

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5700 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES

CONTENTS

SENATE BILL 335 PACKET

PROVIDED BY SENATOR KERTTULA

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DESCRIPTION OF THE MAJOR PROVISIONS OF

CS SSSB 335 (FINANCE)

1. Requirements for Certificate of Authority: Senate Bill 335 requires that a list of conditions be met -- including demonstration of financial solvency -- prior to issuance of a certificate of authority. The bill also lists specific items of information that must be included within an application, and allows the department to acquire any other information that may be found necessary in the future.

2. Coordination with the Department of Health and Social Services: The nature of an HMO is that it is both an insurer and a health care provider. Therefore, both the Department of Commerce and the Department of Health and Social Services have an interest in the quality of an HMOs' operation. Senate Bill 335 requires that a copy of the application be forwarded by the Director of Insurance to the Department of Health and Social Services within 10 days after its receipt. Within 60 days after the Commissioner of Health and Social Services receives a copy of the application, he or she makes a recommendation; and within 30 days after that recommendation, the Department of Commerce either "issues or denies" a certificate of authority.

3. Solvency and Limits on Investments: CS SSSB 335 (Finance) would require a deposit of the greater of 10 percent of an HMOs' estimated expenditures for health care services for its first year of operation, twice its estimated average monthly uncovered expenditures for its first year of operation, or \$250,000. The model act would have required a deposit of the greater of 5 percent of an HMOs' estimated expenditures for health care services for its first year of operation, twice its estimated average monthly uncovered expenditures for its first year of operation, or \$100,000. The larger deposit which would be required under the CS is viewed as necessary to ensure that Alaska consumers will be protected from insolvent HMOs. The larger deposit is not viewed as an insurmountable barrier to the development of HMOs, since the deposit is only increased for the first year of operation -- after that the deposit requirements under the CS mirror the requirements under the model act (two percent

for the second fiscal year, three percent for the third fiscal year, four percent for the fourth fiscal year, and four percent thereafter.) The deposit requirements do not apply if the HMO has a net worth of \$1 million without buildings, or \$5 million with buildings, or some alternative formulas are met which demonstrate similar financial stability. Finally, the HMO must have and maintain a "capital account of at least \$100,000" in addition to any of the deposit requirements.

4. Governing Body: Senate Bill 335 requires that the governing body of an HMO be made up of at least one-third "consumers who are substantially representative of the participants." The sponsor substitute also requires that the HMO establish advisory panels so that enrollees would have an opportunity to participate in matters of policy and operation.

5. Dual Choice: Senate Bill 335 requires that each employer in the state, whether public or private, having 25 employees or more "shall make available to its employees or members the option to enroll" in an HMO. Mandatory dual choice is viewed as necessary to make an HMO financially viable in Alaska. In addition, federal medicaid regulations require that there be an dual choice requirement before they will provide medicaid reimbursement to an HMO. Under Senate Bill 335, an employer is not required to pay more for employee health benefits than he or she would have been required to pay if not covered by the bill.

Senate Bill 335 also mandates, that the option of enrollment in an HMO should first be submitted to a bargaining unit, if the employees are members of a collective bargaining unit. If the option is approved by the bargaining representative, the option of enrollment shall then be made to each represented employee. This language mirrors the federal regulations.

6. Form Filing and Rate Approval: Senate Bill 335 includes a mechanism for the approval of "an evidence of coverage." The bill provides that the HMO file the form with the Division of Insurance 30 days before it is to be used. The form is considered approved unless the director has affirmatively approved or disapproved the form within the 30 day period.

7. Complaint System : Senate Bill 335 contains a detailed section requiring that the HMO establish and maintain a complaint system.

8. Powers of an HMO: Senate Bill 335 has a section listing the powers of an HMO, and lists prohibited practices. The bill also limits the amount of money that can be recovered from an HMO from a participant who was not entitled to receive certain services to the actual cost of providing the health care service. Senate Bill 335 also provides a window of 10 days in which a participant who has just signed up with an HMO can return the agreement and demand a refund.

9. Taxation: Senate Bill 335 provides that an HMO is to be taxed and shall file reports as an authorized insurer.

10. Other Provisions: Senate Bill 335 contains a section imposing fiduciary obligations in the handling of money by an HMO. The bill also provides that health care services must be provided by appropriately licensed health care providers.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to Health Maintenance Organizations
Sponsor: Sen. Kerttula
Requestor: Senate Labor & Commerce

Agency Affected: Commerce & Econ. Dev.
BRU: Insurance
Component: Operations

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	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary) No fiscal impact in FY 90.

No fiscal impact on the division.

Prepared by: Joan Brown, Administrative Officer
Division: Insurance

Phone: 465-2597
Date: February 7, 1990

Approved by Commissioner: Larry Merculieff
Agency: Department of Commerce & Economic Development

Date: 2/7/90

Distribution (by preparer):

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

Changes in SSSB335 (L+C)
have no fiscal impact. This
fiscal note is appropriate.
Projections of no fiscal impact
would continue through 1996.

Model Health Maintenance Organization Act

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Section 1. Short Title.

This Act may be cited as the Health Maintenance Organization Act of (insert year).

Introductory Comment.

The rising cost of health services in recent years has led government agencies, private organizations, and legislative bodies to seek alternatives to the traditional medical delivery system which will provide improved health care at a lower cost. The health maintenance organization is a concept which has received much attention as one means through which an improvement in delivery might be achieved.

Shortcomings of Existing Health Care Delivery System

The health care delivery system as it is now constituted presents several problems. First, many people are unable to obtain health care when they need it and in the form they need it. This problem can be divided into three subareas: (a) In many areas of the country, the availability of health care in terms of the quantity of manpower and facilities is inadequate; (b) Even where physicians, nurses, clinics, and hospitals do exist, they may lack accessibility due to poor location, poor management, lack of transportation, language or racial barriers, inconvenient hours, etc; and (c) Even if health care is available and accessible, it may not be continuous: that is, a single patient may not be treated as a person with a continuing or a variety of problems but rather as a single isolated health care problem incident. The problems of availability, accessibility, and continuity, at least in part, have been attributed to the lack of responsibility vested in one person, group, or organization to assure the delivery of health care.

Medical Care Foundations

A variation of the HMO concept is seen in some medical care foundations. Although individual foundations differ greatly in detail, a foundation for medical care is usually sponsored and organized by a county or state medical society. The membership consists of physicians who apply to and are accepted by the foundation.

Those medical care foundations which can be considered as a variant of the HMO concept, often contract with an insurer or other prepayment plan (e.g., hospital or medical service corporations) to provide coverage meeting certain minimum criteria consistent with the delivery of quality medical care. The insurer collects the premiums, promotes, markets, and underwrites the program. The enrollee may seek physician services from any member of the foundation who then bills either the insurer or the foundation, not the enrollee. Although such billings are on a fee-for-service basis, the amount charged the enrollee is fixed and prepaid without regard to the number or type of services used. The foundation establishes some form of peer review to monitor not only the level of charges but also the type and quality of care rendered. Since the amount of income does not vary with the number or type of services provided, incentives exist to maintain costs at as low a level as possible. However, unlike the HMO concept described above, even though physician services are prepaid from the patients' viewpoint, from the physicians' viewpoint, the fee-for-service practice is maintained. Under the federal HMO Act, this type of organization is called an Individual Practice Association Type HMO.

The Need for State Authorizing and Regulatory Legislation

From 1970 to 1973, the administration and committees in both houses of Congress spent much time analyzing the health maintenance organization alternative in connection with national health insurance and federal assistance bills for HMO's. This analysis resulted in the enactment of the federal HMO Act in 1973. Since then, the number of health maintenance organizations and the number of HMO enrollees has grown rapidly. Prior to 1972, however, few states had a statutory framework tailored to the supervision of health maintenance organizations. Chartering, licensing, contract and rate regulation, and other supervision was being carried out under general insurance laws, hospital and medical service corporation statutes, other special statutes, or not at all. Because the HMO is a unique type of organization, many provisions of such state laws were inapplicable, highly restrictive or prohibitive to the formation and operation of an HMO. Therefore, in 1972 the NAIC adopted the Model Health Maintenance Organization Act which accommodates the unique features of HMO's.

Purpose of a State Model Bill

The model bill clearly authorizes the establishment and operation of HMO's. Restrictive provisions in other laws which are inappropriate to HMO's are rendered inapplicable. Appropriate grants of authority are established to enable the HMO's to fulfill the function envisioned for them. At the same time, however, the public has a vital interest in the fiscally sound, efficient, and ethical operation of HMO's. As is the case with insurance and hospital and medical service corporations, HMO's are "affected with the public interest." Regulatory safeguards dovetailed to the unique nature of HMO's are essential. Thus, the purpose of this model bill is twofold.

First, it attempts to provide a legal framework enabling the organization and functioning of HMO's of a wide variety including those based upon the medical care foundation or individual practice association concept. The legal environment is designed to permit a high degree of flexibility. No one form of organization or one type of modus operandi is required. Instead the HMO concept can be refined and subjected to further experimentation. Second, the model bill attempts to provide a regulatory monitoring system not only to prevent or remedy abuse, but also to assist in the future improvement and development of this alternative form of a health care delivery system.

Of course, it is also possible that the statutes of a given State are presently broad enough to allow operation of at least certain types of HMO's and provide the commissioners with appropriate authority to regulate them. In those states, a bill such as this may be desirable in order to consolidate and define more clearly the authority for and manner of regulation of an HMO. However, it may be possible to form HMO's under existing laws in some states before passage of this model legislation and it is anticipated that such programs can develop concurrently with any legislative activity.

Comment. Subsection (6) defines an HMO to be any person that undertakes to provide or arrange for at least basic health care services on a prepaid basis. This can be achieved either (a) by providing the services directly through physician or other providers actually employed by the HMO and through hospitals or facilities owned or directly operated by the HMO, or (b) by contracting or arranging with physicians, hospitals or other facilities to provide such services. The term "arrange" does not contemplate those traditional arrangements which hospital or medical service corporations make in conjunction with their prepayment service plans pursuant to hospital or medical service corporation laws. If it were otherwise, the traditional hospital and medical service corporation prepayment service plan, by itself, would be an HMO.

Subsection (2) defines basic health care services. This definition, combined with the requirement that an HMO provide for basic health care services in Sections 4(2)(c) and 18(1)(c), establishes a minimum package of health care services which an HMO must provide or arrange for. This is intended to assure that the enrollees obtain at least a sufficiently broad range of services to meet a reasonable amount of their health care needs. At the same time, however, the definition should not be so broad as to be financially prohibitive to a substantial number of enrollees. Services for mental illness and alcohol and drug abuse are not included because they are often not covered by insurance or hospital or medical service plans and their inclusion would create a competitive disadvantage of HMO's. If a state believes that such services, or others, should be included as basic health care services, all carriers in the state should be required to offer or cover them.

Since no HMO may function without either a certificate of authority (see Section 3(1)) and since an HMO must furnish basic health care services (see Section 4(2)(c)), no health care services may be provided or arranged for on a prepaid basis without the minimum package of basic health care benefits. This serves two purposes: (a) it requires the provision of adequate protection and (b) it prevents the avoidance of the applicability of the Act by the mere expediency of failing to meet the minimum package requirements.

In addition, the HMO may furnish additional services, certain limited indemnity benefits and more comprehensive indemnity benefits. (See Section 5(1)(f).) These additional services and benefits can be put together in any one of a variety of ways. The indemnity or service benefits might cover such situations as out-of-area emergency services, out-of-area benefits for dependents away at college, or services which the affiliated providers lack the capacity to make available. This flexibility in piecing together the package of coverage through direct and indirect services and indemnity benefits enables an HMO type operation to meet health care needs in a wide variety of circumstances.

The definition of an HMO affords wide latitude for different arrangements. This highly flexible approach seems best suited to our diverse and pluralistic society with problems varying from locality to locality. Flexibility will allow continued innovation and experimentation with different organizational structures. It may be easier to recruit health personnel if a number of alternative approaches are available. Consistent with this philosophy is the absence of any requirement of a minimum number of employees or of a mandate as to whether or not the HMO should be a profit or non-profit organization. Permitting both profit and non-profit organizations will broaden the financial and managerial resources which can be drawn upon in developing the HMO concept.

Subsection (9) defines uncovered expenditures for use in Section 13. These are expenditures for health care services for which the HMO is at risk. They will vary in type and amount, depending on the arrangements of the HMO. They may include out-of-area services, referral services and hospital services. They do not include expenditures for services when a provider has agreed not to bill the enrollee even though the provider is not paid by the HMO, or for services that are guaranteed, insured or assumed by a person or organization other than the health maintenance organization.

- (k) A description of the complaint procedures to be utilized as required under Section 11;
 - (l) A description of the procedures and programs to be implemented to meet the quality of health care requirements in Section 4(1)(b);
 - (m) A description of the mechanism by which enrollees will be afforded an opportunity to participate in matters of policy and operation under Section 6(2);
 - (n) Such other information as the commissioner (director, superintendent) may require to make the determinations required in Section 4.
- (4) (a) An applicant or a health maintenance organization holding a certificate of authority granted hereunder shall, unless otherwise provided for in this Act, file a notice describing any material modification of the operation set out in the information required by Subsection (3). Such notice shall be filed with the commissioner (director, superintendent) prior to the modification. If the commissioner (director, superintendent) does not disapprove within (insert number) days of filing, such modification shall be deemed approved.
- (b) The commissioner (director, superintendent) may promulgate rules and regulations exempting from the filing requirements of Paragraph (a) those items he deems unnecessary;
- (5) An applicant or a health maintenance organization holding a certificate of authority granted hereunder shall file all contracts of reinsurance. Any agreement between the organization and an insurer shall be subject to the laws of this state regarding reinsurance. All reinsurance agreements and any modifications thereto must be filed and approved. Reinsurance agreements shall remain in full force and effect for at least ninety (90) days following written notice by registered mail of cancellation by either party to the commissioner (director, superintendent).

Comment. Section 3 requires the licensing of an HMO in order to provide health care services on a prepaid basis. The legal entity, in which the responsibilities imposed by this Act are vested, serves as the focus of regulatory attention to assure that the consuming public is well served.

Subsection (1) is intended to provide a general override to existing state laws which restrict or prevent the formation or operation of health maintenance organizations. Among other restrictions, existing state laws may:

- (1) require approval of a health maintenance organization by a medical society;
- (2) require that physicians constitute all or a majority of the governing body of a health maintenance organization;
- (3) require that all physicians or a percentage of physicians in the local medical society be permitted to participate in rendering the services of the organization;
- (4) require that such organization submit to regulation as an insurer of health care services;
- (5) require that only unincorporated individuals or associations or partnerships may provide health care services;
- (6) prohibit advertising by a professional group for recruitment of enrollees.

In addition to the general override provided in Subsection (1), Section 25 specifically provides that the insurance law, the hospital and medical service corporation law and certain other provisions do not apply to HMO's. Furthermore, Section 6 specifically provides that any persons, whether or not providers of health care services, may serve on the governing body. There is no statutory requirement as to the appropriate composition of the membership of the governing body.

- (c) The health maintenance organization will effectively provide or arrange for the provision of basic health care services on a prepaid basis, through insurance or otherwise, except to the extent of reasonable requirements for co-payments;
 - (d) The health maintenance organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the commissioner (director, superintendent) may consider:
 - (i) The financial soundness of the arrangements for health care services and the schedule of charges used in connection therewith;
 - (ii) The adequacy of working capital;
 - (iii) Any agreement with an insurer, a (hospital or medical service corporation), a government, or any other organization for insuring the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the health maintenance organization;
 - (iv) Any agreement with providers for the provision of health care services; and
 - (v) Any deposit of cash or securities submitted in accordance with Section 13.
 - (e) The enrollees will be afforded an opportunity to participate in matters of policy and operation pursuant to Section 6;
 - (f) Nothing in the proposed method of operation, as shown by the information submitted pursuant to Section 3 or by independent investigation, is contrary to the public interest; and
 - (g) Any deficiencies identified by the (commissioner of public health) have been corrected.
- (3) A certificate of authority shall be denied only after compliance with the requirements of Section 21.

Comment. A health maintenance organization combines several characteristics of an insurance operation (including the need for financial responsibility, the assumption of risk and similarity in marketing activities) with the characteristics of a health care delivery system. Section 4 provides for the authorization and regulation of health maintenance organizations to be carried out through existing state agencies. The creation of a new agency specifically for health maintenance organizations would unnecessarily duplicate existing functions in the state insurance and health departments. It is felt that the expertise of the state insurance department on fiscal and other regulatory matters and the familiarity of the state health department with regard to health matters should both be utilized in the regulation of health maintenance organizations. To minimize administrative problems, the prime responsibility for administration is vested in one agency—the insurance department. However, to the extent possible, the responsibilities of the two agencies are clearly defined with the insurance commissioner obligated to rely on the health department with respect to the latter's sphere of expertise.

Subsection (1)(b) empowers the commissioner of public health to establish and apply standards of quality concerning health care. Among the arguments raised against quality control are: (1) they may limit the number of HMO's which will get started, (2) quality assurance procedures will prove to be expensive and (3) such controls will engender opposition from certain providers. On the other hand, existing methods for quality control are said to be fragmented and inadequate. If the states are to authorize and encourage HMO's by this legislation, they have an obligation to assure that the health care services provided are of reasonable quality. This is particularly true because of the built-in incentive for an HMO to restrict the utilization of services due to the incentives to stay within a fixed budget.

- (2) (a) A health maintenance organization shall file notice, with adequate supporting information, with the commissioner (director, superintendent) prior to the exercise of any power granted in Subsections (1)(a), (b) or (d). The commissioner (director, superintendent) shall disapprove such exercise of power only if in his opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. If the commissioner (director, superintendent) does not disapprove within (insert number) days of the filing, it shall be deemed approved.
- (b) The commissioner (director, superintendent) may promulgate rules and regulations exempting from the filing requirement of Paragraph (a) those activities having a de minimis effect.

Comment: The exercise of authority granted in Subsections (1)(a), (1)(b) and (1)(d) shall be subject to disapproval by the commissioner within (insert number) days of a filing by a health maintenance organization. The commissioner may promulgate rules and regulations exempting certain contracts from the filing requirement where exercise of the authority granted in the section would have little or no effect on the financial condition and ability to meet obligations of the organization.

Section 6. Governing Body.

- (1) The governing body of any health maintenance organization may include providers, or other individuals, or both.
- (2) Such governing body shall establish a mechanism to afford the enrollees an opportunity to participate in matters of policy and operation through the establishment of advisory panels, by the use of advisory referenda on major policy decisions, or through the use of other mechanisms.

Comment: While Section 3(1) should adequately override restrictive laws related to membership of a governing body, Section 6(1) makes explicit the permissible membership of such a group. The model bill does not, however, require that a health maintenance organization be consumer controlled. It is expected that HMO's controlled in a variety of ways will be organized. Where organizations are not consumer controlled, it is believed that some means for enrollee participation should be provided. For example, such matters as availability, accessibility and continuity of health care services are factors which directly confront the consumers and in which they have a particular interest. The disclosure of information under other sections is also designed to assist the consumers.

Arguments against a ~~role~~ for the consumer include: (1) such participation is unnecessary and perhaps even harmful to the efficient and professional delivery of health care services, (2) a consumer role will impede the initiation of an HMO since more people must be involved and (3) consumers can always seek alternative health care. The arguments for a consumer role seem more persuasive. These include (1) consumer participation results in a more responsive organization, and (2) consumer participation is not the same as lay control over the rendering of professional service.

Section 7. Fiduciary Responsibilities.

- (1) Any director, officer, employee or partner of a health maintenance organization who receives, collects, disburses, or invests funds in connection with the activities of such organization shall be responsible for such funds in a fiduciary relationship to the organization.
- (2) A health maintenance organization shall maintain in force a fidelity bond on employees and officers in an amount not less than \$100,000 or such other sum as may be prescribed by the commissioner (director, superintendent). All such bonds shall be written with at least a one-year discovery period and if written with less than a three-year discovery period shall contain a provision that no cancellation or termination of the bond, whether by or at the request of the insured or by the underwriter, shall take effect prior to the expiration of 90 days after written notice of such cancellation or termination has been filed with the commissioner (director, superintendent) unless an earlier date of such cancellation or termination is approved by the commissioner (director, superintendent).

- (b) Such charges may be established in accordance with actuarial principles for various categories of enrollees, provided that charges applicable to an enrollee shall not be individually determined based on the status of his health. However, the charges shall not be excessive, inadequate, or unfairly discriminatory. A certification, by a qualified actuary or other qualified person acceptable to the commissioner (director, superintendent), to the appropriateness of the use of the charges, based on reasonable assumptions, shall accompany the filing along with adequate supporting information.
- (3) The commissioner (director, superintendent) shall within a reasonable period, approve any form if the requirements of Subsection (1) are met and any schedule of charges if the requirements of Subsection (2) are met. It shall be unlawful to issue such form or to use such schedule or charges until approved. If the commissioner (director, superintendent) disapproves such filing, he shall notify the filer. In the notice, the commissioner (director, superintendent) shall specify the reasons for his disapproval. A hearing will be granted within (insert number) days after a request in writing by the person filing. If the commissioner (director, superintendent) does not approve any form or schedule of charges within (insert number) days of the filing of such forms or charges, they shall be deemed approved.
- (4) The commissioner (director, superintendent) may require the submission of whatever relevant information he deems necessary in determining whether to approve or disapprove a filing made pursuant to this Section.

Comment: Subsection (1)(a) requires that every enrollee be provided with evidence of coverage and allocates the responsibility for providing that evidence. Paragraph (c) establishes requirements which such evidence of coverage must meet. The group contracts to be filed pursuant to Section 3(3)(f) are not subject to the standards and filing requirements of Section 8, since such group contracts are not issued to enrollees. Paragraph (d) clarifies the relationship between filing requirements under this Section and under the state insurance or hospital or medical service corporation law. Filing is required under Paragraph (b) unless the form is already subject to filing requirements under existing state law. However, where existing state law does not apply standards as strict as those contained in Paragraph (c), such standards are, in effect, read into the existing law. Where the filing under state insurance or medical or hospital service corporation law is required to meet standards as strict as those in Paragraph (c), the former would be applicable. A state may want Paragraph (d) to be revised to make specific reference to existing state laws.

Subsection (2)(a) provides for the filing of charges for health care services, i.e., that part of the benefit package which is provided in the form of service vis-a-vis indemnity or service benefits. Those parts of the package providing benefits under agreement with an insurance company or hospital or medical service corporation will be subject to regulation in accordance with existing laws.

Paragraph (b) neither requires nor prohibits community rating. Reasonable underwriting classifications are permitted for the purpose of establishing the charges. Different charges may be imposed on different groups of enrollees. Such a rigid requirement as community rating would appear to be inappropriate when the competing financing mechanisms are not subject to such a constraint. The competitive disadvantage which such requirement might impose could impede the development of HMO's.

Because of its somewhat different nature, an HMO is not required by this Act to meet reserve requirements similar to those imposed on insurance companies. Thus it is important that the charges be set at an adequate level. The requirement for certification by an actuary or other qualified person along with supporting information is intended to assist the commissioner in determining adequacy. In applying the standard of excessive, inadequate, or unfairly discriminatory, it is contemplated that the commissioner may consider the amount necessary to assure a reasonable return on the initial and subsequent capital invested and an amount needed to accumulate adequate funds to stabilize the level of charges against fluctuation due to inflation, changes in medical technology and related causes.

Comment: Every health maintenance organization is required to establish a complaint system to provide reasonable procedures for the disposition of complaints. The organizations may be expected to receive two types of complaints. One type is related to the basic health care services or additional services furnished by it. The other type is related to that portion of the coverage in addition to basic health care services which is provided by insurance, hospital or medical service corporations, or some means other than being furnished by the organization. For complaints arising from health care services, the administrative procedure to handle complaints should provide the mechanism through which enrollees receive a fair and proper opportunity to have their cases heard, including the use of binding arbitration as a means of resolving claims concerning coverage. For complaints regarding benefits over which the health maintenance organization has no direct control such as those portions of the benefit package which are covered by insurance, the health maintenance organization is responsible only for maintaining statistical information and transmitting the complaints to the persons responsible.

In establishing the format for records and reports pursuant to this Section, the commissioner may want to require disclosure similar to that provided for under the NAIC Model Unfair Trade Practices Act. Section 4(10) of that Act requires, among other data, a record of total number of complaints since the last examination, the nature of each complaint, the disposition of the complaint, and the time it took to process each complaint. (See 1972 NAIC Proceedings I 443).

Section 12. Investments.

With the exception of investments made in accordance with Section 5(1)(a) and (b) and Section 5(2), the funds of a health maintenance organization shall be invested only in securities or other investments permitted by the laws of this State for the investment of assets constituting the legal reserves of life insurance companies or such other securities or investments as the commissioner (director, superintendent) may permit.

Comment: Life and health insurers are subject to statutory investment requirements designed to assure conservatism and liquidity in the handling of the insurer's funds. Sound financial management is an important element in the variable operation of an HMO. Furthermore, it is contrary to the intent of this bill to foster conditions which would enable an HMO to be used as a "front" for a speculative investment operation. At the same time, however, it is recognized that for an HMO to fulfill its expected functions, it may be both desirable and necessary for the HMO to invest a portion of its capital funds in facilities and services to better enable it to meet its obligations. Such investments may not conform to the traditional insurance law investment limitations. Consequently, this section excepts this type of investment when approved by the commissioner in accordance with the standards set out in Section 5(2).

Section 13. Protection Against Insolvency.

- (1) Unless otherwise provided below, each health maintenance organization shall deposit with the commissioner (director, superintendent) or with any organization or trustee acceptable to him through which a custodial or controlled account is utilized, cash, securities, or any combination of these or other measures that is acceptable to him in the amount set forth in this section.
- (2) The amount for an organization that is beginning operation shall be the greater of: (a) five percent (5%) of its estimated expenditures for health care services for its first year of operation, (b) twice its estimated average monthly uncovered expenditures for its first year of operation or (c) \$100,000.

At the beginning of each succeeding year, unless not applicable, the organization shall deposit with the commissioner (director, superintendent) or organization or trustee, cash, securities, or any combination of these or other measures acceptable to the commissioner (director, superintendent), in an amount equal to four percent (4%) of its estimated annual uncovered expenditures for that year.

- (3) Unless not applicable, an organization that is in operation on the effective date of this section shall make a deposit equal to the larger of: (a) one percent (1%) of the preceding 12 months uncovered expenditures, or (b) \$100,000 on the first day of the fiscal year beginning six (6) months or more after the effective date of this section.

Comment. Even though very serious problems can arise if a health maintenance organization defaults on its contracts, fiscal control of health maintenance organizations in a manner comparable to that applied to insurance companies appears inappropriate in view of the service nature of such organizations. The best protection for enrollees is a financially sound organization that generates net income. However, beginning health maintenance organizations are often small businesses with limited financial resources that will sustain operating losses in their early years. Unreasonably high starting capital or reserve requirements may prevent some organization from starting or may unreasonably tie up the capital of those that do. Therefore, this Section provides for a structured but flexible approach to protecting against insolvency. It requires the maintenance of a minimum capital account, a deposit of cash or securities in a minimum account, and the organization's generation of additional amounts annually as a source of funds to meet its contractual obligations to the enrollees in the event of insolvency. The commissioner may waive all or part of these requirements when satisfied that the organization has sufficient net worth or an adequate history of generating net income to assure its viability. The requirements may also be waived if the health maintenance organization's performance is guaranteed by another financially strong organization.

The section relates the deposit requirements to the amount of the health maintenance organization's uncovered expenditures. This amount will vary depending upon the type of organization and the nature of its arrangements with providers. For example, the physicians of the staff of the organization or a contracting medical group or individual practice association may agree to look only to the organization for payment of services provided to the organization's enrollees and agree not to bill them in the event of insolvency.* An organization could have insurance for all or part of its hospitalization expense or another organization could agree to guarantee that the liabilities of the health maintenance organization are met.

In all such cases, it is recommended that the contractual provision require the provider or guarantor to notify the commissioner if the provision or insurance is modified or no longer in effect or if payment on the contract or policy has not been made in a reasonable period of time. (Section 3(5) requires prior notification of cancellation of any reinsurance.) This can provide an early warning of possible adverse changes in the health maintenance organization's financial position. In addition, the status of such provisions or policies should be covered in annual interrogatories to the organization.

The requirement in Subsection (8) for a capital account only applies to organizations licensed after the effective date of the subsection. Thus, the capital account requirement would have to be taken into consideration by persons starting a new HMO. If a state wishes to apply the requirement to existing HMO's, it should allow for an appropriate phase-in period.

It is believed that these provisions and the related provisions of Section 4(2)(d), including possible insurance backup arrangements, provide adequate assurances. The failure to provide assurances as required would subject the health maintenance organization to suspension or revocation of its certificate of authority under Section 18.

Section 14. Prohibited Practices.

- (1) No health maintenance organization, or representative thereof, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. For purposes of this act:
 - (a) A statement or item of information shall be deemed to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment with a health maintenance organization;

*A Provision to accomplish this might read:

- (2) The commissioner (director, superintendent) may by rule exempt certain classes of persons from the requirement of obtaining a license:
 - (a) If the functions they perform do not require special competence, trustworthiness or the regulatory surveillance made possible by licensing; or
 - (b) If other existing safeguards make regulation unnecessary.

Section 16. Powers of Insurers and (Hospital and Medical Service Corporations).

- (1) An insurance company licensed in this state, or a (hospital or medical service corporation) authorized to do business in this State, may either directly or through a subsidiary or affiliate organize and operate a health maintenance organization under the provisions of this act. Notwithstanding any other law which may be inconsistent herewith, any two or more such insurance companies, (hospitals or medical service corporations), or subsidiaries or affiliates thereof, may jointly organize and operate a health maintenance organization. The business of insurance is deemed to include the providing of health care by a health maintenance organization owned or operated by an insurer or a subsidiary thereof.
- (2) Notwithstanding any provision of insurance and (hospital or medical service corporation) laws (citations), an insurer or a (hospital or medical service corporation) may contract with a health maintenance organization to provide insurance or similar protection against the cost of care provided through health maintenance organizations and to provide coverage in the event of the failure of the health maintenance organization to meet its obligations.

The enrollees of a health maintenance organization constitute a permissible group under such laws. Among other things, under such contracts, the insurer or (hospital or medical service corporation) may make benefit payments to health maintenance organizations for health care services rendered by providers.

Comment: Subsection (2) overrides the group laws to permit an insurer or a hospital or medical service corporation to provide coverage protecting enrollees of an HMO. This authority is intended to permit insurers and the service corporations to write coverage (1) to fill the gaps which the providers of health care services do not provide, (2) to provide coverage in excess of the services provided, (3) to cover catastrophe situations, (4) to provide protection to the enrollees in the event the HMO becomes insolvent, and (5) to provide coverage against the cost of health care services as the health maintenance organization deems necessary. This section might also be redrafted to make specific reference to the relevant Section of existing law.

Section 17. Examination.

- (1) The commissioner (director, superintendent) may make an examination of the affairs of any health maintenance organization and providers with whom such organization has contracts, agreements, or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this State but not less frequently than once every three years.
- (2) The (commissioner of public health) may make an examination concerning the quality of health care service of any health maintenance organization and providers with whom such organization has contracts, agreements, or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this State but not less frequently than once every three years.
- (3) Every health maintenance organization and provider shall submit its relevant books and records for such examinations and in every way facilitate them. For the purpose of examinations, the commissioner (director, superintendent) and the (commissioner of public health) may administer oaths to, and examine the officers and agents of the health maintenance organization and the principals of such providers concerning their business.

- (2) A certificate of authority shall be suspended or revoked only after compliance with the requirements of Section 21.
- (3) When the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of such suspension, enroll any additional enrollees except newborn children or other newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever.
- (4) When the certificate of authority of a health maintenance organization is revoked, such organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of such organization. It shall engage in no further advertising or solicitation whatsoever. The commissioner (director, superintendent) may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage.

Section 19. Rehabilitation, Liquidation, or Conservation of a Health Maintenance Organization.

- (1) Any rehabilitation, liquidation or conservation of a health maintenance organization shall be deemed to be the rehabilitation, liquidation, or conservation of an insurance company and shall be conducted under the supervision of the commissioner (director, superintendent) pursuant to the law governing the rehabilitation, liquidation, or conservation of insurance companies. The commissioner (director, superintendent) may apply for an order directing him to rehabilitate, liquidate, or conserve a health maintenance organization upon any one or more grounds set out in (cite sections of state rehabilitation law), or when in his opinion the continued operation of the health maintenance organization would be hazardous either to the enrollees or to the people of this state. Enrollees shall have the same priority in the event of liquidation or rehabilitation as the law provides to policyholders of an insurer.
- (2) A claim by a health care provider for an uncovered expenditure has the same priority as an enrollee, provided such provider of services agrees not to assert such claim against any enrollee of the health maintenance organization.

Comment. Section 19 provides for the rehabilitation, liquidation, or conservation of health maintenance organizations to be carried out by the Commissioner under state laws applicable to insurance companies. Inasmuch as all states have existing authority, it is felt that the use of such statutes would be appropriate and would avoid the necessity of developing new administrative procedures applicable only to health maintenance organizations. Subsection (2) is designed to provide the maximum protection for enrollees by paying those providers that can bill the enrollee before those that have agreed not to. However, in order to obtain this priority, the provider must agree that the payment fully discharges the obligation of the enrollee. Incidentally, the NAIC has recommended the adoption of a model liquidation and rehabilitation act (See 1968 NAIC Proceedings I 214).

Section 20. Regulations.

The commissioner (director, superintendent) may, after notice and hearing, promulgate reasonable rules and regulations, as are necessary or proper to carry out the provisions of this Act. Such rules and regulations shall be subject to review in accordance with (insert section number providing for review of administrative orders).

Section 21. Administrative Procedures.

- (1) When the commissioner (director, superintendent) has cause to believe that grounds for the denial of an application for a certificate of authority exist, or that grounds for the suspension or revocation of a certificate of authority exist, he shall notify the health maintenance organization and the (commissioner of public health) in writing specifically stating the grounds for denial, suspension, or revocation and fixing a time of at least (insert number) days thereafter for a hearing on the matter.

Section 23. Penalties and Enforcement.

- (1) The commissioner (director, superintendent) may, in lieu of suspension or revocation of a certificate of authority under Section 18, levy an administrative penalty in an amount not less than (insert amount) dollars nor more than (insert amount) dollars, if reasonable notice in writing is given of the intent to levy the penalty and the health maintenance organization has a reasonable time within which to remedy the defect in its operations which gave rise to the penalty citation. The commissioner (director, superintendent) may augment this penalty by an amount equal to the sum that he calculates to be the damages suffered by enrollees or other members of the public.
- (2) (a) If the commissioner (director, superintendent) or the (commissioner of public health) shall for any reason have cause to believe that any violation of this act has occurred or is threatened, the commissioner (director, superintendent) or (commissioner of public health) may give notice to the health maintenance organization and to the representatives, or other persons who appear to be involved in such suspected violation, to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to such suspected violation, and, in the event it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violation.

(b) Proceedings under this subsection shall not be governed by any formal procedural requirements, and may be conducted in such manner as the commissioner (director, superintendent) or the (commissioner of public health) may deem appropriate under the circumstances. However, unless consented to by the health maintenance organization, no rule or order may result from a conference until the requirements of this section or Section 27 of this act are satisfied.
- (3) (a) The commissioner (director, superintendent) may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of the provisions of this act.

(b) Within (insert number) of days after service of the cease and desist order, the respondent may request a hearing on the question of whether acts or practices in violation of this Act have occurred. Such hearings shall be conducted pursuant to (cite Sections of State Administrative Procedure Act), and judicial review shall be available as provided by (cite sections of State Administrative Procedure Act).
- (4) In the case of any violation of the provisions of this act, if the commissioner (director, superintendent) elects not to issue a cease and desist order, or in the event of non-compliance with a cease and desist order issued pursuant to Subsection (3), the commissioner (director, superintendent) may institute a proceeding to obtain injunctive or other appropriate relief in the (name of court of primary jurisdiction for actions of this nature).

Comment: Sections 23(3) and 23(4) authorize the commissioner to issue a cease and desist order and to apply for injunctive relief. When the commissioner is not granted such statutory powers, the language should be modified to provide for the legal steps to be taken by the attorney general or other appropriate state official.

Section 24. Statutory Construction and Relationship to Other Laws.

- (1) Except as otherwise provided in this act, provisions of the insurance law and provisions of (hospital or medical service corporation) laws shall not be applicable to any health maintenance organization granted a certificate of authority under this act. This provision shall not apply to an insurer or (hospital or medical service corporation) licensed and regulated pursuant to the insurance law or the (hospital or medical service corporation) laws of this State except with respect to its health maintenance organization activities authorized and regulated pursuant to this act.

Section 29. Dual Choice.

Each employer, public or private, in this state which offers its employees a health benefit plan and employs not less than twenty-five employees, and each employee benefit fund in this state which offers its members any form of health benefit, shall make available to and inform its employees or members of the option to enroll in at least one health maintenance organization holding a valid certificate of authority which provides health care services in the geographic areas in which a substantial number of such employees or members reside. Where there is a prevailing collective bargaining agreement, the selection of the health maintenance organization(s) to be made available to the employees shall be made under the agreement.

No employer in this state shall be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other contract for the provision of health benefits to its employees, provided that the employer or benefits fund shall pay to the health maintenance organization chosen by each employee or member an amount equal to the lesser of (a) the amount paid on behalf of its other employees or members for health benefits or (b) the health maintenance organization's charge for coverage approved by the commissioner (director, superintendent) pursuant to Section 8 of this act.

Comment: This Section is similar to Section 1310 of the federal HMO Act, but extends the dual choice requirement to state licensed HMO's. The licensing requirements of this act are less stringent than the federal requirements, so this provision will assist in the development and growth of state licensed HMO's.

Section 30. Severability.

If any section, term, or provision of this act shall be adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, term, or provision of this act, but the remaining sections, terms and provisions shall be and remain in full force and effect.

Legislative History (all references are to the Proceedings of the NAIC):

1973 Proc. I 9, 11, 141, 192, 202-222 (adopted).

1973 Proc. II 139 (synopsis of model).

1974 Proc. I 12, 14, 405, 413 (amended).

1982 Proc. I 19, 28, 431, 458-499, 530-554 (revised and reprinted).

MODEL HEALTH MAINTENANCE ORGANIZATION ACT

The date in parentheses is the effective date of the legislation or regulation, with latest amendments.

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
Alabama	ALA. CODE §§ 27-21A-1 TO 27-21A-32 (1986).	
Alaska	NO ACTION TO DATE	
Arizona		ARIZ. REV. STAT. ANN. §§ 20-1051 to 20-1069 (1973/1985) "Health Care Service Organizations".
Arkansas	ARK. STAT. ANN. §§ 66-5201 to 66-5228 (1975/1987).	
California		CAL. HEALTH & SAFETY CODE §§ 1399.61 to 1399.64 (1979/1986) ("Knox-Keene Health Care Services Plan").
Colorado	COLO. REV. STAT. §§ 10-17-101 to 10-17-115 (1963/1986).	
Connecticut		CONN. GEN. STAT. §§ 33-179a to 33-179t (1971/1987) "Health Care Centers".
Delaware	HB 99 Model pending (1987).	DEL. CODE ANN. tit. 16 §§ 9101 to 9118 (1982). <u>See also</u> tit. 18 §§ 6401 to 6406 (1987).
D.C.	NO ACTION TO DATE	
Florida		FLA. STAT. §§ 641.17 to 641.33 (1985/1987).
Georgia	GA. CODE ANN. §§ 33-21-1 to 33-22-28 (1979/1986).	
Guam	NO ACTION TO DATE	
Hawaii	NO ACTION TO DATE	
Idaho		IDAHO CODE §§ 41-3901 to 41-3934 (1974/1985).

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MODEL HEALTH MAINTENANCE ORGANIZATION ACT

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
Illinois	ILL. REV. STAT. ch. 111 1-2 §§ 1401 to 1417 (1974/1987).	
Indiana		IND. CODE §§ 27-8-7-1 to 27-8-7-18 (1979/1987) ("Proposed Health Care Delivery Plans").
Iowa	IOWA CODE §§ 514B.1 to 514B.32 (1973).	
Kansas	KAN. STAT. ANN. §§ 40-3201 to 40-3227 (1974/1987).	
Kentucky		KY. REV. STAT. §§ 304.38-010 to 304.38-210 (1982/1986);
Louisiana	LA. REV. STAT. ANN §§ 22:2001 to 22:2025 (1986).	
Maine	ME. REV. STAT. ANN. tit. 24-A §§ 4201 to 4226 (1975/1986).	
Maryland		MD. ANN. CODE art 19 §§ 701 to 734 (1982/1987).
Massachusetts		MASS. GEN LAWS ch. 176G §§ 1 to 17 (1976/1986).
Michigan		MICH. COMP. LAWS. §§ 333.21001 to 333.21098 (1982/1986).
Minnesota	MINN. STAT. §§ 62D.01 to 62D.30 (1973/1986).	
Mississippi	MISS. CODE ANN. § 41-7-401 et seq. (1986).	
Missouri	MO. REV. STAT. §§ 354.400 to 354.550 (1983).	
Montana	MONT. CODE ANN. §§ 33-31-101 to 33-31-405 (1987).	

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MODEL HEALTH MAINTENANCE ORGANIZATION ACT

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
Nebraska	NEB. REV. STAT §§ 44-3201 to 44-3291 (1978, 1985).	
Nevada		NEV. REV. STAT. §§ 695C.010 to 695C.350 (1973/1987).
New Hampshire		N.H. REV. STAT. ANN. §§ 420-B:1 to 420-B:22 (1977/1985).
New Jersey	N.J. REV. STAT. §§ 26:2J-1 to 26:2J-30 (1973).	
New Mexico	N.M. STAT. ANN. §§ 59A-46-1 to 59A-46-31 (1985/1986).	
New York		N.Y. PUB. HEALTH LAW §§ 4400 to 4413 (1976).
North Carolina	N.C. GEN. STAT. §§ 57B-1 to 57B-25 (1979).	
North Dakota	N.D. CENT. CODE §§ 26.1-18-01 to 26.1-18-35 (1983).	
Ohio	OHIO REV. CODE ANN. §§ 1742.01 to 1742.36 (1976).	
Oklahoma		OKLA. STAT. tit. 63 §§ 2501 to 2510 (1975).
Oregon		OR. REV. STAT. §§ 750.003 to 750.075 (1985).
Pennsylvania		PA. STAT. ANN. tit. 40 §§ 83-101 to 83-119 (1981).
Puerto Rico		P R. LAWS ANN. tit. 26 §§ 1901 to 1921
Rhode Island	R.I. GEN. LAWS §§ 27-41-1 to 27-41-29 (1983, 1987).	

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MODEL HEALTH MAINTENANCE ORGANIZATION ACT

NAIC MEMBER	MODEL/SIMILAR LEGIS.	RELATED LEGIS./REGS.
South Carolina	S.C. CODE ANN. §§ 38-25-10 et seq. (1987).	
South Dakota		S.D. CODIFIED LAWS ANN. §§58-41-1 to 58-41-97 (1974).
Tennessee	TENN. CODE ANN. §§ 56-32-201 to 56-32-225 (1986/1987).	
Texas	TEX. INS. CODE ANN. art. 20A.01 to 20A.35 (1975/1987).	
Utah		UTAH CODE ANN. §§ 31A-8-101 to 31A-8-406 (1986/1987).
Vermont	VT. STAT. ANN. tit. 8 §§ 5101 to 5113 (1979) (Most of model.)	
Virgin Islands	NO ACTION TO DATE	
Virginia	VA. CODE §§ 38.2-4300 to 38.2-4321 (1986).	
Washington		WASH. REV. CODE ANN. §§ 48.46.010 to 48.46.920 (1975/1986) (Parts of model).
West Virginia	W.VA. CODE §§ 33-25A-1 to 33-25A-28 (1977).	
Wisconsin		<u>See</u> WIS. STAT. § 628-36 (2m) providing that Commissioner may make rules for HMOs. <u>See also</u> ch. 609 (1985) on joint ventures.
Wyoming	WYO. STAT. §§ 26-34-101 to 26-34-128 (1986).	

HMO Dominance Seen In '90s

BY RICHARD DONAHUE

CHICAGO—Health maintenance organizations will become the dominant financier of private health care in the U.S. before year 2000, a business-forecasting consultant predicts.

Sometime after that, the nation will adopt a Canadian-like national health insurance system, according to Roy Amara, president of the Institute of the Future, Menlo Park, Calif.

Mr. Amara sees an increased use of HMOs in the 1990s as a way to check rapidly increasing health costs. "I mean use of the real HMOs," he said, "the kind that puts the health-care providers at financial risk, the kind that employs salaried physicians and the kind that puts emphasis on wellness and preventive care."

Preferred provider organizations and managed fee-for-service plans are not substitutes for HMOs, he told attendees at a health-care symposium sponsored by Society of Actuaries of Schaumburg, Ill. and the American Hospital Association, Chicago.

Rather, he said, they represent "palatable steps" to HMOs, which were at first a "bridge too far" for many people.

The HMO population in the U.S. will grow from the approximately 30 million persons which now use them to 60 million by 1995, and then up to 60 percent or 70 percent of all privately insured persons by the year 2000, according to Mr. Amara. (Currently, the entire

National Health Care Expected In Next Century

privately-insured population is 170 million, according to the Health Insurance Association of America, headquartered in Washington, D.C.)

"In HMOs, patients will lose their freedom to pick their own

physicians, and physicians will lose much of their clinical and economic autonomy as they watch their incomes shrink," Mr. Amara said.

He said the percentage of physicians who are salaried will increase from about eight percent in 1985 to about 35 percent in 2000.

Mr. Amara said Americans are not prepared for the dramatic changes coming in health care.

"The American public is not ready to accept rationing or restrictions in health care because health-care costs still don't bite deeply into the average household income," he said. "Only 5 percent of income goes for health expenditure now."

This will change, he said, as employers are forced to shift more of the burden of health-care cost to employees. Employers, who now pay more than 40 percent of the nation's health-care bill, will demand a bigger say in how the money is spent, he said.

Health-care costs, now at more than 11 percent of GNP, will, according to government predictions, be between 15 and 18 percent of GNP by the end of the century, he said.

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Dominance Of HMOs Seen By The 1990s

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But employers and the government—which pays about half of health-care costs—cannot tolerate such a level, he said, predicting that health costs will level off at 13.5 percent of GNP by the end of the century.

He said a national health-care system, when it comes, will be similar but not identical to the system in Canada "where government is the insurer and taxes finance the cost."

State governments and private health insurers undoubtedly will play a more significant role in a U.S. system than do the provinces and insurers under the Canadian system, he said.

A U.S. national health system will mean there will be fewer, but larger, health insurers, he said, some of which may be employed to administer the national plan. □

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HEALTH CARE COSTS

Marion Managed Care Digest HMO Edition 1989

Marion Laboratories, Inc., July 1989

"For the year ended Dec. 31, 1988, 659 HMOs were in operation. Another seven were under development."

Operating HMOs reported total enrollments up 8.7% to 33 million in 1988, compared with 1987 when 707 operating HMOs reported more than 31 million enrollees.

The number of operating HMOs fell 6.8% in 1988, compared with a 12% increase in 1987. An industry shakeout had been predicted for

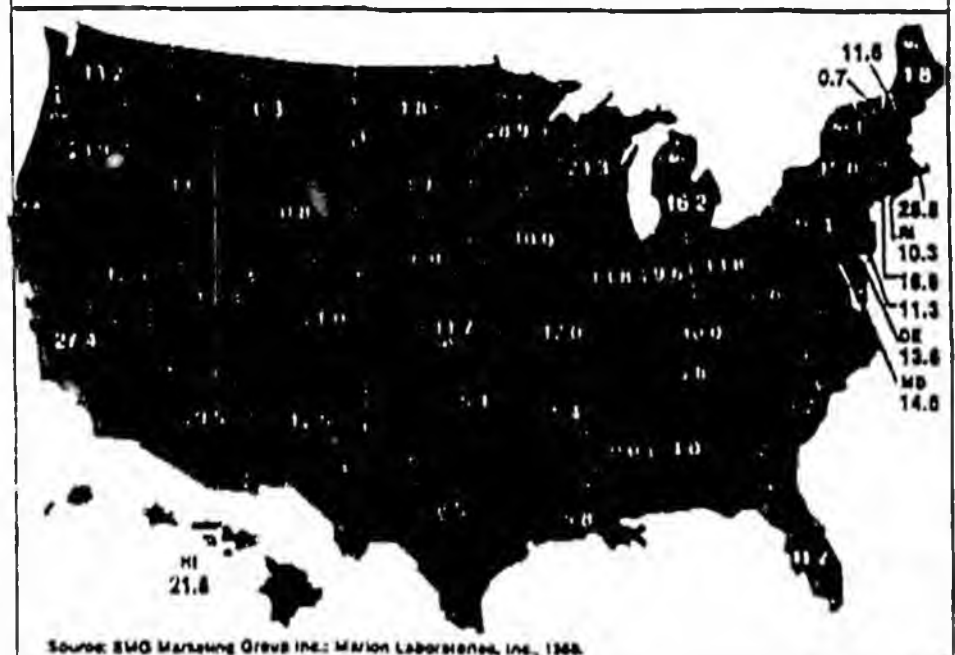
several years. The industry is likely to continue its consolidation through 1993 as the number of HMOs falls gradually each year.

HMOs are increasing their market penetration nationwide. Plans in 28 states reported enrolling 10% or more of their state's residents in 1988 (Figure 1), up from 24 states in 1987 and 20 a year earlier.

HMOs also successfully reduced the number of days that their enrollees spent in hospitals in 1988. Average annual hospital days per

Continued page 2

Figure 1. HMO market penetration (percent) by state, 1988.



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Marion Managed Care Digest
(continued from page 1)

1,000 non-Medicare members dropped to 364 from 377.2 a year earlier (Table 1).

Nearly 16% of HMOs operating at year-end 1988 offered an open-ended option, the newest and fastest growing HMO product. An open-ended plan offers enrollees the right to choose at point of service whether they want to seek care within the HMO or to go outside to the physician or hospital of their choice.

HMOs with open-ended options expected to have nearly 2 million enrollees in these plans by year-end 1989, an increase of 17.3% from year-end 1988. Enrollment in open-ended plans rose 53% to 1.6 million in 1988 from a year earlier. Enrollees in open-ended plans accounted for 4.8% of all HMO enrollees.

Non-Medicare enrollees averaged 3.7 ambulatory visits each to their HMOs in 1988, according to 167 reporting plans. HMOs averaged 3.7 physician encounters and visits per non-Medicare enrollee in 1988, according to 233 reporting plans.

The average family premium charge for all HMOs rose 11.8% in 1988 to \$242.50 per month from \$216.82 in 1987 (Table 1). ■

Editor's note: The source for data used in this report was SMG Marketing Group Inc. See MB, 7/30/89, p. 8 for a report based on the same data base.

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Volume 6, Number 15, Medical Benefits (ISSN 0743-6079) is published 24 times per year on the 15th and 30th of each month. \$126.00 per year. Multiple subscription rates available upon request. Letters to the editor welcome. © Kelly Communications, Inc., 410 East Water Street, Charlottesville, Virginia 22901, (804) 296-3476.

Publisher: Joseph J. Kelly
Group editor: Elizabeth J. McMartin
Editor: W. Bruce Carver
Art director: Steven E. Black
Designer: Ernie Wilson
Design associate: Roberts Frith Carney

Table 1. Selected HMO utilization and premium averages by state, 1988.

State	Hospital days per 1,000 non-Medicare members	Physician encounters per member	Amb. visits per member	Premiums	
				Family	Individual
Alabama	380.7	3.0	4.8	\$228.81	\$87.14
Arizona	292.0	3.7	3.9	250.44	84.82
Arkansas	461.4	4.9	1.5	228.55	82.60
California	318.4	3.3	8.6	251.78	95.35
Colorado	275.6	3.5	2.0	228.90	84.83
Connecticut	402.8	3.9	3.1	282.40	112.98
Delaware	360.0	0.2	0.4	229.88	89.99
D.C.	382.7	2.9	3.3	236.32	89.80
Florida	385.9	3.3	2.8	220.67	83.42
Georgia	385.0	4.6	3.5	237.86	90.29
Hawaii	308.7	4.3	4.8	221.01	77.00
Idaho	212.0	—	—	227.50	93.50
Illinois	389.2	4.2	2.8	227.20	86.47
Indiana	363.9	4.5	2.9	237.21	81.66
Iowa	310.0	3.8	—	215.25	80.42
Kansas	441.0	3.3	2.1	248.80	84.79
Kentucky	370.0	—	—	238.99	85.44
Louisiana	408.0	3.7	0.2	235.46	85.66
Maine	343.3	—	—	248.33	96.67
Maryland	328.4	3.7	3.4	255.38	88.78
Massachusetts	389.1	3.5	4.2	292.27	109.89
Michigan	368.8	3.7	5.1	243.91	95.82
Minnesota	362.4	4.0	4.6	229.82	88.53
Missouri	394.3	2.8	1.4	250.50	90.45
Montana	375.0	4.4	3.1	205.00	80.00
Nebraska	329.9	2.8	—	253.75	94.50
Nevada	—	—	—	300.00	115.00
New Hampshire	384.0	4.9	3.5	281.50	100.50
New Jersey	416.2	3.0	3.7	222.79	88.52
New Mexico	365.0	3.5	—	272.27	104.88
New York	374.8	3.7	2.3	216.21	86.12
North Carolina	332.8	3.8	2.0	235.83	86.34
North Dakota	359.0	6.9	2.7	250.24	105.29
Ohio	404.2	3.8	3.2	251.35	93.45
Oklahoma	300.0	3.9	9.9	253.17	87.00
Oregon	298.1	2.8	2.3	213.18	79.93
Pennsylvania	376.5	3.5	2.4	221.84	83.59
Rhode Island	366.5	4.5	—	242.50	101.50
South Carolina	386.7	3.1	0.7	186.87	72.33
South Dakota	576.8	4.4	4.4	280.54	91.30
Tennessee	432.8	4.0	2.1	246.38	98.78
Texas	356.9	4.0	3.0	254.40	90.48
Utah	288.7	2.7	4.2	278.40	89.25
Vermont	—	—	—	208.00	82.00
Virginia	392.1	3.8	3.0	282.89	108.44
Washington	320.1	4.2	3.3	242.99	84.54
Wisconsin	383.2	4.7	3.7	253.51	96.57
Wyoming	560.0	4.0	1.7	220.00	90.00
Total U.S.	384.0	3.7	3.7	242.49	90.90

Alaska, Mississippi and West Virginia had no operating HMOs in 1988.

Source: SMG Marketing Group Inc., Marion Laboratories, Inc., 1989

How Cost-Effective Is Your Health Plan?

Benefits, July 1989

To determine your plan's rating, add up the points indicated for each answer, then compare your total with those illustrated on the plan evaluation chart at the end. If your plan's cost-effectiveness rating is less than 'excellent,' you should consider incorporating some cost-effective features your score shows are missing from your plan."

1. Does your plan have first-dollar coverage for hospitalization?
 - A) (+ 20) No/Do have hospital pre-certification
 - B) (- 5) No/No hospital pre-certification
 - C) (- 15) Yes/Do have hospital pre-certification
 - D) (- 30) Yes/No hospital pre-certification
2. Does your plan have first-dollar coverage for medical/surgical services?
 - A) (+ 10) No/Do have pre-certification
 - B) (- 0) No/No pre-certification
 - C) (- 5) Yes/Do have pre-certification
 - D) (- 15) Yes/No pre-certification
3. Your group plan's major medical deductible is:
 - A) (+ 10) \$300 per calendar year or more
 - B) (- 0) More than \$100/less than \$300 per calendar year
 - C) (- 20) \$100 per calendar year or less
4. Is your major medical deductible indexed to your company's employees' earnings?
 - A) (+ 10) Yes/Also indexed to trend increases
 - B) (+ 5) Yes
 - C) (- 0) No
5. Your major medical co-insurance out-of-pocket limit is:
 - A) (+ 10) More than \$1,000 per employee per year
 - B) (- 0) More than \$500/up to \$1,000 per employee per year
 - C) (- 10) \$500 or less per employee per year
6. Is your major medical co-insurance limit indexed to the employees' earnings?
 - A) (+ 10) Yes/Also indexed to trend increases
 - B) (+ 5) Yes
 - C) (- 0) No
7. Does your plan include a large claims management review/assistance service?
 - A) (+ 10) Yes/Also includes psychiatric claim review
 - B) (+ 10) Yes
 - C) (- 10) No
8. Does your plan include a limit, or a review service, for chiropractic and/or podiatric care?
 - A) (+ 5) Yes/Chiropractic and podiatric care review
 - B) (- 0) Yes/Chiropractic or podiatric care review
 - C) (- 5) No
9. Does your plan include a hospital DME and/or service?
 - A) (+ 5) Yes
 - B) (- 5) No
10. Does your plan have a pre-existing condition limitation for new hires?
 - A) (- 10) Yes
 - B) (- 10) No
11. Do you require employee contributions for dependent coverage?
 - A) (+ 10) Yes/Dependents only
 - B) (- 0) No
12. Do you have an employee assistance program (EAP)?
 - A) (+ 5) Yes
 - B) (- 0) No
13. Do you provide a wellness program or incentives for a healthier lifestyle?
 - A) (+ 5) Yes
 - B) (- 0) No
14. Does your plan include a mail-order or prescription drug program?
 - A) (+ 5) Yes
 - B) (- 0) No
15. Does your plan include a preferred provider organization (PPO)?
 - A) (+ 15) Yes/PPO pays less than 100% of charges
 - B) (+ 5) Yes/PPO pays 100% of eligible charges
 - C) (- 10) No
16. Do you provide employees with an HMO option?
 - A) (+ 15) Yes/HMO experience is integrated with primary plan's experience
 - B) (+ 5) Yes/HMO is a stand-alone service—less than 20% of employees participate
 - C) (- 5) Yes/HMO is a stand-alone service—more than 20% of employees participate
 - D) (- 0) No
17. Do you actively police the coordination of benefits provision of your program?
 - A) (+ 10) Yes
 - B) (- 10) No
18. Is your waiting period for new entrants long enough to avoid providing coverage during the initial 'heavy turnover' period?
 - A) (+ 5) Yes
 - B) (- 5) No
19. Do you have an in-house COBRA compliance system or use an outside service?
 - A) (+ 10) Yes/Includes notification of new hires, qualifying event notification, monitoring of eligibility period, monthly bill processing and management
 - B) (- 0) Yes/But doesn't include all of the above
 - C) (- 10) No
20. Do you provide retiree health coverage?
 - A) (+ 10) No
 - B) (- 10) Yes/Contributory
 - C) (- 15) Yes/Non-contributory

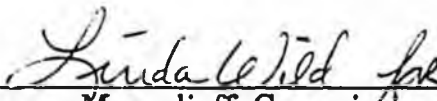
Plan evaluation

Total points	Plan rating	Anticipated rate increases
170 - 195	Excellent	0% - 10%
130 - 170	Good	10% - 20%
100 - 130	Fair	30% - 40%
60 - 100	Poor	40% - 60%
under 60	Disastrous	50% +

CSSSSB 335 (Fin): "An Act relating to health maintenance organizations; and providing for an effective date."

The department is in favor of this legislation. HMO's provide or arrange for basic health care services to persons on a prepaid basis. This form of organization combines some of the functions of an insurer with those of traditional health care providers. In this way, the providers of medical care share in the financial risk of health care and, therefore, have an incentive to reduce health care costs and to promote preventative medicine. This kind of organization is not possible under our present statutes. This proposal will provide a framework for the establishment of these hybrid organizations. It is based on a National Association of Insurance Commissioners model statute.

The attached commentary will provide an analysis of CSSSSB 335 (Fin).



Larry Mercurieff, Commissioner

Date: 4-9-90

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Introductory Comment:

The rising cost of health services in recent years has led government agencies, private organizations, and legislative bodies to seek alternatives to the traditional medical delivery system which will provide improved health care at a lower cost. The health maintenance organization is a concept which has received such attention as one means through which an improvement in delivery might be achieved.

Shortcomings of Existing Health Care Delivery System

The health care delivery system as it is now constituted presents several problems. First, many people are unable to obtain health care when they need it and in the form they need it. This problem can be divided into three subareas:

1. In many areas of the country, the availability of health care in terms of the quantity of manpower and facilities is inadequate.
2. Even where physicians, nurses, clinics, and hospitals do exist, they may lack accessibility due to poor location, poor management, lack of transportation, language or racial barriers, inconvenient hours, etc.
3. Even if health care is available and accessible, it may not be continuous: that is, a single patient may not be treated as a person with a continuing or a variety of problems but rather as a single isolated health care problem incident. The problems of viability, accessibility, and continuity, at least in part, have been attributed to the lack of responsibility vested in one person, group, or organization to assure the delivery of health care.

A second problem is the escalating cost of health care services. This stems from the limited supply of health care service facilities which is confronted by an expanded and fragmented financing mechanism and the consequent tremendous increase of demand for such services. This is the classic model for inflation. Traditional reimbursement of providers by the federal government, insurance plans, and hospital and medical service corporations, because of the inherent difficulties involved, has been accompanied by uneven efforts toward ineffective cost review or control. Furthermore, services or facilities are often duplicated or used inefficiently. A basic cause of inflation and inefficiency rests with improper structuring of incentives. Where no individual group, or organization is responsible for the use of more economical services and facilities, including those relating to preventive care, greater income is generated for providers by the more frequent use of services and facilities and by the use of the more expensive facilities and services available.

A third problem is the quality of health care delivered. Throughout various parts of the country, the quality of health care can range from the very best to the very poor. Generally speaking, there is no locus for quality assessments either as to health care processes or health care results. In the absence of a means to measure quality, it is virtually impossible to design and implement effective programs to rectify defects.

This brief discussion in no way attempts to provide a comprehensive discussion of the problems of the health care delivery system in the United States nor does it give adequate recognition to the strenuous efforts of many to improve the existing system. However, it does highlight some of the major problems prevailing today. Development of the health maintenance organization (HMO) concept offers one alternative means to help alleviate some of these problems.

Nature of the Health Maintenance Organizations:

A health maintenance organization may be described as an organization which brings together a comprehensive range of medical services in a single organization to assure a patient of convenient access to health care services. It furnishes needed services for a prepaid fixed fee paid by or on behalf of the enrollees. An HMO can be organized, operated and financed in a variety of ways. For example, an HMO may be organized by physicians, hospitals, community groups, labor unions, government units, insurance companies, etc. Generally speaking, an HMO delivery system is predicated on three principles:

1. It is an organized system for the delivery of health care which brings together health care providers.
2. Such an arrangement makes available basic health care which the enrolled group might reasonably require, including emphasis on the prevention of illness or disability.
3. The payments will be made on a prepayment basis, whether by the individual enrollees, medicare, medicaid, or through employer-employee arrangements.

An HMO can directly address itself to the problems of availability, accessibility, and continuity since it is a health care delivery system. It assumes responsibility for actually furnishing to its enrollees those health care services necessary to meet the obligations it undertakes. Thus, the HMO occupies a position through which both the accessibility and continuity of care may be affected.

An HMO, by its very nature, may provide incentives toward lessening costs in delivering health care. It has a limited membership prepaying fixed sums of money. The providers are obligated to deliver a specified set of health care services. The fixed amount of income provides incentive to control expenses and costs. The HMO provides a mechanism to analyze costs, expenses and utilization of services, and affords a means to implement measures to enhance efficiency.

The problem of the quality of health care is not susceptible to an easy solution. An HMO is in a position to assess the quality of care provided since it is a closed system. It can study the health of its members, review the records of treatment, and, in general, provide a monitoring mechanism.

A variation of the HMO concept is seen in some medical care foundations. Although individual foundations differ greatly in detail, a foundation for medical care is usually sponsored and organized by a county or state medical society. The membership consists of physicians who apply to and are accepted by the foundation.

Those medical care foundations which can be considered as a variant of the HMO concept often contract with an insurer or other prepayment plan (e.g., hospital or medical service corporations) to provide coverage meeting certain minimum criteria consistent with the delivery of quality medical care. The insurer collects the premiums, promotes, markets, and underwrites the program. The enrollee may seek physician services from any member of the foundation who then bills either the insurer or the foundation, not the enrollee. Although such billings are on a fee-for-service basis, the amount charged the enrollee is fixed and prepaid without regard to the number or type of services used. The foundation establishes some form of peer review to monitor not only the level of charges but also the type and quality of care rendered. Since the amount of income does not vary with the number or type of services provided, incentives exist to maintain costs at as low a level as possible. However, unlike the HMO concept described above, even though physician services are prepaid from the patients' viewpoint, from the physicians' viewpoint, the fee-for-service practice is maintained. Under the federal HMO Act, this type of organization is called an Individual Practice Association Type HMO.

The Need for State Authorizing and Regulatory Legislation

From 1970 to 1973, the administration and committees in both houses of Congress spent much time analyzing the health maintenance organization alternative in connection with national health insurance and federal assistance bills for HMO's. This analysis resulted in the enactment of the federal HMO Act in 1973. Since then, the number of health maintenance organizations and the number of HMO enrollees has grown rapidly. Prior to 1972, however, few states had a statutory framework tailored to the supervision of health maintenance organizations. Chartering, licensing, contract and rate regulation and other supervision was being carried out under general insurance laws, hospital and medical service corporation statutes, other special statutes, or not at all. Because the HMO is a unique type of organization, many provisions of such state laws were inapplicable, highly restrictive or prohibitive to the formation and operation of an HMO. Therefore, in 1972, the National Association of Insurance Commissioners (NAIC) adopted the Model Health Maintenance Organization Act which accommodates the unique features of HMO's. CSSSSB 335 (Fin) substantially tracks that model act.

Purpose of CSSSSB 335 (Fin)

CSSSSB 335 (Fin) clearly authorizes the establishment and operation of HMO's. Restrictive provisions in other laws which are inappropriate to HMO's are rendered inapplicable. Appropriate grants of authority are established to enable the HMO's to fulfill the function envisioned for them. At the same time, however, the public has a vital interest in the fiscally sound, efficient, and ethical operation of HMO's. As is the case with insurance and hospital and medical service corporations, HMO's are "affected with the public interest." Thus, the purpose of this bill is twofold.

First, it attempts to provide a legal framework enabling the organization and functioning of HMO's of a wide variety, including those based upon the medical care foundation or individual practice association concept. The legal environment is designed to permit a high degree of flexibility. No one form of organization or one type of modus operandi is required. Instead the HMO concept can be refined and subjected to further experimentation. Second, the bill attempts to provide a regulatory monitoring system not only to prevent or remedy abuse, but also to assist in the future improvement and development of this alternative form of a health care delivery system.

Since the model bill on which CSSSSB 335 (Fin) was approved, the federal HMO Act has been enacted and amended four times. The model, or substantial portions of it, has been enacted in 27 states and substantial experience has been gained in implementing and regulating HMO's under its terms. In addition, a few HMO's have become insolvent and commissioner have had to deal with the results of those insolvencies. Therefore, the model act has been revised to reflect changes which have occurred in the federal law, to reflect experience gained in administering the law and to clarify and strengthen the provisions relating to HMO agency.

AS 21.86.010

This section requires the licensing of an HMO in order to provide health care services on a prepaid basis. The legal entity, in which the responsibilities imposed by this Act are vested, serves as a focus of regulatory attention to assure that the consuming public is well served.

AS 21.86.020

A health maintenance organization combines several characteristics of an insurance operation (including the need for financial responsibility, the assumption of risk and similarity in marketing activities) with the characteristics of a health care delivery system. This section provides for the authorization and regulation of health maintenance organizations to be carried out through existing state agencies. The creation of a new agency specifically for health maintenance organizations would unnecessarily duplicate existing functions in the Insurance Division and the Department of Health and Social Services. It is felt that the expertise of the Alaska Insurance Division on fiscal and other regulatory matters and the familiarity of the Alaska Department of Health and Social Services with regard to health matters should both be utilized in the regulation of health maintenance organizations. To minimize administrative problems, the prime responsibility for administration is vested in one agency - the Insurance Division. However, to the extent possible, the responsibilities of the two agencies are clearly defined with the Insurance Division obligated to rely on the Department of Health and Social Services with respect to the latter's sphere of expertise.

Subsection (b)(2) makes explicit the requirement that an HMO must provide a minimum package of services on a prepaid basis. Reasonable co-payments, however, are permitted and do not violate the requirement for prepayment. Such co-payments may be used to (a) reduce the amount of prepayments; and (b) minimize frivolous utilization of services. In addition, an HMO may have more than one benefit package involving different levels of co-payments.

Under subsection (b)(3), to grant a certificate of authority, the director should be satisfied that the health maintenance organization will have the financial resources to provide the health care services for which it is obligated to its enrollees. However, it is recognized that requiring an HMO to have more than a minimum capitalization as set forth in AS 21.86.140(h) might prevent the organization or implementation of an otherwise viable HMO. Furthermore, with various possible insurance and surety arrangements available to back up the HMO's promise of performance, reserve requirements such as those found in the insurance laws are not deemed necessary.

AS 21.86.030

The exercise of authority granted in this section is subject to disapproval by the director within 30 days of a filing by a health maintenance organization. The director may promulgate rules and regulations exempting certain contracts from the filing requirement where exercise of the authority granted in the section would have little or no effect on the financial condition and ability to meet obligations of the organization.

AS 21.86.040

This section makes explicit the permissible membership of such a group. C.S.S.S.B. 335 (Fin) does not, however, require that a health maintenance organization be consumer controlled. It is expected that HMO's controlled in a variety of ways will be organized. Where organizations are not consumer controlled, it is believed that some means for enrollee participation should be provided. For example, such matters as availability, accessibility and continuity of health care services are factors which directly confront the consumers and in which they have a particular interest. The disclosure of information under other sections is also designed to assist the consumers.

Arguments against a role for the consumer include: (1) such participation is unnecessary and perhaps even harmful to the efficient and professional delivery of health care services; (2) a consumer role will impede the initiation of an HMO since more people must be involved; and (3) consumers can always seek alternative health care. The arguments for a consumer role seem more persuasive. These include: (1) consumer participation results in a more responsive organization; and (2) consumer participation is not the same as lay control over the rendering of professional service.

AS 21.86.050

This section provides a level of fidelity protection for the consumer by requiring a bond.

AS 21.86.060

This section requires that services be provided through appropriately licensed persons. It allows the HMO to provide services directly or through other arrangements.

AS 21.86.070

Subsection (a) requires that every enrollee be provided with evidence of coverage and allocates the responsibility for providing that evidence.

Subsection (b) and (e) requires that evidences of coverage and forms are subject to filing with and approval by the director.

Subsection (c) establishes requirements which evidence of coverage must meet.

Subsection (d) provides that filing is required under subsection (b) unless the form is already subject to filing requirements under existing filing statutes.

Subsection (f) provides for the filing of charges for health care services, i.e., that part of the benefit package which is provided in the form of service vis-a-vis indemnity or service benefits. Those parts of the package providing benefits under agreement with an insurance company or hospital or medical service corporation will be subject to regulation in accordance with existing laws.

Paragraph (f) neither requires nor prohibits community rating. Reasonable underwriting classifications are permitted for the purpose of establishing the charges. Different charges may be imposed on different groups of enrollees. Such a rigid requirement as community rating would appear to be inappropriate when the competing financing mechanisms are not subject to such a constraint. The competitive disadvantage which such requirement might impose could impeded the development of HMO's.

Because of its somewhat different nature, an HMO is not required by this Act to meet reserve requirements similar to those imposed on insurance companies. Thus, it is important that the charges be set at an adequate level. The requirement for certification by an actuary or other qualified person, along with supporting information, is intended to assist the director in determining adequacy. In applying the standard of excessive, inadequate, or unfairly discriminatory, it is contemplated that the director may consider the amount necessary to assure a reasonable return on the initial and subsequent capital invested and an amount needed to accumulate adequate funds to stabilize the level of charges against fluctuation due to inflation, changes in medical technology and related causes.

AS 21.86.080

This section provides the director with the authority to require reports considered necessary to carry out his duties. The reports could include:

- o a financial statement of the organization;
- o any material changes in the information submitted pursuant to AS 21.86.010(b)(3);
- o the number of persons enrolled at the beginning and end of the year; and
- o the amount of uncovered and covered expenditures that are payable and more than 90 days past due.,

In establishing filing requirements, the director will be cognizant of the fact that HMO's that are qualified under the federal HMO Act must submit detailed reports to the Department of Health and Human Services. The director will make use of such reports when they are relevant and avoid the imposition of duplicate reporting requirements.

AS 21.86.090

This section requires the HMO to provide notice to enrollees of changes in operation affecting them.

AS 21.86.100

Every health maintenance organization is required to establish a complaint system to provide reasonable procedures for the disposition of complaints. The organizations may be expected to receive two types of complaints. One type is related to the basic health care services or additional services furnished by it. The other type is related to that portion of the coverage in addition to basic health care services which is provided by insurance, hospital or medical service corporations, or some means other than being furnished by the organization. For complaints arising from health care services, the administrative procedure to handle complaints should provide the mechanism through which enrollees receive a fair and proper opportunity to have their cases heard, including the use of binding arbitration as a means of resolving claims concerning coverage. For complaints regarding benefits over which the health maintenance organization has no direct control such as those portions of the benefit package which are covered by insurance, the health maintenance organization is responsible only for maintaining statistical information and transmitting the complaints to the persons responsible.

AS 21.86.110

This section avoids duplication of benefits.

AS 21.86.120

This section provides a ten-day free look.

AS 21.86.130

Life and health insurers are subject to statutory investment requirements designed to assure conservatism and liquidity in the handling of the insurer's funds. Sound financial management is an important element in the variable operation of an HMO. Furthermore, it is contrary to the intent of this bill to foster conditions which would enable an HMO to be used as a "front" for a speculative investment operation. At the same time, however, it is recognized that for an HMO to fulfill its expected functions, it may be both desirable and necessary for the HMO to invest a portion of its capital funds in facilities and services to better enable it to meet its obligations. Such investments may not conform to the traditional insurance law investment limitations. Consequently, this section excepts this type of investment when approved by the director in accordance with the standards set out in AS 21.86.030(b).

AS 21.86.140

Even though very serious problems can arise if a health maintenance organization defaults on its contracts, fiscal control of health maintenance organizations in a manner comparable to that applied to insurance companies appears inappropriate in view of the service nature of such organizations. The best protection for enrollees is a financially sound organization that generates net income. However, beginning health maintenance organizations are often small businesses with limited financial resources that will sustain operating losses in their early years. Unreasonably high starting capital or reserve requirements may prevent some organization from starting or may unreasonably tie up the capital of those that do. Therefore, this section provides for a structured but flexible approach to protecting against insolvency. It requires the maintenance of a minimum capital account, a deposit of cash or securities in a minimum account, and the organization's generation of additional amounts annually as a source of funds to meet its contractual obligations to the enrollees in the event of insolvency. The director may waive all or part of these requirements when satisfied that the organization has sufficient net worth or an adequate history of generating net income to assure its viability. The requirements may also be waived if the health maintenance organization's performance is guaranteed by another financially strong organization.

The section relates the deposit requirements to the amount of the health maintenance organization's uncovered expenditures. This amount will vary depending upon the type of organization and the nature of its arrangements with providers. For example, the physicians of the staff of the organization or a contracting medical group of individual practice association may agree to look only to the organization for payment of services provided to the organization's enrollees and agree not to bill them in the event of insolvency. An organization could have insurance for all or part of its hospitalization expense or another organization could agree to guarantee that the liabilities of the health maintenance organization are met

In all such cases, it is recommended that the contractual provision require the provider or guarantor to notify the director if the provision or insurance is modified or no longer in effect or if payment on the contract or policy has not been made in a reasonable period of time. This can provide an early warning of possible adverse changes in the health maintenance organization's financial position. In addition, the status of such provisions or policies should be covered in annual interrogatories to the organization.

In (b), the Finance Committee has increased the deposit amount required of a new HMO from 5% of its estimated expenditures for health care services and not less than \$100,000 to 10% of its estimated expenditures for health care services and not less than \$250,000. This strengthens the solvency protection for consumers substantially, particularly during its first year of operation.

AS 21.86.150

Subsection (a) requires licensing.

Subsection (b) addresses false or defective advertising and solicitation.

Subsection (c) applies the insurance Unfair Trade Practices Act to the degree applicable.

Subsection (d) is designed to foster continuance of coverage to the extent possible.

Subsection (e) addresses potential deception through name utilized.

Subsection (f) requires a certificate of authority to use the phrase "Health Maintenance Organization" or "HMO."

AS 21.86.160

Provides for regulation of assets.

AS 21.86.170

This section overrides the group laws to permit an insurer or a hospital or medical service corporation to provide coverage protecting enrollees of an HMO. This authority is intended to permit insurers and the service corporations to write coverage (1) to fill the gaps which the providers of health care services do not provide, (2) to provide coverage in excess of the services provided, (3) to cover catastrophe situations, (4) to provide protection to the enrollees in the event the HMO becomes insolvent, and (5) to provide coverage against the cost of health care services as the health maintenance organization deems necessary.

AS 21.86.180

The director is provided authority to examine health maintenance organizations as is reasonably necessary. However, any determination related to the quality of health care services is the exclusive responsibility of the commissioner of health and social services.

AS 21.86.190 - .200

These sections list the reasons for suspension or revocation of the HMO's certificate of authority. They also set forth a process for such action.

AS 21.86.210

This section provides for the rehabilitation, liquidation, or conservation of health maintenance organizations to be carried out by the director under the statute applicable to insurance companies.

AS 21.86.220

This section provides authority to adopt regulations.

AS 21.86.230

Proper administration of the HMO program by the Division of Insurance and the Department of Health and Social Services will impose additional financial burdens on the respective agencies. For this reason, it is appropriate to establish a fee system through which HMOs are required to bear the expenses associated with their regulation by the state.

AS 21.86.240

This section provides for taxation of the HMO.

AS 21.86.250

This section authorizes the director to issue a cease and desist order and to apply for injunctive relief. It also provides penalties for violations.

AS 21.86.260

This section clarifies the relationship of HMOs to other insurance statutes.

AS 21.86.270

This section provides that filings and reports are public documents.

AS 21.86.280

This section provides that medical information on an enrollee is confidential.

AS 21.86.290

This section authorizes the Department of Health and Social Services to draw upon outside expertise where appropriate. One alternative would be to contract with Professional Standards Review Organizations established pursuant to Public Law 92-604.

AS 21.86.300

This section provides protection for HMOs from acquisitions which would run counter to this chapter.

AS 21.86.310

This section is similar to section 1310 of the federal HMO Act, but extends the dual choice requirement to state licensed HMOs. The licensing requirements of this act are less stringent than the federal requirements, so this provision will assist in the development and growth of state licensed HMOs. The Finance Committee has clarified the language on page 27, lines 14-17, to assure that rights in collective bargaining are preserved. The option of enrolling in an HMO is an item that, if approved by the bargaining representative, then is offered to the membership. Previous language would have required the offer without first going to the bargaining table.

AS 21.86.900

Definition section.

Paragraph (6) defines an HMO to be any person that undertakes to provide or arrange for at least basic health care services on a prepaid basis. This can achieve either (a) by providing the services directly through physician or other providers actually employed by the HMO and through hospitals or facilities owned or directly operated by the HMO, or (b) by contracting or arranging with physicians, hospitals or other facilities to provide such services. The term "arrange" does not contemplate those traditional arrangements which hospital or medical service corporations make in conjunction with their prepayment service plans pursuant to hospital or medical service corporation laws. If it were otherwise, the traditional hospital and medical service corporation prepayment service plan, by itself, would be an HMO.

Paragraph (2) defines basic health care services. This definition, combined with the requirement that an HMO provide for basic health care services in AS 21.86.020(b)(2) and AS 21.86.190(a)(3) establishes a minimum package of health care services which an HMO must provide or arrange for. This is intended to assure that the enrollees obtain at least a sufficiently broad range of services to meet a reasonable amount of their health care needs. At the same time, however, the definition should not be so broad as to be financially prohibitive to a substantial number of enrollees.

Since no HMO may function without either a certificate of authority and since an HMO must furnish basic health care services, no health care services may be provided or arranged for on a prepaid basis without the minimum package of basic health care benefits. This serves two purposes: (a) it requires the provision of adequate protection and (b) it prevents the avoidance of the applicability of the Act by the mere expediency of failing to meet the minimum package requirements.

In addition, the HMO may furnish additional services, certain limited indemnity benefits and more comprehensive indemnity benefits. These additional services and benefits can be put together in any one of a variety of ways. The indemnity or service benefits might cover such situations as out-of-area emergency services, out-of-area benefits for dependents away at college, or services which the affiliate providers lack the capacity to make available. This flexibility in piecing together the package of coverage through direct and indirect services and indemnity benefits enables an HMO type operation to meet health care needs in a wide variety of circumstances.

The definition of an HMO affords wide latitude for different arrangements. This highly flexible approach seems best suited to our diverse and pluralistic society with problems varying from locality to locality. Flexibility will allow continued innovation and experimentation with different organizational structures. It may be easier to recruit health personnel if a number of alternative approaches are available. Consistent with this philosophy is the absence of any requirement of a minimum number of employees or of a mandate as to whether or not the HMO should be a profit or nonprofit organization. Permitting both profit and nonprofit organizations will broaden the financial and managerial resources which can be drawn upon in developing the HMO concept.

Paragraph (9) defines uncovered expenditures. These are expenditures for health care services for which the HMO is at risk. They will vary in type and amount, depending on the arrangements of the HMO. They may include out-of-area services, referral services and hospital services. They do not include expenditures for services when a provider has agreed not to bill the enrollee even though the provider is not paid by the HMO, or for services that are guaranteed, insured or assumed by a person or organization other than the health maintenance organization.

Section 2 and Section 3

Includes reference to HMOs in related statutes.

Section 4

This is a temporary grandfather clause for existing HMOs.

Section 5

This section provides for applying AS 21.86.310(a) to new or renewal contracts or agreements but not those existing.

Section 6

Provides for an immediate effective date.

S B

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STATE OF ALASKA
THE LEGISLATURE

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Mary Van Nimwegen

SV3 340

H. HESS	3/27/90
H HESS	4/3/90
H. HESS	4/12/90
H HESS	4/17/90
H HESS	4/18/90

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 26, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/18/90
The HESS Committee considered:

JUDICIARY
FINANCE
CSSB 340(Rls)am

CS SB NO. 340 (Rules) am ILLEGAL DRUGS/SCHOOLS/PREGNANT WOMEN
"An Act relating to the delivery and possession of controlled substances and imitation controlled substances, to misconduct involving controlled substances, imitation controlled substances, and alcohol by minors, and to the provision of information that includes penalties applicable to misconduct involving controlled substances; and requiring installation of signs in the vicinity of schools declaring the areas to be 'drug-free school zones'; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with HCS CS SB 340 (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) 2/22/90/DOJ/2/22/90 P.S.
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not Pass No Rec Amend

[Signature]

[Signature]

[Signature]

SIGNING:	Do Not Pass	No Rec	Amend
<u>[Signature]</u>		X	
<u>[Signature]</u>		X	

[Signature]
Chairman's Signature

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 340 (Rules) am

Page 7, lines 25 - 29:

Delete all material and insert:

"* Sec. 12. AS 28.15.185(b) is amended to read:

(b) The court shall impose the revocation for an offense described in (a) of this section as follows:

(1) for a first conviction or adjudication, the revocation may be for a period not to exceed 120 [90] days;

(2) for a second [OR SUBSEQUENT] conviction or adjudication, the revocation may be for a period not to exceed one year;

(3) for a third or subsequent conviction or adjudication, the court shall revoke the minor's driver's license for two years or until the minor reaches 18 years of age, whichever is longer."

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 340 (Rules) am

#2

Page 2, lines 1 - 2:

Delete "or within 1,000 feet of"

Page 2, line 2, after "grounds":

Insert "or within the drug-free area adjacent to school grounds"

Page 2, line 7:

Delete "1,000 feet of the"

Insert "the drug-free area adjacent to"

Page 2, line 27:

Delete "or within 1,000 feet of"

After "grounds":

Insert "or within the drug-free area adjacent to school grounds"

Page 3, line 5:

Delete "or within 1,000 feet of"

Page 3, line 6, after "grounds":

Insert "or within the drug-free area adjacent to school grounds"

Page 3, line 11:

Delete "or within 1,000 feet of school [THE]"

Insert "school [WITHIN THE]"

After "grounds":

Insert "or within the drug-free area adjacent to school grounds"

Page 3, line 19:

Delete "1,000 feet of the"

Insert "the drug-free area adjacent to"

Page 4, line 25:

Delete "or within 1,000 feet of school [THE]"

Insert "school [WITHIN THE]"

After "grounds":

Insert "or within the drug-free area adjacent to school grounds"

Page 5, line 23:

Delete "1,000 feet of the"

Insert "the drug-free area adjacent to"

Page 5, following line 26:

Insert a new paragraph to read:

"(28) "drug-free area adjacent to school grounds" means the area circumscribed by a line that is 1,000 feet outside the real property boundary line of a public or private school; however, if the area circumscribed by the line includes more than 50 percent of the

area of the city or village in which the school is located, then the drug-free area is the area circumscribed by a line drawn at a fixed distance outside the real property boundary line of the public or private school so that the area includes 50 percent, and no more than 50 percent, of the area of the city or village in which the school is located."

Renumber following paragraphs accordingly.

ALASKA ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS

RESOLUTION NUMBER 1. DRUG-FREE SCHOOL ZONES

SUBMITTED BY: AASSP

WHEREAS the Alaska Association of Secondary School Principals has long been involved in fighting the menace of drug abuse in Alaska due to the detrimental affects it can have on our students and society; and

WHEREAS drug pushers have often found a lucrative market among students who cannot say "no"; and

WHEREAS at the national level a recent survey by the Coalition for Drug-Free School Zones, of which NASSP is a charter member, shows that 23 states now have drug-free school zones on the books, and legislation is pending in another 12 states; and

WHEREAS Alaska is one of those states that has no drug free school zones in statute or in proposed legislation; and

WHEREAS police records in New Jersey, the first state to pass drug free school zone legislation, confirm that pushers avoid the special zones because of the severe penalties in force there;

THEREFORE BE IT RESOLVED that the Alaska Association of Secondary School Principals work for the introduction and passage of a drug-free school zone law in the state of Alaska and that we work to make penalties as severe as possible for violation of this law.

APPROVED: 10/17/89

DRUG-TAKING BEHAVIOR AMONG ALASAKAN YOUTH - 1988:
A FOLLOW-UP STUDY



Bernard Segal, Ph.D.
Director, Center for Alcohol and Addiction Studies
University of Alaska Anchorage

November, 1988

Funded in part by a grant from the State Office of Alcoholism and Drug Abuse, Department of Health and Social Services, Juneau, Alaska

Figure 4-4
Lifetime Experience with One or more Drugs
Total Sample
1988
(n=4129)

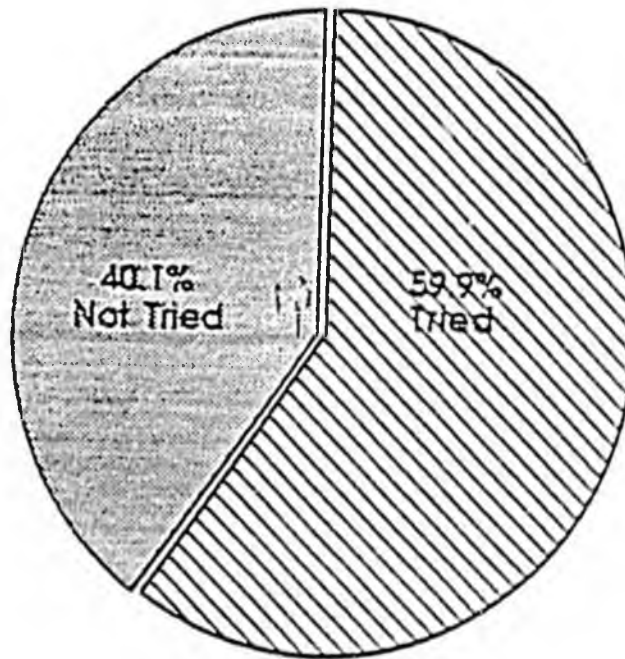
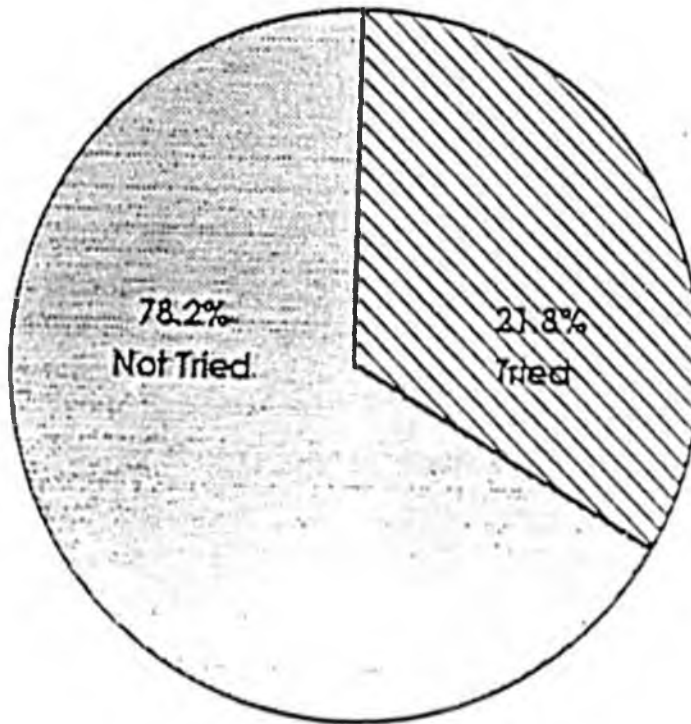


Figure 4-5
Past Year Experience with One or More Drugs
1988



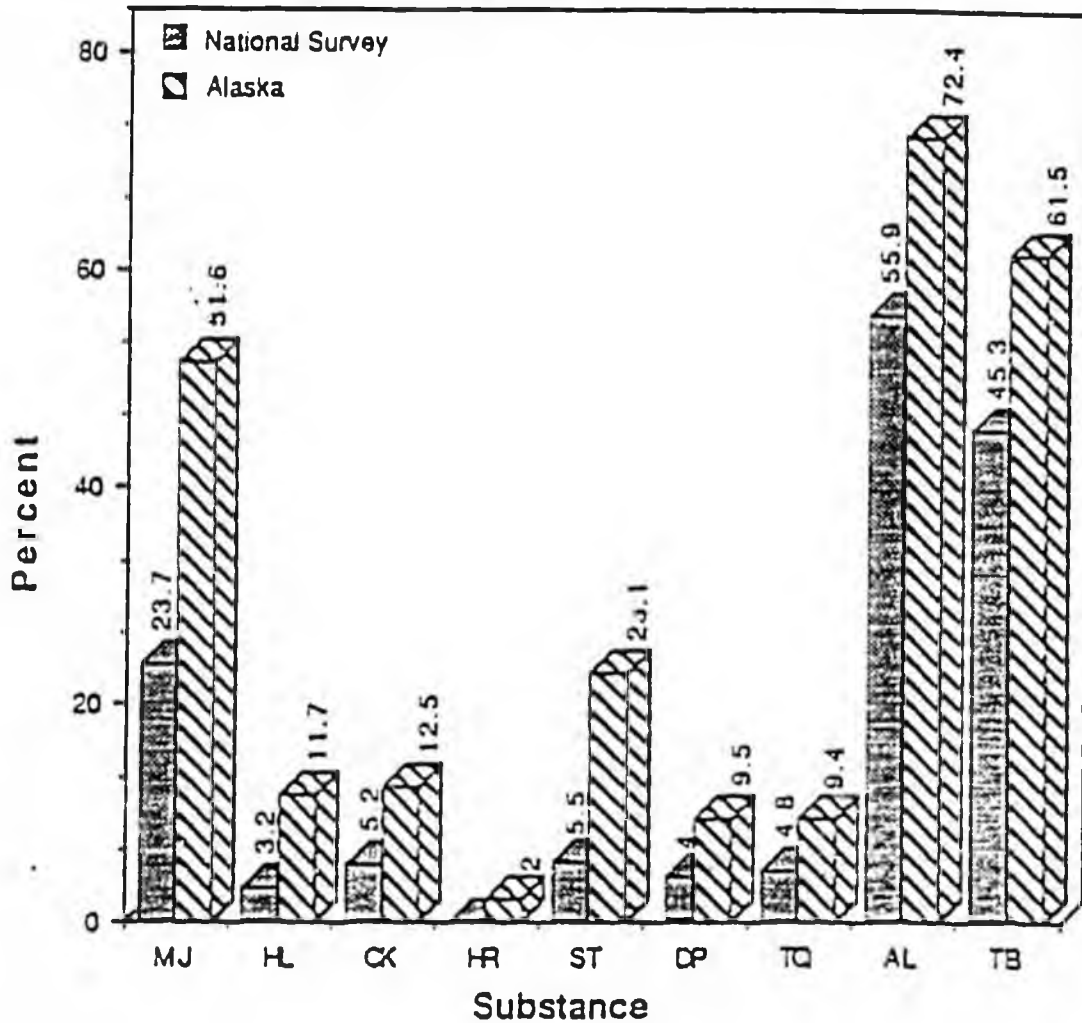
C. Comparisons with Other Surveys

(1) Comparison of Alaska 12-17 Year-Olds with the 1985 National Survey on Drug Abuse: Lifetime Prevalence

The 1985 National Survey on Drug Abuse (NIDA, 1986) identifies lifetime prevalence of drug use among 12-17 year-olds in the lower-48 states. A comparison of the Alaskan data for the same age group (Figure 4-45) shows that Alaskan 12-17 year-olds exceeded the national levels for every substance. Marijuana, for example, was greater than twice the national level, and stimulants were more than three times the national rate.

The question arises of why the Alaskan data is so much higher than the prevalence levels cited in the national survey. One possible answer involves differences in methodology. The Alaska survey utilized a procedure which called for anonymous responses to questionnaires. The national study involved direct interviews. It is possible that direct interviews, particularly when conducted in the interviewee's home, elicited more false negatives than responding anonymously to questionnaires in school, thereby resulting in lower prevalence rates. An alternative explanation is that substance use in Alaska is higher than in the lower-48 states.

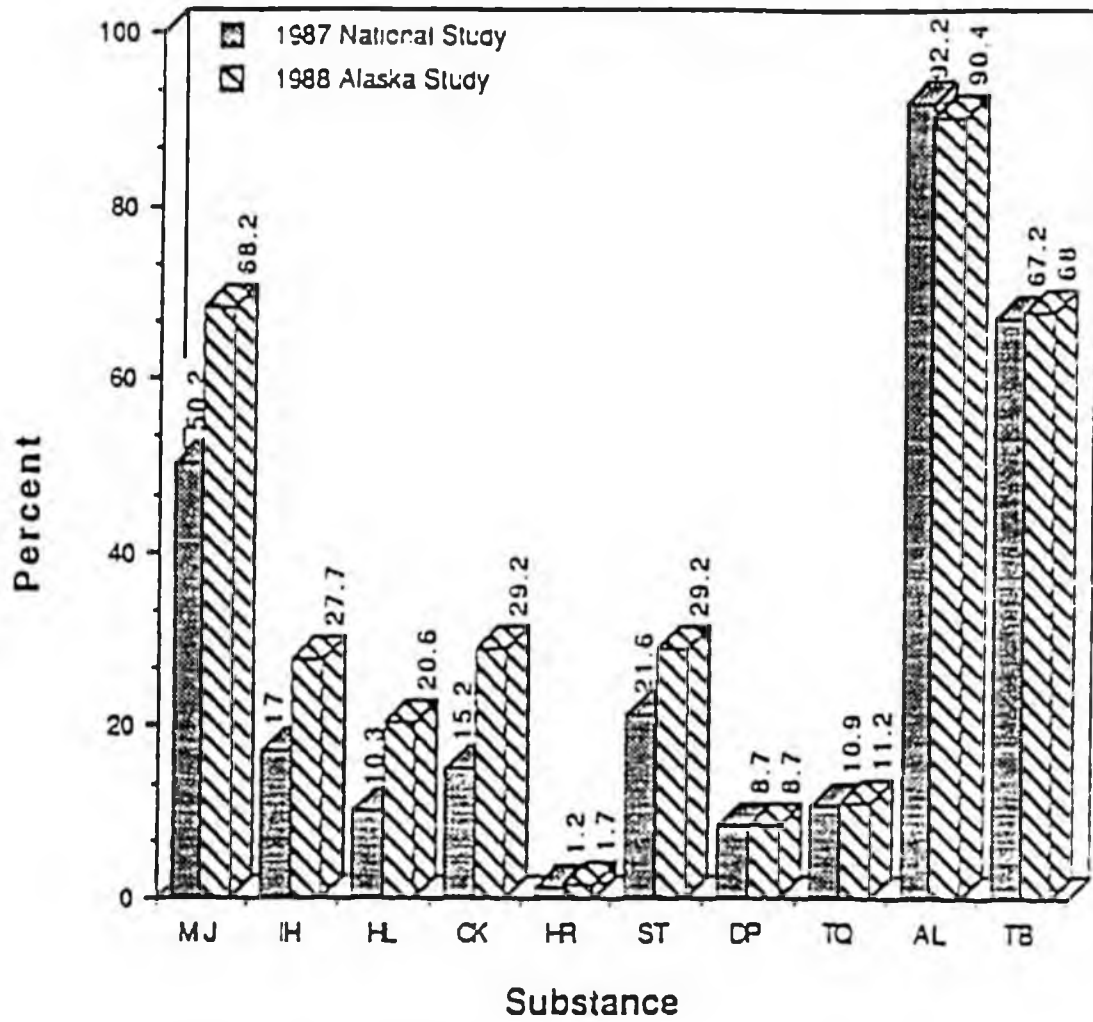
Figure 4-45
 Comparison of Alaska With
 the 1985 National Household Survey
 for 12-17 Year Olds
 Lifetime Experience



 (2) Comparison of Alaska Seniors with the 1987 National High School Senior Survey: Lifetime Prevalence.

Table 4-46 provides a comparison of the findings for Alaska high school seniors with the findings from the 1987 National High School Senior Survey (Johnston, 1988). As may be observed, the Alaskan data is either generally comparable for some substances, or exceeds national prevalence levels. Alaskan prevalence rates for marijuana, inhalants, hallucinogens, cocaine, and stimulants tended to be higher than the national figures; experiences with heroin, depressants, tranquilizers, alcohol, and tobacco were fairly comparable.

Figure 4-46
 Comparison of Alaskan Seniors with
 the 1987 National High School Senior Study
 Lifetime Prevalence



Current Law Compared to Provisions of SB 340 - Drug Free School Zones

Action	Current Law: On School Grounds By An Adult	Current Law: Off School Grounds By Any Person	CS SB 340(Fin) am Within 1000 feet of a School By Any Person
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Simple Possession of the Following Controlled Substances:

IA, IIA	B Felony	C Felony	B Felony
Large Amounts of IIIA, IVA, VA	C Felony	C Felony	C Felony
Small Amounts of IIIA, IVA, VA	C Felony	A Misdemeanor	C Felony
VIA	C Felony	16 oz or more: C Felony 8 oz or more: A Misdemeanor 4 oz or more at home: B Misdemeanor 1 oz or more in public: B Misdemeanor Any amount in a propelled vehicle: B Misdemeanor Less than 1 oz in public: Violation Less than 4 oz at home: Legal	C Felony C Felony C Felony C Felony C Felony C Felony Legal

Current Law Compared to Provisions of SB 340 - Drug Free School Zones

Action	Current Law: On School Grounds By An Adult	Current Law: Off School Grounds By Any Person	CS SB 340(Fin) am Within 1000 feet of a School By Any Person
Delivery or Possession With the Intent to Deliver the Following Controlled Substances:			
IA	Current law enhances possession violations on school grounds, not delivery violations (see other chart)	A Felony	A Felony
IIA, IIIA		B Felony	A Felony
IVA, VA		C Felony	B Felony
VIA 1 oz or more VIA 1/2 oz or more VIA 1/2 oz or less for remuneration VIA 1/2 oz or less		C Felony A Misdemeanor A Misdemeanor Violation	B Felony C Felony C Felony C Felony

Controlled Substance Schedules:	
I	Includes heroin, opium
II	Includes cocaine, LSD
III	Includes hashish
IV	Includes some barbituates
V	Includes Codeine
VI	Marijuana

"Use It and Lose It" Law
AS 28.15.185

Current Law

Minor convicted of a drug or alcohol offense loses his or her driver's license for:

First offense: 90 days

Subsequent offense: 1 year

CSSB 340 (Fin) am

Minor convicted of a drug or alcohol offense loses his or her driver's license for one year or age 18, whichever is longer.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to delivery and possession of controlled substances"
 Sponsor: Sen. Falke, et.al.
 Requestor: _____

Agency Affected: H&SS
 BRU: Youth Services
 Components: Probation Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL SUPPLIES	180.0	180.0	180.0	180.0	180.0	180.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	180.0	180.0	180.0	180.0	180.0	180.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	180.0	180.0	180.0	180.0	180.0	180.0
FEDERAL FUNDS						
OTHER						
TOTAL	180.0	180.0	180.0	180.0	180.0	180.0

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) FY 90 fiscal impact is "0"

Prepared by: *Russ Webb* Phone: 465-3170
 Division: Family and Youth Services Date: 3/25/90
 Approved by Commissioner: *Mira M. Munson* Date: 3/27/90
 Agency: Dept. of Health and Social Services

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

ANALYSIS:

There would be no fiscal impact on the department in FY90.

CSSB340 will make available to the court an additional statutorily authorized delinquency disposition alternative. The court could order a substantial amount of community service to be completed by a minor who has been adjudicated on the basis of a substance abuse offense involving possession for distribution on a school ground or school bus.

Application of this alternative would require the division of Family and Youth Services to develop widely distributed community work service programs. Without an appropriate program to support a community work service order it is unlikely the court would select this delinquency disposition alternative and, if ordered, it is unlikely that such orders could be meaningfully applied or have rehabilitative value.

A well designed systematically applied program is necessary to identify appropriate community work service sites, negotiate agreements with public and private non-profit agencies providing work service sites, assign youth to appropriate sites, monitor behavior on-site, document completion of work service requirements and report to the court. Performance of such activities can most effectively be carried out by a private sector agency under contract with the department. Program services could be organized regionally in Juneau, Fairbanks, and Anchorage. Program services for the smaller communities in those regions could be provided itinerantly by the contractor. Such programs could handle 500-800 referrals per year making community work service a viable delinquency disposition alternative for all adjudicated delinquents, not just those charged with substance abuse offenses.

Cost estimates were derived from actual operational costs for the juvenile community work service program previously provided through RSA to the Department of Law Pretrial Diversion Unit. That program was discontinued in 1987. Cost per regional site providing both local and itinerant services is \$60,000 for a total statewide annual cost of \$180,000 for three (3) sites. Contractor costs are as follows:

Full-Time Coordinator: salary & benefits @ 42.0 per staff for each of 3 regions	42.0	X 3	=	\$123.0
Support Services: travel, communications, supplies and equipment @19.0 per regional program	19.0	X 3	=	57.0
TOTAL				<u>\$180.0</u>

FINANCE
2/13/90
ADOPTED
JPC

Senate Letter of Intent

CSSB 340 (Finance)

It is the intent of the legislature that the Department of Public Safety annually coordinate the printing of a "Student's Rights" card designed and written by the Department of Education. The Department of Public Safety shall make arrangements to distribute the card to every child enrolled in a public school, and to every child enrolled in a private school of which the Department of Education has a record under AS 14.45. The legislature intends that the Commissioner of Education use the "Student's Rights" card distributed by the State of New Jersey as a guide in designing the card, and that the card include information that summarizes the Alaska statutes applicable to the sale and possession of controlled substances on or near school grounds, and on school buses.

It is the further intent of the legislature that the Department of Public Safety annually coordinate the preparation and mailing of an information pamphlet to all households in the state. The pamphlet should be written in easily understandable language, should be designed to educate the public about controlled substances, and should summarize information relating to the criminal penalties applicable to the sale and possession of controlled substances on or near school grounds, and on school buses.

The legislature does not intend for the Department of Public Safety to pay for the cost of printing or distributing the "Student's Rights" card or information pamphlet. Instead, the legislature intends for the Commissioner of Public Safety to develop a process for soliciting in-kind donations of services and materials from private sector businesses and individuals, and to allow members of the private sector to print and distribute the "Student's Rights" cards and information pamphlets. The names of the donors shall be printed on each card and pamphlet.

adopted by Senate 2/22/90.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CS SB 340 (Rules) (a)
PUBLISH DATE: 2/22/90

REQUEST: FISCAL NOTE

Revision Date:
Title: An Act relating to Drug Free School Zones
Sponsor: Faiks, etc.
Requestor: Faiks

Agency Affected: DOT&PF
BRU: Maintenance and Operations

Components:

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
CONTRACTURAL	148.5	15.0	30.0	30.0	30.0	45.0
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
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	148.5	15.0	30.0	30.0	30.0	45.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	148.5	15.0	30.0	30.0	30.0	45.0

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: See attached.

Prepared by: Jeffery C. Ottesen
Division: Director, Engineering and Operations Standards

Phone: 465-2951
Date: January 24, 1990

Approved by Commissioner: Mark S. Hickey
Agency: Department of Transportation and Public Facilities

Date: January 24, 1990

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

Changes in CS SB 340 (Rules) have no fiscal impact. This fiscal note is appropriate. M/C

There is no way to make an actual inventory of signed school locations on short notice. However, there are 660 schools, and it can reasonably be assumed that at least half are on or near the state system (including municipal arterials), and are marked as schools by school speed zones, marked crosswalks, or advance school warning signs.

Furthermore, where schools are signed there would rarely be less than two marked locations (one in each direction on one road) and probably rarely more than four (one in each direction on two roads) for an average of 3 per school. This amounts to 330 schools x 3 signs per school average = 990 signs total.

Large signing contracts average approximately \$50 per square foot for installed signs. The required sign size for legibility and consistency would be about two square feet. However, such smaller signs have much the same mounting, labor and equipment costs as those several times larger. Including the need to locate the signs rather accurately, the estimated cost per sign is conservatively \$150 each.

This results in an estimated initial cost of \$148,500 in 1990 dollars.

The sign life due to deterioration, accidental destruction, and the high vandalism target value cannot be expected to exceed about five years with, for all causes, 10% loss the first year, 20% the second through the fourth years, and 30% the last year when deterioration sets in, and about 20% per year average thereafter.

This results in maintenance as follows (in 1990 dollars):

1st year	$0.10 \times \$150K = \$15,000$
2nd thru 4th years	$0.20 \times \$150K = \$30,000$ per year
5th year	$0.30 \times \$150K = \$45,000$
thereafter	$0.20 \times \$150K = \$30,000$ per year

There is no way to accurately speak for the municipalities for the costs on their road system.

FISCAL NOTE

REQUEST:

Revision Date: 2/9/90 Agency Affected: Public Safety
 Title: Illegal drugs/schools BRU: Alaska State Troopers
 Sponsor: Senator Faiks, et al. Component: AST Special Projects
 Requestor: Senate Finance

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	39.7	39.7	39.7	39.7	39.7	39.7
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	39.7	39.7	39.7	39.7	39.7	39.7

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND	39.7	39.7	39.7	39.7	39.7	39.7
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	39.7	39.7	39.7	39.7	39.7	39.7

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	2	2	2	2	2	2
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.) Changes in CSSB 340 (Rules)
 have no fiscal impact.
 This fiscal note is
 appropriate. *ME*

Prepared by: Francis C.
 Division: Alaska State Troopers

Phone: 269-5691
 Date: 2/9/90

Approved by Commissioner: Arthur English
 Agency: Department of Public Safety

Date: 2/9/90
 Page 1 of 4

2/9/90

Department of Public Safety
Fiscal Note Analysis
CSSB 340 (FIN) DRAFT, Drug Free School Zones
Page 2 of 4

Passage of proposed CSSB 340 (FIN) in its present form would require the Department of Public Safety to annually produce and distribute "Student's Rights" cards to an estimated 112,000* students presently enrolled in the 625 public and private schools in Alaska.

This bill also requires the Department of Public Safety to produce and distribute a controlled substances information pamphlet which is to be distributed annually to each of the estimated 266,000** households throughout Alaska.

The bill prohibits the Department of Public Safety from using state funds to accomplish this task, and an accompanying "letter of intent" directs the Department to solicit funds from private sources. The Department does not feel that this approach is realistic in Alaska. States with larger corporate environments may be able to obtain such voluntary support, but solicitation of donations for continuing revenue is very difficult. Despite serious doubts about the workability of this scheme, this fiscal note is the Department's best estimate of essential costs.

To accomplish the tasks set out by the language of this bill, as interpreted in the letter of intent, the following activities must occur: writing, research, design and layout of the information pamphlet and Student's Rights cards, preparation of printer's specifications, bid specifications, mail assembly, and distribution. These and many other tasks must be handled by skilled personnel in order to ensure compliance with the legislation. In addition, it will be necessary for at least one member of the DPS staff to oversee and coordinate this project to ensure compliance.

Personal Services:

Publications Specialist II	\$25.3
Clerk Typist II	<u>14.4</u>
TOTAL	<u>\$39.7</u>

- * Figures from the Department of Education.
- ** Figures from U.S. Census Bureau.

Position Title Publications Specialist II		No. of Positions 1	Range/Step 16/A	Barg. Unit	
Time Status PPT	Staff Months 6	Location Anchorage		Election District 10	
Type of Expenditure		Justification			
Amount		<p>This position will function within the Community Services Bureau. This person will be responsible for the preparation, writing, and design layout of the controlled substance information pamphlet and the "Student's Rights" card. Further, the position would be responsible for preparing printer's specifications and obtaining bids for printing of these publications. Distribution and mailing of the material would also be coordinated by this individual.</p> <p>• Six months funding will be needed to perform the work necessary to meet the requirements of this legislation.</p>			
1	2				3
Salary*	18,956				////////////////////
Benefits*	6,306				////////////////////
Premium Pay (Included in Above)	////////////////////				////////////////////
Other	////////////////////				////////////////////
Total Personal Services	////////////////////				25.3
Travel					
Contractual					
Commodities					
Equipment					
Other					
Total Cost		25.3			
Funding Source for Total Cost					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	25.3			
Program Receipts/GF	1005				
I-A Receipts	1007				
CIP Receipts	1061				
Other					
* Personal Services Salary and Benefits Costs are from PACS.					

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
 BRU Alaska State Troopers
 COMPONENT AST Special Projects

Page 3 of 4
 Revised Date

FY 91

Position Title Clerk Typist II		No. of Positions 1	Range/Step 7/A	Barg. Unit ASEA
Time Status PPT	Staff Months 6	Location Anchorage		Election District 10
Type of Expenditure		Justification		
1	2	3		
Salary*	10,394	////////////////////		
Benefits*	3,982	////////////////////		
Premium Pay (Included in Above)	////////////////////	////////////////////		
Other	////////////////////	////////////////////		
Total Personal Services	////////////////////	14.4		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		14.4		
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	14.4		
Program Receipts/GF	1005			
I-A Receipts	1007			
CIP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS.				

This Clerk Typist II position will be assigned to the Community Services Bureau to provide clerical support for this project in terms of research and follow-up correspondence with schools and interested households.

This position will be needed for 6 months to accomplish the goals envisioned in the legislation.

LTP

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
 BRU Alaska State Troopers
 COMPONENT AST Special Projects

Page 4 of 4
 Revised Date

FY 91

Alaska State Legislature



Senate Judiciary Committee

MEMORANDUM

February 27, 1990

TO: Representative Johnny Ellis, Chairman
House HESS Committee

FROM: Senator Jan Faiks, Chairman
Senate Judiciary Committee

SUBJECT: SB 340 "An Act relating to the delivery and possession of controlled substances and imitation controlled substances; and requiring installation of signs in the vicinity of schools declaring the areas to be 'drug-free school zones'; and providing for an effective date."

CSSB 340 (Rules) am has been referred to the House HESS Committee for consideration. This bill creates areas around public and private preschools, elementary and secondary schools in which penalties for the sale and possession of drugs will be enhanced.

Many states, including Alaska, have laws on the books that increase the penalty for selling drugs on school grounds. The purpose is to protect young people from exposure to drugs at a time in their lives when they are least able to appreciate the risks or resist peer pressure. The problem with these laws is that they invariably apply only to the school grounds, and not to the area surrounding the school. It is essential that a zone around each school be drug free, not just the school itself. Otherwise, drug dealers can operate freely across the street from the schoolyard.

In 1987, New Jersey became the first state to adopt a "drug-free school zone" law. This law raises the penalties for drug sales and possession not only on the school grounds, but within 1000 feet of a school as well. CSSB 340 (Rules) am is modeled on this New Jersey law. Since 1987, approximately 35 other states have adopted some version of drug-free school zone legislation. President Bush has made the drug-free

school zone concept part of his National Drug Control Strategy, and the Chiefs of Police National Drug Task Force has called it "perhaps the most effective incremental system-wide solution to the drug problem."

A sectional analysis of CSSB 340 (Rules) am is attached. You will note the following major differences between current law and this bill:

Current law makes it a more serious offense for an adult to possess drugs on school grounds. The specific penalty depends on the type of drug that is possessed. For example, an adult who possesses a small amount of cocaine off school grounds is guilty of a class C felony (up to five years in jail/\$50,000 fine), whereas possession on school grounds would be a class B felony (up to 10 years in jail/\$50,000 fine). Current law does not apply to the area surrounding a school, or to conduct on a school bus.

CSSB 340 (Rules) am changes this in several major ways. First, it makes it a more serious offense for any person (adult or minor) to deliver or possess with the intent to deliver controlled substances within 1000 feet of a school or on a school bus. For example, a person who delivered cocaine more than 1000 feet from a school would be guilty of a class B felony; if he delivered it within 1000 feet of a school or on a school bus, he would be guilty of a class A felony (up to 20 years in jail/\$50,000 fine). Minors charged with dealing drugs on school grounds would be adjudicated under the juvenile justice system, as they are with current drug law violations. However, minors would be subject to a mandatory sentence of 100 hours of community service.

Second, the bill provides that any person (adult or minor) who possesses drugs for personal use (i.e. the casual user as opposed to a dealer) is committing a more serious crime if the possession takes place within 1000 feet of a school or on a school bus. For example, a person who possessed cocaine more than 1000 feet from a school would be guilty of a class C felony; if he possessed it within 1000 feet of a school or on a school bus, he would be guilty of a class B felony. Again, minors would be adjudicated under the juvenile justice system, but subject to a mandatory sentence of 100 hours of community service.

In order to advise persons of these newly created drug-free school zones, the bill requires the state and municipalities to post street signs around schools, declaring the area to be a "Drug-Free School Zone." Five other states require signs to be posted: New Jersey, Maryland, Texas, Florida, and Pennsylvania.

Additionally, the Department of Public Safety is required to issue "Student's Rights" cards to every student in the state, based upon the New Jersey student right's card; this card expresses a student's right to attend school in a drug-free environment. It is also required to prepare and distribute to each household a pamphlet summarizing the state's drug laws. Copies of New Jersey's card and pamphlet are attached.

One final change is made to the "use it and lose it" law passed by the Legislature several years ago. This law currently provides that a minor who is adjudicated for misconduct involving a controlled substance or for possession or consumption of an alcoholic beverage loses his or her driver's license for 90 days for a first offense, and for one year for a subsequent offense. CSSB 340 (Rules) am amends this statute to provide that the minor loses the driver's license for one year or until his or her 18th birthday, whichever is longer.

While supply eradication and interdiction efforts are necessary, the most effective long-term solution to the drug problem is demand reduction. It is difficult to reduce demand among our young people when they are continually assailed by drug use and trafficking in and around their schools. Reduction of these activities will enable us to create safer, more productive learning environments in which values opposing drug use can be fostered. I urge the HESS Committee to schedule this bill at its earliest convenience.

STATE OF ALASKA
THE LEGISLATURE

FOUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 20, 1990

SUBJECT: CSSB 340 (Finance), sectional analysis

TO: Senator Jan Faiks

FROM: Jack Chenoweth
Legislative Counsel

The legislation makes conviction for possession, delivery, and use of controlled substances in schools, on or near school grounds, and on school buses as felonies, makes more stringent the penalties involving conviction for possession and consumption of alcohol by minors, and adds a number of related responsibilities to various state boards and agencies.

Bill section 1 defines delivery and possession with intent to deliver a schedule IIA and schedule IIIA controlled substance on or within 1000 feet of school grounds or on a school bus as misconduct involving a controlled substance in the second degree, a class A felony.

Bill section 3 defines each of the following occurring on or within 1000 feet of school grounds or on a school bus as misconduct involving a controlled substance in the third degree, a class B felony: (1) delivery of a schedule IVA or VA controlled substance, (2) delivery of one ounce or more of a schedule VIA controlled substance, (3) possession with intent to deliver a schedule IVA or VA controlled substance, (4) possession of one ounce or more of a schedule VIA controlled substance with intent to deliver, (5) possession of any amount of a schedule IA or IIA controlled substance.

Bill section 5 defines unlawful possession of a schedule IIIA, IVA, VA, or VIA controlled substance on or within 1000 feet of school grounds or on a school bus as misconduct involving a controlled substance in the fourth degree, a class C felony.

Bill sections 2, 4, and 6 establish affirmative defenses applicable in the event of prosecutions for each of the preceding. The affirmative defenses establish exceptions for

DRUG- FREE SCHOOL ZONE

If you need help for
a drug problem, call:
1 800 225-0196.

If you see someone
breaking New Jersey's
drug laws, call the
Morris County
Tipline:
(201) COP-CALL.

All calls are strictly
confidential.

Sponsored by the Attorney General's Statewide Narcotics Task Force.

Students' Rights Card

In New Jersey:

1. You have the right to attend a school that is free of drugs and violence.
2. You have the right to walk or drive to school without having to face someone selling drugs.
3. You have the right to drug education programs in your school and to learn how and why to say "no" to drugs.
4. If you already have problems with drugs and alcohol, you have the right to seek treatment and confidential counselling.
5. You have the right to grow up healthy and be the best you can be.

This is an ENLARGED version of a WALLET SIZE
card given to EVERY student (k-12) in New Jersey.

CORRECTION

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

STATE OF ALASKA
THE LEGISLATURE

POUCH V. STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

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Bill section 7 offers definitions for the terms "school bus" and "school grounds" used in the preceding sections.

Bill section 8 directs the state board of education to prepare and issue a "student's bill of rights," to include information about state laws applicable to possession and sale of controlled substances in schools, on school grounds, and on school buses.

Bill section 9 directs the commissioner of public safety to prepare and annually issue a student's rights card, and to develop and mail to each household an information pamphlet relating to controlled substances, with emphasis on the penalties applicable to possession and sale of substances in schools, on school grounds, and on school buses.

Bill section 10 requires the Department of Transportation and Public Facilities to install "drug-free school zone" signs in the vicinity of all schools in which it has placed a sign identifying the location of a school.

Bill section 11 directs municipalities to place the same kind of signs in the vicinity of schools on the same basis.

Bill section 12 compels the court to revoke the driver's license of a minor convicted or adjudicated of driving while intoxicated for one year or until the minor reaches the age of 18, whichever is longer.

Bill section 13 mandates a court to compel a minor who is convicted or adjudicated of a violation involving possession, delivery, or use of a controlled substance in a school, on school grounds, or on a school bus to perform a minimum of 100 hours of community service.

Bill section 14 makes the sign placement provisions of bill sections 10 and 11 effective August 16, 1990.

Bill section 15 suggests use of the New Jersey student's rights card as a model for similar cards to be prepared and issued under the amendment made by bill section 9.

**DRUG-
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This is an ENLARGED version of a WALLET SIZE
card given to EVERY student (k-12) in New Jersey.

Dear New Jersey Resident:

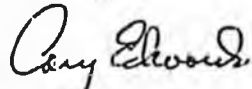
New Jersey now has one of the toughest drug laws in the nation. Our new law recognizes that if we are ultimately to win the so-called "war" on drugs, we can only succeed by reducing the demand for illicit substances. This, in turn, will largely depend on the new school education programs designed to teach our young people how and why they should say no to drugs. Our schools, in other words, will serve as the focal point of our efforts to raise a truly drug-free generation and ultimately win this war.

We must, therefore, be certain that schools and the areas around them, the "Drug-Free School Zones," are safe havens for children, not convenient marketplaces for drug dealers or users. We are even putting signs up across the State to make you, the citizens of New Jersey, aware of our strategy. Our children are entitled to an environment conducive to their education, one that is free of drugs and where drug trafficking activities are not tolerated. Children should not be able to look out their classroom window and see a drug deal taking place. They should not be able to find used "crack" vials littered around school playgrounds. They should not be propositioned to buy or use drugs while walking to school or in school buildings.

In sum, we must as an absolute priority do everything we can to keep innocent children as far away from the drug culture for as much of the day as possible. In this way, with your help, we can give our new K-12 drug education programs and drug awareness coordinators a chance to do their jobs of teaching our children how and why to say no to drugs. We are all soldiers in this war and we must join together and fight for a generation free of drugs.

Thank you for your help with this program, which is vital to the future of New Jersey's children.

Sincerely,



Cary Edwards
ATTORNEY GENERAL OF NEW JERSEY

The Commission to Deter Criminal Activity was established in 1984 as part of the Department of Law and Public Safety and represents various law enforcement organizations, governmental officials and private citizens. The Commission is focused on the drug and alcohol problem in New Jersey and will educate the public about the penalties of violating the Drug Reform Act of 1987.

The New Jersey Drug Laws:

In a Drug-Free School Zone

- Any adult convicted of dealing or passing any type of illegal drug, other than marijuana, will get three years in prison without parole.



- Any adult convicted of dealing even a small amount of marijuana will get one year in prison without parole.
- Anyone convicted of passing a drug could be considered a dealer and therefore is also subject to prison without parole.
- Anyone convicted of simply having any type of illegal drug in a Drug-Free School Zone will have to do 100 hours of community service.



Be aware that under the law an adult is someone 18 years old and over. In addition, a juvenile, 14 years old and over, can be treated as an adult in an adult court.

**Don't mess with
drugs in New Jersey schools.**

Everywhere in New Jersey

- Anyone convicted of any drug offense will automatically lose his or her driver's license. It doesn't matter if a car was used in committing the offense.
- Anyone under 17 years of age who is convicted of any drug offense will not be able to get his or her driver's license for at least six months after turning 17.

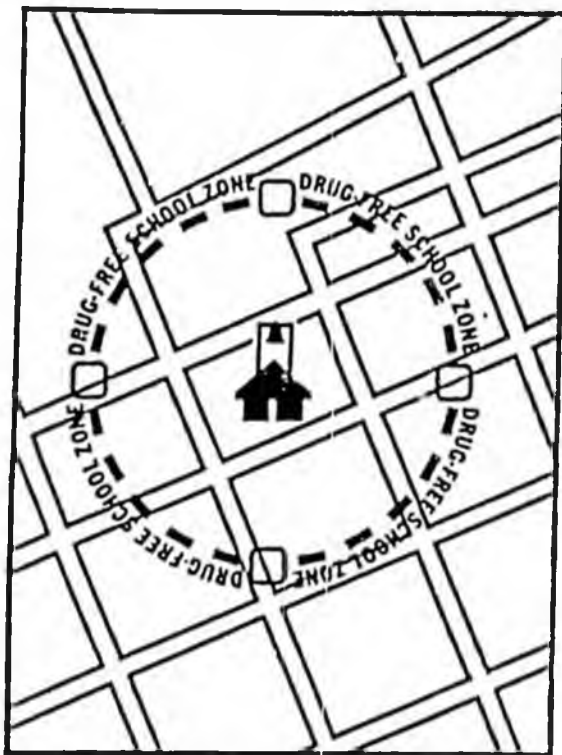


- Anyone convicted of any drug offense, including use, will have to pay a special cash penalty, which starts at \$500 and goes up to \$3,000. This money is intended for drug education and prevention programs.
- Any adult convicted of dealing or giving drugs to someone under 18 years old will have the regular penalties doubled.
- Any adult who is convicted of being in charge of a drug dealing ring will go to jail for 25 years without parole.
- Any adult (over 18 years old) who is convicted of using or employing a juvenile (under 18 years old) in a drug dealing ring will go to jail for five years without parole.

If you need further information contact the Attorney General's Statewide Narcotics Task Force, 6th Floor, Hughes Justice Complex, Trenton, New Jersey 08625, (609) 292-5939.

Drug-Free School Zones
are areas surrounding each
school beginning at the
outermost boundary of the
school property
and extending
1000 feet from
that point.

**DRUG-
FREE
SCHOOL
ZONE**



This Brochure printed courtesy of:



The American Dream Team

Commission to Deter Criminal Activity
3 Market Street CM085
Monton, New Jersey 08625-0085

Don't get caught with drugs here.



STATE OF ALASKA
THE LEGISLATURE

HOUSE - STATE CAPITOL
SHELDON ALASKA 99511
1974-1975

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 20, 1990

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FROM: Jack Chenoweth
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CHIEFS OF POLICE
NATIONAL DRUG TASK FORCE



President George Bush
Honorary Chairman

Hon. Bill Bradley
U.S. Senate (NJ)
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Mr. Ben Vereen
Celebrities For A
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Bill G. Rhoads
Founders

Randy Anderson
Director

Severin L. Sorensen
Credit Director

1110 Vermont Avenue, N.W. • Suite LL10
Washington, D.C. 20005
(202) 296-0900
FAX 296-1734

October 20, 1989

Kevin O' Leary
Chief of Police
4501 S. Bragaw St.
Anchorage, AK 99507

Dear Mr. O' Leary:

As a prominent leader in your state, you must be extremely concerned with the havoc created by drugs. Illegal drugs corrode our society, undermine law enforcement, corrupt officials, spawn rampant crime, spread death and murder, and take their final toll in wrecked lives. Through increased supply eradication and interdiction efforts law enforcement authorities have increased criminal arrests and narcotics seizures. Yet we continue to witness a pervasive drug problem. We are convinced that the only long-term solution to the drug problem will occur when we successfully reduce the demand for drugs.

Of all drug demand reduction alternatives, the drug-free school zone initiative is perhaps the most effective incremental system-wide solution to the drug problem. **Drug-Free School Zones** are designed to reduce the demand for drugs by concentrating enforcement and ancillary drug control efforts within geographic zones (generally 1000 ft.) around schools. By concentrating law enforcement efforts, increasing penalties for certain criminal activities, and linking these efforts with comprehensive drug prevention education and alternative demand reduction activities, we believe that these measures will significantly reduce drug use and trafficking in and around schools. Additionally, these zones help foster healthier and more productive teaching and learning environments wherein positive peer pressure to resist drugs can be promoted.

On July 1, 1987, New Jersey enacted the nation's first model drug-free school zone. Last year, New Jersey reported over 6,500 distribution arrests within drug-free school zones. During this same year 9,600 drivers' licenses were revoked or postponed and their courts collected over six million dollars in cash penalties from drug offenders.

New Jersey's commitment to drug-free schools is beginning to have an impact on their states criminal drug distribution and trafficking patterns. In at least one case, a drug suspect was overheard on a wiretap to explain to a coconspirator that a drug transaction could not be completed in the given location because it was next to a school. So too, New Jersey reports a number of examples of undercover drug buys in which the targets carefully select their point of sale in locations out of these school safe havens. These evidences support the original policy aim of protecting children through drug-free school zones.

In light of New Jersey's success, thirty-five other states have since passed similar drug-free school zone legislation. Further, North Carolina, Ohio, and Texas have proposed or pending legislation to create drug-free school zones. Delaware, Oregon, and West Virginia are aggressively enforcing similar federal legislation, and the District of Columbia is initiating a special pilot program. See attachment for complete listing of statewide drug-free school zones.

In January 1989, concerned leaders from the nation's education, prevention, criminal justice, and law enforcement communities organized the **National Coalition for Drug-Free School Zones**. Through the Coalition, the member organizations pursue two primary goals: (1) the introduction, promotion, and passage of state-sponsored drug-free school zone legislation nationwide, and (2) the development of means whereby to implement effective drug-free school zones, complete with training materials, drug prevention education, and other demand reduction programming. The Coalition includes:

- National School Boards Association
- National Association of Secondary School Principals
- National Association of Elementary School Principals
- National School Safety Center
- Council of State Governments
- National Association of State Alcohol and Drug Abuse Directors
- National Council of Juvenile and Family Court Judges
- National Association of Chiefs of Police

As a member of the Coalition, I wholeheartedly encourage you to support effective implementation of drug-free school zones in your

state. If your state already has legislation, seek to strengthen and implement it. If your state does not enforce drug-free school zones motion to propose it. This initiative is too important and promising to be left unexamined. We encourage you as a leader to organize a state coalition for drug-free school zones, if you have not already done so. Through individual state coalitions local communities can be mobilized into a formidable assault on drugs. Only when these zones reach citizens at grass roots level will they become an effective deterrent to drugs and crime.

The National Coalition for Drug-Free School Zones seeks to support your efforts. The Coalition has gathered copies of states enacted legislation and have prepared other materials and recommendations which may be of assistance to you in this effort. We are in the process of creating an implementation manual to assist local communities establish effective drug-free school zones. Furthermore, we are preparing a quarterly Drug-Free School Zone newsletter that will identify promising strategies, prevention innovations, and legislation nationwide. The first issue of this newsletter will be distributed in January 1990.

Again, we thank you for your continued support in this very important effort to make America drug-free. This can only be done with a united force of state leaders and citizens who are willing to take the necessary steps to accomplish the goal. Your help has been and will continue to be invaluable in our efforts to make drug-free school zones a reality nationwide. We, at the National Coalition For Drug-Free School Zones, look forward to working with you and assisting you in any way we can.

Sincerely,



Severin Sorensen, Director,
National Coalition For Drug-Free School Zones

Coalition For Drug-Free School Zones

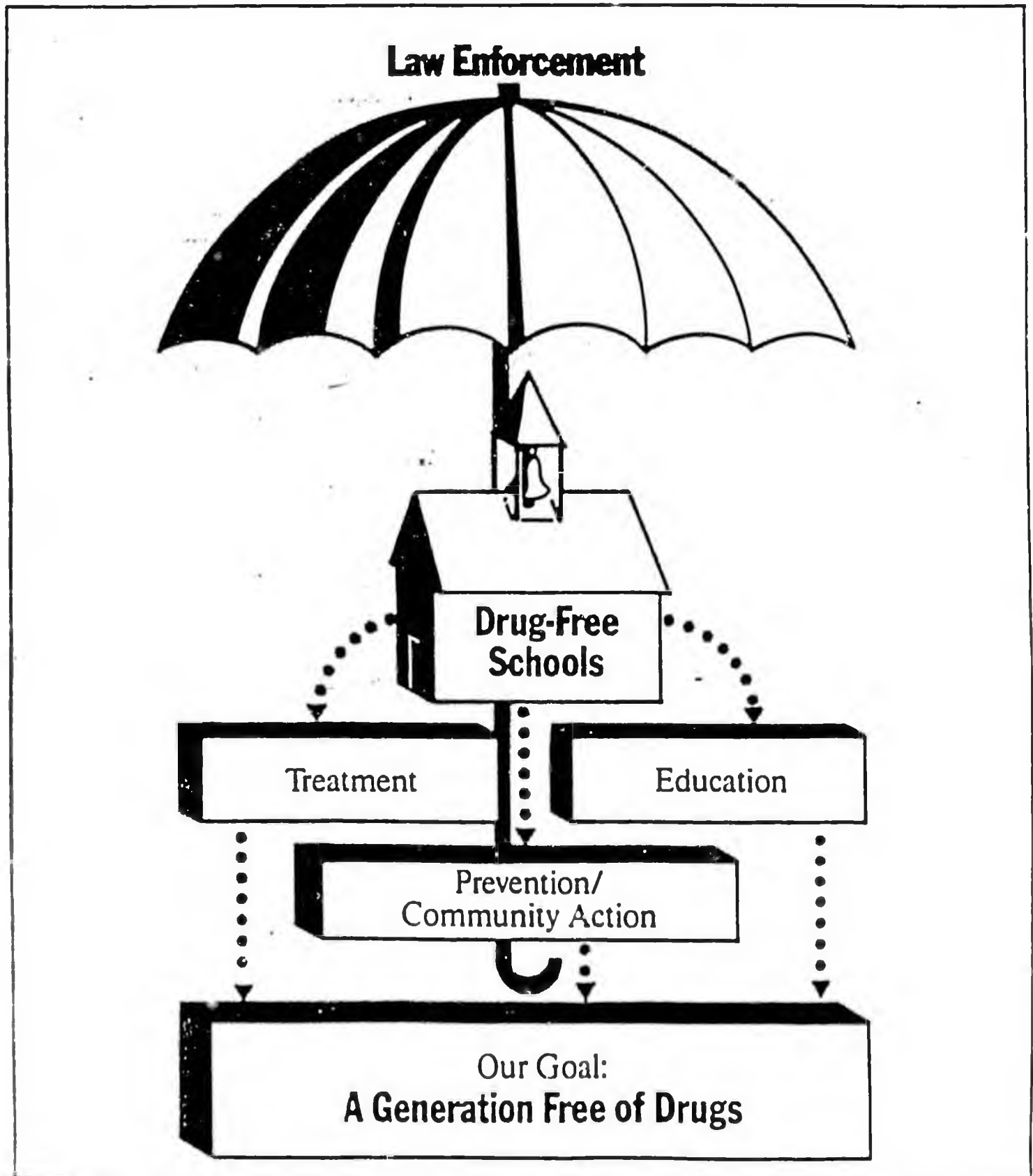
Survey of State Drug Laws, 1989

Survey Data

State	Drug-Free School Zone	Zone Perimeter	Avail. Control Law	Prison Capacity (#)	Prison Occupancy (#)	Prison Fill (%)
Alabama	Yes	1 mile	Yes A	10,126	10,150	100
Alaska	Yes	Grounds	None	2,428	2,448	100
Arizona	Yes	300 ft	None	5,000	5,420	108
Arkansas	Yes		None	5,400	6,000	111
California	Yes	1000 ft	Yes A	96,129	140,791	146
Colorado	No		Yes A	5,400	6,500	120
Connecticut	Yes	1000 ft	None	7,200	7,400	103
Dist of C.	Yes-Pilot	1000 ft	None	6,730	7,300	108
Delaware	Federal	1000 ft	None	3,194	3,015	94
Florida	Yes	1000 ft	None	41,541	37,121	89
Georgia	No		Yes A,T	17,500	19,500	111
Hawaii	Yes	750 ft	Yes A	2,800	3,000	107
Idaho	No		None	1,160	1,444	124
Illinois	No		Yes A	16,684	21,775	130
Indiana	No		None	11,500	13,000	113
Iowa	Yes	1000 ft	None	2,975	3,100	104
Kansas	No		Yes T	5,767	5,574	97
Kentucky	Yes	1000 yd	Yes T	5,998	6,855	114
Louisiana	Yes	1000 ft	None	12,425	16,284	131
Maine	Yes	1000 ft	None	934	1,315	141
Massachusetts	Yes	1000 ft	None	6,200	11,000	177
Maryland	Yes	1000 ft	Yes A,T	10,996	13,961	127
Michigan	No		None	22,563	26,441	117
Minnesota	Yes	1000 ft	Yes A	2,964	3,063	103
Mississippi	Yes	500 ft	Yes T	6,000	7,000	120
Missouri	Yes	1000 ft	None	13,594	13,045	96
Montana	No		Yes A	754	1,070	142
Nebraska	No		Yes A	1,651	2,184	132
Nevada	Yes	1000 ft	No	4,649	5,295	114
New Hampshire	Yes	1000 ft	None	1,000	1,034	100
New Jersey	Yes	1000 ft	Yes A,T	15,600	18,400	118
New York	Yes	1000 ft	None	38,000	40,000	105
New Mexico	Yes	1000 ft	Yes A	2,671	2,859	107
N. Carolina	Pending	1000 ft	None	15,000	17,000	113
N. Dakota	No		Yes A,T	550	515	94
Ohio	Pending		None	18,100	27,000	149
Oklahoma	Yes	1000 ft	Yes A	7,888	9,391	119
Oregon	Federal	1000 ft	None	4,600	5,101	111
Pennsylvania	Yes	1000 ft	None	13,468	18,506	137
Rhode Island	Yes	500 ft	None	1,804	2,153	119
S. Carolina	Yes	1/2 mile	Yes A	12,585	13,067	104
S. Dakota	No		Yes A	1,050	1,050	100
Tennessee	No		Yes A	7,754	7,652	99
Texas	Proposed	1000 ft	Yes A	41,600	42,000	101
Utah	Yes	1000 ft	Yes A	2,500	3,000	120
Vermont	Yes	1000 ft	None	597	717	120
Virginia	Yes	1000 ft	None	11,460	13,125	114
Washington	Yes	1000 ft	Yes A,T	5,868	6,639	114
West Virginia	Federal	1000 ft	None	1,300	1,451	112
Wisconsin	Yes	1000 ft	None	4,800	6,200	129
Wyoming	No		None	850	850	100
TOTAL	Zones: 36 Prop/Pen: 3 None: 12	M: 1000ft L: 1 mile S: 300 ft	A: 23 T: 3	539,307	638,761	118

Ver. 10/20/89

New Jersey's **DRUG-FREE SCHOOLS** Demand Reduction Strategy



New Jersey's **DRUG-FREE SCHOOLS** Demand Reduction Strategy

Recognizing the present level of use and demand for illegal drugs, it is foolish to believe that the law enforcement community alone can win the war on drugs. Law enforcement can, however, dedicate their resources to eliminate the sale, distribution, and use of illegal drugs from our school buildings, school property, and areas around our schools. This effort will create a safe environment for our children so that they may gain the benefits of our drug education programs. New Jersey's "Drug-Free Schools" Program is law enforcement's contribution to a comprehensive strategy designed to create a "Generation Free of Drugs."

The "Drug-Free Schools" part of New Jersey's demand reduction strategy is founded on the principle that the law enforcement community with some new tools and the support of the rest of government has committed to create "Drug-Free Schools" throughout the entire state. This newly created drug-free school environment will then allow the drug education programs, expanded and planned new drug treatment concepts, and new community action alliance prevention initiatives the chance to work towards making the next generation a "Generation Free of Drugs."

A generation (17 years) free of drugs can only be realistically achieved through a 17-year effort of new education, treatment and prevention programs. These non-law-enforcement components of the demand reduction strategy include the K through 12 education program now being instituted in our schools and the new substance abuse coordinators being installed in all New Jersey's school districts over 1988 through 1990 school years.

These education programs, coupled with the effective treatment programs for adults and children, and the establishment of comprehensive community alliance prevention program for each of the 567 communities in New Jersey will help to ensure the success of law enforcement's Drug-Free School program and ultimately create a "Generation Free of Drugs."

New Jersey recognizes that our schools serve as the primary medium for reducing the demand for drugs. Protecting our schools is the greatest possible contribution law enforcement can make in achieving our goal: **A GENERATION FREE OF DRUGS.**