

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6253 SENATE HEALTH, EDUCATION AND SOCIAL SERVICES

657

worthwhile. The change in the language would certainly help the smaller and rural districts in Alaska compete statewide, but also helps urban areas to justify priorities within and among districts, too. Language clarifying that the number of students affected would no longer be a consideration in prioritizing projects should be included in the legislation rather than relying on regulation.

A district's own priorities should be considered by DOE in evaluating project requests under SB 100 to the extent possible. Language to that effect should also be included in the bill rather than in regulation. While such language appears in AS 14.11.009(c)(1), this section is repealed by the bill. Under the new language of Sec. 14.11.013(b)(2), the reference to district priorities is slightly different. The AML does not know if the intent is also different. In making this request, the AML recognizes that the final allocation of a district's projects among the seven priority groups may result in a higher district priority being placed in a lower category. Also the request to consider district priorities recognizes that in determining the final number of projects to be funded, a higher DOE priority project but lower district priority will not be skipped to fund a higher district priority but lower DOE priority unless all other criteria are equal, i.e., the projects are within the same priority grouping and the costs are similar.

Finally, the AML supports keeping the bill relatively simple by leaving the prioritization criteria, for the most part, in regulation. The Task Force will review the final Education Coalition Subcommittee report on criteria and may have additional comments at a later date.

#### THE APPEALS PROCESS

If approval of a DOE-approved grant application by the Board of Education is not automatic, the statute should spell out grounds for disapproval by the Board and provide a mechanism for review of that decision. Consideration should be given to eliminating the reconsideration step and going directly to review by the Commissioner and eliminating or limiting the hearing officer review in the Board review step.

Section 8 includes proposed AS 14.11.016 governing administrative and judicial review. This section only provides for review of certain actions. Approval or disapproval of a grant application by the State Board of Education under AS 14.11.015 is not included in this list. The list limits review to decisions of the Department of Education on priority, scope of the project, and project budget. The only review of Board of Education decisions mentioned is in 14.11.016(e). That is only a provision for further appeal to the court as a fourth step of review of department decisions on priority, scope, and budget. It is unclear whether SB 100 mandates approval of a grant application by the State Board if it meets conditions of department review. If such approval is not automatic, the statute should spell out grounds for disapproval by the Board and provide

a mechanism for review of that decision.

The process of review under AS 14.11.016 is too lengthy. It sets out a four-step process. The third step - appeal to the Board - could take as much as 150 days because of quarterly meetings of the State Board. The scope of issues does not seem complex and the mandatory use of a hearing office seems unwarranted at this level.

One concern regarding delay is the first review step. The request to reconsider appears mandatory before further appeal to the Commissioner. Reconsideration decisions are not required until November 30 of each year. The second step - Commissioner appeal - can take 30 days. The time then is December 30. If an appeal is taken, it would have to be filed by January 29 and then the Board would make an initial determination of a "reasonable basis" for the appeal. The process of Board determination and hearing officer combined with the meeting schedule for the State Board could result in missing the legislative session. Depending on appropriations, a determination could alter everyone's expectations of projects funded. Consideration should be given to eliminating the reconsideration step and going directly to review by the Commissioner and eliminating or shortening the hearing officer step in the Board review stage.

#### INSURANCE

AML recommends that establishment of standards for deductible approval be left to regulation. It also recommends that SB 100 be changed to more clearly recognize that in some municipal school districts the municipality, rather than the school district, purchases insurance for school facilities and equipment. The AML Task Force also recommends that in establishing regulations DOE consider carefully the types of perils it requires to be covered. A requirement for an appeal to the State Board of Education for determination of the adequacy of insurance coverage should be included in the statutes.

The basic requirement of SB 100 for replacement cost property insurance for school facilities and equipment is prudent. The standards for deductible approval by the Alaska Department of Education are best left to regulation because of fairly rapid fluctuations in property insurance availability and cost, although the standards adopted should consider the ability of a district or municipality to meet the deductible.

The legislation should be changed to clearly recognize that in municipal school districts, the facilities are owned by the municipalities, some of which purchase the insurance. The term "school district" should be changed to include the borough or city.

In fashioning regulations, DOE should consider the perils the insurance

covers. Insurance for loss due to flood and earthquake is either not readily available or is only available at extreme cost. Flood insurance may not be available unless the municipality is a participant in the federal flood insurance program. Losses due to earthquake are often excluded from basic coverage. Rather than require insurance for these perils, prevention should be considered by limiting construction in flood-prone areas or construction with higher seismic shock resistance.

No procedure is set out for review of determinations that the insurance is not adequate. A requirement for procedures for review by the State Board of Education should be included in the statutes. The sections of the bill dealing with appeals only pertain to grant project disapproval. Note that proposed AS 14.11.011(b)(2) in Section 8 contains a grammatical error. There would be no "state funds available under AS 14.11.005" because this subsection refers to the insurance requirement. This misplaced preposition should be corrected, or the proposed AS 14.11.150(c) imposes the same restriction and AS 14.11.011(b)(2) could actually be eliminated.

#### GENERAL COMMENTS

The AML feels that provisions of this bill will help the State identify the needs and costs associated with various classes of projects so the Legislature can address adequate funding and other appropriate actions in the future.

The AML Task Force has examined the bill and the concept of establishing an allocation between debt reimbursement and life safety capital projects to provide stability in the event of short funding of need. Connected with this are issues of future funding for construction of schools that have to be addressed by the Legislature. The provisions of this bill will help the State identify the needs and costs associated with various classes of projects so the Legislature can address adequate funding and other appropriate actions in the future.

AML recommends that the proposed sunset date to be removed so that program can be allowed time to work. The Task Force has a concern that the sunset provision of the bill for the grant program does not allow sufficient time for the program to develop the information to make the future choices or to see if it can provide a long-term program for construction through the grant process. Accordingly, we would recommend that the proposed sunset date to be removed, or at a minimum be extended, so that program can be allowed time to work. If it is found not to work, the Legislature can take appropriate action at that time rather than establishing a sunset date at this time.

AML appreciates the work of the sponsors of this bill and HB 37 and the

AML Comments on SB 100  
March 6, 1989  
Page 9

opportunity to provide constructive comments about it to ensure the continued support of our education priority and to ensure good public policy and equity in the school construction program of the State. These comments and recommendations are offered to improve the legislation and to encourage its passage by the Legislature this year. The AML Task Force will continue to follow the bill through the legislative process and is ready to assist the Legislature in its review. Again, the passage of SB 100 or similar legislation is a priority of the AML.

cc: Senator Arliss Sturgulewski  
Representative C. E. Swackhammer

Testimony/SB100

# Alaska State Legislature



SENATOR  
ARLISS STURGULEWSKI  
Senate President Pro Tempore  
Chairman, Senate Rules Committee

2957 SHELDON JACKSON STREET  
ANCHORAGE, ALASKA 99508

While in Juneau  
P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3818

## Senate

M E M O R A N D U M

17 March 1989

TO: Senator Paul Fischer  
Chairman, Senate HESS Committee

FROM: Senator Arliss Sturgulewski

This memo is to aid in the discussion of issues contained in Senate Bill 100. A number of individuals and groups have been working on these policy questions and some agreements have been reached. Representatives of the Alaska Municipal League, the Alaska State Department of Education, the Alaska Association of School Boards, the Southeast Regional Resource Center, and legislative offices have all participated in these discussions.

The the HESS Committee Substitute contains the following policy change from the original bill:

1. Sunset without reversion to current law.

Issues I hope the working group will consider for incorporation into the committee substitute are:

1. Sunset date.
2. Relationship between municipalities and school districts.
3. Ranking of projects within categories using the number of students as a criteria.
4. The administrative appeal review process.
5. Section 10.
6. Phase III schools temporary priority.

1. SUNSET DATE:

*1. Thoon Bay  
2. MT Village  
3.*

Issues:

- in what year should the program sunset?
- should there be a reversion to current law or should a future legislature be required to take a comprehensive look at the program?

Agreement:

- 1995 should be sunset date.
- no reversion clause.

Rationale:

- need time to see if program works, particularly the six-year planning process.
- program will need comprehensive look in the future based on needs current at that time.

2. RELATIONSHIP BETWEEN MUNICIPALITIES AND SCHOOL DISTRICTS:

Issues:

- because the language in the bill referred to the "district" making application and receiving funds, there was concern on the part of the Alaska Municipal League that this legislation would change the relationship between the municipalities and the school districts, giving the school districts more authority or autonomy than currently exists.

- The Municipality of Anchorage and the Anchorage School District have executed a memorandum of agreement that allows the school district to carry out some of the statutory responsibilities of the municipality.

Agreement:

- the wording "district" in the bill can be replaced, where appropriate, by the wording "municipality that is a school district or a regional education attendance area".

- Language has been drafted that allows a municipality and a school district to execute an agreement to divide certain duties.

Recommendation:

- direct legal services to replace "district" with "municipality that is a school district or a regional education attendance area" where appropriate.

- include language in the bill that allows municipalities and school districts to agree to divide duties despite statutory assignment of responsibility.

3. RANKING OF PROJECTS WITHIN CATEGORIES USING THE NUMBER OF STUDENTS AS A CRITERIA:

Issues:

- current practice is the within categories the Department of Education ranks projects by the number of students affected by the project.

Introduced by: Mayor  
Date: December 6, 1988

Action:  
Vote:

KENAI PENINSULA BOROUGH

RESOLUTION 88-100

TRANSFERRING \$4,000,000 EXCESS BOND PROCEEDS FROM BOND ISSUES PREVIOUSLY SOLD TO THE SEWARD ELEMENTARY SCHOOL AS AUTHORIZED BY THE OCTOBER 4, 1988, REGULAR ELECTION.

WHEREAS, the Kenai Peninsula Borough voters authorized the transfer of excess bond proceeds from previously sold bond projects to the Seward Elementary II school in the October 4, 1988, regular election; and

WHEREAS, the State of Alaska Department of Education has also authorized this transfer;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the remaining balances in the following school bond projects be transferred to the Seward Elementary II account number 401.750300.49999.89110:

401.710100.49999.81160	Anchor Point	\$	3,260.59
401.710200.49999.82125	Cooper Landing	\$	6,098.37
401.710300.49999.83114	English Bay	\$	1,516.97
401.710401.49999.85105	Hope Elementary	\$	518,021.27
401.710500.49999.82156	Kalifornsky Beach	\$	86,357.75
401.710600.49999.81158	McNeil Canyon	\$	19,333.77
401.710800.49999.81161	Nikiski Elementary	\$	47,463.63
401.710801.49999.85218	North Star Elementary	\$	488,485.58
401.710802.49999.85217	Nikiski High	\$	411,312.51
401.710900.49501.80111	Nikolaevsk	\$	4,377.70
401.711100.49999.83122	Port Graham	\$	34,617.57
401.711200.49999.82159	Sterling	\$	12,286.29
401.711300.49999.82158	Tustumena	\$	6,146.60
401.711300.49999.86247	Tustumena	\$	29,719.56
401.711600.49999.86244	Central Peninsula	\$	37,559.96
401.720100.49999.81134	Homer High	\$	884,155.20
401.720101.49999.81134	Homer High D.O.T. Maintenance Facility	\$	2,300.00
401.720102.49999.81134	Homer High Clean-Up	\$	20,329.93
401.720300.49999.83254	Homer Junior High	\$	2,822.35
401.720300.49999.84228	Homer Junior High	\$	72.00
401.720400.49999.83115	Paul Banks	\$	1,864.92
401.720500.49999.86246	Homer Elementary II	\$	27,636.04
401.730500.49999.85108	Mountain View Elementary	\$	670,212.08
401.760300.49999.83116	Soldotna Junior High	\$	608,100.05

Kenai Peninsula Borough  
Resolution 88-  
Page 1 of 2 Pages

Introduced by: Mayor  
Date: November 1, 1988  
Hearing: December 6, 1988  
Action:  
Vote:

KENAI PENINSULA BOROUGH

ORDINANCE 88-46

ACCEPTING AND APPROPRIATING A GRANT FROM THE STATE OF ALASKA DEPARTMENT OF EDUCATION FOR CONSTRUCTION OF THE SEWARD ELEMENTARY SCHOOL.

WHEREAS, the Kenai Peninsula Borough School District has received notification of a grant from the Alaska Department of Education for construction of an elementary school in Seward; and

WHEREAS, the Kenai Peninsula Borough must administer this grant through the School Bond Capital Projects funds;

NOW THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the Mayor is authorized to accept the grant from the Alaska Department of Education in the amount of \$2,150,000.

Section 2. That the sum of \$2,150,000 is appropriated to the Seward Elementary facility in the School Bond Capital Projects account number 401.750300.49999.02989.

Section 3. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1988.

\_\_\_\_\_  
Jonathan W. Sewall, Assembly President

ATTEST:

\_\_\_\_\_  
Borough Clerk

# **CORRECTION**

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

Introduced by: Mayor  
Date: December 6, 1988

Action:  
Vote:

KENAI PENINSULA BOROUGH

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Kenai Peninsula Borough  
Resolution 88-  
Page 1 of 2 Pages

401.760100.49999.85107	Soldotna Elementary	\$	21,792.93
401.760101.49999.85107	Soldotna Elementary		
	Asbestos Abatement	\$	1,246.48
401.780100.49999.86253	Portable Classrooms	\$	24,495.78
401.780300.49999.82157	School Dist. Warehouse	\$	802.62
401.949010.49999.82156	Non-Departmental	\$	27,306.50
401.949010.49999.99999	Non-Departmental	\$	305.00
			<u>\$4,000,000.00</u>

Section 2. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1988.

\_\_\_\_\_  
Jonathan W. Sewall, Assembly President

ATTEST:

\_\_\_\_\_  
Borough Clerk

Introduced by: Mayor  
Date: November 1, 1988  
Hearing: December 6, 1988  
Action:  
Vote:

KENAI PENINSULA BOROUGH

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Jonathan W. Sewall, Assembly President

ATTEST:

\_\_\_\_\_  
Borough Clerk



# Alaska State Legislature

## SENATE

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

### MEMORANDUM

To: Senator Paul Fischer  
Senate HESS Committee

From: Senator Jack Coghill

Re: CS for SB 100

Date: April 3, 1989

Attached is a copy of an amendment I would like to see incorporated into the HESS Committee Substitute for Senate Bill 100.

As you can see by the proposed amendment, the completion of schools that have been in their final phase before January 1, 1989 and that have over \$2.5 million invested by the State would be considered a priority for funding purposes.

Special attention needs to be given to school construction projects that are partially complete and have only their final phase to complete. We need to require the Department of Education to complete school construction projects that have received a substantial amount of state funding. For instance, the Glennallen Secondary School project has received \$6.6 million since 1984 and is two-thirds complete. We should finish existing school construction projects before we start new ones.

It is irresponsible for the state to abandon school projects that are partially complete. In the case of Glennallen School, the Copper River School District is forced to continue with the cost of operating the partially complete new school and all of the old school buildings as well.

I encourage the committee to give full consideration to my proposed amendment. Without the amendment, a few substantially completed school projects will remain unfinished.

AMENDMENT - CS FOR SB 100 (HESS)

Amend Sec. 18 to read:

Notwithstanding AS 14.11.013(b), added by sec. 6 of this Act, the Department of Education shall have as their priority the completion of schools that meet the following two criteria:

1. Have been in their final phase before January 1, 1989 and;
2. have over 2.5 million dollars already invested by the State.

# Alaska State Legislature



2957 SHELDON JACKSON STREET  
ANCHORAGE, ALASKA 99508

While in Juneau  
P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3818

SENATOR  
ARLISS STURGULEWSKI  
Senate President Pro Tempore  
Chairman, Senate Rules Committee

## Senate

M E M O R A N D U M

03 April 1989

TO: Senator Paul Fischer  
Chairman, Senate HESS Committee

FROM: Senator Arliss Sturgulewski *AS*

This memo is to provide additional information on those issues raised during the Senate HESS Committee hearing on 29 March 1989 regarding Senate Bill 100.

With regard to Anchorage's proposal to reprogram school funds, the attached chart from the Anchorage School District will show that the new elementary school to be built with the reprogrammed funds (assuming voter approval) costs more than the reprogramming would bring.

The issue of a time frame for allowing voter approval of new bond issues and reprogramming of previously approved bond issues was discussed. It was suggested that new issue votes be halted on 1 July 1989 and reprogramming votes be halted on 1 November 1989. Attached is an amendment incorporating that change. This language has the approval of the attorney general's office.

Accountability by school districts for the costs of equipment is another issue. Sec. 14.11.017(a)(3) requires school districts to agree to limit equipment purchases to that required for the approved school construction plan and account for all equipment purchased for the project under a fixed asset inventory system approved by the department (see page 8 of the committee substitute).

**ANCHORAGE SCHOOL DISTRICT  
 SCHEDULE OF CAPITAL PROJECTS  
 FEBRUARY 15, 1989**

**PROJECTS AUTHORIZED BY THE DEPARTMENT OF EDUCATION  
 AND THE VOTERS OF THE MUNICIPALITY OF ANCHORAGE:  
 FOR WHICH NO GENERAL OBLIGATION BONDS HAVE BEEN ISSUED**

PROJECT NUMBER	PROJECT DESCRIPTION	AMOUNT	STATUS
05-86-108	CHUGIAK AREA-ELEMENTARY SCHOOL	\$12,000,000	CONSTRUCT FY 92-93
05-86-114	SAVE II/SEARCH FACILITY (NEW)	\$6,000,000	CONSTRUCT FY 89-90
05-86-109	PLANNING/DES. NEW JR HIGH SCH.	\$1,500,000	ON HOLD
05-86-111	BAYSHORE ELEMENTARY ADDITION	\$3,600,000	REPROGRAM (A)
05-86-112	CAMPBELL ELEMENTARY ADDITION	\$4,950,000	REPROGRAM (A)
05-86-116	BIRCHWOOD ELEMENTARY ADDITION	\$2,500,000	REPROGRAM (A)
<b>TOTAL</b>		<b>\$30,550,000</b>	

**AMOUNT TO BE REPROGRAMMED \$11,050,000**

**SOUTH ANCHORAGE ELEMENTARY SCHOOL \$11,500,000**

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 100( )

Page 9, line 25, after "on":

Insert "(i)"

Page 9, line 28:

Delete "November"

Insert "July"

Page 10, line 1, after "AS 14.07.020(11)":

Insert ", or

(ii) outstanding bonds, notes, or other indebtedness authorized by the qualified voters of the municipality before July 1, 1989, and reauthorized before November 1, 1989, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11)"

# Alaska State Legislature



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SENATOR  
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While in Juneau  
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## Senate

M E M O R A N D U M

02 March 1989

TO: Senator Paul Fischer

FROM: Senator Arliss Sturgulewski 

I appreciate your scheduling Senate Bill 100. The cost of school construction has resulted in huge debts being incurred by municipalities. The resultant responsibility of the state to repay this bonded indebtedness is a major factor in the difficult fiscal picture now facing the legislature.

I know that you have done work on this issue in the past and are equally concerned about this large major issue. I look forward to working with you. My office will lend every assistance to your committee.

Attached is a summary of the bill, a sectional analysis of sponsor substitute for Senate Bill 100, a work draft for sponsor substitute for Senate Bill 100, a zero fiscal note from the Department of Education, a copy of chapter 11 of Title 14 (the statute being amended), and a copy of a letter from the Department of Education to Mr. Scott Burgess of the Alaska Municipal League with spreadsheets demonstrating how section 19 of House Bill 37 (a similar House Bill) would be carried out (see section 10 of SSSB 100).

Please call Melissa Fouse of my staff at 465-3818 if you have any questions.



# Senate Health, Education and Social Services Committee

Senator Paul Fischer, Chairman

---

Senator:

John Coffee from the Copper River School District stopped by to talk about some possible changes to SB 100. He seemed to be supportive of the bill and of incorporating your idea of including Senator Coghill's SB 12 into the bill in some form. Here is an example of what he wants to do.

DCM 3/10

*Dave*

*File with  
my File SB 100*

1 district under AS 14.11.011(b) and recommend to the board a revised  
2 and updated six-year construction grant schedule that serves the best  
3 interests of the state and each district; in recommending projects for  
4 this schedule, the department shall verify that each proposed project  
5 qualifies as a project required to

6 (A) avert imminent danger or correct life-threatening  
7 situations;

8 (B) house students who would otherwise be unhoused;

9 (C) protect the structure of existing school facil-  
10 ities;

11 (D) correct building code deficiencies that require  
12 major repair or rehabilitation in order for the facility to  
13 continue to be used for the educational program;

14 (E) achieve an operating cost savings;

15 (F) modify or rehabilitate facilities for the purpose  
16 of improving the instructional program;

17 (G) meet an educational need not specified in (A) -  
18 (F) of this paragraph, identified by the department;

19 (2) prepare an estimate of the amount of money needed to  
20 finance each project;

21 (3) provide to the governor, by November 1, and to the  
22 legislature within the first 10 days of each regular legislative  
23 session, a revised and updated six-year construction grant schedule  
24 together with a proposed schedule of appropriations.

25 (b) In preparing the construction grant schedule, the department  
26 shall establish priorities among projects for which grants are re-  
27 quested and shall award school construction grants in the order of  
28 priority established. In establishing priorities the department shall  
29 evaluate at least the following factors:

# MEMORANDUM

State of Alaska

Department of Law

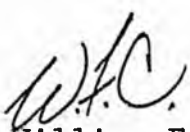
TO: Steve Hole  
Deputy Commissioner  
Department of Education

DATE: January 20, 1988

FILE NO.: 663-88-0268

TEL. NO.: 465-3603

SUBJECT: DCE authority under  
AS 14.11.020 and  
AS 14.11.100

FROM:   
William F. Cummings  
Assistant Attorney General  
Transportation Section

JAN 22 1988

You have inquired regarding the Department of Education's authority regarding school construction funded under AS 14.11.020 or financed with debt eligible for reimbursement under AS 14.11.100. The specific hypotheticals you posed are addressed below.

1. Can the Department of Education approve a project for the CIP Budget Request or for Debt Service at an amount lower than requested by the school district?

For example, suppose a school district proposes a scope of work including a large auditorium, the square footage of the total project is within the Department's guideline, the cost estimates have been prepared by licensed architects and engineers, and the district has adequately documented enrollment growth justifying a new facility of that size. In this example, suppose the Department believes that the square footage in the guideline should be devoted more to classrooms and include a much smaller stage off the gymnasium. Does the Department have the authority in this case to reduce the amount of the project approval to an amount for classrooms only?

Analysis: Under this hypothetical you are inquiring regarding the department's authority to reduce the project amount which the department will approve. We believe, under existing statutory language, the department has the authority to reduce the amount sought by school districts for projects paid for under AS 14.11.020 or financed by debt eligible for reimbursement under AS 14.11.100.

Under the authority of AS 14.11.020, the department may make grants to school districts by which the recipients agree to

Steve Hole  
Deputy Commissioner  
663-88-0268

January 20, 1988  
Page 2

assume the responsibility to plan and construct the specific school facilities. The money which pays for this construction is appropriated to the department based upon the annual budget request which is submitted to the legislature under the authority of AS 14.11.010. This statute envisions that the department will sift through requests for projects submitted by school districts and review them based upon a number of criteria.

The point of departure for reviewing requests for appropriations is to determine those which are in the best interests of the state and the priority in which the approved projects meet the state's best interests. See AS 14.11.010(b). There are at a minimum six standards, found in AS 14.11.010(c), to be applied in establishing the priorities necessary. Among these are:

- 1) local priorities,
- 2) emergency requirements,
- 3) unhoused students,
- 4) new programs,
- 5) the existing facilities and their condition, and
- 6) economic and social stability.

In this hypothetical you inquired regarding the ability of the department to reduce requests for appropriations to a level that will provide basic classroom space but eliminate design features which are excessive, even though the overall square footage of the facility is within space guidelines and the district can demonstrate the need for the facility.

There are a number of important distinctions to be drawn between the aid provided under AS 14.11.010 and the debt retirement program. First, the department may exercise discretion when it seeks legislative appropriations for projects which meet the state's best interests. Inherent in that discretion is the ability to specify the amount which will be sought. This does not mean that the department has a carte blanche to begin reducing the amounts sought by school districts. 1/ We would recommend that the department adopt regulations by which the

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1/ AS 14.07.020(11) assigns the department the duty to approve schools for construction and to determine their eligibility for state aid. The determination of entitlement for state aid and the amount of that aid should be made upon standards of general application. Hence, regulations, adopted in compliance with AS 44.62, are appropriate in making these determinations.

Steve Hole  
Deputy Commissioner  
663-88-0268

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Page 3

department states the criteria by which it will reduce the amount of project requests. The department clearly has the authority to adopt regulations of this type under the authority of AS 14.11.-132.

When project approvals under AS 14.11.100 for projects eligible for debt retirement are sought, they are subjected to the same space guidelines found in 4 AAC 31.020 as the projects funded under AS 14.11.010 and 14.11.020. As a general proposition, the department's discretion is more limited than under this funding mechanism, but it does have broad discretion to adopt regulations to implement the program. See AS 14.11.132. The department has adopted regulations in 4 AAC 31.061(b) and (c) which provide a mechanism to address the facts of this hypothetical.

4 AAC 31.061(b) contemplates that a building for which debt retirement is sought will comply with the space guidelines of 4 AAC 31.020, but subject to two important limitations. Non-assignable space may not exceed 25 percent of the total square footage of the building, except for special circumstances, and assignable space must be used for educational purposes for 75 percent of the scheduled school day. Under this hypothetical it would seem that the department has a mechanism to address the problem of an auditorium which was large in relation to the rest of the school. We reach this conclusion because it seems unlikely that an auditorium of the size implied in the hypothetical, in relationship to the rest of the building, would meet the requirement that it would be used for 75 percent of the scheduled school day for educational purposes. If the department finds that a portion of a school facility fails to comply with these requirements, 4 AAC 31.061(c) allows the department to reduce the amount eligible for debt retirement to the portion of the building which meets the requirements. 2/

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2/ AS 14.11.100(h) provides that the amount allowed for debt retirement may be reduced by the amount allocable to a variety of special purpose design features. It also states that the amount allowed for debt retirement may be reduced by the amount of money "used for construction that exceeds the amount needed for the construction of a facility of efficient design as determined by the department." This language allows a much more detailed analysis than found in 4 AAC 31.061(b).

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Deputy Commissioner  
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Under both methods for funding school construction, we have concluded that the department has the ability to contain school construction costs. Projects requested by school districts under AS 14.11.010 may be reduced in scope under the discretion which the department has in submitting budget requests to the legislature. The department has adopted regulations which allow the reduction of the amount allowed for school debt retirement if the proposed facility fails to meet certain specified criteria. We would suggest, however, that you adopt further regulations, applicable to both means of financing school construction, which consider overall space guidelines, but also the relationship of special purpose features, such as auditoriums, as a percentage of the total square footage or as a percentage of the assignable space. This suggestion assumes that as a matter of policy you wish to exercise more control.

2. Can the Department reject a scope of work requested by a school district in its CIP Budget Request?

Currently the Department will negotiate rankings on the CIP Budget Request based upon the scope of work but feels obligated to list every project requested for the current year. For example, we will list a project at a priority 6 or 7 if it includes everything from a new racquetball court to fire alarms. However, if the school district documents the requirement for fire alarm upgrade and includes the project as a separate project (or in combination with other documented Life Safety work) we will agree to rank the project(s) #1 Life Safety. This pressure has worked well in the past, but occasionally a school district will not agree to request the work as we think appropriate. Do we have the authority to require that the scope of work for a project fit our priority system before we will list the project at all?

Analysis: We believe the department may require a school district submitting a request for a project under AS 14.11.010 to separate its requests into discrete projects based upon the nature of the work to be done. There are presently no specific requirements in AS 14.11.010, other than a requirement in 4 AAC 31.060(a) requiring that requests be submitted on forms prescribed by the commissioner, that require school districts to break their projects into discrete projects based upon the work to be done. The department has broad discretion under the provisions

Steve Hole  
Deputy Commissioner  
663-88-0268

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Page 5

of AS 14.11.132 to adopt regulations to implement the program. If a school district submits a potpourri of items of work for which it seeks money, it would be difficult for the department to review the request as contemplated by AS 14.11.010(b) and (c). We believe that the department has the discretion to require requests under AS 14.11.010(a) be separated into discrete projects and may do so by an appropriately drafted regulation.

3. Can the Department omit a project from its CIP Budget Request, or disapprove a debt retirement project, which it believes is not needed and not in the best interests of the State?

For example, if a school district requests replacement of a complete facility and the Department believes that the district has adequately documented neither the obsolescence of the old facility nor its inability to serve the student population, can the Department simply reject the project application and delete it from its Budget Request?

Analysis: We believe that the department may reject project applications under AS 14.11.010 and 14.11.100 if the school district fails to demonstrate the need for the project. The department is not required to submit a request for an appropriation for every project submitted by school districts. Similarly, unless the projects meet statutory criteria a project may not be approved for debt retirement.

AS 14.11.010(b) contemplates that projects will be evaluated to determine which meet the best interests of the state. AS 14.11.010(c) provides minimal criteria by which the projects will be evaluated. This statutory scheme does not require that every project be included in the department's request for capital appropriations. The department, under this authority, is only required to prepare an estimate of each project approved, not all projects requested. See AS 14.11.010(b)(2). Similarly, the department is required to provide to the governor, as backup, the documentation provided by the school district for each project approved, not all projects. See AS 14.11.010(b)(3). It seems clear that if the school district cannot demonstrate the

Steve Hole  
Deputy Commissioner  
663-88-0268

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need for the project that the project's application need not be included in the department's budget request. 3/

Projects for which debt retirement is sought must qualify either in terms of unhoused students, life safety matters, or compliance with building codes as found in AS 14.11.100(j)(4) and they are evaluated under the criteria of AS 14.11.010. See AS 14.11.102. It seems clear that if the municipality does not document or demonstrate a need for the facility, the department may do little else other than reject the application for this type of aid.

WFC:bap

cc: Honorable Mike Szymanski  
Honorable Paul Fischer  
Thomas E. Wagner

---

3/ Under the provisions of AS 14.11.010(b)(4), the department is required to submit to the legislature a report which summarizes the project requests submitted by each assembly, council, or regional school board. This statutory requirement allows the legislature to monitor the department's review of project requests and to compare the projects requested to the projects for which appropriations are sought.

- there is concern that smaller schools will have trouble getting a high enough priority to receive funding and will be discriminated against because of smaller school populations.

- language has been developed that directs the Department of Education to use the number of students only as one criteria, not the sole criteria.

- there is still some feeling that the Department should not be allowed to use the number of students at all in ranking projects.

Recommendation:

- it is the sponsor's feeling that among equally ranked projects, the number of students should be among the the criteria used to distinguish among them. Language has been drafted to direct the department to use all other criteria as well as the number of students when ranking projects.

4. MINISTRATIVE APPEAL/REVIEW PROCESS

Issues:

- the appeal process is too long, needs more definite timelines.

- the AML memo of 13 March 1989 suggests eliminating the step requiring appeal to the Department of Education or the step calling for hearing officer review.

- specific language was to have been developed by a member of the AML working group. This has yet to be accomplished.

*ok*

*Tom  
Boatman*

Recommendation:

- direct legal services to draft a shortened appeal process amendment. Sponsor will work with drafter and committee chairman.

5. SECTION 10

Issues:

- provides some certainty for levels of both debt reimbursement and for Priority I school construction grants.

- however, does not fully fund entitlement.

- removes legislative prerogatives in appropriations process

Suggestions from AML:

- fund debt service first, then use any funds remaining for school construction.

- put all funds in the same account when if necessary underfund both programs by the same percentage.

- put a floor on the shortfall for funding of debt reimbursement.

- put debt reimbursement and Priority I grants on an equal footing for overfunding

Recommendation:

- eliminate Section 10 from the legislation. This will restore legislative responsibility for and control of appropriations for school construction and debt reimbursement.

6. PHASE III SCHOOLS TEMPORARY PRIORITY

Issue:

- there are three substantially completed schools on the Department of Education's list of schools. The school at Thorne Bay is a Priority I school, the schools at Glennallen and Mountain Village are Priority II schools. There is concern on the part of those districts that they will not be able to timely complete these projects under this program.

Agreement:

- language has been drafted allowing a temporary reprioritizing of school projects to allow appropriations to be directed to these projects. This amendment would place Glennallen and Mountain Village as a temporary Priority II category over the current category II "house students who would otherwise be unhoused".

Recommendation:

- the sponsor has heard no objections to including this language in the bill and recommends it be included if the committee wishes to direct legal services to do so.



122,000,000

	A	B	C	D	E	F	G	H	I	J	K	L		M	N	O
37	Fiscal	Total Statewide	Priority One	Section 19	DEPT. OF EDUC.	DEPT. OF EDUC.	DEPT. OF EDUC.	DEPT. OF EDUC.	DEPT. OF EDUC.	DEPT. OF EDUC.	DEPT. OF EDUC.	DEPT. OF EDUC.	37	Appropriation	Appropriation	Appropriation
38	Year	Debt Liability	Health & Life S	Trigger	Sec. 19	122,000.0	122,000.0	112,000.0	112,000.0	102,000.0	102,000.0	92,000.0	38	92,000.0	75,000.0	75,000.0
39		Thousands	Projected	Amount	%	Debt	Grants	Debt	Grants	Debt	Grants	Debt	39	Grants	Debt	Grants
40	1990	109,254.6	30,000.0	139,254.6	89%/11%	108,580.0	13,420.0	99,680.0	12,320.0	90,780.0	11,220.0	81,880.0	40	10,120.0	66,750.0	8,250.0
41	1991	106,226.5	20,000.0	126,226.5	87%/13%	106,140.0	15,860.0	97,440.0	14,560.0	88,740.0	13,260.0	80,040.0	41	11,960.0	65,250.0	9,750.0
42	1992	97,945.0	15,000.0	112,945.0	85%/15%	103,700.0	18,300.0	95,270.0	16,800.0	86,700.0	15,300.0	78,200.0	42	13,800.0	63,750.0	11,250.0
43	1993	84,928.5	15,000.0	99,928.5	79%/21%	96,380.0	25,620.0	88,480.0	23,520.0	80,580.0	21,420.0	72,680.0	43	19,320.0	59,250.0	15,750.0
44	1994	75,896.2	15,000.0	90,896.2	71%/29%	86,620.0	35,380.0	79,520.0	32,480.0	72,420.0	29,580.0	65,320.0	44	26,680.0	53,250.0	21,750.0
45	1995	62,456.1	15,000.0	77,456.1	64%/36%	78,080.0	43,920.0	71,680.0	40,320.0	65,280.0	36,720.0	58,880.0	45	33,120.0	48,000.0	27,000.0
46	1996	39,436.0	15,000.0	54,436.0	54%/46%	65,880.0	56,120.0	60,480.0	51,520.0	55,080.0	46,920.0	49,680.0	46	42,320.0	40,500.0	34,500.0
47	1997	37,250.4	15,000.0	52,250.4	42%/58%	51,240.0	70,760.0	47,040.0	64,960.0	42,840.0	59,160.0	38,640.0	47	53,360.0	31,500.0	43,500.0
48	1998	35,696.2	15,000.0	50,696.2	40%/60%	48,800.0	73,200.0	44,800.0	67,200.0	40,800.0	61,200.0	36,800.0	48	55,200.0	30,000.0	45,000.0
49	1999	27,296.0	15,000.0	42,296.0	38%/62%	46,360.0	75,640.0	42,560.0	69,440.0	38,760.0	63,240.0	34,960.0	49	57,040.0	28,500.0	46,500.0
50	2000	23,446.4	15,000.0	38,446.4	38%/62%	46,360.0	75,640.0	42,560.0	69,440.0	38,760.0	63,240.0	34,960.0	50	57,040.0	28,500.0	46,500.0
51	2001	10,107.9	15,000.0	25,107.9	38%/62%	46,360.0	75,640.0	42,560.0	69,440.0	38,760.0	63,240.0	34,960.0	51	57,040.0	28,500.0	46,500.0
52	2002	6,460.7	15,000.0	21,460.7	38%/62%	46,360.0	75,640.0	42,560.0	69,440.0	38,760.0	63,240.0	34,960.0	52	57,040.0	28,500.0	46,500.0
53	2003	5,334.8	15,000.0	20,334.8	38%/62%	46,360.0	75,640.0	42,560.0	69,440.0	38,760.0	63,240.0	34,960.0	53	57,040.0	28,500.0	46,500.0
54	2004	5,268.2	15,000.0	20,268.2	38%/62%	46,360.0	75,640.0	42,560.0	69,440.0	38,760.0	63,240.0	34,960.0	54	57,040.0	28,500.0	46,500.0
55	2005	4,562.0	15,000.0	19,562.0	38%/62%	46,360.0	75,640.0	42,560.0	69,440.0	38,760.0	63,240.0	34,960.0	55	57,040.0	28,500.0	46,500.0
56	2006	2,579.3	15,000.0	17,579.3	38%/62%	46,360.0	75,640.0	42,560.0	69,440.0	38,760.0	63,240.0	34,960.0	56	57,040.0	28,500.0	46,500.0
57	2007	2,616.9	15,000.0	17,616.9	38%/62%	46,360.0	75,640.0	42,560.0	69,440.0	38,760.0	63,240.0	34,960.0	57	57,040.0	28,500.0	46,500.0

#1

A M E N D M E N T

OFFERED IN THE SENATE

TO: SSSB 100

Page 13, line 12:

Delete "1993"

Insert "1995"

72% ?

#2 A

A M E N D M E N T

OFFERED IN THE SENATE

TO: SSSB 100

Page 1, line 7, after "construction;":

Insert "division of duties between a borough and a borough school board;"

Page 12, after line 20:

Insert a new bill section to read:

"\* Sec. 14. AS 14.14.060 is amended by adding a new subsection to read:

(i) Notwithstanding (e) and (f) of this section, a borough assembly and a borough school board may divide the duties imposed under (e) and (f) of this section by agreement between the borough assembly and borough school board."

Renumber the following bill sections accordingly.

Page 13, line 10:

Delete "15 and 17"

Insert "16 and 18"

Page 13, line 12:

Delete "15 and 17"

Insert "16 and 18"

#2 B

A M E N D M E N T

OFFERED IN THE SENATE

TO: SSSB 100

Page 2, line 2:

After "a"

Insert "municipality that is a"

After "district"

Insert "or a regional educational attendance area"

Page 2, lines 22 - 23 :

Delete "to districts in the state public school system"

Page 2, line 28:

After "A"

Insert "municipality that is a school"

After "district"

Insert "or a regional educational attendance area"

Page 3, line 1:

Delete "To"

Insert "For a municipality that is a school district or a regional educational attendance area to"

Page 8, line 13:

Delete "the district"

Insert "a municipality that is a school district or a regional educational attendance area"

Page 11, line 25:

Delete "district"

Insert "municipality that is a school district or a regional educational attendance area"

Page 12, line 3, after "state":

Insert ", a municipality,"

#3

A M E N D M E N T

OFFERED IN THE SENATE

TO: SSSB 100

Page 4, line 23:

Delete "without classroom space"

Insert "affected by the project"

Page 5, after line 23:

Insert a new subsection to read:

"(f) The department may not establish priorities among projects under (b) of this section based only on the number of students affected by the project."

#5

A M E N D M E N T

OFFERED IN THE SENATE

TO: SSSB 100

Page 10, line 22, through page 11, line 22:

Delete all material.

Renumber the following bill sections accordingly.

Page 13, line 10:

Delete "15 and 17"

Insert "14 and 16"

Page 13, line 12:

Delete "15 and 17"

Insert "14 and 16"

A M E N D M E N T

#6

OFFERED IN THE SENATE

TO: SSSB 100

Page 13, after line 9:

Insert a new bill section to read:

"\* Sec. 18. Notwithstanding AS 14.11.013(b), added by sec. 6 of this Act, the Department of Education shall endeavor to complete construction of public schools that were in their final phase before January 1, 1989."

Renumber the following bill sections accordingly.

AMENDMENT

Adopted  
for HESS CS  
SB 100

To: CSSB 100(HESS)

\* Sec. 18. Notwithstanding AS 14.11.013(b), added by sec. 6 of this Act, the Department of Education shall award school construction grants in the following order:

(1) projects required to avert imminent danger or correct lifethreatening situations;

(2) projects that are in their final phase before January 1, 1989, and that have received more than \$2,500,000 in school construction grant funds;

(3) projects that are:

(A) approved by the Department of Education before July 1, 1989;

(B) approved for reconstruction or renovation by the qualified voters before July 1, 1989; and

(C) determined by a federal or state agency to be a threat to the welfare of the public;

(4) other projects approved under AS 14.11.015, added by sec. 6 of this Act.



Official Business

# Alaska State Legislature

Senate

*Passed  
Version.*

2

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

## AMENDMENT - CS FOR SB 100 (HESS)

BY SENATOR JONES

AMEND SEC. 18 TO READ:

Notwithstanding AS 14.11.013(b), added by sec. 6 of this Act, the Department of Education shall have as their priority the completion of schools that meet one of the following two criteria:

*AFTER EMERGENCY PROJECTS;*

1. Have been in their final phase before January 1, 1989; and have over 2.5 million dollars already invested by the State; or
- ~~2. have performed an inspection as specified under the Asbestos Emergency Response Act (AHERA) and were found to contain asbestos in an amount which would necessitate replacement of a significant portion of the facility.~~

- 2)
- a) HAS BEEN APPROVED BY THE DEPARTMENT BEFORE JULY 1, 1989.
  - b) HAS BEEN APPROVED FOR RECONSTRUCTION OR RENOVATION BY THE QUALIFIED VOTERS BEFORE JULY 1, 1989.
  - c) HAS BEEN DETERMINED BY A FEDERAL OR STATE AGENCY TO BE A THREAT TO THE WELFARE OF THE STATE.



Official Business

# Alaska State Legislature

## Senate

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

### AMENDMENT - CS FOR SB 100 (HESS)

BY SENATOR JONES

AMEND SEC. 18 TO READ: ▷

Notwithstanding AS 14.11.013(b), added by sec. 6 of this Act, the Department of Education shall have as their priority the completion of schools that meet one of the following two criteria:

*AFTER EMERGENCY projects;*

- 1 *Emergency Projects*
- 2 ~~1~~ Have been in their final phase before January 1, 1989; and have over 2.5 million dollars already invested by the State; or
- ~~2. have performed an inspection as specified under the Asbestos Emergency Response Act (AHERA) and were found to contain asbestos in an amount which would necessitate replacement of a significant portion of the facility.~~

*2)*

- a) has been approved by the DEPARTMENT BEFORE July 1, 1989;*
- b) has BEEN APPROVED FOR RECONSTRUCTION OR RENOVATION by the QUALIFIED VOTERS BEFORE July 1, 1989.*
- c) has been DETERMINED by a FEDERAL OR STATE AGENCY to be a THREAT to the WELFARE OF the PUBLIC.*

A M E N D M E N T

To: CS SB 100 (HESS)

by: Adams

Section 6, page 4, line 27 delete:

[(3) THE NUMBER OF STUDENTS AFFECTED BY THE PROJECT;]

Renumber remaining subsections accordingly.

Section 6, page 5, line 29 and page 6, lines 1-2 delete:

[(f) THE DEPARTMENT MAY NOT ESTABLISH PRIORITIES AMONG PROJECTS UNDER (b) OF THIS SECTION BASED ONLY ON THE NUMBER OF STUDENTS AFFECTED BY THE PROJECT.]

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3/6/89  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER FINANCE

\*\*FISCAL NOTE(S) MUST BE ATTACHED  
IN ACCORDANCE WITH AS 24.08.035

1/10/89

DATE TURNED INTO OFFICE 4/6/89

Mr. President:

HESS Committee considered SB 100

insurance for school facilities and equipment and state aid for school construction; efd

and recommended:

- replace with CS SB 100 (HESS)  same title  
 new title
- attached amendment(s) and
- \_\_\_\_\_ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_

*Fiscal Note forthcoming - Dept of Ed.*

FISCAL NOTE(S) attached  zero  fiscal impact  
 appropriation no FN attached  Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*[Handwritten signatures: Duncan, Tim Bell, Lloyd Jones]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Paul Grish (No Rec)  
Chairman signature and recommendation

Committee backup attached



Official Business

# Alaska State Legislature

## Senate

*Adopted*

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

### AMENDMENT - CS FOR SB 100 (HESS)

BY SENATOR JONES

AMEND SEC. 18 TO READ:

Notwithstanding AS 14.11.013(b), added by sec. 6 of this Act, the Department of Education shall have as their priority, the completion of schools that meet one of the following two criteria:

*AFTER EMERGENCY PROJECTS;*

1. Have been in their final phase before January 1, 1989; and have over 2.5 million dollars already invested by the State; or
- ~~2. have performed an inspection as specified under the Asbestos Emergency Response Act (AHERA) and were found to contain asbestos in an amount which would necessitate replacement of a significant portion of the facility.~~

*2)*  
 a) has been approved by the DEPARTMENT BEFORE July 1, 1989;  
 b) has BEEN APPROVED FOR RECONSTRUCTION OR RENOVATION BY THE QUALIFIED VOTERS BEFORE July 1, 1989.  
 c) has been found by a FEDERAL OR STATE AGENCY TO BE A THREAT TO THE WELL-BEING OF THE STATE

A M E N D M E N T

OFFERED IN THE SENATE

BY FISCHER

TO: CSHB 37(Finance) am

Page 12, line 22:

Delete "and"

Page 12, lines 23 - 24:

Delete all material.

Insert new paragraphs to read:

"(3) projects that are:

(A) approved by the Department of Education before July 1, 1989;

(B) approved for reconstruction or renovation by the qualified voters before July 1, 1989; and

(C) designed to remedy conditions determined by a federal or state agency to be a threat to the welfare of the public; and

(4) other projects approved under AS 14.11.015, added by sec. 6 of this Act."

Senator: here is the amendment to  
HB 37 to make it equal to  
SB 100 for ketekikan.

Original sponsors: Sturgulewski and  
Pearce

IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

CS FOR SENATE BILL NO. 100 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to insurance for school facilities and equipment, state aid for school construction, and division of duties between a borough and a borough school board; and providing for an effective date."

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

\* Section 1. AS 14.03 is amended by adding a new section to read:

Sec. 14.03.150. INSURANCE REQUIRED. (a) Each school district shall purchase and maintain or provide proof of adequate property insurance for the replacement cost of all school facilities and equipment. Insurance purchased to comply with this section may contain a deductible amount, if approved by the department. A school district may comply with this section by initiating and maintaining a program of self-insurance, if the department annually determines that the school district has submitted adequate evidence of the district's ability to self-insure for the replacement cost of all school facilities and equipment. A copy of the insurance policy or other information indicating compliance with this section shall be provided to the department.

(b) If the department determines that a school district is not insured as required under (a) of this section, the department shall notify the school district of the determination. Unless the school district obtains adequate insurance within 30 days after the school district receives notice under this subsection, the department shall purchase the insurance required by (a) of this section for that school

1 district.

2 (c) The department may not award a school construction grant  
3 under AS 14.11 to a municipality that is a school district or a re-  
4 gional educational attendance area that is not in compliance with (a)  
5 of this section. The department shall reduce the amount of state  
6 foundation aid under AS 14.17.021 for which a school district may  
7 qualify, by the amount, if any, paid by the department under (b) of  
8 this section.

9 \* Sec. 2. AS 14.07.020(a)(13) is amended to read:

10 (13) administer the grants awarded under AS 14.11 [AS 14.-  
11 11.020];

12 \* Sec. 3. AS 14.07.170 is amended by adding a new subsection to read:

13 (b) The board shall review grant applications recommended under  
14 AS 14.11.013 and may approve grant applications under AS 14.11.015.

15 \* Sec. 4. AS 14.08.101(7) is amended to read:

16 (7) recommend to the department projects for construction,  
17 rehabilitation, and improvement of schools and education-related  
18 facilities as specified in AS 14.11.011(b) [AS 14.11.010(a)], and  
19 plan, design, and construct the project when the responsibility for it  
20 is assumed under AS 14.11.020;

21 \* Sec. 5. AS 14.11 is amended by adding a new section to read:

22 Sec. 14.11.005. SCHOOL CONSTRUCTION GRANT ACCOUNT. There is  
23 created a school construction grant fund as an account in the general  
24 fund. The fund shall be used to make grants for the costs of school  
25 construction. Legislative appropriations for school construction  
26 shall be deposited in the fund, and the proceeds from the sale of  
27 general obligation bonds for school construction may be deposited in  
28 the fund.

29 \* Sec. 6. AS 14.11 is amended by adding new sections to read:

Sec. 14.11.011. GRANT APPLICATIONS. (a) A municipality that is a school district or a regional educational attendance area may submit a grant request to the department for a school construction grant.

(b) For a municipality that is a school district or a regional educational attendance area to be eligible for a school construction grant the district shall submit

(1) a six-year capital improvement plan that includes a description of the district's fixed asset inventory system and preventive maintenance program no later than September 1 before the fiscal year for which the request is made; the six-year plan must contain for each proposed project a detailed scope of work, a project budget, and documentation of conditions justifying the project;

(2) evidence that the district has secured and will maintain adequate property loss insurance for the replacement cost of all facilities for which state funds are available under AS 14.11.005 or a program of insurance acceptable to the department; and

(3) evidence that the proposed project should be a capital construction project and not part of a preventive maintenance program or regular custodial care program.

Sec. 14.11.013. DEPARTMENT REVIEW OF GRANT APPLICATIONS. (a) With regard to projects for which grants are requested under AS 14.11.011, the department shall

(1) annually review the six-year plans submitted by each district under AS 14.11.011(b) and recommend to the board a revised and updated six-year construction grant schedule that serves the best interests of the state and each district; in recommending projects for this schedule, the department shall verify that each proposed project qualifies as a project required to

(A) avert imminent danger or correct life-threatening

situations;

(B) house students who would otherwise be unhoused;

(C) protect the structure of existing school facilities;

(D) correct building code deficiencies that require major repair or rehabilitation in order for the facility to continue to be used for the educational program;

(E) achieve an operating cost savings;

(F) modify or rehabilitate facilities for the purpose of improving the instructional program;

(G) meet an educational need not specified in (A) - (F) of this paragraph, identified by the department;

(2) prepare an estimate of the amount of money needed to finance each project;

(3) provide to the governor, by November 1, and to the legislature within the first 10 days of each regular legislative session, a revised and updated six-year construction grant schedule together with a proposed schedule of appropriations.

(b) In preparing the construction grant schedule, the department shall establish priorities among projects for which grants are requested and shall award school construction grants in the order of priority established. In establishing priorities the department shall evaluate at least the following factors:

(1) emergency requirements;

(2) priorities assigned by the district to the projects requested;

(3) the number of students affected by the project;

(4) new local elementary and secondary programs;

(5) existing regional, community, and school facilities,

and their condition; and

(6) alternate education program options for accomplishing the project's objectives.

(c) The department may reject project requests and omit them from the six-year schedule due to

(1) incomplete information or documentation provided by the district;

(2) a determination by the department that existing facilities can adequately serve the program requirements, or that alternative projects are in the best interests of the state;

(3) a determination that the project is not in the best interest of the state.

(d) The department shall reduce a project budget by the cost of those portions of a project design that the department determines are for construction of student residential space, planetariums, hockey rinks, saunas, and other facilities for single purpose sporting or recreational uses that are not suitable for other activities. This subsection does not apply to funding for swimming pools that meet criteria established by the department.

(e) By November 5, the department shall provide public notice of the grant applications submitted under (a) of this section and the priorities established under (b) of this section. After public notice has been given, the department shall, not later than December 1, hold a public hearing on the priorities established under (b) of this section. In this subsection, "public notice" means notice published in a newspaper of general circulation and notice to every person who has requested notice about the grant application program from the department.

(f) The department may not establish priorities among projects

1 under (b) of this section based only on the number of students af-  
2 fected by the project.

3 Sec. 14.11.015. APPROVAL OF GRANT APPLICATIONS. (a) The board  
4 shall review grant applications that have been recommended by the  
5 department under AS 14.11.013, and may approve a grant application if  
6 the board determines that the project meets the criteria specified in  
7 AS 14.11.013(a)(1). The department may not award a school construc-  
8 tion grant unless the grant application is approved by the board.

9 (b) The department shall award grants approved under (a) of this  
10 section in the order of the projects' priority on the date the appro-  
11 priation bill funding the school construction grant fund is passed by  
12 the legislature, regardless of any appeal pending under AS 14.11.016.  
13 Appeals pending under AS 14.11.016 at the time that grants are awarded  
14 may not delay the funding of grants awarded under this section.

15 (c) If a project is assigned a new priority ranking under AS 14.-  
16 11.016 after the date of passage by the legislature of the appropria-  
17 tion bill for the school construction grant fund, the project must be  
18 funded in accordance with the new priority ranking at the next time  
19 that school construction grants are awarded.

20 Sec. 14.11.016. ADMINISTRATIVE AND JUDICIAL REVIEW. (a) A  
21 district may request reconsideration of a decision of the department  
22 assigning a priority to the district's project, establishing the scope  
23 of the project, or establishing the budget for the project. The  
24 request must be in writing and must include a statement of the spe-  
25 cific changes desired, and a summary of the evidence supporting the  
26 district's claim that the department has erred in its review of the  
27 district's grant application. A request for reconsideration must be  
28 received by the department by the day of the public hearing held under  
29 AS 14.11.013(e). The department shall review its decision on the

basis of the request by the district and determine whether its decision should be changed. The department shall issue its determination in writing within 15 days after the last day of the public hearing held under AS 14.11.013(e).

(b) A district may appeal an adverse decision of the department under (a) of this section by filing a written notice of appeal with the commissioner within 15 days after the date of the department's decision. The notice of appeal must state the legal and factual basis for the appeal and the precise relief sought. The failure of the district to include an issue in a notice of appeal constitutes a waiver of the right to have the issue considered. Not later than 10 days after receipt of a notice of appeal, the commissioner shall appoint a hearing officer who is qualified under AS 44.62.350(c) to consider the appeal. If the hearing officer finds that the notice of appeal does not raise a reasonable issue of fact or law, the hearing officer shall issue a written decision denying the appeal. Denial of an appeal by a hearing officer is a final decision that may be appealed under (d) of this section. If the hearing officer determines that the notice of appeal does raise a reasonable issue of fact or law, the hearing officer shall conduct a hearing on those issues and recommend a decision to the board. The hearing officer shall issue a decision on the appeal, not later than 60 days after being appointed. The board shall consider the recommended decision of the hearing officer at its next regularly scheduled meeting and may adopt all, part, or none of the recommended decision or may remand the issue to the hearing officer for further hearings. The board shall issue its decision in writing within 10 days after considering the hearing officer's decision.

(c) The hearing officer may consolidate appeals under (b) of

1 this section, if the notices of appeal raise related issues of fact or  
2 law.

3 (d) A district may appeal an adverse decision of a hearing  
4 officer or the board under (b) of this section to the superior court  
5 in the manner provided by AS 44.62.560 - 44.62.570.

6 (e) The board shall adopt regulations governing procedures for  
7 the reconsideration and appeal of decisions under this section. The  
8 regulations adopted under this subsection are not required to conform  
9 to AS 44.62.330 - 44.62.630, but shall be consistent with minimum  
10 standards of due process.

11 (f) A district may not request reconsideration of or appeal a  
12 priority determination on the grounds that a revised priority assigned  
13 to another project, due to a reconsideration or appeal under this sec-  
14 tion, has resulted in a lower priority being accorded to the dis-  
15 trict's project.

16 Sec. 14.11.017. SCHOOL CONSTRUCTION GRANT CONDITIONS. (a) The  
17 department shall require in the grant agreement that a municipality  
18 that is a school district or a regional educational attendance area

19 (1) agree to construction of a facility of appropriate size  
20 and use that meets criteria adopted by the department;

21 (2) provide reasonable assurance by a means acceptable to  
22 the department, that the cost of the project will be uniform with the  
23 costs of the most current construction projects in the area;

24 (3) agree to limit equipment purchases to that required for  
25 the approved school construction plan and account for all equipment  
26 purchased for the project under a fixed asset inventory system ap-  
27 proved by the department;

28 (4) submit project budgets for department approval and  
29 agree that the grant amount may, at the discretion of the department,

1 be reduced or increased by amounts equal to the amounts by which  
2 contracts vary from the budget amounts approved by the department; and

3 (5) submit to the department for approval, before award of  
4 the construction contract, a plan for school construction that in-  
5 cludes educational specifications, final construction drawings, and  
6 contract documents.

7 (b) The cost of any school construction activity encompassed by  
8 the definition of "costs of school construction" under AS 14.11.135 is  
9 payable under a grant awarded under AS 14.11.015 without regard to  
10 whether the costs were incurred prior to the

11 (1) award of the grant;

12 (2) approval of the grant application by the board; or

13 (3) effective date of an appropriation to the school con-  
14 struction grant account for the year in which the grant is funded.

15 Sec. 14.11.019. SCHOOL CONSTRUCTION GRANT APPROPRIATIONS.  
16 Within the general appropriation bill submitted to the legislature  
17 under AS 37.07.020, the governor shall include an appropriation for  
18 school construction grants in the succeeding fiscal year as determined  
19 by the six-year construction grant schedule prepared under AS 14.-  
20 11.013.

21 \* Sec. 7. AS 14.11.100(a)(5) is amended to read:

22 (5) subject to (h), (i), and (j) of this section, 80 per-  
23 cent of

24 (A) payments made by the municipality during the  
25 fiscal year for the retirement of principal and interest on

26 (i) outstanding bonds, notes or other indebted-  
27 ness authorized by the qualified voters of the municipality  
28 after June 30, 1983, but before July 1, 1989, to pay costs  
of school construction, additions to schools, and major

1 rehabilitation projects that exceed \$25,000 and are approved  
2 under AS 14.07.020(11); or

3 (ii) outstanding bonds, notes, or other indebted-  
4 ness authorized by the qualified voters of the municipality  
5 before July 1, 1989, and reauthorized before November 1,  
6 1989, to pay costs of school construction, additions to  
7 schools, and major rehabilitation projects that exceed  
8 \$25,000 and are approved under AS 14.07.020(11); and

9 (B) cash payments made after June 30, 1983, by the  
10 municipality during the fiscal year two years earlier to pay  
11 costs of school construction, additions to schools, and major  
12 rehabilitation projects that exceed \$25,000 and are approved by  
13 the department before July 1, 1990, under AS 14.07.020(11).

14 \* Sec. 8. AS 14.11.100(c) is amended to read:

15 (c) The school construction account is established. Funds to  
16 carry out the provisions of this section shall be included within the  
17 general appropriation bill submitted to the legislature under AS 37.-  
18 07.020 and may be appropriated annually by the legislature to the  
19 account. If amounts in the account are insufficient for the purpose  
20 of providing the share to which a borough or city is entitled under  
21 this section, those funds that are available shall be distributed pro  
22 rata among the eligible local governments except that the legislature  
23 may direct that additional debt service on refunding bonds that ex-  
24 ceeds the total debt service on the refunded bonds be disregarded in  
25 whole or in part.

26 \* Sec. 9. AS 14.11.102 is amended to read:

27 Sec. 14.11.102. ALLOCATION REQUESTS. [EVALUATION OF PROJECTS.  
28 THE DEPARTMENT SHALL EVALUATE PROJECTS FOR WHICH RETIREMENT OF SCHOOL  
29 CONSTRUCTION DEBT IS REQUESTED BY SCHOOL DISTRICTS IN ACCORDANCE WITH

THE PROCEDURES SET OUT IN AS 14.11.010.] A request for an allocation of funds under AS 14.11.100 must be submitted to the department by the school district not [NO] later than October 15 of the fiscal year before the fiscal year for which the request is made.

\* Sec. 10. AS 14.11.130 is repealed and reenacted to read:

Sec. 14.11.130. CONSTRUCTION OF CHAPTER. This chapter may not be construed to prevent a municipality that is a school district or a regional educational attendance area from using other revenue to include additional or expanded facilities as part of approved school construction projects.

\* Sec. 11. AS 14.11.135(3) is amended to read:

(3) "costs of school construction" means the cost of acquiring, constructing, enlarging, repairing, remodeling, equipping or furnishing of public elementary and secondary schools that are owned or operated by the state, a municipality, or a district [SCHOOL BUILDINGS] and includes the sum total of all costs of financing and carrying out the project; these include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with the project; an allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositories, financial advisors, and paying agents for the bonds, and any other considerations necessary;

\* Sec. 12. AS 14.11.135 is amended by adding a new paragraph to read:

(5) "district" means the districts described in AS 14.12.-010.

\* Sec. 13. AS 14.14.060 is amended by adding a new subsection to read:

(i) Notwithstanding (e) and (f) of this section, a borough assembly and a borough school board may divide the duties imposed under (e) and (f) of this section by agreement between the borough assembly and the borough school board.

\* Sec. 14. AS 46.11.900(8) is amended to read:

(8) "state financial assistance" means a loan, grant, guarantee, insurance, payment, rebate, subsidy, or other form of state assistance other than aid under AS 05.35.010 - 05.35.070, AS 14.11, [AS 14.11.100 - 14.11.135,] and AS 29.60, including the purchase by a state agency of a loan to finance the construction of a new residential, commercial, or industrial building;

\* Sec. 15. AS 46.11.900(8) is amended to read:

(8) "state financial assistance" means a loan, grant, guarantee, insurance, payment, rebate, subsidy, or other form of state assistance other than aid under AS 05.35.010 - 05.35.070, [AS 14.11,] and AS 29.60, including the purchase by a state agency of a loan to finance the construction of a new residential, commercial, or industrial building;

\* Sec. 16. AS 14.11.010, 14.11.105, 14.11.110, 14.11.115, 14.11.120, and 14.11.125 are repealed.

\* Sec. 17. AS 14.03.150; AS 14.07.020(a)(13), 14.07.170(b); AS 14.08.-101(7); and AS 14.11 are repealed.

\* Sec. 18. Notwithstanding AS 14.11.013(b), added by sec. 6 of this Act, the Department of Education shall award school construction grants in the following order:

1 (1) projects required to avert imminent danger or correct life-  
2 threatening situations;

3 (2) projects that are in their final phase before January 1,  
4 1989, and that have received more than \$2,500,000 in school construction  
5 grant funds;

6 (3) projects that are:

7 (A) approved by the Department of Education before July 1,  
8 1989;

9 (B) approved for reconstruction or renovation by the  
10 qualified voters before July 1, 1989; and

11 (C) determined by a federal or state agency to be a threat  
12 to the welfare of the public; and

13 (4) other projects approved under AS 14.11.015, added by sec. 6  
14 of this Act.

15 \* Sec. 19. Except for secs. 15 and 17 of this Act, this Act takes  
16 effect July 1, 1989.

17 \* Sec. 20. Sections 15 and 17 of this Act take effect July 1, 1995.

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*Sec 10 -*

IN THE SENATE

BY STURGULEWSKI AND PEARCE

*C.S.*  
~~SPONSOR SUBSTITUTE FOR SENATE BILL NO. 100~~

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to insurance for school facilities and equipment and state aid for school construction; and providing for an effective date."

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

\* Section 1. AS 14.03 is amended by adding a new section to read:

Sec. 14.03.150. INSURANCE REQUIRED. (a) Each school district shall purchase and maintain or provide proof of adequate property insurance for the replacement cost of all school facilities and equipment. Insurance purchased to comply with this section may contain a deductible amount, if approved by the department. A school district may comply with this section by initiating and maintaining a program of self-insurance, if the department annually determines that the school district has submitted adequate evidence of the district's ability to self-insure for the replacement cost of all school facilities and equipment. A copy of the insurance policy or other information indicating compliance with this section shall be provided to the department.

(b) If the department determines that a school district is not insured as required under (a) of this section, the department shall notify the school district of the determination. Unless the school district obtains adequate insurance within 30 days after the school district receives notice under this subsection, the department shall purchase the insurance required by (a) of this section for that school district.

1 (c) The department may not award a school construction grant  
2 under AS 14.11 to a school district that is not in compliance with (a)  
3 of this section. The department shall reduce the amount of state  
4 foundation aid under AS 14.17.021 for which a school district may  
5 qualify, by the amount, if any, paid by the department under (b) of  
6 this section.

7 \* Sec. 2. AS 14.07.020(a)(13) is amended to read:

8 (13) administer the grants awarded under AS 14.11 [AS 14.-  
9 11.020];

10 \* Sec. 3. AS 14.07.170 is amended by adding a new subsection to read:

11 (b) The board shall review grant applications recommended under  
12 AS 14.11.013 and may approve grant applications under AS 14.11.015.

13 \* Sec. 4. AS 14.08.101(7) is amended to read:

14 (7) recommend to the department projects for construction,  
15 rehabilitation, and improvement of schools and education-related  
16 facilities as specified in AS 14.11.011(b) [AS 14.11.010(a)], and  
17 plan, design, and construct the project when the responsibility for it  
18 is assumed under AS 14.11.020;

19 \* Sec. 5. AS 14.11 is amended by adding a new section to read:

20 Sec. 14.11.005. SCHOOL CONSTRUCTION GRANT ACCOUNT. There is  
21 created a school construction grant fund as an account in the general  
22 fund. The fund shall be used to make grants to districts in the state  
23 public school system for the costs of school construction. Legisla-  
24 tive appropriations for school construction shall be deposited in the  
25 fund, and the proceeds from the sale of general obligation bonds for  
26 school construction may be deposited in the fund.

27 \* Sec. 6. AS 14.11 is amended by adding new sections to read:

28 Sec. 14.11.011. GRANT APPLICATIONS. (a) A district may submit  
29 a grant request to the department for a school construction grant.

1 (b) To be eligible for a school construction grant the district  
2 shall submit

3 (1) a six-year capital improvement plan that includes a  
4 description of the district's fixed asset inventory system and preven-  
5 tive maintenance program no later than September 1 before the fiscal  
6 year for which the request is made; the six-year plan must contain for  
7 each proposed project a detailed scope of work, a project budget, and  
8 documentation of conditions justifying the project;

9 (2) evidence that the district has secured and will main-  
10 tain adequate property loss insurance for the replacement cost of all  
11 facilities for which state funds are available under AS 14.11.005 or a  
12 program of insurance acceptable to the department; and

13 (3) evidence that the proposed project should be a capital  
14 construction project and not part of a preventive maintenance program  
15 or regular custodial care program.

16 Sec. 14.11.013. DEPARTMENT REVIEW OF GRANT APPLICATIONS. (a)  
17 With regard to projects for which grants are requested under AS 14.-  
18 11.011, the department shall

19 (1) annually review the six-year plans submitted by each  
20 district under AS 14.11.011(b) and recommend to the board a revised  
21 and updated six-year construction grant schedule that serves the best  
22 interests of the state and each district; in recommending projects for  
23 this schedule, the department shall verify that each proposed project  
24 qualifies as a project required to

25 (A) avert imminent danger or correct life-threatening  
26 situations;

27 (B) house students who would otherwise be unhoused;

28 (C) protect the structure of existing school facil-  
29 ities;

1 (D) correct building code deficiencies that require  
2 major repair or rehabilitation in order for the facility to  
3 continue to be used for the educational program;

4 (E) achieve an operating cost savings;

5 (F) modify or rehabilitate facilities for the purpose  
6 of improving the instructional program;

7 (G) meet an educational need not specified in (A) -  
8 (F) of this paragraph, identified by the department;

9 (2) prepare an estimate of the amount of money needed to  
10 finance each project;

11 (3) provide to the governor, by November 1, and to the  
12 legislature within the first 10 days of each regular legislative  
13 session, a revised and updated six-year construction grant schedule  
14 together with a proposed schedule of appropriations.

15 (b) In preparing the construction grant schedule, the department  
16 shall establish priorities among projects for which grants are re-  
17 quested and shall award school construction grants in the order of  
18 priority established. In establishing priorities the department shall  
19 evaluate at least the following factors:

20 (1) emergency requirements;

21 (2) priorities assigned by the district to the projects  
22 requested;

23 (3) the number of students without classroom space;

24 (4) new local elementary and secondary programs;

25 (5) existing regional, community, and school facilities,  
26 and their condition; and

27 (6) alternate education program options for accomplishing  
28 the project's objectives.

29 (c) The department may reject project requests and omit them

from the six-year schedule due to

1 (1) incomplete information or documentation provided by the  
2 district;

3 (2) a determination by the department that existing facili-  
4 ties can adequately serve the program requirements, or that alterna-  
5 tive projects are in the best interests of the state;

6 (3) a determination that the project is not in the best  
7 interest of the state.

8 (d) The department shall reduce a project budget by the cost of  
9 those portions of a project design that the department determines are  
10 for construction of student residential space, planetariums, hockey  
11 rinks, saunas, and other facilities for single purpose sporting or  
12 recreational uses that are not suitable for other activities. This  
13 subsection does not apply to funding for swimming pools that meet  
14 criteria established by the department.

15 (e) By November 15, the department shall provide public notice  
16 of the grant applications submitted under (a) of this section and the  
17 priorities established under (b) of this section. After public notice  
18 has been given, the department shall hold a public hearing on the  
19 priorities established under (b) of this section. In this subsection,  
20 "public notice" means notice published in a newspaper of general  
21 circulation and notice to every person who has requested notice about  
22 the grant application program from the department.

23 Sec. 14.11.015. APPROVAL OF GRANT APPLICATIONS. (a) The board  
24 shall review grant applications that have been recommended by the  
25 department under AS 14.11.013, and may approve a grant application if  
26 the board determines that the project meets the criteria specified in  
27 AS 14.11.013(a)(1). The department may not award a school construc-  
28 tion grant unless the grant application is approved by the board.  
29

1 (b) The department shall award grants approved under (a) of this  
2 section in the order of the projects' priority on the effective date  
3 of an appropriation funding the school construction grant fund regard-  
4 less of any appeal pending under AS 14.11.016. Appeals pending under  
5 AS 14.11.016 at the time that grants are awarded may not delay the  
6 funding of grants awarded under this section.

7 (c) If a project is assigned a new priority ranking under AS 14.-  
8 11.016 after the effective date of an appropriation funding the school  
9 construction grant fund, the project must be funded in accordance with  
10 the new priority ranking at the next time that school construction  
11 grants are awarded.

12 Sec. 14.11.016. ADMINISTRATIVE AND JUDICIAL REVIEW. (a) A  
13 district may request reconsideration of a decision of the department  
14 assigning a priority to the district's project, establishing the scope  
15 of the project, or establishing the budget for the project. The  
16 request must be in writing and must include a statement of the spe-  
17 cific changes desired, and a summary of the evidence supporting the  
18 district's claim that the department has erred in its review of the  
19 district's grant application. A request for reconsideration must be  
20 received by the department by the day of the public hearing held under  
21 AS 14.11.013(e). The department shall review its decision on the  
22 basis of the request by the district and determine whether its deci-  
23 sion should be changed. The department shall issue its determination  
24 in writing within 15 days after the last day of the public hearing  
25 held under AS 14.11.013(e).

26 (b) A district may appeal an adverse decision of the department  
27 under (a) of this section to the commissioner on the ground that the  
28 department has not complied with AS 14.11.013. The notice of appeal  
29 must be in writing and must include a statement of evidence supporting

1 the district's claim that the department has not complied with AS 14.-  
2 11.013. The notice of appeal must be received by the commissioner  
3 within 15 days after the department issues its determination under (a)  
4 of this section. The commissioner shall issue a written decision on  
5 the appeal within 15 days after receiving the notice of appeal.

6 (c) A district may appeal an adverse decision of the commis-  
7 sioner under (b) of this section by filing a written notice of appeal  
8 with the board within 30 days after the date of the commissioner's  
9 decision. The notice of appeal must state the legal and factual basis  
10 for the appeal and the precise relief sought. The failure of the  
11 district to include an issue in a notice of appeal constitutes a  
12 waiver of the right to have the issue considered under this subsec-  
13 tion. If the board finds that the notice of appeal does not raise a  
14 reasonable issue of fact or law, it shall issue a written decision.  
15 If the board finds that the notice of appeal raises a reasonable issue  
16 of fact or law, the board shall appoint a hearing officer who is  
17 qualified under AS 44.62.350(c) to conduct a hearing on those issues.  
18 The hearing officer shall conduct a hearing on the issues raised in  
19 the notice of appeal, make findings of fact and law, and recommend a  
20 decision to the board within 60 days after the last day for filing a  
21 notice of appeal with the board. The board shall consider the recom-  
22 mended decision of the hearing officer at its next regularly scheduled  
23 meeting and may adopt all, part, or none of the recommended decision  
24 or may remand the issue to the hearing officer for further hearings.  
25 The board shall issue its decision in writing.

26 (d) The board shall consolidate appeals under (c) of this sec-  
27 tion, if the notices of appeal raise related issues of fact or law.

28 (e) A district may appeal an adverse decision of the board under  
29 (c) of this section to the superior court in the manner provided by

AS 44.62.560 - 44.62.570.

1  
2 (f) The board shall adopt regulations governing procedures for  
3 the reconsideration and appeal of decisions under this section. The  
4 regulations adopted under this subsection are not required to conform  
5 to AS 44.62.330 - 44.62.630, but shall be consistent with minimum  
6 standards of due process.

7 (g) A district may not request reconsideration of or appeal a  
8 priority determination on the grounds that a revised priority assigned  
9 to another project, due to a reconsideration or appeal under this sec-  
10 tion, has resulted in a lower priority being accorded to the dis-  
11 trict's project.

12 Sec. 14.11.017. SCHOOL CONSTRUCTION GRANT CONDITIONS. (a) The  
13 department shall require in the grant agreement that the district

14 (1) agree to construction of a facility of appropriate size  
15 and use that meets criteria adopted by the department;

16 (2) provide reasonable assurance by a means acceptable to  
17 the department, that the cost of the project will be uniform with the  
18 costs of the most current construction projects in the area;

19 (3) agree to limit equipment purchases to that required for  
20 the approved school construction plan and account for all equipment  
21 purchased for the project under a fixed asset inventory system ap-  
22 proved by the department;

23 (4) submit project budgets for department approval and  
24 agree that the grant amount may, at the discretion of the department,  
25 be reduced or increased by amounts equal to the amounts by which  
26 contracts vary from the budget amounts approved by the department; and

27 (5) submit to the department for approval, before award of  
28 the construction contract, a plan for school construction that in-  
29 cludes educational specifications, final construction drawings, and

contract documents.

(b) The cost of any school construction activity encompassed by the definition of "costs of school construction" under AS 14.11.135 is payable under a grant awarded under AS 14.11.015 without regard to whether the costs were incurred prior to the

- (1) award of the grant;
- (2) approval of the grant application by the board; or
- (3) effective date of an appropriation to the school construction grant account for the year in which the grant is funded.

Sec. 14.11.019. SCHOOL CONSTRUCTION GRANT APPROPRIATIONS. Within the general appropriation bill submitted to the legislature under AS 37.07.020, the governor shall include an appropriation for school construction grants in the succeeding fiscal year as determined by the six-year construction grant schedule prepared under AS 14.11.013.

\* Sec. 7. AS 14.11.100(a)(5) is amended to read:

(5) subject to (h), (i), and (j) of this section, 80 percent of

(A) payments made by the municipality during the fiscal year for the retirement of principal and interest on outstanding bonds, notes or other indebtedness authorized by the qualified voters of the municipality after June 30, 1983, but before July 1, 1989, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11); and

(B) cash payments made after June 30, 1983, by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved by

1           the department before July 1, 1990, under AS 14.07.020(11).

2 \* Sec. 3. AS 14.11.100(c) is amended to read:

3           (c) The school construction account is established. Funds to  
4 carry out the provisions of this section shall be included within the  
5 general appropriation bill submitted to the legislature under AS 37.-  
6 07.020 and may be appropriated annually by the legislature to the  
7 account. If amounts in the account are insufficient for the purpose  
8 of providing the share to which a borough or city is entitled under  
9 this section, those funds that are available shall be distributed pro  
10 rata among the eligible local governments except that the legislature  
11 may direct that additional debt service on refunding bonds that ex-  
12 ceeds the total debt service on the refunded bonds be disregarded in  
13 whole or in part.

14 \* Sec. 9. AS 14.11.102 is amended to read:

15           Sec. 14.11.102. ALLOCATION REQUESTS. [EVALUATION OF PROJECTS.  
16 THE DEPARTMENT SHALL EVALUATE PROJECTS FOR WHICH RETIREMENT OF SCHOOL  
17 CONSTRUCTION DEBT IS REQUESTED BY SCHOOL DISTRICTS IN ACCORDANCE WITH  
18 THE PROCEDURES SET OUT IN AS 14.11.010.] A request for an allocation  
19 of funds under AS 14.11.100 must be submitted to the department by the  
20 school district not [NO] later than October 15 of the fiscal year  
21 before the fiscal year for which the request is made.

22 \* Sec. 10. AS 14.11 is amended by adding a new section to read:

23           Sec. 14.11.127. ALLOCATION OF APPROPRIATIONS FOR SCHOOL CON-  
24 STRUCTION. (a) If the amount appropriated to the department for  
25 school construction in a fiscal year is less than the amount necessary  
26 to fund full entitlements for school construction debt retirement  
27 under AS 14.11.100 and the amount necessary to fully fund all projects  
28 required to avert imminent danger or correct life-threatening situa-  
29 tions that have been approved by the board under AS 14.11.015, then

1 the amount appropriated for that fiscal year shall be allocated,  
 2 unless otherwise provided by law, between the school construction  
 3 grant account under AS 14.11.005 and the school construction account  
 4 under AS 14.11.100(c) in the following proportions:

Fiscal year	School Construction Grant Account	School Construction Account
1990	.11	.89
1991	.13	.87
1992	.15	.85
1993	.21	.79
1994	.29	.71
1995	.36	.64
1996	.46	.54
1997	.58	.42
1998	.60	.40
1999 and subsequent		
fiscal years	.62	.38

17 (b) If the amount appropriated to the department for school  
 18 construction debt retirement exceeds the amount necessary to pay full  
 19 entitlements under AS 14.11.100(c), the excess amount of the appro-  
 20 priation may be deposited, unless otherwise provided by law, in the  
 21 school construction grant account under AS 14.11.005.

22 \* Sec. 11. AS 14.11.130 is repealed and reenacted to read:

23 Sec. 14.11.130. CONSTRUCTION OF CHAPTER. This chapter may not  
 24 be construed to prevent a district from using other revenue to include  
 25 additional or expanded facilities as part of approved school construc-  
 26 tion projects.

27 \* Sec. 12. AS 14.11.135(3) is amended to read:

28 (3) "costs of school construction" means the cost of  
 29

1 acquiring, constructing, enlarging, repairing, remodeling, equipping  
2 or furnishing of public elementary and secondary schools that are  
3 owned or operated by the state or a district [SCHOOL BUILDINGS] and  
4 includes the sum total of all costs of financing and carrying out the  
5 project; these include, but are not limited to, the costs of all  
6 necessary studies, surveys, plans and specifications, architectural,  
7 engineering or other special services, acquisition of real property,  
8 site preparation and development, purchase, construction, reconstruc-  
9 tion and improvement of real property and the acquisition of machinery  
10 and equipment as may be necessary in connection with the project; an  
11 allocable portion of the administrative and operating expenses of the  
12 grantee; the cost of financing the project, including interest on  
13 bonds issued to finance the project; and the cost of other items,  
14 including any indemnity and surety bonds and premiums on insurance,  
15 legal fees, fees and expenses of trustees, depositaries, financial  
16 advisors, and paying agents for the bonds issued as the issuer con-  
17 siderers necessary;

18 \* Sec. 13. AS 14.11.135 is amended by adding a new paragraph to read:

19 (5) "district" means the districts described in AS 14.12.-  
20 010.

21 \* Sec. 14. AS 46.11.900(8) is amended to read:

22 (8) "state financial assistance" means a loan, grant,  
23 guarantee, insurance, payment, rebate, subsidy, or other form of state  
24 assistance other than aid under AS 05.35.010 - 05.35.070, AS 14.11.  
25 [AS 14.11.100 - 14.11.135,] and AS 29.60, including the purchase by a  
26 state agency of a loan to finance the construction of a new resi-  
27 dential, commercial, or industrial building;

28 \* Sec. 15. AS 46.11.900(8) is amended to read:

29 (8) "state financial assistance" means a loan, grant,

1 guarantee, insurance, payment, rebate, subsidy, or other form of state  
2 assistance other than aid under AS 05.35.010 - 05.35.070, [AS 14.11,]  
3 and AS 29.60, including the purchase by a state agency of a loan to  
4 finance the construction of a new residential, commercial, or in-  
5 dustrial building;

6 \* Sec. 16. AS 14.11.010, 14.11.105, 14.11.110, 14.11.115, 14.11.120,  
7 and 14.11.125 are repealed.

8 \* Sec. 17. AS 14.03.150; AS 14.07.020(a)(13), 14.07.170(b); AS 14.08.-  
9 101(7); and AS 14.11 are repealed.

10 \* Sec. 18. Except for secs. 15 and 17 of this Act, this Act takes  
11 effect July 1, 1989.

12 \* Sec. 19. Sections 15 and 17 of this Act take effect July 1, 1993.  
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## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: Insurance For School Facilities  
 and Equipment and State Aid...  
 Sponsor: Sturgulewski and Pearce  
 Requestor: Sturgulewski

Agency Affected: Education  
 BRU: CIP Overhead  
 Components: CIP Overhead

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

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

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

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

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

This bill will not increase administrative costs to the Department.

Prepared by: Mary Hakala Phone: 465-2800  
 Division: Commissioner's Office Date: 3/2/89  
 Approved by Commissioner: William G. Demmert Date: 3/2/89  
 Agency: Education

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

# Alaska State Legislature



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ANCHORAGE, ALASKA 99508

SENATOR  
ARLISS STURGULEWSKI  
Senate President Pro Tempore  
Chairman, Senate Rules Committee

While in Juneau  
P.O. BOX V  
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## Senate

### SUMMARY OF SENATE BILL 100

The inequity in Alaska's school construction policy is not new. The current law requires the state to pay up to 80% of the bond debt created by municipalities for school construction. But in the past, the state has funded at less than the 80% level, which leaves the balance to the local taxpayers. Also, the state has little control over the projects funded by bond issues. At the same time, school districts that do not have the ability to bond rely on direct grants from the legislature for new school construction.

The total statewide debt created by school bond issues is \$965,036,714, which extends through the year 2008. Reimbursement to school districts for the last five years has averaged 94.17% of full entitlement. The figures for the last four years have declined from 100% in FY85 to 91.98% in FY 89. Those figures are likely to decrease on a year to year basis due to declining oil revenues, thus putting the burden of repaying the debt back on local taxpayers.

There is another problem with the current system. Neither the Governor nor the legislature is inclined to follow the priority list submitted by the Department of Education for new school construction needs. State funding of schools has been formulated on political decisions rather than needs-based priorities.

Approximately \$261,355,200 was appropriated for school construction over the past five years. The requests for priority one projects, addressing life and safety needs, was \$165,209,900. Only 21.8% of the total funds were appropriated to priority one projects; the remaining \$204,315,100 was spent on projects of either lower priority or no priority ranking at all. In other words, only 34.5% of the priority one requests during this five year period received funded.

Senate Bill 100 addresses both the accountability and equity issues in school construction.

The proposed legislation would:

- \* Require districts to submit a six year plan for school construction to the state, updated on an annual basis.

- \* Require DOE to review, evaluate and recommend projects for approval by the State Board of Education. Each project would be assigned a priority. Top priority would be given to projects required to avert imminent danger or correct life-threatening situations. A single, prioritized list would be approved by the State Board. An appeals process is also established for districts contesting the priority assigned to a project. (The priority criteria is currently under review by a subcommittee of the Alaska Coalition for Education).
- \* Establish a new school construction grant fund to hold legislative appropriations for school construction. The legislature would appropriate funds to the grant fund, but not for individual projects. Projects would then be funded in priority order to the extent of the funding.
- \* Provide for debt retirement entitlements. In the event that not enough money is available in any given year to fund both the full entitlement and all priority one projects, the available funds would be divided between these two. The percentage of money going to debt reimbursement in this case would decline as the amount necessary to pay full entitlement declines. Here is how the formula would apply using FY 90 requests as an example. Funding for priority one projects for FY 90 is \$7.9 million. The request from DOE is \$36,368.8 for all priority ones. School bond debt retirement is \$104,024.2. Full entitlement for that fiscal year is \$112,465,693. Thus neither program reaches full funding. The percentages as outlined in Section 10 of the sponsor substitute, would be then be applicable. Here is how the percentages would apply:

TOTAL (Both Programs)	\$111,924.2	
89% of total (school bond debt)		99,612.5
11% of total (new construction-priority 1)		12,311.7

- \* Require all districts to maintain property insurance for replacement cost of all school facilities and equipment. An uninsured loss could jeopardize the system by catapulting a replacement project to the top of the list.
- \* All state funded new construction would be funded by this process. The state would not reimburse municipalities for bonds authorized after passage of the bill. When the bonds which have been previously sold are retired, all state funding for school construction would be by direct appropriation through the grant account. This does not preclude a municipality from selling bonds to finance school construction, but the state would not be responsible for any of the debt.

The uncertainty of oil revenues and the ability "to get a handle on school bond debt reimbursement" are the predominant driving forces behind this bill. It is everyone's best interest statewide to tackle this problem in order to develop the most equitable policy.

SECTIONAL ANALYSIS  
SPONSOR SUBSTITUTE SB 100

SECTION #1

(a) Requires school districts to purchase and maintain property insurance for the replacement costs of school buildings.

(b) Should a school district not comply, the Department of Education is directed to purchase the required insurance.

(c) Forbids Department of Education to grant school construction dollars to a school district without insurance. Requires the Department to withhold foundation aid from the district that has not purchased insurance in the same amount required to purchase insurance.

SECTION #2

AS 14.07.020 is entitled "(a) Duties of the Department" This changes a statutory reference to conform to changes made by the bill.

SECTION #3

AS 14.07.170 is entitled "Additional powers of the Board" (of Education). This adds the power to review and approve grant applications for school construction projects.

SECTION #4

AS 14.08.101 is entitled "Powers" (of a regional school board). This changes a statutory reference to conform to changes made by the bill.

SECTION #5

This is a new section creating the school construction grant account. Grants from school construction may be made from this account by the Department of Education. This section requires legislative appropriations for school construction be deposited in the account. It allows for the deposit of proceeds from general obligation bond sales.

SECTION #6

AS 14.11.005 is a new section allowing a school district to apply for school construction grant funds. It sets out criteria for eligibility to receive grants. To be eligible a district must:

(1) submit a six-year capital improvement plan which includes:

- description of the district's fixed asset inventory system

- description of the district's preventive maintenance program.
  - a detailed scope of work for each project
  - a project budget
  - documentation of conditions justifying the project
- (2) evidence of insurance for replacement costs of all school facilities funded through the construction grant account or a program of insurance acceptable to the department.
- (3) evidence that the proposed project should be a capital construction project and not part of a preventive maintenance program or regular custodial care program.

The request must be submitted no later than September 1 before the fiscal year for which the request is made.

14.11.013 is a new section. (a) It sets out the procedure by which the Department shall review grant applications.

This procedure includes:

(1) Review all six-year plans submitted by the districts and recommend to the Board of Education a statewide six-year construction grant schedule. In preparing this schedule the department must verify that each project is required to:

(a) avert imminent danger or correct life-threatening situations;

(b) house students who would otherwise be unhoused;

(c) protect the structure of the existing school facilities

(d) correct building code deficiencies

(e) save operating costs

(f) modify or rehabilitate facilities for the purpose of improving the instructional program

(e) meet some other educational need

(2) the Department must also prepare cost estimates for each project and

(3) provide the grant schedule and an appropriation schedule to the governor by November 1 (and to the legislature within 10 days of the beginning of the session).

(b) The department must establish priorities among projects and award grants in the order of priority established. To establish those priorities the department must consider at least the following factors:

(1) emergency requirements;

(2) district priority

(3) number of students without classroom space

(4) new local elementary and secondary programs

(5) existing regional, community, and school facilities, and their condition; and

(6) alternate education program options

(c) The department may reject project requests and omit those rejected requests from the six-year schedule for the following reasons:

(1) incomplete information or documentation provided by the district

(2) a finding by the department that existing facilities are adequate, or that alternative projects are in the best interests of the state, or

(3) a determination that the project is not in the best interests of the state.

(d) the department may reduce a project budget by the cost of those portions of a project design that the department determines are for construction of student residential space, planetariums, hockey rinks, saunas, and other facilities for single purpose sporting or recreational uses that are not suitable for other activities. This does not apply to funding for swimming pools that meet criteria established by the department.

(e) The department must publish notice of applications received under and priorities determined by November 15th. After public notice is given, the department shall hold a public hearing on the established priorities.

AS 14.11.015. Approval of Grant Applications. This is a new section.

(a) Requires the Board to review grant applications recommended by the department and allows the board to approve an application if the project meets the criteria. The department may not approve a school construction grant unless the application is approved by the board.

(b) Requires the department to award grants in the order of project priority on the effective date of the appropriation bill funding the school construction grant fund regardless of any pending appeals. Appeals pending may not delay funding of grants.

(c) If a project that has been appealed has been assigned a new priority after the grants are made, the project must be funded in accordance with the new priority ranking at the next time grants are awarded.

AS 14.11.016. Administrative and Judicial Review. This is a new section.

(a) A district may request reconsideration from the department on the following items:

- assignment of priority
- scope of the project
- budget for the project.

The request must be in writing and include specific changes desired and a summary of the evidence of the district's claim that the department has erred.

The reconsideration request must be received by the department by the day of the public hearing held under AS 14.11.013(e).

The department is required to then review its decision and determine whether the decision should be changed. That determination is to be issued within 15 days of the last day of the public hearing held under AS 14.11.013(e).

(b) A district may appeal an adverse decision of an appeal to the department to the commissioner. The ground for such an appeal are that the department has not complied with AS 14.11.013.

The notice of appeal must be in writing and must include a statement of evidence supporting the district's claim that the department has not complied with AS 14.11.013. The appeal must be received by the commissioner within 15 days of the department's decision under (a).

The commissioner shall issue a written decision on the appeal within 15 days after receiving the notice of appeal.

(c) A district may appeal an adverse decision of the commissioner by filing written notice of appeal to the board within 30 days of the date of the commissioner's decision.

The notice of appeal must state the legal and factual basis for the appeal and the precise relief sought. The failure of a district to include an issue in the notice of appeal to the board constitutes a waiver of the right to have an appeal considered under this subsection.

If the board finds that the notice of appeal does not raise a reasonable issue of fact or law, it shall issue a written decision.

If the board finds that the notice of appeal does raise a reasonable issue of fact or law the board shall appoint a hearing officer qualified under AS 44.62.350(c) (requiring that a hearing officer have been admitted to practice law for at least two years immediately before the appointment).

The hearing officer shall, within 60 days, conduct a hearing, making findings of fact & law, and recommend a decision to the board.

The board, at it's next regularly scheduled meeting, shall consider the recommendations of the hearing officer and may adopt all, part, or none of the recommended decision.

The board may also remand the issue to the hearing officer for further hearings.

The board shall consolidate appeals of the notices of appeal raise related issues of fact or law.

(e) An adverse decision of the board may be appealed to the superior court under AS 44.62.560 - 44.62.570 (Judicial Review and Scope of Review).

(f) The board shall adopt regulations governing procedures for the reconsideration and appeal. These regulations are not required to conform to AS 44.62.330 - 44.62.630 (these sections set out procedures for administrative adjudication as part of the Administrative Procedure Act)

(g) A district may not request an appeal because that district's ranking was changed as a result of another district's appeal.

Sec. 14.11.017. SCHOOL CONSTRUCTION GRANT CONDITIONS. This is a new section. The department shall require in the grant agreement that the district

(1) agree to construction of a facility of appropriate size and use that meets the department's criteria

(2) assure the department that the cost of the project will be uniform with the costs of the most current construction projects in the area

(3) agree to limit equipment purchases to that required for the approved plan and to account for all equipment purchased for the project under a fixed asset inventory system approved by the department

(4) submit project budgets for department approval and agree that the grant amount may be reduced or increased by amounts equal to the amounts by which contracts vary from the budget amounts approved by the department

(5) submit a plan that includes educational specifications, final construction drawings, and contract documents to the department before award of the contract.

(b) Eligible construction costs may be paid under a grant without regard to whether the costs were incurred prior to the award of the grant, approval by the board of the application, or effective date of the appropriation to the school construction grant account for the year in which the grant is funded.

Sec. 14.11.019 SCHOOL CONSTRUCTION GRANT APPROPRIATIONS. This is a new section. The Governor is instructed to include an amount for appropriation to the school construction grant account in the general appropriation bill submitted to the legislature under 37.07.020.

SECTION #7

AS 14.11.100(a)(5)(A) is changed to limit the debt reimbursement program to apply only to bonds authorized before July 1, 1989.

(B) changed to limit the cash reimbursement program to those projects authorized by the department before July 1, 1991.

SECTION #8

AS 14.11.100(c) is changed to require that funds for the school construction account (80% reimbursement) shall be included in the general appropriation bill submitted to the legislature under AS 37.07.020.

SECTION #9

AS 14.11.102 is changed to remove reference to evaluation of projects requested by districts to be eligible for debt reimbursement.

SECTION #10

AS 14.11.127 ALLOCATION OF APPROPRIATIONS FOR SCHOOL CONSTRUCTION. This is a new section, the purpose of which is to ensure that in years of underfunding of the two school accounts - the school construction grant account under 14.11.005 and the school construction account under 14.11.100, the appropriation is allocated by formula between the two accounts.

The declining percentages for debt reimbursement (the school construction account) are designed to reflect the diminishing debt owed by the municipalities.

Excess funds in the school debt reimbursement account may be deposited into the school construction grant account.

SECTION #11

Current AS 14.11.130 is repealed and reenacted to allow a district to use other sources of funds to include additional or expanded facilities as part of a school construction project.

SECTION #12

AS 14.11.135(3) defines the costs of school construction. It is amended to clarify the schools to which the definition applies.

SECTION #13

AS 14.11.135 has a new section added to ensure that the definition of "district" conforms to the definition in AS 14.12.010.

SECTION #14

AS 46.11.900 (8) adds the statutory reference for the school construction grant account to the definition of "state financial assistance".

SECTION #15

This section takes effect on July 1, 1993 and removes the school construction grant account from the definition of "state financial assistance".

SECTION #16

This section repeals current law.

SECTION #17

This section repeals the changes made by this legislation to current law. That repeal would be in effect July 1, 1993.

SECTION #18

This section makes the bill effective July 1, 1989.

# Assembly quizzes board on school

By ERIC PETER

THE JUNEAU EMPIRE

The Juneau City-Borough Board of Education faced a barrage of questions from assembly members on a proposed \$19.5 million school at Lemon Creek during the Juneau City-Borough Assembly meeting Monday evening.

Some of the questions reflected an uneasiness among assembly members with the cost and the location.

"I don't know if you're bankers, land developers or educators," assembly member Rosalee Walker told school board members. "I can't get excited about the (new school) price."

Walker asked the board if it had considered building two schools. She said she didn't agree with "warehousing" elementary students with middle school students.

Later in the meeting she said she was disappointed with the school board and couldn't support the project.

"The school district will have 160 more elementary students than it is prepared for," said school board president David Crosby in defending the "flex" school plan. "The demographers said after that the elementary population will remain stable or decline. This is hard to believe. We want to cover our tail feathers in case the demographers are wrong."

Crosby added that the demogra-

phers indicated the city-borough doesn't need two new schools.

"If we have a population increase, then we've got to be prepared for the future or we'll be way behind," said school board member Becky Bear.

Assembly member Errol Champion asked why the Lemon Creek area had been picked for the school site.

"This is a part of the community currently without a facility," Crosby said. "It didn't make sense to put the school in town and we don't want to put two (middle schools) in the valley."

Champion noted that 15 to 18 percent of the cost for the proposed school would be used to develop the site. He asked if land elsewhere would be more suitable and if the city-borough would continue to maintain Capital School while the new school is under construction.

"The (\$19.5 million) figure troubles me," he said. "Once you see a number, that's what you remember. It's a lot of money to spend for 650 students."

Johnson said the board is considering backup plans for site location. He added that in two to three years the board will have a better idea of how to use Capital School.

Assembly member Caren Robinson suggested reopening Capital School so there could be two elemen-

**Please turn to School, Page 8**

## School...

Continued from Page 1

tary schools in town and a smaller middle school at Lemon Creek.

Johnson said they had looked at the possibility of two elementary schools in town to cope with the 510 students projected for Harborview School, but added that it wouldn't be cost effective.

Assembly member Rosie Peterson congratulated the school board on the plan for the school but said that she was concerned over the \$700,000 cost of financing the school bonding, adding she would appreciate a refinement of the figure.

"If the cost comes in under, I'd like to see the ballance put back into the bond," Peterson said.

"If there were no bond issue before us, would you still have come before us with this proposal?" Peterson asked. She was referring to pending state legislation that, if passed, would end the 80 percent maximum the state has been reimbursing communities for school bond debt after July 1.

"Demographics have determined the need for a new school," Crosby answered.

Assembly member McKie Campbell suggested using Harborview, Marie Drake and the high school as a "flex" school and using modular units and Capital School for elemen-

tary students. He also asked if the school administration building at the corner of Glacier Avenue and 12th Street could be used for classrooms.

Johnson said the administration building wasn't designed for classroom use, but that it might provide two or three classrooms.

Assembly member George Davidson also mentioned a letter from S and S Development Co. offering for sale an alternative site in front of Switzer Village. The site is already filled and has water, sewer and power available. The site the school board is considering is behind Switzer Village.

The school board approved the proposal for a new school at its Feb. 7 meeting and put a \$19.5 million ceiling on the price.

"Demographic studies show the need for a new school to relieve overcrowding in our elementary schools over the next three years," Johnson said. "The school would replace the downtown middle school and take students from Douglas and the valley."

According to Johnson, the new school would handle the overflow of elementary students at first, then would be used as a middle school. Marie Drake Middle School would become part of the high school, according to the overall plan, to handle the projected enrollment of 1,700 high school students.

Johnson told the assembly the

state Department of Education would reimburse the school district for 80 percent of the cost of temporary modular classrooms in the interim to take the pressure off elementary schools. The modular classrooms will be in place by the 1990 school year, Johnson said.

Following further discussion, the matter was referred to the assembly finance committee.

In other assembly business, a resolution asking the Bush administration and the Congress to look at the problem of high seas salmon interception by foreign fleets was pulled from the consent agenda by Campbell and referred to the lands and resources committee.

Under unfinished business, a resolution supporting the governor's proposed constitutional amendment to create a state educational endowment in the permanent fund was referred to the finance committee.

SB 100

Juneau  
What if they don't  
pass bond issue?

Katchikan - Asbestos

Avoid - direct grants from legislature  
i.e. - Copper River



Job Office -

Glen Allen - Not finished  
"partly done" 200 students

4.3

Thorn Bay

3.7

MT. Village

2.5

"Amendment"

10.5

REAA vs Muni



Cost guidelines

Leg apply - "not for indiv project"

"Concept"

See 10

Scott Burgess

19

Bond elections  
85/86

Voted Bond Proceeds

Approved Reimbursement title 29.

★ ← Votes Approval of Bond already authorized.  
No new potential liability

Bonds already authorized  
NOT New Bonds ✓

★ Issued unad

Step the delist

Date

Drop off Point

Check

Announce  
Existing Restrictions

Nov old

July 4 New

**Sec. 14.09.020. Transportation for nonpublic school students.** In those places in the state where the department or a school district provides transportation for children attending public schools, the department also shall provide transportation for children who, in compliance with the provisions of AS 14.30, attend nonpublic schools which are administered in compliance with state law where the children, in order to reach the nonpublic schools, must travel distances comparable to, and over routes the same as, the distances and routes over which the children attending public schools are transported. The commissioner shall administer this nonpublic school student transportation program, integrating it into existing systems as much as feasible, and the cost of the program shall be paid from funds appropriated for that purpose by the legislature. (§ 1 ch 157 SLA 1972)

**Collateral references.** — Constitutionality of statute providing school bus service for pupils of parochial or private schools. 168 ALR 1434.

Constitutionality, under state constitu-

tional provision forbidding financial aid to religious sects, of public provision of school bus service for private school pupils. 41 ALR3d 344.

## Chapter 10. Administration of the School System.

*[Repealed, § 59 ch 98 SLA 1966.]*

## Chapter 11. Construction, Rehabilitation, and Improvement of Schools and Education-Related Facilities.

Section	Section
10. Recommendations and evaluations of projects	110. Eligibility
20. Assumption of responsibilities	115. State aid
100. State aid for costs of school construction debt	120. Application for aid
102. Evaluation of projects	125. Conditions of state aid
105. Public school facilities construction advance account	130. Construction and implementation
	132. Regulations
	135. Definitions

**Opinions of attorney general.** — Appropriations to retire municipal general obligation school bond indebtedness under this chapter are "required" and qualify as

an exception to the spending limit of § 16, art. IX, of the state constitution. 1983 Op. Att'y Gen. No. 01.

**Sec. 14.11.010. Recommendations and evaluations of projects.** (a) The assembly or council of a municipality that is a school district or a regional school board may submit a request to the department for a school or education-related facility construction, rehabilitation, or improvement project together with a report evaluating the condition of school or education-related facilities in the municipality or regional educational attendance area and a determination of the need for the project.

(b) With regard to projects requested under (a) of this section the department shall

(1) rank each project in the order of priority that serves the best interests of the state;

(2) prepare an estimate of the amount of money needed to finance each project approved by the department and recommend to the governor appropriations for projects to be included in the budget submitted to the legislature;

(3) provide the governor with a copy of the report of the assembly, council, or regional school board that requested each project approved by the department;

(4) provide to the legislature within the first 10 days of each regular session a summary of the projects requested by each assembly, council, or regional school board.

(c) In establishing priorities among requested projects the department shall evaluate at least the following factors:

(1) priorities assigned by the assembly, council, or school board to the projects requested;

(2) emergency requirements;

(3) the number of students without classroom space;

(4) new local elementary or secondary programs;

(5) existing regional, community, and school facilities and the condition of the facilities;

(6) the economic and social stability of the municipality or region.

(d) The provisions of this section do not affect a municipality's eligibility for reimbursement under AS 14.11.100. (§ 3 ch 92 SLA 1982)

Revisor's notes. — Enacted as AS 14.07.180. Renumbered in 1982.

**Sec. 14.11.020. Assumption of responsibilities.** (a) The assembly or council of a municipality that is a school district or a regional school board may, by resolution or majority vote of the body, assume the responsibilities relating to the planning, design, and construction of a school or an education-related facility located within the boundaries or operating area of the municipality or regional educational attendance area. After receipt of a request by an assembly or council under this subsection, the department shall provide for the assump-

tion of the responsibilities requested. After receipt of a request by a regional school board under this subsection, the department may provide for the assumption of the responsibilities requested.

(b) If a municipality that is a school district or a regional educational attendance area assumes the responsibilities under this section, the department shall grant to the municipality or regional educational attendance area money appropriated for the school or education-related facility. The department may transfer the appropriations to a special construction account in the state treasury. Under the fiscal control of the department, a municipality or regional educational attendance area that assumes responsibilities for the project as provided in this section may draw on the account for costs of the project.

(c) The construction management costs of a project assumed under this section may not exceed four percent of the amount of appropriations for the facility if the amount of appropriations is \$500,000 or less. The construction management costs of a project assumed under this section may not exceed three percent of the amount of appropriations for the facility if the amount of appropriations is over \$500,000 but less than \$5,000,000. The construction management costs of a project assumed under this section may not exceed two percent of the amount of appropriations for the facility if the amount of appropriations is \$5,000,000 or more. For purposes of this subsection "construction management" means management of the project's schedule, quality, and budget during any phase of the planning, design, and construction of the facility by a private contractor engaged by the municipality or regional educational attendance area.

(d) The commissioner shall adopt necessary regulations implementing this section, and setting out the requirements for agreements between the department and a municipality or regional educational attendance area relating to the assumption by the municipality or regional educational attendance area of responsibilities for the planning, design, and construction of a project. (§ 3 ch 92 SLA 1982)

Revisor's notes. — Enacted as AS  
14.07.190. Renumbered in 1982.

**Sec. 14.11.100. State aid for costs of school construction debt.**

(a) During each fiscal year, the state shall allocate to a municipality that is a school district, the following sums:

(1) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred before July 1, 1977 to pay costs of school construction;

(2) 90 percent of

(A) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after June 30, 1977 and before July 1, 1978 to pay costs of school construction;

(B) cash payments made after June 30, 1976 and before July 1, 1978 by the municipality during the fiscal year two years earlier to pay costs of school construction;

(3) 90 percent of

(A) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after June 30, 1978 and before January 1, 1982 to pay costs of school construction projects approved under AS 14.07.020(11);

(B) cash payments made after June 30, 1978 and before July 1, 1982 by the municipality during the fiscal year two years earlier to pay costs of school construction projects approved under AS 14.07.020(11);

(4) subject to (h) and (i) of this section up to 90 percent of

(A) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after December 31, 1981, and authorized by the qualified voters of the municipality before July 1, 1983, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11); and

(B) cash payments made after June 30, 1982, and before July 1, 1983, by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11); and

(C) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are submitted to the Department of Education for approval under AS 14.07.020(11) before July 1, 1983, and approved by the qualified voters of the municipality before October 15, 1983, not to exceed a total project cost of (i) \$6,600,000 if the annual growth rate of average daily membership of the municipality is more than 7 percent but less than 12 percent, or (ii) \$20,000,000 if the annual growth rate of average daily membership of the municipality is 12 percent or more; payments made by a municipality under this paragraph on total project costs that exceed the amounts set out in (i) and (ii) of this paragraph are subject to (a)(5)(A) of this section.

(5) subject to (h), (i), and (j) of this section, 80 percent of

(A) payments made by the municipality during the fiscal year for the retirement of principal and interest on outstanding bonds, notes or other indebtedness authorized by the qualified voters of the municipality after June 30, 1983, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11); and

(B) cash payments made after June 30, 1983, by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11).

(b) The commissioner shall administer the program of reimbursement authorized under this section and shall provide by regulation for the filing of applications for reimbursement, the form of proof of costs for which application for reimbursement is made, and other regulations necessary to administer the program. The commissioner shall exclude from the total school construction cost of the local district all state and federal funds included in these costs except funds provided under this section and AS 43.50.140. In approving applications for reimbursement, the commissioner shall offset against the amount of reimbursement authorized the amount of any funds distributed to the borough or city in the second preceding fiscal year from the school fund provided for in AS 43.50.140.

(c) The school construction account is established. Funds to carry out the provisions of this section may be appropriated annually by the legislature to the account. If amounts in the account are insufficient for the purpose of providing the share to which a borough or city is entitled under this section, those funds that are available shall be distributed pro rata among the eligible local governments except that the legislature may direct that additional debt service on refunding bonds that exceeds the total debt service on the refunded bonds be disregarded in whole or in part.

(d) Money in the school construction account which, at the end of the fiscal year for which the money is appropriated, exceeds the amount required for the allocations authorized in this section reverts to the general fund.

(e) The commissioner shall annually provide a report to the legislature on allocations of state aid made under this section, including but not limited to, the amount of state aid paid on a per capita and per student basis and the resultant effect on the rate of levy of taxes by the municipality for educational purposes.

(f) *[Repealed, § 17 ch 147 SLA 1978.]*

(g) *[Repealed, § 47 ch 6 SLA 1984.]*

(h) An allocation under (a)(4) or (5) of this section for school construction begun after July 1, 1982, shall be reduced by the amount of money used for the construction of residential space, hockey rinks, planetariums, saunas, and other facilities for single purpose sporting

or recreational uses that are not suitable for other activities and by the money used for construction that exceeds the amount needed for construction of a facility of efficient design as determined by the department. An allocation under (a)(4) or (5) of this section may not be reduced by the amount of money used for construction of a small swimming pool, tank, or water storage facility used for water sports. However, an allocation shall be reduced by the difference between the amount of money used to construct a swimming pool that exceeds the standards adopted by the department and the amount of money that would have been used to construct a small swimming pool, tank, or water storage facility, as determined by the commissioner.

(i) For the purposes of (a)(4) and (5) of this section

(1) an indebtedness for bonds is incurred after the bonds are sold;

(2) reimbursement for a cash payment may only be made after the payment is made to a vendor; and

(3) payments may not be made for costs that are incurred under a contract after the contract has been released.

(j) Except as provided in (i) of this section, the state may not allocate money to a municipality for a school construction project under (a)(5) of this section unless the municipality complies with the requirements of (1) — (4) of this subsection, the project is approved by the commissioner before the local vote on the bond issue for the project, and the local vote occurs before July 1, 1987, or after June 30, 1988. In approving a project under this subsection, the commissioner shall require

(1) the municipality to include on the ballot for the bond issue the estimated total cost of each project including estimated total interest, estimated annual operation and maintenance costs, the estimated amounts that will be paid by the state and by the municipality, and the approximate amount that would be due in annual taxes on \$100,000 in assessed value to retire the debt;

(2) that the bonds may not be refunded unless the annual debt service on the refunding issue is not greater than the annual debt service on the original issue;

(3) that the bonds must be repaid in approximately equal annual principal payments or approximate equal debt service payments over a period of at least 10 years;

(4) the municipality to demonstrate need for the project by establishing that the school district has

(A) projected long-term student enrollment that indicates the district has inadequate facilities to meet present or projected enrollment; or

(B) facilities that require repair or replacement in order to meet health and safety laws or regulations or building codes.

(l.) An amount equal to the interest earned on the investment of the proceeds of bonds issued for a school construction project shall be used by the municipality to

- (1) pay the costs of the project;
- (2) pay accrued interest on the bond issue;
- (3) redeem all or part of the bonds; or
- (4) pay the costs of issuing the bonds.

(l) Bonds may be refunded without compliance with (j)(2) and (3) of this section if the refunding bonds are issued after June 30, 1987, and before January 1, 1989, and the time remaining for repayment on the original bonds is more than five years. The repayment term on refunding bonds may not exceed 20 years. For the purposes of determining the level of reimbursement, refunding bonds are considered to be issued as of the date of the first issue of bonds, notes, or other indebtedness or of the bonds that refund the bonds, whichever is later.

(m) In this section, "outstanding bonds, notes, or other indebtedness" includes bonds issued to refund bonds, notes, or other indebtedness issued to pay costs of school construction or to refund the bonds. Refunded bonds, notes, or other indebtedness are not considered outstanding. (§ 1 ch 249 SLA 1970; am § 1 ch 93 SLA 1971; am § 2 ch 137 SLA 1972; am § 1 ch 28 SLA 1973; am § 47 ch 127 SLA 1974; am §§ 1 — 3 ch 120 SLA 1977; am §§ 12, 17 ch 147 SLA 1978; am § 25 ch 168 SLA 1978; am §§ 8 — 10 ch 92 SLA 1982; am §§ 1 — 3 ch 82 SLA 1983; am § 47 ch 6 SLA 1984; am §§ 1-5 ch 78 SLA 1985; am §§ 1 — 3 ch 73 SLA 1987)

**Revisor's notes.** — Formerly AS 43.18.100. Renumbered in 1983.

Subsection (m) of this section was enacted as a part of (h). Reorganized and renumbered in 1987.

**Cross references.** — For present provisions of former subsection (g) of this section, see AS 14.11.135(3).

**Effect of amendments.** — The 1983 amendment in paragraph (a)(4), inserted "up to" in the introductory language, inserted "and authorized by the qualified voters of the municipality before July 1, 1983" in (A), inserted "and before July 1, 1983" in (B), added "and" to the end of (B), and added (C). The amendment also added paragraph (a)(5) and subsection (j).

The 1984 amendment repealed former subsection (g), which defined "commissioner" and "cost of school construction."

The 1985 amendment in the introductory language of paragraph (5) of subsection (a) inserted "and (j)" and made related stylistic changes and substituted "80" for "50"; in subsection (h) in the first sentence inserted "or (5)" near the begin-

ning of the sentence and at the end of the sentence added the language beginning "and by the money used," inserted "or (5)" in the second sentence, and in the last sentence substituted "exceeds the standards adopted by the department" for "is competition size or larger"; inserted "and (5)" in the introductory language of (i); in subsection (j) inserted "municipality complies with the requirements of (1) — (4) of this subsection and the," inserted "including estimated annual operation and maintenance costs" in paragraph (1), and rewrote paragraph (4); and added subsection (k).

The 1987 amendment added the language beginning "except that the legislature may direct" at the end of subsection (c), in subsection (j) in the introductory language substituted "Except as provided in (h) of this section, the" for "The" at the beginning, added "and the local vote occurs before July 1, 1987, or after June 30, 1988" at the end of the first sentence, and made a related stylistic change, and in paragraph (1) inserted "estimated total