

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2360 SHESS SB 373 / SB 374 - SB 385 210

UBTL
ANALYTICAL CHEMISTRY
BULK ASBESTOS ANALYSIS

Field Sample #	UBTL Lab #	Amosite %	Chrysotile %	Crocidolite %	Anthophyllite %	Tremolite %	Fibrous Glass/Rock Wool %	Other Fibrous Constituents %	Fibrous Constituents Type
29	CB 00849	NO	ASBESTOS DETECTED					95% ± 5%	FIBROUS CELLULOSE
30	CB 00850	NO	ASBESTOS DETECTED					95% ± 5%	FIBROUS CELLULOSE
31	CB 00851		<1%					95% ± 5%	FIBROUS CELLULOSE
32	CB 00852	NO	ASBESTOS DETECTED					95% ± 5%	FIBROUS CELLULOSE
33	CB 00853	NO	ASBESTOS DETECTED					95% ± 5%	FIBROUS CELLULOSE
34	CB 00854	NO	ASBESTOS DETECTED				<1%	<1%	FIBROUS CELLULOSE
35	CB 00855		~5%				<1%	<1%	FIBROUS CELLULOSE
36	CB 00856		1-2%			<1%		<1%	FIBROUS CELLULOSE
37	CB 00857	NO	ASBESTOS DETECTED				<1%	<1%	FIBROUS CELLULOSE
38	CB 00858	NO	ASBESTOS DETECTED				45% ± 5%	45% ± 5%	FIBROUS CELLULOSE
39	CB 00859	NO	ASBESTOS DETECTED					70% ± 5%	FIBROUS CELLULOSE
40	CB 00860	NO	ASBESTOS DETECTED					95% ± 5%	SYNTHETIC FIBER
41	CB 00861		<1%					95% ± 5%	FIBROUS CELLULOSE
42	CB 00862		1-2%					<1%	FIBROUS CELLULOSE

S.M. Stark
Analyst

J.C. Hall
Reviewer

J.M.P.
Laboratory Supervisor

Corporate/Agency Name KODIAK ISLAND BOROUGH SCHOOL DISTRICT

Date 3/4/81

UBTL Identification Number 81-99

UBTL
ANALYTICAL CHEMISTRY
BULK ASBESTOS ANALYSIS

Field Sample #	UBTL Lab #	Amosite %	Chrysotile %	Crocidolite %	Anthophyllite %	Tremolite %	Fibrous Glass/Rock Wool %	Other Fibrous Constituents %	Fibrous Constituents Type
43	CB 00863		1-2%					<1%	FIBROUS CELLULOSE
44	CB 00864	NO	ASBESTOS DETECTED				40% ± 5%	30% ± 5%	FIBROUS CELLULOSE
45	CB 00865		30-40%					<1%	SYNTHETIC FIBERS
46	CB 00866		60% ± 5%					30% ± 5%	SYNTHETIC FIBERS
47	CB 00867		60% ± 5%					30% ± 5%	SYNTHETIC FIBERS

S. M. Stark
Analyst
SMT
Laboratory Supervisor

J. Hult
Reviewer

MAIN JUNIOR HIGH

SAMPLE #

36 Ceiling, hallway, acoustic spray

presented 6-83

37 Ceiling material

38 Ceiling tile, room #209

39 Wall, bandroom hallway

presented 6-83

40 Dust collector bag, woodshop

" "

41 Pipe insulation, boys locker room

" "

HIGH SCHOOL COMPLEX

SAMPLE #

42 Library, plenum, above suspended ceiling, wet

43 Library, plenum, above suspended ceiling, dry

44 Ceiling tile, voc ed wing

45 Welding shop, solder table top

46 Art room, kiln gloves

47 Fire Blanket, auto shop

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

Bill Farrell - Cordova 99574

- Bids came in \$34.0 - \$108.0
estimates from engineers (get 10%)
80.0 - 120.0 minimum.
- State C.I.P. could get 50% reimburse
in 2 yrs.
- This summer, there will be lots of
asbestos removal
- in bill - allow reimbursement for
removal / renovation work.
- one approved dump site in State.

Given that the state has a vested interest in every child's ed, and the Department is moving aggressively toward program improvement how can the state guarantee improvement under this bill?

Will this bill minimize the conflict between state and private schools?

Introduced: 1/25/84
Referred: Health, Education and
Social Services and
Finance

BY JOSEPHSON, RODEY,
V. FISCHER, KELLY, HALFORD
AND STURGULEWSKI

1 IN THE SENATE

Sponsor Substitute

2

FOR SENATE BILL NO. 373

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act establishing an asbestos health hazard ^{ABATEMENT} pro-
7 gram; and providing for an effective date."

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

9 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

10 (1) medical studies indicate that individuals who are exposed to
11 asbestos fibers have a significantly increased incidence of cancer and
12 other severe or fatal diseases, as compared with individuals who are not
13 exposed;

14 (2) medical evidence suggests that children may be particularly
15 vulnerab to cancer induced by exposure to asbestos fibers;

16 (3) medical science has not established a minimum level of
17 exposure to asbestos fibers that is considered to be safe;

18 (4) substantial amounts of asbestos have been installed in
19 school buildings and other public facilities in the state;

20 ~~(5) a partial survey of Alaskan schools indicates that~~

21 ~~(A) in many cases materials containing asbestos fibers have~~
22 ~~become damaged or friable, causing asbestos fibers to be released into~~
23 ~~the air; and~~

24 ~~(B) asbestos concentrations may be present in school build-~~
25 ~~ings containing damaged asbestos material;~~

26 ⁵ (4) the presence in school buildings and public facilities of
27 ⁶ ~~materials or easily damaged~~ asbestos creates an unwarranted health hazard to
28 school children, employees, and other individuals who are exposed to the
29 material;

(6) The present federal and state programs to identify and abate asbestos health hazards in school buildings and public facilities are ~~inadequate~~ severely inadequate. ~~no systematic program presently exists to identify asbestos~~

1
2 health hazards in school buildings and public facilities or to remedy those
3 conditions.

4 (b) It is the purpose of this Act to

5 (1) provide for testing and analysis of ~~friable~~ asbestos ma-
6 terials in school buildings and other public facilities in the state;

7 (2) provide for the dissemination of information relating to the
8 health hazards caused by exposure to ~~friable~~ asbestos fibers;

9 (3) ensure ^{ABATEMENT} [correction] of identified health hazards from ~~friable~~
10 asbestos materials in school buildings and other public facilities.

11 * Sec. 2. AS 18 is amended by adding a new chapter to read:

12 CHAPTER 28. ASBESTOS HEALTH HAZARD ^{ABATEMENT} PROGRAM.

13 Sec. 18.28.010. PROGRAM ESTABLISHED. The asbestos health hazard ^{ABATEMENT}
14 program is established in the ^{DEPARTMENT OF LABOR} [Department of Environmental Conservation]
15 to coordinate efforts of state departments and agencies to eliminate
16 asbestos health hazards in schools and public facilities in the state,
17 ~~in order to ensure state compliance with 20 U.S.C. 3601-3611 (Asbestos~~
18 ~~School Hazard Detection and Control Act of 1980).~~

19 Sec. 18.28.020. DUTIES OF THE DEPARTMENT OF ^{LABOR} ENVIRONMENTAL CON-
20 SERVATION. In order to eliminate asbestos health hazards in schools
21 and public facilities in the state, the Department of Environmental
22 Conservation shall

23 (1) provide ^{For competent and adequate} ~~training materials for school~~ personnel ~~and~~
24 ~~custodians of public facilities to enable them~~ to inspect and sample
25 material for the presence of ~~asbestos~~ asbestos;

26 (2) ~~distribute information published by the United States~~
27 ~~Environmental Protection Agency, on asbestos control, with supplemental~~ ^{and U.S. Occupational Health and Safety Administration}
28 ~~videotapes to city and borough school districts, regional educational~~
29 ~~attendance areas, private schools, and state public facilities~~

- (5) review and approve all asbestos training materials to respirator use and employee training, including training to establish an employee certification program. Only employees that have successfully completed the Department of Labor approved certification program shall be able to perform asbestos abatement work. The certification program shall include a respiratory exam and a competency exam; and
- (10) establish guidelines and procedures to prevent damage to asbestos products in day to day operations; and

1 ~~custodians~~

2 ~~(1)~~ ⁽²⁾ distribute, retrieve, and store training materials
3 concerning inspection and sampling for ~~friable~~ asbestos;

4 ~~(2)~~ ⁽³⁾ provide knowledgeable individuals to answer inquiries
5 and ensure quality control of sampling;

6 ~~(3)~~ ⁽⁴⁾ establish guidelines ~~for~~ inspecting and collecting ~~for the~~ ^{FOR THE ABATEMENT OF ASBESTOS and}
7 samples of suspected ~~friable~~ asbestos and provide for analysis of the
8 samples;

9 ~~(4)~~ ⁽⁵⁾ evaluate analysis results and distribute the results to
10 affected schools and public facilities;

11 ~~(5)~~ ⁽⁶⁾ coordinate efforts by state departments and agencies
12 and by school and public facilities personnel to identify and elimi-
13 nate asbestos health hazards;

14 ~~(6)~~ ⁽⁷⁾ provide information on asbestos health hazards and
15 proper means of inspection and analysis, and analyze specimens upon
16 request by any state department or agency or local government;

17 ~~(7)~~ ⁽⁷⁾ cooperate with the Dept. of Education and DOTPF
18 ~~(8)~~ ⁽⁸⁾ cooperate with the Department of Community and Regional
19 Affairs to administer state money appropriated to finance the asbestos
20 health hazard abatement program; and

21 (10) adopt regulations necessary to implement the provisions
22 of this chapter.

23 Sec. 18.28.030. DUTIES OF THE DEPARTMENT OF EDUCATION. To
24 assist in implementing the asbestos health hazard program, the Depart-
25 ment of Education shall

26 (1) cooperate with the ^{Dept. of labor and school} ~~Department of Environmental Conser-~~
27 ~~vation and the Department of Transportation and Public Facilities~~ ^{and REPA's} to
28 ensure inspection of schools in the state for asbestos health hazards
29 and to ensure that identified asbestos health hazards are ~~eliminated~~ ^{ABATED};

(2) ~~revise, update, and distribute information on~~

insert here

45
HEALTH HAZARDS IN PUBLIC FACILITIES

(4) INFORM THE DEPT. OF LABOR OF ALL ~~EXPENDITURE~~ MONIES AWARDED FOR ASBESTOS ABATEMENT, TO enable DEPT. OF LABOR TO ADVISE CONTRACTORS OF ASBESTOS HEALTH HAZARDS.

ated to finance reno-

(2) distribute available money as necessary to ~~eliminate~~ ^{ABATE} asbestos health hazards in schools and ~~public facilities~~ in the state;

(5) inform the Department of Labor when renovation contracts are awarded under AS 18.28.050(6), to enable the Department of Labor to advise contractors of asbestos health hazards that may be encountered in the renovation project.

(2) ~~to~~ maintain records, files, and reports on asbestos health hazards in city and borough schools and regional educational attendance area schools.

Sec. 18.28.040. DUTIES OF THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES. To assist in implementing the asbestos health hazard ^{ABATEMENT} program, the Department of Transportation and Public Facilities shall

(1) cooperate with the Department of ~~Environmental Conservation~~ ^{LABOR} and the Department of Education to ensure inspection of schools and public facilities for asbestos health hazards and to ensure that identified asbestos health hazards are ~~eliminated~~ ^{ABATED}; and

(2) provide technical assistance and guidelines for renovation techniques to ~~eliminate~~ ^{ABATE} asbestos health hazards from public facilities and from other buildings in the state.

Sec. 18.28.050. DUTIES OF SCHOOL OFFICIALS. To assist in implementing the asbestos health hazard ^{ABATEMENT} program, each city or borough school district, private school, and regional educational attendance area shall

~~(1) provide for the training of school personnel in the detection of friable asbestos in their respective school buildings;~~

(1) ~~(1)~~ maintain records of all inspections, including sample dates, location, condition, and analysis of ~~friable~~ materials;

(2) ~~(2)~~ notify school personnel of the location of ~~friable~~

insert here

1 asbestos materials and ways to reduce exposure;

2 (3) (4) notify the parents of students of asbestos inspection
3 results;

4 (4) (5) provide for the inspection of their respective school
5 buildings and the taking of samples as needed, following guidelines
6 established by the Department of ^{of labor} ~~Environmental Conservation~~ for deter-
7 mining the existence of asbestos health hazards;

8 (5) (6) contract for renovating school buildings to ^{ABATE} ~~eliminate~~
9 asbestos health hazards, and supervise and monitor the renovation
10 contracts, applying the standards in AS 18.60.075 to protect the
11 health of the persons who renovate the school buildings.

12 ~~Section 18.28.060. DUTIES OF DEPARTMENT OF COMMUNITY AND RE-~~
13 ~~GIONAL AFFAIRS. To assist in implementing the asbestos health hazard~~
14 ~~program, the Department of Community and Regional Affairs, in coop-~~
15 ~~eration with the Department of Environmental Conservation, shall~~

16 (1) ~~administer state money appropriated to finance reno-~~
17 ~~vation contracts under AS 18.28.050(6);~~

18 (2) ~~distribute available money as necessary to eliminate~~
19 ~~asbestos health hazards in schools and public facilities in the state;~~

20 (3) ~~inform the Department of Labor when renovation con-~~
21 ~~tracts are awarded under AS 18.28.050(6), to enable the Department of~~
22 ~~Labor to advise contractors of asbestos health hazards that may be~~
23 ~~encountered in the renovation project.~~

24 Sec. 18.28.070. DEFINITIONS. In this chapter

25 (1) "asbestos health hazard" means the presence of friable
26 ~~asbestos material or asbestos material that could easily be damaged by~~
27 ~~water or air circulation or by other means, and that could result in~~
28 the dispersal of asbestos fibers into a school building or public
29 facility;

(2) "Asbestos" means chrysotile, amosite, crocidolite, fibrous tremolite, fibrous anthophyllite, and fibrous actinolite;

(3) "asbestos product" means any product that produces airborne asbestos

1 ~~(2) "friable asbestos" means any material that contain~~
2 ~~more than one percent of asbestos by weight as one of its constituents~~
3 ~~and that can be easily crumbled, pulverized, or reduced to powder by~~
4 ~~hand pressure when dry;~~

5 (4) ~~(5) (6)~~ "public facilities" means buildings owned ^{leased, rented} by the state
6 or by a local government.

7 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
8 10.070(c).

DEPARTMENT OF LABOR

BOX 1149
JUNEAU, ALASKA 99811

March 24, 1981

Phone: 465-4856

Nancy Detrick
Administrative Aide
to Senator Parr
Pouch V
Juneau, Alaska 99811

Dear Ms. Detrick:

As requested during our recent telephone conversation, enclosed is our Division's inspection activity for the last two years regarding the health hazard asbestos. The table's columns are self-explanatory. We believe that the evaluation of exposures to asbestos has been on "as needed basis," however, routine evaluation has been limited due to a number of factors.

Our current production rate is 108 health compliance inspections per year. Fifteen of these are programmed and are called general scheduled inspections. The evaluation of target health hazards is the primary basis for selecting a particular establishment for inspection. This year we have selected four establishments (out of the fifteen) for inspection to evaluate potential exposures to asbestos. Our data shows that there are 1,897 places of employment in Alaska where potential exposure to asbestos exists. The following table shows by Standard Industrial Classification (SIC) the number by region of these employers in Alaska.

SIC	REGION						TOTAL
	1	2	3	4	5	6	
15	96	351	77	74	13	15	626
1622	3	6	4	5	1	0	19
1623	5	29	11	8	8	7	68
1711	19	92	23	34	1	6	175
175	1	50	0	10	0	0	61
1761	3	28	0	6	0	0	37
1791	2	20	3	5	0	0	30
1793	1	8	2	1	0	0	12
1794	10	58	16	14	3	1	102
1799	4	31	12	7	0	1	55
2091	12	10	13	0	10	1	46
2611	2	0	0	0	0	0	2
327	0	3	0	0	0	0	3
5511	7	23	0	13	0	0	0
7539	1	16	0	4	0	0	27
80	65	306	32	44	3	2	452
82	25	41	17	21	19	8	131
07-GGLH TOTAL	256	1072	224	246	58	41	1897

The regions are geographic areas described as follows:

- Region 1 - Southeast Alaska (Ketchikan to Yakutat)
- Region 2 - Southcentral Alaska (Cordova to Matanuska-Susitna)
- Region 3 - Kenai Peninsula - Aleutian Islands (Seward to Kodiak - Aleutians)
- Region 4 - Northcentral Alaska (Fairbanks)
- Region 5 - Western Alaska (Bristol Bay to Kuskokwim)
- Region 6 - Northern Alaska (Barrow to Nome - Kobuk - Prudhoe Bay)

The SIC's are described as follows:

- 15 - Building Construction - General Contractors
- 1622 - Bridge, Tunnel and Elevated Highway - Heavy Construction
Except Highway
- 1623 - Water, Sewer, and Utility Lines - Heavy Construction
- 1711 - Plumbing, Heating, Air Conditioning - Special Trade Contractors
- 175 - Carpeting and Flooring - Special Trade Contractors
- 1761 - Roofing and Sheet Metal Work - Special Trade Contractors
- 1791 - Structural Steel Erection - Misc. Special Trade Contractors
- 1793 - Glass and Glazing Work - Misc. Special Trade Contractors
- 1794 - Excavating and Foundation Work - Misc. Special Trade Contractors
- 1799 - Special Trade Contractors - NEC
- 2091 - Canned and Cured Seafoods - Misc. Foods and Kindred Products
- 2611 - Pulp mills - Paper and Allied Products
- 327 - Concrete, Gypsum, and Plaster Products
- 5511 - New and Used Car Dealers
- 7539 - Automotive Repair Shops - NEC
- 80 - Health Services
- 82 - Educational Services

We hope that this information is what you need and if we may be of any additional service to you, please do not hesitate to call upon us.

Sincerely,

Darrell Miller
Darrell Miller, Director
Division of Occupational
Safety and Health

Enclosure

cc: Commissioner's Office

1 Inspection Number	12 Number of Work- ers exposed/sam- pled/exposure evaluated	13 Other Asbes- tos related violations issued	14 Reason for Inspection	15 Union Affiliated
D-79-21	5/0/5	None	C-79-77	None
D 9-32	4/2/4 "	OH&EC 04.0102 (d)(2)(D)	DOSH IH Gen. Sched. Insp. Proc.	None
D-79-32A		04.0102(f)(1) 04.0102(g)(1)(A) 04.0102(g)(2)(A) 04.0102(h)(2) 04.0102(i)(1) 04.0102(j)(2)		
D-79-33	3/3/4 " " " " " " " " " " " "	None	DOSH IH Gen. Sched. Insp. Proc.	None

1	2	3	4	5	6	7	8	9	10	11
Inspection Number	Sample Number	Date Collected	Sample Type	Asbestos Type	Asbestos %	Fibers/cc 5 um	Exposure	Task Operation	Where Collected	Protection of Worker
D-79-21	1	6/7/79	Environ	amosite		0.01	below PEL	Maint.	Maint.	not req.
	2	6/7/79	Environ	amosite		0.01	"	"	sched. mech.	"
	3	6/7/79	Bulk	amosite	42-50		n/a	"	bldg.	n/a
D-79-32	A	11/7/79	Bulk	amosite	10-20		below PEL	Demolition	n/a	n/a
	1	11/7/79	Pers	amosite		1.28	"	"	basement	inadequate
	2	11/7/79	Pers.	amosite		2.11	n/a	"	"	"
	3	11/7/79	Pers.	amosite		1.72	"	"	"	"
D-79-32A	Based on samples collected in D-79-32									

D-79-33	P-33-01	12/12/79	Pers	amosite/or and Chrysotile		1.59	below PEL	Demolition	basement	adequate
	P-33-02	"	"	"		2.13	"	"	"	"
	P-33-03	"	"	"		3.06	"	"	"	"
	P-33-04	"	"	"		1.82	"	"	"	"
	P-33-05	"	"	"		Too heavy	"	"	"	"
	P-33-06	"	"	"		1.96	"	"	"	"
	P-33-07	"	"	"		1.43	"	"	"	"
	P-33-08	"	"	"		3.82	"	"	"	"
	P-33-09	"	"	"		2.93	"	"	"	"
	P-33-10	"	"	"		2.02	"	"	"	"
	P-33-11	"	"	"		Too heavy	"	"	"	"
	P-33-12	"	"	"		2.08	"	"	"	"
	P-33-13	"	Blank	None			n/a	"	"	"
	P-33-14	"	Bulk	amosite Chrysotile	5-10 5-20		n/a n/a	" "	" "	" "

1	12	13	14	15	16	17
Inspection Number	Number of Workers exposed/sampled/exposure evaluated	Other Asbestos related violations issued	Reason for Inspection	Union Affiliated	Col- ch.	Protection of Worker not req. "n/a" inadequate " "
P-80-09	10/10/10	OH&EC 04.0102(f)(1) 04.0102(d)(2)(D) 04.0102(d)(3) 04.0102(d)(4)(C)(i) 04.0102(h)(1) 04.0102(h)(2) 04.0102(g)(2)(A) 04.0102(g)(1)(A) 04.0102(j)(1) 04.0102(j)(6)	C-79-154	IBEW Local # 1547		n/a inadequate " "
P-80-26	0/0/60	None	C-80-85 & 86	Teamster # 959		adequate " " " " " " " " "
P-80-27	2/0/2	None	Agency Referral	None		" " " "
S-80-10	260/0/260	None	DOSH IH General Scheduled Procedure	ILWU Loc. 37, Machinist Alaska Fish- erman's Union- Bristol Bay Native Cannery Workers, Alaska Fisherman's Union- STUNA AFLCIO Bristol Bay Resident Cannery Workers Branch		" " " " " " " " "

1	2	3	4	5	6	7	8	9	10	11
Inspection Number	Sample Number	Date Collected	Sample Type	Asbestos Type	Asbestos %	Fibers/cc 5 um	Exposure	Task operation	Where Collected	Protection of Worker
P-80-09	P-09-01	2/5/80	Bulk		None		n/a	Pipe insulation removal	Utilidoor	Inadequate
	P-09-02	2/5/80	Bulk		None		"			
	P-09-03	2/5/80	Bulk	Chrysotile	2-5		"			
	P-09-04	2/5/80	Bulk	Chrysotile	Approx. 5		"			
	P-09-05	2/5/80	Bulk	Chrysotile	80-90		"			
	P-09-06	2/5/80	Bulk	Chrysotile	2-5		"			
	P-09-07	2/5/80	Bulk	amosite	75-85		"			
P-80-26	P-26-01	7/11/80	Environ		None	0.01	n/a	Office	Sm. cabinet	n/a
	P-26-02	7/11/80	Environ		None	0.01	n/a			
	P-26-03	7/11/80	Environ		None	0.01	n/a			
	P-26-05	7/11/80	Environ		None	0.01	n/a			
	P-26-06	7/11/80	Environ		None	0.01	n/a			
	P-26-07	7/11/80	Wipe		None	0.01	n/a			
	P-26-08	7/11/80	Bulk		None	1 % Fibrous	n/a			
	P-26-04	7/11/80	Bulk		None	"Blank	n/a			
P-80-27	P-01	1/15/80	Bulk	Chrysotile	5	n/a	n/a	Not related	Laundry room	n/a
	P-02	1/15/80	Bulk		None	n/a	n/a			
	P-03	1/15/80	Bulk		None	n/a	n/a			
	P-27-01	7/16/80	Environ	Unknown		0.02	Below PEL			
	P-27-02	7/16/80	Bulk	Not analyzed because P-27-01 negative		n/a	n/a			
	P-27-03	7/16/80	Bulk	"		n/a	n/a			
S-80-10	1	7/29/80	Bulk	Chrysotile amosite	10	n/a	n/a	Not related	Retort	n/a



Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

FOR IMMEDIATE RELEASE:
January 23, 1984

JOSEPHSON BILL ELIMINATES ASBESTOS

AS HEALTH HAZARD IN SCHOOLS, PUBLIC BUILDINGS

JUNEAU, AK. -- A program to eliminate asbestos health hazards in Alaska's schools and other public buildings would be established in the state Department of Environmental Conservation (DEC) under a bill introduced in the State Senate today by Sen. Joe Josephson (D-Anchorage).

Josephson, chair of the Senate Committee on Health, Education, and Social Services, cited medical studies which indicate that persons exposed to asbestos fibres have significantly increased incidences of cancer and other severe or fatal diseases.

"Unfortunately, medical science has not yet established a minimum level of exposure to asbestos fibres that is considered to be safe," Josephson said today. "The problem is magnified by the fact that asbestos has been used in many of Alaska's schools, yet medical evidence suggests that children may be particularly vulnerable to cancer induced by exposure to asbestos," he added.

The Anchorage Democrat said his bill would require the state DEC to provide training materials to school personnel and custodians of public buildings to help them inspect and test for the presence of asbestos fibres.

"My bill would also require the DEC to coordinate efforts by other state departments and agencies, and by school and public facilities personnel to identify and eliminate asbestos health hazards," Josephson explained.

(more)

The Josephson bill would ensure cooperation among the DEC, the state Department of Education (DOE), and the state Department of Transportation and Public Facilities (DOT/PF) so that asbestos health hazards are eliminated from schools and other public facilities throughout Alaska. "The bill also requires school officials to notify parents of the results of asbestos inspections," Josephson added.

He said cost estimates to implement the asbestos health program are "still being worked out, but as soon as we have developed reliable cost figures we will release them to the public."

"Once approved by my legislative colleagues and Governor Sheffield, this bill will help protect the health of our children as they attend school, and all Alaskans in public buildings and facilities," Josephson concluded.

The Josephson bill has been co-sponsored by Sens. Rick Halford (R-Chugiak), Tim Kelly (R-East Anchorage), Vic Fischer (D-Anchorage), Arliss Sturgulewski (R-Anchorage), and Pat Rodey (D-Anchorage).

-30-

For further information, contact:
Nancy Deitrick, Tel: 465-4907

012384

Tod Butler
1924 South Salem Dr.
Anchorage, Alaska 99508
December 14, 1983

RECEIVED

Governor Bill Sheffield
Pouch A
Juneau, Alaska 99811

Dear Governor:

Three years ago a major occupational health nightmare occurred at Alaska Psychiatric Institute. While a sprinkler system was being installed in the building a large amount of asbestos was circulated and recirculated through the building for a period of nine months. (See attachments). At that time, I proposed a set of procedures which I believed would prevent a recurrence of that situation as well as protect us workers in our everyday duties.

An investigator from DOSH, Max Andrews, was sent out and did an incomplete and incompetent investigation concerning the sprinkler job and by his lack of thoroughness caused our workers to be further exposed to asbestos. The procedures he gave us are incomplete, ineffective, and do not follow what is outlined in the State Occupational Safety and Health Standards. Mr. Andrews is currently administering the new Right-to-Know program.

In the early part of this year, several large valves were replaced in our boiler room, adjacent to the maintenance shop at A.P.I. and asbestos was spread throughout that building, which in this case is separate from the hospital. That incident, coupled with several others while we did repair and remodeling work prompted me to write to our administrator, Roxolana Pomeroy to ask for more stringent protection in the form of a set of procedures to be used while working around asbestos. She, in turn, told me she wrote to DOSH around the second week of October for information. We have yet to hear back from them. We requested and received a seminar on working around asbestos from Federal OSHA which pointed up the need for us to have a firm set of procedures and the inadequacy of what was previously outlined by the State.

I am not asking for a multi-million dollar removal program; only for some simple and inexpensive safeguards that will protect us and the people we work around. Some of our workers have been exposed to asbestos for hundreds of hours with no protection and exposed for additional hundreds of hours with inadequate protection.

If the State really believes that asbestos is harmful to humans, it must be more aggressive in its protection programs. Two simple and inexpensive things that could be done are to have State buildings surveyed as the schools were for asbestos content, and for warning signs to be put up to let workers and contractors know where asbestos is located and not to handle it if they do not know how to do so safely. Also, D.O.T. could be directed to note potential hazard areas on blueprints and to inspect jobsites to ensure safe work procedures are being followed. By waiting for asbestos exposure incidents to happen and going through the ponderous process involved in getting DOSH to come out and take air samples, the workers have been exposed and the damage has been done. It's a tough issue as there are no immediate effects or short term disabilities. We're looking 20 years in the future. In short, we need to think about prevention now.

The administration in this hospital, I feel, has been consistently arrogant and unresponsive in assuming they understand the asbestos situation here and assuming we are protected.

There has been no communication on their part, and conversely I think they try to keep the issue from the non-maintenance employees. An example of this was a letter from Ray Jorgenson, State Chief Industrial Hygienist, this year posted on the main bulletin board in the hospital. The letter not only incorrectly identifies one of the materials in question, but also gives the illusion that there is no problem with asbestos at A.P.I. which I believe is untrue.

There are some unanswered questions in my mind about the safeness of the asbestos in the ceilings at A.P.I. since much has been knocked loose and there is an air current which blows through the false ceiling area.

If there is any doubt or question about the questions I raise or the validity of my statements, I would be happy to respond, or to demonstrate what happens when workers go up into the ceilings and come down covered with asbestos. In the meantime I and my fellow workers are going to have to wonder for the next 20-30 years, when most of us will be in our mid-forties and early fifties whether we have breathed enough asbestos to be susceptible to contracting any of the asbestos related diseases. I feel strongly that if Mr. Andrews' investigation of the sprinkler job was inadequate, all employees in this hospital must be informed of their exposure.

Thank you for any assistance you can give.

Sincerely,



Tod Butler
Painter, A.P.I.

TB/kfb

Attachments

cc: Senator Vic Fisher
Senator Bettye Fahrencamp
Senator Arliss Sturgelewski
Senator Joe Josephson
Cherie Shelley, Alaska Public Employees Association
Mick Cotrum, District Council of Laborers
Joint Committee on the Accreditation of Hospitals

#5

September 14, 1983

Dear Mrs. Pomeroy:

Two recent incidents involving exposure to asbestos prompt us to again bring up safety procedures regarding this issue.

When the valves were being replaced in the boiler room, the contractor, with obviously no experience in the safe handling of asbestos, cut the lagging off the valves, spreading asbestos dust throughout the boiler room which was visible in the air to our eye as well as visible on the floor. When the contractor realized how much was being spread throughout the boiler room, he tried to dissipate the dust by opening the back doors. In the meantime, he swept up all the loose asbestos and put it in a garbage can which he carried through our shop to the dumpster as we sat for break.

In the second incident, in the remodeling of medical records, the ceiling was opened and left open for over two weeks exposing maintenance workers as well as medical records workers to the friable or loose asbestos which is present up there. The problem was very apparent to all workers in the area when the wind started blowing one afternoon through the false ceiling area and into the medical records area.

These two incidents as well as the poor morale and stress caused the maintenance workers when we have to work around asbestos brings us again to propose some inhouse regulations concerning working around asbestos in the hospital.

The short set of regulations that are now in effect are inadequate and don't cover the scope of work that we are involved in. We feel Don has been reasonable in trying to limit the amount of work done in the ceilings as well as using alternate methods when remodeling such as surface mounting conduit, etc. However, we feel it is imperative to have a comprehensive set of regulations. The focus of any job involving asbestos should be the safety and future health of A.P.I. staff and patients. It needs to be re-emphasised that ceiling work should be strictly limited to repairs.

We would like a safety seminar on asbestos provided for the maintenance shop. We have contacted Eric Short of DOSH who is more than willing to do this in conjunction with Steve Kadish of the Alaska Health Project.

We strongly suggest that a memorandum be put out to all departments that anyone suspecting or observing any form of loose asbestos contact the maintenance department. We would also suggest that a new set of regulations, when agreed upon, be put in the A.P.I. P&P and posted in the maintenance department.

We believe that these regulations and procedures will be beneficial as the public concern about asbestos and the outrage over sloppy handling of asbestos increase.

Sincerely,

J. Fred Butler
Fred Perry
Nancy Haber.

J. Stevenson
Joe D. Garcia
W. Kouchell



JTB/kf

cc: Steve Kadish, Alaska Health Project

Eric Short, DOSH

PROPOSED REGULATIONS

1. The primary focus of any job involving asbestos will be to plan the job so that exposure times will be limited to the shortest duration possible.
2. Areas around ceiling hatches and any other exposed ceiling areas should be sealed off while maintenance workers are working. Staff and patients should be kept away as much as possible. Hatches should be kept closed when not in use.
3. All maintenance workers should wear protective clothing at all times when in contact with asbestos. This should include a minimum of overalls, and head and hair protection as well as an approved respirator.
4. A vacuum should be purchased solely for asbestos clean up use and should be marked "For Asbestos Use Only." The fill bags for the vacuum should be of the disposable type and when full should be put in a plastic bag, sealed, and disposed of in accordance with Municipal regulations.
5. Before maintenance workers leave affected area, they should be thoroughly vacuumed off with the specially marked vacuum and the area vacuumed.
6. All contaminated coveralls and clothing should be checked for loose asbestos before being taken to the laundry.
7. Architects or engineers making building changes should be advised of the asbestos conditions and should be requested to make strong precautionary notes in specifications.
8. Contractors having work to do in the ceiling should be notified in advance of the presence of asbestos and should be expected to provide protection for their workers.
9. Contractors should be specifically instructed in how to clean the area after work is done to prevent the spread of asbestos throughout the hospital.
10. A warning sign should be posted in the maintenance shop for all workers to read, as well as a written set of precautions.

11. Work in the ceilings should be kept to a minimum, restricted to emergency repairs.
12. Any removal of asbestos covered pipes should be handled with precautions equal to those of working in the ceilings.
13. No materials containing asbestos should be used if there is a substitute.
14. Maintenance workers should keep personal safety in mind at all times when working with asbestos as well as the safety of all staff and patients.
15. Anyone observing loose or torn asbestos should contact the maintenance department immediately.
16. Pipes with torn or loose lagging will be sealed according to industry standards for safety.

Tod Butler
3803 Mac Innes St.
Anchorage, Alaska 99504
November 15, 1981

Stan Godsoe
Chief of Voluntary Compliance
OSHA
3301 Eagle St.
Anchorage, Alaska 99504

Dear Mr. Godsoe:

I am writing to you for assistance on an occupational health matter. The maintenance workers at A.P.I. have been crawling into the areas above the ceilings of the hospital on a semi-regular basis to do remodeling and repair work for many years. While in the "attics" they have crawled under the asbestos-insulated beams many times and have gotten asbestos particles all over their coveralls and in their hair. Until the summer of 1980 when a memorandum was issued by the hospital superintendant they wore no respirators or protective clothing other than coveralls, to my knowledge.

From approximately June 1980 to January 1981, A.P.I. had a sprinkler system installed in the majority of the areas of the hospital by an outside contractor, Sentry Automatic Sprinkler Co. This involved running the sprinkler pipe in the area above the ceilings. The wards were cleared of patients on a rotating basis while the work was going on in each ward. Each of the sprinkler workers, in my estimation, made a total of 5-15 trips through the hatches into the ceiling each day. For the greater part of the job they had no protection because they couldn't find out if the insulation they were in contact with was asbestos. They were covered each day from head to toe with particles of asbestos. They dragged a considerable amount of visible asbestos particles through the wards as they worked and the wards were covered with a visible layer of dust and dirt. The sprinkler workers walked through the common areas of the hospital and used the elevators to transport supplies each day. I observed visible chunks of asbestos in the elevators most days. The workers often stood in line at our snack shack to buy coffee or snacks with their contaminated clothing on. At one point they had an open hatch proximate to the main lobby where there was an area covered with asbestos particles.

The sprinkler workers, after many inquiries became quite concerned with the problem and demanded respirators with which they were provided. To my knowledge, they were not instructed on proper use and cleaning of the respirators. About that time our own

workers became concerned and were furnished with respirators designed for spray painting. Apparently about that time some other people at A.P.I. became concerned about the dust problem and OSHA was called to inspect and conduct air samples. To my knowledge, though, they did not go into the wards where the sprinkler workers were working. I am not sure they knew that the sprinkler job was going on.

The air samples apparently showed no trace of asbestos. Our maintenance department also sent a sample of the insulating material in for analysis during the summer of 1980. It came back showing the material as asbestos. That report was lost.

While the sprinkler workers were working in a ward, I was re-painting the ward with some help from other workers from the maintenance department as well as some patients' help. I felt at the time that since I was not directly exposed to the asbestos that I shouldn't worry but was very careful to not create dust with my tarps or as I was wiping off window sills and tops of door jambs that were covered with a thick layer of dust which I assumed to be asbestos. After the sprinkler workers were done in a ward the janitorial and housekeeping workers came in to clean using a dust mop to sweep the floors and dry stripped them afterwards. The housekeepers wiped off all surfaces with damp rags. The wards that were carpeted were vacuumed with hospital vacuums. The sprinkler job ended in January, 1981 and we finished painting and cleaning the last ward on March 31, 1981.

I became quite worried in May, 1981 after I read a series of articles about asbestos in the Daily News which led me to believe that incidental exposure to asbestos could be as dangerous over a period of time as direct exposure. I voiced my concerns to four doctors in the hospital some time in late August and they in turn talked to our hospital administrator who wrote a letter to Dale Cheek. An industrial hygienist, Max Andrews, was sent to inspect the hospital in late August or early September. He told my supervisor that the only time asbestos was dangerous was when it was being sprayed or removed. I talked to Mr. Andrews about a week after he made his inspection and he said he still had the sample on his desk and he guessed he should send it in since we were all worried. In the approximate two month period while the sample was being analyzed, no interim precautions were given to my supervisor about what workers should do while working in the attics. A coworker and I were sent to an asbestos seminar put on by Max Andrews to find out any more useful information we could. We asked Mr. Andrews about respirators again and were told our paint respirators were more than adequate. We waited for the test results and Mr. Andrews apparently got back to our supervisor, Don Clay on November 2. Mr. Andrews finally came out to take tests as our workers worked in the ceilings last Friday, November 13.

In the meantime, our workers have taken it upon themselves to try to control the spread of asbestos while they work in the ceilings and after they come down. However, they still walk through wards with contaminated clothing on and stand in front of the open door to our shop and brush themselves off. Until recently, our contaminated overalls were just thrown into a box with all other dirty maintenance clothes in the laundry.

I am personally worried about my own exposure, that of the sprinkler, janitorial, housekeeping, and maintenance workers during the sprinkler job and our maintenance workers exposure while they worked in the ceilings. We were assisted by patient helpers, as well, during the course of the sprinkler job.

Although the sprinkler job is over and no visual observations can be made or air samples taken, I would like your professional opinion on whether all workers involved during this period should be informed of their exposure and be given the opportunity to receive physicals through Worker's Compensation. I don't believe the janitorial and housekeeping workers know they were working in an asbestos contaminated environment.

I am angry about the way the OSHA investigation has been handled so far. It seems it would have been prudent to make some interim guidelines while the samples were being analyzed. It also seems that samples should not be sent outside Alaska when there is a testing lab right here in Anchorage that can do the tests in a matter of days. In the time it takes to get the samples analyzed Outside, many more workers can be exposed to a proven hazardous substance to an even greater extent. It seems incongruous for Mr. Andrews to state that asbestos is dangerous only when it is being sprayed or removed when there has been such controversy over the minute amount found in hairdryers.

In my estimation, asbestos dust is as hard to control as regular household dust and thus should be worked around under the very strictest of conditions. I would like to be kept informed of any further investigation as I have observed intently for the last year and a half the conditions we have worked in as well as the attitudes of the people involved.

Thank you for your consideration in this matter. Enclosed is a copy of a letter written and delivered to my supervisor, Don Clay.

Sincerely,



Tod Butler
Painter, A.P..

TB/kfb

STATE OF ALASKA #3

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

BOX 1149
JUNEAU, ALASKA 99811
PHONE: (907) 465-4855

December 3, 1981

Mr. Tod Butler
3803 Mac Innes Street
Anchorage, Alaska 99504

Dear Mr. Bulter:

I am responding to your letter of November 15, 1981 regarding your concern about potential asbestos exposure to maintenance workers at the Alaska Psychiatric Institute (API).

My investigation into the Alaska occupational safety and health program's involvement into this matter has revealed the following:

Our records do not indicate any inspections prior to September 10, 1981 that were conducted at API facilities to determine exposure to asbestos or other dust problems. An inspection of API was conducted in 1978 to investigate a complaint about heat stress in the laundry working area. Your letter indicated an "OSHA" inspection conducted sometime in 1980; can you provide me the name of the inspector. Perhaps, the Department of Health and Social Services or Environmental Conservation conducted an inspection.

Max Andrews, our industrial hygienist, upon the request of your employer conducted on-site consultative visit on September 10, 1981 to advise the employer on a ventilation problem. During this visit, he was asked to look into a potential asbestos problem. Mr. Andrews took a bulk sample of the material that was suspected of containing asbestos. He provided the maintenance superintendent with interim guidelines to be taken while samples were being processed. I am enclosing a copy of these interim guidelines.

7 Mr. Andrews performed a preliminary field test of the bulk sample in our office which indicated that asbestos was present in the material. As soon as it was determined that asbestos was present, Mrs. Roxanne Pomeroy, Hospital Administrator, was contacted and informed of the field test. This field test, however, did not determine the amount or type of asbestos and, therefore, the sample was sent to our contract laboratory, Northwest Health Services at Richland, Washington, for further analysis.

December 3, 1981

The Division would like to use an Alaska laboratory; unfortunately, none of the laboratories in Alaska are certified by the American Industrial Hygiene Association. We are required, under our agreement with the Federal Occupational Safety and Health Administration (OSHA) to use a certified laboratory.

Mr. Andrews was assigned to other duties and unfortunately the sample was not sent to the laboratory until September 21, 1981. We received the results from the laboratory on October 2, 1981. We have instituted procedures to make sure that such delays do not occur in the future.

As soon as we learned that the material contained 30 percent chrysotile asbestos, we contacted API and informed them that air samples needed to be taken when work was being performed in the areas with asbestos materials. We were contacted by API on November 13, 1981 that work was being performed in this area and we conducted air samples on that day. The samples were sent to the laboratory on November 16, 1981. The results of these samples were sent to your employer on December 1, 1981.

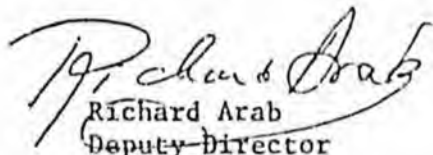
The air samples indicate that there is sufficient exposure to warrant medical examinations of workers who may have been exposed. Your employer has received this recommendation. Under our regulations, the employer would be required to provide such examinations.

Our investigation indicates that the asbestos-containing material was introduced into API when the sprinkler system was installed. Furthermore as we did not sample the dust that you indicate was present when this project was being performed, we cannot prove that this dust contained asbestos. Asbestos in its solid state is not dangerous. It becomes a health hazard when it becomes a particle in the air and is inhaled into the body. The problem with the hairdriers was that the asbestos shields that some models contained started to fray and when the hairdriers were turned on they blew asbestos fibers into the air.

I am sorry if you received an impression from our staff that we are not concerned with your safety and health. Apparently there was some misunderstanding, but I would like to assure you that the Alaska Department of Labor is dedicated to protecting workers from job-related safety and health hazards.

I would like to commend you for your concern for the safety and health of your fellow workers.

Sincerely,



Richard Arab
Deputy Director
Division of Labor Standards
and Safety

Enclosure

cc: Roxanne Pomeroy
Hospital Administrator
APT

Stan Godsoe, Chief
Voluntary Compliance

Al Baffone
Business Agent
Local 71

November 1, 1981

Dear Don:

It was proposed to me by one of the physicians in the hospital that I write a set of proposed regulations concerning the "safe handling" of asbestos. I'm furnishing a partial list that is open to revision or correction. My main concern in this issue is that of people's attitudes toward asbestos. It is hard to put emphasis on something that has effects that are not apparent for a number of years. However, asbestos has been proven without a doubt to be a cancer causing substance in humans. I feel it is important for everyone to realize that it is projected that one in four Americans will contract some form of cancer and that a majority of these cancers are caused by environmental contaminants such as asbestos.

Dan and Jess have been exposed numerous times without protection and it is imperative that they have the best protection available. There is no established safe level for exposure to asbestos. I have waited patiently for two months for the results of the OSHA tests to come back verifying that the insulation in the attic is asbestos--something that was already established last year. If it is any indication of the concern of the industrial hygienist, I called him a week after he was out here to take the sample. He said, "Oh, yeah, the sample is still on my desk. I guess I should send it to the test labs. I guess people are pretty worried out there."

I personally will not be satisfied until a firm set of rules are adopted. The primary intent of any job that involves working around asbestos should be that the patients, staff, and particularly the maintenance workers are protected to the best occupational health standards. I still would like an industrial hygienist to come to the shop to explain proper procedures and use of protective equipment. I am enclosing some information for your reading.

Thank you.

Sincerely,

Tod Butler

Tod Butler

TE/kfb

Enclosures

cc: Fred Hillman M.D.

PROPOSED RULES

1. Areas around ceiling hatches should be sealed off while maintenance workers are working. Staff and patients should be kept away as much as possible.
2. All maintenance workers should wear protective clothing at all times when in contact with asbestos. This should include a minimum of coveralls, head and hair protection as well as an approved respirator. Disposable coveralls should be checked into for their usefulness.
3. A vacuum should be purchased solely for asbestos clean up use and marked "For Asbestos Use Only". The fill bags for the vacuum should be of the disposable type and when full should be put in a plastic bag, sealed, and disposed of in the dumpster.
4. Before maintenance workers leave affected area they should be thoroughly vacuumed off with a specially marked "asbestos" vacuum as well as the area vacuumed.
5. All contaminated coveralls and clothing should be put in a plastic bag and marked with "Asbestos." Laundry workers should be instructed on safe handling.
6. Maintenance workers should be instructed on proper use of respirators and cleaning. Disposable masks should be considered.
7. Maintenance workers exposed to asbestos should have a physical examination every year with guidelines set by Dr. Irving Seilikoff.
8. Any maintenance workers unknowingly exposed in the past should be informed of their exposure.
9. Architects or engineers making building changes should be advised of the condition and asked to make a strong precautionary note in specifications.
10. Contractors having to do work in the ceiling should be notified in advance of the presence of asbestos and should be expected to provide protection for their workers.
11. Contractors should be instructed how to clean areas after work to prevent the spread of asbestos throughout the hospital.

12. A warning sign should be posted in the maintenance shop for all workers to read, as well as a set of precautions.
13. Work in the ceilings should be kept to a minimum, restricted to emergency repairs.
14. Problem areas in the hospital containing asbestos should be examined for safety. (e.g. the penthouse, refrigeration room, O.T. clinic).
15. Any tearing out of asbestos covered pipes should be handled with precautions equal to those of working in the ceiling.
16. No materials containing asbestos should be used if there is a substitute.
17. Maintenance workers should keep personal safety in mind at all times when working with asbestos as well as the safety of all staff and patients.

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

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

Document# 57-81

February 19, 1981

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

Dear Senator Parr:

In the past twenty years, it has been recognized that exposure to asbestos in significant amounts may be harmful to humans so exposed. The latent period between exposure and development of problems is somewhat related to the amount of exposure and in those individuals receiving large exposure, the latent period is around twenty years, up to probably forty years for exposure in smaller amounts.

The recognition of medical problems related to asbestos occurred initially in people employed in the mining of asbestos, handling asbestos, and working with asbestos in terms of insulation in shipyards. In the 1950's, as a result of the recognition of very great danger to children in schools because of fire hazards, asbestos was used extensively in ceiling tiles and covering of pipes, etc. By the late 1960's asbestos had generally been excluded from construction where it would be possible for the fibers to enter the air and be inhaled by people in the community.

I would like to try to answer some of the questions which you specifically raised:

In regards to the extent of which asbestos is seen as a cause of cancer, we have fairly good records in Alaska concerning cancer in the Native population and there has not been one reported case of mesothelioma, which is cancer of the pleura especially related to asbestos. We do not have good figures concerning mesothelioma in the non-Native population, but it is a very uncommon tumor. There is good evidence that exposure to asbestos combined with a cigarette smoking history increases the risk of lung cancer so that certainly people who have had a history of major exposure to asbestos should be advised to discontinue smoking.

As far as the possibility of increased incidence of gastrointestinal cancer related to asbestos exposure, there may be a slight increase in people who have had heavy exposure.

Concerning what action the Department of Health and Social Services has taken, in 1978 we contacted the Bureau of Indian Affairs Engineering Department in Juneau about the use of asbestos in B.I.A. schools, and were informed that while it had been used in older schools, most of these schools had been renovated/replaced, and the newer schools had not used asbestos. As far as we were able to determine at that time there had been no reported cases of cancer of the lung developing in people who had attended schools where asbestos had been used; however, since the exposure in this environment would be small and the latent period for the development of cancer would be 20+ years, it is highly unlikely that a good correlation could ever be developed. In addition in 1975 relating to pipeline construction, the Section of Communicable Disease Control took chest x-rays and did pulmonary function studies on members of the insulators' union who were going to be working on the pipeline at the request of the local union group.

In regards to the responsibility divided between the Departments of Health and Social Services and Environmental Conservation, logically the Department of Environmental Conservation is concerned with promulgating regulations concerning the construction of buildings and schools where asbestos could potentially be a problem, and monitoring environmental sources such as air quality and asbestos mining operations. The Department of Health and Social Services' responsibility is in evaluating the potential for significant disease as a result of previous exposure and doing anything possible to reduce the incidence of disease.

In regards to this, we have given considerable thought to the problem and have been in contact with Dr. Edward Gaensler, who is in charge of the Chest Program at Boston City Hospital and who has been interested in the asbestos problem for a number of years. I would like to emphasize the following, I think significant, points:

1. There has never, or hardly ever, been a case of mesothelioma cured. This is an almost invariably fatal disease and there is no program of surveillance that offers a realistic possibility of reducing the risk of this rare complication of significant asbestos exposure.
2. The result of close surveillance of individuals with a history of heavy exposure to asbestos combined with a history of cigarette smoking has had very little effectiveness in improving the salvage rate by earlier recognition.
3. The risk in people who have had heavy asbestos exposure of developing serious complications is not overwhelming. 12,000 Johns-Manville insulation workers and miners have been followed for 15 years with an average of one pulmonary cancer developing annually.

In looking at the problem from a statewide standpoint, it is our opinion that asbestosis is not a significant problem in Alaska. The insulation workers are pressured through their union to use masks and take other precautionary measures, and are followed with x-rays and pulmonary testing. Any attempts to develop a regulatory program for people who have been exposed to small quantities in the past through attending schools where asbestos was used would not be productive and effective, not only because of the long latency period but also because of their low risk.

If the Committee would like the testimony of an objective, professional expert who is universally highly regarded in the field of asbestosis, we would be glad to ask Dr. Edward Gaensler, Chief of the Chest Department at Boston City Hospital, to testify before the Committee. We also would be pleased to explore any further questions the Committee may have.

Sincerely,



Helen D. Beirne
Commissioner

POSITION PAPER

Senate Bill No 338

"An Act establishing an asbestos health hazard program and providing for an effective date."

Senate Bill No. 338 provides for cooperative efforts between the Departments of Environmental Conservation, Education and Transportation and Public Facilities in locating, analyzing, evaluating, record keeping and eliminating hazards associated with asbestos. The asbestos was used in some building materials utilized in the construction of schools and public buildings in past years. With time the buildings wear and deteriorate exposing the asbestos fiber. The asbestos particles, being very small, tend to easily break away from the material and float lightly in the air, subject to inhalation by the inhabitants of the building. As the amount of asbestos inhaled increases the statistical probability of a higher rate of asbestosis is present.

This bill is designed to begin a program of minimizing the incidence of exposure to Alaskans.

The Department of Health and Social Services feel this bill is needed and supports its passage.

Recommended by: David Bruce
David Bruce, Deputy Director
Division of Public Health

Date: April 6, 1981

Approved by: Helen D. Beirne
Helen D. Beirne
Commissioner

Date: 4/13/81

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 338

Title "An Act establishing an asbestos health hazard program and providing for an

Requested by Commissioner's Office Date 4/5/81

effective date."

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Public Health

BRU, Program, or Subprogram(s) Affected _____

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

TO: Joe Beauchamp, Director
Maintenance/Construction

FROM: *Bob Thornton*
Bob Thornton
General Foreman

DATE: 04-09-81

SUBJECT: Asbestos in Schools

The following is a list of known locations of asbestos material in our schools that may require attention:

Dimond High School (all located in pool area)

Approx.	780 sq. ft.	Downstairs lobby
Approx.	1,152 Sq. Ft.	Mechanical room
Approx.	136 sq. ft.	Boiler room
Approx.	1,898 sq. ft.	Rifle Range
Approx.	468 sq. ft.	Lounge
Approx.	336 sq. ft.	Hall

Total 4,470 sq. ft.

None of the material at Dimond is readily accessible to students. The rifle range is scheduled for remodeling and the problem there should be handled under that contract. The remainder is above the ceilings and in isolated areas. I feel that most of this material should be, as EPA puts it, encapsulated.

The total square footage at Bartlett Begich is 363,390 square feet. It is above the ceiling and is not easily accessible to students. I feel that this too should be encapsulated.

West High School (all located around pool area)

Approx.	128 sq. ft.	storage room ceiling
Approx.	5,500 sq. ft.	Mechanical room below pool
Approx.	2,100 sq. ft.	Boy's locker room ceiling
Approx.	1,600 sq. ft.	Girl's locker room ceiling

Total 9,328 sq. ft.

The ceilings in the locker rooms are accessible to students. The storage room ceiling and mechanical room are not easily accessible to students. I suggest that the mechanical room material be encapsulated and that the ceiling areas be replaced.

(Cont'd)

These projects will require funding and contracts let. There are, possibly, qualified contractors in Alaska but not to my knowledge. After reading the recommended specifications I received approximately three (3) weeks ago, I know our people are not qualified.

After reading the specifications (attached) from EPA, I feel that we would need approximately \$2,000,000 budgeted to accomplish this work. Also, this work will have to be completed during the summer months when the schools are closed.

The total square footage for all these schools is 377,188 square feet. At an estimated cost of \$5 per square foot this totals \$1,885,940. The additional money is for engineering and design and replacement of the ceiling at West High School. It should also cover the separate air monitoring contract.

BT:cl
attachment

planned.
Full text of the EPA asbestos
regulations and
can be answered by the NESHAPS
Appendix B.

OSHA

Work practices and the airborne
asbestos workers can be
regulations apply to removal,
and other operations involving

limits on the amount of
to which a worker may be exposed on
any one day the average
concentration level (also known as
TLV (TWA)) to which a worker
should not exceed two fibers longer than
five micrometers per cubic centimeter of air (2 f/cc). At

See Appendix C for the full text of the OSHA asbestos
regulations. Questions about the regulations and
compliance problems can be answered by the OSHA
Regional Offices listed in Appendix D. Information on
contractor training and occupational safety is also
available from these OSHA offices and the NIOSH
Regional Offices listed in Appendix E.

Contract Specifications

The following general specifications are recommended
for removal and encapsulation contracts. Some of these
specifications are also appropriate for enclosure
contracts. If these recommended specifications are
incorporated into contracts and strictly enforced, the
building environment will be protected against
contamination.

Contractors should be encouraged to receive training and to train their workers in safe work practices and in proper removal, encapsulation, and enclosure methods. Contractor and worker training can be required in the contract.

1. Regulations

Contractors shall comply with the requirements of the EPA regulations, National Emission Standards for Asbestos, and the OSHA regulations on asbestos, Section 1910.1001 [and any applicable State and local government regulations] which are incorporated by reference.

2. Scope of Work

A. The Contractor shall furnish all labor, materials, services, insurance, and equipment necessary to carry out the [removal operation, encapsulation operation] in accordance with the EPA and OSHA regulations [and any applicable State and local government regulations].

B. The Contractor shall be responsible for obtaining approval for a waste disposal site in compliance with Section 61.25 of the EPA regulations.

C. Contractors shall post the EPA and OSHA regulations [and any applicable State and local government regulations] at the job site.

3. Worker Protection

A. The Contractor shall provide workers with approved respirator. The Contractor shall provide a sufficient quantity of filters approved for asbestos so that workers can change filters during the work day. Filters shall not be used any longer than one (1) work day. The respirator filters shall be stored at the job site in the change room and shall be totally protected from exposure to asbestos prior to their use.

B. Workers shall always wear a respirator properly fitted on the face in the work area.

C. Contractors shall instruct and train workers in proper respirator use.

D. Workers shall wear disposable, full-body coveralls and disposable head covers and footwear in the work area. Footwear may be disposable. Non-disposable footwear shall be left in the work area at all times until disposal at job completion.

E. The Contractor shall set up a change room and a shower outside of the work area.

F. All workers without exception shall:

(1) Remove street clothes in the change room and put on the disposable coveralls and head covers, and respirator before entering the work area.

(2) Remove the disposable coveralls, head covers, and footwear in the work area before leaving the work area. Still wearing their respirators, proceed to the showers and remove their respirators while showering with soap and water.

(3) Shower at the end of each day's work before entering the change room to change into street clothes.

G. Workers shall not eat, drink, smoke, chew gum, or chew tobacco in the work area. To eat, drink, or smoke, workers shall remove the disposable work clothes and footwear in the work area before leaving the work area. Still wearing their respirators, workers shall proceed to the showers and remove their respirators while showering with soap and water. Workmen shall then dress into a new, clean disposable coverall to eat, smoke, or drink. The new coverall can be worn to reenter the work area.

H. The Contractor shall provide a respirator and disposable coveralls, headcover, and footwear to any official representative of the school who inspects the job site.

I. All persons entering the work area shall wear an approved respirator and disposable coveralls, head cover, and footwear.



Worker Dressed in Protective Clothing

4. Work Area Preparation

A. The Contractor shall set up a decontamination facility outside of the work area which will consist of a change room, shower area, and equipment area. The decontamination facility shall be subject to the approval of the official representative of the school.

B. The Contractor shall isolate the work area for the duration of the work by completely sealing off all openings and fixtures in the work area including, but not limited to, heating and ventilation ducts, doorways, corridors, windows, skylights, and lighting with plastic sheeting taped securely in place.

C. The Contractor shall build double barriers of plastic sheeting at all entrances and exits to the work area so that the work area is always closed off by one barrier when workers enter or exit.

D. All floor and wall surfaces in the work area shall be covered with plastic sheeting taped securely in place to protect from water damage [or damage by sealants].

E. Before the work is begun, the Contractor shall wet clean all removable items and equipment not located on the asbestos material, remove them from the work area, and then return these items and equipment to the work area after the job has been completed and the area has been decontaminated.

F. The Contractor shall cover all non-removable items and equipment in the work area with plastic sheeting taped securely in place.

G. After work area isolation, the Contractor shall take out all detachable electrical, heating, ventilation equipment, and other items located on the asbestos material, clean them before covering with plastic sheeting taped securely in place, and return them to their proper place after the job has been completed and the work area has been decontaminated.

H. The Contractor shall remove all heating, ventilation, and air conditioning system filters, pack them in sealable plastic bags (6-mil minimum) for burial in the approved waste disposal site and replace them with new filters.

I. The contractor shall establish emergency and fire exits from the work area. Emergency procedures shall have priority.

5. Method of Removal

A. The asbestos material shall be sprayed with water containing a wetting agent to enhance penetration. The wetting agent shall be 50% polyoxyethylene ester and 50% polyoxyethylene ether (Aqua-GRO*), or the equivalent, in a concentration of one (1) ounce in five (5) gallons of water. A fine spray of the amended water

shall be applied to reduce fiber release preceding the removal of the asbestos material. The material shall be sufficiently saturated to prevent emission of airborne fibers in excess of the exposure limits prescribed in the OSHA regulations referenced in these specifications.

B. The asbestos material shall be removed in small sections by two-man teams on staging platforms. Before beginning the next section, the material shall be packed while still wet into sealable plastic bags (6-mil minimum) and placed into fiber or metal drums or skips for transport. Bags, drums, and skips shall be marked with the OSHA label prescribed by the OSHA regulations referenced in these specifications. The outside of all containers shall be clean before leaving the work area.

C. All plastic sheeting, tape, cleaning material, clothing, and all other disposable material or items used in the work area shall be packed into sealable plastic bags (6-mil minimum) and placed into metal or fiber drums or skips for transport. The drums and skips shall be marked with the OSHA label prescribed by the OSHA regulations referenced in these specifications.

D. The Contractor shall transport the sealed drums or skips to the approved waste disposal site. The sealed plastic bags may be dumped from the drums into the burial site unless the bags have been broken or damaged. The damaged bags shall be left in the drum and the entire contaminated drum shall be buried. Uncontaminated drums may be recycled.

6. Decontamination of Work Area

A. The Contractor shall clean all surfaces in the work area with water and/or with a High Efficiency Particulate Absolute (HEPA) filtered vacuum. (A HEPA vacuum will fail if used on wet material.) After cleaning the work area, the Contractor shall wait 24 hours to allow for settlement of dust, and then wet-clean all surfaces in the work area again. After completion of the second cleaning operation, the Contractor shall perform a complete visual inspection of the work area to ensure that the work area is dust free. The Contractor shall take two air samples within 48 hours after completion of all cleaning work. (Minimum volume of air sample is 240 L).

B. If the official representative of the school finds that the work area has not been decontaminated, the Contractor shall repeat the cleaning and air monitoring until the work area is in compliance.

C. After the work area is found to be in compliance, all entrances and exits are unsealed and the plastic sheeting, tape, and any other trash and debris is disposed of in sealable plastic bags (6-mil minimum) and buried in the approved waste disposal site.

* Mention of trade names or specific products does not constitute endorsement by EPA

Air Monitoring

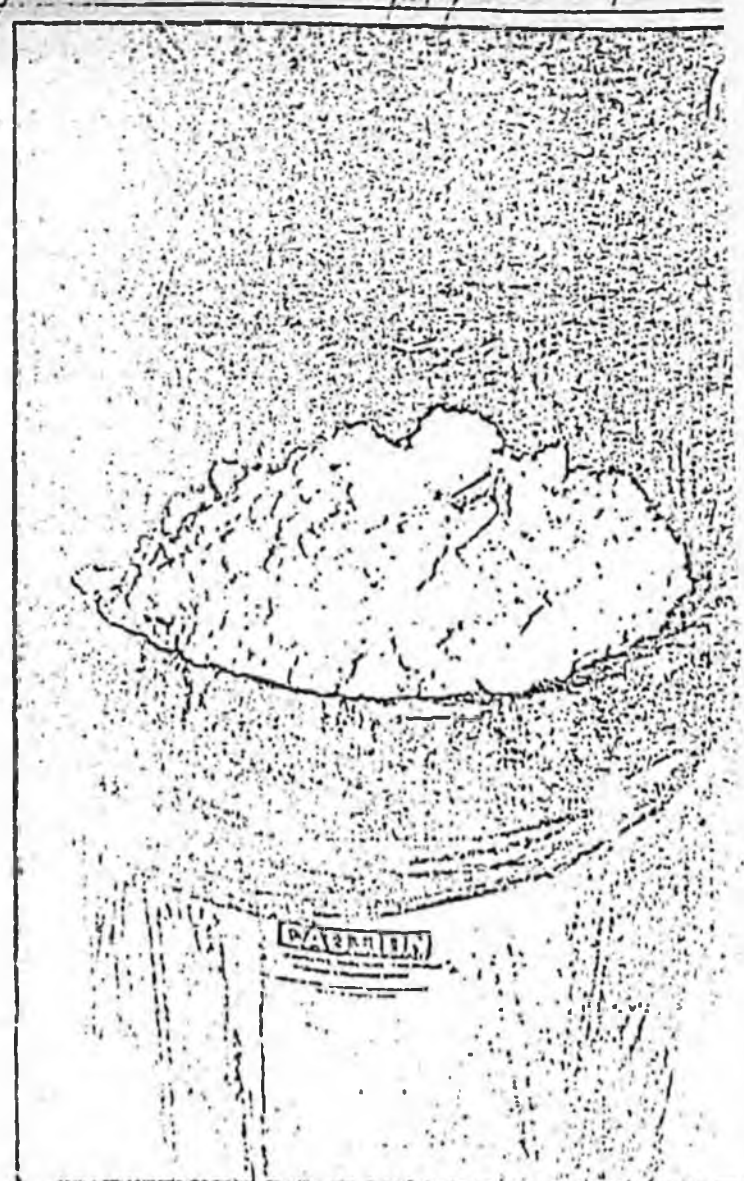
A. Throughout the entire [removal, encapsulation] and cleaning operations, air monitoring shall be conducted to ensure that the Contractor is complying with the EPA and OSHA regulations [and any applicable State and local government regulations]. The Contractor shall provide an air monitoring technician to take air samples at the job site at no cost to the Contractor.

B. Air monitoring will be conducted according to the method prescribed by Section 1910.1001(f) of the OSHA regulations.

C. Air monitoring shall be performed to provide the following samples during the period of asbestos [removal, encapsulation]:

Areas to be Sampled	Minimum Number of Samples for Each Work Day	Each Sample Minimum Volume Times
Work Area	2	120 l.
Outside Work Area	1	120 l.
Outside Building	1	240 l.

D. Samples should only be taken after actual [removal, encapsulation] work has proceeded.



Removed Material in Drum With Plastic Liner

STATE OF ALASKA

DEPARTMENT OF LABOR

JAY S. HAMMOND, GOVERNOR

BOX 1149
JUNEAU, ALASKA 99811
PHONE:

Ph: 465-2700

May 4, 1981

Ms. Nancy Dietrick
Researcher, Senator Parr's Office
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear Ms. Dietrick:

Per your request, the following information concerns the funding necessary to staff the industrial hygienist positions for our Occupational Safety and Health program. These positions are included in the budget, 50% General Fund and 50% Federal funds. The following amounts should be added to the General Fund revenue amounts as federal funding is not anticipated for FY '82.

Personal Services	
PCN 2002 & 2006 (17,346 + benefits x 2) =	\$44,002
Travel (for 2 positions including moving costs)	27,800
Contractual	7,200

It may be difficult to receive OSHA approval to use matching federal funds for non-personal services for State funded positions. Therefore, the \$7,800 in travel is required to travel in-state to inspect work places. The \$20,000 in moving costs will assure that we will be able, if necessary, to recruit out-of-state because there are very few qualified industrial hygienists available in Alaska. We did not request moving costs in our original budget in order to stay within the budgetary level.

Thank you again for your interest and support of the Occupational Safety and Health program. Please advise if you need additional information.

Sincerely,

Judy Knight
Judy G. Knight
Special Assistant

SUGGESTIONS RECEIVED FOR SB 338:

The Department of Labor would like to be notified of all renovation undertakings through the local school districts so that they can personally contact individual contractors concerning safety regulations. They would choose contact through Ray Jorgenson, Chief Industrial Hygiene, in the Anchorage office.

The Department of Community and Regional Affairs has agreed to send copies of the OSHA regulations for Worker Protection to each school district who receives a grant for renovation work.

Appropriation changes for SB 339, recommended by the DEC:

Section 1. enlarging money for testing and evaluation from \$33,250 to \$60,000. Rationale is that major problems have been uncovered since original planning, and that public education and awareness programs be included.

Section 2. expanding amount for school repairs from \$500,000 to \$3,000,000 because of extensive damage in Anchorage school system(377,188 sq. feet fo sprayed on asbestos insulation in the main school areas. Diamond, Bartlett and West schools with the major problem being the damaged areas in boys locker room and pool at West). DOE did not address this problem at the HESS committee meeting because of the nature of the information and the school districts desire not to have any further publicity on the subject. Mat-Su also reports an estimated need of \$400,000 for repairs to badly water and air damaged asbestos insulation.

Section 3. enlarge appropriation for renovations to public facilities from \$500,000 to \$1,000,000. The DEC originally reported that state facilities were in need of only minor repairs that could generally be handled through routine maintenance at no extra cost (this info from DOT/PF Inventory and Condition Survey), and that the only facilities not inventoried were those in Anchorage. I only included the lesser amount in the appropriation bill since it appeared to be all that was needed until definite information would be obtained on Anchorage facilities.

I contacted Margo Partridge, Region X office of the EPA, about the questions raised about trained professionals needing to collect samples for testing. Her opinion was that the sample collecting is not difficult, and has been handled successfully in other school districts by maintenance personnel. The only thing vital is that the training be consistent, the personnel wear protective equipment, random samples be taken, and records be maintained properly in the school district. I believe the DEC has provided for all these possibilities, and I understand that the training materials are of excellent quality.

S

B

3

74

Joanne Henry
8/30/84

for SB373/SB374

See also file folder

Senator Vic Fischer

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954



To: Nancy Dietrick, Senator Josephson
From: Steven Kadish
Date: February 14, 1984
Re: Asbestos Health Hazard Abatement Program

I have reviewed the Sponsor Substitute for Senate Bill 373 and 374 regarding the establishment of an asbestos health hazard abatement program. It looks clear, clean and good.

My comments and proposed changes are few and short. They are as follows:

(a) This draft has the responsibility for the sampling and identification of asbestos health hazards with the Department of Labor, as it should be. However, the funding responsibility for this function is with the Department of Education. I believe that it makes sense for the funding for identification and testing of asbestos be placed in the Department of Labor, who would work with the Department of Education. Grants to renovate and otherwise abate identified asbestos hazards should remain with the Department of Education.

(b) The Certification Program is written well and clearly. The intent of this section was to go beyond asbestos abatement programs in schools and public facilities to cover all such work in the state. I propose the elimination of the phrase "in a school or public facility" be removed on page 3, line 23 and line 28; and on page 4, line 4, line 11, and line 15.

(c) Is it possible to include a study of the asbestos health hazards in public facilities in this bill? The attached article explains that the federal government has appropriated about \$4.5 million for asbestos removal in Alaska. This new funding may mean that fewer dollars are needed to complete the asbestos removal work in the state's schools. A study of the asbestos in other state facilities could be funded as a result. In fact, the whole appropriation, including the facilities study, would probably be less than originally proposed.

Please let me know if you have any questions.

S B

384

MEMORANDUM

TO: JOE
FROM: NANCY
RE: TODAY'S MEETING

WE HAVE THREE BILLS SCHEDULED FOR TODAY, AND THE TWO BILLS HELD OVER FROM WEDNESDAY FROM THE CODE REVISION COMMISSION (SB 514-515). THE BILLS SCHEDULED FOR TODAY ARE:

SB 384 - AN ACT RELATING TO FOOD BANKS

A SIMILAR BILL WAS PASSED BY THE 11TH LEGISLATURE, AND WAS VETOED BY THE GOVERNOR BECAUSE THE STANDARD OF NEGLIGENCE WAS NOT SUFFICIENT TO OFFER PUBLIC PROTECTION FROM RETAIL GROCERS WHO MIGHT DONATE INFERIOR GOODS FOR THE TAX CREDIT. SB 384, AS DRAFTED IS NOT ADEQUATE TO ADDRESS THIS TASK.

THERE IS A COMMITTEE SUBSTITUTE IN YOUR FOLDER WHICH WILL:

LIMIT THE LIABILITY OF FOOD DONORS.

THE CARE STANDARD FOR DONORS IS GROSS NEGLIGENCE, AND FOR THE FOOD BANK, IT IS SIMPLE NEGLIGENCE.

IN THE DEFINITION SECTION, A SLAUGHTER HOUSE UNDER STATE INSPECTION HAS BEEN ADDED TO "DONOR": AND THE EXCLUSION IN SUBSECTION (B) IS LIMITED TO "PRIMARY ACTIVITY"

SB 424 - AN ACT RELATING TO RECOVERY OF MEDICAL ASSISTANCE EXPENSES; EFD.

THE BILL WILL GIVE DH&SS A STATUTORY BASIS TO COLLECT THIRD PARTY INSURANCE PAYMENTS FOR MEDICAL EXPENDITURES UNDER MEDICAID AND GRM. CURRENTLY, THE STATE MUST LITIGATE EACH CASE TO RECOVER FUNDS.

THE BILL ALSO PROVIDES THAT THE DEPARTMENT WILL REIMBURSE A RECIPIENT OF MEDICAL ASSISTANCE FOR ATTORNEY FEES INCURRED IN ESTABLISHING THIRD PARTY LIABILITY.

THE FISCAL NOTE ESTIMATES A \$250.0 REVENUE INCREASE FOR FY 85.

SB 528 - AN ACT RELATING TO THE SPOUSAL DEFENSE IN SEXUAL ASSAULT.

CURRENT ALASKA LAW DICTATES THAT IT IS AN AFFIRMATIVE DEFENSE THAT, AT THE TIME OF THE OFFENSE, THE VICTIM WAS THE SPOUSE OF THE DEFENDANT UNLESS THE SPOUSES WERE LIVING APART OR PHYSICAL INJURY WAS CAUSED TO THE VICTIM IN CASES OF RAPE AND SEXUAL ASSAULT.

CONSENT IS THE KEY ISSUE UNDER THE BILL, AS SECTION 1 STATES THAT IN CASES OF FIRST AND SECOND DEGREE SEXUAL ASSAULT IT IS NOT A DEFENSE THAT THE VICTIM WAS THE SPOUSE OF THE DEFENDANT.

SECTION 2 INTENDS TO EXEMPT CASES WHERE MINORS ARE LEGALLY MARRIED FROM PROSECUTION UNDER THE SEXUAL ASSAULT OF A MINOR STATUTES AS LONG AS THERE IS CONSENT. SENATE HESS CONSIDERED THIS ISSUE LAST YEAR IN CONJUNCTION WITH SB 74 - SEXUAL ASSAULT OF MINORS.

Alaska State Legislature

Representative Niilo Koponen

FAIRBANKS
Box 252
Fairbanks, Alaska 99707
479-6782

JUNEAU
Pouch V
Juneau, Alaska 99811
465-4992

MEMORANDUM

TO: Representative Niilo Koponen
FROM: Deborah Niedermeyer, Legislative Aide *DMN*
DATE: January 27, 1984
RE: HB 496 "An Act Relating to Foodbanks"

HB 496 is "Good Samaritan" legislation which has two main purposes:

- 1) To release donors to foodbanks from liability if the food which they, after careful inspection and with no knowledge of adulteration, contribute in good faith, nevertheless turns out to be unfit for human consumption, and
- 2) To release foodbanks themselves from liability if they, after careful inspection and with no knowledge of adulteration nevertheless give away food unfit for human consumption.

As of October 1983 Alaska was one of only three states which had not passed legislation similar to HB 496. The other two states which still hold foodbanks and donors to them liable are New Hampshire and Vermont. (Source: Second Harvest National Organization of Foodbanks)

History

In May of 1980 the Eleventh Alaska State Legislature passed HB 686, a bill releasing donors to foodbanks from civil and criminal liability. The measure was vetoed by Governor Hammond. The governor's veto message expressed concern because the bill included manufacturers, packers, and bottlers in the release from liability. He said "It could permit a manufacturer to donate food of marginal fitness and then obtain a tax credit."

Comparison

There are significant differences between HB 496 and the bill passed by the Eleventh Legislature:

- A) HB 496 specifically excludes commercial manufacturers, processors, and bottlers. The previous legislation did not.
- B) Where HB 496 describes in detail the conditions a foodbank or a donor must meet in order to be released from liability, the 1980

legislation said only that adulteration could not result from "intentional or grossly negligent conduct by the donor".

C) HB 496 releases both foodbanks and donors from liability and imposes conditions for that release on both. The vetoed bill dealt only with donors.

This session's legislation is a more specific, more tightly written bill. It would appear that it could answer Governor Hammond's concerns.

Position of the Department

The Department of Environmental Conservation has responsibility for regulating food manufacture and storage in Alaska. The Department supports this bill and has given it a zero fiscal note. Joe Cladouhos, D.E.C. Director of Environmental Quality Management feels, in fact, that HB 496 could go farther than it does and still not endanger the health or safety of Alaskans.

Mr. Cladouhos oversees D.E.C.'s regulation of food manufacture, processing, packing and storage. Though he may not be able to make it to Saturday's committee meeting, Mr. Cladouhos explained to me today that D.E.C.'s regulation of food industries in Alaska already provides safeguards that would allow manufacturers, packers and processors to be included in the HB 496 release from liability.

Possible Amendments

Foodbanks would like to be able to receive fresh meat, produce, and bakery good from major grocery stores. However, it is not clear whether a grocery store meat counter would be considered a "packer" and a grocery store bakery a "producer". To classify them as such would exclude them from the protections in HB 496, and make it more difficult for foodbanks to receive donations from these sources. Mr. Cladcuhos suggests that language specifically including retail food outlets in HB 496 would be both safe and appropriate.

A red meat slaughterhouse and packing facility will soon be built in Fairbanks. Foodbanks in Interior Alaska would prefer to have surplus meat from that facility go into their freezers rather than into the garbage. Mr. Cladouhos feels that it would be safe for such a facility, which will be under D.E.C. supervision, to be released from liability within the conditions established by HB 496.

Attachments: Senate CS for CS for HB 686 am S (5/19/80)
Gov. Hammond's veto letter (7/1/80)
"Waste Not, Want Not" (The Economist, 11/19/83)

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

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

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

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

465-3603

February 6, 1984

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

Dear Representative Tischer:

On February 2, 1984, I met with Representative Niilo Koponen; Deborah Neidermeyer, Administrative Assistant; and Russ Josephson, Legislative Affairs Attorney. We discussed HB 496. We focused on the concern which this office had that the legislation did not change the law but merely restated law as it stands now.

Although I have not seen the wording of a sponsor substitute for this house bill, I believe that language will be offered which will limit the liability on donors of food. The care standard for food donors will be gross negligence. The care standard for food banks, however, will be negligence.

I would like to note that included among donors are retailers which would include food markets. It is also our understanding that there will be language changes which will allow slaughter houses which are inspected by the state to be included as food donors. Also a change may be made in the wording of proposed AS 17.20.347(1)(B) which will state that certain persons that work in commercial capacities will be excluded from the definition of donor only if their primary activity is being a manufacturer, packer, processor, or bottler. These language changes bring the definition closer and closer to the problem identified in the legislation in 1980 ... that commercial business will be treated the same as non-business donors.

The Honorable Mae Tischer
Representative
Re: HB 496

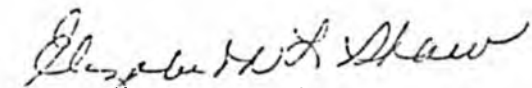
February 6, 1984
Page 2

If you have any further questions regarding this bill,
please feel free to let me know.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:



Elizabeth L. Shaw
Assistant Attorney General

ELS:bap

Enclosure

cc: Honorable Niilo Koponen
Representative

REPLY TO:

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

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

465-3603

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

January 26, 1984

JAN 1984
RECEIVED

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

Dear Representative Tischer:

This office has reviewed HB 496 as you requested in your January 24, 1984, letter to the Attorney General. You have asked that this office concentrate on the legal questions raised in 1980 when Governor Hammond vetoed SCS CSHB 686 am (limiting liability of donors of food). For your information I have included a copy of a letter drafted by the Department of Law which was sent to Governor Hammond regarding the 1980 bill. You will note that the "fatal flaw" was the fact that manufacturers, bottlers, and packers of food were included in the definition of donors thereby excluding them from a well established principle of law that they are liable for damages resulting from a failure to exercise that degree of care required to insure that the product that they produce is fit for use and is free from taint.

HB 496 excludes manufacturers, processors, bottlers or other similar entities from the definition of donor. In that respect this bill is different from the 1980 bill. However, HB 496 does not appear to change the law as it now exists.

Under HB 496 a donor of food will not be subject to civil or criminal liability arising from an injury or death attributable to the condition of the donated food if

1. the donor inspects the food and finds it apparently fit for human consumption;
2. the donor has no actual or constructive knowledge that there is anything wrong with the food or that it is harmful to health; and,
3. the injury or death is not a result of the negligence, recklessness, or intentional misconduct of the donor.

The Honorable Mae Tischer
Representative
Re: HB 496

January 26, 1984
Page 2

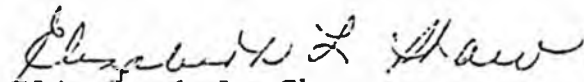
In essence the donor will be liable if he or she is negligent. ~~Such would be the case without this bill.~~ This office assumes that HB 496 is an attempt to encourage food donations by limiting the liability of food donors. In fact, however, the bill does not limit liability but merely provides that if a food donor is negligent, he or she will be liable. If he or she is not negligent, he or she will not be liable. The same analysis would hold true for the second part of the bill regarding a food bank.

If you have any further questions regarding this bill, please feel free to let me know.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Elizabeth L. Shaw
Assistant Attorney General

ELS:bap

Enclosure

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

REQUEST
 Bill/Resolution No.: CSHB 496(HESS)
 Title: An Act relating to food banks

FISCAL DETAIL
 Agency Affected: Environmental Conservation
 Program Category Affected: NRMEC

Sponsor: Koponen, M.M. Miller
 Requestor: and Davis
 Date of Request: 2/10/84

BRU, Program or Subprogram(s) Affected:
Environmental Quality Mgmt.

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0		
FEDERAL FUNDS	0	0	0		
OTHER	0	0	0		
TOTAL	0	0	0		

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Joe Cladouhos, Director Phone: 465-2640
 Division: Environmental Quality Management Date: 2/15/84

Approved by Commissioner: Richard Al Neve Date: 2/15/84
 Agency: Environmental Conservation

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Alaska State Legislature

Representative Niilo Koponen

FAIRBANKS
Box 252
Fairbanks, Alaska 99707
479-6782

JUNEAU
Pouch V
Juneau, Alaska 99811
465-4992

MEMORANDUM

TO: Representative Niilo Koponen

FROM: Deborah Niedermeyer, Legislative Aide *DNN*

DATE: 6 February, 1984

RE: Foodstamp Program

The foodstamp program does not adequately cover the needs of Alaska's poor. An income low enough to meet foodstamp eligibility standards only barely meets other basic monthly costs. Applicants with no income at all must wait at least 5 days before receiving assistance. This memorandum details foodstamp waiting periods and eligibility requirements which force many Alaskans to turn to foodbanks for help.

Eligibility

In December, 1983 5% of Alaskans (22,000 people) were using the foodstamp program.

To be eligible for benefits, a person who lives alone must make less than \$659.00 per month. At that income level, a person receives \$10.00 per month in foodstamps. A single person with no income receives the maximum assistance level of \$112.00 in foodstamps per month.

A household of four must make no more than \$1,342 per month to receive receive the minimum of \$30.00 in foodstamp assistance. At zero monthly income, the four person household receives \$374 per month in foodstamps.

Waiting Period

There is a maximum waiting period of 30 days between application for foodstamps and determination of eligibility. The Division of Public Assistance says, however, that due to the caseload, the thirty day legal maximum waiting period is also the minimum. Public Assistance admits that in some cases applicants wait even longer to find out if they will be eligible. Foodstamps must be in the mail to an applicant within 10 days of having been found eligible. Thus, the total waiting period is at least 40 days.

Households of any size which demonstrate that the household income for the previous month was less than \$150.00 and that the household has less than \$100.00 in liquid resources, qualify for "expedited determination". A quarter of Alaska's foodstamps applicants do qualify. In this case the foodstamps must be in the mail within 5 days of application. All those who are eligible for expedited determination are supposed to get the service automatically, however the Fairbanks office of the Alaska Legal Services Corporation routinely deals with cases where this has not happened.

NEWS MINER 2/7/84

State suing to get food stamp boost

JUNEAU—Failure by the federal government to enact a food stamp differential for rural Alaskans reportedly facing grocery prices amounting to 222 percent of the national average has prompted the state to sue the U.S. Secretary of Agriculture, an official said Monday.

Dr. Robert L. Smith, commissioner of the Alaska Department of Health and Social Services, said the suit was filed Friday in U.S. District Court in Washington, D.C.

Congress amended the Food Stamp Act in December of 1981 by directing the Secretary of Agriculture to adjust the amount of food stamps available to households in Alaska and Hawaii, based on their higher food costs.

But that differential has not been implemented by the Agriculture De-

partment, which administers the Food Stamp program.

A November 1983 market basket survey by the Cooperative Extension Services showed that food costs in some rural communities were as much as 222 percent of the national average, Smith said. The lowest cost community surveyed in Alaska was Anchorage, which showed prices at 109 percent of the national average.

MY NAME IS CARL LARSEN. I AM THE GENERAL MANAGER ^{OF} ~~FOR~~ THE FOOD BANK OF ALASKA. I WOULD LIKE TO THANK YOU FOR ALLWOING ME TO TESTIFY ON BEHALF OF HOUSE BILL 496.

BILLS SIMILAR TO HB 496, OR GOOD SAMARITAN LAWS, HAVE BEEN PASSED IN ALL FIFTY STATES SAVE THREE, NEEDLESS TO SAY, ALASKA IS ONE OF THESE THREE. ALTHOUGH MOST OTHER STATES DON'T EXEMPT MANUFACTURERS IN GOOD SAMARITAN LEGISLATION, HB 496 IS ^{STILL} NECESSARY FOR SEVERAL REASONS. FIRST AND FORMOST, MANY ORGANIZATIONS RELY ON FOOD DONATIONS TO HELP STRETCH THEIR BUDGETS. THE FOOD BANK SERVES OVER THIRTY FIVE SUCH AGENCIES. WE DON'T PROVIDE ALL OF THEIR FOOD AND THERE ARE MANY AGENCIES THAT WE DONT SERVE. BUT THE ONES WE DO SERVE SAVE A SUBSTANTIAL AMOUNT OF MONEY THAT NOW GOES TOWARD DIRECT PROGRAMS THAT, WITHOUT FOOD DONATIONS, WOULD HAVE TO BE SPENT ON FOOD.

DURING 1983 WE DISTRIBUTED TO OUR AGENCIES 323,985 POUNDS OF FOOD. THIS DOES NOT COUNT THE FOOD DONATED DIRECTLY TO THESE AGENCIES THAT ~~WILL~~ SOLICIT THEIR OWN DONATIONS. FOOD DONATIONS HAVE BEEN VERY SPARCE IN SOME AREAS, THIS BILL WOULD HELP ALLEVIATE ONE PROBLEM: POTENTIAL DONORS HAVE WITH DONATING: FEAR OF LIABILITY. REMOVE THAT FEAR AND IT WOULD, IN TURN CREATE FURTHER SAVINGS FOR MANY AGENCY'S FOOD BUDGETS. BY INCREASING DONATIONS.

MANY POTENTIAL DONORS DON'T DONATE FROM THEIR FEAR OF CRIMINAL OR CIVIL LIABILITY. ALTHOUGH IN THE TWENTY SOME YEARS THE FOOD BANKING INDUSTRY HAS BEEN IN ACTION THERE HAS NOT BEEN ONE LAWSUIT RESULTING FROM DONATED PRODUCT, THE POTENTIAL HARM THAT COULD RESULT FROM SUCH A SUIT IS STAGGERING. THIS FEAR OF LIABILITY EXPRESSES ITSELF MAINLY IN REDUCED DONATIONS

OR DONATIONS OF LIMITED ITEMS. DAIRY, PROTEIN AND FROZEN ITEMS
OFTEN, ALTHOUGH NOT SPOILED, GO TO WASTE ^{From} FOR FEAR OF LIABILITY.
MEAT IMPROPERLY WRAPPED, VEGETABLES PARTIALLY THAWED AND REFROZEN
AND MINOR FREEZER BURN, ALTHOUGH MAKING FOOD UNMARKETABLE, DO
NOT DETRACT FROM THE FOODS EDIBILITY.

THIS BILL WOULD ADDRESS THIS FEAR IN TWO WAYS. ONE, THE WORDING
OF THE BILL ITSELF RELEASES THE DONOR FROM LIABILITY, AND SECOND .
THE ACT OF DONATING TO A FOOD BANK WITH PAID, TRAINED STAFF WOULD
PROVIDE ANOTHER INSPECTION POINT IN THE LINE FROM DONOR TO CONSUMER.
RATHER THAN GIVING DIRECTLY TO AN AGENCY THAT SERVES PEOPLE, AN
AGENCY WITH LIMITED STAFF AND RESOURCES, THAT MAY OR MAY NOT BE
CAPABLE OF PROPERLY HANDLING THE QUANTITY OF FOOD DONATED, THE FOOD
BANK WOULD PICKUP, SORT AND SALVAGE THE FOOD. DISPOSING OF ANY
UNSUITABLE OR UNEDIBLE FOOD. THE AGENCY STAFF WOULD THEN HAVE MORE
TIME TO PREPARE AND PLAN MEALS AND DO OTHER DIRECT SERVICE TO THEIR
CLIENTS WITH LESS TIME SPENT SOLICITING AND SORTING DONATED PRODUCT.
SAVINGS OF TIME AND MONEY FOR AGENCIES AND RELEASING A DONOR FROM
LIABILITY THAT IN TURN ENABLES HIM TO GIVE EVEN MORE, ^{thus} ESCALATING
^{Agency} THOSE SAVINGS IS WHY THE LEGISLATURE SHOULD WHOLEHEARTEDLY SUPPORT
HOUSE BILL 496.

thank you.

First Reading

Gleaners fight hunger, salvage food in 11 states

In produce fields and fruit groves scattered across America, hard-pressed Americans are increasingly using a concept as old as the Bible to fight hunger. It is gleaning, the salvaging of food that otherwise would rot in the fields, whether inadvertently left behind or discarded because of blemishes, bruises, or low prices.

Gleaners are gathering some of that food through privately organized efforts in at least 11 states: Arizona, California, Colorado, Florida, Kansas, Maryland, Michigan, Missouri, Oregon, Texas, and Washington. They help fill what Congress' General Accounting Office calls "an unmet need" for food assistance among those not qualifying for government food programs, and GAO says states can help increase the amount of gleaned food.

California and Oregon, for example, give state tax deductions to farmers for the value of food gleaned from their fields. First passed in 1977, California's A.B. 120 this year was extended through 1984.

"It's an incentive for churches and other groups to go out and get the produce and say to a store or grower that he can get a tax deduction," says California Assemblyman David Kelly, who sponsored the renewal. Stores and growers can claim a charitable deduction — in addition to the business expense — for the value of gleaned or discarded food. A study is underway to determine the amount of lost taxes on such food.

In addition, the Food Marketing Institute says that 34 states have passed "Good Samaritan" laws limiting the liability of food donors. Ohio's is illustrative: "No person who in good faith donates perishable food to an agency is liable in civil damages for injury, death, or loss to persons or property that arises because that perishable food . . . is not fit for human consumption," if the food was

reasonably considered safe at the time it was donated.

Tax deductions and Good Samaritan laws, the GAO said, are "positively affecting the amount of food being donated."

Gleaning takes its cue from Leviticus 19:9-10: "When you harvest the produce of your field, do not completely mow the edge of your field or gather the gleanings of your harvest . . . leave them for the poor." Today food is also gleaned from supermarket waste.

Gleaners are the needy or volunteers gathering food for others. The needy keep what they can use with the excess going to such places as food banks. "It's not a freebie program — you work for what you get," says Judi Amos, of Everett, Wash., who has labored as a gleaner among potatoes and peaches.

"The program's really helped out my budget," adds Rachel Brown, who supports three children on welfare and food stamps. After years of dependence on others, she says with pride, "I'm helping myself and helping others."

—Bill Curry



Los Angeles Times photo by Bob Greiser

GLEANING HARVEST — Rachel Brown and her nephew, Anthony Miller, stand next to boxes of pears and vegetables that were her share for a day's work of gleaning in Washington state.

In-state preference laws enacted to govern public contract awards

One sidelight of the recent recession is that several legislatures are worried about state and local government contracts being awarded to out-of-state firms. As a consequence, at least 21 legislatures have enacted in-state preference laws.

The "Buy Minnesota" law passed last May, for example, has received nationwide publicity reflecting the generic pros and cons of implementing such protectionist legislation. (These laws differ from "Buy American" laws requiring the purchase of American-made goods and services over those from foreign countries — which don't

specify whether they must come from in-state firms.)

According to the author of the Minnesota legislation, State Representative Pat Beard, the law was intended to improve in-state employment and thus increase state tax revenues.

Beard found that 13 other states exercise in-state preference laws that include a 2-15 percent break in bidding on public works jobs against out-of-state contractors. States exercising preference are Alaska, Arizona, Arkansas, Hawaii, Louisiana, Maine, Montana, New Mexico, Oklahoma, South Carolina, Washington, West

Virginia, and Wyoming. Among them, the preference law may apply only to state agencies or extend also to municipalities and school districts.

The Minnesota law includes a provision that says any contract awarded by a state agency for engineering services, erection, construction, alteration or repair of any public building or structure, or for any public work improvement, when competitive bidding is not required, must be awarded to a Minnesota resident.

"If competitive bidding is required by law," the statute continues, "the contract must be

TO: HOUSE HESS COMMITTEE
FROM: REPRESENTATIVE NIILO KOPONEN
DATE: January 27, 1984

Waste not, want not

WASHINGTON, DC

How are America's poor to eat when their unemployment pay runs out, or when they can no longer make do on food stamps and welfare? The recession has provided an answer: a jerry-built, but enviably efficient, system of emergency food centres. This network stretches across the nation, using food that would otherwise go to waste, and shunts it quickly and in large quantities from grower or manufacturer to the various centres that feed the hungry. It is a charitable operation which employs only a few hundred people and is completely decentralised. It has grown with such speed that it has already left the agriculture department's much criticised surplus commodity programme, ensnared in red tape, far behind.

The emergency food system has its origins in the soup kitchens of the depression and before, but its growth in the past few years has been startling. Although all involved would like to consider it a temporary institution, there is a growing belief that it is here to stay and, if anything, will grow much larger.

Sixty-one regional food banks are the system's backbone. Each consists of a large warehouse equipped with freezers and usually manned by a small, paid staff supplemented by volunteers. These food banks are connected through Second Harvest, a non-profit-seeking organisation, which acts as a food broker. From its base in Phoenix, Arizona, Second Harvest approaches farmers and food manufacturers for donations and then shunts this food through three regional offices out to its members. The member food banks, either individually or through pools, pay the cost of transport, which is also sometimes donated. Once the food reaches a food bank, it is then given out to hundreds of the bank's members: churches, day centres for infants and the elderly, soup kitchens and various other organisations.

The member groups, which would previously have bought food on the open market, now support their food bank by paying a tax of between five and 12.5 cents a pound for the food they take. In this way the budget of the food bank,

usually running anywhere from \$100,000-250,000 a year, is covered. In some instances food banks are paid for by small donations. In Oklahoma, 600 people send in cheques of from \$5 to \$25 a month to keep the major local food banks going.

The entire system is private and non-profit seeking. To make sure it stays that way for tax purposes, Second Harvest certifies its member banks, inspects their operations, ensures that they charge no



No shortage of takers

more than 12.5 cents a pound in taxes, and satisfies itself that the bank members in turn are charitable organisations as defined under the tax laws.

Second Harvest began as an experimental arm of the now defunct Community Services Administration in the Carter era. Last year it handled 60m lb of food. This year the volume is expected to exceed 100m lb. Much of the food consists of products that would otherwise be thrown out by the manufacturer, not because they are bad, but because they cannot be sold for other reasons:

for example, discolouration or misspelled labels. When a Middle Eastern food broker went out of business, a trailer of macaroni with Arabic labelling was given to a food bank in New Jersey. Second Harvest dispensed 32 train carloads of a cereal which its manufacturer thought too oddly-flavoured to sell. The companies can deduct cost and half the unrealised profit from their taxes when they make such donations.

Some food banks rely heavily on farm surpluses. In northern California, where there are five large food banks, the banks collaborate to find out what crops are in surplus and to carry out exchanges between different areas. The bank in Watsonville, for example, supplies tons of artichokes and lettuce and gets, in exchange, peaches from the bank in Santa Clara and tomatoes from the bank in Sacramento. Farmers give food that would otherwise go to waste. What is left in the fields after harvest is also, in many cases, gathered in by teams of volunteer gleaners who take their pickings to the banks for sorting, cleaning and packing.

A report by a research group in Washington noted a dramatic increase in people coming to programmes served by the food banks. More than half the 181 programmes surveyed said that provision of free meals or food baskets had increased by more than half between February, 1982, and February, 1983. The Community Food Bank of New Jersey in Newark provides a good indication of the trend. Last autumn the bank was handling 10,000 lb of food a month. Now it distributes 200,000 lb a month across the state to 300 different groups which provide food to 30,000 people every day.

Some food banks in the Second Harvest system also distribute federal surplus foods under the government's programme. For the most part these consist of butter, cheese and non-fat dry milk from the government's huge surplus. But some food banks refuse to handle federal foods on the ground that it involves too much paper work. In certain states food banks say they have been deliberately denied federal food shipments, which instead have been handed out through local politicians as patronage.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

July 1, 1980

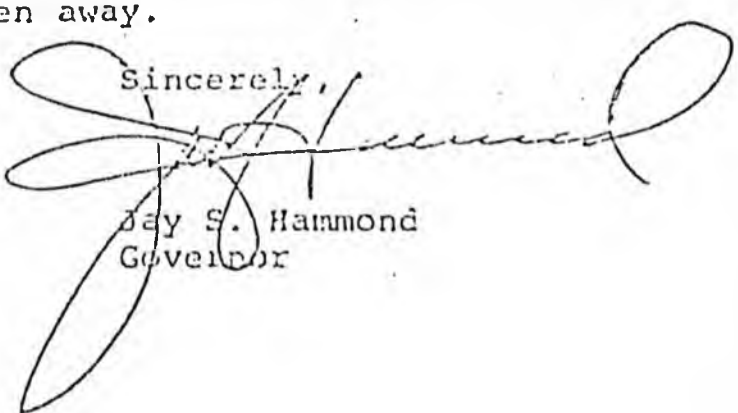
The Honorable Clem Tillion
President of the Senate
The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President and Mr. Speaker:

The legal review of Senate Committee Substitute for Committee Substitute for House Bill 686 amended Senate has convinced me to veto the measure. While on the surface it appears worthy to make it more appealing for persons to donate food to non-profit organizations by relieving them of liability due to adulteration or misbranding of the food they are donating, the failure of the bill to distinguish between donors who are manufacturers, packers or bottlers and those who are not is a fatal flaw. It could permit a manufacturer to donate food of marginal fitness and then obtain a tax credit. People receiving donated food are entitled to the same protection as persons that might buy food from the same donor.

The class of persons who manufacture food should be held to a uniform standard of care regardless of whether the food is sold or given away.

Sincerely,



Jay S. Hammond
Governor

465-3600

June 30, 1980

The Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Re: SCS CSHB 626 am S
(limiting liability of
donors of food)
Our File: J-88-146-80

Dear Governor Hammond:

This office has reviewed SCS CSHB 626 am S, the principal thrust of which relieves a person donating food to a nonprofit organization of any civil or criminal liability flowing from any adulteration or misbranding of the food, unless the alteration is the result of intentional or grossly negligent conduct on the part of the donor.

"Grossly negligent conduct" is defined as "the intentional failure to perform a duty with reckless disregard of consequences that affect the life or property of another." (The legislature forgot the comma after "duty," thus changing the literal meaning, but we assume that we know what was intended.) A donee may ask the commissioner of health and social services to inspect the food to determine if it is adulterated or misbranded.

The commissioner may delegate this inspection duty, and a broad range of other enforcement and inspection duties, to the Department of Environmental Conservation.

This bill is apparently well intentioned; it is designed to encourage the donation of food to nonprofit

organizations for their use or distribution--presumably to needy persons. However, it exacts too great a price from prospective donees as a reward for the eleemosynary conduct.

The bill's failure to distinguish between donors who are manufacturers, packers, or bottlers and those who are not is, we think, a fatal flaw. It is a well-established principle of law that manufacturers, bottlers, and packers are liable for damages resulting from a failure to exercise that degree of care required to insure that the product is fit for use and is free from taint. See 32A C.J.S. Food, sections 59-60. This bill would relieve those manufacturers from liability for negligence for illness caused by unfit food when they give away rather than sell their products. While it is admirable to encourage the donation of food to needy causes, it is unwise to eliminate the ordinary standard of care and its attendant liability. [We can, for example, imagine a manufacturer whose warehouse is laden with food of marginal fitness who would like to donate it for a tax deduction.] We do not think it proper to eliminate this person's liability for negligence should one of the donees become ill from adulterated or unfit food. Poor people receiving donated food should have no less protection than people who buy food from the donor.

IS THIS
"GROSS"
NEGLIGENCE
CAN IT HAPP.

The class of persons who manufacture food should be held to a uniform standard of care regardless of whether the food is sold or given away. To do otherwise would be to encourage socially irresponsible conduct disguised as beneficent bounty. We would suggest that you veto this bill.

Sincerely,

Wilson L. Condon
Attorney General

WLC:ml:MRL

S

B

385

MEMORANDUM

To: Senator Josephson
From: Georgia ^{GB}
Date: May 2, 1984

Re: SB 385 - An Act relating to the Alaska Commission on
Postsecondary Education; efd.

MOTION: Adopt Committee Substitute for Senate Bill 385 - An Act
relating to postsecondary education; efd.

SB 385 was introduced by the Rules Committee at the request of the Governor. Improvements to the bill were made by the Senate HESS and Judiciary committees.

The bill strengthens the residency requirements of the student loan program and sets forth civil penalties for postsecondary educational institutions which violate minimum standards. In addition, the bill provides for the cessation of support for the petroleum engineering degree in the WICHE program, as the degree has not been adopted by the other states participating in the WICHE program. Each member of the Senate Finance Committee has been provided with a sectional analysis comparing the original version of the bill and the Judiciary Committee Substitute.

A zero fiscal note accompanies the bill.

Should any members of the Senate Finance Committee have questions concerning this bill, Dr. Kerry Romesburg is present.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

385

January 27, 1984

The Honorable Jalmar Kerttula
President of the Senate
Pouch V
Juneau, Al. 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Commission on Postsecondary Education.

Section 1 of the bill limits to a period of up to four years the deferral of the repayment of the principal of a student loan for members of the armed forces of the United States who are on active duty.

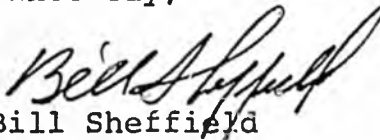
Section 2 clarifies the eligibility requirements for students applying for a scholarship loan, especially in regard to residency. Provisions are added to make clear that a person who has not properly repaid a previous student loan is not eligible for another loan, and to set out the circumstances under which a person may be absent from the state and still qualify for a student loan.

Section 3 continues the practice of ceasing to support students under the WICHE (Western Interstate Commission for Higher Education) program when a similar program of study becomes available in the State of Alaska. Graduate nursing and petroleum engineering are now available through the University of Alaska. This section, in conjunction with the delayed effective date in sec. 6 and the provisions in sec. 5, will provide for an equitable phasing out of those two WICHE programs.

- 2 -

Finally, sec. 4 will make it clear that a violation of the minimum standards for postsecondary educational institutions set out in AS 14.48.060(b) may subject an institution to a civil penalty.

Sincerely,


Bill Sheffield
Governor

Joe, Vic, Paul

SB 303 - Social Work License.

CS exempts govt employees from
license & letter of intent.

SSSB 72-

fiscal notes \$209.9
amendments from Kertula

letter of intent re: medical input in protocol

SB 385

Kerry Ronesburg - Past. Secondary Comm

Sec. 1 - military deferment or repayment
limited to 4 years

Sec 2 - Eligibility or residence

Sec 3 - Wicke

graduate nursing class in:
see 5-6 be deleted

CS

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 385
 Title: Re: Commission on
Postsecondary Education
 Sponsor: Rules
 Requestor: Senate HESS
 Date of Request: 2/2/84

FISCAL DETAIL

Agency Affected: Education
 Program Category Affected: Postsecondary
Education Commission
 BRU, Program or Subprogram(s) Affected:
Student Loans and WICHE Student Exchange

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 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
900 MISCELLANEOUS						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kerry D. Romesburg Phone: 465-2854
 Division: Commission on Postsecondary Education Date: 2/2/84

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

12/1/83