

ALBANY COUNTY RECORDS

2344 SHEETS - SB 247

SB 267

2344



STATE OF ALASKA

OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION
3601 C STREET - SUITE 742
ANCHORAGE, ALASKA 99503

MEMO

TO: Senate Health, Education and Social Services
FROM: Kathy Marshall, Executive Director
SUBJECT: Senate Bill No. 247
DATE: February 6, 1984

The Alaska Women's Commission is committed to addressing the pressing Alaskan problem of insufficient and inadequate child care facilities and child care programs. There is a tremendous need for quality, affordable, accessible care for children of employed parents.

Nationally, both public and private employers are recognizing that quality child care is at least as important to the families of many employees as health insurance, retirement plans and other more traditional benefits. Studies have indicated that on site child care reduces absenteeism and turnover rates which results in tremendous savings.

The Commission, therefore, supports the creation of privately run child care centers in State buildings.

CC:
Senators
B. Fahrenkamp
V. Fischer
J. Kerttula
A. Sturgulewski
J. Josephson
P. Rodney

Joe, Larry, Paul

May 6, 1983

SB 247

Nina Kuler - HISS

- depart. supports.
- does licensing requirements

Linn McKinna

- member of AK Assoc for Ed of Young Children
- supports bill.

Barbara Dale - V. Ch. Comm on Status of Women

- supports concept.

Susan Clarke - Am Assoc of U. Women

- amend. - owned or leased
- pg 2 line 15 "quality"



Wants

Paul - standards of "quality" in day care - CIRA? HISS? NAEYC?

Patie Henderson -

Support - State Employee Dept of Labor.

SB 247

New Boyer - Fahrerkamp
no subsidy required for building



American Association of University Women
Alaska State Division

Susan R. Clark, State Legislative Chair
1109 C Street, Juneau, Alaska 99801

May 1983

AAUW supports Senate Bill 247 which would include in the architectural plans of major state buildings the space for a child care center for employees, students and other parents who work in the vicinity.

Our society is at a point where economic conditions are forcing parents in greater and greater numbers to seek employment. Only 7 years ago for the first time nationally more women with children were employed than were working at home (a rise from 18% to 54% over the last thirty years). Now in Alaska almost 50% of all women with preschool children are employed. Women seek meaningful employment for the same reasons men do - out of economic necessity and out of a need to lead contributing, independent and challenging lives. Now that we have begun, in Alaska at least, to outlaw discrimination against women in education and employment, women have increased opportunity and are taking that opportunity to pursue professional goals - goals that must of necessity for many include less time spent exclusively parenting. Women who do choose parenting also realize that raising children usually occupies but one-third of their adult life, and that they must prepare themselves at least educationally for the economic security of that other two-thirds.

In addition to an increase in the need for two-parent incomes, we have a high percentage of single parents whose lack of alternatives for child care while they are earning a living or studying to earn one is often acute. I point out these facts to underscore the knowledge that the need for day care for infants, preschoolers, and before and after school is now a fact of life in our society as a whole and even more so in Alaska where almost one-half of all our families have pre-schoolers. But even though more parents are working outside the home, satisfactory child care arrangements are something to be envied, and in no way taken for granted. Given our need and self-interest as citizens to assure that the next generation is adequately nurtured as well as educated, we must as citizens concern ourselves with the availability of affordable, reliable, accessible quality child care for parents who must also earn a living.

The issues in the excellent proposal before you are 1) the quality of child care while parents are employed, and 2) support of families as they assume their responsibility in raising their children. That a benefit also exists to an employer in terms of lower absenteeism and reduced employee turnover, is but delightful fallout to the basic issues of quality child care in and outside the family.

On-site child care speaks to all of these issues. Picture the average employed family with young children. Depending on where parents can find a vacancy in adequate preschool care that they can afford; depending on the number of children in the family needing different kinds of care (a school child, for example, usually must receive care near the school); depending on the location of



each parent's job, the severity of rush hour traffic, and whether all this scheduling and transportation must be done in a single family car or even on public transportation, then the resulting daily logistics can easily add one hour or more to each end of the 8 hour day. For a pre-school child whose waking day is normally 12 hours, the result is the limitation of possible child-parent interaction to two hours that are traditionally ones where both parent and child are tired, hungry and rushed. Latest figures show that the average parent spends but 17 minutes a day actually interacting with his or her child - 14 minutes of which are spent in directing the child to do something. Fathers generally spend more time shaving than they do with their children!

On-site child care reduces drastically the transportation logistics giving parents the maximum time with their child before and after work, but also adds an important additional factor - parents whose children are accessible to their place of employment are provided with the important option of 1) spending additional time with their child during scheduled breaks in the work day or at lunch, and 2) being able to observe first hand and at various times during the day the adequacy or quality of the care program. For too many parents, the only knowledge they really have of their children's day care situation is what they see through the front door at drop-off and pick-up time, and given the lack of options many parents have, many just trust to luck that the arrangement is satisfactory.

These two points (time with the child and observation of the program), however, not only benefit the parent-child interaction, but also help at the same time to raise the quality of the program in general. Studies have conclusively proven that high parental involvement in any child-care program produces the highest quality of care. Not only do parents using on-site care know more fully what their children are doing during the day thereby exerting more control, but through visitation they also help to increase the staff-child ratio during parts of the day, which thus increases the amount of individual attention each child can receive.

Benefits to the employer or school result not only from parents' increased peace of mind, but from the consequent stable child care situation. Parents relying on sitters find that even the most reliable ones have sick days or other commitments and the turnover of family day care home providers is startlingly high. A substantial number of work days are consumed not in caring for a sick child, but in providing care when the regular provider can not or when that person abruptly seeks other employment or respite.

A national trend toward on-site or adjacent child care has begun. President Reagan even highlighted the need in his State of the Union message this year. Over the last decade the IRS has permitted businesses to deduct the expenses of providing a child care facility, but too few businesses have taken advantage of that provision which may have expired in 1982 (and needs to be reinstated). One intent of this proposed legislation is to enable the state to take a leadership role in on-site child care, encouraging private employers to follow suit.

AAUW strongly supports this bill and urges prompt action.

naeyc-
sea



National Association
for the Education
of Young Children-
Southeast Alaska

My name is Lynn McKinnon. My husband and I are life-long Alaskans, Juneau residents for three and one-half years and the parents of two boys. I am a member of the Alaskan Association for the Education of Young Children and the volunteer legislative advocate for the Association. I am also the fund-raising chairperson of Capital School and Membership Vice-President for the Juneau Co-operative Preschool.

I am here today to urge you to support Senate Bill 247. I will tell you why I became involved, the steps that took place before this proposal became a bill and what the benefits are for on-site child care.

Quality child care means that children are in a life-safe developmentally healthy environment with caring, competent caregivers. I would like to share with you a quote from a report entitled "Child Welfare: Day Care of Children" by Theresa Lansburgh.

"The fundamental issue in day care is how optimal nurturance of today's children can be provided at a time when both the American family and the society are undergoing vast changes.... This country primarily helps "damaged" children and broken families by providing for foster care or institutionalization. The cost of this policy -- social, financially, and in human terms -- is great. The early nurturance provided children can prevent much of the later trauma, dislocation, and disruption. Since children represent the future of the country, this policy also affects the quality of national life and the country's character and ability to meet the tests of leadership, purpose, and threats to survival. Too many children are now growing up without the opportunity to develop into contributing members of society. High-quality day care services can be an important resource for families and for enriching the development of children during their crucial formative years."

In January I read in the Empire that Governor Sheffield announced plans for new buildings to house state agencies.

naeyc- sea



National Association for the Education of Young Children- Southeast Alaska

It occurred to me that plans for child care facilities for the children of those employed ought to be included in those plans. I had read several articles about successful corporate on-site child care facilities and the advantages for employers as well as parents and children. I then discovered that bills proposing this idea had been introduced in past legislatures, but had not received the attention they deserved.

With the help of a number of people, successive meetings were held to discuss a freshly written proposal. At these meetings all who would eventually be involved should this legislation become law were able to critique and offer suggestions. Participants included representatives from the Departments of Administration, Community and Regional Affairs, Health and Social Services, Education, and Transportation as well as representatives from the Child Care Coalition. The bill was revised to better reflect the concerns expressed by each of these representatives. I feel strongly that because of the work done in advance by all the people involved that this legislation has an excellent chance of being implemented smoothly. I will volunteer any assistance necessary to help in the implementation of this legislation.

A recent status report on child care in Alaska pointed out, among other needs that:

- 1) Alaska has a greater than average need for child care services.
- 2) Day care is a sound investment for the State, at least in helping the disadvantaged. Day Care Assistance can reduce welfare and the need for other social programs. Young children reap long term benefits from quality programs.

On-site child care facilities would have many advantages to the State which would include:

- 1) Reduced costs due to improved ability to recruit highly skilled workers. An on-site child care facility would draw many professional people to the pool of available personnel.
- 2) Reduced turnover and improved retention of employees. The child care facility would enable well-trained staff members, particularly professional women, to remain on the staff.

naeyc-
sea



National Association
for the Education
of Young Children-
Southeast Alaska

- 3) More effective training. By retaining existing staff the State would build on prior training and improve the value of staff.
- 4) Happier employees who would likely be more productive employees.

Advantages for parents and children include:

- 1) Relief from the anxiety of separation during the workday. Parents' accessibility to the child and availability in case of emergency helps relieve this concern and contributes to peace of mind.
- 2) The convenience of on-site care reduces the inherent stress from scheduling problems and leaves more time for the relationship between parent and child.
- 3) Nearness to the workplace allows for more time during lunch for parent and child to be together.
- 4) Studies have shown that the greater the parent involvement the higher the quality of the child care. A center near the workplace would increase parental involvement.
- 5) Women could return to employment from maternity leave sooner, and if they chose, could continue to nurse their babies.

The structure and lifestyle of the Alaskan family has changed dramatically, economic necessity dictating that many women have passed the point where they have a choice about entering or continuing in the labor force. This legislation would affect all Alaskans by demonstrating a continued commitment from the State in supporting families, and the enrichment of social, physical and intellectual experiences for children. Yes, it will cost the State money initially for the space to be included in building plans. I would like to quote an article about the on-site child care facility at the Fox-Chase Medical Center in Philadelphia regarding cost-effectiveness:

"Retirement programs can cost from 8% to 10% of total direct payroll, and basic family dental plans will generally range from 1% to 1.5% of the same payroll base. In contrast, the child care program at Fox-Chase is expected to draw .5% of direct payroll in the first year operating costs, plus approximately .3% of payroll for initial seed money. If this program significantly decreases turnover,

naeyc-
sea



National Association
for the Education
of Young Children-
Southeast Alaska

increases retention and increases effectiveness of training,
then the cost-benefit ratio would be great indeed."

Senate Bill 247 allows only for space to be provided for a
facility. The expense of operating the facility would primarily
be born by the private provider contracting for the service.

I question whether we can afford not to implement this
valuable program, and will close with another quote by Arnold Hiatt,
president of the Stride Rite Center on corporate premises:

"All of today's delinquents were three and four year
olds a short time ago. Efforts to train hard-core un-
employables have been largely futile. Our tax dollars
provide merely custodial care. The cost of teaching a
child to sing, to grow and to trust peers and adults in
a positive environment is small in comparison."

Children are our most important renewable resource. The
relationship between the workplace and child care has great
significance to fostering optimal nurturance in the family.

Lynn McKinnon
502 West 10th
Juneau, Alaska 99801

TESTIMONY BEFORE SENATE HESS MAY 6, 1983

Good Afternoon. My name is Barbara Dale. I am the mother of three small boys, owner of a local retail business and vice-chairperson of the Alaska Commission on the Status of Women.

The 1980 Census data shows that 70% of all Alaskan women 16 years of age and older are employed.

56% of all Alaskan women with children are employed.

47% of all Alaskan women with children under the age of six are employed.

The economic situation that we find ourselves in today necessitates a change in lifestyles for us all. Dual career families, employed mothers, and single parent families are becoming a way of life here and across the nation. We are experiencing radical changes in lifestyles and they are being felt by individuals, families and by employers. As a result of these changes we all need to work toward a merger of work and family life.

Both employees and employers benefit from on-site child care facilities.

In terms of the state, the cost-benefit ratio would be very high if on-site day care decreased employee turnover, helped eliminate tardiness, improved retention and provided peace of mind for users of the facility.

Presently, licensed day care is available for only about one out of every eight Alaskan children under the age of six. Migration of full-time homemakers into the workplace has greatly reduced the pool of traditional informal child care providers -- neighbors, friends and relatives. It

longer can we protest that women should be at home taking care of their own children. Today this is an unrealistic luxury for most women who return to the job market to feed and house their own families. The lack of access to quality child care will not eliminate the economic necessity of supporting one's family. The ones who suffer as a result of inadequate child care facilities are our next generation of Alaskans.

Since it's inception the Alaska Commission on the Status of Women has supported child care facilities in state office buildings. We commend you for this step in building family security in the workplace which will benefit the fulfillment of human potential, both male and female. Thank you for your time and attention.

TESTIMONY OF SENATOR BETTYE FAHRENKAMP
BEFORE THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE
ON SENATE BILL 247

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I WANT TO THANK YOU FOR PROVIDING ME WITH THIS OPPORTUNITY TO SPEAK IN SUPPORT OF SB 247. I AM JOINED IN MY SUPPORT BY THE DEPARTMENTS OF ADMINISTRATION, COMMUNITY AND REGIONAL AFFAIRS, AND HEALTH AND SOCIAL SERVICES.

THIS LEGISLATION CONTINUES TO EXPRESS THE STATE'S COMMITMENT TO THE CHILDREN AND PARENTS OF OUR STATE. IT ACKNOWLEDGES AND ACCEPTS THE EVOLVING ROLES OF WOMEN IN THE WORK PLACE AS EQUAL PARTNERS TO THEIR MALE COUNTERPARTS. ACCORDING TO THE OFFICE OF INSTITUTIONAL RESEARCH AT ANCHORAGE COMMUNITY COLLEGE, THERE WERE RECENTLY 14,815 WOMEN IN ALASKA OVER THE AGE OF 16 IN THE WORK FORCE, WITH CHILDREN UNDER THE AGE OF SIX. 47.4 PERCENT OF ALL MOTHERS IN ALASKA ARE IN THE WORK FORCE.

IN APRIL THIS YEAR, THE U.S. CENSUS BUREAU RANKED ALASKA SECOND IN THE NATION IN NEW BIRTHS WITH 22.5 BIRTHS PER 1,000 PEOPLE PER YEAR, WITH THE NATIONAL AVERAGE AT 15.6.

ACCORDING TO A JANUARY SENATE ADVISORY COUNCIL REPORT PREPARED BY FRANK SEUFFERT, 22 OF 36 CHILD CARE CENTERS RESPONDING TO HIS SURVEY INDICATED THAT THEY HAD WAITING LISTS WITH AN AVERAGE NUMBER OF ABOUT 20 CHILDREN AND AN AVERAGE WAIT OF 3 MONTHS.

RECENTLY, THE ANCHORAGE DAILY NEWS CARRIED AN ARTICLE REGARDING ON-SITE CHILD CARE. IN THE ARTICLE LARRY SNYDER,

DIRECTOR OF PERSONNEL AT MERLANDS FURNITURE STORE, INDICATED THAT AS A RESULT OF THEIR ON-SITE PROGRAM "MANAGEMENT AND SUPERVISORS HAVE A MUCH BETTER LEVEL OF UNDERSTANDING OF THE ADDITIONAL RESPONSIBILITIES THIS EMPLOYEE HAS TAKEN ON." HE FURTHER NOTED THAT IN ALASKA "THERE IS NOT TYPICALLY A BROAD FAMILY SUPPORT SYSTEM HERE FOR THE YOUNG FAMILY, SO THE SUPPORT THEIR FELLOW EMPLOYEES GIVE, AS THEY TAKE THIS BIG STEP INTO PARENTHOOD, BECOMES IMPORTANT AND A POSITIVE INFLUENCE." HE INDICATED THAT THIS OVERALL POSITIVE FEELING AT THE WORKPLACE WAS HAVING A VERY GOOD EFFECT ON THEIR BUSINESS.

ACCORDING TO TED KESSEL, DIRECTOR OF THE CENTER FOR EDUCATIONAL DEVELOPMENT AT PROVIDENCE HOSPITAL, THE HOSPITAL PLAN, TO OPEN A QUALITY DAY CARE CENTER BY FEBRUARY, 1984. THE CENTER WILL OPERATE 24 HOURS A DAY, 7 DAYS A WEEK. THE CENTER WAS A DIRECT RESPONSE TO A NEEDS ASSESSMENT SURVEY OF THE HOSPITAL'S EMPLOYEES. WERNER TRAVEL, INC., IN ANCHORAGE PROVIDES ON PREMISES DAY CARE FOR THEIR 15 EMPLOYEES.

MR. CHAIRMAN, I MAKE THESE STATISTICAL POINTS AND REFERENCES TO ON-SITE FACILITIES BECAUSE I WANT TO REINFORCE OUR INTENT HERE WHICH IS TO ACT AS A MODEL FOR PRIVATE INDUSTRY; TO PERPETUATE AND SUPPORT QUALITY CHILD CARE AND FOSTER MORE SATISFIED AND PRODUCTIVE EMPLOYEES AND STUDENTS.

NO ONE CAN ARGUE AGAINST ENCOURAGING QUALITY CHILD CARE AND FAMILY SERVICE WHICH CONTRIBUTES TO GREATER WORKER PRODUCTIVITY AND BENEFITS CHILDREN, PARENTS AND INDUSTRY OR, IN THIS CASE, GOVERNMENT.

SPECIFICALLY, IF ENACTED THIS BILL WOULD BECOME A PLANNING TOOL FOR ENSURING THAT AS WE BUILD NEW STATE FACILITIES WE INCLUDE SPACE WHICH WILL BE CONTRACTED OUT TO PRIVATE, LICENSED CHILD CARE PROVIDERS TO OPERATE CHILD CARE FACILITIES

WHOSE SERVICE WILL BE PAID FOR BY THOSE PARENTS CHOOSING TO USE THE FACILITY. THERE IS NO INTENT TO SUBSIDIZE CHILD CARE TO STATE WORKERS OR ANYONE ELSE.

MR. CHAIRMAN, I WOULD BE HAPPY TO ANSWER QUESTIONS, HOWEVER, I AM CHAIRING A MEETING OF MY COMMITTEE. IF YOU HAVE ANY QUESTIONS, MARK BOYER WOULD BE HAPPY TO RESPOND. THANK YOU

S

B

261

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99801
907 465 3000

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 14, 1983

SUBJECT: Regulation of religious schools
(CSHB 357 (HESS))

TO: Representative Milo Fritz
Chairman, Health, Education, and
Social Services Committee

FROM: Keith B. Levy
Legislative Counsel

Enclosed is a copy of CSHB 357 (HESS), relating to the regulation of religious schools. The bill raises a number of constitutional questions. Because these constitutional requirements must be balanced against one another, there is virtually no way to guarantee that the bill is valid. In my opinion, however, the bill does a good job of balancing the constitutional requirements and is probably not unconstitutional.

In regulating religious schools, the state must consider the "free exercise" and "establishment" clauses of the state and federal constitutions. These provisions essentially prohibit the state from unduly burdening the free exercise of religion and from becoming so involved in the regulation of religious schools as to encourage or inhibit religious activity. On the other hand, the "equal protection" clauses of the state and federal constitutions require the state to justify treating religious schools differently from other private schools. Moreover, while the state may not excessively regulate religious schools, it also has an obligation to provide a reasonable education to school age children. Reconciling these different interests with one another is no easy task and it is difficult to predict which of these will take precedence in the courts.

CSHB 357 (HESS) exempts certain religious schools from all state laws and regulations relating to education except laws concerned with health, fire safety, sanitation, immunization, and physical examinations if the schools agree to comply

with certain minimal statutory requirements. The schools affected by the bill are those that are operated by a church or other religious organization that is exempt from federal taxation and do not receive state or federal funding (AS 14.45.040). Children attending these schools are exempt from the state's compulsory attendance law (AS 14.30.010). The schools that opt to comply with the minimal statutory requirements must maintain attendance and enrollment records (AS 14.45.030(b)), notify the public school superintendent if a child is no longer enrolled or attending (AS 14.45.-030(b)), administer a nationally standardized test to be selected by the individual schools that measures English grammar, reading, spelling, and mathematics (AS 14.45.035), and operate on a regular nine month schedule (AS 14.45.-030(c)). Parents of children attending these schools must file enrollment and attendance records with the local public school superintendent (AS 14.45.030(b)). Religious schools that choose not to comply with these standards remain subject to the same regulations as all other private schools.

The First Amendment to the United States Constitution and Article I, section 4 of the Constitution of the State of Alaska provide

No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

The free exercise clause has been interpreted to mean that the state may not unduly burden the right of a parent, child, or church to freely exercise a particular religion, unless the state can show a compelling state interest. Sherbert v. Verner, 374 U.S. 398 (1968). Even when the state can show a compelling interest in regulating religious schools, it must also show that the regulation is by the least burdensome means.

CSHB 357 (HESS) allows the state to regulate health and safety standards, to require certain standardized tests, and to assure regular attendance by the children. None of these requirements appears to be unduly burdensome on the free exercise of religion. The state clearly has a compelling interest in maintaining health and safety standards and these standards, if reasonable, generally have no connection to the exercise of religion. The interest justifying the standardized test requirement is the state's obligation to provide an education for children. The requirement is not unduly burdensome because the individual schools are

permitted to select the test of their choice provided that the test measures achievement in certain basic areas. Beyond that, the bill does not regulate curriculum in the religious schools. Finally, the bill requires certain attendance reports from the schools and the parents of children attending them. Again, the reporting requirements are minimal and are justified by the state's interest in assuring that the children are receiving an education. Accordingly, the bill probably does not infringe on the right to the free exercise of religion.

The analysis of the bill under the establishment clause is similar to that under the free exercise clause. Legislation must be substantially neutral toward religion. Epperson v. Arkansas, 393 U.S. 97 (1968). Excessive entanglement in the regulation of religious organizations is not permitted. Lemon v. Kurtzman, 403 U.S. 602 (1971).

The bill minimizes the state's involvement in regulating religious schools by exempting them from the state's general education regulations if the schools agree to comply with certain minimal standards. Of these standards, the only one that might present a problem by excessively involving the state in the regulation of religion is the attendance reporting requirement. In Surinach v. Pesquera de Busquets, 604 F.2d 73 (1st Cir. 1979), the court found state requirements that religious schools release extensive financial and other data unconstitutional. The statute challenged in that case can be distinguished from CSHB 357 (HESS), however, because the bill only requires attendance reports, the reports must be released by the parents, and they can be justified by the state's obligation to ensure that children receive an education. The attendance reports are probably not an excessive entanglement by the state in the regulation of religious schools.

The equal protection clauses of the Fourteenth Amendment of the United States Constitution and Article I, section 1 of the Constitution of the State of Alaska require the state to justify the statutory creation of a class based on religion. The classification

. . . must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.

Isakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976).
CSHB 357 (HESS) creates a class of religious schools which are exempt from most state regulations that apply to other private schools. Since the exemptions are substantially tied to the free exercise of religion, however, they can be justified on the basis that there is a substantial relationship between the exemptions and the goal of the legislation. Only if the exemptions were not tied to the exercise of religion or some other valid governmental purpose would the bill violate the equal protection clause.

The bill's deregulation of religious schools may raise a problem with respect to the state's obligation to provide an education to all children in the state. It is not clear, however, that this obligation is mandated by the constitution. Article VII, section 1 of the Constitution of the State of Alaska provides, in part,

The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions.

It is not clear whether this provision merely obliges the state to provide the opportunity for an education to all children of the state, or if it includes the obligation to ensure that they actually receive an education. If the latter is true, then the state would be restricted in the degree to which it may deregulate religious schools. Even if that is the case, however, CSHB 357 (HESS) probably does impose sufficient requirements on the religious schools to ensure a minimal level of quality of education. Thus, the bill probably does not violate any obligation the state has to provide an education to children in the state.

In conclusion, CSHB 357 (HESS) is probably constitutional although the necessary balancing of constitutional requirements makes it difficult to be certain of this. Ideally, legislation regulating religious schools will place minimal burdens on the schools and require minimal state involvement while requiring the schools to meet minimal educational requirements to ensure that the children are receiving an education. In my opinion, the bill successfully strikes this balance.

*File in the file
back-up on the bill*

CHERI C. JACOBUS
ATTORNEY AT LAW
1348 CRESCENT AVENUE
ANCHORAGE, ALASKA 99504

SB 261 AND HB 357

Summary of the Legislation

SB 261 and HB 357 deal exclusively with private church schools and schools operated by religious organizations and, as amended, are modeled after the legislation adopted by North Carolina in 1979 and by West Virginia in 1982 to remedy church-state constitutional conflicts. These laws, if enacted by the Legislature, would establish requirements that must be met by private religious schools in order for parents whose children attend them to satisfy the compulsory education law. They would also exempt pre-elementary and nursery programs operated by religious organizations from the supervision of the Departments of Education and of Health and Social Services. The purpose of these bills is to remedy existing church-state constitutional conflicts by protecting the guaranteed religious freedom of church schools in Alaska and, at the same time, to balance the state's interest in assuring that each child receives a good education.

This legislation only covers schools, pre-elementary programs or nursery programs operated by a church or other nonprofit religious organization exempt from federal taxation and not receiving state or federal funding. These are constitutionally protected groups and activities.

More specifically, church schools (or denominational schools as defined in the proposed legislation) would be required to maintain attendance and immunization records. Since current compulsory education laws make parents liable for their children's failure to attend school, these bills, as amended, would require the parents to file statements with the public school authorities to establish their children's attendance at a church sponsored private school. By placing the requirement on the parent, the bills avoid the constitutional problems created by the state's excessive entanglement in religious activities. The school would also be required to operate on a regular schedule, at least nine calendar months per year, and to be subject to reasonable fire, health, and safety regulations.

To ensure that children attain certain minimum educational standards, each religious school would be required to administer a nationally standardized test to students in the first, third, sixth and ninth grades and to make the school results available for the Department of Education. This would satisfy the state's interest in compulsory education and still avoid the constitutional problem of excessive state entanglement in religion.

Any church school that satisfied all the requirements of AS 14.45 would be exempt from any additional provision of law

relating to education except those requirements of law relating to fire, health, and safety.

Constitutional Requirements

The changes set out in SB 261 and HB 357, as amended, are required to correct existing Alaskan laws which run afoul of the constitutional mandate requiring the states to avoid excessive entanglement in religious activities. The state's right to impose minimum requirements on private religious schools is very limited, because these religious activities are protected by the First Amendment of the United States Constitution and its identical counterpart in the Alaska Constitution, Art. I, sec. 4.¹

Schools operated by churches or by nonprofit religious organizations are quite different from other private schools. They enjoy a constitutionally protected status.

"Church operated schools are generally integral parts of their sponsoring churches. Their superintendents are generally pastors or assistant pastors of the sponsoring churches; their teachers are generally members; and their doctrinal stances are generally set by the sponsoring churches."²

Federal and state courts recognize that operating a church school is an integral part of the free exercise of religion.³ For many churches, it is in fact the ministry of the church. Because

¹ E.g., Kentucky State Bd. for Elem. & Secondary Education v. Rudasill, 589 S.W.2d 877 (Ky. 1979), cert. den., 446 U.S. 938 (1980); Wisconsin v. Yoder, 406 U.S. 205 (1972); Lemon v. Kurtzman, 403 U.S. 602 (1970); Pierce v. Society of Sisters, 268 U.S. 510 (1925).

² "State Regulation of Private Religious Schools in North Carolina -- A Model Approach," 16 Wake Forest Law Review 405, 431-32 (1980).

³ See, e.g., NLRB v. Catholic Bishop, 99 S. Ct. 1313 (1979) (Catholic parochial schools are founded for religious reasons and religious doctrine is pervasive); Surinach v. Pesquera de Busquets, 604 F.2d 73 (1st Cir. 1979) (private Catholic schools are an integral part of the Catholic Church and as such "involve substantial religious activity and purpose"); Hunt v. McNair, 413 U.S. 734, 743 (1973) ("[R]eligion is so pervasive that a substantial portion of [religious school] functions are subsumed in the religious mission."); Lemon v. Kurtzman, 403 U.S. 602, 616 (1971) ("[T]he parochial schools constituted 'an integral part of the religious mission of the Catholic Church'. . . In short, parochial schools involve substantial religious activity and purpose.").

church operated schools clearly come within the First Amendment free-exercise clause, their activities are constitutionally protected as fundamental rights.⁴

In the area of First Amendment individual liberties, any state legislation that burdens parents', childrens', or a church's free exercise of religious beliefs is unconstitutional unless, the state can demonstrate "a compelling state interest in the regulation of a subject within the state's constitutional power to regulate." Sherbert v. Verner, 374 U.S. 398, 403 (1963).

To establish the existance of a compelling state interest, it is not enough for the state to merely show that a rational relationship exists between a colorable state interest and the proposed regulation. According to Sherbert, "[o]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation."

More importantly, the state must demonstrate that it is using the least burdensome method for addressing the compelling state interest. The current law violates this mandate, because the legislative goals can be achieved with less burdensome methods. SB 261 and HB 357, as amended, use North Carolina and West Virginia laws as models and are less burdensome while still accomplishing legislative goals.

Eventhough SB 261 and HB 357, as amended, would create two classes of private schools and treat them differently, these bills would not violate the Equal Protection clause of the Fourteenth Amendment. According to established legal principles⁵, the equal protection guarantee of the Fourteenth Amendment does not take from the state legislatures all power to classify persons or objects. The state may classify persons for the purpose of legislation. Classification is an inherent right and power of the legislature.

The important issue for these proposed bills is whether the distinction between private schools operated for profit and private schools operated by churches is based on a real and substantial difference between the two classes. Clearly, there is a substantial difference. The decision of the legislature to recognize its limited ability to regulate church schools is based on a constitutional distinction between the two classes. Church schools are in a protected class, enjoying the protection of the First Amendment. Private schools are not.⁶

⁴ Ibid.

⁵ 16A Am Jur 2d, Constitutional Law, §746, et. seq.

⁶ In addition, it must noted that the motivations for operating

In the area of religious freedom and expression, the Constitution demands neutrality. The government cannot demonstrate a hostility toward religion or religious activity. The mere fact that the government specifically exempts religious groups from complying with certain laws does not violate the Constitution. For example, federal law clearly creates two classes when it exempts the property and income of religious organizations from federal taxation. These two classes parallel the two classes which would be created by SB 261 and HB 357, as amended. The Supreme Court held this was proper legislation in Walz v. Tax Commission, 397 U.S. 664,669 (1970). The Supreme Court found that neither the purpose nor the effect of such exemption was to advance or inhibit religion. It was "benevolently neutral."

The distinction between private schools operated for profit and those operated by churches is real and parallels distinctions created by the federal tax laws. Therefore, there is no violation of equal protection guarantees.

In summary, the present law violates both the United States Constitution and the Alaska Constitution. SB 261 and HB 357, as amended, balance the state's interest in ensuring that each child receives a good education with the fundamental right to religious freedom and should be adopted.

a private school for profit and a school operated by a church are entirely different.

* Section 1. 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 private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080 (4) excluding pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation provided the program does not receive state or federal funding; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

* Section 2. 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 certificated according to AS 14.20.020;

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

(C) except as provided in (D) of this paragraph, 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; or

(D) attendance in an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation provided the program does not receive state or federal funding and provided that the church or other nonprofit religious organization elects to comply with the provisions of AS 14.45;

* Section 3. AS 14.45.015 is added to read:

Sec. 14.45.015. POLICY. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and of Alaska, it is the public policy of the State in the matters of education by religious organizations that the state shall not control or interfere with the rights of conscience or with religious liberty. The State further finds that there is no compelling reason to interfere with this fundamental right.

* Section 4. AS 14.45.020 is repealed.

* Section 5. AS 14.45.025 is added to read:

AS 14.45.025. STANDARDIZED TESTING REQUIREMENTS. Each school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and that has elected to comply with this chapter shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades one, three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after testing, all records shall be made available to the parents at the principal's office, and the school composite test results shall be made available at all reasonable times for annual inspection by a duly authorized representative of the State of Alaska.

* Section 6. AS 14.45.030. is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED.

(a) Teachers and others in charge of private [OR DENOMINATIONAL] schools not operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and that has elected to comply with AS 14.45 shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

(b) The enrollment and attendance of a child in a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding shall be filed with the local public school superintendent by the parent, guardian or other person in charge or control of the child on a form provided by the superintendent which shall be countersigned by the administrator of the church school and returned to the public school superintendent by the parent. Should said child cease attendance at a church school, the parent, guardian, or other person in charge or control of the child shall by prior consent at the time of enrollment direct the church school to notify the local public school superintendent that said child no longer is in attendance at a church school.

(c) Each school operated by a church or other nonprofit religious organization exempt from federal taxation and which does not receive state or federal funding shall make and maintain monthly attendance records for each student enrolled and regularly attending classes. Such school shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year.

* Section 7. AS 14.45.035 is added to read:

AS 14.45.035. REQUIREMENTS EXCLUSIVE. No school operated by any church or other nonprofit religious organization exempt from federal taxation which does not receive state or federal funding and which has complied with this chapter shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation, *physical* and immunization. *examinations*

* Section 8. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education or an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding and if that school has elected to comply with the requirements of AS 14.45;

Christian schools vs. state government — Maine case spotlights issue

By Hilary DeVries

Staff correspondent of The Christian Science Monitor

Bangor, Maine

Standing obediently beneath a banner proclaiming, "Faith is the key in '83," the Bangor Christian School choir is practicing for its spring tour. On cue, the young, a cappella voices fill the cathedral-ceilinged auditorium: "How can I say thank you for what you have done for me? The voices of a million angels could not express my gratitude for what I am."

Such sentiments aren't reserved for choral exercises here at Bangor Christian, where the first book studied every morning is the Bible. Like the 60 or so other private fundamentalist schools in the state of Maine, Bangor Christian requires its curriculum to fully incorporate born-again Christian teachings. But now the freedom of that school, and others like it, to exercise this prerogative is being called into question.

Faced with the periodic certification of teachers, as required by state law, the Bangor Christian school is suing the state for infringement of federal civil rights law. Twenty other fundamentalist schools in Maine are joining in the suit.

"We cannot tolerate the state having final authority in selecting our teachers and curriculum," says the Rev. Her-

man Frankland, executive director of the Maine Association of Christian Schools and pastor for the 2,000-member Bangor Baptist church. "We are as opposed to the state approving our schoolteachers as we are to its approval of our Sunday-school teachers."

Rufus Brown, the Maine deputy attorney general involved in the case, sees things in a quite different light. "These schools say we can't have control over their teachers. But how should the state protect the public interest? The [fundamentalists] simply want to put whomever they choose in the classroom. And we believe that there are teachers out there who are simply unqualified."

It is the first case of its kind to go as high as a federal court. And its outcome, anticipated sometime in June, could establish a national precedent.

At issue is the need for a balance between religious freedom and states' obligations to ensure sound educational standards for all its citizens. Traditionally, mainstream parochial schools have not contested state education requirements for private schools. But such requirements are coming under fire from conservative Christian schools.

Since the mid-1970s, half a dozen cases have been brought to court by private Protestant schools, whose ranks are burgeoning. The schools contend that state licensing of private schools, certification of teachers, and curriculum guidelines are, in their cases, violations of church and state separation as guaranteed in the US Constitution's First Amendment.

The fundamentalists have lost the majority of those cases, most notably a 1981 Nebraska case where a principal was jailed for violating a court order to abide by state regulations. But a recent Michigan decision indicates that the tide may be turning in the schools' favor. In January, a Michigan judge struck down state laws requiring certification of private-school teachers and curriculums. That decision, now being appealed by the state, was later amended to apply to only the two Christian schools named in the suit.

William Ball, attorney for the schools in both the Michigan and Maine cases, says the First Amendment is at issue. "The constitutional questions we want addressed include the rights of pastors and parents to enjoy the free exercise of religion, the parental right to secure the kind of education they desire for their child." State education requirements for private schools, maintains Mr. Ball, constitute a clear violation of church and state separation.

While many Christian schools are considered "traditional schools," meaning they operate with approved textbooks, separate classrooms, and teachers for each grade level, an increasing number of fundamentalist schools are relying on a workbook curriculum. This type of educational system is causing alarm among many educators. A for-profit organization, Accelerated Christian Education (ACE) of Lewisville, Texas, publishes and sells its "total church education package" to any fundamentalist church interested in setting up a school. Supporters of the program say ACE would like a school in every fundamentalist church. ACE officials list more than 4,000 schools in the US using their materials. Attendance at these schools, they say, is "in the millions."

Indeed, all types of Christian schools have proliferated during the past decade. Concerned about everything from drugs to discipline and citing a decline in instruction that promotes Judeo-Christian values, increasing numbers of

parents have pulled their children out of public schools and put them into private Christian academies. From only a handful 10 years ago, fundamentalist Protestant schools are now estimated to number more than 5,000.

While most mainstream parochial schools — Catholic, Lutheran, and Jewish private schools — have long abided by state education requirements, the fundamentalist Christian schools are choosing to fight them. Why?

"State agencies make laws for private schools without realizing that religious schools might object," says Dr. Paul Kienel, executive director of the California-based Association of Christian Schools International. "Other parochial schools aren't as sensitive to those rules. They're also quicker to accept state and federal aid. But fundamentalist schools don't [accept public money]. They consider themselves part of the church and you don't make state rules for a church."

The Rev. Mr. Frankland agrees. "For us, this church and this school are one and the same. The school is the teaching

'These schools say we can't have control. . . . But how should the state protect the public interest?'

arm of the church. So the bottom line is this: Who controls the church and her ministries? Is God the overseer or is it the state? We have said the Lord Jesus Christ rules this church and not the state."

Bangor Christian School, like most other fundamentalist schools, requires that all its teachers be born-again Christians. "Our first criterion for teachers is do they feel called into a ministry of education," continues Mr. Frankland. "Needless to say we try for academic excellence, but that is not our first criterion. So we start on a totally different premise than the public schools."

Patty McLeod, a first-grade teacher at Bangor Christian for five years, is one of the many teachers in the school up for certification renewal this summer. She explains her refusal to seek state certification renewal: "A Sunday-school teacher wouldn't need certification. Besides, I don't think certification makes me a better teacher."

Others disagree. "We believe every child in the country deserves to have a fully certified teacher," says Bernard McKenna, a teacher education specialist with the National Education Association. "Certification ensures that a teacher will be qualified to teach. It's absolutely essential. We certify other professionals. Why should a person belonging to a particular religion be exempt from that?"

Bangor Baptist church members who have their children enrolled in the school — approximately 95 percent of the congregation, according to church officials — are just as adamant about the school's stance. Mrs. Glenda Garland explains that her husband has had to take an out-of-state job in order to cover the \$300-a-month school fees for their three children. But it's worth it, she says. "We want our children to learn sex education at home. We want them to learn right from wrong. In public school they were getting a lot of different moral viewpoints than what we wanted to give them."

Omaha Steaks International



Try
a little
tenderness

Make those special occasions truly memorable! Just try a little tenderness. Candlelight . . . soft music . . . and magnificent aged Filet Mignons. Perfect. Experts select and prepare each filet! Their artistry in cutting and aging is your assurance of utmost enjoyment. Steaks arrive frozen. Complete satisfaction guaranteed.

Six 6-oz. Filet Mignons, 1 1/4" thick
(reg. \$47.50) \$29.50
(plus \$3.00 shipping/handling)

Save \$18.00! Limit 2 per customer
Offer valid only in 48 states until Mar. 31, 1983
Phone or mail order. Use major credit card and

Call Free 1-800-228-9055
In Nebraska phone 0-402-381-2840 collect

Full color catalog plus 10% discount coupon free with order,
or write for FREE catalog and 10% coupon.

Omaha Steaks International

Dept. 1806 / P.O. Box 3300 / Omaha, Nebraska 68103



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 13, 1983

MEMORANDUM

TO: Representative Sam Pestinger

FROM: Leslie Longenbaugh *LL*
Research Staff

RE: Other States' Regulation of Religious Schools
Research Request 83-159

Ed Essa of your staff asked that we provide information about states that regulate religious and other nonpublic schools differently. My preliminary work, provided to you on May 4, revealed five states that exempt religious schools from some state regulation to which other nonpublic schools are subject. Upon further investigation, I found significant differences in regulation in only three states: Maryland, North Carolina and Tennessee. Below is a brief description of the statutory distinctions made by each state; I have attached copies of the pertinent state statutes.

Maryland

Maryland requires that private "noncollegiate" schools obtain a state certificate of approval before they may operate in the state. The issuance of such a certificate of approval is contingent upon the state board of education's finding that the "facilities, conditions of entrance and scholarship, and educational qualifications and standards are adequate and appropriate" for the type of school.¹

Specifically exempted from the requirement of a certificate of approval are all institutions "operated by a bona fide church organization..."² Schools that come under this exemption may not receive any state funds other than funds for the state food service program.

All private noncollegiate schools in Maryland, including the religious schools that are exempt from the certificate of approval, must make annual reports of their enrollment and courses of study.³ In addition,

1 Annotated Code of Maryland, Education § 2-206 (e)(2).

2 ACN § 2-206 (3)(4).

3 ACN § 2-205.

they must conform to a state law that requires private schools that are ending operation to furnish to the state the academic records of all past and present students.

North Carolina

North Carolina in 1979 enacted a statute which has served as a compromise between the competing interests of religious schools and states.⁴ For the purposes of state regulation, the law creates three types of legal nonpublic schools: 1) religious schools, defined as "private church schools or schools of religious charter"; 2) "qualified nonpublic schools" -- these institutions are either accredited by the state or an association or receive no state funds; and 3) "proprietary schools," or nonpublic schools that are operated for profit.

Schools in the first and second classifications above (religious institutions and other nonpublic schools) share the following requirements:

- a) notice to the state of the intent to begin or cease operation;
- b) maintenance of annual attendance and disease immunization records for all students (there is no requirement that these records be submitted to the state);
- c) operation on a regular schedule during at least nine months of the year;
- d) subjection to reasonable fire, health and safety inspections as required by law;
- e) administration of nationally standardized tests for all students in the first, second, third, sixth and ninth grades;
- f) administration of nationally standardized tests for all students in the eleventh grade and establishment of minimum standards for achievement on the test before graduation.

In addition, schools of these two types may choose to participate in any state-operated or -sponsored program which is available to other nonpublic schools. The statute adds that no other state laws, except health, fire and safety laws, are applicable to these schools.

Apparently, North Carolina is one of only three states that require standardized testing for students of religious schools (New York and

⁴ General Statutes of North Carolina, § 115C-547 through § 115C-554.

South Dakota are the other states). In North Carolina, the chief administrator of the religious school may choose the test, rather than having the state select the tests to be given. The tests need cover only the basic secular skills -- grammar, reading, spelling and mathematics. Records of the test scores must be available for state inspection for one year following the test.

Nonpublic schools that are operated for profit must obtain a license from the state annually. The state board of education is charged with promulgating and enforcing regulations and standards governing approval and licensure. By law, the reports solicited must include detailed information regarding curricula, costs, and instructional space. In addition, the schools must post a bond of \$1,000.⁵

Another difference in the requirements for licensed and exempt nonpublic schools in North Carolina is the certification of their staff. While North Carolina is one of the few states that require nonpublic-school teachers to be certified, teachers in religious schools are exempt from this provision.

Tennessee

The Tennessee Department of Education, by regulation, requires that all nonpublic schools report the name, age and address of all students to the local public school superintendent for the purposes of ensuring compliance with attendance laws.⁶ Otherwise, state law requires only that the department of education inspect, approve and classify those primary, secondary and pre-elementary nonpublic schools that request such services. The approval is to be according to the standards that are used for the state's public schools.⁷

In 1976, the Tennessee legislature enacted legislation which prohibits the state and local boards of education from regulating the selection of faculty, textbooks or curricula of "church-related schools." The law requires that these schools meet the standards of accreditation of at least one of four nonpublic school associations. The law does require that the terms of church-related schools be as long as the public schools'.⁸

⁵ GSNC §115C-570.

⁶ Donald Wood, Chief of Management Services, Tennessee Department of Education, Nashville; telephone: 615/741-2731.

⁷ Tennessee Code Annotated, 49-105 § 19.

⁸ TCA 49-5201.

Representative Pestinger
May 13, 1983
Page 4

The statute adds that children who attend church-related schools may transfer into the state's public school system; however, the public schools may test such students and place them at a grade level that is indicated by the results of the test.

Like other nonpublic schools in Tennessee, church-related schools may apply for state approval, and many do. Of approximately 440 nonpublic schools in the state, roughly 160, both religious and secular, have received state approval.⁹

Case Law

Mr. Essa mentioned an interest in the case law about the regulation of religious nonpublic schools. I have enclosed a copy of a law review article written about North Carolina's regulation of religious schools; this article contains a concise overview of the findings of the United States Supreme Court and state courts of last resort.

* * *

If you have any questions or further needs for research, please call on us.

LL

Attachments: Annotated Code of Maryland, Education, § 2-205, § 2-206,
§ 2-304
General Statutes of North Carolina, Articles 39 and 40
Tennessee Code Annotated, Chapter 52 and § 49-105
J. Eric Evenson II, "State Regulation of Private Religious Schools in North Carolina -- A Model Approach,"
Wake Forest Law Review, Vol. 16 1980, pages 405 to 437

⁹ Donald Wood, Tennessee Department of Education.

* Section 1. 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 private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080 (4) excluding pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation provided the program does not receive state or federal funding; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

* Section 2. 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 certificated according to AS 14.20.020;

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

(C) except as provided in (D) of this paragraph, 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; or

(D) attendance in an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation provided the program does not receive state or federal funding and provided that the church or other nonprofit religious organization elects to comply with the provisions of AS 14.45;

* Section 3. AS 14.45.015 is added to read:

Sec. 14.45.015. POLICY. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and of Alaska, it is the public policy of the State in the matters of education by religious organizations that the state shall not control or interfere with the rights of conscience or with religious liberty. The State further finds that there is no compelling reason to interfere with this fundamental right.

* Section 4. AS 14.45.020 is repealed.

* Section 5. AS 14.45.025 is added to read:

AS 14.45.025. STANDARDIZED TESTING REQUIREMENTS. Each school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and that has elected to comply with this chapter shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades one, three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after testing, all records shall be made available to the parents at the principal's office, and the school composite test results shall be made available at all reasonable times for annual inspection by a duly authorized representative of the State of Alaska.

* Section 6. AS 14.45.030. is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED.

(a) Teachers and others in charge of private [OR DENOMINATIONAL] schools not operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and that has elected to comply with AS 14.45 shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

(b) The enrollment and attendance of a child in a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding shall be filed with the local public school superintendent by the parent, guardian or other person in charge or control of the child on a form provided by the superintendent which shall be countersigned by the administrator of the church school and returned to the public school superintendent by the parent. Should said child cease attendance at a church school, the parent, guardian, or other person in charge or control of the child shall by prior consent at the time of enrollment direct the church school to notify the local public school superintendent that said child no longer is in attendance at a church school.

(c) Each school operated by a church or other nonprofit religious organization exempt from federal taxation and which does not receive state or federal funding shall make and maintain monthly attendance records for each student enrolled and regularly attending classes. Such school shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year.

* Section 7. AS 14.45.035 is added to read:

AS 14.45.035. REQUIREMENTS EXCLUSIVE. No school operated by any church or other nonprofit religious organization exempt from federal taxation which does not receive state or federal funding and which has complied with this chapter shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation, *physical* and immunization. *examinatio*

* Section 8. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education or an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding and if that school has elected to comply with the requirements of AS 14.45;

Section 6. AS 14.45.030 Sentence addition to paragraph (c).

Such schools shall report annually the number of students enrolled in each grade and provide a copy of the school calendar to the department.

Mac, P. Hall, M. Davis, Koponen, S. Postinger
Milo, P. Fischer, A. Hermann, R. Halford
P. Mass, J. R.

May 13, 1983
Felicifere

HB 357 - "relating to religious schools."

Milo Fritz, Chair.

Fairbairns

1. ^{David} Physician. — Hamilton Area Baptist Ch.
no religion allowed in public schools i.e.
no state encroachment in religion
State will outlaw religious
activities.

if allowed, state will be funding
churches (against constitution) then
state would license or outlaw
churches/ministers etc.

2. Water Order - Abba Loop Christian Center
Cheri Jacobus draft CS from N. Carolina
statute (policy).

agree with standardized testing,
safety, immunization

definition of religious - use of
denominational not gov - change title
name to "private and religious"

Next Su

1. Eunice Cataline - Palmer Christian School

clearly states case - supports bill.

Rebecca Cordova

3. Gary Barnes (Rev.)

questions on bill
Ac. 3 14.45.020.

Will schools be able to give diplomas recognized by the state?

What is motive to rewrite this bill. Threat of humanism against will of God.

Church should better curriculum / higher standards.

Goal - recommendations for getting state recognition?

Ketchikan

4. Vera Innes
supports bill

5. Home

Robert Wallace
supports minimum req. by state

Unch

6. Steven Paul Glover - son
supports passage.

Fairbanks

7. Curtis Smith - parent of 2 in Christian school.
supports bill.

8. Seldovia

Norma Sanders - minister, Kiski Baptist Church
no mental exams of children
object to regulation of church
ministries
object to licensing of pre-schools

9. Unalakleet

Laurence Olson

question - "... and does not receive Fed
and state program" does this include fed
school lunch funding?

Jacobus - yes.

H. Uman

10. Buddy Starr - Independent Baptist Ch.

Artic Circle Chris. Sch. - Admin

support bills.

responsible for own support. complete
separation of ch./state. Right to have
daycare and teach as we see fit (7 days/week)

H. Uman

11. Tona Bergman

Bill must pass - no state control

12. Kay Bailey supports.

FBKS

13. Donna Trombust - Eagle Forum supports

14. Jim Lick - parent

"public school system has failed miserably because God has been taken out of the school"
wants further hearing when final draft is ready.

Mac. Burt Carney - Harwood school and Chris Jacobus working closely w/ Committee to make a suitable, constitutional bill.

Ralford emphasis of compulsory ed would only require reporting of attendance and health reasons.

Wach

15. Gary Brooks - business manager - Harwood
pub school page did not include religious schools as constitutionally required. DOE attempted to control.

page of minutes

Orch

16. Floyd Adams

Regan says parents not govt has responsibility for ed.
Mackin has good attitude in choices in Ed w/
Corresp. Study etc

Mat Sn

16 Janice Morgan - Palmer Christiana Sch
supports

Student of school: Heather Morgan

Koolrak

17 Rhona Stage
support.

18 Sidwina

Chuck Kruppelwetter MSJ Christiana Sch. Inter
supports loc.

concerned that community service (fire etc)
would be interpreted as measuring state funds.
regulations would deny the alternatives
available.

Ed. state's expense - church schools
a policy to the taxpayer

19. Koblihan

Kerndt Harvy - Kalifinski Christ. Sch
schools falling because God is gone
\$3.2 mill savings - to state in operating costs

Ft. Yukon
Wanda Struan

Support.
Ethel Adams
Support.
Wanda Struan
Support.

FBKS

Don Grassman - parent
Support.
John Baker - Lemie Park Bible Church, pastor
glad to be able to avoid court fight over
freedom of schools (rel.)
Tom Tucker - pastor, Kivitchik
achievement in schools above average.
Concerned about pre-school.
Wendy Jack - sec 1 section 1 change to
report 14.07.20 (a) - pre-elementary should be
exempt.

Don Glover (son)

Mrs. Green

had parallel bill to protect private schools from HESS to measure

Cherie Jacobus

attney-drafter

wanted to avoid future problems that occurred in the cover 48"

* "...that including religious schools in 14.45.140(?)

* sec. 5 - last word "the parents shall notify the public sch. superintendent" want the religious school to notify

* "direct financial state or federal funding" and letter of intent.

Paul Carney - Charlotte Academy, Principle
He 13 yrs had a good relationship of P.D.E. for dem. reg's planning.

* Dir sec 6 last sentence add language
provision to enable dept. to obtain copies of the sch. calendar and an parent consent by grade.
Steve Hale

Nat. Standard
N. Carolina requires comparable test in 11th grade

and establish minimum requirement for
criteria for graduation.

William E. Brown Principal Glacier Valley Baptist Academy

Testing - competency based is not required
in public schools. They take SCA's
yearly.

attendance - opposed. no requirement is
enforced on attendance.

double standards in these areas. keeps unnecessary
no question on quality.

Belle Polue - At Church of life

SB 261 AND HB 357

Summary of the Legislation

SB 261 and HB 357 deal exclusively with private church schools and schools operated by religious organizations and, as amended, are modeled after the legislation adopted by North Carolina in 1979 and by West Virginia in 1982 to remedy church-state constitutional conflicts. These laws, if enacted by the Legislature, would establish requirements that must be met by private religious schools in order for parents whose children attend them to satisfy the compulsory education law. They would also exempt pre-elementary and nursery programs operated by religious organizations from the supervision of the Departments of Education and of Health and Social Services. The purpose of these bills is to remedy existing church-state constitutional conflicts by protecting the guaranteed religious freedom of church schools in Alaska and, at the same time, to balance the state's interest in assuring that each child receives a good education.

This legislation only covers schools, pre-elementary programs or nursery programs operated by a church or other nonprofit religious organization exempt from federal taxation and not receiving state or federal funding. These are constitutionally protected groups and activities.

More specifically, church schools (or denominational schools as defined in the proposed legislation) would be required to maintain attendance and immunization records. Since current compulsory education laws make parents liable for their children's failure to attend school, these bills, as amended, would require the parents to file statements with the public school authorities to establish their children's attendance at a church sponsored private school. By placing the requirement on the parent, the bills avoid the constitutional problems created by the state's excessive entanglement in religious activities. The school would also be required to operate on a regular schedule, at least nine calendar months per year, and to be subject to reasonable fire, health, and safety regulations.

To ensure that children attain certain minimum standards, each religious school would be required to administer a nationally standardized test to students in the first, third, sixth and ninth grades and to make the school results available for the Department of Education. This would satisfy the state's interest in compulsory education and still avoid the constitutional problem of excessive state entanglement in religion.

Any church school that satisfied all the requirements of AS 14.45 would be exempt from any additional provision of law relating to education except those requirements of law relating to fire, health, and safety.

Constitutional Requirements

The changes set out in SB 261 and HB 357, as amended, are required to correct existing Alaskan laws which run afoul of the constitutional mandate requiring the states to avoid excessive entanglement in religious activities. The state's right to impose minimum requirements on private religious schools is very limited, because these religious activities are protected by the First Amendment of the United States Constitution and its identical counterpart in the Alaska Constitution, Art. I, sec. 4.¹

Schools operated by churches or by nonprofit religious organizations are quite different from other private schools. They enjoy a constitutionally protected status.

"Church operated schools are generally integral parts of their sponsoring churches. Their superintendents are generally pastors or assistant pastors of the sponsoring churches; their teachers are generally members; and their doctrinal stances are generally set by the sponsoring churches."²

Federal and state courts recognize that operating a church school is an integral part of the free exercise of religion.³ For many churches, it is in fact the ministry of the church. Because church operated schools clearly come within the First Amendment free-exercise clause, their activities are constitutionally

¹ E.g., Kentucky State Bd. for Elem. & Secondary Education v. Rudasili, 589 S.W.2d 877 (Ky. 1979), cert. den., 446 U.S. 938 (1980); Wisconsin v. Yoder, 406 U.S. 205 (1972); Lemon v. Kurtzman, 403 U.S. 602 (1970); Pierce v. Society of Sisters, 268 U.S. 510 (1925).

² "State Regulation of Private Religious Schools in North Carolina -- A Model Approach," 16 Wake Forest Law Review 405, 431-32 (1980).

³ See, e.g., NLRB v. Catholic Bishop, 99 S. Ct. 1313 (1979) (Catholic parochial schools are founded for religious reasons and religious doctrine is pervasive); Surinach v. Pesquera de Busquets, 604 F.2d 73 (1st Cir. 1979) (private Catholic schools are an integral part of the Catholic Church and as such "involve substantial religious activity and purpose"); Hunt v. McNair, 413 U.S. 734, 743 (1973) ("[R]eligion is so pervasive that a substantial portion of [religious school] functions are subsumed in the religious mission."); Lemon v. Kurtzman, 403 U.S. 602, 616 (1971) ("[T]he parochial schools constituted 'an integral part of the religious mission of the Catholic Church'. . . In short, parochial schools involve substantial religious activity and purpose.").

protected as fundamental rights.⁴

In the area of First Amendment individual liberties, any state legislation that burdens parents', childrens', or a church's free exercise of religious beliefs is unconstitutional unless, the state can demonstrate "a compelling state interest in the regulation of a subject within the state's constitutional power to regulate." Sherbert v. Verner, 374 U.S. 398, 403 (1963).

To establish the existance of a compelling state interest, it is not enough for the state to merely show that a rational relationship exists between a colorable state interest and the proposed regulation. According to Sherbert, "[o]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation."

More importantly, the state must demonstrate that it is using the least burdensome method for addressing the compelling state interest. The current law violates this mandate, because the legislative goals can be achieved with less burdensome methods. SB 261 and HB 357, as amended, use North Carolina and West Virginia laws as models and are less burdensome while still accomplishing legislative goals.

Eventhough SB 261 and HB 357, as amended, would create two classes of private schools and treat them differently, these bills would not violate the Equal Protection clause of the Fourteenth Amendment. According to established legal principles⁵, the equal protection guarantee of the Fourteenth Amendment does not take from the state legislatures all power to classify persons or objects. The state may classify persons for the purpose of legislation. Classification is an inherent right and power of the legislature.

The important issue for these proposed bills is whether the distinction between private schools operated for profit and private schools operated by churches is based on a real and substantial difference between the two classes. Clearly, there is a substantial difference. The decision of the legislature to recognize its limited ability to regulate church schools is based on a constitutional distinction between the two classes. Church schools are in a protected class, enjoying the protection of the First Amendment. Private schools are not.⁶

⁴ Ibid.

⁵ 16A Am Jur 2d, Constitutional Law, §746, et. seq.

⁶ In addition, it must noted that the motivations for operating a private school for profit and a school operated by a church are entirely different.

In the area of religious freedom and expression, the Constitution demands neutrality. The government cannot demonstrate a hostility toward religion or religious activity. The mere fact that the government specifically exempts religious groups from complying with certain laws does not violate the Constitution. For example, federal law clearly creates two classes when it exempts the property and income of religious organizations from federal taxation. These two classes parallel the two classes which would be created by SB 261 and HB 357, as amended. The Supreme Court held this was proper legislative in Walz v. Tax Commission, 397 U.S. 664,669 (1970). The Supreme Court found that neither the purpose nor the effect of such exemption was to advance or inhibit religion. It was "benevolently neutral."

The distinction between private schools operated for profit and those operated by churches is real and parallels distinctions created by the federal tax laws. Therefore, there is no violation of equal protection guarantees.

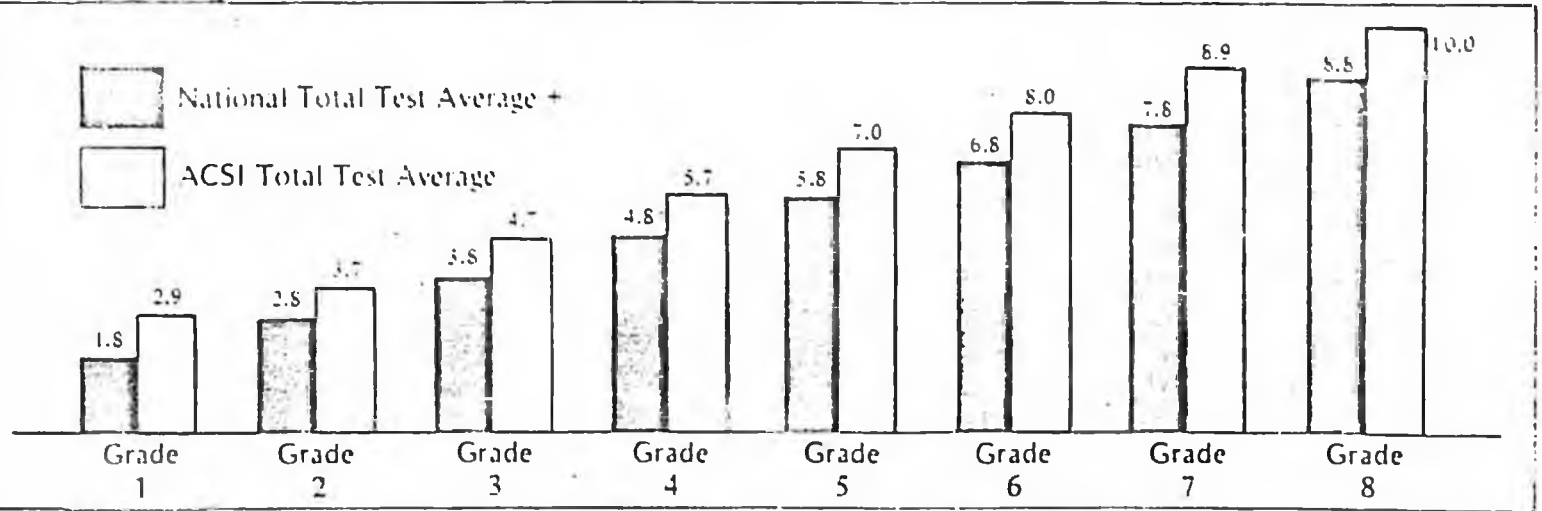
In summary, the present law violates both the United States Constitution and the Alaska Constitution. SB 261 and HB 357, as amended, balance the state's interest in ensuring that each child receives a good education with the fundamental right to religious freedom and should be adopted.

ACSI students score higher than the National Average!



Association of Christian Schools International
1981-82 School Year

Year after year testing shows that ACSI students score higher than the National Average at every grade taught.



1st graders are 11 months *above* the National Average

2nd graders are 9 months *above* the National Average

3rd graders are 9 months *above* the National Average

4th graders are 9 months *above* the National Average

5th graders are 12 months *above* the National Average

6th graders are 12 months *above* the National Average

7th graders are 11 months *above* the National Average

8th graders are 12 months *above* the National Average



ACSI students are compared to some 225,000 students that were carefully selected to represent average students across the United States (1973). The figures represent the average (median) of all tests at each grade level. The test used was the 1973 Stanford Achievement Test, Form A.

+ TOTAL TEST INCLUDES:

- | | | |
|-------------------|----------|----------------|
| vocabulary | math | social science |
| reading | spelling | science |
| word study skills | language | listening |

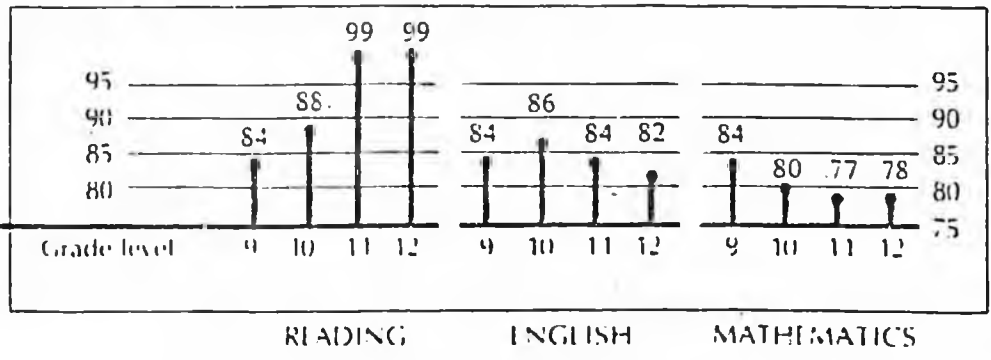
What about ACSI
HIGH SCHOOL
students?
1981-82 School Year

How do they compare?

ACSI PERCENTILE RANKS *

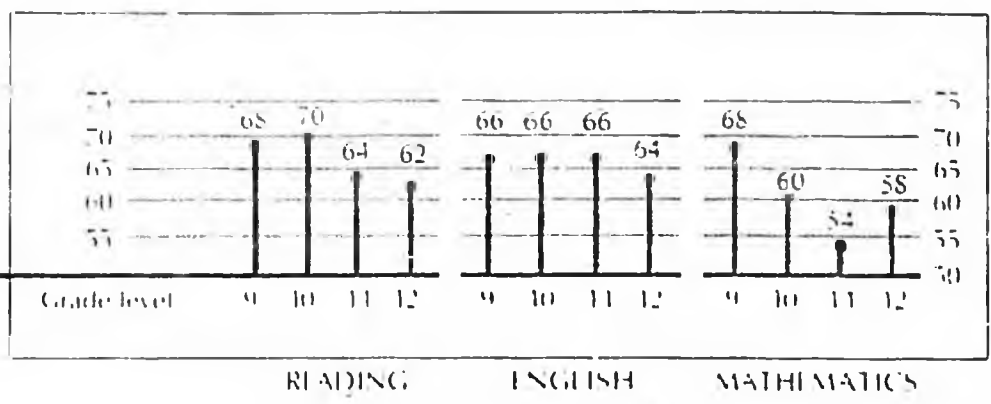
TOP QUARTER
OF THE
NATIONAL GROUP

75
National Average
75th percentile



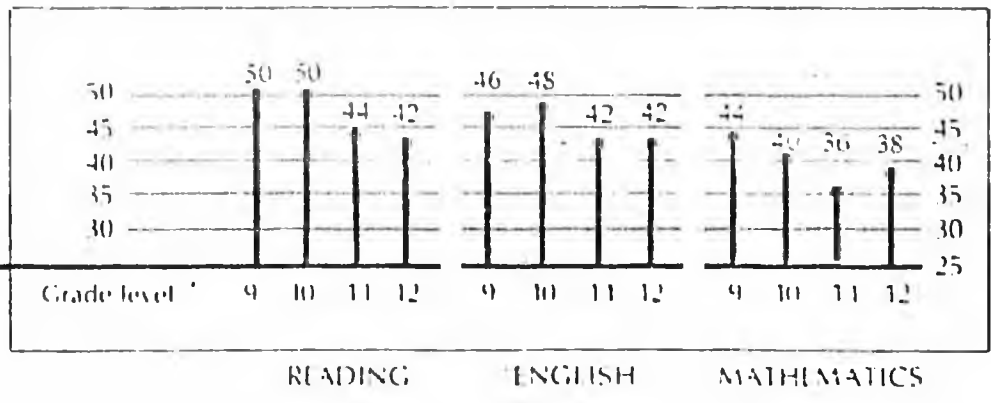
NATIONAL
AVERAGE

50
National Average
50th percentile



BOTTOM QUARTER
OF THE
NATIONAL GROUP

25
National Average
25th percentile



* This indicates the relative standing of ACSI students in comparison with students of the same grade status in the National Norm Group. For example, a score of 70 means the ACSI students equaled or exceeded 70% of the National Group that took the test.

- HB 357/SB 261: Legislation relating to the regulation of private, non-profit, religious schools which are exempt from federal tax and do not receive state or federal funding.
- Sec. 1: Such schools will self-regulate the educational component (curriculum, text books, class schedules, kinds of toys, quantities of materials etc.) of their pre-elementary programs.
- Sec. 2: Legislation relating to such schools is deleted from present statutes and reintroduced under new statutes.
- Sec. 3: A policy statement declaring the right to freedom of religion guaranteed by the constitution of the United States and the state of Alaska.
- Sec. 4: Repealing the statute which authorizes the state to grant diplomas to 8th grade graduates.
- Sec. 5: Such schools will, at least once a year, submit to a nationally standardized test for students attending grades one, three, six and nine.
- Sec. 6: Such schools will make available regular monthly attendance reports and annual reports. Such schools will operate on a regular schedule at least nine calendar months of the year.
- Sec. 7: Such schools who comply with this chapter are not subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation, immunization and physical exams.
- Sec. 8: Such schools will administer their own program of education at the elementary, secondary and adult levels.

NOTE: Statues governing health requirements are not affected in this bill. (See attached copy).

Article 2. Physical Examinations.

Section	Section
60. Repealed	120. Certificate of physical examination
65. Supervision	125. Immunization
70. Physical examination required	130. Repealed
80. Repealed	170. Repealed
110. Repealed	

Sec. 14.30.060. Repealed. (Sec. 59 ch 98 SLA 1966)

Sec. 14.30.065. Supervision. The program of physical examination and immunizations prescribed by sections 65—125 of this chapter shall be under the general supervision and in accordance with regulations of the Department of Health and Social Services. (Sec. 42 ch 98 SLA 1966; am Sec. 1 ch 131 SLA 1967; am Sec. 6 ch 104 SLA 1971)

Sec. 14.30.070. Physical examination required. (a) The governing body of each school district shall provide for and require a physical examination of every child attending school in the district. The examination shall be made when the child enters school or, in areas where no physician resides, as soon thereafter as is practicable, and thereafter at regular intervals considered advisable by the governing body of the district.

(b) The Department of Health and Social Services may require the district to conduct additional physical examinations which it considers necessary, and may reimburse the district for the additional examinations on the basis and to the extent the commissioner of health and social services prescribes by regulation.

(c) Examinations shall be made by a competent physician, except that if the services of a physician cannot be obtained or if authorized by the commissioner of health and social services examinations may be made by a nurse. (Sec. 37-7-11 ACLA 1949; am Sec. 10 ch 118 SLA 1949; am Sec. 1 ch 72 SLA 1953; am Sec. 43 ch 98 SLA 1966; am Sec. 6 ch 104 SLA 1971)

Sec. 14.30.080 — Sec. 14.30.110. Repealed. (Sec. 59 ch 98 SLA 1966)

Sec. 14.30.120. Certificate of physical examination. The school board, when physical examinations are made, shall deliver to the parent, guardian, or other person having the responsibility for or control of the child a report signed by the physician or nurse making the examination, specifying the findings with respect to the health and physical well-being of the child. (Sec. 37-7-13 ACLA 1949; am Sec. 12 ch 118 SLA 1949; am Sec. 44 ch 98 SLA 1966)

Sec. 14.30.125. Immunization. If in the judgment of the commissioner of health and social services it is necessary for the welfare of the children or the general public in an area, the governing body of the school district shall require the children attending school in that area to be immunized against the diseases the commissioner of health and social services may specify. (Sec. 45 ch 98 SLA 1966; am Sec. 2 ch 131 SLA 1967; am Sec. 6 ch 104 SLA 1971)

Sec. 14.30.130—14.30.170. Repealed. (Sec. 59 ch 98 SLA 1966)



CHRISTIAN SCHOOL COMMUNICATOR

Vol. 3

The Christian School and the Home — Partners In Education!

No. 8

AACS NATIONWIDE STUDENT ACHIEVEMENT TESTING PROGRAM

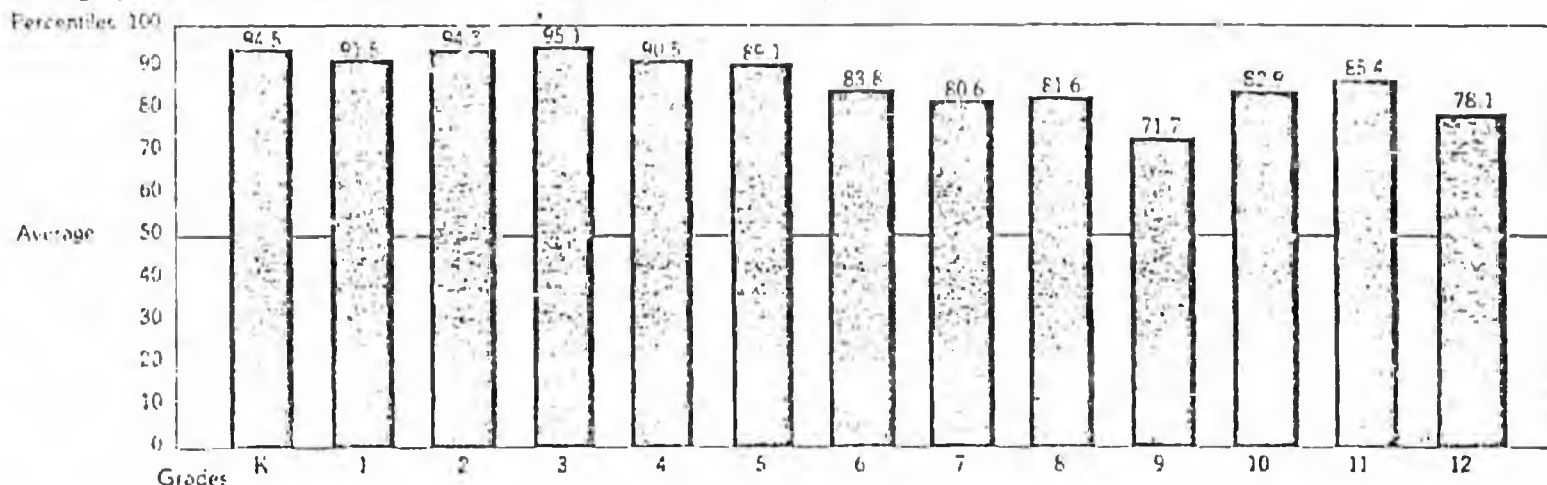
By Dr. Bruce Jackson, Educational Director
American Association of Christian Schools

What can be said about the academic achievement of Christian schools? Are students learning anything besides Bible? How do Christian schools compare with other schools across the country?

Perhaps the new testing program of the American Association of Christian Schools will help to answer some of these questions. AACS has been working with the publisher of the Stanford Achievement Tests and the Otis-Lennon School Ability Test (I.Q. Test) to develop a testing program for AACS member schools. Besides the national norms that are typically given on scoring sheets, the Christian school also receives a set of scores that reflect the norms of AACS schools only. These additional scores allow a school the opportunity to observe how the academic achievement of its students compares to the achievement of all of the students in schools involved in the testing program. For example, if the average percentile for the various test categories of the

fourth grade of a particular school were the 60th percentile, that school would know that its fourth grade program was above average as compared to the other Christian schools. A score at the 50th percentile simply means that 60% of the students' scores ranked below that point and 40% ranked above. A program that was average compared to the other Christian schools would receive a score of approximately the 50th percentile.

The first AACS testing was scheduled for this past November (1982). Schools received scores as described above which allowed that school to compare the achievement of its students with those in other Christian schools. In addition, each school also received scores based upon national norms which included public, private, and parochial schools across the country. The following chart illustrates the average achievement of AACS schools participating in this initial test sampling by grade:



Looking over the chart, one can see that the Christian schools demonstrated outstanding achievement as compared to national norms. Ninth-graders had the lowest average of all the grades, yet that was almost 22 points above the national average (50th percentile).

Some cautions need to be noted with regard to the use of these scores. These scores indicate the achievement of those schools involved in the November testing and thus, are not necessarily representative of all Christian schools. An individual school should advertise its own scores rather than the averages of Christian schools in general.

Why do Christian schools do so well? There are several reasons why Christian schools are able to demonstrate such superior achievement:

1. The student learns in a disciplined environment where the teacher maintains firm, but loving control over the classroom. Students are taught how to properly develop self-government so that they are able to recognize and fulfill their God-given responsibilities.
2. A Christian philosophy of education demands

an emphasis on the basics. Thus, the curriculum is designed so as to offer such basic instruction as phonetic instruction in reading beginning in Kindergarten. Much time is spent on basic reading and arithmetic skills in the lower grades.

3. The Christian teacher is definitely a key to the success of the Christian school. A Christian school teacher is one who has been led by the Lord into the ministry of Christian schools. The teacher is not looking for personal gain, but rather for an opportunity to give of oneself.
4. Parents of Christian school students tend to be vitally concerned about their children's education. Part of their parental responsibility to their children is to spend time at home reinforcing the work of the school.

Thus, one who thoroughly understands the Christian school movement is not surprised at such achievement. Parents and schools should properly use the testing results so as to continually improve the achievement of students. After all, it is part of one's Christian testimony to always do one's best.

Levv
5/13/83 ✓

Original sponsors: Fritz, Tischer,
Pestinger, et al

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 357 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. AS 14.07.020(8) is amended to read:

10 (8) in cooperation with the Department of Health and Social
11 Services, exercise general supervision over public and private pre-
12 elementary schools and over the educational component of nurseries as
13 defined in AS 47.35.080(4) excluding pre-elementary schools and nur-
14 series operated by a church or other nonprofit religious organization
15 that is exempt from federal taxation and does not receive ^{direct financial} state or
16 federal funding; pre-elementary schools in this paragraph means
17 schools for children ages three through five years when the schools'
18 primary function is educational;

19 * Sec. 2. AS 14.30.010(b)(1) is amended to read:

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

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

24 (B) tutoring by personnel certificated according to
25 AS 14.20.020; [OR]

26 (C) except as provided in (D) of this paragraph,
27 attendance at a private school in which the average student
28 proficiency is not less than the average proficiency found in the
29 public schools in the area as measured by national achievement

1 tests; the department with assistance from representatives of the
2 private schools shall adopt [PROMULGATE] regulations defining the
3 subject areas to be tested and the minimum average scores to be
4 achieved; or

5 (D) attendance in an educational program operated in
6 compliance with AS 14.45 by a church or other nonprofit religious
7 organization that is exempt from federal taxation and does not
8 receive state or federal funding;

9 * Sec. 3. AS 14.45 is amended by adding a new section to read:

10 Sec. 14.45.025. EXEMPTION FROM EDUCATION LAWS. A religious
11 school that complies with this chapter is exempt from other provisions
12 of state law and regulations relating to education except laws and
13 regulations relating to health, fire safety, sanitation, immunization,
14 and physical examinations.

15 * Sec. 4. AS 14.45.030 is amended to read:

16 Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a)
17 Except as provided in (b) and (c) of this section, teachers [TEACHERS]
18 and others in charge of private or denominational schools shall make
19 regular monthly attendance reports and annual reports to the commis-
20 sioner in the same manner as teachers and superintendents in the
21 public schools.

Not including AS - - -

22 * Sec. 5. As 14.45.030 is amended by adding new subsections to read:

23 (b) The parent or guardian of a child enrolled in a religious
24 school that complies with this chapter shall file annual enrollment
25 and attendance records for the child with the public school superin-
26 tendent for the area in which the child resides on a form provided by
27 the public school superintendent. The form shall be signed by the
28 parent and the chief administrative officer of the religious school
29 and returned to the public school superintendent by the parent. The

School
 [parent] shall notify the public school superintendent immediately if the child is no longer enrolled in or attending the religious school.

(c) A religious school that elects to comply with this chapter shall maintain monthly attendance records for each student enrolled in the school and shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. *Copies of School Calendar, Enrollment Count by grade*

* Sec. 6. AS 14.45 is amended by adding new sections to read:

Sec. 14.45.035. STANDARDIZED TESTING REQUIREMENTS. (a) A religious school that elects to comply with this chapter shall administer a nationally standardized test selected by the chief administrative officer of the religious school to all students enrolled in grades one, three, six, and nine ^{and 12} at least once each school year.

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

(c) A religious school shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student, ~~and~~ ^{and} to authorized representatives of the state.

Sec. 14.45.040. DEFINITION. In this chapter, "religious school" means a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding.

* Sec. 7. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

programs of postsecondary education or an educational program operated in compliance with AS 14.45 by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding;

* Sec. 8. AS 14.45.(20 is repealed.

S B

267

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: November 18, 1983

REQUEST:

Bill/Resolution No.: Senate Bill No. 267
Title: "..establishment of maximum prison.."

Sponsor: Senator Moss
Requestor: Governor Sheffield
Date of Request: September 15, 1983

FISCAL DETAIL

Agency Affected: ADULT CORRECTIONS AGENCY
Program Category Affected: _____
Administration of Justice
BRU, Program or Subprogram(s) Affected: Administration & Support

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Roger C. Lange *Roger C. Lange*
Division: Administrative Services

Phone: 465-3376
Date: November 28, 1983

Approved by Commissioner: William W. Ludwig for Roger V. Enell
Department: ADULT CORRECTIONS AGENCY

Date: December 16, 1983

Distribution:

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

FISCAL NOTE
Senate Bill No. 267
Page 2

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate all newly constructed maximum security prison facilities within the vicinity of Anderson and Palmer/Sutton.

NEW PAPER

White Paper

+ + + + +

A Consideration
For Location of
Maximum Security
Prison
In
Anderson

Developed In Cooperation With
GARY COPUS, Ph.D
Criminal Justice Division
University of Alaska
Fairbanks

Credentials Brief

GARY COPUS, PH.D

Currently serving the Thirteenth Alaska Legislature as a consultant in Corrections, Dr. Copus has also assisted the Mayor and Council of the City of Anderson in determining its viability for siting a Maximum Security Prison.

He received his Doctorate in Sociology at the University of Missouri-Columbia.

From 1970 until 1979, he was instructor in Criminal Justice in the graduate school at Sam Houston University, Huntsville, Texas.

From 1980 to the present he served in the Criminal Justice program in which he has published and lectured in all areas of corrections and its alternates.

We are very proud to have the assistance of Dr. Copus in developing our position.

White Paper

+ + + + +

A Consideration
For Location of
Maximum Security
Prison
In
Anderson

CONSIDERATIONS ABOUT ANDERSON AND MAXIMUM SECURITY PRISONS

- o Purpose of maximum facilities is LESS REHABILITATION AND MORE WAREHOUSING. Lessens the necessity to establish facilities in urban, or near urban, areas.
- o Availability of the Anderson Site for VISITATION is enhanced by the TRAIN STOP and HIGHWAY connecting Alaska's two largest cities.
- o There is no other prison system in Anderson. The modern trend is to keep prison facilities: less than 500 bed capacity, and GEOGRAPHICALLY SEPARATE, so as NOT TO CREATE A "PRISON MEGALOPOLIS." This latter characteristic allows for 1) distribution of the economic advantages and 2) the flexibility for prison management to have access to a variety of resources from the land and the community.
- o Anderson is in the middle of a growth/development corridor of Alaska. Remembering that given the prison facility will last many generations to come the Anderson site makes an excellent choice given the emerging DEVELOPMENT PATTERNS ALONG THE RAIL-BELT.
- o The facility, if a 400 bed one as currently proposed, will employ between 175 and 250 persons. The City of Anderson looks forward to the advantages new citizens afford and to the opportunity for current and future citizens to obtain correctional employment.
- o With OVERWHELMING COMMUNITY SUPPORT any deficit Anderson may have will be overcome or lessened. No matter where a site is located, there will be positive and negative factors to be dealt with. It is emphasized that where Anderson differs is the community spirit so necessary for what successes prisons can achieve.
- o IN SUMMARY, Prisons need four things to operate: a physical facility, personnel to staff and administer, offenders to be located there, and supplies. Anderson can provide a location whereby the state can satisfy these needs efficiently, economically, and continually.

COMMUNITY SUPPORT

- o Referendum on March 29, 1983 supported prison by 2-to-1.
- o 61% voter turnout
- o Five public meetings informed citizens
- o Reasons Anderson wants prison are community expansion and employment opportunities in future generations.

LAND AVAILABILITY

- o Multiple sites for selection
- o Sites are available by State Land Selection Process from Cook Inlet Region, Incorporated; or, Federal Lands

ELEMENTS OF PHYSICAL ENVIRONMENT

- o Water - pure, unlimited, and without fee via prison's own wells and distribution facilities.
- o Sewage - Cost saving from construction/operation of on-site treatment system.
- o Power - Optional excess power available from Clear AFB or, Golden Valley Electric Association and potential Anchorage-Fairbanks intertie.
- o Heating - Coal from Usibelli Mines 50 miles away, and/or fuel from North Pole Refinery 100 miles away.
- o Transportation available by highway, rail, and air.

ELEMENTS OF HUMAN ENVIRONMENT

- o Recreational areas and activities plentiful in Anderson area.
- o Modern elementary and high school expandable to accommodate increased student body.
- o Medical facilities currently 80 miles north in Fairbanks via highway, but, with increased population expect Anderson facility.
- o Fire protection supported by Anderson and Clear AFB.
- o The prison will attract quality personnel to work there and live in Anderson. Precedent in support is Clear AFB personnel educational level and technical skill level in Anderson for 20+ years. AFB also offers supply of potential quality employees from those retired or wishing a job change.

White Paper

+ + + + +

A Consideration
For Location of
Maximum Security
Prison
In
Anderson

MODERN
PRISONS
DESCRIBED

1. In modern penal systems the purpose of maximum security units has changed little since the inception of the first prison in our nation. The purpose is simply to provide for the safe keeping of those individual offenders who have shown themselves incapable of co-existing with others, or are deemed a danger to themselves or others, or are in danger from others.

Less
Rehabilitation

Individuals are assigned to maximum units via a thorough process called classification and end up "max-rated" only as a last resort. Given these considerations, experts argue that "max units" are simply warehousing units, with less emphasis on rehabilitation.

Rehabilitation is attempted in minimum or medium security units -- an assignment available to max inmates through re-classification. Thus

FOR SITE SELECTION OF A MAXIMUM SECURITY UNIT
THE AVAILABILITY OF REHABILITATION SERVICES
SHOULD NOT BE A MAJOR FACTOR OF CONSIDERATION.

EASY
TRAVEL

2. An Anderson site would be ideal for friends and relatives wishing to visit inmates because of its accessibility by highway and rail. The train is a particularly good asset for families not having access to automobile transportation and during most of the year the frequency of the local runs is such that persons visiting the prison could make convenient connections. Additionally, for persons visiting from Fairbanks, Anderson is a short, scenic drive.

NO PLACE
PERFECT

3. With the numerous points to consider, no matter which site the State selects, all points will not be positive relative to other sites. For example, one might argue that Haines would have been more positively effected economically than a Palmer area site, but Palmer is nearest the largest city. Anderson may have transportation and utility advantages over Palmer. Given that no one site will score relatively higher than other sites on all points, what becomes important is how to handle the deficits and then the community becomes an indispensable part of site consideration.

Positive
Community
Attitude

A positive community outlook supports the goals of the prison in many direct and subtle ways. For example, a positive community attitude attracts, in part, quality personnel to staff the prison; assists those families moving to the area because a friend or relative is incarcerated and thus eliminates worry on part of the inmate; works with the prison administration to provide for staff housing, supplies, and emergency labor needs thus resulting in an efficient institution with a high morale.

ANDERSON IS A CITY WHICH HAS PUBLICLY ANNOUNCED, ON THE BASIS OF INFORMED DECISION MAKING, THAT IT WILLINGLY ACCEPTS THE COMMUNITY RESPONSIBILITY.

LONG
USEFUL
LIFE

4. Prisons last for many years, a conservative estimate being a useful life of between 60 to 90 years. A good many prisons operating today are "centenarians". Thus when considering a site, the future of the area must be carefully taken into account. Any points negative with respect to Anderson should be assessed with the question, "What will the Anderson area be like 5, 10, 20, 50 years from now?" The current projections are that Anderson will be part of a rapidly developing area along the rail belt which could make it a center point of population in the next 20 years. This, accompanied by projected increases in transportation facilities demotes any current concerns about "out-of-the-wayness" to only temporal concerns at best.

MAJOR
PRISON
PROBLEMS

5. Many of the major problems in prisons today are in part related to their mere magnitude in terms of numbers of persons locked up under one roof. Recent national recommendations stress the importance of keeping newly constructed units less than 500 bed capacity, and the physical separation of units. In other words, the recommendations could be interpreted as "do not build a prison megalopolis" be it under one roof or by building multiple adjacent structures. Separation of facilities, geographically, has several advantages.

Physical
Separation

First from the standpoint of the state the economic advantages are spread as well as any disadvantages which communities might accrue. For example, suppose the presence of a facility attracts inmate families which have children who in turn have learning problems, behavior problems in school, and relatively high delinquency rates. Why concentrate these traits versus spreading them out and subject them to strong positive community influence (like Anderson can provide)?

Other
Advantages

Second building a facility geographically separate from other current institutions makes good sense from a management point of view. Take the hopefully unlikely and extreme case of a major earthquake in the vicinity of a prison creating the need for evacuation. Would it not be better to evacuate only one facility than several too closely juxtaposed? Further, physical separation enhances identification by staff with "their" facility and increases pride, morale, and dedication as opposed to "working in a large network of prisons." Management also has a variety of land and community resources, the variety offering the opportunity to install new programs and ideas which may not be acceptable in just any one location. These are only a few of the reasons not to build prisons in the same geographical locale.

Gary Copus, Ph.D

INTRODUCTION TO ANDERSON

Anderson, Alaska thinks it would be a good place for a Maximum Security Prison--But only a Maximum Security Prison! The people of Anderson are pretty outspoken on that point. They have talked it over.

You say you've never heard of Anderson-- and haven't the foggiest notion of where it is?

Touche!

No convention mecca, is Anderson. It is not on the tourist highways and by-ways or the slick travel maps. But, it is well connected--very well connected, to an all-weather highway, an airport and ocean-going barges via the Alaska Railroad, right in the middle of nowhere! Between Anchorage and Fairbanks.

Now you've heard of Anderson! a town of 550 people which comes of age on its 21st birthday in June.

The reasons for putting forth Anderson's name stem from a package of advantages no where else available in quite the same magnitude or combination, as they are available in Anderson.

..... READ ON!

COMMUNITY SUPPORT

The City of Anderson has made a pointed and energetic effort to inform the citizens of all aspects, both negative and positive, of having a maximum security prison within close proximity of the town. The idea was first publicly presented on February 8 at a City Council meeting where the decision was made to continue by informing the public and assessing the general opinion. During further public hearings and Town Hall meetings occurring on February 17, 18, 25, 26, and March 18, 26 it is estimated that over 60% of all citizens in Anderson were personally involved in acquiring knowledge and asking questions. Undoubtedly, 100% became informed through informal discussion.

During the meetings, material used to guide informative discussion was used from the American Correctional Association, The Federal Bureau of Prisons and the Criminal Justice Institute at Hemlock Hill, New York. In addition, at the March 18th Town Hall meeting, professionals in the correctional area were invited to address the citizenry. Invited and accepting were Captains Douglas Nowak and Lawrence Jackson of the U.S. Air Force, and Dr. Gary Copus.

Dr. Copus, with academic and practical expertise in community impact by prisons, was very careful to point out what to some communities might be undesirable impacts. No area was left unexamined and the result was--

BASED ON SOUND AND TOTAL INFORMATION THE CITIZENS
OF ANDERSON VOTED ON MARCH 29TH TO DIRECT THE CITY
COUNCIL TO PURSUE WITH VIGOR THE ATTRACTION OF THE
MAXIMUM SECURITY PRISON TO ANDERSON.

The resulting 2-to-1 vote was based on 61% of the registered voters. Voting was done in an official manner in all precincts, locked ballot boxes and election judges. Noteworthy is that the prison issue was the only item on the ballot so that the largest turnout in Anderson's voting history was due to the community interest which was overwhelmingly positive.

An informal assessment was made as to the reasons the community obviously wanted a maximum security prison.

First the community sees the prison as an employment opportunity for its future generations. Correctional employment was seen as not only an opportunity for young adults to have the alternative of remaining in Anderson as productive citizens, but the community also recognized modern corrections as providing a desirable career opportunity. Present employment was of lesser concern. Anderson is not currently impacted by any economic crisis which might sway a community's opinion to be only temporally positive. Anderson is in a reasonably good economic and employment status.

Second the community saw many positive aspects of development and growth. Among those mentioned were cultural and social growth, economic growth through curricula expansion and attraction of additional qualified teachers, and the establishment of social and health services. The community looks at the prison as offering a challenge to develop and manage a "new Anderson."

ECONOMIC ADVANTAGES
OF ANDERSON

The economical advantages of an Anderson site could vastly outweigh those of many other potential sites if life cycle economics is considered.

Life cycle economics center upon options available for essential operating utilities, such as:

heating/air conditioning
electric power
water
sewage treatment
transportation

HEATING Healy coal, transported by the Alaska Railroad, powers the generators and boilers at the Anderson-located Clear Air Force Station. Three Anderson sites are located immediately adjacent to the Alaska Railroad. Options for heating and power generation include both coal and/or diesel transported by the Alaska Railroad:

- o Coal: Usibelli Mines, Inc.
Healy, Alaska
50 miles South
- o Diesel: North Pole Refinery Co.
North Pole, Alaska
100 miles North

ELECTRIC POWER An option available only at an Anderson site includes the potential of purchasing the stable excess power generated at Clear Air Force Station, as many other Alaskan communities do from nearby U.S. Government facilities. The City of Anderson itself purchases power from the Golden Valley Electric Association, soon to be served by the Anchorage-Fairbanks Power Intertie, providing still another option for sub-station service at about the same time the Maximum Security Prison is expected to be operational.

WATER Anderson does not offer city-treated or supplied water to the Clear Air Force Station which consumes in excess of One Hundred Fifty Million Gallons per Month, or to the 117

domestic users inside the Municipality. The prison facility would drill its own wells and provide its own water from the uniquely-abundant natural supply of superior quality potable water available in Anderson--one of its priceless natural resources. Thus the prison would not now, or later, be in the position of having to purchase water supplies from a Municipality. And, the water in Anderson is hygienically pure without treatment. The prison would, of course, have established water rights, thereby protecting its call upon the natural resource forever.

A comprehensive water study, funded by the Alaska State Legislature, was completed on February 7, 1983 by URS Engineers, an internationally-connected firm of engineers and scientists with an Anchorage operations base. The final Draft Report, accepted by the Anderson City Council on February 15, 1983, found the water to be not only pure, but plentiful for domestic needs for generations into the future in the built-up residential area, and of unlimited industrial supply nearly everywhere else in the Municipality.

In further testimony of the purity and abundance of water for large-demand-users such as the prison might be considered, the State-owned/operated Clear Fish Hatchery draws water from its complex of wells directly into its propagation system, using 60 million gallons per month. Brewing and soft drink industries are looking at Anderson not only because of its abundance of pure water, but also because of its logistical advantages.

SEWAGE TREATMENT Another cost saving advantage of an Anderson site is that the prison would construct and operate its own small, self-contained treatment system, just as does the Clear Air Force Station for its 500+ military and civilian personnel forces. The State may wish to acquire slightly more than the proposed 100-acre-reservation for these purposes. Everywhere at all Anderson sites, land is available to the State for its purposes and needs.

TRANSPORTATION The advantages of prisoner transfer transportation has been earlier addressed. In this section, logistical transportation is discussed.

The locational advantage of an inter-modal transportation network must not be under-estimated, either for the construction phase or the ultimate operational life of the prison.

Construction materials can be boarded on rail cars at any point in the Lower-48 or the Orient and off-loaded near any of the potential Anderson sites. This same transportation system will greatly reduce costs of consumable supplies for the operation phases through use of the rail-barge-rail-truck-road inter-modal matrix available only at Anderson, while utilizing the state-owned Alaska Railroad utility. The air link to Anderson sites has been prior addressed.

CULTURAL-SOCIAL-RECREATIONAL
ADVANTAGES OF ANDERSON

Since Anderson is just 90 minutes driving time from the main campus of the University of Alaska/Fairbanks, and the university's Nenana Valley Rural Education Center presents credit-courses at Anderson and throughout the region, opportunities to take or teach graduate and under-graduate courses are readily available, as are symphony, drama, music and art, sports and popular music. The Fairbanks Regional Medical Center is only 30 air minutes from Anderson and provides a wide range of modern medical procedures.

In Anderson itself, there is an opportunity to participate in social and fraternal clubs and organizations as well as sports and educational activities. Anderson's new and modern elementary and High School can absorb a hundred or more students with only the addition of a few staff positions. By adding new rooms to the architecturally expandable complex, up to 250 additional students could be responsibly accommodated.

A new gun club and indoor shooting range will be completed next year in Anderson and, cross-country ski, snowmachine and ATV trails criss-cross the area and sport fishing and hunting are very nearby. Youth and large all-family parks are popular and in use. All roads and water removal ditching will have been completed prior to commencement of major construction.

Anderson is a Second Class City with an experienced, stable government and Council. There is no property tax. Except for educators and government employees, most adults work at Anderson's Clear Air Force Station as technical or management personnel. While Anderson has obvious employment stability, second and eventually third generation citizens face chronic unemployment and welcome the opportunity to train and to qualify for positions at the prison, now, and into its future life cycle.

LAND AVAILABILITY
IN ANDERSON

Anderson is surrounded on both sides by land available to the State through the State land selection process. Most specifically, from removal from the Cook Inlet Region, Incorporated selection pool, or from other federally owned land from which it may select. The State itself owns land which should be considered, and will soon receive numerous Sections of land in Township 7 South, Range 7 West, F.M. which affords a number of site potentials. The City of Anderson recommend sites in Sections 15, 14, 10, 11 of T7S, R7W FM be studied; then, section 8 or 4 of T7S, R7W FM; finally sections 13, 23, 26, 27 and 34 T7S, R7W FM.

THE SMALLER THE BETTER

Testimony given before the Senate H.E.S.S. Committee
on prison facility construction, April 21, 1983
Given by : Gary D. Dopus, Ph.D.

The State of Alaska faces the need of building additional prison facilities in the immediate future. Each of the state's units are at or above capacity with expectation by 1987 the population count will reach 2000.¹ Among the types of facilities needed is a maximum security unit. This paper specifically addresses the issue of the maximum desirable size of any one max unit. The issue is examined by citing disadvantages and advantages of building two 200-bed units versus one 400-bed unit.

Disadvantage of Two Small Units: The only disadvantage is one of economics. Although no cost figures were readily available for comparing the two-prison model against the single unit model, various professional opinions were solicited regarding capital cost and operational cost differences. Jim Austin of the National Council on Crime and Delinquency, administrators of the Fairbanks Correctional Facility, and Stuart Shadbolt, Administrator of the North Carolina Department of Corrections each contributed to the question of cost differentials. All agreed on two points. First, it was inevitable that the two-unit model would be more expensive both for initial construction and for continued operational costs;

¹Adult Corrections In Alaska: Current Issues In Administration and Management, pp.1 and 14, House Research Agency Report 82-E, 1983.

however, the increase was not seen to be exorbitant. They further agreed that these expenses were well worth the accrued advantages.²

The California Department of Corrections also addressed this issue.³ In part they concluded despite the apparent administrative and financial benefits associated with larger institution size, smaller institutions than size 400 may be preferable when the cost and administrative problems associated with the increased tension, hostility, and likelihood of violence associated with larger size are assessed.

The North Carolina system in particular has adopted the smaller unit, decentralized model. There are 81 different facilities to house a current population of 17,200 inmates. The general philosophy shared by Stuart Shadbolt was "smaller the better." Their new max unit dedicated this year houses 350. This system then follows the stance of John Conrad advocating the replacement of larger units with a network of smaller, more humane units.⁴

Advantages of Two Small Units

o Management Flexibility -- As stated by Roger Endell, Director, Division of Corrections, an intrinsic problem in the construction of any institutional space, and particularly those that

²Personal Communication, April, 1983.

³Moyer, F.D., "Some Essentials of Facility Planning," 1978, California Department of Corrections, Sacramento, Ca. 95814.

⁴John Conrad, "Which Way To The Revolution," in Should We Build More Prisons?, (National Council on Crime and Delinquency, 1977).