18.0	18.4	23.0	11.4	7.0
23.0	4.7	44.0		1,020	13.5	20.0	18.0	4,546	12.0	9.4	49.0	12.5	18.5	6.5	51.0	-	-
3.0	7.0	37.5	YES	2,632	19.0	24.2	15.0	10,956	22.0	12.4	32.0	12.2	25.0	20.1	19.0	6.9	49.0
3.5	3.8	48.0		1,175	5.0	24.5	7.0	4,786	13.0	9.1	44.0	12.1	29.0	16.2	25.0	-	-
22.0	7.0	37.5	YES	2,998	16.0	24.1	18.0	11,178	19.0	9.5	48.0	12.6	18.5	7.8	43.8	0.1	23.0
10.0	4.8	45.5		1,134	6.0	25.8	4.0	4,434	20.5	9.6	42.0	12.2	18.0	2.8	45.0	-	-
51.0	24.3	1.0	NO	1,685	61.0	21.7	30.0	7,778	51.0	30.3	1.0	12.2	45.0	61.9	4.0	9.5	18.0
50.0	20.0	1.0		834	48.0	20.6	18.0	3,071	51.0	41.5	1.0	10.7	45.0	61.1	2.0	-	-
34.0	9.6	21.0	YES	2,197	31.0	21.6	31.0	10,170	34.0	14.0	24.5	12.4	37.5	20.7	29.0	10.8	6.0
20.0	6.8	32.5		845	33.0	19.9	27.0	4,241	32.0	14.8	20.0	11.8	38.0	16.9	22.0	-	-
26.0	9.8	20.0	NO	2,727	13.0	28.5	4.0	9,580	36.0	12.7	30.0	12.6	15.5	12.3	36.5	7.8	39.0
21.0	8.5	21.0		-	-	-	-	4,922	33.0	12.9	27.0	12.3	10.5	6.9	36.0	-	-
11.0	3.7	27.5	YES	2,445	21.0	22.9	20.0	10,683	29.0	11.6	37.0	12.6	18.5	12.3	36.5	16.0	11.0
4.0	8.4	34.0		856	29.0	19.2	35.0	4,468	12.0	12.6	28.0	12.2	18.0	8.1	34.0	-	-
19.0	7.2	34.0	NO	2,064	35.0	17.3	51.0	11,981	12.0	9.4	45.0	1.6	15.5	19.1	30.0	7.1	47.0
19.0	5.0	38.0		917	21.0	17.8	47.0	5,148	6.0	8.8	46.0	12.4	4.5	14.2	20.0	-	-
48.0	5.3	46.0	NO	2,256	28.0	21.0	33.0	10,729	27.0	8.9	60.0	12.8	18.5	1.6	49.0	8.5	30.0
32.0	5.0	41.0		847	32.0	19.9	28.0	4,258	31.0	7.7	60.0	12.2	18.0	0.9	48.0	-	-
14.0	8.1	43.5	YES	3,295	4.0	25.1	9.0	13,199	4.0	13.3	27.0	12.5	29.0	37.7	11.0	12.3	1.0
20.0	4.3	47.0		1,219	4.0	22.7	12.0	5,333	3.0	8.7	47.5	12.1	29.0	21.0	18.5	-	-
23.0	18.9	7.0	NO	2,178	33.0	23.7	17.0	9,180	40.0	21.7	6.0	12.8	15.5	67.2	3.0	6.1	36.0
34.0	18.5	2.0		849	31.0	23.0	9.0	3,593	44.0	26.3	8.0	12.2	18.0	17.3	3.0	-	-
7.0	7.1	35.5	YES	3,769	2.0	30.6	2.0	12,314	7.0	17.9	14.0	12.5	29.0	42.9	6.0	7.5	42.0
2.0	5.4	39.5		1,460	1.0	27.9	2.0	5,200	5.0	12.2	25.0	12.1	20.0	26.7	14.0	-	-
29.0	-	-	YES	2,033	36.0	22.5	37.0	9,044	41.0	17.8	16.0	11.0	10.6	47.0	39.8	9.0	-
37.0	11.7	13.0		963	43.0	18.3	43.0	3,782	39.0	24.0	11.0	11.0	12.5	28.0	4.5	46.0	-
40.0	11.0	15.0	NO	2,002	40.5	18.4	48.0	10,876	24.0	14.0	24.5	12.5	28.0	4.5	46.0	-	-
47.0	10.0	17.5		740	38.0	17.0	48.0	4,351	26.0	16.7	10.0	12.0	38.5	2.4	47.0	-	-
26.0	8.5	29.0	YES	2,321	26.0	21.7	29.0	10,677	30.0	12.2	34.0	12.4	37.5	22.3	27.8	9.8	15.0
26.0	8.2	29.0		871	25.0	19.3	30.0	4,505	17.0	9.8	36.8	12.1	29.0	14.0	27.0	-	-
43.0	13.6	9.0	NO	2,237	30.0	19.7	43.0	11,370	16.0	15.1	18.5	12.1	29.0	16.4	23.0	-	-
40.0	11.6	14.0		688	44.0	18.2	44.0	3,772	40.0	18.5	14.0	12.1	29.0	16.4	23.0	-	-
13.0	2.4	30.0	YES	3,130	5.0	30.3	3.0	10,335	31.0	10.9	41.0	12.7	8.5	9.			

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

February 6, 1984

SUBJECT: Attorney General's analysis of  
HCS CSSB 354 (HESS)

TO: Representative Mae Tischer  
Chairman, Health, Education, and  
Social Services Committee

FROM: Keith B. Levy *KBL*  
Legislative Counsel



You have requested an analysis of a letter from the Attorney General concerning the latest draft of HCS CSSB 354(HESS). The Attorney General's letter indicates that the bill presents no significant constitutional problems, an opinion with which I agree. The criticisms of the bill in the Attorney General's letter only relate to potential problems of statutory interpretation and style. They are, for the most part, matters of clarity which could be adopted, but are probably not essential.

First, the Attorney General notes that the bill does not adequately distinguish between pre-elementary schools and child care. As amended by the bill, AS 14.07.020(7) provides that the Department of Education, after consultation with the state fire marshall and the state sanitarian, regulates the health and safety aspects of private schools, including pre-elementary schools. Under AS 47.35, however, the Department of Health and Social Services regulates nurseries (child care centers). The Attorney General apparently feels that AS 14.07.020(7) should contain a clear definition of pre-elementary schools so that a nursery or pre-elementary school could not choose between the Department of Education and the Department of Health and Social Services simply by calling itself a nursery or a pre-elementary school.

While I agree that there is some potential confusion here, it is my opinion that a change is not essential. AS 47.35.080(4) defines nursery rather clearly and excludes

Representative Mae Tischer

Page 2

February 6, 1984

establishments "whose primary function is educational," i.e., pre-elementary schools. Accordingly, it is clear that D.H.S.S regulates nurseries, while D.O.E regulates the health and safety aspects of all public and private schools, including pre-elementary schools. In other words, the confusion that the Attorney General is concerned with is insignificant when the bill is read in conjunction with AS 47.35.080(4).

The second question raised by the Attorney General has to do with the second sentence of AS 14.45.100, in section 5 of the bill. That sentence, which was added as a Senate floor amendment, provides that "a facility that serves children under the age of six and receives state payments is not eligible for the exemption provided by this section."

The Attorney General points out that the sentence is superfluous since the exemption provided for in that section does not affect programs for children under compulsory school age anyway. This observation is correct, and moreover, private schools are ineligible to receive direct state aid under Art. VII, sec. 1 of the state constitution. Therefore, I agree that the sentence is unnecessary and could be removed entirely. However, since the sentence neither adds nor subtracts substantively from the bill, removing or amending it is not essential.

Finally, the Attorney General notes that the Senate amended AS 14.45.110(a) in section 5 of the bill to make clear that the section only applies to children of compulsory school age. The Attorney General points out that all of AS 14.45 was intended to apply only to compulsory school age children, and therefore this distinction should be made throughout AS 14.45, or a definition added to clarify the point.

Again, I agree with the Attorney General's analysis. It is true that some language indicating that the provisions of AS 14.45 apply only to compulsory school age children would add clarity to the bill. However, the change is not essential since the provisions of AS 14.45 indicate implicitly that they apply only to school age children. This is indicated by section 3 of the bill which amends the compulsory school attendance law to provide that compliance with AS 14.45 satisfies the compulsory attendance requirement. It also follows from the fact that a private school may elect to comply with AS 14.45 or not, as it chooses.

Representative Mae Tischer  
Page 3  
February 6, 1984

In conclusion, I agree with the Attorney General's criticisms of HCS CSSB 354 (HESS) insofar as the changes suggested would add clarity to the bill. However, these changes are not essential to the bill from a legal standpoint.

KBL:ojb  
J3/056

BILL SB0354  
 PAGE 01765  
 DATE 01/13/84  
 CHAMBER SENATE  
 TEXT SENATE BILL NO. 354 by Senators Faiks, Kerttula, Bennett, Ferguson, Ray, Moss, Pettyjohn, Halford, P. Fischer, Gilman and Kelly, entitled:  
 "An Act relating to the regulation of private schools."  
 was read the first time and referred to the Judiciary Committee.

BILL SB0354  
 PAGE 01782  
 DATE 01/17/84  
 CHAMBER SENATE  
 TEXT President Kerttula stated that SENATE BILL NO. 354 (regulation of private schools) would have an additional referral to the Health, Education and Social Services Committee. SENATE BILL NO. 354 was referred to the Judiciary Committee and the Health, Education and Social Services Committee.

BILL SB0354  
 PAGE 01798  
 DATE 01/19/84  
 CHAMBER SENATE  
 TEXT The Judiciary Committee considered SENATE BILL NO. 354 (regulation of private schools) and recommended it be replaced with  
 CS FOR SENATE BILL NO. 354 (JUD)  
 Senator Ray, Chairman and Senator Ziegler signed "no recommendation". Senators Pettyjohn and Eliason signed "do pass". SENATE BILL NO. 354 was referred to the Health, Education and Social Services Committee.

BILL SB0354  
 PAGE 02348  
 DATE 01/24/84  
 CHAMBER HOUSE  
 TEXT COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 354 (Judiciary) amended, by the Judiciary Committee, entitled:  
 "An Act relating to the regulation of private schools."  
 was read the first time and referred to the Health, Education & Social Services Committee.  
 The Health, Education and Social Services Committee considered SENATE BILL NO. 354 (regulation of private schools). Senator Josephson, Chairman, signed "do pass if amended". Senator Paul Fischer signed "do pass". Senator Halford signed "do pass when amended". Senator Vic Fischer signed "do not pass unless amended".  
 The committee attached a zero fiscal note.  
 SENATE BILL NO. 354 was referred to the Rules Committee.

The Rules Committee considered SENATE BILL NO. 354 (regulation of private schools) and a majority of the committee recommended it be placed on the January 24 supplemental calendar. The report was signed by Senator Faiks, Chairman and concurred in by Senators Ferguson, Ray and Kelly.

SENATE BILL NO. 354 (regulation of private schools) was read the second time.

Senator Ray moved and asked unanimous consent that the Judiciary Committee Substitute offered on page 1798 be adopted. Without objection, §CS FOR SENATE BILL NO. 354 (JUD) was adopted.

CS FOR SENATE BILL NO. 354 (JUD) was read the second time.

Senator Vic Fischer offered the following Amendment No. 1:

Page 2, line 23: following "pre-elementary schools" insert: "§and private pre-elementary schools that are §not in facilities associated with an elementary school §operating grades one through three"

Senator Vic Fischer moved that Amendment No. 1 be adopted.

Senator Ray offered the following amendment to Amendment No. 1:

Delete "operating" and insert "that operates"

Senator Ray moved for the adoption of the amendment to Amendment No. 1. Senator Gilman objected, then withdrew his objection. Senator Rodey asked unanimous consent. There being no further objection, the amendment to Amendment No. 1 was adopted.

Senator Vic Fischer moved and asked unanimous consent that Amendment No. 1 as amended be adopted. Senator Ferguson objected.

The question being: "Shall Amendment No. 1 as amended be adopted?" The roll was taken with the following result:

CS SB 354 (JUD) Am #1 as amended

Yeas: 14 Fahrenkamp, Faiks, Fischer Vic,  
Gilman, Halford, Josephson, Kelly,  
Kerttula, Mulcahy, Pettyjohn, Ray,  
Rodey, Sackett, Ziegler

Nays: 2 Ferguson, Fischer Paul

Excused: 4 Bennett, Eliason, Moss,  
Sturgulewski

and so, Amendment No. 1 as amended was adopted.

Senator Josephson offered the following Amendment No. 2:

Page 5, line 20: Add the following sentence to Sec. 14.45.100. "A facility which serves children under the age of six years and which receives state payments or subsidies is not eligible for the exemption provided by this section."

Senator Josephson moved and asked unanimous consent that Amendment No. 2 be adopted. Senator Pettyjohn objected, then withdrew his objection. There being no further objection, Amendment No. 2 was adopted.

Senator Josephson offered the following Amendment No. 3:

Page 5, line 24: after "child" insert "of compulsory school age"

Senator Josephson moved and asked unanimous consent that Amendment No. 3 be adopted. Without objection, Amendment No. 3 was adopted.

Senator Josephson offered the following Amendment No. 4:

Page 6, line 14: delete "one, three, six, and nine" and insert "two, four, six and ten"

Senator Josephson moved and asked unanimous consent that Amendment No. 4 be adopted. Senator Ferguson objected, then withdrew his objection. There being no further objection, Amendment No. 4 was adopted.

Senators Halford and Josephson offered the following Amendment No. 5:

Page 7, lines 9-10: delete "under oath to the department"

Senator Halford moved and asked unanimous consent that Amendment No. 5 be adopted. Senator Ray objected.

Senator Halford moved and asked unanimous consent that Amendment No. 5 be withdrawn. Without objection, Amendment No. 5 was withdrawn.

Senators Josephson and Halford offered the following Amendment No. 6:

Page 7, lines 9-10: after "under oath" insert "by affirmation" and delete "to the department"

Senator Josephson moved and asked unanimous consent that Amendment No. 6 be adopted. Without objection, Amendment No. 6 was adopted.

Senator Ray moved and asked unanimous consent that §CS FOR §SENATE BILL NO. 354 (JUD) am be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 354 (JUD) am was read the third time.

Senator Ferguson moved and asked unanimous consent that his name be deleted as a co-sponsor on the original bill. Without objection, it was so ordered.

The question being: "Shall CS FOR SENATE BILL NO. 354 (JUD) am (regulation of private schools) pass the Senate?" The roll was taken with the following result:

CS SB 354 (JUD) am 3RD

Yeas: 15 Fahrenkamp, Faiks, Fischer Paul,  
Fischer Vic, Gilman, Halford,  
Josephson, Kelly, Kerttula, Mulcahy,  
Pettyjohn, Ray, Rodey, Sackett,  
Ziegler

Nays: 1 Ferguson

Excused: 4 Bennett, Eliason, Moss,  
Sturgulewski

and so, CS FOR SENATE BILL NO. 354 (JUD) am passed the Senate. CS FOR SENATE BILL NO. 354 (JUD) am was engrossed, signed by the President and Secretary and transmitted to the House for consideration.

BILL SB0354  
PAGE 02411  
DATE 02/01/84  
CHAMBER HOUSE  
TEXT

The Health, Education & Social Services Committee has had COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 354 (Judiciary) amended (relating to the regulation of private schools) under consideration, recommends it be replaced with HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 354 (HESS) (same title) and reports it back as follows: Tischer (Chairman), Uehling, M. W. Miller and Martin recommend do pass; Goll, Koponen and Davis recommend "pass Senate version".  
CSSB 354(Jud)am was referred to the Rules Committee for placement on the calendar.

BILL SB0354  
PAGE 02617  
DATE 02/16/84  
CHAMBER HOUSE  
TEXT

The Rules Committee has had COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 354 (Judiciary) amended (relating to the regulation of private schools) under consideration and recommends it be replaced with HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 354 (Rules) (same title), and reports it back as follows: Fuller (Chairman), Barnes, Phillips, Liska, Tischer and M. M. Miller recommend do pass.  
CSSB 354(Jud)am was returned to the Rules Committee for placement on the calendar.

Regulation of  
Religious  
Schools

SENATE BILL NO. 354, (see page 18). The five-day hearing notice rule was waived on January 16 so the bill could be heard in Judiciary. January 17 a Health, Education & Social Services referral was added. Reported back from Judiciary on January 19 with the committee recommending it be replaced with a CS and as follows: Ray (Chairman) and Ziegler signed "no recommendation"; Pettyjohn and Eliason signed "do pass." To Health, Education & Social Services.

Note: A corrected version of SB 354 was printed on Monday, January 16. The bill that we summarized in last week's report (p. 18) was printed by mistake. The following is a sectional analysis of the bill, prepared by Keith B. Levy, Legislative Counsel:

You have requested a sectional analysis of SB 354, "An Act relating to the regulation of private schools." The main thrust of the bill is to allow religious and other private schools to opt out of the general laws and regulations applicable to private schools if they agree to comply with certain minimal requirements.

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion while at the same time ensuring the quality of all education in the state.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.020). It provides that the department will consult with the state fire marshall and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It clarifies that the department must require physical examinations and immunizations in private pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is no longer responsible for the general supervision of private pre-elementary schools and nurseries. Supervision over public pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Finally, section 2 makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is not authorized to require private schools to be licensed (AS 14.07.020(10)).

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS 14.45 (see section 5, below) satisfies the compulsory education requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100).

The parent or guardian of a child enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the number of students enrolled in each grade and the school calendar (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades one, three, six, and nine at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the parent or guardian of the student. The school is required to make composite test results available annually to an authorized representative of the Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the result of which are also public (AS 14.45.120(c)).

Regulation of  
Pvt. Schools

CS FOR SENATE BILL NO. 354 (JUD)(AM), (see pages 18;74;133).  
Received in the House January 24 and referred to Health, Edu-  
cation and Social Services.

Regulation of  
Private  
Schools

CS FOR SENATE BILL NO. 354 (JUDICIARY)(AMENDED), (see pages  
18;74). Before the Senate on January 24. The Judiciary CS  
was adopted by unanimous consent. The following amendments  
were adopted:

--Am. No. 1 as amended. Original amendment by Vic Fischer, amended  
by Ray, and adopted, 14-2. Nays: Ferguson & Paul Fischer.  
Changes language in Sec. 2 to direct the Dept. of Education to "...  
exercise general supervision over public pre-elementary schools and  
private pre-elementary schools that are not in facilities  
associated with an elementary school that operates grades one  
through three." Underlined material added by amendment. Currently  
DOE, in cooperation with the Dept. of H&SS, exercises general  
supervision over both public and private pre-elementary schools, as  
well as over the educational component of nurseries.

--Am. No. 2 by Josephson, by unanimous consent. Adds to section  
granting exemption from school laws to private schools that comply  
with certain health and safety laws: "A facility which serves  
children under the age of six years and which receives state  
payments or subsidies is not eligible for the exemption provided by  
this section."

--Am. No. 3 by Josephson, by unanimous consent. Amends  
"Requirements of Exempt Schools" to read: "The parent or guardian  
of a child enrolled in a religious or other private school that  
complies with AS 14.45.100 - 14.45.140 shall file an annual notice  
of enrollment in the school for the child of compulsory school age  
with the local public school superintendent ...." (Underlined  
material added.)

--Am. No. 4 by Josephson, by unanimous consent. Requires exempt  
religious and private schools to comply with standardized testing  
requirements--administering a nationally standardized test to all  
students enrolled in grades two, four, six, and ten (was "grades  
one, three, six, and nine" in Judiciary CS).

--Am. No. 6 by Josephson and Halford, by unanimous consent. Amends  
section on records to read: "The chief administrative officer of a  
school that elects to comply with AS 14.45.100 - 14.45.140 shall  
certify under oath by affirmation [TO THE DEPARTMENT] that the  
records required under (a) of this section are being maintained."  
(Underlined material added, bracketed material deleted from  
Judiciary version by Am. 6.)

operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140).

It should be kept in mind that these provisions are not mandatory unless the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

The Senate Judiciary Committee made two additions to the "Purpose" in Sec. 1: "In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and the State of Alaska and in recognition of the right of parents to choose to have their children educated in private schools, it is the purpose of this Act ... (3) to allow diversity in education by encouraging private education." (Underlined material added by Judiciary.)

Regulation of  
Private  
Schools

CS FOR SENATE BILL NO. 354 (JUD)(AM), (see pages 18;74;133; 143). Reported back to the Senate on February 1 by Health, Education & Social Services with a majority recommending it be replaced with a House HESS CS and that it do pass. Concurring: Tischer (Chmn.), Uehling, M. W. Miller and Martin. Goll, Koponen and Davis recommended "pass Senate version." To Rules.

The House HESS CS makes the following changes to the Senate version:

--Deletes Senate floor amendment relating to general supervision by DOE over private pre-elementary schools that are not in facilities associated with an elementary school that operates grades one through three (Am. No. 1 as amended, page 133).

--Deletes "or subsidies" from Am. No. 2 adopted by the Senate (see page 134).

--Changes "of compulsory school age" (added by Am. No. 3, page 134) to more logical place in sentence: "The parent or guardian of a child of compulsory school age enrolled in a religious or other private school that complies with AS 14.45.100 - 14.45.140 shall file an annual notice of enrollment in the school for the child with the local public school superintendent ...."

--Changes grades for administering standardized tests to grades four, six and eight (was two, four, six and ten--see Am. No. 4, page 134).

--Amends section on records to read: "The chief administrative officer of a school that elects to comply with AS 14.45.100 - 14.45.140 shall certify to the department under oath or by affirmation, that the records required under (a) of this section are being maintained." (Underlined material added by House HESS CS--same section amended by the Senate, see Am. No. 6, page 134.)

PROPOSED AMENDMENT TO  
CS FOR SENATE BILL 354 (Judiciary)

\*Section 1. PURPOSE. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and the State of Alaska; and in recognition of the right of parents to choose to have their children educated in private schools, it is the purpose of this Act

(1) to ensure that in matters of education by religious organizations, the state shall not control or interfere with the rights of conscience and religious liberty; and

(2) to further the state's legitimate interest in ensuring the quality of all education, and

(3) to allow diversity in education by encouraging private education.

Levy  
1/18/84 ✓

EY TISCHER, FURNACE, LINDAUER, BARNES,  
SZYMANSKI, ABOOD, BETTISWORTH, BUSSELL,  
CATO, COWDERY, DUNCAN, FLOOD, FRITZ,  
FULLER, HERRMANN, LARSON, LISKA, MARTIN,  
M.M.MILLER, M.W.MILLER, PESTINGER,  
PHILLIPS, RINGSTAD, SHULTZ, WARD AND HAYES

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 514

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of private  
7 schools."

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

9 \* Section 1. PURPOSE. In conformity with the fundamental right to  
10 freedom of religion guaranteed by the constitutions of the United States  
11 and the State of Alaska and in recognition of the right of parents to  
12 choose to have their children educated in private schools, it is the  
13 purpose of this Act

14 (1) to ensure that in matters of education by religious organ-  
15 izations the state shall not control or interfere with the rights of con-  
16 science and religious liberty;

17 (2) to further the state's legitimate interest in ensuring the  
18 quality of all education, including private education, and <sup>STATE</sup> ~~and~~ <sup>minimizing regulation of</sup>

19 (3) ~~(to allow diversity in education by) encouraging private~~  
20 education. *state involvement in the affairs of*

21 \* Sec. 2. AS 14.07.020 is amended to read:

22 Sec. 14.07.020. DUTIES OF THE DEPARTMENT. The department shall

23 (1) exercise general supervision over the public schools of  
24 the state except the University of Alaska;

25 (2) study the conditions and needs of the public schools of  
26 the state and adopt or recommend plans for the improvement of the  
27 public schools;

28 (3) provide advisory and consultative services to all  
29 public school governing bodies and personnel;

1 (4) prescribe by regulation a minimum course of study for  
2 the public schools;

3 (5) establish, in coordination with the Department of  
4 Health and Social Services, a program for the continuing education of  
5 children who are held in detention facilities in the state during the  
6 period of detention;

7 (6) accredit those public schools which meet accreditation  
8 standards prescribed by regulation by the department; these regula-  
9 tions shall be adopted by the department and presented to the legisla-  
10 ture during the first 10 days of any regular session, and become  
11 effective 45 days after presentation or at the end of the session,  
12 whichever is earlier, unless disapproved by a resolution concurred in  
13 by a majority of the members of each house;

14 (7) prescribe by regulation, after consultation with the  
15 state fire marshal and the state sanitarian [DEPARTMENT OF HEALTH AND  
16 SOCIAL SERVICES], standards that will assure healthful and safe con-  
17 ditions in the public and private schools of the state including a  
18 requirement of physical examinations and immunizations in private  
19 pre-elementary schools; the standards for private schools may not be  
20 more stringent than those for public schools;

21 (8) [IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND  
22 SOCIAL SERVICES,] exercise general supervision over public [AND PRI-  
23 VATE] pre-elementary schools [AND OVER THE EDUCATIONAL COMPONENT OF  
24 NURSERIES AS DEFINED IN AS 47.35.080(4)]; pre-elementary schools in  
25 this paragraph means schools for children ages three through five  
26 years when the schools' primary function is educational;

27 (9) provide accredited elementary and secondary correspon-  
28 dence study programs available to any Alaskan through a centralized  
29 office of correspondence study;

1 (10) accredit private [ELEMENTARY AND SECONDARY] schools  
 2 which request accreditation and which meet accreditation standards  
 3 prescribed by regulation by the department; nothing in this paragraph  
 4 authorizes the department to require religious or other private  
 5 schools to be licensed;

6 (11) review plans for construction of new public elementary  
 7 and secondary schools and for additions to and major rehabilitation of  
 8 existing public elementary and secondary schools and, in accordance  
 9 with regulations adopted by the department, determine and approve the  
 10 extent of eligibility for state aid of a school construction project  
 11 begun after July 1, 1978; for the purposes of this paragraph, "plans"  
 12 include educational specifications, schematic designs, and final  
 13 contract documents;

14 (12) provide educational opportunities in the areas of  
 15 vocational education and training, basic education, and fire-service  
 16 training to individuals over 16 years of age who are no longer attend-  
 17 ing school;

18 (13) administer the grants awarded under AS 14.11.020.

19 \* Sec. 3. AS 14.30.010(b) is amended to read:

20 (b) This section does not apply if a child

21 (1) is provided an academic education comparable to that  
 22 offered by the public schools in the area, either by

23 (A) attendance at a private school in which the teach-  
 24 ers are certificated according to AS 14.20.020;

25 (B) tutoring by personnel certificated according to  
 26 AS 14.20.020; or

27 (C) attendance at an educational program operated in  
 28 compliance with AS 14.45.100 - 14.45.140 by a religious or other  
 29 private school [ATTENDANCE AT A PRIVATE SCHOOL IN WHICH THE

1 AVERAGE STUDENT PROFICIENCY IS NOT LESS THAN THE AVERAGE PROFI-  
2 CIENCY FOUND IN THE PUBLIC SCHOOLS IN THE AREA AS MEASURED BY  
3 NATIONAL ACHIEVEMENT TESTS; THE DEPARTMENT WITH ASSISTANCE FROM  
4 REPRESENTATIVES OF THE PRIVATE SCHOOLS SHALL PROMULGATE REGULA-  
5 TIONS DEFINING THE SUBJECT AREAS TO BE TESTED AND THE MINIMUM  
6 AVERAGE SCORES TO BE ACHIEVED];

7 (2) attends a school operated by the federal government;

8 (3) has a physical or mental condition which a competent  
9 medical authority determines will make attendance impractical;

10 (4) is in the custody of a court or law enforcement author-  
11 ities;

12 (5) is temporarily ill or injured;

13 (6) has been suspended or denied admittance according to  
14 AS 14.30.045;

15 (7) resides more than two miles from either a public school  
16 or a route on which transportation is provided by the school authori-  
17 ties, except that this subsection does not apply if the child resides  
18 within two miles of a federal or private school which the child is  
19 eligible and able to attend;

20 (8) is excused by action of the school board of the dis-  
21 trict at a regular meeting or by the district superintendent subject  
22 to approval by the school board of the district at the next regular  
23 meeting;

24 (9) has completed the 12th grade;

25 (10) is enrolled in a full-time program of correspondence  
26 study approved by the department; in those school districts providing  
27 an approved correspondence study program, a student may be enrolled  
28 either in the district correspondence program or in the centralized  
29 correspondence study program;

1 (11) is equally well-served by an educational experience  
2 approved by the school board as serving the child's educational inter-  
3 ests despite an absence from school, the request for excuse is made in  
4 writing by the child's parents or guardian, and approved by the prin-  
5 cipal or administrator of the school that the child attends.

6 \* Sec. 4. AS 14.45.030 is amended to read:

7 Sec. 14.45.030. NON-EXEMPT SCHOOLS [ATTENDANCE AND ANNUAL RE-  
8 PORTS REQUIRED]. Teachers and others in charge of religious or other  
9 private [OR DENOMINATIONAL] schools not operated in compliance with  
10 AS 14.45.100 - 14.45.140 are not exempt from laws and regulations  
11 relating to education. Non-exempt schools shall make regular monthly  
12 attendance reports and annual reports to the commissioner in the same  
13 manner as teachers and superintendents in the public schools.

14 \* Sec. 5. AS 14.45 is amended by adding new sections to read:

15 ARTICLE 2. EXEMPT RELIGIOUS AND OTHER PRIVATE SCHOOLS.

16 Sec. 14.45.100. EXEMPTION. A religious or other private school  
17 that complies with AS 14.45.100 - 14.45.140 is exempt from other  
18 provisions of law and regulations relating to education except law and  
19 regulations relating to physical health, fire safety, sanitation,  
20 immunization, and physical examinations.

21 Sec. 14.45.110. REQUIREMENTS OF EXEMPT SCHOOLS. (a) The parent  
22 or guardian of a child enrolled in a religious or other private school  
23 that complies with AS 14.45.100 - 14.45.140 shall file an annual  
24 notice of enrollment in the school for the child with the local public  
25 school superintendent for the area in which the child resides on a  
26 form provided by the department. The form shall be signed by the  
27 parent or guardian and the chief administrative officer of the school  
28 and returned to the local public school superintendent by the parent  
29 or guardian. The school shall notify the local public school

1 superintendent within a reasonable time if the child is no longer  
2 enrolled in or attending the school.

3 (b) A religious or other private school that elects to comply  
4 with AS 14.45.100 - 14.45.140 shall maintain monthly attendance re-  
5 cords for each student enrolled in the school, shall operate on a  
6 regular schedule, excluding reasonable holidays and vacations, during  
7 at least 180 days of the year, and shall make an annual report to the  
8 commissioner of the number of students in each grade and the school  
9 calendar.

10 Sec. 14.45.120. STANDARDIZED TESTING REQUIREMENTS. (a) A  
11 religious or other private school that elects to comply with AS 14.-  
12 45.100 - 14.45.140 shall administer a nationally standardized test  
13 selected by the chief administrative officer of the school to all  
14 students enrolled in grades four, six, and eight at least once each  
15 school year.

16 (b) The nationally standardized test must measure achievement in  
17 English grammar, reading, spelling, and mathematics.

18 (c) A religious or other private school that elects to comply  
19 with AS 14.45.100 - 14.45.140 shall maintain records of the results of  
20 the nationally standardized tests and the records shall be made avail-  
21 able to the parent or guardian of the student. Each school shall make  
22 composite test results for the school available annually to an autho-  
23 rized representative of the department. The composite test results of  
24 a religious or other private school operated in compliance with  
25 AS 14.45.100 - 14.45.140 are not public information unless each public  
26 school

27 (1) is also required to administer a nationally standard-  
28 ized test that measures achievement in English grammar, reading,  
29 spelling, and mathematics; and

1 (2) the composite test results for each public school are  
2 public information.

3 Sec. 14.45.130. RECORDS. (a) A religious or other private  
4 school that elects to comply with AS 14.45.100 - 14.45.140 shall  
5 maintain permanent student records reflecting immunizations, physical  
6 examinations, standardized testing, academic achievement, and courses  
7 taken at the school.

8 (b) The chief administrative officer of a school that elects to  
9 comply with AS 14.45.100 - 14.45.140 shall certify under oath to the  
10 department that the records required under (a) of this section are  
11 being maintained.

12 Sec. 14.45.140. DEFINITION. In this chapter

13 (1) "religious school" means a private school operated by a  
14 church or other religious organization that does not receive direct  
15 state or federal funding.

16 \* Sec. 6. AS 14.45.020 is repealed.  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

Joanne Wallington, M.D.

Pediatric Cardiology

"Children's Heart Disease"

Suite 209  
4001 Dale Street  
Anchorage, Alaska 99504  
(907) 278-1915

January 30, 1984

Representative Walt Furnace  
Pouch V  
Juneau, AK 99811

Dear Mr. Furnace:

I would like to express my support for Senate bill 129 and Senate bill 130 which will provide for the teaching of cardio-pulmonary resuscitation in the schools and provide funds for the necessary instructional materials. I believe this life saving information should be known by as many people as possible. Providing this instruction in the schools will give a large and ever growing number of individuals capable of providing resuscitation and I think the cost is quite small compared to the benefits.

Sincerely,

Joanne Wallington, M.D.

JW:ken

cc: Senator Ziegler  
Senator Eliason  
Senator Ferguson

*2/2*  
*Re: Rep. Ziegler: Sen. Ziegler thought  
this additional backup might  
be helpful to you*

*SB 130*

*Linda Ross*

January 18, 1984

I want to thank the sponsors of HB 514 and Senate Bill 354 for their attitude, concern, and intentions. The purpose of this legislation as expressed is excellent. The assurance of religious liberty and a child's education without conflict is supported by most of us. However, there is an incongruence in the bill as written. Section I subsection (1) states that "the state shall not control or interfere with the rights of conscience and religious liberty;". Yet, in this bill churches seeking exemptions have to meet conditions and file reports to the state.

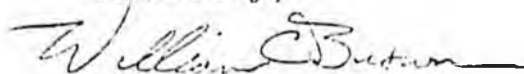
I am the Minister of Education for Glacier Valley Baptist Church, in Juneau. As a church we can not request or accept an exemption from the Department of Education. Exemptions can only be granted to a lesser by a greater power. We can not take an easy way out from possible confrontations if that way involves denial of the Sovereignty of our Lord.

The state can still meet its obligations of ensuring that a child receives an education that prepares him as a viable member of society, by placing the primary responsibility of education where it belongs, on the parent. The parent should be responsible for the reports to the state if he elects to educate his child in a program other than the public schools, or state controlled alternatives.

In view of the purpose of this legislation, please see my enclosure for the suggested changes.

Thank you.

Sincerely,



William E. Brown

Minister of Education

Page 1 line 16 DELETE "all" from all education. In line 19 one example is given that voids the "all" aspect.

Section 14.45.03C. page 5 lines 3-9 DELETE If you don't meet the requirements of the exemption (voluntary or otherwise) you are under Department of Education's control.

Section 14.45.100. page 5 lines 11-16 DELETE Asking for an exemption implies recognition of control or higher authority. This is incongruent to the stated purpose of the legislation in Section I subparagraph (1) and (2)

Page 5 lines 25, 26, 27 recognizes the local public school superintendent as in authority over the church school.

Page 5 lines 28, 29 Page 6 lines 1-5 Entangles the church school unnecessarily and once again places the school as answerable to the state.

Page 6 lines 6-11 Testing requirements DELETE (a) A religious or other private school" Excessive entanglement.

Page 6 lines 14-19 Subsection (c) DELETE

#### CHANGES

Article 2 Section 14.45.100. Children Enrolled In Private and Religious Schools.

Parents choosing to enroll their children in schools where the laws and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations are not applicable must file notice of enrollment with their local public school district.

Section 14.45.110 Parental Responsibilities concerning non licensed education.

Page 5 lines 18-24 Remain

line 25 DELETE school shall notify, add "the parent shall notify."

Page 6 lines 6-11 change "a religious or other private school" to "a parent"

Page 6 line 8 change "shall administer" to "shall submit the results"

Page 6 line 14-19 Subsection (C) change line 19 from "the composite test results" to "the student test results from a non licensed school utilized by parents in compliance with AS 14.45.100-AS 14.45.140"

Page 6 lines 28-29

A parent or guardian that elects to comply with AS 14.45.100-14.45.140 shall file an annual report reflecting standardized test scores, past year's grades, and approaching year's course of study, no later than October 1. Students enrolled for the first time in a non licensed church or private school will not be required to report previous year's performance.

Page 7 lines 1-3 DELETE. Insert A student that transfers from an alternative education covered by AS 14.45.100-14.45.140 to a public school shall have records that reflect immunizations, physical examinations, standardized testing, academic achievement, and courses attended.

Page 7 lines 4-7 DELETE - excessive entanglement

198\_\_ SCHOOL YEAR

STUDENT'S NAME \_\_\_\_\_ AGE \_\_\_\_\_ GRADE \_\_\_\_\_

SCHOOL PROVIDING SERVICES \_\_\_\_\_ CITY \_\_\_\_\_

COURSE OF STUDY FOR THIS ACADEMIC YEAR

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

REST OF FORM IS TO BE COMPLETED FOR STUDENTS CONTINUING IN A NON-LICENSED SCHOOL.

COURSES TAKEN PRIOR ACADEMIC YEAR. LIST GRADES EARNED.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

IF A CHILD WINS IN GRADES ONE, THREE, SIX, OR NINE, COMPLETE THE FOLLOWING STANDARDIZED TEST INFORMATION.

NAME OF TEST	DATE ADMINISTERED	PCTL SCORES			
		ENGLISH GRAMMAR	READING	SPELLING	MATHEMATICS

PARENTS OR GUARDIAN'S SIGNATURE \_\_\_\_\_

ADMINISTRATOR'S SIGNATURE OF \_\_\_\_\_  
 SERVICES SCHOOL



American Association of University Women  
Alaska State Division

Susan R. Clark  
Division Legislative Chair  
1109 C Street, Juneau, Alaska  
(907) 586-6952

30 January 1984

SB 354 relating to regulation of private schools:

Members of House HESS Committee, I am here today representing both the State Division of the American Association of University Women at the direction of our State President Evelyn Bonner of Sitka, and the State League of Women Voters at the direction of Paula Ziegler who is today in Ketchikan and cannot attend herself.

Both organizations believe in quality child care for children of pre-elementary age, and that care given any child outside his or her home should provide enriching and varied experiences with parental involvement strongly encouraged. While the bill before you speaks to the education of children from age three through grade 12, we are confining our remarks to the pre-kindergarten child, whose need for individual attention from adults is higher than at any other time in that child's life, and who is particularly vulnerable when receiving care from persons other than her or his family.

We realize that this bill is going to pass, but because it deals with the Dept. of Education statutes that have been found to be inadequate by the State Dept. of Internal Audit as well as the Federal Office of Child Development, we feel obligated to bring these problems to your attention. Of highest concern is that there is no definition of the word "preschool" in the statute. Currently there are approximately 250 unlicensed/uncertificated "preschools" operating in the state and about 100 of these are functionally identical to licensed day care centers. When this bill is enacted, Alaska will be the only state in the Union that does not regulate programs that operate full day (up to 10 hours or more) care of pre-school children. In states other than Alaska, preschools are considered to be of short hour duration which generally concentrate on structured planned activities. Parents overwhelmingly want enrichment/education programs for their children, and believe that by sending their children to preschool programs they are doing the best for their children. However most are unaware that the Division of Internal Audit and the Senate Advisory Council's Day Care Status Report found that "standards for preschool certification were significantly lower than standards for day care center licensure," and under this bill would be practically non-existent.

Citizens and parents have come to rely on certain consumer protection standards that they believe are in place concerning basic health and safety at the very least. Most parents assume that the Fire Marshall's inspection includes a requirement that there be a minimum number of staff to care for the children under emergencies. It does not, although the Senate Advisory Report points out that the 1982 Natl. Fire Code utilized by Alaska determines that a minimum staff to child ratio of 1 to 10 is necessary for an acceptable