

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4513 HHS HB 42 - HB 53

8

HB

42

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H HESS	2-27-87	8:30 a.m.
" "	2-19-87	" "
" "	2-20-87	" "

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CS HB 42 (HESS)
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: University Fund

Agency Affected: Department of Revenue
ERU: Treasury

Sponsor: House HESS
Requestor: House HESS

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	22.8	61.1	119.1	198.1
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	22.8	61.1	119.1	198.1
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	22.8	61.1	119.1	198.1
TOTAL	-	-	22.8	61.1	119.1	198.1

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350
Date: February 23, 1987

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: 2/25/87

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

University Fund
(\$ 000)

<u>Fiscal Year</u>	<u>Principal Balance</u>	<u>Securities Safekeeping Fees</u>	<u>Common Stock Management Fees</u>	<u>Performance Measurement Fees</u>	<u>Total Fees</u>
1989	15,800.0	.8	10.0	12.0	22.8
1990	48,900.0	2.6	46.5	12.0	61.1
1991	81,100.0	4.3	102.8	12.0	119.1
1992	113,600.0	6.0	180.1	12.0	198.1

Notes:

1. From 2-13-87 HB 42/HJR 2 Fiscal Note prepared by Robert Elliott, Department of Revenue
2. Column 1 x 5.25¢/\$1,000, per contract
3. Column 1 x .317%, per contract, x 20%, 30%, 40%, and 50% allocation to stocks for FY 89-92, respectively
4. Per contract
5. Column: 2 + 3 + 4

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST _____

Bill Version: HB 42/HJR 2
Publish Date: _____

Revision Date: _____
Title: Creating the University Fund

Agency Affected: Revenue
BRU: _____

Sponsor: Boucher
Requestor: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Millions of Dollars)

GENERAL FUND	-	-	(16.3)	(34.1)	(33.2)	(33.5)
UNIV. FUND PRIN. BALANCE	-	-	15.8	48.9	81.1	113.6
UNIV. FUND INCOME	-	-	.5	1.9	3.9	5.8
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

See attached.

Prepared By: Robert Elliott *RE*
Division: Research/Revenue

Phone: 465-2173
Date: 2/13/87

Approved by Commissioner: *H. Mulla*
Agency: _____

Date: 2/12/87

Distribution (by Agency preparing fiscal note):

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

Continuation of Fiscal Note Analysis

For Bill/Resolution No. HB 42/HJR 2

Analysis:

Figures are based on estimated mineral revenues for January 1987 Revenue Sources, and assume a six percent nominal interest rate and voter approval of the Constitutional Amendment. University Fund Income represents amount transferred to the Board of Regents at the end of each fiscal year. The above decrease in General Fund revenues includes not only the loss of mineral revenues but the subsequent decrease in General Fund investment earnings. Estimated revenues from proposed bonus sales were not included since bids are impossible to anticipate prior to sales.

Page 2 of 2

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 42/HJR 2
Publish Date: _____

REQUEST _____

Revision Date: _____
Title: University Fund

Agency Affected: Permanent Fund Corp.
BRU: _____

Sponsor: Rep. Boucher
Requestor: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES		241.2	255.7	271.0	287.3	304.5
TRAVEL		31.0	32.9	34.8	36.9	39.1
CONTRACTUAL		192.8	204.4	216.6	229.6	243.4
SUPPLIES		3.2	3.4	3.6	3.8	4.0
EQUIPMENT	-	17.2	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	485.4	496.4	526.0	557.6	591.0
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	5	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

* According to constitutional provision Article 9, Section 15 funds cannot be comingled with Permanent Fund Assets.

Prepared By: Royce Weller *FOR P.F.C.* Phone: 465-2300
Division: Revenue/Commissioner's Office Date: 2/18/87

Approved by Commissioner: Hugh Malone *H.M.* Date: 2/18/87
Agency: Department of Revenue

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

NOTE: THIS FISCAL NOTE IS BASED ON INFORMATION SUPPLIED BY THE PERMANENT FUND CORPORATION. *H.M.*
page 1 of 1

HOUSE COMMITTEE REPORT

3/2

(7)

Date referred: 1/19/87

FURTHER REFERRALS:

Finance

DATE: _____

The Health, Education and Social Services Committee has considered HB 42

"An Act relating to the university fund; and providing for an effective date.

RECOMMENDS:

- replace with CSHB 42 (Hess) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- 2 fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING TO PASS:

Nita Kojima

SIGNING OTHER RECOMMENDATIONS:

ROD E. PELLERIN - No Rec.

J. Ellis - no rec.

Mrs. [unclear] / no rec.

[unclear]

Wendy Jouley - no rec.

Clyde [unclear] - No Rec.

J. Ellis
CO-chairman's signature

Nita Kojima

HB 42 -- "An Act relating to the university fund; and providing for an effective date."

FILE CONTENTS

- 1) Copy of HB 42
- 2) Memo from staff
- 3) Fiscal note from Department of Revenue
- 4) Fiscal note from Alaska Permanent Fund Corporation
- 5) Memo from bill sponsor, Rep. Boucher
- 6) Department of Revenue's General Investment Policies
- 7) Draft of Committee Substitute for HB 42 (HESS)



Alaska State Legislature
House of Representatives
COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCH V
JUNEAU, AK 99811
465-3759

February 18, 1987

M E M O R A N D U M

TO: House HESS Committee members
FROM: HESS Committee staff
SUBJECT: HB 42 and HJR 2

Section (1) (c) of HB 42 requires the Alaska Permanent Fund Corporation to also manage the university fund. While the Corporation has prepared a fiscal note, the Trustees of the Alaska Permanent Fund have not taken an official position on HB 42. Jim Kelly, from the Corporation, indicated that HB 42 will be on the agenda for the next board meeting, March 9, 1987. After that time, the Corporation will be prepared to present its position to the next committee of referral, House Finance, if the HESS committee passes out the bill before then.

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4931

DISTRICT 10
BOX 111038
ANCHORAGE, ALASKA 99511
(907) 349-2192



CHAIRMAN
Special Committee on
Telecommunications

MEMBER
Labor and Commerce
State Affairs
Finance—Subcommittee Administration

Representative H. A. "Red" Boucher

MEMORANDUM

February 16, 1987

TO: Representative Koponen, Co-Chairman
Representative Ellis, Co-Chairman
Health, Education and Social Services Committee

FROM: Representative Boucher

SUBJECT: Background on House Bill 42, an Act relating to the university fund; and providing for an effective date.

House Bill 42 has been referred to your committee for consideration. This bill represents an effort to provide a stable source of funding for the university system. House Bill 42 is the accompanying legislation which amends the Constitution and places a ballot question before the voters in the 1988 General Election to create a University Fund.

This fund would be capitalized by 5% of the mineral royalty income received by the state after January 1, 1989. That amount is estimated as follows for the next four years:

<u>YEAR</u>	<u>TOTAL AMOUNT (MILLIONS OF DOLLARS)</u>
FY 89	\$16.3
FY 90	34.1
FY 91	33.2
FY 92	33.5

These estimates were derived from the Department of Revenue's estimated mineral revenues for January 1987 Revenue Sources. They reflect the loss of mineral revenues and the subsequent decrease in General Fund investment earnings.

HB 42 Background, Page Two

All income received from the University Fund would be transferred to the Board of Regents to be used for the University. Legislative appropriation would not be required to spend the money.

The University Fund would be handled by the Permanent Fund Corporation, and current investment procedures of the Permanent Fund would be followed, with allowances for additional legislative appropriations.



Alaska State Legislature
House of Representatives
 COMMITTEE ON HEALTH, EDUCATION
 AND SOCIAL SERVICES

GUEST SIGN IN SHEET

JOINT MEETING OF SENATE AND HOUSE HESS COMMITTEES

Date: 2/20/87 Subject of Meeting Mental Health Trust Lands, HTR 2, HB 42 (House Only)

Name	Address / Representing	Phone	Do you want to Testify?
Karen Perdue	Box H-01 DASS	3030	NO
Dee W. Roym	1790 Evergreen Ave - Int M.H. Commi POB 7005 Anch AK	586-1202	Yes
Anthony Broder	99510 DNR	762-4344	NO

Original sponsor: Boucher

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 42 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the university fund; and provid-
7 ing for an effective date."

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

9 * Section 1. AS 37.14 is amended by adding new sections to read:

10 Sec. 37.14.300. UNIVERSITY FUND. (a) There is established as a
11 separate endowment trust fund the university fund consisting of

12 (1) five percent of all mineral lease rentals, royalties,
13 royalty sale proceeds, net profit shares under AS 38.05.180(f) and
14 (g), and federal mineral revenue sharing payments received by the
15 state after January 1, 1989, from mineral leases issued on or before
16 December 1, 1979, and six percent of all bonuses received by the state
17 after January 1, 1989, from mineral leases issued on or before Febru-
18 ary 15, 1980;

19 (2) any other money appropriated to the university fund.

20 (b) Payments due the university fund under (a) of this section
21 shall be made to the fund once each month.

22 (c) The net income of the university fund shall be determined by
23 the commissioner of revenue in accordance with investment accounting
24 principles and in a manner that preserves the distinction between
25 principal and income.

26 Sec. 37.14.310. FUND USE. (a) The principal of the university
27 fund and the capital gains or losses realized on the principal shall
28 be perpetually retained in the fund for investment purposes.

29 (b) At the end of each fiscal year the net income from the

1 university fund as determined under AS 37.14.300(c) shall be trans-
2 ferred to the Board of Regents of the University of Alaska. Income of
3 the university fund transferred to the Board of Regents of the Univer-
4 sity of Alaska under this section shall be used for the University of
5 Alaska under AS 14.40 and other applicable provisions of law.

6 (c) Realized net income that has not been transferred to the
7 Board of Regents of the University of Alaska under (b) of this section
8 shall be invested until transferred.

9 Sec. 37.14.320. DUTIES OF THE COMMISSIONER OF REVENUE. The
10 commissioner of revenue is the treasurer of the university fund and
11 shall

12 (1) act as official custodian of the cash and investments
13 belonging to the fund by securing adequate and safe custodial facil-
14 ities;

15 (2) receive all items of cash and investments belonging to
16 the fund;

17 (3) collect the principal and income from investments owned
18 or acquired by the state treasury and deposit the amounts in separate
19 principal and income accounts for the fund;

20 (4) invest and reinvest the assets of the fund under
21 AS 37.14.330;

22 (5) generally exercise the powers of an owner with respect
23 to the assets of the fund;

24 (6) do all acts, whether or not expressly authorized, that
25 the commissioner of revenue considers necessary or proper in adminis-
26 tering the assets of the fund;

27 (7) maintain accounting records of the fund under invest-
28 ment accounting principles and with distinction between the principal
29 and income accounts of the fund;

1 (8) contract with an independent firm of certified public
2 accountants to annually audit the financial condition of the fund's
3 investments and investment transactions;

4 (9) enter into and enforce all contracts or agreements
5 considered necessary, convenient, or desirable for the investment
6 purposes of the fund; and

7 (10) report to the Board of Regents of the University of
8 Alaska the condition and investment performance of the fund.

9 Sec. 37.14.330. INVESTMENTS. (a) The commissioner of revenue
10 is the fiduciary of the university fund and shall invest the fund to
11 provide increasing net income over long-term periods. In investing
12 the assets of the fund the commissioner of revenue shall exercise the
13 judgment and care under the circumstances then prevailing that an
14 institutional investor of ordinary professional prudence, discretion,
15 and intelligence exercises in managing large trust investments with
16 consideration for the purpose of the funds, the investment objectives,
17 the continuing disposition of the fund's investments, and the probable
18 safety of the capital as well as the probable investment returns.

19 (b) In managing the university fund, the commissioner of revenue
20 shall

21 (1) consider the status and income of the fund's capital on
22 both a current and a probable future basis;

23 (2) determine the appropriate investment objectives;

24 (3) establish investment policies aimed at achieving the
25 objectives; and

26 (4) act only in regard to the long-term financial interests
27 of the fund's beneficiaries.

28 (c) The discretionary acquisition or disposition of investments
29 in the fund shall be at competitive national or international market

1 rates or prices or the equivalent in the judgment of the commissioner
2 of revenue.

3 (d) In exercising the duties and powers set out in this section
4 and AS 37.14.320, the commissioner of revenue may

5 (1) delegate investment, custodial, or depository authority
6 on a discretionary or nondiscretionary basis to officers or employees
7 of the state or to independent firms, banks, or trust companies, by
8 designation through appointments, contracts, or letters of authority;

9 (2) invest the university fund on the basis of probable
10 total rate of return as a means of promoting the long-term generation
11 of income;

12 (3) acquire or dispose of investments, either directly,
13 indirectly, or through investment pools or trusts, by competitive or
14 negotiated agreements, contracts, or auctions, in public or private
15 markets;

16 (4) concentrate or diversify the investments of the univer-
17 sity fund as appropriate in order to increase the probable total rate
18 of return on the fund or to decrease the fund's overall exposure to
19 potentially adverse market value risks;

20 (5) protect the market value or the rate of return of the
21 university fund's investments by entering into forward agreements to
22 buy or sell assets at a future date as a hedge against existing held
23 assets or as a precommitment of future cash flows;

24 (6) lend under an agreement and for a fee assets of the
25 university fund against deposited collateral of equivalent market
26 value;

27 (7) hold investments in bearer form or in registered form
28 in the name of the university fund or authorized nominees;

29 (8) use consultants, advisers, custodians, investment

1 services, and legal counsel for assistance in investment matters on
2 either a continuing or a limited term basis and with or without com-
3 pensation; and

4 (9) withhold information that discloses the particulars of
5 the business or the affairs of a private enterprise, investor, bor-
6 rower, adviser, consultant, counsel, or manager as confidential and
7 nonpublic records subject to disclosure only as required in a court
8 proceeding or for purposes of an official law enforcement proceeding.

9 * Sec. 2. This Act takes effect on the effective date of a constitu-
10 tional amendment establishing a university fund.

H B

4 9

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
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May, 1988

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Mary Van Nimwegen

H HESS

4-10-87

8:30a.m.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SSHB49
Publish Date : _____

Revision Date: 02/11/87
Title: "An act relating to deduction from a term of imprisonment."
Sponsor: Representative Zawacki
Requestor: _____

Agency Affected: Corrections
BRU: Administration and Support
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	373.7	363.7	363.7	363.7	363.7	363.7
TRAVEL	60.0	63.0	66.1	69.4	72.9	76.5
CONTRACTUAL	30.0	31.5	33.1	34.7	36.4	38.2
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	30.0	2.0	2.0	2.0	2.0	2.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	485.7	462.2	466.9	471.8	477.0	482.4

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	485.7	462.2	466.9	471.8	477.0	482.4
FEDERAL FUNDS						
OTHER						
TOTAL	485.7	462.2	466.9	471.8	477.0	482.4

POSITIONS:

FULL-TIME	8	8	8	8	8	8
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached page

Prepared by: Susan Knighton, Research Analyst IV
Division: Administrative Services

Phone: 465-3376
Date: 04/08/87

Approved by Commissioner: Susan Humphrey-Barnett
Agency: Department of Corrections

Date: 4-9-87

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SSHB49

This legislation would require the Parole Board to hold hearings to determine if prisoners have followed the rules of the correctional facility where confined and therefore may receive a deduction of one-third of the term of imprisonment. Hearings will be required for all persons sentenced to a term of imprisonment that exceeds three days.

The legislation also requires the Parole Board to develop, adopt and administer regulations for the forfeiture and restoration of forfeited good time.

Currently all these functions are defined within the Department's regulations, administered through statewide policy and procedures and performed by institutional staff.

Based on the number of long-term felons incarcerated and the number of short-term prisoners who are incarcerated for more than 3 days, the Department estimates that approximately 3,400 additional hearings would be held each year. The current Parole Board is composed of lay members and conducts approximately 1,000 hearings per year.

To accommodate the increased workload, the department proposes to create a full-time, compensated Parole Board of three members and support staff.

Parole Board Member 21A	\$59,997 X 3	=	\$179,991
Probation Officer II 16A	43,411 X 3	=	130,233
Clerk Typist II 7B	26,732 X 2	=	53,464
Travel			60,000
Contractual - Increase Office Space			30,000
Supplies			2,000
Equipment			<u>30,000</u>
TOTAL FY88 COSTS			\$485,688



Alaska State Legislature House of Representatives

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(907) 783-2905

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-2693/2719

REPRESENTATIVE
JIM ZAWACKI
DISTRICT 7

MEMBER
COMMUNITY & REGIONAL
AFFAIRS COMMITTEE
LEGISLATIVE BUDGET &
AUDIT COMMITTEE
FINANCE SUBCOMMITTEE

MEMORANDUM

May 6, 1987

TO: Representative Johnny Ellis
Co-Chair, House HESS Committee

FROM: Representative Jim Zawacki

SUBJ: SSHB 49

At present in Alaska statutes a prisoner convicted of an offense against the state or a political subdivision of the state and sentenced to a term of imprisonment that exceeds three days is entitled to a deduction of one-third of the term of imprisonment rounded off to the nearest day if the prisoner follows the rules of the correctional facility in which the prisoner is confined.

Sponsor Substitute for House Bill 49 would amend the process to the authority of the Parole Board. The point of the proposal is to remove the automatic reduction of one-third of sentences, which removes the certainty of the reduced sentence which a person might face when contemplating or committing a crime against society. It would reintroduce an element of uncertainty which a potential criminal would face.

Our criminal justice system is now automated almost to the point that a person may contemplate absolute consequences while contemplating the crime. That option removed, we just might reduce the attractiveness of criminal behavior.

The notion of saving money in the justice and penal systems by providing for early release of prisoners is defeating the intentions of the system and trying to save money at the wrong end of the criminal justice process. Tougher laws, properly enforced do deter criminal activity. If we seek to save money, there is the place to do it. Evidences of it exist in many societies other than our own.

Justice wanting to be merciful must consider the rights and plights of victims, not only those of criminals. If we have a soft spot in our legal heart, it should be for victims and those who will become victims if we do not stiffen laws, prosecution and penalties.

Thank you.

A handwritten signature in cursive script, reading "Jim Zwacki". The signature is written in black ink and is positioned below the typed text "Thank you.".

HB

50

BILL NO: SSHB 50

DATE: 4/23/87

TITLE: "An Act relating to access to criminal records of applicants for certification as teachers and administrators."

CONTACT: Jos Mapranath
Director
Div. of Admin. Services

The Department of Public Safety supports passage of this bill.

Below is a discussion as to how SSHB 50 will impact our Department, specifically the Alaska Automated Identification Fingerprint System (AAFIS).

There are approximately 2800 to 3200 people that would be applying for certification to the Department of Education upon the adoption of SSHB 50.

In order to determine the impact of SSHB 50 on the Alaska Automated Fingerprint Identification System, one must understand how the applicant tenprint cards are processed because of AS 12.62.035.

AAFIS OVERVIEW

Fingerprint cards pursuant AS 12.62.035 and the required FBI fees are received by AAFIS for processing. They are then checked for the following information:

- a. People that have fingerprints on file and criminal conviction(s)
- b. People that have a criminal conviction file and no fingerprints for verification
- c. People that have no file and no fingerprints in AAFIS
- d. Fingerprint cards that do not contain enough information for an FBI or AAFIS search or do not have the required monies attached to each card.

Every effort is made to establish the correct identification on those cards from b. above. The interested party as well as the applicant is notified of any conviction that can be reported under AS 12.62.035. They are also advised that the record is not supported by fingerprints.

All fingerprint cards are searched in AAFIS and anyone having an existing conviction that is verifiable by fingerprints will have the file checked to determine if the offense is reportable under AS 12.62.035. If so, the interested party and the applicant are notified of the charge and disposition.

The interested party is notified when there is no conviction of a crime reportable under AS 12.62.035.

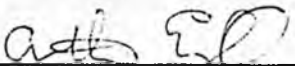
Fingerprint cards from d. are sorted to determine if they are acceptable to AAFIS and not the FBI. If so, they are routed for processing by AAFIS. When AAFIS has completed processing the cards, they are returned to the interested party advising them of the results of the AAFIS search and why the FBI will not accept the cards. Fingerprint cards that cannot be processed by AAFIS or the

DEPARTMENT OF
PUBLIC SAFETY

POSTMASTER /
RETURN TO
ALASKA DEPARTMENT OF
PUBLIC SAFETY
1000 W. WASHINGTON
ANCHORAGE, ALASKA 99501

Position Paper
SSHB 50

FBI are so stamped and returned to the interested party with a letter advising why they are returned. Cards acceptable to the FBI are mailed to them and upon their return are examined for any convictions reported by agencies outside Alaska that must be reported under AS 12.62.035. If the conviction is reportable, the interested party and the applicant are notified. If there is no conviction or no conviction that is reportable, the interested party is notified accordingly.



Arthur English
Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SSHB 50

Publish Date: _____

REQUEST

Revision Date: _____

Title: "An Act relating to criminal records of app. for cert. as teachers.

Sponsor: Rep. Zawacki

Requestor: House HESS

Agency Affected: Public Safety

BRU: DPS Administration

Components: Administrative Svcs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	18.4	19.0	19.6	20.2	20.8
TRAVEL						
CONTRACTUAL		.4	.4	.4	.4	.5
SUPPLIES		.1	.1	.1	.1	.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	18.9	19.5	20.1	20.7	21.4
CAPITAL						
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS	0	18.9	19.5	20.1	20.7	21.4
FEDERAL FUNDS						
OTHER						
TOTAL	0	18.9	19.5	20.1	20.7	21.4

POSITIONS:

FULL-TIME						
PART-TIME	0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Allows entry of data on teachers/administrators in conjunction with AS 12.62.035. Will require 1 part-time Clerk IV with minimal support costs to accept and process data into the AAFIS system. 3% inflation factor added into future years.

Prepared by: Joe Reeves, Budget Analyst

Phone: 465-4349

Division: Administrative Services

Date: 4/23/87

Approved by Commissioner: [Signature]

Date: 4/24/87

Agency: Public Safety

Distribution (by preparer):

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

Position Title Clerk IV		No. of Positions 1	Range/Step 9/A	Barg. Unit CGU
Time Status PPT	Staff Months 8.0	Location Anchorage		Election District 7-15
Type of Expenditure		Justification		
1	2	3		
Salary	13.8	////	This position will be responsible for accepting and processing applicant fingerprint card information received from the Department of Education.	
Benefits	4.6	////		
Premium Pay		////		
Other		////		
Other Personal Services	////	18.4	Support costs of \$400 in contractual communications.	
Travel				
Contractual		.4		
Commodities		.1	\$100 in minimal supply costs.	
Equipment				
Other				
Total Cost		18.9		
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	18.9		
I-A Receipts	1006			
CIP Receipts	1061			
Other				
////				

REQUEST FOR
NEW POSITION

Agency Department of Public Safety
 BRU DPS Administration
 Component Administrative Services

Page 2 of 2
 Revised Date

FY 88

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/15/87

FURTHER REFERRALS: Judiciary

The Health, Education and Social Services Committee has considered DATE: May 5, 1987
SSHB 50

"An Act relating to access to criminal records by the Department of Education."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Roll E. Bell
George Stanley
John E. Ellis
Bill Harts
Willa Kapan
Mark Thompson
Donna Touley

SIGNING OTHER RECOMMENDATIONS:

John E. Ellis
 also chairman's signature
Willa Kapan

SSHB 50 An Act relating to access to criminal records by
the Department of Education.

FILE CONTENTS

- 1) Copy of SSHB 50
- 2) Fiscal Note, 4/23/87, and Position Paper,
Department of Public Safety
- 3) Department of Education position paper, HB 50
- 4) Zero Fiscal Note with analysis, 1/27/87,
Department of Law, HB 50
- 5) Zero Fiscal Note, 1/29/87, Department of
Corrections
- 6) Back-up material from Rep. Zawacki
- 7) Letter of intent from Rep. Zawacki, 5/5/87
- 8) Zero Fiscal Note, Department of Law, 5/5/87
- 9) Position paper, Juneau Schools
- 10) House HESS Minutes, 5/5/87

STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

REQUEST: _____

Bill Version: SS HB 50

Publish Date: _____

Revision Date: _____

Agency Affected: Department of Corrections

Title: "An Act relating to criminal records of applicants for certification as

BRU: _____

Sponsor: teachers"

Components: _____

Requestor Rep. Zawacki

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susan E. Knighton, Research Analyst IV

Phone: 465-3376

Division: Statewide Programs

Date: 5-5-87

Approved by Commissioner: Susan Humphrey-Barnett

Date: 5-5-87

Agency: Department of Corrections

Distribution (by preparer):

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



ALASKA ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS
ALASKA ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS
ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
328 Fourth St., Suite #211 Juneau, Alaska 99801 586-9702

May 5, 1987

The Honorable Jim Zawacki
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Zawacki:

The Alaska Council of School Administrators support necessary legis-
lation which considers the health and safety of the children we serve.

Several of us have been personally involved in dealing with profes-
sional employees who have violated the rights of the child. We
support the concept that an ounce of prevention is worth a pound of
cure.

The passage of HB 50 would provide additional information which could
be so important in hiring qualified teachers and administrators.

Again, the Alaska Council of School Administrators lends it's support
to HB 50.

Sincerely,

A handwritten signature in cursive script that reads 'Stephen T. McPhetres'.

Stephen T. McPhetres
Executive Director

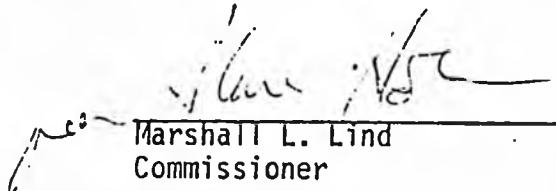
STM:clc

POSITION PAPER

FIRST SESSION
15th ALASKA LEGISLATURE

HB-50

The Department of Education supports this Bill. It will permit the Department to require a criminal background check of all applicants for teacher certification.



Marshall L. Lind
Commissioner

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: HB50

Publish Date: _____

Revision Date: _____

Agency Affected: Department of Law

Title: "An Act relating to access to
criminal records of applicants..."

BRU: Prosecution

Sponsor: Repr. Zawacki

Components: Admin. & Support

Requestor: Repr. Zawacki

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director

Phone: 465-3672

Division: Administrative Services

Date: Jan. 27, 1987

Ronald W. Lorenson

Approved by Commissioner: Acting Attorney General

Date: Jan. 27, 1987

Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB50

This bill amends AS 12.62.035(e) to provide that the Department of Education is an interested person with respect to a request for records of a person seeking certification as a teacher or administrator. The safekeeping and administration of criminal records are handled by the Department of Public Safety. Consequently, this bill will not have a fiscal impact on the Department of Law.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: House Bill No. 50
Publish Date: _____

Revision Date: _____

Agency Affected: Department of Corrections

Title: "An act relating to criminal records of applicants for certification as teachers..."

BRU: _____

Sponsor: Representative Zawacki

Components: _____

Requestor: Representative Zawacki

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susie Riley, Budget Analyst
Division: Administrative Services

Phone: 465-3376
Date: 01/29/87

Approved by Commissioner: William W. Ladwig
Agency: Department of Corrections

Date: 01/29/87

Distribution (by preparer):

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



Alaska State Legislature

House of Representatives

P.O. BOX 783
GIRDWOOD, ALASKA 99587
(907) 783-2905

REPRESENTATIVE
JIM ZAWACKI
DISTRICT 7

MEMBER
COMMUNITY & REGIONAL
AFFAIRS COMMITTEE
LEGISLATIVE BUDGET &
AUDIT COMMITTEE
FINANCE SUBCOMMITTEE

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-2693/2719

MEMORANDUM

May 5, 1987

TO: Representative Dave Donley
House HESS Committee

FROM: Representative Jim Zawacki

SUBJ: SSHB 50

The intent and purpose of Sponsor Substitute for House Bill 50 is to qualify the Department of Education as an "interested party" in checking possible criminal records of applicants for teaching or administrative positions in our schools.

Of the 55 school districts in state, no more than five have any procedure for checking possible criminal records of new applicants for teacher or administrator positions. Only five take advantage of facilities in the federal criminal justice information system to help protect our children. SSHB 50 would qualify the Department of Education as an "interested party" entitled to use the system by fingerprinting of new teacher and administrator applicants.

DOE would include in their application for certification of teachers or administrators the requirement of the applicant to have a set of fingerprints done. This bill would mainstream the screening process for those school districts who do or do not do screening of applicants.

There are potential dangers to our children when new teachers or administrators in our schools may have disclosed criminal records. Recent media reports have made it clear that Alaska is not immune from such dangerous possibilities. I believe this bill is important to us and our children.

I do hope you see the importance of this bill and help pass it out of committee as soon as possible.

Thank you.

A handwritten signature in cursive script that reads "Jim Zawacki".

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version : SSHB 50

Publish Date : _____

Revision Date: May 5, 1987

Agency Affected: Department of Law

Title: "An Act relating to access to

BRU: Prosecution

criminal records by the Dept. of Education."

Sponsor: Representative Zawacki

Components: Criminal Justice Litigation
and Legal Services

Requestor: Representative Zawacki

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director

Phone: 465-3672

Division: Administrative Services

Date: May 5, 1987

Approved by Commissioner: Richard I. Pegues / FOR / Grace Berg Schaible, Atty. Gen.

Date: May 5, 1987

Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SSHB 50

The sponsor substitute for HB 50 adds a new requirement that the Department of Education shall also request criminal records on behalf of school districts that employ persons serving in positions having a supervisory or disciplinary power over a minor. As noted in the department's fiscal note on the original bill, this bill will not have a fiscal impact on the Department of Law. The sponsor substitute could have a substantial fiscal impact on the Department of Education in handling all of the requests that may come from school districts, and Education should be requested to address this issue.



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 273-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

Jean Krause, President

Judy Sato
Vice-President
4510 Kenallze Court
Kenai, Alaska 99611

Susan Stitham
NEA Director
P.O. Box 80913, College Station
Fairbanks, Alaska 99708

Alan Dill
Region I Director
P.O. Box 423
Sitka, Alaska 99835

Phil Myerchin
Region I Director
717 Canyon Road
Ketchikan, Alaska 99901

Teresa Banolkin
Region II Director
P.O. Box 874335
Wasilla, Alaska 99687

Beverly Goad
Region II Director
Box 343
Copper Center, Alaska 99573

Don Oberg
Region III Director
Box 1084
Kenai, Alaska 99611

Phil Brady
Region IV Director
Scammon Bay Schools
Scammon Bay, Alaska 99662

Myra Poage
Region IV Director
Box 073
Nome, Alaska 99762

Joann Walker
Region IV Director
Box 570
Kotzebue, Alaska 99752

Mary Lou Brent
Region V Director
Box 80074
Fairbanks, Alaska 99708

Carol Merritt
Region V Director
P.O. Box 60475
Fairbanks, Alaska 99706

Loretta Christie
Region VI Director
2220 Yorkshire Lane
Anchorage, Alaska 99504

Pam McCarl
Region VI Director
2115 Sorbus Way
Anchorage, Alaska 99508

Pam Reynolds
Region VI Director
8031 Evans Circle
Anchorage, Alaska 99507

Dave Schwantes
Region VI Director
8148 E. 4th Avenue
Anchorage, Alaska 99504

Peg Stout
Region VI Director
6208 E. 34th Avenue
Anchorage, Alaska 99504

May 5, 1987

To: Rep. Ellis & Rep. Koponen, Co-Chairs
Members, House HESS Committee

Re: Sponsor Substitute for House Bill No. 50: "An Act relating to access to
criminal records by the Department of Education."

NEA-Alaska supports SS for HB 50.

Presently criminal records inquiries are handled by each individual school district
as the employer. As a result, the procedures from district to district are not
standardized and prospective applicants may incur an expense attendant to the
record check in each district to which they apply.

SS for HB 50 provides that the Department of Education shall be responsible for
conducting the record check on behalf of all persons seeking certification and on
behalf of school districts.

This should improve the procedure and make the entire process more efficient.

Robert Manners
Robert Manners
Executive Secretary

BM67/dl



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

The Honorable Jim Zawacki
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

April 10, 1987

Dear Jim:

We have reviewed the Sponsor Substitute for House Bill 50 and find that the editorial change on line 24 that substitutes "shall" for "may" goes a long way toward addressing a number of the concerns teachers have regarding criminal background checks.

NEA-Alaska supports this legislation because it describes a better method for doing criminal background checks on certificated personnel than the current practices.

Sincerely,

Bob Manners
Executive Secretary

Jean Krause
President

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510 • (907) 586-1083

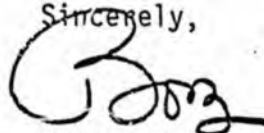
April 10, 1987

The Honorable Jim Zawacki
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Representative Zawacki:

I have reviewed House Bill 50, checked it against statutes and practice, and have discussed it with the Association of Alaska School Boards Board of Directors. We find it an appropriate piece of legislation, and one which would enhance the teacher selection process in Alaska. We have no hesitation in endorsing the bill, and if members of the Association or I may assist with further information or testimony, please let me know.

Sincerely,



Robert C. Greene
Executive Director

RCG/sm

Cordova Chamber of Commerce

P.O. Box 99
Cordova, Alaska 99574
(907) 424-7260



Representative Jim Zawacki
House of Representatives
Pouch V
Juneau, Alaska 99811

April 21, 1987

Dear Representative Zawacki:

The Cordova Chamber of Commerce has reviewed House Bill 50 and voted unanimously on April 20 to support the bill which will permit the department to require a criminal background check of all applicants for teacher certification. We agree it is an issue of urgent concern.

To update you on our staff with the Chamber of Commerce; Connie Taylor is now President and Cathy Sherman is Coordinator.

Thank you for including the Cordova Chamber of Commerce while soliciting support for House Bill 50.

Sincerely,

A handwritten signature in cursive script that reads 'Connie Taylor'.

Connie Taylor
President

file W/MS 30

Penit

...Former school teacher convicted of child sexual abuse

Continued from page A-1

As Jones listened to Cowan deny the state's contention that Foster's extensive support group in Anchor Point was blind to Foster's actions, he could suppress his anger no more. He jumped up and shouted, "That's not true!" He continued shouting that Foster had manipulated his attorney just as he had manipulated everyone else. His wife, Jane, joined the fracas, adding, "Let the people who know talk!"

Judge Cranston called for a quick recess and Jones was escorted from the courtroom by state troopers. Outside the courtroom, friends and troopers tried to calm him down.

"We paid to have that man molest our daughter," Jones said.

Trooper D. Culbertson tried an understanding approach. "You are in a situation in which you are totally helpless," he said. "But you're going to have to be quiet. I can't promise you it's going to turn out good." The Jones eventually returned to the courtroom.

It wasn't the only outburst during the hearing, which lined up Foster's supporters on one side of the courtroom and the victims' parents and friends on the other side. At one point, the victims' parents heckled Geraldine Foster, mother of the defendant, when she testified on the stand that Foster was "an outstanding son," and she thought he should be released to the support of his family and friends.

Judge Cranston reprimanded the audience, stating, "I don't want this to turn into an emotional exercise and will not hesitate to clear the courtroom."

According to an article in an October issue of The Homer News, Foster came to the area in 1977 to be head teacher at the Anchor Point

Christian School. At that time, he was affiliated with the Anchor Point Church of Christ. He and about 40 people later broke off from that church. The article pointed out that adults associated with the school described Foster as a person who didn't get along well with some adults, but got along especially well with young girls.

Foster taught at the school until 1986, when he and his whole family, including parents, brother, and brother-in-law and their families, left and moved to Washington. The school closed down at the end of the 1985 school year.

But he returned to the area, so the four girls whom he had abused and who had kept quiet since 1981, went to the police to keep it from happening to anyone else. Foster was arrested in Clark County, Wash., and returned to Alaska voluntarily to face prosecution. He pleaded no contest to four Class C felonies, involving sexual penetration of minors between the ages of 13 and 16, and four counts of sexual contact with minors of the same age, Class A misdemeanors.

Shannon Turner, assistant district attorney, argued for a 16-year sentence with eight years suspended. She said that although there were only four specific counts with four girls, he also had sexual intercourse with a 12-year-old girl over a two-year period of time. "The number of events (in the charges) doesn't reflect the total number of events which occurred because of the statute of limitations," Turner said.

Turner said that as late as last summer Foster was having sexual contact with a 16-year-old girl which started when she was 12, but that that wasn't included in the charges because a 16-year-old girl can give legal

consent. She added that on at least one occasion he had sexual contact with one child aged 13 while another girl watched.

Turner said that the fact that he has a large support group which has had a hard time believing he has committed these crimes shows the type of manipulative behavior which is extremely dangerous.

"He has a charismatic personality, and is persuasive," Turner said. "Clearly he used those talents to victimize these girls and further his position in the church... It's a tinder box situation to release him back to his support system. They are blind, and they'll never know of another offense."

Turner said that the incidents occurred in the school itself, and on school field trips.

Cowan brought to the stand seven well-dressed character witnesses, including Foster's wife, Rosalind, who sat stoically beside her husband during the entire hearing. She testified that one of the victims had stated she didn't want to see Foster jailed for a long time.

Cowan also brought to the stand two former students who testified he had never made any advances on them or any of their friends.

Dr. Joan Breninger, professor of psychology at Columbia Christian College in Oregon, testified that she had known him for 20 years, and believed he would be better served by counseling than long-term incarceration. Foster has been diagnosed as a pedophile — an adult with an abnormal sexual desire for children. His emotional level was said to be age 13 — the age of his victims.

Cowan pointed out that Foster has a high level of guilt, according to psychiatric

testing, and is a good candidate for therapy. Before any charges were filed against him, although after he discovered police were in-

FRIDAY April 17, 1987 Vol. 1

Ex-teacher sentenced to 6 years

By POLLY CRAWFORD
Associate Editor

Bill Jones sat nervously in the front row of the courtroom audience, his hands shaking in frustration as he listened to attorney Bob Cowan state the reasons his client, defendant Leo Foster, should receive a lesser sentence than the state asked for.

Foster, 41, formerly head teacher at the Anchor Point Christian School, pleaded no contest to sexual penetration, including at least one instance of sexual intercourse, with four different students at the school throughout the course of a year and a half. The girls ranged in age from 13 to 16 years old. One of those students was Jones' daughter.

After a two-hour sentencing, Superior

See FORMER, page A-2

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF ADMINISTRATIVE SERVICES

Arthur English
Commissioner

POUCH N
JUNEAU, ALASKA 99811

PHONE: 465-4336

April 30, 1987

The Honorable Jim Zawacki
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Dear Representative Zawacki:

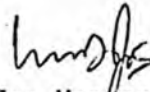
RE: AS 12.62.035/HB 50

The information you have requested on the number of individuals the Department of Public Safety has provided conviction data on, as provided for in AS 12.62.035, is shown below.

Under 12.62.035, an "interested person" may request conviction information involving contributing to the delinquency of a minor and any sex crime of a person holding or applying for a job in which the individual will have supervisory or disciplinary power over a minor.

Since implementation of 12.62.035, out of approximately 8,000 applicants, we have reported to the interested party 23 people who had convictions that were reportable under AS 12.62.035.

Sincerely,



Jos Mapanath
Director

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Penit

FRIDAY April 17, 1987 Vol.

Ex-teacher sentenced to 6 years

By POLLY CRAWFORD
Associate Editor

Bill Jones sat nervously in the front row of the courtroom audience, his hands shaking in frustration as he listened to attorney Bob Cowan state the reasons his client, defendant Leo Foster, should receive a lesser sentence than the state asked for.

Foster, 41, formerly head teacher at the Anchor Point Christian School, pleaded no contest to sexual penetration, including at least one instance of sexual intercourse, with four different students at the school throughout the course of a year and a half. The girls ranged in age from 13 to 16 years old. One of those students was Jones' daughter.

After a two-hour sentencing, Superior. See FORMER, page A-2

file with 50

...Former school teacher convicted of child sexual abuse

Continued from page A-1

As Jones listened to Cowan deny the state's contention that Foster's extensive support group in Anchor Point was blind to Foster's actions, he could suppress his anger no more. He jumped up and shouted, "That's not true!" He continued shouting that Foster had manipulated his attorney just as he had manipulated everyone else. His wife, Jane, joined the fracas, adding, "Let the people who know talk!"

Judge Cranston called for a quick recess and Jones was escorted from the courtroom by state troopers. Outside the courtroom, friends and troopers tried to calm him down.

"We paid to have that man molest our daughter," Jones said.

Trooper D. Culbertson tried an understanding approach. "You are in a situation in which you are totally helpless," he said. "But you're going to have to be quiet. I can't promise you it's going to turn out good." The Jones eventually returned to the courtroom.

It wasn't the only outburst during the hearing, which lined up Foster's supporters on one side of the courtroom and the victims' parents and friends on the other side. At one point, the victims' parents heckled Geraldine Foster, mother of the defendant, when she testified on the stand that Foster was "an outstanding son," and she thought he should be released to the support of his family and friends.

Judge Cranston reprimanded the audience, stating, "I don't want this to turn into an emotional exercise and will not hesitate to clear the courtroom."

According to an article in an October issue of The Homer News, Foster came to the area in 1977 to be head teacher at the Anchor Point

Christian School. At that time, he was affiliated with the Anchor Point Church of Christ. He and about 40 people later broke off from that church. The article pointed out that adults associated with the school described Foster as a person who didn't get along well with some adults, but got along especially well with young girls.

Foster taught at the school until 1986, when he and his whole family, including parents, brother, and brother-in-law and their families, left and moved to Washington. The school closed down at the end of the 1986 school year.

But he returned to the area, so the four girls whom he had abused and who had kept quiet since 1981, went to the police to keep it from happening to anyone else. Foster was arrested in Clark County, Wash., and returned to Alaska voluntarily to face prosecution. He pleaded no contest to four Class C felonies, involving sexual penetration of minors between the ages of 13 and 16, and four counts of sexual contact with minors of the same age, Class A misdemeanors.

Shannon Turner, assistant district attorney, argued for a 16-year sentence with eight years suspended. She said that although there were only four specific counts with four girls, he also had sexual intercourse with a 12-year-old girl over a two-year period of time. "The number of events (in the charges) doesn't reflect the total number of events which occurred because of the statute of limitations," Turner said.

Turner said that as late as last summer Foster was having sexual contact with a 16-year-old girl which started when she was 12, but that that wasn't included in the charges because a 16-year-old girl can give legal

consent. She added that on at least one occasion he had sexual contact with one child aged 13 while another girl watched.

Turner said that the fact that he has a large support group which has had a hard time believing he has committed these crimes shows the type of manipulative behavior which is extremely dangerous.

"He has a charismatic personality, and is persuasive," Turner said. "Clearly he used those talents to victimize these girls and further his position in the church... It's a tinder box situation to release him back to his support system. They are blind, and they'll never know of another offense."

Turner said that the incidents occurred in the school itself, and on school field trips.

Cowan brought to the stand several well-dressed character witnesses, including Foster's wife, Rosalind, who sat stoically beside her husband during the entire hearing. She testified that one of the victims had stated she didn't want to see Foster jailed for a long time.

Cowan also brought to the stand two former students who testified he had never made any advances on them or any of their friends.

Dr. Joan Breninger, professor of psychology at Columbia Christian College in Oregon, testified that she had known him for 20 years, and believed he would be better served by counseling than long-term incarceration. Foster has been diagnosed as a pedophile — an adult with an abnormal sexual desire for children. His emotional level was said to be age 13 — the age of his victims.

Cowan pointed out that Foster has a high level of guilt, according to psychiatric

testing, and is a good candidate for therapy. Before any charges were filed against him, although after he discovered police were in-

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF ADMINISTRATIVE SERVICES

Arthur English
Commissioner

POUCH N
JUNEAU, ALASKA 99811

PHONE: 465-4336

April 30, 1987

The Honorable Jim Zawacki
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Dear Representative Zawacki:

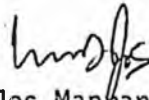
RE: AS 12.62.035/HB 50

The information you have requested on the number of individuals the Department of Public Safety has provided conviction data on, as provided for in AS 12.62.035, is shown below.

Under 12.62.035, an "interested person" may request conviction information involving contributing to the delinquency of a minor and any sex crime of a person holding or applying for a job in which the individual will have supervisory or disciplinary power over a minor.

Since implementation of 12.62.035, out of approximately 8,000 applicants, we have reported to the interested party 23 people who had convictions that were reportable under AS 12.62.035.

Sincerely,



Jos Mapranath
Director

Rep. Zawacki

APPROVED MINUTES

ONE HUNDRED AND FORTY-FIRST REGULAR SESSION

STATE BOARD OF EDUCATION
JANUARY 26-27, 1987
ANCHORAGE, ALASKA

MARSHALL LIND
Commissioner of Education

ERNESTINE GRIFFIN, President
State Board of Education

HFB

51

HB 51 - An Act relating to Alaska High School
achievement scholarships;
and providing for an effective date.

File Contents

- 1) Copy of HB 51
- 2) Fiscal Note dated 2/13/87 by Department of Education
- 3) Fiscal Note dated 1/17/87 by Alaska Commission on
Postsecondary Education
- 4) Sponsor Statement dated 2/18/87 by Niilo Koponen.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

42

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STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version : HB-51
Publish Date : _____

REQUEST: _____
Revision Date: _____
Title: ...high school achievement
scholarships...
Sponsor: Representative Koponen
Requestor: House HESS

Agency Affected: Education
BRU: Executive Administration
Components: Boards & Commissions

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		44.7	22.4	22.4	22.4	22.4
TRAVEL		12.0	12.0	12.0	12.0	12.0
CONTRACTUAL		5.0	5.0	5.0	5.0	5.0
SUPPLIES		1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS		648.0	1,296.0	1,944.0	2,592.0	2,592.0
MISCELLANEOUS						
TOTAL OPERATING		710.7	1,336.4	1,984.4	2,632.4	2,632.4

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		710.7	1,336.4	1,984.4	2,632.4	2,632.4
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached page.

Prepared by: Steve Hole *Steve Hole* Phone: 465-2800
Division: Commissioner's Office Date: February 13, 1987

Approved by Commissioner: Marshall L. Lind Date: February 13, 1987
Agency: Education

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

Analysis:

Personal Services: One Range 17, Grant Administrator for FY 88, half time after the first year.

Travel: Two Special Meetings of the State Board of Education at 6.0 each.

Contractual: Telephone, Postage, Printing

Supplies: Stationery, Stock for applications

Grants: 27 election districts X 6 scholarships X \$4.0 = \$648.0 per year.

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

POUCH FP
 JUNEAU, ALASKA 99811
 PHONE: (907) 465-2854

M E M O R A N D U M

TO: The Honorable Niilo Koponen
 Alaska House of Representatives

FROM: Kerry D. Romesburg, Executive Director
 Alaska Commission on Postsecondary Education

SUBJECT: Alaska High School Achievement Scholarship Program

DATE: February 17, 1987

I have reviewed HB 51, establishing the Alaska high school achievement scholarship program and find the whole concept exciting. Hopefully, in this tight money era, we will still be able to address a few innovative programs.

The fiscal impact of the scholarships themselves are dependent upon two factors. First, how house election district is defined, and second, the percentage of scholarship recipients actually accepting and using the scholarship in Alaska. Hence, I would guess the fiscal demand for grants would be:

No. Districts	FY 88		FY 89		FY 90	
	High	Low	High	Low	High	Low
40	\$960,000	\$720,000	\$1,920,000	\$1,440,000	\$2,880,000	\$2,160,000
27	\$648,000	\$486,000	\$1,296,000	\$ 972,000	\$1,944,000	\$1,458,000
	FY 91		FY 92			
	High	Low	High	Low		
	\$3,840,000	\$2,880,000	\$3,840,000	\$2,880,000		
	\$2,592,000	\$1,944,000	\$3,248,000	\$2,430,000		

As you can see, there is quite a variation in fiscal impact dependent upon these two factors.

I understand the Department of Education is preparing the formal fiscal note for the bill, but I wished to point out the possible variance in funding level.

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

SPONSOR STATEMENT - HB 51

542 4th Avenue, Suite C
Fairbanks, Alaska 99701
(907) 456-8161

House Bill 51 creates the Alaska High School Achievement Scholarship program to award postsecondary scholarships to Alaskan students who make significant academic, athletic or creative achievements in high school. The purpose of this bill is to encourage Alaska high school students to excel, and to offer our most promising students a significant incentive to attend an Alaskan college or university.

This bill offers pupils from every geographic area of Alaska an opportunity to participate in this program. If enacted this legislation would award a \$4000 scholarship to six high school seniors in each House District. The awards are made in three categories of achievement: academic achievement, athletic honors and creative honors. Two awards, one each to a male and female, would be given from each District.

This scholarship program is not meant to replace the existing student loan program, but to complement it. The Alaska student loans require repayment, are available to all Alaskans, and can be used to attend any approved institution anywhere. The Alaska High School Achievement scholarships are a more specialized form of financial aid based on merit. They consist of outright grants to be used exclusively in Alaska. A student receiving one of these grants could apply for an Alaska student loan as well to cover additional expenses. The loan amount would be for a reduced amount, reflecting the \$4000 scholarship.

The \$4000 figure was selected because it approximates the current cost of attending the University of Alaska and living on campus. U of A is not the only possible school however, a student could attend any approved Alaska postsecondary institution. This scholarship program is in line with recent national efforts to emphasize quality in education and scholastic achievement. Studies have shown that tuition grants are more effective in encouraging new students to attend higher education institutions than other forms of financial aid.

The Achievement scholarship program will benefit the state in many ways. Our most promising young people will have a clear opportunity and incentive to attend college in Alaska. College graduates tend to find their first job and remain in the areas where they attended school. Alaska postsecondary institutions will benefit from the attendance of talented Alaskans. Finally, Alaska dollars will stay in Alaska turning over many times in our economy.



Official Business

COMMITTEE:

Hess

DATE: *2-18-87*

SIGN-IN

Subject of meeting:

HB - 107

HB - 2

HB ~~107~~ 51

NAME

ADDRESS

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY?

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
REP JOHN SUNIZ	BOX ✓	465-4919	(HB 107)	YES
E. Bussell	Box 11	3466	HB 107	No
Rep. Pat Pouchot				yes HR 2
John McDonald	Box 11	2854		No
KERRY ROMESBURG	POSTSECONDARY EDUC.	2854	ACPE (HB-51)	(YES)
Steve Hole	DOE	2800	DOE	

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H HESS

2-18-87

8:30 a.m.

H B

53

HB 53 -- An Act relating to penalties for violation of
work-place safety laws

FILE CONTENTS

- 1) Copy of HB 53
- 2) Sponsor's position paper
- 3) Relevant section of current Alaska Statute
- 4) Section of Washington State Statutes
- 5) Alaska Laborers Training School letter 1/21/87
- 6) DOL Position Paper, 1/27/87
- 7) Alaska Injury and Illness Rate/Percentage Above
National Average
- 8) Incidence rates of Recordable Injuries and Illnesses
Comparison of All States Private Sector, 1983 to 1984

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/19/87

FURTHER REFERRALS: Judiciary
Finance

DATE: _____

The Health, Education and Social Services Committee has considered HB 53

"An Act relating to penalties for violation of workplace safety laws."

RECOMMENDS:

- replace with CSHB53 (HESS) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

John Ellis (Co-Chair)
Phil Johnson (Co-Chair)
Dave Donley
Mark Gustenber

SIGNING OTHER RECOMMENDATIONS:

Alice Harley - No Rec.
Bill E. Bell - No Rec.
Bill Harris - No Rec.

John Ellis
 Co-Chairman's signature
Phil Johnson

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

542 4th Avenue, Suite C
Fairbanks, Alaska 99701
(907) 456-8161

POSITION PAPER

HB 53 - "AN ACT RELATING TO PENALTIES FOR VIOLATIONS TO
WORK-PLACE SAFETY LAWS"

This legislation would reinforce the legislative intent in AS 18.60.010, which states that the legislature finds that "...personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, the people of the state in terms of loss of production, wage loss, medical expenses and disability compensation payments." The health and safety of every Alaskan worker should be a first priority in any work-place.

Alaska has continued to have one of the highest occupational injury and illness rates in the country. It is therefore necessary to undertake a program to reduce the incidence of work-related accidents and health hazards in the state. My decision to strengthen the work-place safety laws resulted from past discussions with laborers, and research into case examples of the asbestos problems and other work-place accidents that have occurred within Alaska. These incidents include the Clear A.F.B. case, where avoidable microwave exposure causing severe injury to six workers resulted in an approximately \$400 fine.

This legislation parallels actions taken by the Washington State Legislature last year (1986) by increasing penalties for serious work-place violations. For example, under current Alaska Statute the penalty for a serious work-place safety violation is a maximum fine of \$1,000. This penalty is then adjusted downward by the Occupational Safety and Health Administration (OSHA), taking into consideration factors such as the size of the employee's business, good faith of the employer and any previous history of violations. The adjusted average fine for a serious violation is \$175.00. This penalty structure, which has not been adjusted for the past 17 years, is not an effective deterrent to serious hazards.

HB 53 would increase the maximum fine to \$25,000. With the application of the adjustment formula this is expected to increase the average fine to \$4,375. The possibility of more severe fines should encourage companies to pay more attention to worker safety. In Washington, an equivalent violation now carries a maximum fine of \$50,000.

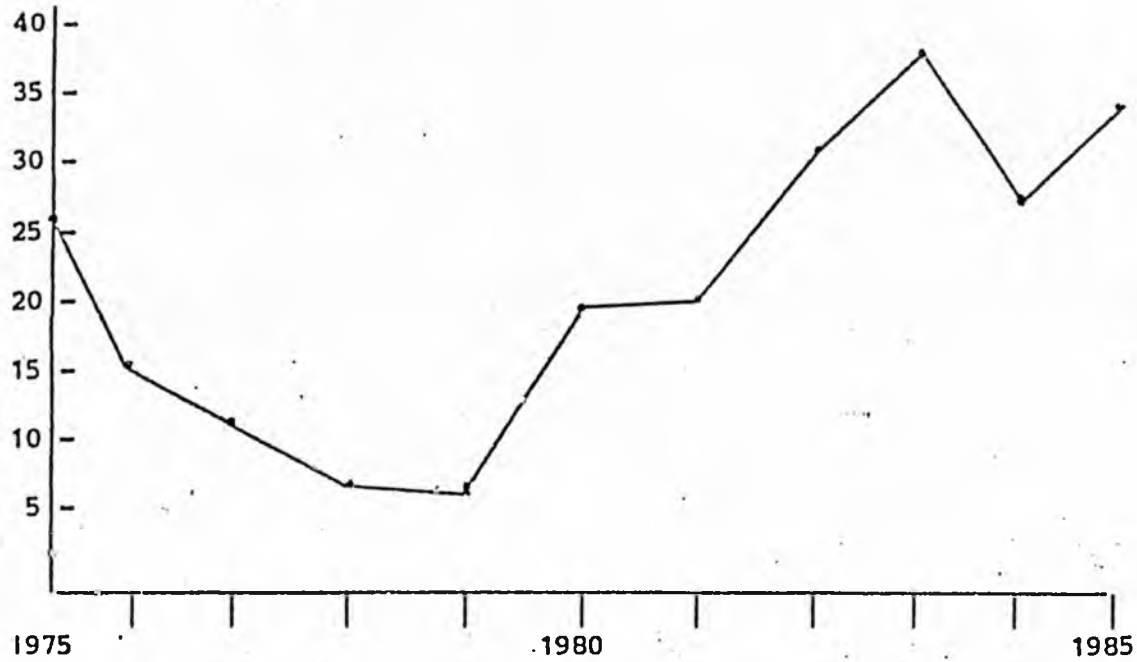
There is no reason why an employer can not abide by the standards that the federal and state statutes have established. There is a

common-law duty to provide a safe work-site that affects whomever supplies and controls that work-site. This duty protects all people on the site and not just the employees. (AS18.60.075.)

HB 53 is a deterrent intended to encourage businesses to conform to work-place safety laws and regulations. The main purpose of this legislation is to remind employers of their responsibility to prevent accidents. An increase in fines is one way of making sure that safety in the work-place is a top priority. Employees and the public need this protection. If an employer complies with required statutes and standards, then there should be no worry of being fined. Small fines are not effective enough to make changes occur.

It is the sponsor's earnest hope that greater compliance will result in a decrease in the number of fines levied. Collected fines levied will be deposited into the general fund which can be used to offset the temporary administrative costs that the Department of Labor will have until the new fines are promulgated.

Alaska Injury and Illness Rate
Percentage Above National Average



Alaskan versus National Incidence Rates By Year

	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>
Alaska	11.5	10.7	10.4	10.0	10.1	10.4	10.0	10.3	10.6	10.3	10.7
U.S.	9.1	9.2	9.3	9.4	9.5	8.7	8.3	7.7	7.6	8.0	7.9
Percentage Above National Average	26.0	16.3	11.8	6.38	6.3	19.5	20.4	33.7	39.4	28.0	35.0

WASHINGTON STATE

LABOR REGULATIONS

49.17.180

Administrative Code References

In general, see WAC 296-360-005 et seq.

1970; prohibition against discrimination by employer. 9 Gonzaga L.Rev. 551.

Law Review Commentaries

Employee's rights under Federal Occupational Safety and Health Act of

Library References

Master and Servant §30(1).
C.J.S. Master and Servant § 42.

49.17.170. Injunctions—Temporary restraining orders

(1) In addition to and after having invoked the powers of restraint vested in the director as provided in RCW 49.17.130 the superior courts of the state of Washington shall have jurisdiction upon petition of the director, through the attorney general, to enjoin any condition or practice in any work place from which there is a substantial probability that death or serious physical harm could result to any employee immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this chapter. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such danger and prohibit the employment or presence of any individual in locations or under conditions where such danger exists, except individuals whose presence is necessary to avoid, correct, or remove such danger or to maintain the capacity of a continuous process operation to resume normal operation without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

(2) Upon the filing of any such petition the superior courts of the state of Washington shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of enforcement proceedings pursuant to this chapter, except that no temporary restraining order issued without notice shall be effective for a period longer than five working days.

(3) Whenever and as soon as any authorized representative of the director concludes that a condition or practice described in subsection (1) exists in any work place, he shall inform the affected employees and employers of the danger and may recommend to the director that relief be sought under this section.

(4) If the director arbitrarily or capriciously fails to invoke his restraining authority under RCW 49.17.130 or fails to seek relief under this section, any employee who may be injured by reason of such failure, or the representative of such employees, may bring an action against the director in the superior court for the county in which the danger is alleged to exist for a writ of mandamus to compel the director to seek such an order and for such further relief as may be appropriate or seek the director to exercise his restraining authority under RCW 49.17.130.

Enacted by Laws 1973, ch. 80, § 17.

Library References

Injunction §90.

C.J.S. Injunctions §§ 134, 135.

49.17.180. Violations—Civil penalties

(1) Any employer who wilfully or repeatedly violates the requirements of RCW 49.17.060, of any safety or health standard promulgated under the authority of this chapter, of any existing rule or regulation governing the conditions of employment promulgated by the department, or of any order issued granting a variance under RCW 49.17.080 or 49.17.090 may be

49.17.180

LABOR REGULATIONS

assessed a civil penalty not to exceed fifty thousand dollars for each violation.

(2) Any employer who has received a citation for a serious violation of the requirements of RCW 49.17.060, of any safety or health standard promulgated under the authority of this chapter, of any existing rule or regulation governing the conditions of employment promulgated by the department, or of any order issued granting a variance under RCW 49.17.080 or 49.17.090 as determined in accordance with subsection (6) of this section, shall be assessed a civil penalty not to exceed five thousand dollars for each such violation.

(3) Any employer who has received a citation for a violation of the requirements of RCW 49.17.060, of any safety or health standard promulgated under this chapter, of any existing rule or regulation governing the conditions of employment promulgated by the department, or of any order issued granting a variance under RCW 49.17.080 or 49.17.090, where such violation is specifically determined not to be of a serious nature as provided in subsection (6) of this section, may be assessed a civil penalty not to exceed three thousand dollars for each such violation, unless such violation is determined to be de minimis.

(4) Any employer who fails to correct a violation for which a citation has been issued under RCW 49.17.120 or 49.17.130 within the period permitted for its correction, which period shall not begin to run until the date of the final order of the board of industrial insurance appeals in the case of any review proceedings under this chapter initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than five thousand dollars for each day during which such failure or violation continues.

(5) Any employer who violates any of the posting requirements of this chapter, or any of the posting requirements of rules promulgated by the department pursuant to this chapter related to employee or employee representative's rights to notice, including but not limited to those employee rights to notice set forth in RCW 49.17.080, 49.17.090, 49.17.120, 49.17.130, 49.17.220(1) and 49.17.240(2), shall be assessed a penalty not to exceed three thousand dollars for each such violation. Any employer who violates any of the posting requirements for the posting of informational, educational, or training materials under the authority of RCW 49.17.050(7), may be assessed a penalty not to exceed one thousand five hundred dollars for each such violation.

(6) For the purposes of this section, a serious violation shall be deemed to exist in a work place if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in such work place, unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(7) The director, or his authorized representatives, shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the number of affected employees of the employer being charged, the gravity of the violation, the size of the employer's business, the good faith of the employer, and the history of previous violations.

(8) Civil penalties imposed under this chapter shall be paid to the director for deposit in the supplemental pension fund established by RCW 51.44.033. Civil penalties may be recovered in a civil action in the name of the department brought in the superior court of the county where the violation