

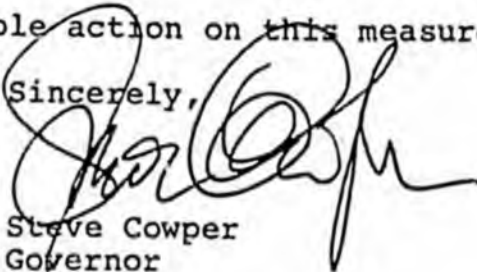
ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

5670 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES 74

foundation program appropriation, even if that use would sometimes require prorating current-year support to all districts. That would eliminate the need for a supplemental appropriation each year to make what are relatively minor adjustments to the previous fiscal year's state aid distribution.

I urge your prompt and favorable action on this measure.

Sincerely,



Steve Cowper
Governor

46

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: ... Adjust a School District's
State Foundation Aid...
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Education
BRU: K-12 Support
Components: Foundation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Att... a separate page if necessary)

Prepared by: Steve Hole
Division: Commissioner's Office
Approved by Commissioner: William Demmert
Agency: Education

Phone: 465-2800
Date: 12/7/89
Date: 12/7/89

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

#1

AMENDMENT TO HB398

If instructional units which a school district is entitled to under the state foundation funding formula decreases by 10% or more from one year to the next, the school district may use the last year before the reduction as a base year and offset its reduction according to the following schedule:

(1) For the first year after the base year, the school district is entitled to 75% of the difference in instructional units between the base year and the first year.

(2) For the second year after the base year, the school district is entitled to 50% of the difference in instructional units between the base year and the second year.

(3) For the third year after the base year, the school district is entitled to 25% of the difference in instructional units between the base year and third year.

The schedule established in this subsection is available to a school district for the three years following the base year only so long as the entitlement to the instructional units for each year is less than the entitlement of the base year.

This subsection does not apply to a decrease in instructional units resulting from a loss of enrollment which occurs as a result of a boundary change.

STATE OF ALASKA

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

STEVE COWPEL, GOVERNOR

GOLDBELT PLACE
801 WEST 10TH STREET
P.O. BOX F
JUNEAU, ALASKA 99811-0500

February 8, 1990

Jim Nordlund
House HESS Committee
PO Box V
Juneau, Alaska 99811

Dear Mr. Nordlund:

The Department of Education annually must pass a federal disparity test to determine whether Alaska's Public School Foundation Program meets U.S. Department of Education regulations for states that use P.L. 81-874 funds as part of their school funding distribution mechanism. In the past, the federal government has given a conditional determination that Alaska has passed the disparity test, with an exception. The exception is made because the State disburses funds through the foundation program based on budgeted data. The disparity test itself is based on audited data. The federal government will issue a final determination that Alaska meets the disparity test only after payments to districts are reconciled with the audited data. In the past, the State has made these reconciliations through its annual supplemental appropriation.

The amendment to AS 14.17.021(a) in House Bill 398 authorizes the State to make those reconciliation payments prior to submitting to a federal disparity test. This bill is necessary because the federal government has requested the State to prorate payments to districts during the school year based on audited data. The federal concern is that the Legislature may find itself in a position not to fund a supplemental appropriation. Should that occur Alaska is at risk of losing all PL 81-874 funds that come to the State. Total potential loss is about \$70 million per year.

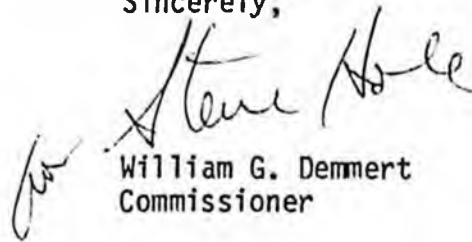
Meanwhile, as payments are prorated under authorization of House Bill 398, the Legislature can, as it has done in the past, make up full funding to districts in an annual supplemental appropriation. If some catastrophic emergency prohibits a supplemental, then the State does not risk losing its PL 81-874 receipts because of imbalances in the State's foundation program distribution.

Jim Nordland
February 8, 1990
Page 2

Enclosed is a letter from Charles Hansen, Director, Impact Aid Program. U.S. Department of Education, noting the requirement that the Alaska Department of Education must secure funds from the State Legislature to reimburse those school districts that failed to receive adequate foundation funding in FY 88 and FY 89, according to the federal disparity test.

I am available if you need further information about this matter.

Sincerely,


William G. Demmert
Commissioner

Enclosure



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

DEC 29 1989

22 DEC 1989

John E. Anttonen, Director
Educational Finance and Support Services
Alaska State Department of Education
Goldbelt Place
801 West 10th Street, P.O. Box F
Juneau, Alaska 99811-0500

Dear Mr. Anttonen:

This is to notify you that, based upon examination of the data sets provided for our review, we are approving the disparity test results dated November 13, 1989 for fiscal year (FY) 1988 as computed by your office under Section 5(d)(2) of Public Law 81-874, subject to the following condition.

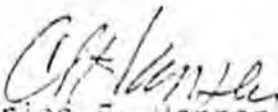
As stated in my letter of October 23, 1989, the State Department of Education must secure from the State legislature an appropriation to reimburse those school districts from which State foundation aid funds were improperly withheld under Section 5(d). If the appropriate adjustments are made in the amounts indicated in the November 13 data, and are reported to this office, this Department will let stand the existing determination for FY 1988.

In addition, we still have not received either a copy of the State's legislative proposal requesting additional appropriations, or the proposal requesting authority to make adjustments in future-year State aid payments, both of which your office agreed to submit to us prior to submission to the legislature in the upcoming legislative session.

Finally, I would like to relay to you the fact that both Dr. Robert Farning and Kerry Wingell of my staff were pleased with the outcome of the recent State workshop in Anchorage. Apparently a number of attendees engaged in some lively exchanges and contributed significantly to forging a better understanding of Alaska school conditions as they relate to the Impact Aid Program. Equally as important, my staff now feel confident that the morning session during which they explained the FY 1989 payment vouchers to Eddy Jeans of your staff should enhance your ability to prepare submissions to the Department.

Thank you for your cooperation in working to remedy the deficiencies in the prior FY 1988 disparity test. I look forward to your continuing support as we proceed with the determination process for the ensuing fiscal years.

Sincerely,


Charles E. Hansen, Director
Impact Aid Programs
Elementary and Secondary Education

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Education
 Title: Authority for the Department of BRU: K-12 Support
Education to adjust a school district's..
 Sponsor: Rules Components: Foundation
 Requestor: House HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
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LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE						
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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)

Prepared by: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 2/13/90
 Approved by Commissioner: William G. Demmert Date: 2/13/90
 Agency: Education

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

PROPOSAL

For a Feasibility Study of

Alaska Foundation Funding Program

(Educational Equity and Cost Effectiveness)

EDUCATION EQUITY AND SCHOOL FINANCE

Throughout the country a major portion of state and local taxes are dedicated to the support of public education. Public education is expensive and there has been considerable scrutiny of school finance methods. During the last twenty years much of this scrutiny has been directed toward equity in education.

In San Antonio v. Rodriguez (1973) the U.S. Supreme Court ruled that since education was not a right under the U.S. constitution the court had no jurisdiction in matters pertaining to equity in educational funding. This decision left the issue up to the state courts. In 1971, the California Supreme Court in Serrano vs Priest declared that the state's system for financing public schools was unconstitutional. This decision established a standard that the quality of a child's education must be based on the wealth of the state as a whole and not on the wealth of a local school district. Since this decision there has been considerable litigation relating to this issue. As of this date twelve states have upheld their education finance system and ten states have declared their system to be unconstitutional. Currently there is ongoing litigation concerning this issue in several other states. Alaska is one of these states.

Equity in education is a very complex problem. The fundamental question is, equity for who? There are two basic answers to this question. One, equity for the taxpayer; and two, equity for the children enrolled in the public schools. While equity for the taxpayer is an issue worthy of further investigation, the focus of this proposal will be equity for the pupil.

The various state supreme courts have not been able to agree on the concept of equity. One court stated that since the plaintiff had not been able to show that a single child had been deprived of an educational opportunity the complaint was denied. In the same article the author pointed out that the Louisiana State Supreme Court upheld the Louisiana finance system stating that it was sufficient to ensure a minimum educational program for all students. California established a one-hundred-dollar-per-student band or variance whereby, all per-pupil expenditure must be within a hundred dollars of one another. This has been interpreted to include adjusted dollars which reflect inflation and cost differentials related to small versus large district operations. In Oklahoma the Supreme Court ruled that the state was under no obligation to guarantee equal expenditure per child in its educational system. While the federal government remains uninvolved, it is studying the issue.

CORRECTION

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

PROPOSAL

For a Feasibility Study of

Alaska Foundation Funding Program

(Educational Equity and Cost Effectiveness)

ABSTRACT

Due to the substantial interest in financing of public education in Alaska and with continued litigation throughout the United States concerning the issue of equity in education finance, it seems desirable to investigate all the various concerns relating to the funding of public schools in Alaska. A study of the State Foundation Funding Program should be conducted to address the questions relating to educational equity and cost effectiveness.

STATEMENT OF PURPOSE

It is essential that the State of Alaska have a mechanism in place to properly finance the public education system. Alaska's school districts vary greatly in size, political complexity, and district wealth. While some municipal districts are comparable to those in other states, others are remote, with many small schools isolated from one another. Several small city districts consist of single attendance centers which are located in rural areas of the state. Due to this diversity it is logical to assume that the actual cost of education may vary greatly on a district-by-district basis, and it is difficult to guarantee that true equity in educational funding exists. For the same reason it is equally difficult to ensure that every district receives sufficient funds to offer an acceptable educational program for all students. Finally, it is essential that all education services are provided as cost effectively and as efficiently as possible.

EDUCATION EQUITY AND SCHOOL FINANCE

Throughout the country a major portion of state and local taxes are dedicated to the support of public education. Public education is expensive and there has been considerable scrutiny of school finance methods. During the last twenty years much of this scrutiny has been directed toward equity in education.

In San Antonio v. Rodriguez (1973) the U.S. Supreme Court ruled that since education was not a right under the U.S. constitution the court had no jurisdiction in matters pertaining to equity in educational funding. This decision left the issue up to the state courts. In 1971, the California Supreme Court in Serrano vs Priest declared that the state's system for financing public schools was unconstitutional. This decision established a standard that the quality of a child's education must be based on the wealth of the state as a whole and not on the wealth of a local school district. Since this decision there has been considerable litigation relating to this issue. As of this date twelve states have upheld their education finance system and ten states have declared their system to be unconstitutional. Currently there is ongoing litigation concerning this issue in several other states. Alaska is one of these states.

Equity in education is a very complex problem. The fundamental question is, equity for who? There are two basic answers to this question. One, equity for the taxpayer; and two, equity for the children enrolled in the public schools. While equity for the taxpayer is an issue worthy of further investigation, the focus of this proposal will be equity for the pupil.

The various state supreme courts have not been able to agree on the concept of equity. One court stated that since the plaintiff had not been able to show that a single child had been deprived of an educational opportunity the complaint was denied. In the same article the author pointed out that the Louisiana State Supreme Court upheld the Louisiana finance system stating that it was sufficient to ensure a minimum educational program for all students. California established a one-hundred-dollar-per-student band or variance whereby, all per-pupil expenditure must be within a hundred dollars of one another. This has been interpreted to include adjusted dollars which reflect inflation and cost differentials related to small versus large district operations. In Oklahoma the Supreme Court ruled that the state was under no obligation to guarantee equal expenditure per child in its educational system. While the federal government remains uninvolved, it is studying the issue.

While there appears to be no single method to determine equity in education finance, there are several areas that if properly addressed increase the probability of a given formula withstanding the scrutiny of the courts. These areas are as follows:

- 1) Horizontal Equity
- 2) Vertical Equity
- 3) Equal Opportunity
- 4) Adequacy of Funding

Horizontal equity means the "equal treatment of equals." This is the principle upon which many state funding programs are based. This principle assumes that all children are equal with equal problems and the equal ability to learn. Since this can readily be shown not to be the case this principle by itself simply will not survive legal review. This principle is valid when it is applied to subgroups of children where it can be demonstrated that they have like or similar characteristics.

Vertical equity is the "unequal treatment of unequals." This principle recognizes legitimate differences among pupils and allows for additional funds for these differences. Such legitimate differences include identified special educational needs, socio-economic factors that affect children, cultural or language barriers that impact children and their learning behavior, and other agreed-upon categories that affect the learning process. This principle can also be applied on a district basis when it can be demonstrated that differences exist which impact the cost of education. Such differences include size, locations, geographic considerations and population density.

Equal opportunity. While this principle contains all of the generally accepted concepts relating to discrimination on the basis of sex, age, handicapping conditions, race, and religion, it also refers to something different. This principle also relates to educational discrimination based on local wealth, fiscal capacity, or resources. In effect, this principle states that education should not be a function of a district's wealth.

Adequacy. This principle means that the educational finance system must provide sufficient funds to ensure that an acceptable minimum educational program can be offered to every child. This issue was addressed recently in the Texas case where the court stated as part of its decision that sufficient funds were not made available to financially support minimum state-mandated programs.

If properly taken into consideration, the above four principles can help establish an education finance system that has a good chance of withstanding legal challenges.

The courts seem to respond more favorably to systems that are based on a per pupil or per unit basis rather than on a program basis. When the amount of money available changes on a per pupil basis, it impacts all pupils the same whether it increases or decreases the available funds. The courts also seem to be favorably impressed with funding formulas that are based on sound research, logic, and good judgement.

There are several statistical tests available which can be used to argue equity or inequity. Such tests usually relate to dispersion or correlation. In California it was successfully argued that since 93% of all students fall within the 100-dollar range (adjusted dollars), the test of equity was satisfied. A two-tailed test of dispersion was used for this purpose. Statistics books are full of tests that can be used in equity arguments. Caution should be observed in the use of these tests since statistics are often misused, misunderstood, and misapplied.

ALASKA'S FOUNDATION FUNDING PROGRAM

Alaska's current method of financing public education was enacted into law in 1987. This act, contained in AS.14.17, was the result of considerable study over a relatively long period of time. An examination of this process clearly indicates that the four principles described above were taken into account. The current system (attached) is responsive to both vertical and horizontal equity, adequacy, and equal opportunity. The fact that the above described principles are addressed by this funding method does not guarantee that the formula is perfect, acceptable to all districts, or that it will withstand legal challenge. There have been several claims that the existing law does not meet the current educational needs of the state. While no real empirical evidence has been submitted to substantiate these claims, sufficient subjective evidence presented warrants an investigation into these allegations. A review of these claims suggests that the study give serious consideration to the questions mentioned in the next section of this proposal.

Study Goals

- 1) To maintain an education finance system which will meet all federal program eligibility requirements, provide a minimum level of funding to ensure that all students have the opportunity to benefit from a basic educational program, and withstand challenges relating to the legality of the system.

- 2) To develop a statewide education delivery system which will be operationally cost efficient and programatically effective.

RECOMMENDED PROCEDURE FOR THE STUDY

- 1) Select a group of individuals representing interested parties. This group should be appointed by the State Board of Education.
- 2) Contract with a consultant, who will conduct the study under the direction of the Director of the DOE Educational Finance and Support Services Division (EF&SS). This individual or firm must have extensive knowledge of school finance, school finance in Alaska and a thorough understanding of the issues facing education in Alaska today. This function might be provided through the University of Alaska.
- 3) The contractor should conduct a technical review of existing information concerning the issues and questions identified in this proposal.
- 4) The committee will meet five times during the course of this study. These meetings will be held on a regular basis and will be conducted by the Department of Education. Concerned parties will be invited to submit evidence regarding the issues being investigated at these meetings.
- 5) The department will provide the committee with detailed information relating to the issues under investigation.
- 6) Computer simulation models will be used to generate information to support decisions relating to school size, district size and/or regional service center size.
- 7) Upon completion of the review of all the evidence compiled as a result of the study, the committee, the contractor, and department representatives will meet to formulate recommendations for change in the existing program.
- 8) The department will present any recommendations for changes to the State Board of Education for their review and possible action.

STUDY ISSUES

- 1) Maintain a cooperative relationship with school districts. Without the cooperation and support of school districts any study on educational issues would fail.
- 2) The regional service center concept must be considered as part of this proposal. This concept has worked well in other states and has contributed to improved services to school districts with cost effectiveness. This issue is currently being addressed in part by a study being proposed relating to a statewide computer service network.
- 3) The consolidation of school districts for the purpose of improving the delivery of educational service must be investigated. Consolidation might prove to be a cost effective method to provide better educational services to pupils. Consolidation of school districts has proved itself to be an effective and efficient method of providing high quality educational programs in other states.
- 4) Equity in education finance needs to be addressed. A determination must be made relative to Alaska's foundation program and vertical and horizontal equity. It is essential that Alaska's funding method be consistent with the state's constitution.
- 5) Adequacy in education funding must be evaluated. The state's foundation program must provide sufficient funds to meet the minimum educational needs of all students. Critical to this issue is the value of the instruction unit (currently \$60,000) and the area cost differentials. These two factors must be studied to determine if they truly reflect the cost of education in Alaska.
- 6) Several questions have been raised concerning the state foundation program and small single/dual school districts. Claims have been made that the present formula does not adequately meet the needs of these districts. This study must take these questions into consideration.
- 7) Every child should have an equal opportunity to an education. This opportunity must exist regardless of a district's wealth. The state funding formula must take this factor into account. This study must address this principle especially as it relates to local effort.
- 8) Alaska currently funds capital improvements for education by three basic methods:
 - 1) Grants to municipalities.
 - 2) Grants to the Department of Education.
 - 3) The debt retirement program.Questions relating to equity and adequacy of these methods need to be addressed.
- 9) The operation of very small elementary and/or secondary schools may not be cost effective. Moreover, such small schools may not fully meet the educational needs of the pupils they serve. This study should investigate alternative methods of program delivery to children in these situations.

STUDY QUESTIONS

- 1) Does the existing formula adequately meet the needs of small single/dual site school districts?
- 2) Do the area differentials accurately reflect the actual cost of education throughout the state?
- 3) Should the state consolidate school districts in the interest of program effectiveness and operating efficiency?
- 4) Should the state adopt the regional education service center concept found in many other states to provide improved services to school districts?
- 5) Is the current \$60,000/unit sufficient to adequately meet the requirement for a basic educational opportunity for all Alaskan students?
- 6) Are the current methods of funding capital projects equitable and adequate?
- 7) Should Alaska establish municipal governments in the unorganized area of the state?
- 8) Should the state establish minimum enrollment requirements for the funding of elementary and secondary schools through the foundation program?

While these questions need to be addressed, it should be recognized that the existing formula may need very little modification in order to be responsive to changes required to satisfy equity questions.

Assumptions Relating to this Proposal

- 1) Available state funds for all government programs will decline.
- 2) The eligibility requirements for PL-81-874 must continue to be met as a condition of any changes in the foundation program as a result of this study.
- 3) Eligibility requirements for all other federal programs must continue to be met as a condition of any changes in the foundation program as a result of this study.
- 4) The expertise needed to conduct this study can be found in Alaska. Moreover, most of the data requirements to complete this investigation are available from school district records or Department of Education files. Given the above assumption it is recommended that \$260,000 be appropriated to the Alaska Department of Education to conduct this study. The department will oversee this project and provide the necessary support and other resources to ensure project completion.

Project Budget

Committee Meetings (est. 10 members meet 6 times)

20 total meeting days (10 * \$ 80 * 20) 16,000

6 rnd-trip airfare (10 * \$500 * 6) 30,000

In-State Consultant Assistance 200,000

Communication Costs

5 1-hr teleconf., 12 sites (12 * \$ 38 * 5) 2,280

Telephone, fax expenses 500

Mailing expenses 400

Consultation Time with DOE personnel

EFSS Director and staff 1,000

Adm Svcs Financial staff 2,600

Data Management staff 2,000

Printing, Binding Expenses 5,000

TOTAL \$259,780

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

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	2-15-90
H. HESS	2-21-90
H. HESS	2-27-90
H. HESS	3-12-90

H B

399

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 8, 1990

FURTHER REFERRALS: FINANCE

Date of Committee Action: 3/16/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 399

HOUSE BILL NO. 399

HEALTH PLANNING AND DEVELOPMENT

"An Act relating to state coordination of health planning and development; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CSHB 399 (HESS) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) 1/8/90 DHSS
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

<u>[Signature]</u>		X	
<u>[Signature]</u>	X		
<u>[Signature]</u>		-	
<u>Cheri Davis</u>		X	
<u>Mark Boyer</u>		X	

[Signature]
Chairman's Signature

3/14/90

To: Walt Furnace, House of Representatives

From: Steve Berkshire, North Star Hospital

Re: SCHB 399

Thanks for the copy of the bill. While there have been changes, I still have serious questions.

1. Page 1. Line 29. The legislation still does not define what "rededication of assets," means. Does it mean changing from a nursing home to an acute care hospital? Or does it mean changing the make up of services offered? For example a hospital that offers all general medical/surgical services decides to become only an eye surgery hospital--is that a rededication? Would the State consider what North Star was allowed to do a rededication? That is add psychiatric services to its existing Specialty License?

We would agree that changing the entire direction of a hospital as a rededication where a new type of license is required; however, changing scope of services within a license category should not be a rededication.

There needs to be a definition; otherwise it leaves too much up to the regulators.

2. Page 2. Line 6 and 7. Dealing with adding or eliminating a service. There is no dollar limit. We believe the requirement should be the same as a capital expenditure--\$1,000,00. If operating expenses are considered, that amount should be no less than \$500,000 added on to existing expenses. There needs to be some floor so the State isn't reviewing all changes. Actually additions or eliminations should only be capital expenses.

3. Page 2. Line 8. Still object to the State being involved in acquisitions. The issue of fair market value (page 3, line 4 & 5.) should be dealt with under Medicaid payment rules not CON rules.

4. Page 4. Section 9. This is much better than the original HB 399. It does at line 21 state that another provider had to be proposing the service within the previous year. That prevents others entering the process simply to prevent competition.

5. Section 13. Beginning on page 6 needs to also preserve the applicant's right to seek injunctive relief. This section allows the State to take action, but the provider needs the same right if the State takes adverse action. This may already be assured, but if it isn't it needs to be there.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 15, 1990

SUBJECT: Health Planning
(CSHB 399(HESS))

TO: Representative Johnny Ellis
Chair House HESS Committee

FROM: Terri Lauterbach *TL*
Legislative Counsel

Enclosed is a draft of CSHB 399(HESS), as requested by Jim Nordlund. I believe it incorporates the substance of the changes Jim requested. It also makes some other changes Jim did not request, which will be described briefly by this memo.

As you know, this bill was introduced by the Governor's Office and not drafted in the Legal Services Division. As with all governor's bills, I have reviewed this one for style and drafting oversights. Based on that review, there are numerous slight wording changes throughout the CS. I have also added two new bill sections, sections 17 - 18, to deal with references to the Statewide Health Coordinating Council which is abolished by this bill. I have also added more AS sections to the repealer, section 19, to deal with other references to the council. And, I have expanded the bill title to more accurately describe the bill. (The full effect of abolishing the council arguably goes beyond "health planning," as you can see by the additional sections and repealers that I have added to the bill to reflect the council's demise.)

Please be sure to check all the changes to see if your intent has been achieved, and let me know if I can be of further assistance.

TL:pl
WKP3/043

Enclosure

CORRECTION

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

3/14/90

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3. Page 2. Line 8. Still object to the State being involved in acquisitions. The issue of fair market value (page 3, line 4 & 5.) should be dealt with under Medicaid payment rules not CON rules.

4. Page 4. Section 9. This is much better than the original HB 399. It does at line 21 state that another provider had to be proposing the service within the previous year. That prevents others entering the process simply to prevent competition.

5. Section 13. Beginning on page 6 needs to also preserve the applicant's right to seek injunctive relief. This section allows the State to take action, but the provider needs the same right if the State takes adverse action. This may already be assured, but if it isn't it needs to be there.

6. Page 8. Section 15. The definition of "category of health services," should be clarified that this applies to all services regardless of whether facility is licensed or not.

On page 9 under "health care facility," it now includes all providers whether licensed or not and whether publically funded or not. Therefore, we assume that API is now required to have a CON, Native Health Corporations need CON's, facilities such as Akeela House, Phillips Recovery, Circle S Ranch, Starting Point, Community Mental Health Centers, Lakeside, and others would need CON's.

If the definition does not include these other providers than we still object.

If they are included than the two definitions need to correspond.

7. On page 10. Lines 1--3. Still excluded Pioneer Homes. They should also have to prove need since they compete with other long term care facilities. This is especially true since they are moving away from residential care and becoming nursing homes.

Walt, we sill believe CON is unnecessary. The issue of Medicaid payments for capital and operations should be dealt with under payment rules.

Hope these comments help. Would really like repeal us more restrictions.

STEVE BERKSHIRE, NORTH STAR HOSPITAL

STATE OF ALASKA
THE LEGISLATURE

HOUSE STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3810

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 15, 1990

SUBJECT: Health Planning
(CSHB 399(HESS))

TO: Representative Johnny Ellis
Chair, House HESS Committee

FROM: Terri Lauterbach *TL*
Legislative Counsel

Enclosed is a draft of CSHB 399(HESS), as requested by Jim Nordlund. I believe it incorporates the substance of the changes Jim requested. It also makes some other changes Jim did not request, which will be described briefly by this memo.

As you know, this bill was introduced by the Governor's Office and not drafted in the Legal Services Division. As with all governor's bills, I have reviewed this one for style and drafting oversights. Based on that review, there are numerous slight wording changes throughout the CS. I have also added two new bill sections, sections 17 - 18, to deal with references to the Statewide Health Coordinating Council which is abolished by this bill. I have also added more AS sections to the repealer, section 19, to deal with other references to the council. And, I have expanded the bill title to more accurately describe the bill. (The full effect of abolishing the council arguably goes beyond "health planning," as you can see by the additional sections and repealers that I have added to the bill to reflect the council's demise.)

Please be sure to check all the changes to see if your intent has been achieved, and let me know if I can be of further assistance.

TL:pl
WKP3/043

Enclosure

Section by Section Analysis

House Bill 399, 1/23/90

Short Title: "An Act relating to state coordination of community planning and development; and providing for an effective date."

This bill clarifies ambiguities in the Certificate of Need statute and makes other changes to increase the effectiveness of the Certificate of Need program. The Certificate of Need program (CON) provides a framework for regulating certain health care facility activities that may have a significant impact upon the cost of, and accessibility to, quality health care services. The bill clarifies an ambiguity in program coverage so as to assure determination of need for new institutional health services and bed capacity expansions. Technical changes are also included to reflect changes in federal law and DHSS organization.

Section 1. LEGISLATIVE PURPOSE.

This section is self-explanatory, providing legislative guidance that the Certificate of Need program is intended to not only serve as a cost containment mechanism, but also to assure promotion and protection of public health and equitable access to needed care.

Section 2. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.

The technical changes to this section amend references to rescinded federal law and recognize organizational changes made since 1976.

Section 3. CERTIFICATE OF NEED REQUIRED.

The existing statute requires a CON review for changes to a health care facility that would likely have substantial impact on costs or services. Such changes are categorized within the statute as:

- (1) construction of a health care facility;
- (2) alteration of the bed capacity of a health care facility; or
- (3) addition or elimination of a category of health services provided by a health care facility.

There is a \$1,000,000 expenditure threshold given within the same statute section, but the effect of the threshold upon changes in bed capacity and offered services is not clear. The addition or elimination of a service, or a change in bed capacity may initially require little or no expenditure, but can have a substantial impact on the operating costs or accessibility to health care services. The bill clarifies CON program coverage of service and bed capacity changes by applying the dollar threshold to only health facility construction.

This section also requires a review for acquisition of a health care facility. An acquisition oftentimes results in a substantial increase in the capital cost basis upon which facility costs and charges are based.

Section 4. TERMS OF ISSUANCE OF THE CERTIFICATE.

Section 4 provides a basis for addressing the scope of a certificate's validity.

Section 5. MODIFICATION AND TERMINATION OF ACTIVITIES.

Section 5 is amended to require a certificate holder to report any decision to discontinue part or all of the activities authorized under a certificate. Without this change a certificate holder could decide to forgo the services and other activities which the public found most compelling for approval of the application while continuing to develop the less needed parts of the application.

Amendments within this section provide for an orderly process for transfer of a certificate based upon the prospective owners ability to carry out the activities authorized under the certificate and the sale price for a health care facility is limited to the current fair market value.

Section 6. EMERGENCY CERTIFICATES.

This section repeals references to "temporary" certificates and clarifies the purpose of "emergency" certificates." The activities authorized by a certificate of need are not temporary in nature, but result in permanent construction or other substantive changes to the health care system that are not easily reversed. The department has never received an application for or issued a temporary certificate. The provision for "emergency" certificates remains to address urgent conditions (e.g. rebuilding the fire damaged wing of a hospital) and no further certificate of need review will be required for the authorized activity to continue.

Section 7. FINAL DECISION.

This section provides for issuance of a certificate based upon the assertions given in the application and upon the state agency findings established during the review. The amendments to this section clarify the department's authority to issue a certificate for less than the total scope of activity set out in the application. Part of an application may be approved in instances where approval of all requested construction, number of beds, or services is not supported by the application and findings. Flexibility is also provided for instances in which there are competing applications for the same or similar services.

Section 8. PROCEEDINGS FOR MODIFICATION, SUSPENSION, AND REVOCATION.

This section is amended to clarify the standing of health care facilities, competing applicants and the department's Medicaid Rate Advisory Commission to request a hearing for modification, suspension, or revocation of a certificate. In addition, the section updates organizational references and removes a 60 day limitation for completion of hearings requested for revocation, modification, or suspension of a certificate. The requirement is unchanged for hearings to be conducted under the Alaska Administrative Procedures Act (APA, AS 44.62.330 -- 44.62.630), and the time requirements of the APA will be followed.

Section 9. REPORTING REQUIREMENTS, PENALTIES, AND INJUNCTION.

Amendments in this section establish reporting requirements for certificate holders and provide for maintaining the status quo for the time necessary to conduct a hearing. Section .091(c) lists the penalties the department may impose if the department finds, after a formal hearing under the APA, that a person has substantially failed to comply with certificate of need requirements.

Sections .091(e) and .091(f) provide authority for the department to stop further activity if the department finds the activity is subject to CON review and that continued activity would be adverse to the public interest. This allows for maintenance of the status quo while a hearing is conducted.

Section 10. REGULATIONS.

This section provides for regulations for program administration and for establishment of fees for applications submitted for review. Many states have chosen Certificate of Need user fees as a method of enhancing state revenues. Such fees are reimbursable under Alaska's medical assistance programs.

The fees will be set out in regulations and reflect the amount of effort required to complete the review. The Department intends to propose regulations setting fees for submission of a CON application as follows:

Fixed portion \$ 5,000
plus: Variable portion based
on proposed capital expenditure amount:

first \$ 1,000,000	1/2%	(.0050)
next 9,000,000	1/10%	(.0010)
over 10,000,000	1/50%	(.0002)

A \$20,000,000 project would involve the following fees:

flat fee	\$ 5,000
first \$ 1,000,000	5,000
next 9,000,000	9,000
over 10,000,000	<u>2,000</u>
total fee	\$ 21,000

Section 11. DEFINITIONS.

AS 18.07.111 contains several definitions which are expanded or otherwise amended for technical clarification.

The definition for "category of health services" is amended to restrict program coverage for the addition or elimination of a health service to the same service categories used for Medicaid certification and state licensure purposes. In the existing definition the terms "major type, program, unit, division, or department of care..." are used instead. These terms do not provide clear direction on the service changes that would be subject to CON review.

Section 12.

This section provides authority for the department to carry out the denial, suspension, or revocation of a health facility license as described in section 9 above.

Section 13.

Section 13 repeals references to the Statewide Health Coordinating Council. The Council has not been funded for four years and no longer functions as a health planning body.

Section 13 also repeals AS 18.07.041, Standard of Review for Applications for Certificates of Need. This section presently limits consideration of a certificate of need application to "need," "availability," and "quality" issues. In practice, several other considerations must be made including financial ability of the applicant, alternative means of providing proposed services, impact on existing health care systems, impact on health care costs and the preference of the public as expressed in official planning documents, public meetings, etc. Review criteria which address "need," "availability," "quality," and the other aspects of application review will be set out in regulations under the authority provided in section 10 of the bill.

FISCAL IMPACTS

No increased requirement for operational funding will result from passage of this legislation. The substantial capital and operating costs associated with 'unneeded health facility construction, surplus inpatient beds, and the addition or elimination of health facility services can be avoided.

The CON program, as amended under this bill, provides a rational approach for assessing the need for health care system changes that typically result in substantially increased health care costs. Each of the categorical activities covered under the statute generate costs that are reimbursable through publicly funded medical assistance programs. Health facilities include the associated costs when determining the charges for the services offered.

The bill provides potential for revenue enhancement through program receipts for application fees. The amount of revenue will depend upon the number of and estimated cost of health facility projects proposed.

CC

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Certificate of Need

Agency Affected: Health & Social Services
BRU: Administrative Services

Sponsor: Rules Committee
Requestor: Governor

Components: Planning & Development

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	20.0	20.0	21.0	21.0	22.0	22.0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: Dave W. Williams
Division: Administrative Services

Phone: 465-3015
Date: 11/8/89

Approved by Commissioner: Sharon Clark, Acting
Agency: Health & Social Services

Date: 11/9/89

Distribution (by preparer):

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

Analysis:

The purpose of the Certificate of Need law is to avoid unnecessary increases in the cost of health care that may be associated with:

Health facility construction at a cost of \$1,000,000 or more;
Changes in the health facility bed capacity; and
Addition or elimination of institutional health service.

The bill provides for establishment of fees for applications submitted for review. The fees will be set out in regulations and reflect the amount of effort required to complete the review. Proposed regulations will include fees for submission of an application as follows:

Fixed portion		\$ 5,000
plus: Variable portion based on proposed capital expenditure amount:		
first \$ 1,000,000	1/2%	(.0050)
next 9,000,000	1/10%	(.0010)
over 10,000,000	1/50%	(.0002)

Thus a \$20,000,000 project would involve the following fees:

flat fee	\$ 5,000
first \$ 1,000,000	5,000
next 9,000,000	9,000
over 10,000,000	2,000
total fee	<u>\$ 21,000</u>

The \$20,000 in annual revenues shown in the fiscal note are based upon a yearly submission of applications totaling \$20 million. Although \$20 million in applications is a reasonable expectation for an average year, the actual revenues and staff time required will depend upon the amount of applications submitted. The department does not anticipate a requirement for additional staff for the certificate of need program administration unless the dollar value of submitted applications approaches an average of \$60 million per year.

STEVE COWPER
GOVERNOR



ec
14B399

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 8, 1990

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 relating to state coordination of health planning and development. The bill makes several substantive changes to the existing certificate of need program in AS 18.07, which provides a framework for regulating certain health care facility activities. The changes will broaden the scope of review by the Department of Health and Social Services (DHSS) and thereby better carry out the purpose of the program, which is generally to contain costs and to promote accessibility to and high quality of health care services. This bill also makes technical changes in AS 18.07 to reflect changes in federal law and DHSS organization, and to clarify ambiguous areas of the current law.

One of the primary revisions made by the bill is to require a certificate of need for any change in bed capacity or category of health services, regardless of cost. AS 18.07.031 currently requires a certificate only for those projects that cost \$1,000,000 or more. Although this threshold amount is appropriate for construction projects, to ensure that only significant projects are reviewed, it is not appropriate for changes in bed capacity or category of health services because such changes can be made at minimal or no cost and yet have a significant impact on the availability and cost of health care services. Section 3.

The bill also adds the requirement that a certificate of need be obtained for the acquisition of a health care facility. Because the purchase price of a health care facility is passed on to consumers, insurance companies,

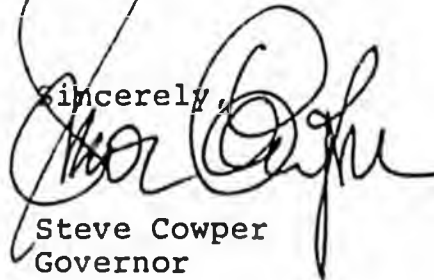
and public programs, there is a strong public concern that the price paid for the facility not exceed the fair market value. Also sec. 3.

Another significant part of the bill repeals AS 18.07.041. Section 13. This statute presently limits review of a certificate of need application to "availability," "quality," and "accessibility" issues. Other considerations, however, such as financial ability of the applicant, public preference, and impact on health care costs, are also important. The department's standard of review will therefore be based on the "purposes" set out in proposed AS 18.07.005. Section 1.

Other changes set out in this bill require department review of certificate transfers, allow conditional or partial approval of certificate applications, and authorize establishment of fees for applications and other services. Existing AS 18.07.091 is repealed and reenacted (sec. 9), and AS 18.20.050 is amended (sec. 12), to allow the department to impose various sanctions for violations of AS 18.07.

Passage of this bill would allow the Department of Health and Social Services to better implement the certificate of need program. I urge your support and passage of this important legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name below.

Steve Cowper
Governor

CHAPTER 07. CERTIFICATE OF NEED

Section	Section
10. Activities requiring a certificate of need	80. Hearing and appeal
20. Emergency and temporary certificates of need	90. (Repealed)
30. Letter of intent	95. Modification, suspension, or revocation of a certificate of need
40. Application submission	100. Transfer of certificate of need prohibited
50. Review for completeness	105. Periodic reports
60. Review process	110. (Repealed)
65. Expedited review	120. (Repealed)
70. Decision by commissioner	130. Definitions

7 AAC 07.010. ACTIVITIES REQUIRING A CERTIFICATE OF NEED. (a) A certificate of need is required before any person undertakes any of the following activities:

(1) any capital expenditure in excess of \$150,000 for the excavation, erection, building, alteration, extension, reconstruction, improvement, repair, purchase or other development of a health care facility, including lease or purchase of equipment, and including:

(A) any donation or lease by any person to a health care facility for any of these purposes, in excess of \$150,000 in cash or fair market value;

(B) the cost of any studies, surveys, designs, plans, working drawings, site acquisitions and preparation, and other activities essential to an activity stated in this paragraph;

(2) any change within a two-year period in the licensed bed capacity of a health care facility amounting to 10 beds or 10 percent, whichever is the lesser, which increases or decreases the number of beds of a health care facility or redistributes beds among different categories of service; and

(3) any addition of a major type, program, unit, division, or department of care in or through a health care facility which has not been offered in or through the health care facility or any elimination of a major type, program, unit, division, or department of care in or through a health care facility which has been offered in or through the health care facility.

(b) Upon request, and after the appropriate health systems agency has been provided an opportunity to comment on the request, a health care facility in existence or under construction before July 1, 1977 will be granted a certificate of need approving the continuous undertaking of those activities. (Eff. 10/26/77, Register 64; am 8/13/80, Register 75)

Authority: AS 18.07.031
AS 18.07.101
Sec. 4, ch. 175 SLA 1976

7 AAC 07.020. EMERGENCY AND TEMPORARY CERTIFICATES OF NEED. (a) The commissioner will grant or deny an emer-

gency or temporary after a review of a s determines that it i

(b) Before the com tion, each affidavit r of need must be revl forth by AS 18.07.07 and 42 CFR 123.47 promptly submit its sioner. (Eff. 10/26/77)

Authority: AS 18.07.041
AS 18.07.071

7 AAC 07.030. LI tends to apply for a c ess than 60 days nor certificate of need to systems agency, exce or temporary certific will, in the commissi upon a showing of go of any written recom systems agency, exce tion.

(b) Each letter of (1) a clear, comp posed to be under (2) an estimate (3) an estimated posed activity.

(c) The state agen days after receipt of letter of intent, statir 18.07 and the reason also forward the appr essary to make appl

(d) A preapplication between a prospective upon request of the s been advised that a p pose of the preapplica cal assistance from th in the actual prepara make available all pe to assist the applicat

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(Register 75)

CERTIFI-
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gency or temporary certificate of need as provided by AS 18.07.071 after a review of a sponsor's affidavit or, when in his discretion, he determines that it is necessary, after a formal hearing.

(b) Before the commissioner will take action under (a) of this section, each affidavit requesting an emergency or temporary certificate of need must be reviewed by the state agency under the criteria set forth by AS 18.07.071, 42 CFR 123.409 — 123.410 (adopted 4/2/79) and 42 CFR 123.411 (adopted 1/21/77). The state agency shall promptly submit its findings and recommendation to the commissioner. (Eff. 10/26/77, Register 64; am 8/13/80, Register 75)

Authority: AS 18.07.041 AS 18.07.101
AS 18.07.071 AS 44.17.010

7 AAC 07.030. LETTER OF INTENT. (a) Any person who intends to apply for a certificate of need shall mail a letter of intent not less than 60 days nor more than one year before the application for a certificate of need to the state agency and the appropriate health systems agency, except in the case of an application for an emergency or temporary certificate of need. The requirement of a letter of intent will, in the commissioner's discretion, be waived by the commissioner upon a showing of good cause by the applicant and after consideration of any written recommendation submitted by the appropriate health systems agency, except for applications which propose new construction.

(b) Each letter of intent must contain

- (1) a clear, complete, and current description of the activity proposed to be undertaken;
- (2) an estimate of the cost of the proposed activity; and
- (3) an estimated starting date and completion date for the proposed activity.

(c) The state agency shall furnish written notification within 20 days after receipt of a letter of intent to the person submitting the letter of intent, stating whether the proposed activity is subject to AS 18.07 and the reasons for the determination. The state agency shall also forward the appropriate forms, information, and instructions necessary to make application.

(d) A preapplication conference before submission of an application between a prospective applicant and the state agency will be held upon request of the state agency or a prospective applicant who has been advised that a proposed activity is subject to AS 18.07. The purpose of the preapplication conference is to obtain guidance and technical assistance from the state agency. The state agency may not assist in the actual preparation or completion of the application, but shall make available all pertinent records, forecasts, plans, and other data to assist the applicant in preparing a full and accurate application.

The appropriate health systems agency will be invited by the state agency to participate in the preapplication conference. (Eff. 10/26/77, Register 64; am 8/13/80, Register 75)

Authority: AS 18.07.101

7 AAC 07.040. APPLICATION SUBMISSION. (a) Each application for a certificate of need must be made in writing to the state agency on forms provided by the state agency. The content of an application must be limited to:

- (1) a timetable for completing the proposed activity;
- (2) a listing of the total proposed amount of capital expenditures necessary to complete the proposal; and
- (3) the information necessary for the state agency to determine whether the criteria applicable to the proposed activity as set out in AS 18.07, 42 CFR 123.409 — 42 CFR 123.410 (adopted 4/2/79) and 42 CFR 123.411 (adopted 1/21/77) have been met.

(b) An applicant shall submit four copies of the application to the state agency and two copies to the appropriate health systems agency. The state agency shall provide one copy to the Alaska State Library in Juneau.

(c) An applicant may withdraw the application at any time during the review process by written notification to the state agency. (Eff. 10/26/77, Register 64; am 8/13/80, Register 75)

Authority: AS 18.07.101

7 AAC 07.050. REVIEW FOR COMPLETENESS. (a) The state agency shall review each application received to determine if it is complete. Within 20 days after receipt of the application, the state agency shall

(1) notify the applicant by mail that the application has been accepted as complete, or

(2) request additional information as necessary to complete the application; the applicant will have 60 days to submit the requested information or the application will be denied; any application denied on the grounds of untimely submission of requested information may be resubmitted with the requested information and an explanation of why it was not timely filed; once the additional information is received by the state agency, and it determines that there was good cause for the late submission, if any, the state agency shall notify the applicant within 20 days that the application is complete; an applicant whose application is denied may submit a new application;

(b) Upon acceptance of an application as complete, the state agency shall provide reasonable written notification to the public, each health

care facility located in the area affected, and to

- (1) acceptance of the application;
- (2) the proposed activity;
- (3) the name of the applicant;
- (4) the period of time for which the activity is being proposed according to the schedule of the meeting or hearing provided in sec. 6
- (5) the manner in which the activity will be carried out.

(c) The state agency shall publish a notice in two copies in the appropriate health systems agency register under this section and in the newspaper of general circulation in the area affected of the information contained in the notice in two copies. (Eff. 10/26/77, Register 64; am 8/13/80, Register 75)

Authority: AS 18.07.101

7 AAC 07.060. (a) In the exercise of its discretion, the agency may suspend the application for a period not to exceed 90 days if the application is complete and the health systems agency has received applications from each party in accordance with sec. 5 and the appropriate health systems agency proposed by the applicant.

(b) The state agency shall conduct an analysis and receive comments after the date the application is complete. The findings regarding 123.410 (adopted 4/2/79) shall be formulated in its report.

(c) The appropriate health systems agency and a representative of the state agency, to be determined within 30 days after the date the application is complete, shall be subject to the same recommendations submitted by the applicant under (b) of this section.

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care facility located in the health service area, any person directly affected, and to each person on the state agency mailing list of:

- (1) acceptance of the application;
- (2) the proposed schedule for the review;
- (3) the name of any health systems agency participating in the review;
- (4) the period within which a person may request a public meeting according to sec. 60(e) of this chapter; and
- (5) the manner of notification of the time and place of any public meeting or hearing to be held concerning the application, as provided in sec. 60(e).

(c) The state agency shall notify the public and persons directly affected of the information listed in (b) of this section by publication of a notice in two consecutive issues of at least one newspaper of general circulation in the state and one newspaper of general circulation in the appropriate health service area. Other notifications required under this section must be sent by mail to the person's last known address. (Eff. 10/26/77, Register 64; am 8/13/80, Register 75)

Authority: AS 18.07.101

7 AAC 07.060. REVIEW PROCESS. (a) In the commissioner's discretion, the agency shall defer commencement of the review process for a period not to exceed 60 days after the determination that the application is complete to enable the state agency and the appropriate health systems agency to receive and consider concurrently applications from each person who has submitted a letter of intent in accordance with sec. 30 of this chapter proposing an activity within the appropriate health service area which is similar to the activity proposed by the applicant.

(b) The state agency shall review the application and submit an analysis and recommendation to the commissioner within 90 days after the date the notice is sent to the applicant stating that the application is complete. The state agency shall make specific written findings regarding criteria set out in AS 18.07, 42 CFR 123.409 — 123.410 (adopted 4/2/79) and 42 CFR 123.411 (adopted 1/21/77) in formulating its recommendation.

(c) The appropriate health systems agency shall submit any findings and a recommendation to the commissioner, with copies to the state agency, to the applicant, and to others upon request, within 60 days after the date the notice is sent to the applicant stating that the application is complete. These findings and recommendations are subject to the same requirements as to content as the findings and recommendations submitted by the state agency to the commissioner under (b) of this section.

(d) In the commissioner's discretion, the review periods set in (b) and (c) of this section will be extended for not more than 30 days, for any of the following reasons:

(1) with the approval of the applicant, and upon demonstrating good cause for the request, the appropriate health systems agency requests an extension of time within which to make findings and recommendations; each health systems agency shall adopt criteria for determining when to request an extension;

(2) the applicant amends the application;

(3) the state agency requests an extension of time within which to prepare its findings and recommendations.

(e) Any person directly affected may request a public meeting by written request submitted to the state agency no later than 30 days after the last publication date of the last newspaper notice announcing review of the application. The state agency shall schedule such a meeting to be held during the review period, and shall give public notice of the meeting no less than 15 nor more than 30 days before the meeting. The notice must contain the name of the applicant, a brief statement of the subject matter to be considered, and the date, time, and place of the meeting. The applicant, person requesting the meeting, appropriate health systems agency, and persons on the state agency mailing list must be notified by mail at their last known address. The public must be notified in accordance with sec. 50(c) of this chapter. The state agency may not and the commissioner will not impose fees for such a meeting. Public meetings conducted under this section must conform to 42 U.S.C. 300n-1(b)(12)(A).

(f) The state agency shall, upon written request, notify by mail any interested person of the status of the application, of any formal findings made during the course of the review, and of other reasonable information requested regarding the review.

(g) The state agency may delegate to the appropriate health systems agency the authority to conduct the public meeting under this section. (Eff. 10/26/77, Register 64; am 8/13/80, Register 75)

Authority: AS 18.07.101

7 AAC 07.065. EXPEDITED REVIEW. (a) Any person planning to submit an application for a certificate of need may obtain a determination as to whether the proposed activity qualifies for an expedited review before the submission of the application, by making a written request to the state agency and submitting a copy of the request to the appropriate health systems agency. The state agency shall consult with the appropriate health systems agency and must receive its written agreement to an expedited review before an application may be given an expedited review. The state agency shall respond in writing

to an applicant's written request within 30 days after the request is received.

(b) The request for expedited review shall be submitted in writing to the state agency at the time of the application.

(c) The following conditions must be met for an expedited review:

(1) a request is received;

(2) the proposed activity is of the same basic type as the activity for which the same basic type of service is provided;

(3) the request is received within 30 days of the date of completion of the review period;

(4) the proposed activity is of the same basic type as the activity for which the same basic type of service is provided;

(5) the variation of the activity is not substantial.

(d) The expedited review shall be completed within 30 days of the date on which the request is received.

(e) The expedited review shall be completed within 30 days of the date on which the request is received.

(f) The expedited review shall be completed within 30 days of the date on which the request is received.

(g) The expedited review shall be completed within 30 days of the date on which the request is received.

(h) The expedited review shall be completed within 30 days of the date on which the request is received.

(i) The expedited review shall be completed within 30 days of the date on which the request is received.

(j) The expedited review shall be completed within 30 days of the date on which the request is received.

(k) The expedited review shall be completed within 30 days of the date on which the request is received.

(l) The expedited review shall be completed within 30 days of the date on which the request is received.

(m) The expedited review shall be completed within 30 days of the date on which the request is received.

Authority: AS 18.07.071
AS 18.07.101

7 AAC 07.070. DETERMINATION OF THE COMMISSIONER'S DISCRETION. The commissioner shall determine in writing, stating the reasons therefor, whether the applicant is obligated for the proposed activity as set out in sec. 50 of this chapter. The following will be considered:

(1) the findings and recommendations of the appropriate health systems agency;

(2) the record of the applicant's previous activities;

(3) the current and projected needs of the community;

(4) the current and projected needs of the state.

(b) The commissioner shall determine in writing, stating the reasons therefor, whether the applicant is obligated for the proposed activity as set out in sec. 50 of this chapter. The following will be considered:

(1) the findings and recommendations of the appropriate health systems agency;

(2) the record of the applicant's previous activities;

(3) the current and projected needs of the community;

(4) the current and projected needs of the state.

periods set in (b) and 30 days, for

demonstrating health systems agency findings and adopt criteria

within which to

public meeting by more than 30 days before announcing a public meeting schedule such as all give public 30 days before the meeting, a brief description of the date, time, and location of the meeting on the state agency's last known address. 50(c) of this chapter will not apply under this

notify by mail any health systems agency formal findings if reasonable

the health systems agency under this chapter 75)

person planning to obtain a determination of an expedited review shall submit a written request to the commissioner. The commissioner shall consult with the health systems agency and receive its written findings. A copy of the determination may be provided in writing

to an applicant's written request for an expedited review within 20 days after the request is received.

(b) The request for an expedited review must be set out in a letter of intent as submitted under sec. 30 of this chapter and state the reason for requesting an expedited review.

(c) The following criteria will be followed to determine whether an expedited review is appropriate:

- (1) a request is for reissuance of a certificate of need;
- (2) the proposed activity would replace existing equipment having the same basic purpose and scope and would not substantially increase the service volume capability or to advance substantially the technological capability of the health care facility;
- (3) the request is for approval of a variance in scope, time schedule of completion, or cost of a previously certificated activity;
- (4) the proposed activity is to comply with the requirements of a governmental agency;
- (5) the variation in service is caused by the availability of professional health personnel.

(d) The expedited review process will not exceed 50 calendar days from the date on which the state agency determines, in accordance with sec. 50 of this chapter, that the application is complete. The appropriate health systems agency shall submit written findings and recommendations to the state agency within 30 days after the beginning of the review process. The state agency shall complete its review and the commissioner will make a decision whether to issue a certificate of need within 20 days after receipt of the appropriate health systems agency review. (Eff. 8/13/80, Register 75)

Authority: AS 18.07.071
AS 18.07.101

7 AAC 07.070. DECISION BY COMMISSIONER. (a) The decision of the commissioner to issue or deny a certificate of need will be in writing, stating the maximum capital expenditure which may be obligated for the proposed activity, the bed capacity, the type of service as set out in sec. 10 of this chapter, and the completion date. The following will be considered:

- (1) the findings and recommendations of the state agency and the appropriate health systems agency;
- (2) the record of any public meeting held in accordance with sec. 60(e) of this chapter;
- (3) state and federal laws and regulations; and
- (4) the current state health plan.

(b) The commissioner will mail a copy of the decision and findings to the applicant and will advise the applicant of the availability of a hearing under sec. 80 of this chapter.

(c) The commissioner will mail copies of the decision and findings to the appropriate health systems agency, to the Regional Health Administrator of the U.S. Public Health Service, and to others upon request. The public will be notified of the commissioner's decision in the same manner as provided in sec. 50(c) of this chapter.

(d) The commissioner's decision and findings will include a written statement of the reasons for a decision that is inconsistent with a recommendation of the appropriate health systems agency, the goals of the applicable health systems plan, and the priorities of the applicable health systems agency's implementation plan adopted under P.L. 96-79, sec. 1513(b). (Eff. 10/26/77, Register 64; am 8/13/80, Register 75)

Authority: AS 18.07.041
AS 18.07.101

7 AAC 07.080. HEARING AND APPEAL. (a) An applicant dissatisfied with a decision of the commissioner to grant, deny, or modify a certificate of need is entitled to a hearing if the request for a hearing is made in writing and received by the commissioner, no later than 30 days after receiving the commissioner's decision. The hearing will be conducted in accordance with AS 44.62.330 — 44.62.630.

(b) Any person other than the applicant who is dissatisfied with a decision of the commissioner to grant, deny, or modify a certificate of need may request a hearing by making a written request which is received by the commissioner no later than 30 days after the last newspaper notice published under sec. 70(c) of this chapter. Hearings conducted under this subsection will be governed by the provisions of (a) of this section. The commissioner will grant the request for a hearing if good cause is demonstrated. Good cause is considered to have been demonstrated if the request

(1) presents significant relevant information not previously considered by the state agency;

(2) demonstrates that there have been significant changes in factors or circumstances relied upon by the commissioner in reaching his decision;

(3) demonstrates that the state agency or the commissioner has failed to follow procedures stated in this chapter; or

(4) provides such other bases for a hearing as the commissioner determines is good cause.

(c) Hearings under (a) of this section and hearings under (b) of this section will, in the commissioner's discretion, be consolidated.

(d) Notice of the time and place of a hearing under this section must be mailed to the person requesting the hearing, to the applicant, and to the appropriate health systems agency no later than 15 days before the hearing. Notice to others who request notice must be mailed no

later than 15 days before the time, and must be made if a request is made later.

(e) No fee for conducting or other person at work.

(f) Repealed 6/3/88 (Eff. 10/26/77, Register 106)

Authority: 18.07.101

7 AAC 07.090. TELEPHONE 8/13/80.

7 AAC 07.095. MODIFICATION OF A CERTIFICATE OF NEED activity authorized by the state, or the cost of the increase by more than the approved maximum cost. The applicant shall make written request for the issued certificate of need from the original certificate as provided for in section 70(c) of this chapter. The commissioner's determination warrants a new certificate of need. This chapter is required.

(b) Modification, such as a change in the number of beds, will be handled in accordance with section 70(c) of this chapter.

(c) A decision of the commissioner to deny a certificate of need will be handled in accordance with this chapter. (Eff. 8/13/80)

Authority: AS 18.07.081
AS 18.07.091
AS 18.07.101

7 AAC 07.100. TELEPHONE PROHIBITED. (a) No fee for conducting or other person at work.

(b) Repealed 8/13/80 (Eff. 10/26/77, Register 106)

Authority: AS 18.07.101

7 AAC 07.105. PERMITS a letter of intent to the commissioner or who

later than 15 days before the hearing if they have requested it by that time, and must be mailed to them promptly upon request if the request is made later than that.

(e) No fee for conducting the hearing may be charged the applicant or other person at whose request the hearing was held.

(f) Repealed 6/3/88.
(Eff. 10/26/77, Register 64; am 8/13/80, Register 75; am 6/3/88, Register 106)

Authority: 18.07.101

7 AAC 07.090. TERM OF CERTIFICATE OF NEED. Repealed 8/13/80.

7 AAC 07.095. MODIFICATION, SUSPENSION, OR REVOCATION OF A CERTIFICATE OF NEED. (a) If the scope of an activity authorized by a certificate of need varies or is expected to vary, or the cost of the proposed activity increases or is expected to increase by more than 15 percent in excess of inflation costs above the approved maximum capital expenditure, the holder of that certificate shall make written request to the commissioner for a modification of the issued certificate of need. If the commissioner determines the variation from the original application to be minimal, an expedited review as provided for in sec. 65 of this chapter will be conducted. If the commissioner determines that the variation from the original application warrants a new application, a full application and review under this chapter is required.

(b) Modification, suspension, or revocation of a certificate of need will be handled in accordance with AS 18.07.081.

(c) A decision of the commissioner to modify, suspend, or revoke a certificate of need will be publicized in accordance with sec. 50(c) of this chapter. (Eff. 8/13/80, Register 75)

Authority: AS 18.07.081
AS 18.07.091
AS 18.07.101

7 AAC 07.100. TRANSFER OF CERTIFICATE OF NEED PROHIBITED. (a) A certificate of need is not transferable.

(b) Repealed 8/13/80.
(Eff. 10/26/77, Register 64; am 8/13/80, Register 75)

Authority: AS 18.07.101

7 AAC 07.105. PERIODIC REPORTS. (a) Any person who submits a letter of intent regarding an activity which is subject to sec. 10 of this chapter or who is granted a certificate of need shall provide the

state agency with a written report on the development of the activity at least once every six months until the activity has been completed or abandoned.

(b) The state agency shall prepare and publish an annual report on the status of letters of intent, applications, and reviews. It must include a general statement of the findings and decisions for each completed review.

(c) Health care facilities shall provide the state agency with information regarding available health care services and the rates schedule when requested on forms which are provided by the state agency. (Eff. 8/13/80, Register 75)

Authority: AS 18.07.101

7 AAC 07.110. NOTICE. Repealed 8/13/80.

7 AAC 07.120. ABBREVIATED REVIEW. Repealed 8/13/80.

7 AAC 07.130. DEFINITIONS. In this chapter, unless the context indicates otherwise,

(1) "applicant" means any person applying for a certificate of need;

(2) "appropriate health systems agency" means the health systems agency in whose health systems area an activity described in sec. 10 of this chapter has been or will be undertaken;

(3) "capital expenditure" means an expenditure made by or on behalf of a health care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance;

(4) "certificate of need" means the official order of the commissioner signifying approval of a proposed activity as set out in sec. 10 of this chapter;

(5) "commissioner" means the commissioner of health and social services;

(6) "days" means calendar days;

(7) "health care facility" means any of those entities listed in AS 18.07.111, as defined, where appropriate, in 42 CFR 123.401 (adopted 1/21/77);

(8) "health maintenance organization" means a private or public organization (exclusive of insurance companies or similar associations whose primary function is the payment of costs or charges incurred by or on behalf of its policy holders for health services received by them) authorized by Alaska statutes to provide services through a health care facility by providing or otherwise making available to enrolled participants, at least the following basic health care services: usual physician services, hospitalization, laboratory,

x-ray, emergency and which

(A) compensation for these basic services provided at a periodic rate based on

(B) provide physicians with information, or through one or more group health plans, individual health

(9) "hospital" means a facility providing inpatient hospital services and medical, and care of injured, disabled

(10) "person" means a natural person, a subdivision or of the State of Alaska, or an entity recognized

(11) "person" means

(A) the state

(B) the commissioner

(C) member of a health care organization

(D) health care organization which the commissioner, in this chapter, authorizes to issue a certificate of need

(E) any health care organization

(F) any health care organization planning for the future in which a certificate of need is issued

(12) "public health" means a health care organization which is held by the state or a political subdivision of the state

(13) "state" means the state of Alaska and its political subdivisions

and development in AS 18.07.001

activity completed or

x-ray, emergency and preventive services, and out-of-area coverage, and which

report on must in each com-

(A) compensates patients or providers (except for copayments) for these basic health care services and any other health care services provided to enrolled participants on a predetermined periodic rate basis; or

with information scheduled to agency.

(B) provides physicians' services primarily directly through physicians who are either employees or partners of the organization, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual basis;

8/13/80.

(9) "hospital" means an institution primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation of injured, disabled, or sick persons;

is the con-

(10) "person" includes, in addition to the entities specified in AS 01.10.060(7), a health maintenance organization, estate, political subdivision or instrumentality (including a municipal corporation) of the State of Alaska, the State of Alaska, and any other legal entity recognized by the State of Alaska;

certificate of

(11) "person directly affected" means

health systems described in

(A) the state agency;

able by or on accepted expense of

(B) the commissioner;

the committee in sec. 10

(C) members of the public to be served by the activity for which a certificate of need is required;

health and social

(D) health care facilities located in the health service area in which the activity is proposed to occur which provide services similar to the proposed activity or which have indicated to the commissioner, by filing a letter of intent under sec. 30 of this chapter, an intention to engage in the activity for which the certificate of need is requested;

listed in AS FR 123.401

(E) any agency which sets or regulates the rates charged by health care facilities;

state or public health services provided by making basic health services, laboratory,

(F) any health systems agency which is engaged in health planning for the health service area within which the activity for which a certificate of need is requested would occur or for a health services area contiguous to that area;

(12) "public meeting" means a meeting open to the public which is held by the state agency for the purpose of gathering or disseminating information relative to a request for a certificate of need;

(13) "state agency" means the division of state health planning and development, referred to as the office of planning and research in AS 18.07.021. (Eff. 10/26/77, Register 64; am 8/13/80, Register 75)

Authority: AS 18.07.101
AS 18.07.111
AS 44.17.020

CHAPTER 09. DESIGN AND CONSTRUCTION OF HEALTH FACILITIES

Section	Section
10. Requirement of licensure	100. Site survey
20. Qualification for license	110. Soil investigation
30. Application for license	120. Building specifications
40. Action on application	130. First-stage plans and specifications
50. Applicable codes and standards	140. Second-stage plans and specifications
60. Compliance with local codes	150. Third-stage plans and specifications
70. Issuance of construction license	160. Inspection by licensee
80. Terms of construction license	170. Definitions
90. Earthquake provisions	

7 AAC 09.010. REQUIREMENT OF LICENSURE. No person or governmental unit, except the federal government acting severally or jointly with a person or other governmental unit, may undertake construction of a health facility in Alaska until it has obtained a construction license from the department. (Eff. 4/28/77, Register 62)

Authority: AS 18.20.030
AS 18.20.060

7 AAC 09.020. QUALIFICATION FOR LICENSE. A construction license for a health facility will be granted by the department only upon its review and approval of the plans and specifications for the project, and upon the acquisition by the applicant of a certificate of need when required under the provisions of AS 18.07.031. (Eff. 4/28/77, Register 62)

Authority: AS 18.07.031
AS 18.20.060
AS 18.20.080

7 AAC 09.030. APPLICATION FOR LICENSE. Upon request, the department will furnish an application form for a construction license to an interested person or governmental unit. If the application is for construction of a new facility, alteration of bed capacity of an existing facility, or the addition of a category of service to an existing facility, after July 1, 1977, the applicant must also show that he has obtained a certificate of need from the Office of Planning and Research of the department. An application for a construction license must be accompanied by the license fee of \$10. The continued effectiveness after July 1, 1977, of a license issued before that date is conditioned upon the applicant obtaining in a timely fashion after July 1, 1977, a certificate of need if it is required under AS 18.07.031. (Eff. 4/28/77, Register 62)

Authority: AS 18.07.031
AS 18.20.030
AS 18.20.060

7 AAC 09.040. AC mation required by th cant will be given an required information h need if required by AS cant to submit the re: required by secs. 100 : 62)

Authority: AS 18.07.031
AS 18.20.060
AS 18.20.080

7 AAC 09.050. AP Plans and specification ted to the department not be approved unless the following codes ar
(1) Alaska Fire Se
Division of Fire Pr
(2) Life Safety Co
(3) National Elec
tion, 1975;
(4) Uniform Build
Officials, 1976;
(5) Uniform Plurr
ing Officials, 1973;
(6) Uniform Mech
ing Officials, 1973;
(7) American Nat
Dumbwaiters, Ame
(8) Minimum Rec
Hospital and Medic
74-4000, Departmer
27, 1974. (Eff. 4/28

Authority: AS 18.20.060

Editor's notes. — The quirements referred to in t are available as follows:
1. The Alaska Fire Safet Department of Public Safe Fire Protection, 1971, whic in paragraph (1), is availa tion of Fire Protection. 1

STATE OF ALASKA THE LEGISLATURE

POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811
907-463-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

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 2-13-90

H. HESS 3-15-90

H. HESS 3-16-90

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE HESS COMMITTEE

2 CS FOR HOUSE BILL NO. 399 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state coordination of health
7 planning and development; abolishing the Statewide
8 Health Coordinating Council; and providing for an
9 effective date."

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

11 * Section 1. AS 18.07 is amended by adding a new section to read:

12 Sec. 18.07.005. LEGISLATIVE PURPOSE. It is the purpose of this
13 chapter to create a rational framework for the planning and develop-
14 ment of all health care services in the state to ensure promotion and
15 protection of public health, provide equitable access to health ser-
16 vices, and avoid unnecessary increases in health care costs.

17 * Sec. 2. AS 18.07.021 is amended to read:

18 Sec. 18.07.021. STATE HEALTH PLANNING AND DEVELOPMENT [AGENCY].
19 The [OFFICE OF PLANNING AND RESEARCH IN THE] department is responsible
20 for [THE] state health planning and development, [AGENCY DESIGNATED
21 UNDER 42 U.S.C. 300m(b)(3). THE OFFICE] shall [PERFORM THE FUNCTIONS
22 ENUMERATED UNDER 42 U.S.C. 300m-2,] administer the certificate of need
23 program outlined in AS 18.07.031 - 18.07.111 [AS 18.07.041 - 18.07.-
24 111], and shall perform other functions prescribed in this chapter.

25 * Sec. 3. AS 18.07.031 is repealed and reenacted to read:

26 Sec. 18.07.031. CERTIFICATE OF NEED REQUIRED. Unless authorized
27 under the terms of a certificate of need issued by the department, a
28 person may not

29 (1) make a capital expenditure, including a rededication of

1 assets, of \$1,000,000 or more for construction of a health care
2 facility;

3 (2) alter or redistribute the bed capacity of a health care
4 facility by more than 10 beds or 10 percent of the number of beds in
5 the facility, whichever is fewer;

6 (3) add or eliminate a category of health services to or
7 from those provided by the health care facility; or

8 (4) acquire a health care facility at a cost of \$1,000,000
9 or more.

10 * Sec. 4. AS 18.07.051 is amended by adding a new subsection to read:

11 (b) A certificate of need is valid only for the defined scope,
12 physical location, and person stated in the certificate.

13 * Sec. 5. AS 18.07.061 is amended to read:

14 Sec. 18.07.061. MODIFICATION AND TERMINATION OF ACTIVITIES.
15 The certificate holder shall apply to the department [OFFICE] for a
16 modification of the certificate [BEFORE TERMINATING PART OF THE ACTIV-
17 ITIES AUTHORIZED BY THE TERMS OF ISSUANCE, BUT THE CERTIFICATE HOLDER
18 IS NOT REQUIRED TO OBTAIN THE ACQUIESCENCE OF THE OFFICE] before
19 transferring the certificate or modifying or terminating all or part
20 of the activities authorized by the certificate. If a certificate
21 holder intends to terminate [TERMINATES] all of the activities autho-
22 rized by a certificate, the certificate holder is required to apply to
23 [NOTIFY] the department [OFFICE] 60 days before termination and to
24 surrender the certificate to the department [OFFICE] within 30 days
25 after [OF] termination.

26 * Sec. 6. AS 18.07.061 is amended by adding new subsections to read:

27 (b) An application for transfer of a certificate shall be made
28 on forms provided by the department and must contain

29 (1) evidence, of the type the department may require by

1 regulation, that the transferee is able to assume ownership or
2 operation of the health care facility and to provide the appropriate
3 health services;

4 (2) evidence that the transferee is acquiring the health
5 care facility at no more than its current fair market value; and

6 (3) other information that the department may require.

7 (c) Transfer of a certificate is subject to conditions the
8 department considers necessary.

9 * Sec. 7. AS 18.07.071 is repealed and reenacted to read:

10 Sec. 18.07.071. EMERGENCY CERTIFICATES. (a) The department
11 shall expedite review of an application for a certificate of need
12 under AS 18.07.031(1) that is required to

13 (1) eliminate or prevent imminent safety hazards as defined
14 by a federal, state, or local fire, building, or life safety code or
15 regulation;

16 (2) comply with state licensure standards; or

17 (3) comply with accreditation standards, compliance with
18 which is required to receive federal reimbursement.

19 (b) An application approved under (a) of this section may be
20 approved only to the extent that the capital expenditure is required
21 to eliminate or prevent the hazards or to comply with the standards
22 described in (a) of this section.

23 * Sec. 8. AS 18.07 is amended by adding a new section to read:

24 Sec. 18.07.079. FINAL DECISION. (a) Within 150 days after it
25 determines that it has received a complete application, the department
26 shall take one or more of the following actions:

27 (1) approve part or all of the application and issue a
28 certificate of need that includes conditions that the department
29 considers appropriate; the conditions must be directly related to the

1 activities for which the application was made;

2 (2) deny a certificate of need;

3 (3) recommend modifications to the application; if the
4 applicant agrees to modify the application, the department may defer a
5 final decision on the application for 30 days after receiving the
6 modified application and all additional information to support the
7 modifications; deferral for more than 30 days under this paragraph may
8 be made by the department only after written findings that there is
9 good cause for deferring the decision and that deferral is in the
10 public interest.

11 (b) The department shall send the final written findings and
12 decision to the applicant and to other persons who request a copy of
13 the findings and decision. If the final decision is to approve an
14 application, the department shall issue a certificate of need to the
15 applicant.

16 * Sec. 9. AS 18.07.081(a) is amended to read:

17 (a) The department [OFFICE], a member of the public who is
18 substantially affected by activities authorized by the certificate,
19 [OR] another applicant for a certificate of need, or a health care
20 facility that either provides services similar to the proposed ac-
21 tivity or has indicated to the department in writing within the year
22 preceding the decision to grant the certificate an intention to pro-
23 vide similar services to a health service population that includes all
24 or part of the health service population served under the certificate
25 of need may request [INITIATE] a hearing to obtain modification,
26 suspension or revocation of an existing certificate of need by filing
27 an accusation with the department [COMMISSIONER] as prescribed under
28 AS 44.62.360. A revocation, modification, or suspension of an out-
29 standing certificate may not be undertaken unless it is in accordance

1 with AS 44.62.330 - 44.62.630.

2 * Sec. 10. AS 18.07.081(c) is amended to read:

3 (c) A certificate of need shall be suspended if an accusation is
4 filed before the commencement of activities authorized under AS 18.-
5 07.079 [AS 18.07.041] that charges that factors upon which the certif-
6 icate of need was issued have changed [,] or new factors have been
7 discovered that significantly alter the need for the activity au-
8 thorized. [A SUSPENSION OF A CERTIFICATE MAY NOT EXCEED 60 DAYS. AT
9 THE END OF THIS PERIOD OR SOONER, THE OFFICE SHALL REVOKE OR REINSTATE
10 THE CERTIFICATE].

11 * Sec. 11. AS 18.07.081(d) is amended to read:

12 (d) A certificate of need may be revoked if

13 (1) the certificate holder [SPONSOR] has not shown continu-
14 ing progress toward commencement of the activities authorized under
15 AS 18.07.079 within one year after [AS 18.07.041 AFTER SIX MONTHS OF]
16 issuance;

17 (2) the certificate holder [APPLICANT] fails, without good
18 cause, to complete activities authorized by the certificate;

19 (3) the certificate holder [SPONSOR] fails to comply with
20 the provisions of this chapter or regulations adopted under this
21 chapter;

22 (4) the certificate holder [SPONSOR] knowingly misrepre-
23 sents a material fact in obtaining the certificate;

24 (5) the facts charged in an accusation filed under (c) of
25 this section are established; or

26 (6) the certificate holder [SPONSOR] fails to provide
27 services authorized by the terms of the certificate.

28 * Sec. 12. AS 18.07.081(e) is amended to read:

29 (e) A person who files [MAY NOT FILE] an accusation seeking

1 suspension or revocation of a certificate of need under this section,
2 knowing that the charges stated in the accusation are untrue or that
3 the charges do not constitute grounds for revocation or suspension
4 under this chapter, is guilty of a class B misdemeanor.

5 * Sec. 13. AS 18.07.091 is repealed and reenacted to read:

6 Sec. 18.07.091. REPORTING REQUIREMENTS, PENALTIES, AND INJUNC-
7 TION. (a) The department shall require all health care facilities
8 operating in the state to periodically file reports required by the
9 department by regulation.

10 (b) The department shall require a certificate holder to file
11 with the department, periodically during the development stage and
12 annually after that until completion of the activity authorized under
13 AS 18.07.031, a report demonstrating that the activity is in compli-
14 ance with all provisions of the certificate of need.

15 (c) If the department finds that a person substantially
16 failed or refused to comply with AS 18.07.031 - 18.07.111 or a regu-
17 lation adopted under those sections, the department may take one or
18 more of the following actions:

19 (1) issue an order directing the person to stop the ques-
20 tioned activity;

21 (2) deny, suspend, revoke, or modify a construction license
22 required under AS 18.20.020 as related to the questioned activity;

23 (3) suspend a payment to be made by the department to the
24 person for capital and operating expenses relating to the questioned
25 activity;

26 (4) deny, suspend, revoke, or modify a certificate of need;
27 or

28 (5) issue an order against a person who violates a pro-
29 vision of AS 18.07.031 - 18.07.111 or a regulation adopted under those

1 sections imposing a civil penalty of not more than \$20,000.

2 (d) Before imposing a sanction listed in (c) of this section,
3 the department shall give reasonable notice of and an opportunity for
4 a hearing.

5 (e) Notwithstanding AS 44.62.330 - 44.62.630, if the department
6 finds that there will be a significant and adverse effect upon the
7 public interest caused by substantial failure or refusal of a person
8 to comply with AS 18.07.031 - 18.07.111 or a regulation adopted under
9 those sections, the department may issue an order that does one or
10 more of the following:

11 (1) directs the person to stop the questioned activity;

12 (2) suspends a construction license required under AS 18.-
13 20.020 as related to the questioned activity; or

14 (3) suspends a payment to be made by the department to the
15 person for capital and operating expenses relating to the questioned
16 activity.

17 (f) Notwithstanding AS 44.62.330 - 44.62.630, an order under (e)
18 of this section takes effect immediately upon service by the depart-
19 ment and remains in effect pending the decision after any hearing that
20 may have been requested unless the person served can demonstrate to
21 the department's satisfaction that the questioned activity is not
22 subject to the application and review requirements of AS 18.07.031 -
23 18.07.111, or that the person would likely prevail on the merits and
24 that allowing the activity to continue is in the public interest.

25 (g) Injunctive relief against a violation of AS 18.07.031 -
26 18.07.111 or a regulation adopted under those sections may be obtained
27 from a court of competent jurisdiction by the department, a certifi-
28 cate holder who is adversely affected by the violation, or a member of
29 the public substantially and adversely affected by the violation.

1 * Sec. 14. AS 18.07.101 is amended to read:

2 Sec. 18.07.101. REGULATIONS. The department [COMMISSIONER]
3 shall adopt, in accordance with the Administrative Procedure Act
4 (AS 44.62), regulations that establish procedures under which a person
5 [SPONSORS] may apply [MAKE APPLICATION] for a certificate [CERTIFI-
6 CATES] of need required by this chapter, establish the amount of
7 variation that may occur in an activity authorized by a certificate of
8 need without requiring a modification of the certificate. [AND THAT]
9 govern the review of those applications by the department [OFFICE],
10 establish requirements for a uniform statewide system of reporting
11 financial and other operating data, establish reasonable fees for
12 applications and other services, and otherwise carry out the purposes
13 of this chapter.

14 * Sec. 15. AS 18.07.111 is repealed and reenacted to read:

15 Sec. 18.07.111. DEFINITIONS. In this chapter

16 (1) "category of health services" means a service that is
17 recognized as a distinct service for the purposes of health care
18 facility licensure and certification under regulations adopted under
19 AS 18.20.010 - 18.20.130, except that "service" does not include the
20 lawful practice of a profession or vocation conducted independently of
21 a health care facility and in accordance with applicable licensing
22 laws of the state;

23 (2) "certificate" means a certificate of need;

24 (3) "certificate of need" means a written order of the
25 department that sets out the affirmative findings that a proposed
26 activity sufficiently satisfies the plans and criteria prescribed for
27 such an activity by this chapter and by department regulations and
28 that permits the certificate holder to proceed with the activity;

29 (4) "commencement of activities" means, with the intent to

1 continue until it is completed,

2 (A) the visible commencement of actual operations, on
3 the ground, which is readily recognizable as such, for the con-
4 struction of a building, the alteration of the bed capacity of a
5 health care facility, or the provision for or deletion of an
6 existing category of health services to consumers; or

7 (B) a significant step toward acquisition of a health
8 care facility;

9 (5) "complete activities" means the substantial performance
10 of the work required to comply with the terms of issuance of the
11 certificate of need that all parties participating in those activities
12 have obligated themselves to perform;

13 (6) "construction" means excavation, erection, alteration,
14 modification, reconstruction, modernization, improvement, extension,
15 or other development by or on behalf of a health care facility and
16 includes the lease or purchase of equipment;

17 (7) "department" means the Department of Health and Social
18 Services;

19 (8) "health care facility" means an institutional health
20 service provider, whether public or private, whether a partnership or
21 corporation, whether organized for profit or not, and whether or not
22 licensed or required to be licensed in whole or in part by the state,
23 and includes a hospital, psychiatric hospital, substance abuse hospi-
24 tal, tuberculosis hospital, skilled nursing facility, kidney disease
25 treatment center (including free dialysis hemodialysis units), inter-
26 mediate care facility, ambulatory surgical facility, freestanding
27 emergency care facility, osteopathic facility, independent diagnostic
28 laboratory, and central service facility; "health care facility" does
29 not include:

1 (A) an Alaska Pioneers' Home administered by the
2 Department of Administration under AS 44.21.020(10) and
3 AS 47.25.010 - 47.25.100;

4 (B) the offices of private physicians or dentists,
5 whether in individual or group practice, occupied on a regular
6 basis to perform the range of diagnostic and treatment services
7 usually performed by physicians and dentists on an outpatient
8 basis;

9 (C) office buildings built or leased by or on behalf
10 of a health care facility for the exclusive use of physicians,
11 dentists, and other practitioners of the healing arts, or other
12 investments made by or on behalf of a health care facility,
13 unless capital expenditures or operating expenses will be charged
14 or reimbursed in the future as costs for providing patient ser-
15 vices offered by the health care facility; and

16 (9) "person" means an individual, corporation, company,
17 partnership, firm, association, organization, business trust, estate,
18 or government entity, and includes a health care facility.

19 * Sec. 16. AS 18.20.050 is amended to read:

20 Sec. 18.20.050. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.
21 The department may deny, suspend, or revoke a license in a case in
22 which it finds that there has been a substantial failure to comply
23 with the requirements established under AS 08.64.336, AS 18.07.031 -
24 18.07.111, or AS 3.20.060 - 18.20.080.

25 * Sec. 17. AS 44.29.100 is amended to read:

26 Sec. 44.29.100. ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE.
27 There is established in the Department of Health and Social Services
28 an advisory board on alcoholism and drug abuse. [THE BOARD SHALL
29 FUNCTION AS A STANDING COMMITTEE OF THE STATEWIDE HEALTH COORDINATING

1 COUNCIL ESTABLISHED UNDER AS 18.07.011.]

2 * Sec. 18. AS 47.30.475(b) is amended to read:

3 (b) Money available under this section shall be awarded by the
4 department to applicants on the basis of community need, but only if
5 the award is consistent with the annual implementation plan developed
6 under 42 U.S.C. 3001-2(b)(2) (National Health Resources Planning and
7 Development Act of 1974) by the health systems agency for the health
8 system area in which the applicant is located [AND THE STATE HEALTH
9 PLAN DEVELOPED BY THE STATEWIDE HEALTH COORDINATING COUNCIL UNDER 42
10 U.S.C. 300m-3(c)(2)(A),] and only after consideration of comment and
11 advice of the Advisory Board on Alcoholism and Drug Abuse. In award-
12 ing grants, the department shall further consider the amount of money
13 that is available for all applications and whether an application
14 would contribute to the wise development of a comprehensive program of
15 alcoholic and drug abuse rehabilitation and prevention.

16 * Sec. 19. AS 18.07.011, 18.07.041, 18.07.081(b); AS 18.08.020(2),
17 18.08.090(11); and AS 18.26.030(a)(4)(B) are repealed.

18 * Sec. 20. This Act takes effect immediately under AS 01.10.070(c).
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HB

402

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 8, 1990

FURTHER REFERRALS: HESS
FINANCE

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

. HB 402

HOUSE BILL NO. 402

APPLIED TELECOMMUNICATIONS CENTER

"An Act relating to a center for information technology at the University of Alaska Anchorage."

RECOMMENDATIONS:

- be replaced with CSHB402(SA) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

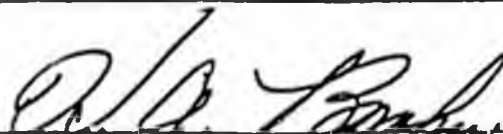
- fiscal impact _____
- zero fiscal note DOA
- zero with analysis ASA
- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass No Rec Amend



 Chairman's Signature

Item 2

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Applied Telecommunications Center

Agency Affected: Administration
BRU: Information Services

Sponsor: Rep. Boucher
Requestor: State Affairs

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached.

Paul Monette

Prepared by: Paul Monette, Director
Division: Information Services

Phone: 465-2220
Date: 01/22/90

Approved by Commissioner: Frank S. Baxter
Agency: Administration

Date: 1/25/90

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

1/22/90

Department of Administration
Division of Information Services

HB 402 - - FISCAL NOTE

*An Act Relating to Center For Information Technology
at the University of Alaska, Anchorage*

HB 402 is not expected to have any fiscal impact on the Division of Information Services, either during FY 90 or in succeeding fiscal years.

Item 3

Office of the Chancellor
(907) 474-7112



UNIVERSITY OF ALASKA FAIRBANKS

Fairbanks, Alaska 99775-0500

JAN 18 1990

January 15, 1990

Representative Kay Brown
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Representative Brown:

Thank you for sending me a copy of your, and Representative Boucher's, draft bill on Information Technology and Geographic Information Systems. The president scheduled this bill for a review with the chancellors at a meeting held in Anchorage on January 9, 1990. There were concerns from each of the three campuses as well as a concern by the statewide administration regarding establishing organizational elements of the University of Alaska Statewide System in legislation.

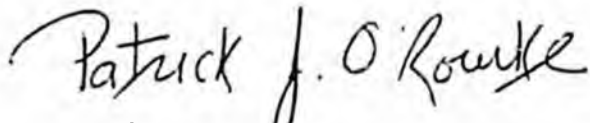
From the campus perspective, we find ourselves supportive of many of the sub-elements contained within the bill but feel that the Center for Information Technology, as proposed, is too broad and unworkable. Further, there were concerns voiced by the University of Alaska Anchorage, with which I concur, that instruction be predominantly the purview of the departments and their various schools and colleges. This is the way it is at virtually all universities, and centers are normally established to perform certain research or service components.

Because I have had previous dealings regarding this issue, I was asked by President O'Dowd to chair a small group from both UAA and UAF to formulate a systemwide response to the proposed legislation and to express any concerns which might exist as well as to proffer alternatives which we might see.

Representative Kay Brown
January 15, 1990
Page 2 of 2

As a result, I shall be convening a group within the next few weeks, and we shall submit a formal response to you as soon as possible. Thank you for your continuing interest and support of these issues.

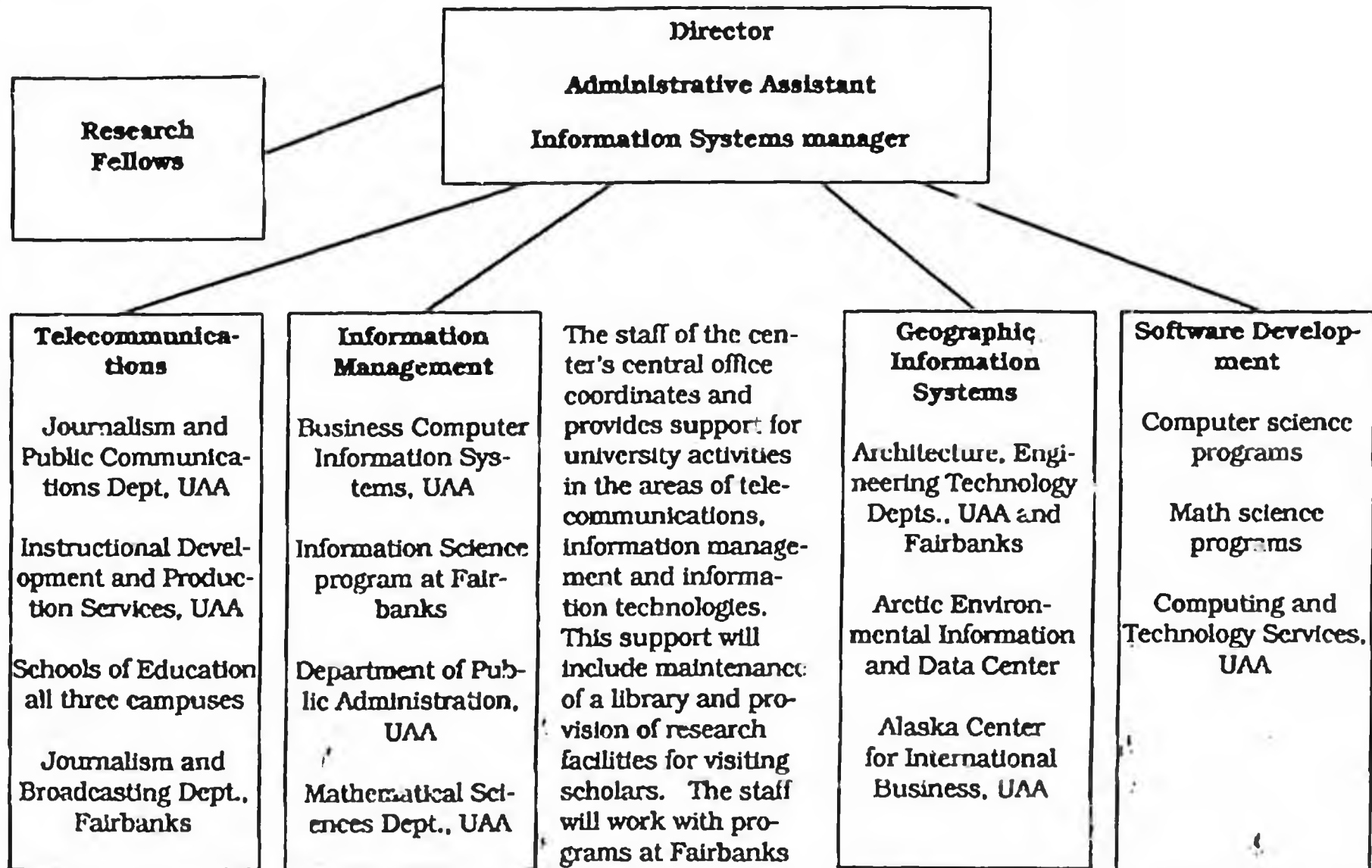
Sincerely yours,



Patrick J. O'Rourke, Chancellor
University of Alaska Fairbanks

PJO'R/cdb

University of Alaska Center for Information Technology



Note: Other programs such as the Institute for Social and Economic Research might also work with this center.

Regarding a House Bill affecting UAA

The Legislation

- *A bill establishing a center for information technology at UAA
- *An appropriation for the center, either in the form of a bill or a fiscal note

Sponsors

Anchorage Representative H.A. "Red" Boucher
Anchorage Representative Kay Brown

The context

This bill is a piece of a larger package of legislation that these legislators believe is important to the economic development of the state.

They will also introduce bills that

- *set policy on access to information
- *establish a cabinet-level department of information services

What the center would do

- *Support existing activities in various departments of UAA, at Fairbanks and in Juneau.
- *Provide leadership on information and information technology issues for the community, for private industry and for government.
- *Attract scholars of international reputation to help investigate Alaskan information issues.
- *Provide training for workers in Alaska's emerging information industries.

The first deadline

They intend to prefile legislation similar to the attached draft Dec. 14 or 15.



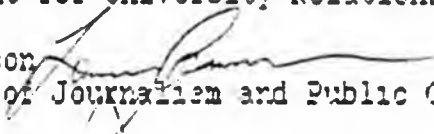
UNIVERSITY OF ALASKA, ANCHORAGE

3211 PROVIDENCE DRIVE
ANCHORAGE, ALASKA 99508

DEPARTMENT OF JOURNALISM
AND PUBLIC COMMUNICATIONS
COLLEGE OF ARTS AND SCIENCES

Jan. 15, 1989

To: Wendy Redman
Vice President for University Relations

From: Larry Pearson 
Department of Journalism and Public Communications

Re: Center for Information Technology

I am providing information about four centers at other universities that appear to be as broad (or broader) in scope as the proposed Center for Information Technology at the University of Alaska.

I have visited two of the centers: the Media Lab at M.I.T. and the Gannett Center for Media Studies at Columbia. I spent three days in August at the Media Lab with Representative Boucher. He sees the Media Lab as the model for a center in Alaska. Through the connections he has helped develop with the Media Lab (he has now made three visits there and we had two speakers from the Media Lab at the Chugach Conference in August) I think it would be easy to build a continuing relationship between our center and the Media Lab.

I've made two, week-long visits to the Gannett Center, most recently in October 1989. Some of my ideas for Alaska's center were based on my observations of the center at Columbia and discussions with its director.

If the University of Alaska is to make a major contribution to the development of information and communication systems in Alaska, I think it will have to be through an interdisciplinary center -- a center that helps scholars in several subject areas to make connections. And that's the idea that is shared by all the centers described in the enclosures.

Item 4

JUNE '89

**Center
for Applied
Telecommunication**

New Program Proposal

University of Alaska Anchorage

CORRECTION

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

Item 4



UNIVERSITY OF ALASKA, ANCHORAGE

3211 PROVIDENCE DRIVE
ANCHORAGE, ALASKA 99508

DEPARTMENT OF JOURNALISM
AND PUBLIC COMMUNICATIONS
COLLEGE OF ARTS AND SCIENCES

Jan. 15, 1989

To: Wendy Redman
Vice President for University Relations

From: Larry Pearson *[Signature]*
Department of Journalism and Public Communications

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Center for Information Technology

Its Role

I. Support

- help with grant writing
- help with contract staff for research projects
- help in planning special programs -- such as Chugach Conference
- help in identifying resources for research projects
 - collecting point for materials on information issues (including historical materials such as videotapes)
- provide resources for software development
- help with publication of working papers, project reports, etc.
- help with course development, workshop planning, etc.

II. Coordination

- promote information exchanges among departments and programs working in this area (possible strategies: newsletter on information technology projects; interdisciplinary board that makes decisions on such issues as selection of visiting scholars etc.)
- should also help link UA researchers with researchers in other states and countries doing similar work. The MIT Media Lab-Alaska link being developed by Rep. Boucher is an example. Center would help identify and monitor activities at places where interesting work is being done (for example, the wired city project at Santa Monica);

III. Research

Evaluation research

- effects of information technologies
- are they doing what they were intended to?
- side effects?
- cross-cultural communication issues

Exploratory research

- experimental applications of information technologies to address practical problems (such as Seymour Papert's Logo project)
- expert systems work
- application of CD-ROM technologies to address challenges in health, education

Visiting scholar program

- draw attention of nationally/internationally known scholars to Alaska information issues. Develop over time a large pool of experts interested in Alaskan communication issues.

-- Larry Pearson
Jan. 10, 1990

JUNE '99

**Center
for Applied
Telecommunication**

New Program Proposal

University of Alaska Anchorage

Center for Applied Telecommunication Proposal

The Problem

Alaska's telecommunication systems are inextricably linked to its economic growth. The pipeline from Prudhoe Bay could not be operated without them. Residents of the state's coastal communities depend on them for timely warnings of tsunami waves. They link Alaskans with their friends and relatives in other states, and other countries. They make possible the timely exchange of economic and other information with the rest of the world. We depend on our telecommunication systems for our prosperity and our well-being.

The importance of our telecommunication systems is widely recognized. The state spends approximately \$10 million annually to support radio and broadcast systems which would not otherwise exist. It spends \$8 million annually for the Division of Telecommunications which operates state telephone, audioconferencing and broadcast telecommunication systems. And the state spends millions more on its computer communication networks.

This is an enormous investment.

But the state of Alaska has slowly come to realize its telecommunication activities have lacked the direction and focus required to ensure that they will continue to serve Alaska well. The cabinet-level Telecommunications Information Council was created in 1987 to look toward the future and to plan for the development of our telecommunication systems. But, while planning is part of the responsibilities of the Telecommunications Information Council, it lacks a budget and it faces many more immediate challenges.

So, while tens of millions of dollars are spent every year to keep the state's telecommunication systems operating, nothing is being spent to ensure that that they are doing what we want them to. When people look critically at these systems, they look at the budgets rather than the effects. They ask, over and over: "Are we getting the most bang for the buck?" But the more important questions rarely, if ever, get asked: Are we getting what we want? What could we be getting? How can we use telecommunications most effectively to keep government responsive to the needs and wishes of the people and to develop the economy of our state?

We have committed ourselves to maintaining telecommunication systems rather than to using telecommunication to solve problems. That is not the way it once was. The perception that satellite communication could solve problems such as getting medical information to isolated villages led to the state's original investment in satellite communication. But that vision somehow was lost, and today we find ourselves maintaining systems that are slowly becoming obsolete.

Satellites are losing their preeminent role in moving large volumes of information over long distances. Telecommunication developments that remain in the future for Alaskans have become reality in other parts of the United States.

While the state uses T1 telephone lines for high-speed communication among computers in Anchorage, Juneau and Fairbanks, T3 lines -- whose capacity is measured in megabytes rather than kilobytes -- are coming on-line elsewhere. How did that happen? What are the consequences for us? At a guess, those cities are becoming less attractive sites for businesses which require high-speed, long-distance communication.

If, however, T3 lines linked those three cities and if Anchorage were also linked to the trans-Pacific fiber-optic cable which will come on-line in the early 1990s, the flow of information between these cities and the business centers of the Pacific Rim could be multiplied many times. Alaskan business, Alaskan government and Alaskan citizens all would benefit.

That's just one economic opportunity telecommunications could provide. It is possible to see many more by looking more closely at the operations of state government and of businesses which need the capability of moving large volumes of information over long distances.

A number of recent and impending developments in telecommunications promise to create new challenges for the state. These include the removal in 1989 of restraints that have kept telephone companies from developing information services, the laying of a fiber-optic cable along Alaska's coast in the early 1990s, advances in technologies for computer-based communication, and efforts within the television industry to develop the capability of broadcasting via satellites to individual homes rather than to community satellite dishes.

These opportunities and challenges constitute the argument for investing in a program that can look closely and objectively at what our telecommunication systems do and that can consider what we might want those systems to do.

The Proposal

The University of Alaska Anchorage already has a Center for Applied Telecommunication in fact, if not in name. Since the fall of 1985, a small group of people -- most of them on the faculty of the Department of Journalism and Public Communications -- have worked with the Legislature, the Office of Management and Budget, and the Department of Administration on a number of telecommunication issues. They have also worked with the University's Center for International Business.

This activity has resulted in five major reports and contributed to the establishment of the Governor's Telecommunications Information Council. It has also contributed to the development of an innovative information system about the Pacific Rim. Most recently it is being demonstrated in the Chugach Conference on the Future of Communication in Alaska. That conference is drawing leaders in state government, broadcasting, and the telephone and computer industries to the UAA campus in August to meet with speakers who include an FCC commissioner and the president of a college at Oxford University. The conference will give Alaska's telecommunication leaders an opportunity to work together in addressing long-term issues.

The impact of these faculty members on telecommunication in Alaska can already be seen. However, their efforts have been largely in addition to their other activities as teachers and researchers. In the absence of a formal center, therefore, there is no assurance that the university will continue to supply the continuing support of telecommunications that is needed. It is clear, too, that existence of a center would have enabled the University to contribute much more during the last few years when many telecommunication systems were under review.

It is time, and past time, to formally enlist the University of Alaska in the effort to rationalize our telecommunications systems. The state turned to scholars such as Heather Hudson and William Melody in the late 1970s for help in developing these systems. It was a logical decision then because academics take a long-range view. They are people who ask questions and try to find the answers, who are willing to explore the possibilities. It would be logical now to enlist their support again, to address the questions which have -- for too long -- gone unasked.

What is needed is a center within the University of Alaska Anchorage that focuses on the uses of telecommunication rather than on the technologies, a center that investigates the questions which the state needs answers to, that trains and provides continuing education for professionals. Such a center would be an important resource for

policy-setting bodies such as the House Telecommunications Committee and the Telecommunications Information Council, and for businesses. The information it would generate could provide economic and social benefits for the citizens of the state. The center would help the state regain the international leadership in telecommunications that it held 10 years ago. Alaska's geography commends it today, as it did then, as a testing ground for communication applications not yet ready for introduction in other parts of the United States.

This center would become an important collecting point for information about changing telecommunication technologies and new applications of those technologies. It would work with manufacturers to review and test equipment. It would give students an opportunity to work with and help refine the communication tools of tomorrow. It would look at how Alaskans use telecommunication systems and at what they get from them.

Such work could greatly increase the value of the state's telecommunication systems for Alaskans and could keep the state from missing opportunities as the telecommunication environment continues to change.

This center would draw on the expertise and resources of the University's Department of Journalism and Public Communications, the Office of Computer Technology, the Center for International Business, and Instructional Production Services.

The center would include a senior research fellow and two junior research fellows. The senior research fellow would be a visiting scholar with a national or international reputation in applied telecommunication research. The senior fellow would bring with him or her for the year he or she is in residency a junior fellow to assist in a major investigative project. This junior fellow would probably be a graduate student from the senior fellow's university. The second junior fellow would be chosen independently and would work on a separate issue.

The fellows would be chosen on the basis of research proposals they submitted. They would spend a year in Alaska gathering information and, at the end of the year, would submit a report containing their preliminary findings. Presumably their research would continue with the support of their home universities past the year they spend in Alaska.

Thus this program offers the benefits of focusing the attention of the national scholarly community on Alaskan telecommunication issues and having the research financed in part by universities in other states

-- all while keeping control over the issues which are investigated in the hands of the Alaskan scholars who operate the center.

The center could be supported by private grants, by reappropriating a percentage of the state funds already designated for telecommunications, or by some combination of the two. One percent of the \$18 million spent annually by the state on broadcast telecommunications and on the Division of Telecommunications would total \$180,000. Annual state spending on telecommunications, including computer systems, exceeds \$30 million. About \$304,100 is needed as an initial budget for the center. Its operating costs would probably be about \$285,000 in subsequent years. After the center establishes itself, it should be able to attract federal and private support for its activities.

The most important impact of this center, of course, is that it would become a significant force in the economic growth of the state. To review, the objectives of the center as described would be:

*It could provide leadership in planning.

Telecommunications technologies are changing so quickly that it is difficult for even those in the telecommunications industry to keep track of them, much less assess their value. A telecommunications center could become a resource for those concerned with how telecommunications might evolve in the state in the next five or ten years. It could contribute to the development of telecommunications in the state. The Chugach Conference and the international trade database of the Alaska Center for International Business are examples of what the center could do.

*It could become a center for advanced education.

Its work with new telecommunication technologies would enable the center to help professionals upgrade their skills and to provide training for those interested in telecommunications careers. It could assure that Alaskans have the necessary skills for new jobs in telecommunications.

*It could develop a continuing program of research.

Activities in the last three years were conducted in a crisis atmosphere; information gathered in response to requests from the state legislature as it reviewed public broadcasting and the RATNET channel was much less complete than it would have been had a center for the monitoring of telecommunications existed.

*It could provide assurance that expert advice would be available to both state government and private industry in emergencies similar to those of the last three years.

The details

Any center or institute established within the University of Alaska must satisfy a number of conditions. Its ability to do so is judged by its response to several questions. This section attempts to provide the information required by the University. There is some duplication of information contained in the preceding sections.

I. Resources, environmental analysis

1. Analysis of opportunities

The history of telecommunication is a history of media that have developed in two stages.

In the first stage, the technology draws the attention, and the problems are defined and resolved by engineers. In the second stage, the technology is secondary. The issues instead are ones of social policy, and the participants in the debate are the public and its representatives. It was the case with both the telephone and radio that the function of the medium was drastically altered in this second stage. The more intelligently conducted the debate at this stage, the greater the ultimate benefit to the public is likely to be.

The events of the last three years -- the disappearance of Learn Alaska, the proposal to eliminate funding for RATNET and public broadcasting, the creation of the governor's Telecommunications Information Council, the legislature's directive to restructure RATNET -- demonstrate the need in Alaska for an organization providing the expertise of the academic community in this second-stage debate. New telecommunication media such as teletext and videotex are offering new communication alternatives for Alaska even as claims and counterclaims are being made about the efficacy of the existing media.

Telecommunications issues are of interest to faculty in a variety of disciplines within the university. Policy issues fall within the province of political science and public administration, communication is a concern of sociology, communication within organizations is that of business, visual communication is the province of art -- but effective communication to diverse audiences using the media is the particular concern of

journalism and mass communication departments. Thus the proposed center would be located within the Journalism and Public Communications Department of the University of Alaska Anchorage, but would draw on the expertise as appropriate of faculty in other departments. Similarly, it could serve to draw the attention of telecommunication researchers at universities elsewhere in the United States to Alaskan telecommunication issues.

2. Extramural constraints

The University of Alaska is engaged in a variety of telecommunication activities. These include the maintenance of telecommunication networks such as UACN's electronic mail network, broadcast of instructional programming on an Anchorage cable channel, and the Learn Alaska audioconferencing system. The use of these systems to meet educational objectives is, of course, the principal reason for their existence. Faculty throughout the University system may provide content for these networks.

Research into innovative uses of telecommunication (such as to download large volumes of textual material to remote terminals) has been conducted or is projected by faculty members within the library department at the University of Alaska Fairbanks, the Political Science Department and the Computer Information Systems Department at the former Anchorage Community College, the School of Nursing and Health Science and the Department of Journalism and Public Communication at the University of Alaska Anchorage.

Within state government, the Department of Education is also concerned with the use of telecommunication for education. More generally, committees within the State Legislature such as the Senate Finance Committee and the House Special Committee on Telecommunications are examining telecommunication in Alaska. In the Senate, \$300,000 was appropriated in 1984 for a study of how computers might best be introduced in the education system using telecommunication technology. The final report of that study identified needs that the proposed Applied Telecommunication Center would attempt to address:

*We lack a clear social policy objective as we look at telecommunication and computer technology in Alaska. The major task is to find a clear path to follow before embarking on a major effort to introduce new technology into Alaska's government, education and health delivery system.