

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5644 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES

The Board has announced proposed regulation changes or additions in newspapers according to the Administrative Procedures Act.

- VI. The efficiency with which public inquires or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

According to the Division of Occupational Licensing's files, there have been 17 investigations in the past three fiscal years with 5 cases still open. Open cases are in litigation or under investigation. No complaints have been filed against the Board with the Attorney General's Office or the Ombudsman Office.

- VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

As of June 30, 1988, there were 262 current licensed Alaskan Pharmacists. We found no instances where the Board had licensed unqualified practitioners.

- VIII. The extent to which State personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area or activity or interest.

The Human Rights Commission and the Equal Employment Opportunity Office have received no complaints related to the Board's activities.

- IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Findings and Recommendations.

APPENDIX

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APPENDIX A

BOARD OF PHARMACY
SCHEDULE OF REVENUES COMPARED WITH EXPENDITURES
 For Fiscal Year 1988
 (Unaudited)
 (Note 1)

Average Revenue (Note 2)		\$42,156
Expenditures (Note 3)		
Personal Services	\$25,592	
Travel	7,587	
Contractual Services	4,894	
Supplies	435	
Equipment	<u>476</u>	<u>\$38,984</u>
Excess of Revenues Over Expenditures (Note 5)		<u>\$ 3,172</u>

Schedule 1
Types of Revenues
 (Note 4)

<u>REVENUES</u>	<u>AMOUNT</u>	<u>COLLECTION TIME</u>
License Application Fee	\$ 30	With Application
Examination Fee	\$150	With Application
Temporary License Fee	\$ 20	With Application
Emergency Permit Fee	\$ 90	With Application
Pharmacy Intern License Fee	\$ 20	With Application
Pharmacist License	\$180	With Initial Licensing
Pharmacist License Renewal	\$180	Biennially
Wholesale Drug Dealer	\$180	With Initial Licensing
Wholesale Drug Dealer Renewal	\$180	Biennially
Retail Pharmacy	\$180	With Initial Licensing
Retail Pharmacy Renewal	\$180	Biennially
Hospital Pharmacy	\$180	With Initial Licensing
Hospital Pharmacy Renewal	\$180	Biennially
Hospital Drug Room	\$180	With Initial Licensing
Hospital Drug Room Renewal	\$180	Biennially
Nursing Home Drug Room	\$180	With Initial Licensing
Nursing Home Drug Room Renewal	\$180	Biennially

Note 1

The Schedule of Revenues Compared with Expenditures was prepared from available records and discussions with the Division of Occupational Licensing (DOL) personnel. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Schedule of Revenues Compared with Expenditures.

Note 2

Revenues are primarily composed of license renewal fees which are collected on a biennial basis. Because of the two year renewal cycle, revenues will increase substantially every second year. To obtain an average of annual revenues collected, we combined actual receipts collected in FY88 with the division's estimate of revenues to be collected in FY89. For the current fee structure, see Schedule 1 on the previous page.

Note 3

Expenditures consist of direct cost resulting from Board members activities, (i.e. travel and per diem) and an allocation of direct and indirect costs of DOL. The expenditures do not include expenses incurred by other Departments or other divisions of the Department of Commerce and Economic Development in assisting the Board.

Note 4

The Schedule reflects changes in licensing fees since the previous audit.

Note 5

The amount of revenue generated by a board's activity depends upon the number of licensee's that are regulated by the board. A small number of licensed professionals, generally lead to an excess of expenditures over revenues. Conversely, a large number of licensees generally results in an excess of revenues over expenditures.

The comparison of revenues and expenditures for all licensing boards indicates, that collectively, the licensing boards are substantially self supporting. The following schedule represents revenues and expenditures for all boards combined:

Average Revenue	\$2,130,834
Expenditures	<u>2,242,216</u>
Excess Expenditures	< <u>\$ 111,382</u> >

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P. O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500

January 12, 1989

Mr. Randy S. Welker
Legislative Audit
P.O. Box W
Juneau, AK 99811-3300

JAN 13 1989

Dear Mr. Welker:

This is written in response to the Audit Division's (hereinafter "Audit") preliminary audit report of its sunset performance review of the Board of Pharmacy (hereinafter "Board"). Below is the Department of Commerce and Economic Development's (hereinafter "Department") comments on Audit's preliminary findings and recommendations.

Response to Recommendation No. 1

Audit recommends that the Board of Pharmacy should comply with AS 08.80.460(b) and establish a schedule of fines for violations of the generic drug substitution law (AS 08.80.295).

This is to advise that the Department has no objection to such a recommendation and, indeed, will support such a recommendation before the Board. I have asked the Division of Occupational Licensing (hereinafter the "Division") to place this matter before the Board at its next regularly scheduled meeting.

As your report points out, a February 20, 1985 memorandum from Diane T. Colvin, then an assistant attorney general, informed Harry Treager, then Director of Occupational Licensing, that the Board of Pharmacy had a responsibility under AS 08.80.460(b) to adopt a schedule of civil fines for violations of the generic drug substitution guidelines. This memorandum apparently resulted from a telephone conversation Ms. Colvin had with Mr. Treager. He was asked to remind the Board that they had not yet complied with this statute.

Unfortunately, we can find no evidence that this issue was ever subsequently brought to the Board's attention. It is important to remember that from 1984 through 1986, the Board was consumed with the issues of controlled substance registration and the marijuana therapeutic research program and it may simply not have been deemed a priority.

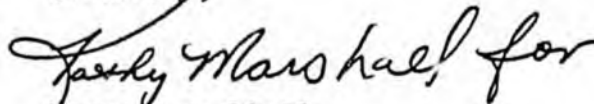
January 12, 1989

This does not mean, however, that the Board turned the other cheek on this matter. Over the last few years, the Division has conducted a number of cases involving pharmacists suspected of violating AS 08.80.295. In each case, the pharmacist was asked to stop the offending practice and, following compliance, no further disciplinary action was taken. These types of cases have never been a high priority of the Board, nor has evidence of a repeat violation ever been found.

At the present time, we see no reason why the Board of Pharmacy cannot establish civil fines for violations of the generic substitution requirements of AS 08.80.295. The Board is tentatively scheduled to meet April 5-7, 1989 in Anchorage. The Division of Occupational Licensing will present regulations to the Board at that time to resolve this matter.

Thank you for this opportunity to respond. If you have any additional questions or comments, or if my department can assist you in any other way, please do not hesitate to let me know.

Sincerely,



Larry Mercurieff
Commissioner

LM/djd9502W
011289b

cc: Randall P. Burns, Director
Division of Occupational Licensing

HB

97

HOUSE COMMITTEE REPORT

2
(5)

Date Referred: January 20, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 2/9/89

The HEALTH, EDUCATION & SOCIAL SERVICES Committee recommends that:

HOUSE BILL NO. 97

"An Act extending the termination date of the State Physical Therapy and Occupational Therapy Board; and providing for an effective date."

be replaced with CSHB 97 (HESS) the same title
 a new title

have attached amendment(s)

- 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
- zero fiscal note
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published:
1/20/89
- zero fiscal notes(s) published:

SIGNING DO PASS:

[Signature]

Walt Furnace

George [Signature]

[Signature]

Peter [Signature]

Mark [Signature]

SIGNING OTHER THAN DO PASS:

(Do Not Pass, No Recommendation, Amend)

Cheri Davis No Rec

[Signature]
Chairman's signature

HB 97: An Act extending the termination date of the State Physical Therapy and Occupational Therapy Board and providing for an effective date.

The bill proposes to extend the termination date of the State Physical Therapy and Occupational Therapy Board to June 30, 1993. To date, the board has issued licenses to 308 practitioners and continues to operate in the best interest of the public by granting licensure only to competent, qualified individuals.

Over the past year, the board has worked hard to fully enact the provisions of HB 205 (Ch. 2, FSSLA 87) which added the licensure of occupational therapists and occupational therapy assistants.

The performance report by the Division of Legislative Audit recommended that the State Physical Therapy and Occupational Therapy Board be reestablished. The department fully supports the findings contained in the performance report and also supports HB 97.



Larry Mercurieff, Commissioner

Date: 2-6-89

LW/dgl3198D-1
020689b

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act extending the termination
date of the State Physical Therapy and
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Commerce & Economic Dev.
BRU: Occupational Licensing
Occupational Therapy Board...
Components: Admin. & Licensing Boards

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		8.7	8.7	8.7	8.7	8.7
TRAVEL		1.1	1.1	1.1	1.1	1.1
CONTRACTUAL		3.1	3.1	3.1	3.1	3.1
SUPPLIES		.1	.1	.1	.1	.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		13.0	13.0	13.0	13.0	13.0

CAPITAL						
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REVENUE		13.0	13.0	13.0	13.0	13.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		13.0	13.0	13.0	13.0	13.0
TOTAL		13.0	13.0	13.0	13.0	13.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

CSHB 205(HESS)AM which added the licensing of occupational therapists (OT) to the State Physical Therapy Board originally passed the State Legislature in FY 87 with a fiscal note of \$13.0 to cover expenses of the new OT licensing program. The bill was vetoed by the Governor on 6/17/87 and over-ruled by the Legislature in special session on 7/1/87. The fiscal note however, did not

Prepared by: Jennifer Strickler, Admin. Officer Phone: 465-2144
Division: Occupational Licensing Date: 11/2/88

Approved by Commissioner: Larry Mercurieff Date: 11/3/88
Agency: Commerce and Economic Development

Distribution (by preparer):

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

CONTINUATION OF FISCAL NOTE ANALYSIS

HB 97
HOUSE 1/20/89

Accompany the final passage of the bill during the special session.

This meant that the Division of Occupational Licensing had to provide budgetary support for licensing of OTs for the first year. The division's budget cannot continue to absorb this cost. As with CSHB 205 (HESS) AM, this Fiscal Note is based on the following:

1. PERSONAL SERVICES:	\$ 8,700
- .40% of administrative support costs (.40% is based on the number of occupational therapists (100) divided by the total number of division licensees (27,049) which includes physical therapists);	
- 10% of a licensing examiner; and	
- 5% of an investigator.	
2. TRAVEL:	\$ 1,100
- Costs for two members to attend a board meeting.	
3. CONTRACTUAL:	
- professional services (exam) costs;	
- communication costs; and	
- advertising and printing costs, etc.	
4. SUPPLIES:	\$ <u>100</u>
TOTAL:	<u>\$13,000</u>

The occupational therapy profession has expressed willingness to pay licensing fees necessary to cover costs associated with regulating the profession. Therefore, this appropriation is expected to be covered by program receipts generated from licensing fees.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 95
96
97

January 19, 1989

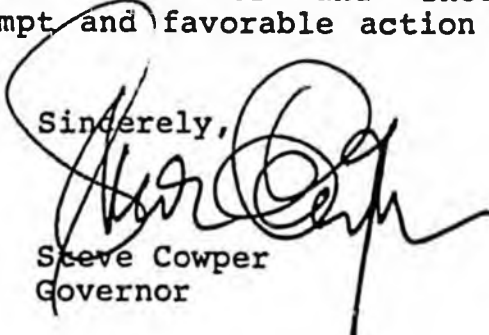
The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting three bills, to extend the Board of Pharmacy, the Board of Veterinary Examiners, and the State Physical Therapy and Occupational Therapy Board, respectively, for the standard four years. These boards are currently scheduled to "sunset" on June 30, 1989.

The boards provide valuable services and should be continued. I urge your prompt and favorable action on all three bills.

Sincerely,



Steve Cowper
Governor

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 97 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to physical and occupational thera-
7 pists; extending the termination date of the State
8 Physical Therapy and Occupational Therapy Board; and
9 providing for an effective date."

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

11 * Section 1. AS 08.02.010(a) is amended to read:

12 (a) An audiologist licensed under AS 08.11, a person licensed in
13 the state as a chiropractor under AS 08.20, a dentist under AS 08.36,
14 a medical practitioner or osteopath under AS 08.64, a registered nurse
15 under AS 08.68, an optometrist under AS 08.72, a registered pharmacist
16 under AS 08.80, a [REGISTERED] physical therapist or occupational
17 therapist licensed under AS 08.84, a psychologist under AS 08.86, or a
18 clinical social worker licensed under AS 08.95, shall use as profes-
19 sional identification appropriate letters or a title after that per-
20 son's name which represents that person's specific field of practice.
21 The letters or title shall appear on all signs, stationery, or other
22 advertising in which the person offers or displays personal profes-
23 sional services to the public. In addition, a person engaged in the
24 practice of medicine or osteopathy under AS 08.64.380(2) or a person
25 engaged in any manner in the healing arts who diagnoses, treats,
26 tests, or counsels other persons in relation to human health or dis-
27 ease and uses the letters "M.D." or the title "doctor" or "physician"
28 or another title that tends to show that the person is willing or
29 qualified to diagnose, treat, test, or counsel another person, shall

1 clarify the letters or title by adding the appropriate specialist
2 designation, if any, such as "dermatologist", "radiologist", "audiolo-
3 gist", "naturopath", or the like.

4 * Sec. 2. AS 08.03.010(c)(8) is amended to read:

5 (8) State Physical Therapy and Occupational Therapy Board
6 (AS 08.84.010) -- June 30, 1993 [1989].

7 * Sec. 3. AS 08.84.010(b) is amended to read:

8 (b) The board shall control all matters pertaining to the licens-
9 ing of physical therapists, physical therapy assistants, occupational
10 therapists, and occupational therapy assistants and the practice of
11 physical therapy and the practice of occupational therapy. The board
12 shall

13 (1) pass upon the qualifications of applicants;

14 (2) provide for the examination of applicants;

15 (3) issue temporary permits and licenses to persons quali-
16 fied under this chapter;

17 (4) suspend, revoke, or refuse to issue or renew a license
18 under AS 08.84.120;

19 (5) keep a current register listing the name, business
20 address, date, and number of the license of each person who is li-
21 censed to practice under this chapter;

22 (6) keep a record and minutes of its meetings, proceedings,
23 and hearings and submit an annual report of its activities to the
24 governor and other interested parties;

25 (7) adopt regulations under AS 44.62 necessary to carry out
26 the purposes of this chapter including regulations establishing quali-
27 fications for licensure and ensuring that renewal of licensure is
28 contingent upon proof of continued competency on the part of the
29 licensee [UNDER THIS CHAPTER].

1 * Sec. 4. AS 08.84.190(7) is amended to read:

2 (7) "physical therapy assistant" means a person who assists
3 in the practice of physical therapy or portions of it as initiated,
4 supervised, and terminated by a licensed [REGISTERED] physical thera-
5 pist; a physical therapy assistant's responsibilities do not include
6 testing or evaluation.

7 * Sec. 5. AS 21.88.900(15) is amended to read:

8 (15) "physical therapist" means a person licensed [REGIS-
9 TERED] under AS 08.84;

10 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).
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A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
STATE PHYSICAL THERAPY AND OCCUPATIONAL THERAPY BOARD

July 1, 1985 - June 30, 1988

Audit Control Number

08-1342-89-R

Acting Commissioner, Department of
Commerce and Economic Development

Larry Mercurieff

Deputy Commissioner, Department of
Commerce and Economic Development

Vacant

Members of the
State Physical Therapy and Occupational Therapy Board

Chairperson

Gail E. Dudley, PT

Member

Morris R. Horning, MD

Member (Public)

E. "Bud" Simpson

Member

Beverly A. Ingram, OT

Member

Nancy B. James, OT

Member

Gary W. McCarthy, PT

Member

Susan J. Thompson, PT

STATE OF ALASKA

THE LEGISLATURE BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
PO BOX W
JUNEAU, ALASKA 99811-3300


October 13, 1988

Members of the Legislative Budget
and Audit Committee:

According to the provisions of Titles 24 and 44 of the Alaska Statutes, the Division of Legislative Audit is required to conduct a "sunset" review of the State Physical Therapy and Occupational Therapy Board.

At the request of the Chairman, during Fiscal Year 1988 budget deliberations, the Audit Division's budget was revised to reflect certain changes in the organization of the Committee's two Divisions. The revised budget of the Audit Division reflected efficiencies that might be obtained by utilizing the staff of the Legislative Finance Division on selected audit assignments during the interim.

As a result, the audit of the State Physical Therapy and Occupational Therapy Board was conducted and this report has been prepared by the Legislative Finance Division. We feel this report discharges our responsibility under Titles 24 and 44. The report is submitted for your review.


Randy S. Welker, CPA
Legislative Auditor
Division of Legislative Audit

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
P.O. BOX WF
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

October 10, 1988

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the Alaska Statutes (sunset legislation), the attached report is submitted for your review.

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
STATE PHYSICAL THERAPY AND OCCUPATIONAL THERAPY BOARD

July 1, 1985 - June 30, 1988

Audit Control Number

08-1342-89-R



Mike Greany, Director
Division of Legislative Finance

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PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the State Physical Therapy and Occupational Therapy Board for the past three fiscal years to determine if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the State Physical Therapy Board should be reestablished. The law now specifies that the Board will terminate June 30, 1989, and have one year from that date to conclude its affairs.

The major areas of our examination were the licensing, examination, administration, complaint, and affirmative action functions of the Board. We reviewed and performed the following:

1. Applicable statutes and regulations.
2. Tests of files and documents of licensees.
3. Interviews with the licensing examiners.
4. Complaints filed with the Division of Occupational Licensing, Equal Employment Opportunity Office, and the Ombudsman's Office.
5. Discussions with Board members.
6. Minutes of Board meetings and Division correspondence files.
7. Attorney General's Opinions applicable to professional boards.

ORGANIZATION AND FUNCTION

In 1987, HB205, Chapter 2 was enacted to expand the former State Physical Therapy Board, established in 1974, to include Occupational Therapy. This new regulatory Board (State Physical and Occupational Therapy Board) consists of seven members; three physical therapists, two occupational therapists, one medical doctor, and one public member appointed by the Governor. Board members serve staggered terms of four years.

The Board is organized under the Department of Commerce and Economic Development, Division of Occupation Licensing (OL). OL provides the Board with licensing and investigative support. The licensing section processes applications, maintains license files, answers inquiries, and provides other administrative help to the Board.

The Board sets the minimum standards to practice in Alaska by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations necessary and desirable to enforce statutes.
3. Revoking, annulling, or suspending licenses in accordance with the Administrative Procedures Act when a person has violated physical and occupational therapist statutes or regulations.

REPORT CONCLUSION

REPORT CONCLUSION

In our opinion, the State Physical Therapy and Occupational Therapy Board should be reestablished. The regulation and licensing of qualified professionals is necessary to protect the public's health, safety, and welfare. The Board provides this service by establishing minimum educational and examination requirements that provide reasonable assurance that persons licensed are qualified. Also, assurance that those licensed act in a competent manner is provided by active investigation of complaints and revocation or suspension of licenses where appropriate.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

- I. The extent to which the board, commission, or program has operated in the public interest.
 - A. The Board has established regulations governing its duties and licensure requirements.
 - B. The Board has enforced the laws for issuing licenses in a uniform and consistent manner.
 - C. The Board has held meetings and administered examinations in accordance with statutory requirements.
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.
 - A. The public's confidence and well-being has been enhanced through statutory and regulatory amendments.
 - B. The Board receives administrative services support from the Division of Occupational Licensing.
- III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.
 - A. Statutory changes were made to expand the Board to license occupational therapists and occupational therapy assistants.
 - B. The Board has proposed regulatory changes concerning continuing education and license renewal requirements. Also, regulations are being considered for all aspects of licensing occupational therapists.
- IV. The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

The Board has published public notices of all examination, meetings, and regulation changes.

- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

The Board has announced proposed regulation changes or additions in newspapers according to the Administrative Procedures Act.

- VI. The efficiency with which public inquires or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

According to the Division of Occupational Licensing's files, there have been approximately 11 investigation cases (9 unlicensed activities, 1 negligence, 1 supervision of several assistants) in the past few years. Currently there are 6 unlicensed activity cases open at the request of the Board. No complaints were filed with the Office of Ombudsman, Human Rights Commission, and Equal Employment Opportunity.

- VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

A. In the past three years, the number of currently licensed physical therapists and physical therapy assistants has increased from 180 to 200.

B. We found no instances where the Board had licensed unqualified practitioners.

C. There are 184 physical therapists, 16 physical therapy assistants, 60 occupational therapists, and 2 occupational therapy assistants licensed in Alaska.

- VIII. The extent to which state personnel practice, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area or activity or interest.

There have not been any violations of statutes or regulations pertaining to affirmative action requirements. Licenses are awarded based on the applicant's qualifications.

IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Legislative Finance has no recommendations concerning the Board's compliance with the public need factors as enumerated in this section of the report.

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APPENDIXES

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APPENDIX A
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SCHEDULE OF REVENUES COMPARED WITH EXPENDITURES
For Fiscal Year 1988
(Unaudited)
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Equipment	<u>331</u>
	<u>36,579</u>
Excess of Expenditures Over Revenues (Note 5)	<u><\$27,819></u>

Schedule 1
Types of Revenues
(Note 4)

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
License Application Fee	\$ 30	With application
Examination Fee	\$ 75	With application
License Fee	\$100	At initial biennial license period
License Renewal Fee	\$100	Every two years
Temporary Permit Fee	\$ 50	With application
Limited Permit Fee	\$ 50	With application

Note 1

The Schedule of Revenues Compared with Expenditures was prepared from available records and discussions with the Division of Occupation Licensing (DOL) personnel. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Schedule of Revenues Compared with Expenditures.

Note 2

Revenues are primarily composed of license renewal fees. Due to a change in law, licenses will be renewed on a biennial basis starting December 1988. Because of the two year renewal cycle, revenues will increase substantially every second year. To obtain an average of annual revenues collected, we combined actual receipts collected in FY88 with the division's estimate of revenues to be collected in FY89. For the current fee structure, see Schedule 1 above.

Note 3

Expenditures consist of direct costs resulting from board member activities, (i.e. travel and per diem) and an allocation of direct and indirect costs of DOL. The expenditures do not include expenses incurred by other Departments or other division of the Department of Commerce and Economic Development in assisting the Board.

Note 4

The schedule reflects the changes in licensing fees as of October 1988. Some fees were raised in response to legislative intent to make the Boards more self supporting.

Note 5

The amount of revenue generated by a board's activity depends upon the number of licensee's that are regulated by the board. A small number of licensed professionals, generally lead to an excess of expenditures over revenues. Conversely, a large number of licensees generally results in an excess of revenues over expenditures.

The comparison of revenues and expenditures for all licensing boards indicates, that collectively, the licensing boards are substantially self supporting. The following schedule represents revenues and expenditures for all boards combined:

Average Revenue	\$2,130,834
Expenditures	<u>2,242,216</u>
Excess Expenditures	< <u>\$ 111,382</u> >

APPENDIX B

STATE PHYSICAL THERAPY & OCCUPATIONAL THERAPY BOARD
EXAMINATION STATISTICS FOR PHYSICAL THERAPISTS
AND PHYSICAL THERAPY ASSISTANTS

Fiscal Years 1983 - 1988

<u>FISCAL</u> <u>YEAR</u>	<u>PASSES</u>	<u>FAILS</u>	<u>TOTAL</u>
1983	5	1	6
1984	3	0	3
1985	2	0	2
1986	2	0	2
1987	4	0	4
1988	5	0	5

(Intentionally left blank)

APPENDIX C

STATE PHYSICAL THERAPY & OCCUPATIONAL THERAPY BOARD
ADMINISTRATIVE STATISTICS

August 29, 1988

Licensed Physical Therapists	184
Licensed Physical Therapy Assistants	16
Licensed Occupational Therapists	60
Licensed Occupational Therapy Assistants	2

(Intentionally left blank)

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

P. O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500

OFFICE OF THE COMMISSIONER

December 20, 1988

DEC 22 1988

Randy S. Welker
Legislative Auditor
Division of Legislative Audit
Budget and Audit Committee
P.O. Box W
Juneau, AK 99811-3300

Dear Mr. Welker:

The Department of Commerce and Economic Development supports and appreciates the conclusion of the preliminary audit report on the State Physical Therapy and Occupational Therapy Board (PT/OT Board) that the board should be reestablished.

The PT/OT Board has worked very hard this past year to fully incorporate the newly enacted provisions of HB 205 (1987); the audit provides a favorable report on its actions to date.

We are confident the PT/OT Board will continue to serve the public interest.

Sincerely,



Larry Merculieff
Commissioner

LB/RB/mm0472t
122088b

Collateral references. — 61 Am. Jur. 70 C.J.S., Physicians and Surgeons, 2d, Physicians, Surgeons and Other §§ 6, 13.
Healers, §§ 11, 86.

Article 1. State Physical Therapy and Occupational Therapy Board.

Section

10. State Physical Therapy and Occupational Therapy Board

Section

20. Applicability of Administrative Procedure Act

Sec. 08.84.010. State Physical Therapy and Occupational Therapy Board. (a) There is created the State Physical Therapy and Occupational Therapy Board, which consists of seven members. The membership consists of one physician licensed to practice medicine in the state, three physical therapists licensed in the state or two physical therapists and a physical therapy assistant licensed in the state, two occupational therapists licensed in the state or an occupational therapist and occupational therapy assistant licensed in the state, and one lay person with no direct financial interest in the health care industry. Members of the board shall be United States citizens domiciled in the state.

(b) The board shall control all matters pertaining to the licensing of physical therapists, physical therapy assistants, occupational therapists, and occupational therapy assistants and the practice of physical therapy and the practice of occupational therapy. The board shall

- (1) pass upon the qualifications of applicants;
- (2) provide for the examination of applicants;
- (3) issue temporary permits and licenses to persons qualified under this chapter;
- (4) suspend, revoke, or refuse to issue or renew a license under AS 08.84.120;
- (5) keep a current register listing the name, business address, date, and number of the license of each person who is licensed to practice under this chapter;
- (6) keep a record and minutes of its meetings, proceedings, and hearings and submit an annual report of its activities to the governor and other interested parties;
- (7) adopt regulations under AS 44.62 necessary to carry out the purposes of this chapter including regulations establishing qualifications for licensure and renewal of licensure under this chapter. (§ 15 ch 74 SLA 1957; am § 8 ch 49 SLA 1969; am § 1 ch 71 SLA 1974; am § 1 ch 208 SLA 1975; am § 2 ch 43 SLA 1977; am § 1 ch 55 SLA 1980; am §§ 40, 41 ch 94 SLA 1987; am § 4 ch 2 FSSLA 1987)

Division of Occupational Licensing

STATE PHYSICAL THERAPY AND OCCUPATIONAL THERAPY BOARD

Proposed Amendment to AS 08.84

Amend AS 08.84.010(b)(7), the powers and duties section of the PT/OT statute, to provide for proof of having met board established continuing education requirements at time of license renewal:

(7) adopt regulations under AS 42.62 necessary to carry out the purposes of this chapter, including regulations establishing qualifications for licensure and insuring that renewal of licensure is contingent upon proof of continued competency on the part of the licensee [UNDER THIS CHAPTER].

(F) adapting environments for the disabled;

(4) "occupational therapy assistant" means a person who assists in the practice of occupational therapy under the supervision of an occupational therapist;

(5) "physical therapist" means a person who practices physical therapy;

(6) "physical therapy" means the examination, treatment and instruction of human beings to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction, pain from injury, disease and other bodily or mental conditions and includes the administration, interpretation and evaluation of tests and measurements of bodily functions and structures; the planning, administration, evaluation and modification of treatment and instruction including the use of physical measures, activities and devices for preventive and therapeutic purposes; the provision of consultative, educational and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction and pain; "physical therapy" does not include the use of roentgen rays and radioactive materials for diagnosis and therapeutic purposes, the use of electricity for surgical purposes, and the diagnosis of disease;

(7) "physical therapy assistant" means a person who assists in the practice of physical therapy or portions of it as initiated, supervised, and terminated by a registered physical therapist; a physical therapy assistant's responsibilities do not include testing or evaluation. (§ 2 ch 74 SLA 1957; am § 11 ch 71 SLA 1974; am § 17 ch 55 SLA 1980; am §§ 23, 24 ch 2 FSSLA 1987; am § 2 ch 74 SLA 1988)

Effect of amendments. — The 1988 amendment, effective May 28, 1988, inserted "for compensation" in the introductory language of paragraph (3).

Chapter 86. Psychologists and Psychological Associates.

Article

5. Prohibitions and Penalties (§ 08.86.200)

Article 5. Prohibitions and Penalties.

Section

200. Confidentiality of communication

Sec. 08.86.200. Confidentiality of communication. (a) A psychologist or psychological associate may not reveal to another person a communication made to the psychologist or psychological associate by a client about a matter concerning which the client has employed the psychologist or psychological associate in a professional capacity. This section does not apply to

(1) a case conference with other psychologists, psychological associates, or with physicians and surgeons;

(2) a case in which the client in writing authorized the psychologist or psychological associate to reveal a communication;

(3) a case where an immediate threat of serious physical harm to an identifiable victim is communicated to a psychologist or psychological associate by a client;

(4) disclosures of confidential communications required under Rule 504, Alaska Rules of Evidence; or

(5) proceedings conducted by the board or the department where the disclosure of confidential communications is necessary to defend against charges that the psychologist or psychological associate has violated provisions of this chapter.

(b) Notwithstanding (a) of this section, a psychologist or psychological associate shall report to the appropriate authority incidents of child abuse or neglect as required by AS 47.17.020, incidents of elder abuse as required by AS 47.24.010, and incidents of abuse of disabled persons disclosed to the psychologist or psychological associate by a client. In this subsection "disabled person" means a person who has a physical or mental disability or a physical or mental impairment, as defined in AS 18.80.300. (§ 1 ch 136 SLA 1967; am § 10 ch 65 SLA 1973; am § 7 ch 63 SLA 1986; am §§ 1, 2 ch 102 SLA 1988)

Effect of amendments. — The 1988 amendment, in subsection (a), divided the formerly undivided language into an introductory paragraph and paragraphs (1) and (2), made a series of minor stylistic changes in paragraphs (1) and (2), and added paragraphs (3)-(5); and, in subsection (b), added the second sentence and, in the first sentence, inserted "to the appropriate authority" and added all of the language at the end beginning with "incidents of elder abuse."

Chapter 95. Clinical Social Work.

Article

1. Board of Clinical Social Work Examiners (§§ 08.95.010 — 08.95.040)
2. Licensing (§§ 08.95.100 — 08.95.130)
3. General Provisions (§§ 08.95.900 — 08.95.990)

Cross references. — For statement of legislative purpose in connection with the enactment of this chapter, see sec. 1, ch. 126, SLA 1988 in the Temporary and Special Acts.

Effective date of chapter — Section 8, ch. 126, SLA 1988, provides: "This Act takes effect July 1, 1988."

Change to physical therapist
Supplement to physical therapist

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

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

2-9-89

HB

98

HOUSE COMMITTEE REPORT

7

Date Referred: January 20, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 4/12/89

The HEALTH, EDUCATION & SOCIAL SERVICES Committee recommends that:

HOUSE BILL NO. 98

"An Act modifying procedures for juvenile delinquency detention hearings; and changing Alaska Supreme Court Delinquency Rule 10(c)."

[] be replaced with _____ [] the same title
[] a new title

[] have attached amendment(s)

- do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

- [] fiscal impact
- [] zero fiscal note
- [] zero with analysis

[] fiscal note(s) published:

48 zero fiscal notes(s) published:

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Al Ellis
Mark Krenenberg
Bryant
Mark Bayer

Cheri Davis NO REC
Peter Jare N/R

Al Ellis
 Chairman's signature

STEVE COWPER
GOVERNOR



10
44898

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 19, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to juvenile detention proceedings. This bill amends AS 47.10.140(c) and the Alaska Supreme Court's Delinquency Rule 10(c), to allow the use of certain hearsay evidence at the hearing held within 48 hours after a minor is detained on a delinquency matter. It does not alter the detention criteria or extend the length of time that a minor may be detained before a hearing is held. In this bill, the entire AS 47.10.140 and Delinquency Rule 10 are set out, for clarity, even though only one subsection of each is being amended.

A temporary detention hearing is conducted on two issues: 1) whether there is probable cause to believe that the minor has committed a delinquent act or violated terms of release or probation; and 2) whether detention is necessary to protect the minor or others, or to ensure the minor's appearance at subsequent court hearings. Under current AS 47.10.-140, and Delinquency Rules 10(c) and 12, the Department of Health and Social Services must be prepared at the 48-hour hearing to conduct a "mini-trial" on the first issue, with witnesses called to prove each element of the offense. This bill would allow certain hearsay to be offered in support of probable cause. The standards would be the same as those applying to adult felony probable cause hearings, under Criminal Rule 5(b)(1)(i). The minor would have the opportunity to require that the witnesses be called, upon request, at a subsequent hearing to be held within five court days after arrest. A probable cause finding is necessary in order either to detain a minor or to place conditions on the minor's conduct on release until the next hearing. Delinquency Rule 10 was adopted to be effective August 15, 1987, and is based on AS 47.10.140.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act modifying procedures for juvenile delinquency detention hearings..."
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Dept. of Administration
BRU: Public Defender Agency
Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
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: John B. Salemi, Acting Public Defender Phone: 279-7541
Division: Public Defender Agency Date: 12/7/88

Approved by Commissioner: John Andrews Date: 12/9/88
Agency: Department of Administration

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

CORRECTION

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

STEVE COWPER
GOVERNOR



cc
AB 98

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 19, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

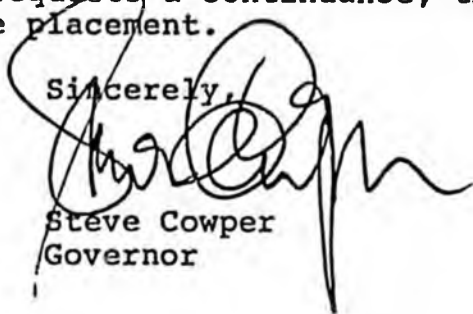
Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to juvenile detention proceedings. This bill amends AS 47.10.140(c) and the Alaska Supreme Court's Delinquency Rule 10(c), to allow the use of certain hearsay evidence at the hearing held within 48 hours after a minor is detained on a delinquency matter. It does not alter the detention criteria or extend the length of time that a minor may be detained before a hearing is held. In this bill, the entire AS 47.10.140 and Delinquency Rule 10 are set out, for clarity, even though only one subsection of each is being amended.

A temporary detention hearing is conducted on two issues: 1) whether there is probable cause to believe that the minor has committed a delinquent act or violated terms of release or probation; and 2) whether detention is necessary to protect the minor or others, or to ensure the minor's appearance at subsequent court hearings. Under current AS 47.10.-140, and Delinquency Rules 10(c) and 12, the Department of Health and Social Services must be prepared at the 48-hour hearing to conduct a "mini-trial" on the first issue, with witnesses called to prove each element of the offense. This bill would allow certain hearsay to be offered in support of probable cause. The standards would be the same as those applying to adult felony probable cause hearings, under Criminal Rule 5(b)(1)(i). The minor would have the opportunity to require that the witnesses be called, upon request, at a subsequent hearing to be held within five court days after arrest. A probable cause finding is necessary in order either to detain a minor or to place conditions on the minor's conduct on release until the next hearing. Delinquency Rule 10 was adopted to be effective August 15, 1987, and is based on AS 47.10.140.

The present procedure, requiring witnesses to be available at every 48-hour temporary detention hearing, is an impracticable, costly, and inefficient use of resources. If necessary witnesses cannot be located to establish probable cause at the 48-hour hearing, the minor is released and the case is dismissed. In Anchorage, minors usually admit the charges at the initial hearing and the witnesses summoned to the hearing are not needed. In those cases in which the minor does not admit the charges, the minor's attorney often requests a continuance to allow the attorney time to review the police reports before the hearing is conducted or, after an offer of proof, waives the need for testimony. Whether or not the minor admits or requests a continuance, the court may order a less restrictive placement.

Sincerely,



Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act modifying procedures for juvenile delinquency detention hearings..."
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Dept. of Administration
BRU: Public Defender Agency
Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
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: John B. Salemi, Acting Public Defender Phone: 279-7541
Division: Public Defender Agency Date: 12/7/88

Approved by Commissioner: John Andrews Date: 12/9/88
Agency: Department of Administration

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: "An Act modifying procedures for juvenile delinquency detention hearing..." B.I.: Office of Public Advocacy
 Sponsor: Rules Committee Components: _____
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
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: Philip S. McHenry & Grant McGee, Public Advocate
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: 12/8/88

Approved by Commissioner: John Andrews
 Agency: Department of Administration

Date: 12/12/88

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: DHSS
 Title: Juvenile Delinquency Detention
Hearings BRU: Youth Services
 Sponsor: Rules Committee Components: Probation Services
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
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	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Yvonne M. Chase, Director *HMC* Phone: 465-3170
 Division: Family and Youth Services Date: _____
 Approved by Commissioner: *Maria W. Munson* Date: 12/15/88
 Agency: Health and Social Services

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

STATE OF ALASKA 1989 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST:

Bill Version: HB 98
Publish Date: 1/20/89

Revision Date:
Title: An act modifying procedures
for juvenile delinquency detention...
Sponsor: Rules Committee
Requestor: House HESS

Agency Affected: Alaska Court System
BRU: Trial Courts
Components:

EXPENDITURES/REVENUES:	(Thousands of Dollars)					
OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL

REVENUE

FUNDING:	(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
Other	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
Full-time	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
Part-time	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
Temporary	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg*
Jan Strandberg, General Counsel
Division: Alaska Court System

Phone: 264-8228
Date: 03/06/89

Approved by: *Stephanie Cole, fax*
Arthur H. Snowden, II, Administrative Director
Agency: Alaska Court System

Date: 03/06/89

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management & Budget
 - Impacted Agency(ies)

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JUNEAU, ALASKA 99811
907.465.3800

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Mary Van Nimwegen

H. NESS

3-14-89

HB

119

MEMORANDUM

State of Alaska

Department of Education

TO: William Demmert
Commissioner
Department of Education

DATE: December 28, 1988

FILE NO: FAC 1602

FROM: Tom Ryan 
Acting Director

SUBJECT: Foundation
Issues

Pursuant to your request we have analyzed the impact of adjustments to the foundation funding formula which would reduce the total state cost for this program. If the foundation program is underfunded without changes to the statute, then a proration of basic need as required by AS 14.17.225(b) would allow districts to exceed disparity limits. Therefore, if there are insufficient funds available to fully fund the program, rather than simply prorate entitlements based upon a unit value which has not been fully funded, the legislature should reduce the unit value in AS 14.17.056.

This change and others we have considered and rejected are discussed in more detail below. We are not promoting any of these options, and we have requested full funding of foundation program entitlements in our budget request.

Since FY 90 foundation information was not yet complete at the time of this analysis, and since the principles in operation are the same, our discussion below uses FY 89 data.

1. UNIT VALUE ADJUSTMENT

A change of the unit value from \$60,000/unit to \$59,500/unit (value set in AS 14.17.056) would have reduced the FY 89 full foundation entitlement by \$5,087,010. Each subsequent reduction of \$500 in the instructional unit value reduces the FY 89 entitlement by an identical amount, i.e. a \$1,000 change in unit value changes the foundation entitlement by \$10,174,020. Preliminary FY 90 data indicates that a foundation unit value of \$56,500 would produce a foundation entitlement of \$439,245,198 versus almost \$475 million with a \$60,000 unit.

Discussion: Unit value adjustments would not create any problem with disparity test calculations. The school district impact appears to be balanced. If the foundation program is underfunded and the unit value were left unchanged at \$60,000, then a proration of basic need as required by AS 14.17.225 (b) would allow districts to exceed disparity limits and jeopardize federal funding. Therefore, if there are insufficient funds available to fully fund the program, rather than simply prorate entitlements based upon a unit value which has not been fully funded, it is essential to reduce the unit value. This action simultaneously reduces entitlements and allowed local contribution, and so protects disparity limits.

2. INCREASE MINIMUM REQUIRED LOCAL CONTRIBUTION (MILL RATE)

If the required mill rate alone is changed (AS 14.17.025(1)) and the ceiling (AS 14.17.025(2)) remains at 35% of basic need, then the reduction in state aid would be as follows:

Mills	foundation	Increment	total saved	Note:
4	\$448,430,555		0	N.Slope/Valdez at 35%
4.5	435,179,047	\$13,251,508	\$13,251,508	Kenai reaches 35%
5	426,294,829	8,884,218	\$22,135,726	Anchorage & Matsu -35%
5.5	423,660,420	2,634,409	\$24,770,135	Fairbanks, Juneau Ketchikan, Unalaska -35%
6	422,338,082	1,322,338	\$26,092,473	

Discussion: This change would have no effect on the disparity test. However, it would have an unbalanced impact on school districts: most small municipal school districts would never reach the 35% ceiling, whereas the larger and more affluent municipal school districts would reach the ceiling on local share and therefore be able to appropriate less for schools. Therefore, although foundation entitlement decreases of up to \$26 million are possible with mill rate changes alone, the burden of such changes is unevenly distributed.

3. CHANGE LOCAL CONTRIBUTION PERCENTAGE CEILING

If the local contribution required by AS 14.17.025(2) is changed so that there is an increased maximum percentage (40%, 45%, or 50%, instead of 35%) then only the North Slope and Valdez would be affected. The increased ceiling on local share of basic need would increase the costs for the two districts and reduce the state's cost of the foundation program a like amount. A 4 mill tax in other municipal school districts does not generate enough to reach the existing 35% ceiling. The changes are linear, i.e. each 5% change in the ceiling changes the costs by the same amount since it is a percentage of the same figure: basic need.

each 5% increase costs North Slope \$593,790 (based upon FY 89 figures)
 each 5% increase costs Valdez 189,840
 each 5% increase reduces foundation 783,630

Discussion: An increase to a 50% ceiling by itself would reduce foundation entitlements by only \$2,350,890. Only the two districts will be affected until such time as the assessed valuation in other municipal school districts increases to a level at which the minimum required tax levy meets or exceeds the existing 35% of basic need ceiling.

Note: Except for North Slope and Valdez, every city borough school district currently contributes an equivalent of a 4 mill tax levy. If the North Slope and Valdez had the same requirement, that is if there were a higher ceiling or no ceiling, then the revenue generated would exceed the basic need of those districts by over \$40 million (\$38,443,979 for North Slope and \$2,456,739 for Valdez). This analysis suggests that some combination of increased mill rate and increased ceiling on local share would involve more school districts in increased local support and produce significantly more local contributions toward education, reducing the foundation payment entitlements significantly.

4. CHANGE LOCAL CONTRIBUTION CEILING AND MILL RATE

This change places a greater burden on a larger number of municipal school districts and as a result more dramatically reduces foundation entitlements:

<u>Minimum mills</u>	<u>Maximum % ceiling</u>	<u>foundation reduced</u>
A 4.5 mill minimum with a	40% ceiling reduces state payments	\$16,115,669
	45%	17,081,593
	50%	18,047,516
A 5.0	40%	29,569,410
	45%	32,197,016
	50%	33,162,939
A 5.5	40%	40,865,063
	45%	45,920,400
	50%	48,264,381
A 6.0	40%	45,516,307
	45%	59,054,732
	50%	62,269,611

Discussion: This change affects only who pays what share of basic need and therefore does not affect disparity calculations. Disparity tests are affected only by expenditures beyond the basic need amount.

5. REAA INTEREST COUNTED AS LOCAL CONTRIBUTION

AS 14.17.025 (d) could be changed to require regional education attendance area school districts to contribute a local share in the amount of interest earnings. For FY 89 the amount of such earnings was projected to be \$2,211,984. This figure does not include interest earnings on capital project funds, but only interest on amounts in the general operating fund.

Discussion: Reducing state foundation payments to REAAs by interest earned on investments removes any incentive for investment and REAAs would likely cease the practice and eliminate the expense of managing these investments. Such a change would likely be counter-productive unless some incentive was retained for investment.

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 27, 1989

FURTHER REFERRALS: FINAN

Date of Committee Action: 4/5/89

The HEALTH, EDUCATION & SOCIAL SERVICES Committee recommends that:

HOUSE BILL NO. 119

[CHANGES AREA COST DIFFERENTIAL]

"An Act relating to the area cost differential for school districts; and providing for an effective date."

[X] be replaced with CSHB 119 (HESS) [X] the same title
[] a new title

[] have attached amendment(s)

- [] do pass
- [] do not pass
- [X] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [X] fiscal impact
- [] zero fiscal note
- [] zero with analysis

APPROVES PREVIOUS:

- [] fiscal note(s) published: _____
- [] zero fiscal notes(s) published: _____

SIGNING DO PASS:

W. H. ...

...

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Peter ...

Max F. ...

Chris Davis no rec

MAX BAKER - DO NOT PA.

without full review of

foundation formula

J. Ellis no rec

J. Ellis

Chairman's signature

CORRECTION

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

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 27, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 4/5/89

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- [X] fiscal impact
- [] zero fiscal note
- [] zero with analysis

APPROVES PREVIOUS:

- [] fiscal note(s) published: _____
- [] zero fiscal notes(s) published: _____

SIGNING DO PASS:

W. H. Hurnace

George J. ...

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Peter J. ...

Mr. F. ...

Cheri Davis No rec

Max Baker - DO NOT PASS

without full review of

foundation formula

Ph. Ellis no rec

Ph. Ellis

Chairman's signature

A M E N D M E N T

OFFERED IN THE HOUSE

BY BOYER

TO: CSHB 119 (HESS)

Page 3, after line 16:

Insert a new bill section to read:

"* Sec. 3. The Department of Education shall implement the changes made to the area cost differential in sec. 2 of this Act, in equal amounts over the next three fiscal years, beginning July 1, 1989."

Renumber the following bill section accordingly.

Original sponsor: Larson

Adopted

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 119 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the area cost differential for
7 school districts; and providing for an effective
8 date."

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

10 * Section 1. FINDINGS. The legislature finds that by making an adjust-
11 ment to the existing K-12 statutory area cost differential, as recommended
12 in a recent Legislative Budget and Audit Study, the funding formula will be
13 more equitable as to the true cost of education, for all districts of the
14 state.

15 * Sec. 2. AS 14.17.051 is amended to read:

16 Sec. 14.17.051. AREA COST DIFFERENTIAL. The area cost differen-
17 tial for a school district is as follows:

School District	Area Cost Differential
Adak	<u>1.29</u> [1.27]
Alaska Gateway	<u>1.14</u> [1.19]
<u>Aleutian East</u>	<u>1.33</u>
Aleutian Region	1.31
Anchorage	1.00
Annette Island	<u>1.08</u> [1.03]
Bering Strait	<u>1.40</u> [1.39]
Bristol Bay	<u>1.33</u> [1.27]
Chatham	<u>1.10</u> [1.03]
Chugach	<u>1.20</u> [1.14]
Copper River	<u>1.13</u> [1.14]

1	Cordova	<u>1.20</u> [1.11]
2	Craig	<u>1.08</u> [1.03]
3	Delta/Greely	<u>1.14</u> [1.16]
4	Dillingham	<u>1.29</u> [1.27]
5	Fairbanks	<u>1.03</u> [1.04]
6	Galena	<u>1.33</u> [1.30]
7	Haines	<u>1.04</u> [1.05]
8	Hoonah	<u>1.10</u> [1.08]
9	Hydaburg	<u>1.08</u> [1.03]
10	Iditarod	1.33
11	Juneau	1.00
12	Kake	<u>1.10</u> [1.03]
13	Kashunamiut	<u>1.37</u> [1.33]
14	Kenai	1.00
15	Ketchikan	1.00
16	[KING COVE	1.27]
17	Klawock	<u>1.08</u> [1.03]
18	Kodiak	<u>1.08</u> [1.09]
19	Kuspuk	1.33
20	Lake & Peninsula	<u>1.33</u> [1.31]
21	Lower Kuskokwim	<u>1.40</u> [1.42]
22	Lower Yukon	<u>1.37</u> [1.35]
23	Matanuska-Susitna	1.00
24	Nenana	<u>1.14</u> [1.20]
25	Nome	<u>1.05</u> [
26	North Slope	<u>1.49</u> [1.45]
27	Northwest Arctic	<u>1.43</u> [1.45]
28	Pelican	<u>1.10</u> [1.08]
29	Petersburg	1.00

1	Pribilof	<u>1.40</u> [1.30]
2	Railbelt	<u>1.14</u> [1.23]
3	SAND POINT	1.27]
4	Sitka	1.00
5	Skagway	1.05
6	Southeast Island	<u>1.08</u> [1.04]
7	Southwest Region	<u>1.33</u> [1.31]
8	St. Mary's	<u>1.37</u> [1.30]
9	Tanana	<u>1.33</u> [1.30]
10	Unalaska	<u>1.29</u> [1.27]
11	Valdez	<u>1.08</u> [1.11]
12	Wrangell	1.00
13	Yakutat	<u>1.20</u> [1.08]
14	Yukon Flats	<u>1.36</u> [1.46]
15	Yukon-Koyukuk	<u>1.33</u> [1.34]
16	Yupiit	<u>1.40</u> [1.41]

* Sec. 3. This Act takes effect July 1, 1989.

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Alaska State Legislature



Session Address:
STATE CAPITOL BUILDING
BOX V
JUNEAU, ALASKA 99811
(907) 465-3727

Interim Address:
BOX 53
PALMER, ALASKA 99645
(907) 745-3826 - Palmer
(907) 376-8828 - Wasilla

Representative Ronald L. Larson District 16B

House Bill 119 An Act to Change Area Cost Differential by Representative Ronald Larson would change the portion of the public school foundation law that compensates a district for the cost associated with "doing business" in a particular geographic area. The area cost differential formula is a companion but separate from the formula that compensates for number of students, size of schools and number of communities within a school district.

The ACD Study was undertaken following the request by various individuals and groups alleging the ACD established in 1987, when the public school foundation formula was revised, was not accurate as it was taken from information that was collected by election district rather than school district and based only on personnel cost (didn't include operation cost). The Legislative Budget and Audit Committee contracted with the McDowell Group to prepare a study with recommendations that showed by school district:

1. personnel costs
2. operation costs
3. revenue and expenditure data per student

Presently the ACDs range from 1.0 to 1.46. HB119 calls for ACD from 1.0 to 1.49. Changes were modest resulting in 42 of the 53 districts changed by 5 points or less and only half of all districts (29) changed by less than 3 points. Eleven districts remained the same.

The concern that lead the Legislature to seek a study also lead to the appropriation of 3.5 million dollars for the express purpose of correcting any inequities found to exist as a result of this study.

Analysis by the Department of Education shows there will be no additional cost if the ACD were amended as called for in HB119. Although the purpose of the study was to insure appropriate compensation for the cost of business rather than to reduce public school expenditures, the findings do show it would require less funds if the proposal ACD were in effect. The information provided by the Department of Education shows the need for approximately \$200,000 less for the 1989-90 school year. The 3.5 million appropriated for correcting inequities will now be available for reappropriation and will most likely be reappropriated to fund a supplemental needed for the foundation program; thereby preventing the need to prorate the foundation program to all school districts in Alaska.

THE MCDOWELL GROUP
MANAGEMENT AND ECONOMIC CONSULTANTS

a division of



DATA DECISIONS GROUP, INC.

February 13, 1989

Representative Ron Larson
House of Representatives
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Representative Larson:

The purpose of this letter is to address two questions concerning the final district differentials from the recently completed *Alaska School District Profiles and Differential Study*.

1. The Haines District inquired about adjusting their insurance differential. On their questionnaire they reported no property insurance costs because the administration of their insurance payments involves the Haines Borough. However, unlike any other borough government, the sole function of the Haines Third Class Borough is school finance and school funds were used by the borough to pay insurance premiums of \$19,613 in FY 1988, the year used for the study. Therefore, in our professional opinion the Haines School District should be credited with the payment of property insurance and their insurance expenditure weight and price differential adjusted accordingly. This would raise their geographic differential from 1.03 in our final report to 1.04.
2. In the first printing of Volume I, for which only a limited number of copies were printed, a typographical error existed for the Valdez District in one table in Chapter I. A 1.06 differential is shown and this should be corrected to 1.08. The copies from the major printing contain the correct differential of 1.08. Since the committee was given the copies of the first printing, any proposed legislation should be checked to insure a 1.08 for Valdez. Your office and Valdez were advised of this correction by phone in December.

Please call if you have any questions.

Sincerely,

D. Eric McDowell
Principal

ASSOCIATION OF ALASKA SCHOOL BOARDS

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

POSITION PAPER

HB 119

Cost Differentials for School Districts

The Association of Alaska School Boards is concerned with the impact that the redistribution of the new area differentials will have on a number of small districts.

The impact of a decreased differential on a small district can be quite significant. Department of Education projections indicate. Four districts will receive cuts in excess of 5% of their state aid according to the McDowell scenario.

School districts are currently dealing with the suggestions from the Legislature to reduce their budgets due to revenue shortfalls from the State. This cost differential reduction to some districts, on top of possible reduced revenues from the State, may not provide some small districts with the latitude to adequately adjust to the redistribution of this new area cost differential.

AASB encourages the Legislature to insure that every consideration is made to protect the educational and operational integrity of each district in the State of Alaska.

1 ALASKA PUBLIC SCHOOL FUNDATION FUNDING PROGRAM
 2 FY90 LEGISLATIVE PROJECTION AS 14.17

3

4 PREPARED 1/11/89

BASED ON
 PROGNOSIS

PERCENTAGE

5 *****
 6 PROJECTED STUDY COLUMN 3 OF CHANGE
 7 SCHOOL FY90 FY90 MINUS COLUMN 3 TO
 8 DISTRICT STATE AID STATE AID COLUMN 2 COLUMN 2
 9 -----

	PROJECTED FY90 STATE AID	STUDY FY90 STATE AID	COLUMN 3 MINUS COLUMN 2	OF CHANGE COLUMN 3 TO COLUMN 2
10				
11 ADAK	\$2,185,603	\$2,250,403	\$64,800	2.96%
12 ALASKA GATEWAY	\$4,663,800	\$4,467,600	(\$196,200)	-4.21%
13 ALEUTIAN REGION	\$1,750,444	\$1,781,044	\$30,600	1.75%
14 ANCHORAGE	\$142,653,962	\$142,653,962	\$0	0.00%
15 ANNETTE ISLAND	\$1,191,188	\$1,302,388	\$121,200	10.26%
16 BERING STRAIT	\$11,397,158	\$12,112,958	\$715,800	6.28%
17 BRISTOL BAY	\$1,542,840	\$1,651,440	\$108,600	7.04%
18 CHATHAM	\$2,230,873	\$2,437,873	\$207,000	9.28%
19 CHUGACH	\$1,156,300	\$1,231,900	\$75,600	6.54%
20 COPPER RIVER	\$4,748,121	\$4,703,721	(\$44,400)	-0.94%
21 CORDOVA	\$2,211,486	\$2,430,686	\$219,200	9.90%
22 CRAIG	\$1,273,032	\$1,343,832	\$70,800	5.56%
23 DELTA GREELY	\$4,302,137	\$4,209,737	(\$92,400)	-2.15%
24 DILLINGHAM	\$2,503,779	\$2,555,979	\$52,200	2.08%
25 FAIRBANKS	\$51,113,347	\$50,680,347	(\$433,000)	-0.85%
26 GALENA	\$1,076,974	\$1,110,574	\$33,600	3.12%
27 HAINES	\$1,913,954	\$1,874,954	(\$39,000)	-2.04%
28 HOONAH	\$1,368,806	\$1,398,806	\$30,000	2.19%
29 HYDABURG	\$946,004	\$993,404	\$47,400	5.01%
30 IDITAROD	\$4,336,946	\$4,336,946	\$0	0.00%
31 JUNEAU	\$17,971,471	\$17,971,471	\$0	0.00%
32 KAKE	\$1,138,441	\$1,232,641	\$94,200	8.27%
33 KASHUNARTUT	\$980,334	\$1,034,234	\$53,900	5.49%
34 KENAI	\$32,247,213	\$32,247,213	\$0	0.00%
35 KETCHIKAN	\$8,903,122	\$8,903,122	\$0	0.00%
36 KING COVE	\$989,828	\$1,054,628	\$64,800	6.55%
37 KLAMOCK	\$1,065,944	\$1,134,944	\$69,000	6.47%
38 KODIAK	\$11,255,595	\$11,128,395	(\$127,200)	-1.13%
39 KUSLUK	\$4,532,907	\$4,532,907	\$0	0.00%
40 LAKE & PENINSULA	\$4,540,682	\$4,624,082	\$83,400	1.84%
41 LOWER KUSKOKWIM	\$26,399,207	\$25,946,207	(\$453,000)	-1.72%
42 LOWER YUKON	\$9,451,133	\$9,652,133	\$201,000	2.13%
43 MAT-SU	\$31,838,033	\$31,838,033	\$0	0.00%
44 NENANA	\$1,613,938	\$1,529,938	(\$84,000)	-5.20%
45 NOME	\$4,797,902	\$4,878,902	\$81,000	1.69%
46 NORTH SLOPE	\$6,512,331	\$6,841,131	\$328,800	5.05%
47 NORTHWEST ARCTIC	\$12,987,756	\$12,759,756	(\$228,000)	-1.76%
48 PELICAN	\$516,579	\$526,779	\$10,200	1.97%
49 PETERSBURG	\$2,766,182	\$2,766,182	\$0	0.00%
50 PRIBILOF	\$1,447,595	\$1,593,995	\$146,400	10.11%
51 RAILBELT	\$3,018,416	\$2,521,016	(\$497,400)	-16.48%
52 SAND POINT	\$1,254,838	\$1,320,838	\$66,000	5.26%
53 SITKA	\$6,062,363	\$6,062,363	\$0	0.00%
54 SKAGWAY	\$863,019	\$863,019	\$0	0.00%
55 SOUTHEAST ISLAND	\$4,558,473	\$4,766,073	\$207,600	4.55%
56 SOUTHWEST REGION	\$4,977,737	\$5,076,737	\$99,000	1.99%
57 ST. MARY'S	\$1,340,461	\$1,413,661	\$73,200	5.46%
58 TANANA	\$874,075	\$899,875	\$25,800	2.95%
59 UNALASKA	\$1,177,160	\$1,203,260	\$26,100	2.22%
60 VALDEZ	\$2,546,224	\$2,371,024	(\$175,200)	-6.88%
61 WRANGELL	\$2,418,601	\$2,418,601	\$0	0.00%
62 YAKUTAT	\$1,020,333	\$1,155,933	\$135,600	13.29%
63 YUKON FLATS	\$4,121,488	\$3,765,088	(\$356,400)	-8.65%
64 YUKON-KOYUKUK	\$5,019,436	\$4,971,436	(\$48,000)	-0.96%
65 YUPIIT	\$3,271,367	\$3,241,367	(\$30,000)	-0.92%
66				
67				
68 *****				
69				
70 TOTALS	\$469,643,738	\$469,575,338	(\$68,400)	-0.01%
71				
72 *****				
73 STATE CORR STUDY -->	\$3,728,010	\$3,728,010	\$0	0.00%
74 VALDEZ CONTRACT -->	\$600,000	\$600,000	\$0	0.00%
75 MT. EDGECLIFFE ---->	\$1,426,397	\$1,426,397	\$0	0.00%
76				
77 TOTAL STATE AID -->	\$475,398,145	\$475,329,745	(\$68,400)	-0.01%

ALASKA PUBLIC SCHOOL FOUNDATION FUNDING PROGRAM
 FY90 LEGISLATIVE PROJECTION 43 14 17

PREPARED 1/11/89

SCHOOL DISTRICT	FY90 PROJECTED UNITS	AREA COST DIFF.	FY90 ADJUSTED UNITS	FY90 PROJECTED BASIC NEED \$60,000	REQUIRED LOCAL EFFORT	DEDUCTIBLE PL874	PROJECTED FY90 STATE AID
ADAK	54.02	1.27	92.01	\$4,110,600	80	\$1,930,997	\$2,185,603
ALASKA GATEWAY	65.82	1.19	77.73	\$4,663,800	80	80	\$4,663,800
ALEUTIAN REGION	25.39	1.31	33.32	\$2,035,300	80	\$294,756	\$1,750,444
ANCHORAGE	3,103.37	1.20	3,103.37	\$186,202,200	\$43,334,202	\$214,036	\$142,653,962
ANNETTE ISLAND	40.78	1.03	41.99	\$2,495,600	80	\$1,314,212	\$1,181,168
BERING STRAIT	192.85	1.39	268.06	\$16,383,500	80	\$4,086,442	\$11,997,158
BRISTOL BAY	30.25	1.27	38.42	\$2,305,200	\$472,721	\$289,639	\$1,542,840
CHATHAM	49.16	1.03	50.63	\$3,037,300	80	\$806,927	\$2,230,873
CHUGACH	20.88	1.14	23.80	\$1,428,000	80	\$271,700	\$1,156,300
COPPER RIVER	74.74	1.14	85.20	\$5,112,000	80	\$363,879	\$4,748,121
CORDOVA	40.56	1.11	45.02	\$2,701,200	\$494,414	\$25,300	\$2,211,686
CRAIG	23.45	1.03	24.15	\$1,449,000	\$155,155	\$20,633	\$1,273,232
DELTA GREELY	76.92	1.16	89.23	\$5,353,900	80	\$1,051,663	\$4,302,137
DILLINGHAM	43.47	1.27	55.21	\$3,312,600	\$486,205	\$322,616	\$2,503,779
FAIRBANKS	1,055.20	1.04	1,097.41	\$65,844,600	\$14,683,509	\$47,744	\$51,113,347
GALENA	18.69	1.30	24.30	\$1,458,000	\$78,340	\$302,686	\$1,076,974
HAINES	37.86	1.05	39.75	\$2,385,000	\$450,452	\$14,594	\$1,919,954
HOONAH	25.19	1.08	27.21	\$1,632,600	\$90,228	\$172,906	\$1,368,906
HYDABURG	15.92	1.03	16.40	\$984,000	\$37,996	80	\$946,004
IGITAROD	63.90	1.33	84.99	\$5,099,400	80	\$762,454	\$4,336,946
JUNEAU	389.96	1.00	389.96	\$23,397,600	\$5,413,248	\$12,881	\$17,971,471
KAKE	22.35	1.03	23.02	\$1,381,200	\$70,921	\$171,838	\$1,138,441
KASHUNAMIUT	22.33	1.33	29.70	\$1,782,000	80	\$801,146	\$980,854
KENAI	774.01	1.00	774.01	\$46,440,600	\$14,086,937	\$106,450	\$32,247,213
KETCHIKAN	204.10	1.00	204.10	\$12,246,000	\$3,331,958	\$10,920	\$8,903,122
KING COVE	17.87	1.27	22.69	\$1,361,400	\$106,145	\$265,427	\$989,828
KLAMOCK	22.82	1.03	23.50	\$1,410,000	\$38,712	\$305,344	\$1,065,944
KODIAK	212.38	1.09	231.49	\$13,889,400	\$2,378,504	\$255,301	\$11,255,595
KUSPUK	65.33	1.33	86.99	\$5,213,400	80	\$680,493	\$4,532,907
LAKE & PENINSULA	69.39	1.31	91.56	\$5,493,600	80	\$952,918	\$4,540,682
LOWER KUSKOKWIM	377.58	1.42	536.16	\$32,169,600	80	\$5,770,393	\$26,399,207
LOWER YUKON	167.41	1.35	226.00	\$13,560,000	80	\$4,108,867	\$9,451,133
MAT-SU	663.60	1.00	663.60	\$41,016,000	\$9,159,961	\$18,006	\$31,838,033
MENANA	23.33	1.20	28.00	\$1,680,000	\$66,062	80	\$1,613,938
MOPE	67.30	1.34	90.18	\$5,410,800	\$560,332	\$52,566	\$4,797,902
NORTH SLOPE	137.09	1.45	198.78	\$11,928,800	\$4,150,440	\$1,364,029	\$6,512,331
NORTHWEST ARCTIC	189.93	1.45	275.40	\$16,524,000	\$632,184	\$2,904,060	\$12,987,756
PELICAN	8.63	1.08	9.32	\$559,200	\$42,621	80	\$516,579
PETERSBURG	57.88	1.00	57.88	\$3,472,800	\$692,336	\$14,282	\$2,766,182
PRIBILOF	24.46	1.30	31.80	\$1,908,000	80	\$460,405	\$1,447,595
RAILBELT	61.45	1.23	75.98	\$3,058,800	80	\$40,384	\$3,018,416
SAND POINT	18.33	1.27	23.28	\$1,396,800	\$141,962	80	\$1,254,838
SITKA	132.65	1.20	159.18	\$7,959,000	\$1,896,637	80	\$6,062,363
SKAGWAY	17.23	1.35	23.26	\$1,085,400	\$221,334	\$547	\$863,019
SOUTHEAST ISLAND	86.65	1.34	115.12	\$5,407,200	80	\$848,727	\$4,558,473
SOUTHWEST REGION	92.73	1.31	121.58	\$6,502,300	80	\$1,525,063	\$4,977,237
ST. MARY'S	17.40	1.30	22.62	\$1,357,200	\$16,739	80	\$1,340,461
TANANA	14.33	1.30	18.63	\$1,117,800	\$46,048	\$197,677	\$874,075
UNALASKA	21.47	1.27	27.27	\$1,636,200	\$386,275	\$72,465	\$1,177,460
VALDEZ	58.38	1.11	64.80	\$3,888,000	\$1,331,610	\$10,166	\$2,546,224
WRANGELL	67.31	1.30	87.51	\$2,838,600	\$417,379	\$2,620	\$2,418,601
YAKUTAT	18.86	1.28	24.12	\$1,222,200	\$76,168	\$125,699	\$1,020,333
YUKON FLATS	59.41	1.46	86.74	\$5,204,400	80	\$1,082,912	\$4,121,488
YUKON-KOYUKUK	79.61	1.34	106.68	\$6,400,800	80	\$1,381,364	\$5,019,436
YUPIIT	50.12	1.41	70.67	\$4,240,200	80	\$968,833	\$3,271,367

TOTALS 9,342.00 10,197.63 \$611,857,800 \$105,518,875 \$36,695,187 \$469,643,738

STATE CORR STUDY -----))) \$3,723,010
 VALDEZ CONTRACT -----))) \$600,000
 MT. EDGECLUMBE -----))) \$1,426,397
 TOTAL STATE AID -----))) \$475,349,165

ALASKA PUBLIC SCHOOL FUNDATION FINANCING PROGRAM
FY90 LEGISLATIVE PROJECTION AS 10.17

PREPARED 1/11/89

McDowell

SCHOOL DISTRICT	STUDY		FY90 ADJUSTED UNITS	FY90 PROJECTED BASIC NEED \$60,000	REQUIRED LOCAL EFFORT	DEDUCTIBLE PL876	PROJECTED FY90 STATE AID
	FY90 PROJECTED UNITS	AREA COST DIFF.					
ADAK	54.32	1.29	59.69	\$4,181,400	80	\$1,430,997	\$2,250,403
ALASKA GATEWAY	65.32	1.14	74.46	\$4,467,600	80	80	\$4,467,600
ALEUTIAN REGION	25.29	1.33	34.43	\$2,065,800	80	\$284,756	\$1,781,044
ANCHORAGE	3,103.37	1.00	3,103.37	\$186,202,200	\$43,334,202	\$214,036	\$142,653,962
ANNETTE ISLAND	40.28	1.08	43.51	\$2,616,600	80	\$1,314,212	\$1,302,388
BERING STRAIT	192.25	1.40	269.99	\$16,199,400	80	\$4,086,442	\$12,112,958
BRISTOL BAY	30.25	1.33	40.23	\$2,613,800	\$472,721	\$289,639	\$1,651,440
CHATANAH	49.16	1.10	54.08	\$3,244,800	80	\$806,927	\$2,437,873
CHUGACH	20.88	1.20	25.06	\$1,503,600	80	\$271,700	\$1,231,900
COPPER RIVER	74.74	1.13	84.46	\$5,067,600	80	\$363,879	\$4,703,721
CORDOVA	40.56	1.20	48.67	\$2,920,200	\$464,414	\$25,300	\$2,430,486
CRAIG	27.45	1.08	29.33	\$1,519,300	\$155,125	\$20,833	\$1,343,332
DELTA GREELY	76.92	1.14	87.69	\$5,261,400	80	\$1,051,663	\$4,209,737
DILLINGHAM	43.47	1.29	56.08	\$3,364,900	\$486,205	\$322,616	\$2,555,979
FAIRBANKS	1,055.20	1.03	1,086.86	\$65,211,600	\$14,683,509	\$47,744	\$50,480,347
GALENA	18.69	1.33	24.86	\$1,491,600	\$78,340	\$302,686	\$1,110,574
HAINES	37.36	1.03	39.00	\$2,340,000	\$450,452	\$14,594	\$1,874,954
HOONAH	25.19	1.10	27.71	\$1,662,600	\$90,888	\$172,906	\$1,398,306
HYDABURG	15.92	1.08	17.19	\$1,031,400	\$37,996	80	\$993,404
IDITAROD	63.90	1.33	84.99	\$5,099,400	80	\$762,454	\$4,336,946
JUNEAU	389.96	1.00	389.96	\$23,397,600	\$5,413,248	\$12,881	\$17,971,471
KAKE	22.35	1.10	24.59	\$1,475,400	\$70,921	\$171,838	\$1,232,641
KASHUNAHUT	22.33	1.37	30.59	\$1,835,400	80	\$801,166	\$1,034,234
KENAI	774.01	1.00	774.01	\$46,440,600	\$14,086,937	\$106,150	\$32,247,213
KETCHIKAN	204.10	1.00	204.10	\$12,246,000	\$3,331,958	\$10,920	\$8,903,122
KING COVE	17.87	1.33	23.77	\$1,426,200	\$106,143	\$265,427	\$1,054,628
KILBUCK	22.82	1.08	24.65	\$1,479,000	\$38,712	\$305,344	\$1,134,944
KODIAK	212.38	1.08	229.37	\$13,762,200	\$2,378,504	\$255,301	\$11,128,395
KUSKOK	65.33	1.33	86.89	\$5,213,400	80	\$680,493	\$4,532,907
LAKE & PENINSULA	69.89	1.33	92.95	\$5,577,000	80	\$952,918	\$4,624,082
LOWER KUSKOKWIM	377.58	1.40	528.61	\$31,716,600	80	\$5,770,393	\$25,946,207
LOWER YUKON	167.41	1.37	229.35	\$13,761,000	80	\$4,108,867	\$9,652,133
MAT-SU	683.60	1.00	683.60	\$41,016,000	\$9,159,961	\$18,006	\$31,838,033
NENANA	23.33	1.14	26.60	\$1,596,000	\$66,062	80	\$1,529,938
NOME	67.30	1.36	91.53	\$5,491,800	\$560,332	\$52,566	\$4,878,902
NORTH SLOPE	137.09	1.49	204.26	\$12,255,600	\$4,150,440	\$1,264,029	\$6,841,131
NORTHWEST ARCTIC	189.93	1.43	271.60	\$16,296,000	\$452,184	\$2,904,060	\$12,759,756
PELICAN	8.63	1.10	9.49	\$569,400	\$42,621	80	\$526,779
PETERSBURG	57.88	1.00	57.88	\$3,472,800	\$492,336	\$14,282	\$2,766,182
PRIBILOF	24.46	1.40	34.24	\$2,054,400	80	\$460,405	\$1,593,995
RAILBELT	41.45	1.03	42.69	\$2,561,400	80	\$40,384	\$2,521,016
SAND POINT	18.33	1.33	24.38	\$1,462,800	\$141,962	80	\$1,320,838
SITKA	132.65	1.00	132.65	\$7,959,000	\$1,896,637	80	\$6,062,363
SKAGWAY	17.23	1.05	18.09	\$1,085,400	\$221,834	\$547	\$863,019
SOUTHEAST ISLAND	86.65	1.08	93.58	\$5,614,800	80	\$843,727	\$4,766,073
SOUTHWEST REGION	82.73	1.33	110.03	\$6,601,800	80	\$1,525,063	\$5,076,737
ST. MARY'S	17.40	1.37	23.84	\$1,430,400	\$16,739	80	\$1,413,661
TANANA	14.33	1.33	19.06	\$1,143,600	\$46,048	\$197,677	\$899,875
UNALASKA	21.47	1.29	27.70	\$1,662,000	\$386,275	\$72,465	\$1,203,260
VALDEZ	58.28	1.36	81.53	\$3,712,800	\$1,331,610	\$10,166	\$2,371,024
WRANGELL	67.31	1.00	67.31	\$2,838,600	\$417,379	\$2,620	\$2,418,501
YAKUTAT	18.86	1.20	22.63	\$1,357,800	\$76,168	\$125,699	\$1,155,933
YUKON FLATS	59.41	1.36	80.80	\$4,848,000	80	\$1,082,912	\$3,765,088
YUKON-KOYUKUK	79.61	1.33	105.88	\$6,352,800	80	\$1,381,364	\$4,971,436
YUPIIT	50.12	1.40	70.17	\$4,210,200	80	\$968,833	\$3,241,367

TOTALS 9,342.20 10,196.49 \$611,789,400 \$105,518,875 \$36,695,187 \$469,575,338

STATE CORR STUDY -----))) \$3,708,310
VALDEZ CONTRACT -----))) \$600,000
MT. EDGECLUMBE -----))) \$1,426,397
TOTAL STATE AID -----))) \$475,329,745

SITKA SCHOOL DISTRICT



TO : House HESS Committee Members

FROM : Joe Beckford, Ass't. Sup't. *Joe B.*
Sitka School District

DATE : April 4, 1989

RE : House Bills 119 & 185

House Bill 119

My questioning of Mr. McDowell was meant to bring out that the area differentials are invalid as applied. In a market basket approach to determining a cost of living index, a wide range of expenses impacting a total budget are compiled. In the school district cost survey, a relatively few expenses are extrapolated out as if they impacted the whole school district's budget. While the cost of utilities, transportation, and freight comprise a relatively small portion of school district budgets, the area differentials they represent are applied to 100% of a district's entitlement. The area differentials should be adjusted according to how much of a school district's budget goes into expense categories truly impacted by differential costs. This is not being done. This and the dispersion calculations have a compounding effect which has significantly led to the creation of "have's" and "have not's" in state foundation funding. It has also led to a small number of communities which want a good basic educational program having to pay an extremely high amount of local funding in order to do so.

House Bill 185

Sitka School district could add to the scenarios that other single site school districts have provided in their testimony to show the wholesale cutbacks in people and programs which have occurred over the last several years; cutbacks which were the direct result of inadequate funding through an inequitable funding formula.

A good example of the problem can be shown by looking at next year's (FY'90) Basic Need calculations for Sitka Schools. Basic Need is what it should cost Sitka to carry out its educational program with the number of students and groupings of students (foundation units) for which it is eligible.

The inadequacy of Basic Need, as a realistic cost

determinant, can be shown by the following:

- Basic Need (132.66 units x \$60,000.) = \$ 7,959,600.
- Sitka's salary and benefit costs = 7,855,122.
- \$ 104,122.

After payroll expenses, Basic Need leaves the district with \$104,122. to pay the utilities (electricity, fuel oil, water, sewer, and garbage), insurance, mandated costs (i.e. audit, curriculum review, etc.), contracted services, and other expenses. Basic need, at full funding is not covering the bills let alone talk of prorating the basic need by 95%.

It is my understanding that the Department has put together an alternate proposal which would exclude Sitka and some of the other higher category districts from the relief sought under HB 185. They claim that the larger districts proposed for this relief have efficiency of size. If you look at the computation of Basic Need, efficiency of size has not been taken into consideration anyplace else in funding formulations. If you take Anchorage's Basic Need and divide it by their enrollment (38,685.23), you get \$ \$4,830.17 per pupil; Sitka's Basic Need (at 1657.90 enrollment) is \$4,943.24; a \$ 113.07 difference. However, Northwest Arctic School District, which is comparable to Sitka in size has a Basic Need per pupil of \$10,004.46.; a \$6,188.68 difference. Where has efficiency of size been taken into consideration in the foundation formulations ? The answer is nowhere, and that is a part of the problem that the small school district's face.

The Department's input on this issue is vacuous; it has no data or valid rationale to support its position because the facts are very clear; small single site school districts, of which Sitka is and should be a part, have taken a disproportionate higher reduction in state funding than other categories of school districts.



SOUTHEAST
ISLAND
SCHOOL
DISTRICT

1621 TONGASS AVENUE SUITE 301
POST OFFICE BOX 8340
KETCHIKAN, ALASKA 99901
(907) 225-9658 (OR 225-9651)

Robert Weinstein
SUPERINTENDENT

April 4, 1989

Representative Johnnie Ellis
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Ellis:

Due to the limited time this morning for testimony regarding HB 119, I was unable to present the position of the Southeast Island School District with respect to this legislation. I am therefore submitting our position in written form.

The School District generally supports the revised differentials as some appropriate corrections are made, and certain inequities in the current formula are reduced.

When the original differentials were proposed, I did a considerable amount of research and expressed a great deal of concern regarding the appropriateness of using household cost data to reflect the relative costs of operating school districts.

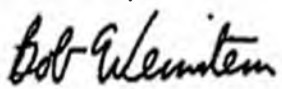
Two of the major subindices used inappropriately were for housing and transportation, which alone accounted for between 40 and 50% of the household costs in each area of the state. The current study appears to correct this and similar problems with the earlier data, and more accurately reflects the cost of school district operations. It certainly shows what people in this area have been saying: the area differentials for Southeast Alaska school districts were, on a relative basis, inappropriately low.

Another reason to adopt the proposed changes in some form has to do with federal PL 874 requirements. It is my understanding that, when federal officials reviewed the new foundation plan to determine whether it met certain tests with respect to PL 874, so that a deduction from state aid could be made, the plan was approved in part because a showing could be made that the best available data at the time was used to establish the differentials. Now that the source of the original data is stating that better data is now available, it seems that some type of action is appropriate in order to avoid jeopardizing the current deductibility of the PL 874 funds from state foundation aid.

A few other suggestions which come to mind are as follows:

- (A) Additional consideration might be given to more regionalization of data. For example, in southern Southeast the data indicated that this school district had a cost of doing business of 11% above the base. However, the proposed differential puts us only 8% above the base. This was so our district would not stand out in southern Southeast among the rural districts with respect to area differentials. Given the relative locations of the school districts in this part of the state, that approach does make some sense. If this were to be applied to some other places throughout the state, such as northern Southeast Alaska, perhaps that would reduce some of the problems perceived in the proposed legislation in that there are differences between neighboring towns and districts.
- (B) Consideration should be given to a hold harmless provision so that no district loses funds due to a decrease in area differentials. If such a provision were implemented, the area differential perhaps would only decrease as the foundation unit increased in future years.
- (C) A provision should be made for the periodic updating of data every three to five years. This would assure that in future years we are not operating on completely antiquated data.

Sincerely,



Robert Weinstein
Superintendent

STATE OF ALASKA
THE LEGISLATURE

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

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

2-23-89

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

**ALASKA SCHOOL DISTRICT
PROFILES AND
DIFFERENTIAL STUDY**

**SUMMARY OF RESULTS AND
RECOMMENDATIONS**

CHAPTER I OF VOLUME I

PREPARED FOR:

LEGISLATIVE BUDGET AND AUDIT COMMITTEE
ALASKA STATE LEGISLATURE

PREPARED BY:

THE MCDOWELL GROUP
A DIVISION OF
DATA DECISIONS GROUP, INC.

IN ASSOCIATION WITH
DR. NAT COLE

DECEMBER 1988



HB

121

HOUSE COMMITTEE REPORT

(5)

Date Referred: January 9, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 3/16/89

The HEALTH, EDUCATION & SOCIAL SERVICES Committee recommends that:

HOUSE BILL NO. 65 [ADULT PUBLIC ASSISTANCE]

"An Act relating to continuation of adult public assistance during mental health or other temporary institutionalization; and providing for an effective date."

[X] be replaced with CSHB 65 (HESS) [X] the same title
[] a new title

[] have attached amendment(s)

- [X] 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
- [] zero fiscal note
- [] zero with analysis

APPROVES PREVIOUS:

- [X] fiscal note(s) published: 1/9/89
- [] zero fiscal notes(s) published:

SIGNING DO PASS:

Peter Jan
George J. Fulk
J. S. Ellis
W. A. Swenberg

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Cheri Davis No rec

J. S. Ellis
Chairman's signature

go0919hE
Chenoweth
3/13/89

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 121 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to crimes of sexual assault on
7 mentally incapable or incapacitated persons, and
8 amending the penalty for the crime of sexual assault
9 in the third degree; and providing for an effective
10 date."

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

12 * Section 1. AS 11.41.410(a) is amended to read:

13 (a) A person commits the crime of sexual assault in the first
14 degree if, being any age,

15 (1) [BEING ANY AGE,] the defendant engages in sexual pene-
16 tration with another person without consent of that person;

17 (2) [BEING ANY AGE,] the defendant attempts to engage in
18 sexual penetration with another person without consent of that person
19 and causes serious physical injury to that person;

20 (3) [BEING OVER THE AGE OF 18,] the defendant engages in
21 sexual penetration with another person

22 (A) who the defendant knows is mentally incapable; and

23 (B) who is entrusted to the defendant's care

24 (i) by authority of law; or

25 (ii) in a facility or program that is required by
26 law to be licensed by the Department of Health and Social
27 Services.

28 * Sec. 2. AS 11.41.420(a) is amended to read:

29 (a) An offender commits the crime of sexual assault in the

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

cc
71B121

January 27, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that corrects inequities in the law relating to sexual assault of mentally incapable and incapacitated persons. The current law was amended last year by CSHB 545(Jud), which was signed into law as ch. 96, SLA 1988.

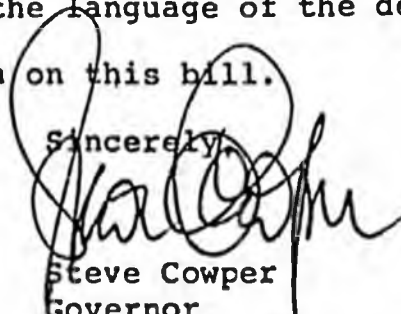
The inequity was created by an oversight, and had the effect of changing an uncontroversial law that had been in effect since the 1978 criminal code revision took effect. The main problem lies in the age element added to several provisions. For example, as a result of last year's amendments, if a 19-year-old and a 17-year-old sexually assault a person they know to be incapacitated, the 19-year-old could be prosecuted for a class B felony, and the 17-year-old would not have violated the law. Under prior law, both offenders could have been prosecuted.

A similar inequity is present in those portions of last year's amendments that stated new crimes. For example, if a 19-year-old orderly in a licensed facility and a 17-year-old orderly in a licensed facility sexually assault a person they know to be mentally incapable, the 19-year-old could be prosecuted for an unclassified felony, and the 17-year-old would not have violated the law.

In addition, the bill substitutes the word "incapacitated," in AS 11.41.425(a)(2), for the existing law's description of the condition of being incapacitated. This change is made because "incapacitated" is defined in AS 11.41.470(1), and there is no need to repeat the language of the definition.

I urge your favorable action on this bill.

Sincerely,


Steve Cowper
Governor

CORRECTION

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

go0919hE
Chenoweth
3/13/89

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 121 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to crimes of sexual assault on
7 mentally incapable or incapacitated persons, and
8 amending the penalty for the crime of sexual assault
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17 (2) [BEING ANY AGE,] the defendant attempts to engage in
18 sexual penetration with another person without consent of that person
19 and causes serious physical injury to that person;

20 (3) [BEING OVER THE AGE OF 18,] the defendant engages in
21 sexual penetration with another person

22 (A) who the defendant knows is mentally incapable; and

23 (B) who is entrusted to the defendant's care

24 (i) by authority of law; or

25 (ii) in a facility or program that is required by
26 law to be licensed by the Department of Health and Social
27 Services.

28 * Sec. 2. AS 11.41.420(a) is amended to read:

29 (a) An offender commits the crime of sexual assault in the

1 second degree if

2 (1) the offender engages in sexual contact with another
3 person without consent of that person;

4 (2) [BEING OVER THE AGE OF 18,] the offender engages in
5 sexual contact with a person

6 (A) who the offender knows is mentally incapable; and

7 (B) who is entrusted to the offender's care

8 (i) by authority of law; or

9 (ii) in a facility or program that is required by
10 law to be licensed by the Department of Health and Social
11 Services; or

12 (3) [BEING OVER THE AGE OF 18,] the offender engages in
13 sexual penetration with a person who the offender knows is

14 (A) mentally incapable; or

15 (B) incapacitated.

16 * Sec. 3. AS 11.41.425 is amended to read:

17 Sec. 11.41.425. SEXUAL ASSAULT IN THE THIRD DEGREE. (a) An
18 offender commits the crime of sexual assault in the third degree if
19 [BEING OVER THE AGE OF 18,] the offender engages in sexual contact
20 with a person who the offender knows is

21 (1) mentally incapable; or

22 (2) incapacitated [TEMPORARILY INCAPABLE OF APPRAISING THE
23 NATURE OF THE PERSON'S CONDUCT AND IS PHYSICALLY UNABLE TO EXPRESS
24 UNWILLINGNESS TO ACT].

25 (b) Sexual assault in the third degree is a class A misdemeanor
26 [CLASS C FELONY].

27 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
28
29

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

cc
71B121

January 27, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that corrects inequities in the law relating to sexual assault of mentally incapable and incapacitated persons. The current law was amended last year by CSHB 545(Jud), which was signed into law as ch. 96, SLA 1988.

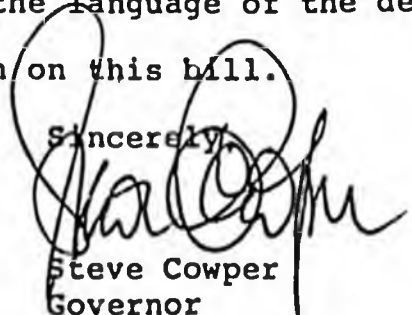
The inequity was created by an oversight, and had the effect of changing an uncontroversial law that had been in effect since the 1978 criminal code revision took effect. The main problem lies in the age element added to several provisions. For example, as a result of last year's amendments, if a 19-year-old and a 17-year-old sexually assault a person they know to be incapacitated, the 19-year-old could be prosecuted for a class B felony, and the 17-year-old would not have violated the law. Under prior law, both offenders could have been prosecuted.

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In addition, the bill substitutes the word "incapacitated," in AS 11.41.425(a)(2), for the existing law's description of the condition of being incapacitated. This change is made because "incapacitated" is defined in AS 11.41.470(1), and there is no need to repeat the language of the definition.

I urge your favorable action on this bill.

Sincerely,


Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Law
 Title: "sexual assault on mentally
incapable or incapacitated persons." BRU: Prosecution
 Sponsor: Rules Committee Components: All
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, C.A.I.M.S						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This bill corrects a drafting oversight in the law relating to sexual assault of mentally incapable or incapacitated persons, which passed the legislature last year as CSHB 545 (Jud). Because the changes proposed in the bill are remedial in nature, the bill will not have fiscal impact on the Department of Law.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: December 27, 1988
 Approved by Commissioner: Grace Berg Schable, Atty. Gen. Date: December 27, 1988
 Agency: Department of Law

Distribution (by preparer):
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 Impacted Agency(ies)

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THE LEGISLATURE

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Mary Van Nimwegen

H. HESS 2-22-89