

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6254 SENATE HEALTH, EDUCATION AND SOCIAL SERVICES

658

interest" and added the language beginning "and the approximate amount" at the end of the paragraph and made a related stylistic change, and added subsections (l) and (m).

Editor's notes. — Section 10(a), ch. 78,

SLA 1985 provides that the 1985 amendments to (j) of this section apply only to school construction projects approved by the commissioner of education after July 1, 1985.

Sec. 14.11.102. Evaluation of projects. The department shall evaluate projects for which retirement of school 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 no later than October 15 of the fiscal year before the fiscal year for which the request is made. (§ 6 ch. 78 SLA 1985)

Sec. 14.11.105. Public school facilities construction advance account. The public school facilities construction advance account is established. The account consists of appropriations for distribution under AS 14.11.105 — 14.11.135 to boroughs and cities which are school districts to assist in paying the costs of public school facilities projects approved under AS 14.07.020(11) for which construction is commenced after June 30, 1978 and for which no bonding, notes, or other indebtedness was incurred before July 1, 1978. (§ 13 ch 147 SLA 1978)

Revisor's notes. — Formerly AS 43.18.105. Renumbered in 1983.

Sec. 14.11.110. Eligibility. Eligibility of a proposed construction project for funding assistance under AS 14.11.105 — 14.11.135 shall be determined by the department based on standards and criteria established by regulation. The standards and criteria to be considered in determining eligibility include the following:

- (1) emergency requirements;
 - (2) number of unhoused students;
 - (3) new elementary or secondary programs;
 - (4) existing community and school facilities and their condition;
- and
- (5) economic and social stability of the community. (§ 13 ch 147 SLA 1978)

Revisor's notes. — Formerly AS 43.18.110. Renumbered in 1983.

Sec. 14.11.115. State aid. (a) The amount of state aid payable in advance under AS 14.11.105 — 14.11.135 is the amount by which the cost of construction of the approved school construction project would cause the debt-to-valuation ratio of the municipality to exceed 12 per cent.

(b) A payment under (a) of this section is limited to an amount which, when combined with estimated payments to the school district for the retirement of the principal and interest on bonds, notes or other indebtedness or reimbursement of cash payments for a school construction project for which payment is made under AS 14.11.100(a)(1) or (2) or for an approved school construction project for which payment is made under AS 14.11.100(a)(3), does not exceed 80 per cent of the cost of the school construction project.

(c) In this section,

(1) "debt" means the principal amount of the direct and general obligation indebtedness of the municipality for which all taxable property is subject to taxation to pay the bond, note or other evidence of the debt, determined and reported in accordance with AS 14.17.140(c);

(2) "valuation" means the full and true value of the real and personal property of the municipality determined in accordance with AS 14.17.140(a). (§ 13 ch 147 SLA 1978)

Revisor's notes. — Formerly AS 43.18.115. Renumbered in 1983. written in 1986 so that that section no longer contains a subsection (c). See now

Editor's notes. — AS 14.17.140, referred to in (c)(1) of this section, was re- AS 14.17.140(a).

Sec. 14.11.120. Application for aid. (a) The commissioner shall prescribe the necessary forms and procedures to be used in applying for construction cost assistance under AS 14.11.105 — 14.11.135.

(b) A borough or city which is a school district seeking construction cost aid shall apply to the department by October 15 of the prior fiscal year.

(c) Based on the commissioner's review of applications and determination of project eligibility, the commissioner shall recommend to the governor an appropriation of funds for state aid for those projects under AS 14.11.105 — 14.11.135. (§ 13 ch 147 SLA 1978)

Revisor's notes. — Formerly AS 43.18.120. Renumbered in 1983.

Sec. 14.11.125. Conditions of state aid. (a) Funds distributed to a borough or city which is a school district during a school year under AS 14.11.105 — 14.11.135 shall be received, held, and expended by the district in accordance with the applicable provisions of law and of regulations adopted by the department. Funds provided under AS 14.11.105 — 14.11.135, but which are not required for the project for

which they were granted or which are in excess of that borough's or city which is a district's entitlement for aid under AS 14.11.115 shall be returned to the department and deposited in the general fund.

(b) Each borough or city which is a school district shall maintain financial records of the receipt and disbursement of state funds received under AS 14.11.105 — 14.11.135 and money provided toward local effort. The records shall be in the form prescribed by the department and are subject to audit by it at any time.

(c) Upon completion of the construction project, the chief school administrator of the district shall report the total cost of the project and means of financing it to the commissioner.

(d) Boroughs and cities that are school districts shall secure and maintain in full force and effect adequate property loss insurance for the replacement cost of all facilities constructed after July 1, 1978 and for which state funds are available under AS 14.11.100 — 14.11.135. (§ 13 ch 147 SLA 1978)

Revisor's notes. — Formerly AS 43.18.125. Renumbered in 1983.

Sec. 14.11.130. Construction and implementation. (a) AS 14.11.105 — 14.11.135 may not be construed so as to create a debt to the state.

(b) Funds to carry out the provisions of AS 14.11.105 — 14.11.135 may be appropriated annually by the legislature into the public school facilities construction advance account. If amounts in the account are insufficient to meet the allocations authorized by the commissioner under AS 14.11.105 — 14.11.135, such funds as are available shall be distributed pro rata among each borough and city which is a school district based upon its computed entitlement. (§ 13 ch 147 SLA 1978)

Revisor's notes. — Formerly AS 43.18.130. Renumbered in 1983.

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. 14.11.132. Regulations. The department shall adopt regulations to carry out the purposes of this chapter. (§ 8 ch 78 SLA 1985)

Revisor's notes. — Formerly AS 14.11.140. Renumbered in 1985.

Cross references. — For special provisions relating to permanent regulation

adopted under this section, see § 9, ch. 78, SLA 1985 in the Temporary and Special Acts.

Sec. 14.11.135. Definitions. In this chapter, unless the context requires otherwise,

(1) "approved school construction project" means the plan for a new school or an addition to or major rehabilitation of an existing school to the extent to which approved by the commissioner in accordance with AS 14.07.020(11);

(2) "commissioner" means the commissioner of education;

(3) "costs of school construction" means the cost of acquiring, constructing, enlarging, repairing, remodeling, equipping or furnishing of public elementary and secondary 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 issued as the issuer considers necessary;

(4) "department" means the Department of Education. (§ 13 ch 147 SLA 1978; am § 48 ch 6 SLA 1984; am § 7 ch. 78 SLA 1985)

Revisor's notes. — Formerly AS 43.18.135. Renumbered in 1983.

Effect of amendments. — The 1984 amendment inserted present paragraph

(3) and redesignated former paragraph (3) as present paragraph (4).

The 1985 amendment substituted "this chapter" for "AS 14.11.100 — 14.11.135" in the introductory language.

Chapter 12. Organization and Government of School System.

Article

1. Districts (§§ 14.12.010 — 14.12.020)
2. School Boards (§§ 14.12.030 — 14.12.115)
3. Regional Resource Centers (§§ 14.12.150 — 14.12.180)

Article 1. Districts.

Section

10. Dis-tricts of state public school sys-ter

Section

20. Support, management, and control

S B

104

SENATE COMMITTEE REPORT



FURTHER

FIN

3/22/89

DATE TURNED INTO OFFICE 4/25/89

Mr. President:

HESS

Committee considered SB 104

fourth class boroughs

and recommended

- replace with _____ CS _____) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published 3/22/89

MEMBERS SIGNING DO PASS

[Signature]

OTHER RECOMMENDATIONS

[Signature] - No Rec

[Signature] (Do Pass)
 Chairman signature and recommendation

Committee Backup attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3.16.89
IN ACCORDANCE WITH UNIFORM RULE 23

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

FURTHER

HESS
FIN

DATE TURNED INTO OFFICE 3.21.89

1/11/89
Mr. President:

C&RA Committee considered SB 104

fourth class boroughs

and recommended:

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

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

M. J. Samuels - No Rec.
Mark No Rec
[Signature]

[Signature]
Chairman signature and recommendation

Committee backup attached



Alaska State Legislature

SENATE

MAR 22 1989

Official Business

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

MEMORANDUM

To: Senator Paul Fischer
Chair, Senate HESS Committee

From: Senator Jack Coghill

Re: SB 104

Date: March 22, 1989

Senate Bill 104, "an Act relating to fourth class boroughs" has passed out of the Senate Community and Regional Affairs Committee and is now in the Senate HESS Committee.

SB 104 would provide for the establishment of a fourth class borough as a class of general law municipality. Establishment of a fourth class borough has been modeled after a third class borough with one exception, a fourth class borough is prohibited from exercising educational powers.

A fourth class borough would constitute a minimal form of government. It would enable areas in the unorganized borough to ease into an organized form of government. By establishing a fourth class borough, we have provided a stair-step approach to organized government. I believe residents in the unorganized area will have more of an incentive to organize themselves into a government entity under the fourth class borough proposal.

Enclosed is the sectional analysis and fiscal note for SB 104, along with other backup items. I would appreciate if you would schedule SB 104 for a Senate HESS hearing as soon as possible.

Senator John B. (Jack) Coghill

Alaska State Legislature



Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862

MEMORANDUM

To: Senator Al Adams

From: Senator Jack Coghill

Re: Bill hearing

Date: January 19, 1989

Senate Bill 104, "An Act relating to fourth class boroughs" has been referred to the Senate Community and Regional Affairs Committee.

SB 104 would provide for the establishment of a fourth class borough as a class of general law municipality. Establishment of a fourth class borough has been modeled after a third class borough with one exception, a fourth class borough is prohibited from exercising educational powers.

A fourth class borough would constitute a minimal form of government. It would enable areas in the unorganized borough to ease into an organized form of government. By establishing a fourth class borough, we have provided a stair-step approach to organized government. I believe residents in the unorganized area will have more of an incentive to organize themselves into a government entity under the fourth class borough proposal.

Enclosed is the sectional analysis on SB 104. We have requested a fiscal note from the Department of Community and Regional Affairs, but have not received it yet. I would appreciate if you would schedule SB 104 for a hearing as soon as possible.

If you have any questions regarding SB 104, please feel free to contact my office.

memo to ADAMS

TOLSONA COMMUNITY CORPORATION
Box 23
Glennallen AK 99588

January 21, 1989

JAN 27 1989

Senator Jack Coghill
Box V
Juneau AK 99811

Dear ~~Senator Coghill~~ ^{Jack}:

Thanks for the information regarding your borough bill. It seems to address most of the concerns of the residents in the Copper River area.

1. Education:

The cost of operating the schools would take so much of the budgets of many of the proposed boroughs that they become unfeasible to operate. Your proposal solves this by retaining state funding of the schools.

2. Political:

In the Copper River basin, the school board is the only political game in town and it therefore becomes the stage for all local would-be politicians to play their games. By having another elected body in the area, some of these types would choose to act in that arena and leave the school board to those who are sincerely interested in education.

3. Protection:

By forming a 4th class borough the area would protect itself from encroachment from neighboring boroughs and yet not have to assume the massive burden of the schools and large borough bureaucracy.

4. Existing Services:

A concern I do have, as president of Tolsona Community Corporation, is the status of revenue sharing under a 4th class borough. Village councils and Non-profit corporations share about \$150,000 in the Copper River area and if the new borough would tax itself, it could easily raise enough money to continue the services provided by these organizations as well as operate the borough and provide additional funds for the school district. But, what would happen if the borough chose not to tax? (operate with volunteers)

Except for this concern, I think that your proposal would be a good vehicle to allow formation of boroughs in many of the REAAs in the state.

Sincerely,



Graham Ward

FOURTH CLASS BOROUGH NOTES

SB 104 would provide for the establishment of a Fourth Class Borough as a class of general law municipality. Establishment of a Fourth Class Borough has been modeled after a Third Class Borough.

A Fourth Class Borough would constitute a minimal form of government. It is similar to a Third Class Borough with the exception that a Fourth Class Borough is prohibited from exercising educational powers.

The standards for incorporation of a Fourth Class Borough are identical to those for other boroughs. The only area-wide power granted to Fourth Class Boroughs upon incorporation is taxation. However, a Fourth Class Borough would not have to tax if the assembly did not want to. Any taxation would be passed by the assembly in the form of an ordinance. Any other power the borough wants to acquire, can only be exercised in a service area.

A Fourth Class Borough can establish service areas. Any power which is not otherwise prohibited by law to be exercised in a service area must be voted on by the residents of the service area, unless nobody lives in the area.

Unlike the other classifications of boroughs, when a Fourth Class Borough incorporates, it does not have any mandatory powers. Other classifications usually have a mandatory provision to provide for education and taxation

One thing to keep in mind is that the establishment of a Fourth Class Borough does not give 100% protection from annexation of the borough's territory by another borough. The Local Boundary Commission can consider any boundary changes. However, by the establishment of a Fourth Class Borough, it would give the area a form of government to oppose annexation and make annexation more difficult.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 13, 1989

SUBJECT: Fourth class boroughs
(Work Order No. 6-0229A)

TO: Senator Jack Coghill

FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

Here is the sectional analysis that you requested of the draft bill relating to fourth class boroughs.

Sec. 1. Fourth class boroughs are to be included into educational service areas.

Sec. 2. Deletes a reference to the unorganized borough, since service areas will include fourth class boroughs under this legislation.

Sec. 3. First class and home rule cities in a fourth class borough are city school districts, as is the case now with those types of cities located in the unorganized borough. Makes some technical, but not substantive changes, to properly identify all classifications of municipalities and their powers with respect to education.

Sec. 4. Adds the fourth class borough as a class of general law municipality.

Sec. 5. Permits a fourth class borough to reclassify as a first or second class borough in the manner that reclassification is currently permitted for other types of boroughs.

Sec. 6. Establishes standards for incorporation of a fourth class borough that are identical to those for other boroughs.

Sec. 7. Identifies boroughs that are school districts. A fourth class borough is not included. Under existing law all boroughs are school districts.

Sectional Analysis

Sec. 8. Sets out powers of a fourth class borough which are similar to those of the third class borough, except a fourth class borough may not function as a school district.

Sec. 9. Requires a home rule city and first class city in a fourth class borough to provide for planning, platting and land use regulation, as is the case for those types of cities in the third class borough. Permits a second class city to do so.

Sec. 10. Provides that a home rule or first class city in a fourth class borough is a school district, as is the case for such cities located in the unorganized borough.

Sec. 11. Permits a fourth class borough to exercise in a service area any power not otherwise prohibited, as is the case for the third class borough.

Sec. 12. Treats fourth class boroughs the same as second and third class boroughs with respect to service areas containing only vacant land.

Sec. 13. Provides that in areas of the unorganized borough where no city exercises the power of land use regulation the division of land shall exercise the zoning power. This provision treats fourth class and third class boroughs alike, but neither type can provide land use regulation except on a service area basis. Perhaps the provision should be modified to allow the division of lands to zone in any area where no municipal land use regulation is being exercised, including within third class and fourth class boroughs and certain second class cities. This, however, would go beyond the scope of this bill.

Sec. 14. Fourth class boroughs are treated like the third class borough with respect to the power of the division of lands to exercise zoning power in areas covered by the Alaska coastal management program.

Sec. 15. Fourth class boroughs are treated like the third class borough with respect to subdivisions of state land. Like the provision dealt with in Section 13, this provision does not now appear to adequately recognize the existing scheme for municipal exercise of land use regulation, but to correct the provision would be beyond the scope of this bill.

Sec. 16. Fourth class boroughs are treated like the third class borough with respect to the platting authority of the

Senator Jack Coghill
Page 3
January 13, 1989

Department of Natural Resources. Like the provision dealt with in Sections 13 and 15, this provision does not now appear to adequately recognize the existing scheme for municipal exercise of land use regulation, but to correct the matter would be beyond the scope of this bill.

TBC:kb
wkk1/033

Senator John B. (Jack) Coghill

Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862

LEGISLATIVE REPORT

BY

SENATOR JACK COGHILL



A large, stylized handwritten signature in black ink, which appears to read "Jack Coghill", is written over the printed name and extends into the right margin.

I have recently introduced Senate Bill 104, "an Act relating to fourth class boroughs." This bill would provide for the establishment of a fourth class borough as a class of general law municipality. A fourth class borough would constitute a very minimal form of organized government. It would enable areas in the unorganized borough, that want to form a government structure, to ease into an organized form of government. Unlike the other classifications of boroughs, when a fourth class borough incorporates, it would not have any mandatory powers. Other boroughs usually have a mandatory provision to provide for education and taxation.

The standards for incorporation of a fourth class borough are identical to those for other boroughs. A fourth class borough would be prohibited from establishing a school district. In fact, the only area-wide power granted to a fourth class borough upon incorporation, would be taxation. However, just because they have that power, it does not mean the new borough would have to exercise it. The borough would only have to tax to generate revenues to provide for "extra" services the residents may want.

You may be wondering why on earth I would introduce a fourth class borough bill. Well, as you may recall, during the 15th Legislature Representative Ron Larson introduced legislation that would create mandatory boroughs. This session he introduced a similar bill. I am adamantly opposed to any form of mandatory borough. I believe local government should be up to the people, not forced upon them. But we must keep in mind the interest and support that is developing on the concept of new borough formation in the unorganized areas of the state. I felt, by introducing legislation that allows for the establishment of fourth class boroughs, we would be providing an alternative for the Administration to consider instead of them advocating a mandatory borough policy. We would also be allowing residents of an area to protect their interests from annexation procedures by other established boroughs.

Please keep in mind that SB 104 does not mandatorily force the establishment of fourth class boroughs. It merely provides an avenue to establish a very minimal borough government. I assure you I will continue to fight against the mandatory borough concept. On a final note, I would like to take this opportunity to publicly thank the Copper River Borough Committee for their help and input in formulating SB 104.

If you have any questions regarding SB 104, please feel free to contact my office at P.O. Box V, Juneau AK 99811.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to fourth class boroughs."
 Sponsor: Coghill
 Requestor: _____

Agency Affected: Community & Regional Affairs
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

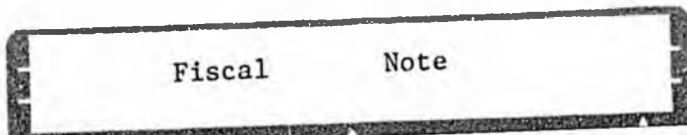
ANALYSIS : (Attach a separate page if necessary)

See attached.

Prepared by: Jim Plasman, Deputy Director
 Division: Municipal & Regional Assistance
 Approved by Commissioner: [Signature] DC, CRA
 Agency: Community & Regional Affairs

Phone: 465-4750
 Date: 6 Feb 89

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



FISCAL NOTE CONTINUATION

SB 104

The department has taken the position of zero fiscal impact from this bill because this bill does not mandate the creation of any new boroughs. However, it should be noted that any fourth class boroughs that are created pursuant to this legislation would be entitled to receive financial assistance from the state through a number of different programs. As any other new borough, a fourth class borough would be entitled to organizational grants under AS 29.05.190 in the amounts of \$300,000 the first year, \$200,000 the second year, and \$100,000 the third year. The borough would be entitled to participate in various tax sharing programs, such as the fish tax revenue sharing program. These impacts would fall upon the state. Any new borough would also be entitled to participate in the state revenue sharing and municipal assistance programs. The financial impact in these programs would fall predominately on other recipients (mainly municipalities) unless the state put in additional funds to compensate for the new participants.

S B

106

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 4/27/89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER STATE AFFAIRS

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

DATE TURNED INTO OFFICE 5/2/89

1/11/89

Mr. President:

HESS Committee considered SB 106

school boards in regional educational attendance areas.

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached ^{Education} zero fiscal impact

appropriation no FN attached Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tim Kell - No Rec

Ray Jones - No Rec

Paul A. Grieb (No Pass)

Chairman signature and recommendation

Committee backup attached

Senator John B. (Jack) Coghill

Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862



MEMORANDUM

To: Senator Paul Fischer

From: Senator Jack Coghill

Re: Bill hearings

Date: January 19, 1989

Senate Bill 106, "an Act relating to school boards in the regional educational attendance areas" has been referred to the Senate HESS Committee.

SB 106 is a very simple piece of legislation. Our current statutes allow for the division of a regional education attendance areas into sections or subsequent recasting of the section boundaries if proposed by the regional school board or petition. The election of each regional school board member from a section by the voters of that section of a regional educational attendance area may also be proposed by petition. Under current law, the petition must contain the signatures of qualified voters in the area equal to 15%. Senate Bill 106 . changes the 15% signature requirement on the petition to 8%.

I would appreciate if you would schedule SB 106 for a hearing as soon as possible.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: School Boards in Regional
Educational Attendance Areas
 Sponsor: Coghill
 Requestor: Coghill

Agency Affected: Education
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mr. Lakala Phone: 465-2800
 Division: Commissioner's Office Date: 1/20/89
 Approved by Commi: William G. Demmert Date: 1/20/89
 Agency: Educa

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

S B

118



February 1, 1990

Dear Senators and Representatives

Attached is a position paper recently adopted by the Alaska Alliance for the Mentally Ill regarding the issues surrounding the Mental Health Land Trust.

This is one of the many issue papers we have prepared on the topic and because it is well-reasoned and may present some new information, we would urge you to consider it.

I will be available to answer any questions you might have on Mental Health Issues as the lobbyist for the Alaska Alliance for the Mentally ill. Our membership represents over 300 families and consumers with mental illness in 13 separate affiliated groups in our state. The President of the organization is Francis Cater of Kodiak, Alaska.

Sincerely,

A handwritten signature in cursive script that reads "Sharron Lobaugh". The signature is written in dark ink and is positioned to the right of the typed name.

Sharron Lobaugh
3340 Fritz Cove
Juneau, Ak 99801

cc: Francis Cater, Pres.
AKAMI

ALASKA ALLIANCE FOR THE MENTALLY ILL



THE ALASKA ALLIANCE FOR THE MENTALLY ILL
POSITION PAPER ON
THE MENTAL HEALTH LANDS TRUST
AND
CHAPTER 48

Adopted January 1990

ALASKA ALLIANCE FOR THE MENTALLY ILL

NISSEL A. ROSE

927 Clay Court
Anchorage, Alaska 99503
Tel: (907)277-6361

Senator Pat Pourchot, Chairman
Senate Special Committee on Mental Health

Re: Mental Health Trust Lands Settlement

Dear Senator Pourchot,

These are supplemental remarks to my oral testimony before your committee at the November 17 hearing. My interest in this subject is multiple: as the father of a mentally ill son; as a member of the Alliance for the Mentally Ill, and former president of the Anchorage Chapter; as counsel for the Alliance for the Mentally Ill on the intervenor's brief in Weiss et al v. State; as former legislator; and as a very concerned citizen.

The 3 page summary you provided at the hearing gives a very good thumbnail background, but suffers some shortcomings due to (1) its compactness, and (2) the fact that it looks at the "advantages of the settlement proposal", but fails to raise questions of disadvantages, or whether Chapter 48 really amounts to a settlement.

One of the witnesses at the November 17 hearing compared the handling of the Alaska Mental Health Trust with what would occur if one were to create a trust for the education of his son and provided that whatever trust proceeds might be surplus to the needs of the beneficiary could be expended by the trustee for his own purposes as he sees fit. I believe the speaker concluded that instead of a Harvard education, the son would probably wind up in a community college. I submit that the example did not go nearly far enough.

Suppose that, in the same scenario, the trustee had accepted the corpus, but never managed or invested any part of the trust corpus, never created a trust account, never kept or rendered any accounting. Instead, each year the trustee gave the beneficiary some funds out of his own pocket, as he deemed he could spare. Suppose further that after over 20 years of such practice, the trustee decided to appropriate the entire corpus and assign 1.5% of his own revenues in lieu of trust proceeds, but never made a deposit to that account, and simply continued to give the beneficiary whatever annual handout the trustee felt he could afford. From then on, the trustee sold some of the former trust assets, gave some away, created monuments out of other such assets, until another 4 years went by, and the beneficiary finally sued.

Instead of recognizing the error of his ways, the trustee used

his well staffed salaried lawyers to fight the litigation at every turn. Then, having lost in the Supreme Court, and having been ordered to reconstruct the trust, and manage it as originally intended, the trustee makes an offer of settlement whereby the trust assets are to be replaced by other assets owned by the trustee, chosen by the trustee, to be leased by the trustee from the trust, and the rental proceeds according to a stated percentage of value would be considered the trust revenues from which the needs of the beneficiary would be met. The beneficiary's needs would be established by another body appointed by the trustee, and whatever revenues might be surplus to those needs could be used by the trustee as he might see fit, and the trustee was not bound by the described needs or their designated budgetary values.

In order to work out this new arrangement, the parties agree to hold the litigation in abeyance. Another three years go by, during which the trustee fails, each year to abide by the determination of needs presented to him, and makes yearly appropriations short of the budget presented to meet those needs. In the meantime, the litigation remains pending in court.

I submit that the trustor, the beneficiary and the court would all have good reason to resent and distrust such a trustee-owner-landlord-tenant and, in effect, co-beneficiary to the extent that he determines the amount of surplus he is entitled to keep for himself.

The actual picture is even worse, as the trustee has not provided for any payment to the trust from the extraction of subsurface materials from the real estate assets, so that while the trustee gets richer from such subsurface assets, the value of the corpus diminishes as the years go by, and the needs of the beneficiary increase.

If your son were the beneficiary of such a trust, Mr. Chairman, would you, could you advise him to ratify such a settlement?

WHERE ARE WE?

Are we dealing with a misguided but well intended trustee who did not cross the "t"s or dot the "i"s, but has met the needs of the beneficiary nonetheless? Unfortunately, NO. The mentally ill (including the "Green Group" members) of Alaska do not fare well, and do not compare favorably with those of most other states. Because of inadequate facilities in Alaska's institutions, we have resorted to treatment of mental patients in correctional facilities. It is not uncommon to hear recipients of services for the mentally ill say that they are treated better at the Cook Inlet jail than at API.

Re: Chapter 48, SLA 87, by N. A. Rose
Page 2

Certification of API has been touch and go, and staffing has been a continuous problem. We have no forensic halfway house. Members of the mentally ill population too often fall unnecessarily into the criminal justice system. Only a minority of the mentally ill receive treatment or services, with the remainder experiencing a living hell, often winding up as part of the homeless, the street people, or as part of homes they involuntarily abuse emotionally and otherwise. Others are residents of our correctional system, some with medical care for their mental illness, and others without.

WHAT HAS THE EXECUTIVE BRANCH DONE?

This is one instance where it is easy to be non-partisan. Every governor, Democrat and Republican, has participated in the self-serving-trustee scenario described above, every year since 1956. Each has included yearly mental health appropriations in the budget without regard to the trust, and without effort to create an appropriate trust management. At no time has any governor of Alaska presented a program to achieve an acceptable level of care and services for the mentally ill.

If anybody should be aware of the extent of needs, of the long practiced failure to carry out the fiduciary duties of a trustee, it is our present governor, Steve Cowper. As attorney in private practice, he was the attorney of record who filed and prosecuted the Weiss v. State case until he became a candidate for the office he now holds.

In his present position, Governor Cowper has maintained a hands off policy, letting his Attorney General fight his former clients, with the assistance of various departments of his cabinet. There is good reason to believe that as one who is very familiar with the bona fides of the the plaintiff's situation, the governor could and should have used his office to attempt to rectify the wrongs of more than 30 years. Apparently, it goes with the position to look out for the interest of the trustee as opposed to the interest of the beneficiaries.

Unfortunately, the continued opposition to the mentally ill, plaintiff in the litigation, is the administration, and that includes the Department of Health and Social Services with which and through which care and services are dispensed to the mentally ill. Of course, the same department competes for dollars to be appropriated for its many other concerns, and suffers from a conflict of interests as a member of the trustee team because of those budgetary concerns.

WHAT ABOUT THE LEGISLATURE?

Just as with the various governors, the same bi-partisanship has touched both houses of every legislature since 1956 in failing to carry out the fiduciary responsibilities and duties of trustee.

It was up to the legislature to create the necessary managerial system for the trust, proper handling and investment of the corpus, adequate formulation of the Alaska Mental Health Plan, and funding to carry out the Plan. Not only did that not happen, but it was the legislature that enacted the wrongful appropriation of the corpus in 1978. Subsequent legislatures continued along the same path until the attempt to resolve the legal dispute by way of HB 92 which became Chapter 48, SLA 87. Even from that point on, yearly appropriations have fallen short of funding the Alaska Mental Health Plan, even though the Mental Health Trust Income Account exceeded considerably the very reasonable Mental Health Board's budget requests.

What both the legislature and the governor have demonstrated clearly and emphatically since 1987 is that the "settlement" formula settles nothing. The same conflicts of interests continue to exist in both the legislative and the executive branches that constitute the trustee. Both look at their total budgetary needs, and at the fact that, as far as they are concerned, whatever is not appropriated for mental health out of the Mental Health Trust Income Account is available "for other public purposes".

As state income continues to decline in the future with the expected drop in oil and gas revenues, the temptation to create available surplus in the Trust Account can only increase at the expense of the Mental Health Plan, and thus at the expense of the beneficiaries.

DISADVANTAGES OF CHAPTER 48.

The following is a seriatim review of disadvantages of Chapter 48:

1. Sec.1 (a) (15) -(17) and (19) negatively portray "advocates of stringent mental health trust land management" vis a vis advocates of "highest and best use". The first group is intended to describe the plaintiffs, intervenors and their supporters as the black hats, while the second group, the wrongdoing trustee-state, is the white hatted hero.

2. Sec.1 (a) (22) assumes that the assertion of a "substantial legal question" about an alleged conflict with the prohibition

against dedicated funds in Art. IX, Sec. 7, is sufficient to abandon the concept of preservation of the corpus in perpetuity if it consisted, in part, of money. The section raises at least two erroneous conclusions:

(a) The possibility of a substantial legal question does not, normally, keep the legislature or the governor from enacting a bill into law. How well I recall presenting the legislature with substantial legal question about the validity or constitutionality of a bill on the floor of the House, only to have supporters of the bill retort that if someone wished to challenge it, the courts would have the opportunity to pass on the question. Examples that readily come to mind include a number of state preference laws for employment, contracting, right of access to courts, and, of course, the 1978 wrongful appropriation of mental health trust lands, all of which were judicially defeated.

(b) There are "substantial legal questions" about the validity of the Chapter 48 approach, such as failure of the trustee to manage the trust, failure of the trustee to invest and ADMINISTER THE LAND, AS WELL AS ANY INCOME FROM THE LAND AND PROCEEDS FROM DISPOSITIONS OF THE LAND AS A PUBLIC TRUST. (See Sec. 202 (e), Alaska Mental Health Enabling Act, and Ch.48 Sec.1 (a) (3)). There is also the question of failure of the state to comply with the Procurement Act in the leasing of these lands. In fact, if substantial legal questions as to a bill were to stop the legislature, we would see a great deal less legislation. The argument only seems to have merit when it stems from a majority of the legislators.

(c) The obvious intent of Congress, as stated in Sec. 202(e), was that the trust consisted not only of the land, but also of its income, and proceeds from sales. It was intended that the land produce money and/or other property, that it be "sold, leased, mortgaged, exchanged or otherwise disposed of . . . in order to obtain funds or other property to be invested, expended or used by the Territory (now State)." Note particularly that Alaska is not free to do all these things in any manner it sees fit, but that the legislature must exercise this broad authority "in a manner compatible with the conditions and requirements imposed by this Act."

Thus, if one reads these instructions and guidelines as a road map for the trustee, it should lead to the inescapable conclusion that none of the monies generated lose their "trust" character until after the needs of the Mental Health Plan have been met, and nothing requires that surplus, if any, be determined annually. Obviously, mortgages and investments are not normally for a life of one year or less, but that is the convoluted conclusion reached by the State-trustee in order to

keep its hand in cookie jar.

Recognizing that the income and proceeds are part of the trust until surplus to the needs of the Mental Health Plan are met, it follows that there can be no conflict with the prohibition against dedicated funds. Only in this manner can the trustee's functions, responsibilities and duties be carried out and discharged, and only when a surplus is declared on a fair basis within the intent of the trustor can such surplus become a part of the general funds, subject to appropriations for other public purposes, and, as such, subject to the prohibition against dedicated funds.

The fact is that there has never been any investment or management of the corpus as intended, and as instructed, at any time past, and Chapter 48 does not contemplate any at any time in the future. As it has always done, the legislature skips over the mandate that the land AS WELL AS income and proceeds be administered as a trust.

(d) Sec. 1 (a) (20)-(21) aver that the state has the authority to remove land from the trust IF THE TRUST IS COMPENSATED for the fair market value of the land, but that the state is not financially able to provide such cash compensation and will not be so able in the foreseeable future. So what? There are other ways to take care of that kind of problem. There could be exchanges, and it or they would not necessarily have to be of the same kind, i.e. land for land. Such is provided for in the Enabling Act. Or, the state as "buyer" could do that which most purchasers of real property do, namely become a mortgagor to the trust to the extent of the value of part of the trust lands. That, too, is specifically provided for by the Enabling Act. And since the mortgage payments are part of the corpus and are administered as a trust together with the land, there can be no constitutional conflict. State revenues contain many Federal source funds that, because they are dedicated federal funds, remain dedicated as an exception to the prohibition. There is nothing novel about the concept, and it well established and accepted.

(e) Sec. 1 (a) (25) commits the same error that has been committed through the years and discussed above, by providing that the rental value of the trust lands be identified as an account in the general fund. In order to have the income and proceeds managed together with the land as a trust, and in order to permit investment, mortgage, exchanges and other trust management tools, these funds should not be fungible and commingled with general funds any more than a lawyer's trust account or any fiduciary's accounts should be commingled with his own.

This subsection suffers from another infirmity. Rent is to be a stated percentage of the appraised value of the land, but nothing is said about compensating the trust for any depletion in value due to removal of oil gas, minerals, other assets such as standing timber, or changes in topography by acts of the state-lessee, or with its consent. Thus, the state-trustee-owner-landlord-tenant-manager could excavate, deplete the land of value, keep all benefits and royalties, and then pay less rent for the devalued land. That would obviously not be management by the trustee in the best interest of the beneficiary. But Chapter 48 fails to address the problem.

(f) Most of the problems with Sec. 1 (a) (27) have been covered above, except for the fact that the Mental Health Board's function is described as to assist and advise the legislative and executive branches. In other words, the Board is not shown as having any real jurisdiction or authority. The extent to which the legislative and executive branches are guided by the Board's recommendations is painfully evident from the appropriations made since 1987.

(g) reference to portions of Chapter 48 beginning with Sec.2 are by AS numbers.

AS 37.14.011 (a) - (c) these issues have been discussed in detail hereinabove, except for the valuation to be by DNR, without active participation by the Board or anyone on behalf of the trust or the beneficiaries. The conflict is self evident.

AS 37.14.021. This section fails to give the legislature any guideline, control or restriction as to appropriations "to meet the necessary expenses of the mental health program of the state." The lessons of the past teach us that this approach amounts to putting B'rer Rabbit in the briar patch. The temptation to create surpluses "for other public purposes" has been covered above. Furthermore, the format is contrary to the management and investment as a trust together with the land, and promotes dissipation of trust assets consisting of income and proceeds. The only recourse apparently left to frustrated beneficiaries is to return to the courts, assuming that beneficiaries can keep on marshalling their forces against the strength, wealth, and litigiousness of the state.

AS 47.30.661 et seq. It should be obvious that the Board has very limited powers and jurisdiction. Although designated as the advocate of the beneficiaries before the executive and legislative branches, it has no power to sue or be sued, its recommendations are just that, recommendations that need not be followed and that can be deviated from with or without stated basis in facts, and without any ability to carry

out its program or see to it that it is carried out as intended.

RECOMMENDATIONS:

1. The conflicts of interests of the state-trustee-owner-landlord-tenant-manger-and alleged beneficiary of self-serving declared surpluses, coupled with the political process, the expected reduction in state revenues coupled with inflation-fanned future state budgets, together with competing interests of DHSS, Revenue, DNR et al, and past interpretations of the Enabling Act and other breaches of the trustee's fiduciary duties by both the legislative and executive branches give more than ample evidence of the fact that just as a bank establishes a separate Trust Department, the State of Alaska needs to take the trustee's functions out of the political process.
2. Just as the Permanent Fund has been effectively removed from the reach of both the legislative and executive branches, and other activities have been entrusted to public corporations such as AHFC, ASHA, the Alaska Railroad and others, it seems that the best way to have the trust managed in the interest of the beneficiaries is to create an independent trustee, preferably by way of a public corporation, with the power and duty to administer the trust, its corpus, income and proceeds, subject to proper oversight and reporting. There is adequate precedent for the creation of such a Mental Health Trust Corporation or Authority (hereinafter referred to as MHTC).
3. The MHTC should have its own counsel, not connected with the AG's office.
4. MHTC should be empowered to manage, invest, re-invest, lease, mortgage, exchange assets other than designated lands leased by the state, and do and perform all things that a prudent trustee may do and perform.
5. MHTC should participate with DNR in periodic re-appraisals of land values for purposes of establishing fair market values as the basis of rental. In the event of disagreement between these agencies, a method of resolving conflicts should be provided.
6. The Mental Health Board, within MHTC, should prepare the Mental Health Plan, with its budget, on a 5 year plan with annual increments, including capital improvements, facilities, and services, and, where necessary, in conjunction with other agencies such as DHSS, Corrections, and possibly others.
7. The Board should be given the power and duty to carry out the Plan, and to this end, the Division of Mental Health in DHSS should be shifted to the jurisdiction of the Board.

8. The statute should spell out the interpretation of the Mental Health Enabling Act as including land, other assets, including income and proceeds as part of the trust to be administered, with declared surplusses, if any, to be accessible to the state for incorporation into the general fund and use for other public purposes at stated interval of 3 or 5 years.

9. The Alaska Mental Health Plan and proposed budget therefor, prepared by the Board, reviewed by MHTC, DHSS, and possible other distributees, should be submitted to the legislature. The legislature, in turn, could (a) approve it as submitted, or (b) amend it in whole or in part, together with specific findings supporting substantive and/or budgetary changes, thus preserving the legislative prerogative of final oversight and disposition.

10. The statute should specifically provide that it is intended as a settlement and final resolution of the litigation, to be concurred in by the litigants, and to be approved by the court and incorporated into the final judgment, with leave for future amendment by the legislature with concurrence of MHTC as representative of the beneficiaries, and that failing such concurrence by the parties and approval by the court, within a given time frame with possible agreed continuance, the said statute shall be null and void and deemed repealed, and the litigating parties returned to their prior status in court.

The previous proviso is for the reason that it is not possible for the state to end the litigation unilaterally. I am well aware of the fact that you, Mr. Chairman, have stated that it was the specific intent of the legislature that the statute be a settlement, but the mechanics of concurrence by the parties, approval by the court and incorporation of the settlement into a final judgment were not made part of Chapter 48, as I believe is necessary to achieve a settlement that would have some binding effect on future legislatures and administrations.

Surely, other minds than mine will come up with other wrinkles, criticism, and refinements, but I believe that the foregoing represents a fair analysis of the past and present, as well as a feasible and sound approach for the future.

Respectfully submitted,

Nissel A. Rose

cc: Alaska Mental Health Board
Alliance for the Mentally Ill
Alaska Mental Health Association

Re: Chapter 48, SLA 87, by N. A. Rose
Page 9

Mental Health Consumers of Alaska
Advocacy Services of Alaska
James Gottstein, Esq.
David Walker, Esq.



FEB 04 1990

February 1, 1990

Senator Paul Fischer
Chairman of Senate
Health and Social Services
Committee
Alaska State Senate

Dear Senator:

The Alaska Alliance for the Mentally Ill is interested in presenting testimony or information to your committee on SB 118 by Senator Uehling regarding medical assistance coverage for adult day health care and respite care.

There are a number of issues related to medicaid options which have been concerning our organizations for a number of years and we would like to urge any studies be expanded to include the mentally ill as well.

There is strong evidence that increasing the options to provide adult day care and respite care for the mentally ill will be a benefit to the State by increasing medicaid reimbursements for such services.

We believe a re-examination of the options has been in order for a long time and are hopeful that the mentally ill will be considered among those who will benefit from this re-examination.

I will be lobbying for the Alaska Alliance for the Mentally Ill this session and can be reached at 789-5028 or 463-4822. I would appreciate being notified of any hearings on this issue.

Sincerely,

Sharron Lobaugh

cc: Senator Uehling and Planning
Representatives: Boyer, Ellis,
Ulmer, a

4050 Lake One Suite 103
Anchorage Alaska 99508
(907) 561-3127

313 7th Street # 17
Juneau Alaska 99801
(907) 463-4822



THE SALVATION ARMY
OLDER ALASKANS PROGRAMS

1709 South Bragaw
Anchorage, AK 99508-3400
(907) 279-7658

March 29, 1990

Senator Paul A. Fischer
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, AK 99811

Re: Senate Bill 118

Dear Senator Fischer:

We are requesting your support and approval for Senate Bill 118.

Any consideration given the senior constituency eventually aids the entire population of Alaska.

Your concern and assistance is greatly appreciated.

Sincerely,

Lillian Wilder
Executive Director

S B

121

Date _____ Hour 1:55

To _____

WHILE YOU WERE OUT

M Marty Lee

Of University Student

Phone 272-3193
Area Code Phone Number

Telephoned	<input checked="" type="checkbox"/>	Returned Call	<input type="checkbox"/>	Left Package	<input type="checkbox"/>
Please Call	<input checked="" type="checkbox"/>	Was In	<input type="checkbox"/>	Please See Me	<input type="checkbox"/>
Will Call Again	<input type="checkbox"/>	Will Return	<input type="checkbox"/>	Important	<input type="checkbox"/>

Message

tel 4:00

SB121

why hasn't this bill done

anything in HESS?

Signed _____



Official Business

Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 9981

JAN 19 1989

M E M O R A N D U M

TO: Senator Paul Fischer, Chair
Senate HESS Committee

FROM: Senator Jay Kerttula *Jay Kerttula*

SUBJECT: SB 121, relating to conditions of scholarship
loans

DATE: January 18, 1989

I would like to request that Senate Bill 121, relating to conditions of scholarship loans, be scheduled for a Senate HESS Committee Hearing at your earliest convenience.

Thank you for your consideration of this request.

FEB 20 1989

Dear Senator Fischer,

I am writing, as a student loan recipient, to offer my support for the reinstatement of the forgiveness clause.

I understand this matter is coming before the HESS committee for consideration. I feel this is a good investment in the future of Alaska. It encourages Alaskans to achieve an education and keep it in, or bring it back to our state.

My recent completion of my education in aircraft maintenance has allowed me to gain employment in this field. It is my intention to remain in Alaska. Without the student loan program I would not have been able to attend school.

Thank you for your consideration,
(over)

CORRECTION

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

S B

121

Date _____ Hour 1:55

To _____

WHILE YOU WERE OUT

M Marty Lee

Of University Student

Phone 272-3193

Area Code Phone Number

Telephoned	<input checked="" type="checkbox"/>	Returned Call	<input type="checkbox"/>	Left Package	<input type="checkbox"/>
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Will Call Again	<input type="checkbox"/>	Will Return	<input type="checkbox"/>	Important	<input type="checkbox"/>

Message

tel 4:00

SB121

why hasn't this bell alone

anything in HESS?

Signed _____

AIGNER FORM NO. 55-058

PRINTED IN USA



Official Business

Alaska State Legislature

Senate

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

JAN 19 1989

M E M O R A N D U M

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Senate HESS Committee

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Thank you for your consideration,
(over)

FEB 20 1988

and could you share this letter with
other committee members?

Thank you,
Gary Claiborne

GARY CLAIBORNE
5060 W 86TH
ANCHORAGE, AK
99502

S B

122

MAR 03 1990



ALASKA COUNCIL ON PREVENTION OF ALCOHOL AND DRUG ABUSE, INC.

March 5, 1990

Dear Interested Reader:

"Inhalant use by high school seniors has increased steadily at a time that most other drug use has declined. Annual inhalant use, for example, increased from 4.3 percent in 1983 to 6.9 percent in 1987."

This statement from the National Institute on Drug Abuse points out an increasing, although somewhat unrecognized emerging problem of drug abuse among our nation's youth. In Alaska, the statistics are even more alarming. A University of Alaska study which surveyed statewide drug use among students in grades 7 through 12 found that 16.5 percent of all students had used inhalants in 1983. In 1988, the figure had risen to 25.9 percent, more than 3.7 times the national average, and an increase of 9.4 percent over the past five years statewide! These figures are particularly distressing when one considers that they do not include statistics for youth who are no longer in school. Research confirms a high drop-out rate for drug-abusing students; the rate may be even higher for those involved in inhalant use.

I have enclosed a paper prepared by our Resource Analyst, Lisa Pieper. "Hot off the press", this research based paper is concisely written in layman terms and is intended for the general public. This document is available for distribution through our Resource Library. We are currently compiling a mailing list specifically for this paper which will include school districts, Native corporations, health aides, village health clinics, and of course, all State Office of Alcoholism and Drug Abuse funded agencies.

Sincerely,

Bette O'Moor
Executive Director

Enclosure

BOM:kb



A United Way Agency

7524 OLD SEWARD HWY., SUITE B • ANCHORAGE, ALASKA 99518 • (907) 349-6602
(800) 478-PREV Outside Anchorage Area • FAX (907) 349-4323

INHALANTS: AN OVERVIEW

by Lisa Pieper
Resource Analyst

Alaska Council on Prevention
of Alcohol and Drug Abuse

February 1990

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INHALANTS - AN OVERVIEW

The problem of inhalant abuse has been recorded in literature worldwide, and in research reports from Mexico, Canada, the United States, Japan, England, Sweden, Norway and Germany. Reports of the use of inhalants date back to the early 1800's when nitrous oxide, ether and chloroform were first used as intoxicants. Since the early 1960's, reported use of inhalants has spread to the use of gasoline, paint thinners, nail polish remover, spray paints, and numerous other toxic substances containing various chemical compounds, the most popular of which contain the chemicals benzene and toluene.

As recently as ten years ago, the use of inhalants, while recognized as a harmful means of chemical euphoria, was not associated with a drug-using subculture. Most use was thought to be experimental and within isolated groups of youth. Distribution was considered to be not-for-profit and there was no knowledge of ritual or jargon connected with use. Today, this is not the case. A recent report in the Chicago Tribune indicates that the "tolley" (toluene) problem has reached epidemic proportions in parts of the United States. "Pushers" buy toluene in the form of paint thinner and sell small amounts in dollar-sized bottles to kids on the street, netting a profit of up to \$150 from a can bought for \$10.¹ "Tolley" and various other forms of inhalants are now known as "kids drugs". Use is often not recognized by parents and police until youth become involved in the criminal justice system and juvenile courts.

I. PHYSICAL EFFECTS

The inhalation of toxic substances through the lungs carries chemicals via the bloodstream directly to the brain, producing an almost immediate sensation of excitation or euphoria. Chemicals contained in most inhaled substances are lipid (fat) soluble and are stored in the brain, central nervous system, reproductive organs, lungs, kidneys, liver, and bone marrow.

Five types of substances account for approximately 92 percent of all common inhalants. In a survey done in 1989 by Beauvais and Oetting, Native American youth reported that their choice of inhalants is based on availability, with the following substances listed in order of prevalence: gasoline, glue, paint and polish removers, aerosols, and shoe and fingernail polish. Each of these substances consist of complex chemical compounds which contain toluene, benzene, acetone, and/or naphtha. These euphoria-producing chemicals act primarily as central nervous system depressants, impairing membrane permeability and neurotransmission. Freon, a propellant contained in aerosols, may cause extensive tissue damage due to freezing. Aerosol pan coating can cover the

¹ "Tolley Imperils Uptown Youths" *Chicago Tribune*, September 10, 1989, Section 1, p. 24.

lungs with an oil-based substance, cutting off oxygen absorption into the blood. Benzene may be harmful to the blood-producing elements in the body and is believed to cause chromosomal damage and leukemia in humans. Lead from gasoline cannot be detoxified and may be stored asymptotically in the body for long periods of time and then suddenly cause serious illness. Slow, but definite damage to the brain is irreversible.

Additional risks associated with inhalant use are numerous. About half of all chronic sniffers are found to have some form of chronic brain deficit.² Hepatitis, liver damage, muscular weakness, and sleep disorders are also reported. The reversibility of injury to internal organs is not yet known. Sudden Sniffing Death Syndrome (SSDS), in which hydrocarbons over-stimulate the heart muscle, causing it to beat very fast and irregularly and then stop, can occur. Death has also been caused by aspiration, fire, suffocation, resultant violent behaviors, damage to vital organs, and lead poisoning.³

II. PREVALENCE

"Inhalant use by high school seniors has increased steadily at a time that most other drug use has declined. Annual inhalant use, for example, increased from 4.3 percent in 1983 to 6.9 percent in 1987."⁴

This statement from the National Institute on Drug Abuse points out an increasing, although somewhat unrecognized emerging problem of drug abuse among our nation's youth. In Alaska, the statistics are even more alarming. A University of Alaska study which surveyed statewide drug use among students in grades 7 through 12 found that 16.5 percent of all students had used inhalants in 1983. In 1988, the figure had risen to 25.9 percent, more than 3.7 times the national average and an increase of 9.4 percent statewide over the past five years!⁵ These figures are particularly distressing when one considers that they do not include statistics for youth who are no longer in school. Research confirms a high drop-out rate for drug-abusing students; the rate may be even higher for those involved with inhalant use.⁶

² Cohen, S., "Inhalants" *Handbook on Drug Abuse*, University of California, Los Angeles, p. 214.

³ Van Duzen, J.; Welty, T., "Gasoline and Solvent Sniffing: A Serious Problem Among Indian Adolescents" 1980.

⁴ Crider, R.A.; Rouse, B., "Inhalant Overview" *Epidemiology of Inhalant Abuse: An Update*, NIDA Research Monograph No. 85, 1988, p. 1.

⁵ Segal, B., "Drug-Taking Behavior Among Alaskan Youth - 1988: A Follow-up Study" Center for Alcohol and Addiction Studies, University of Alaska Anchorage, November 1988, p. 96.

⁶ Novak, A., "The Deliberate Inhalation of Volatile Substances" *Journal of Psychedelic Drugs*, Vol. 12 (2) April - June 1980, p. 108.

Although the use of inhalants crosses all socioeconomic, geographic, and racial boundaries, it has long been associated with problems of acculturation, poverty, and social isolation which plague underprivileged minorities. High rates also occur in subcultures where alcohol and other drug abuse is common.⁷ The Minnesota Department of Human Services in December 1988 reported that 83 percent of all inhalant detox admissions involved American Indian youth.⁸ Johnson et.al. (1987) found that in the United States more than 15 percent of all youth will try inhalants. In some populations, such as Barrio-Hispanics and Native Americans living on reservations, more than one-third will try inhalants before the age of 18.⁹ When looking specifically at inhalant use in Native American communities, Barnes (1981) found rates to be lowest in communities which have expanded social assets and widespread acculturation to the white man's lifestyle. Highest rates of use were found in communities which had few social assets and were experiencing rapid change and conflict due to acculturation.¹⁰

III. YOUTH AT RISK

Inhalant abuse is clearly a problem of the young. Reports show that inhalants are the drug used most frequently by Native American youth. Although inhalants are not the first drug of choice for most, youth report that they are readily available and in most areas are not categorized as "illegal". Youth try inhalants at significantly lower ages than they try cigarettes, marijuana, or alcohol. One study found that fifteen percent of all elementary school students (grades 4 to 6) had tried inhalants.¹¹ While the inhalation or sniffing of volatile substances was originally thought to predominantly be a male activity, the gender gap appears to be closing.¹²

Inhalant use is a "peer-originated and peer-perpetuated activity".¹³ Sixty-six to seventy-five percent of inhalant-using youth report initiating

⁷ "Psychological Effects of Inhalant Abuse and Its Interference with Psychotherapy" Miami Indian Health Service, P.O. Box 1498, Miami, Oklahoma 74354.

⁸ "Inhalants: Sniffing for a High" *Impact: A Newsletter of Chemical Health in Minnesota*, Vol. 4, No. 4, Winter 1988-89, p. 2.

⁹ Octting, E.R.; Edwards, R.W.; Beauvais, F., "Social and Psychological Factors Underlying Inhalant Abuse" *Epidemiology of Inhalant Abuse: An Update*, NIDA Research Monograph No. 85, 1988, p. 177.

¹⁰ Smart, R., "Inhalant Use and Abuse in Canada" *Epidemiology of Inhalant Abuse: An Update*, NIDA Research Monograph No. 85, 1988, pp. 132-133.

¹¹ Beauvais, F; Octting E.R., "Indian Youth and Inhalants: An Update" *Epidemiology of Inhalant Abuse: An Update*, NIDA Research Monograph No. 85, 1988, p. 41.

¹² Cohen, S., loc. cit. p.213

¹³ Cohen, S., op. cit. p. 213.

use at the invitation of a friend or relative. In one survey, youth reported being encouraged by friends to use inhalants more frequently than any other drug.¹⁴ A high percentage of users also report that their friends and/or siblings currently use. Oetting and Beauvais conclude that any attack on the problem of young inhalant use must take peer clusters into account if it is to be successful.¹⁵

The problem of youth-at-risk for inhalant abuse is further heightened by indications that young people who begin using solvents may be more likely to be involved in other drug abuse. One study found that youth who began using solvents were as likely to become involved with other drugs as those whose first drug of use was marijuana.¹⁶ Other reports show that young adolescents continue to use inhalants while adding other drugs. If inhalant use drops off, the high level of personal problems and early drug experience often leads to the abuse of a variety of other drugs. In any case, the early use of inhalants as a recreational activity certainly points to dangers of deepening drug involvement in subsequent years.

Unfortunately, as the aforementioned research suggests, and state statistics conclude, Alaskan youth are at extremely high risk for inhalant use. Alaskan youth live in areas which are socially isolated, which are experiencing rapid cultural change, and in which alcohol and other drug use is common. In addition to the socio-cultural and economic factors which place Alaskan youth at risk for inhalant abuse, these children live in rural communities where many inhalants are readily available. Because all-terrain vehicles and motor boats are common means of transportation, most families store gasoline drums just outside their homes. Recently reported inhalant abuse deaths in the state include one describing, a youth who had been seen with his head over the gas tank of the family boat engine. He was later found drowned in a river near his village.

IV. SYMPTOMS

A. Physical Signs of Use

The immediate effects of solvent and aerosol inhalation may last from 5 to 45 minutes after cessation. Users report feelings of excitation, euphoria and omnipotence, blurring of vision, irregular heartbeats, numbness, weightlessness, and a distortion of time and space. The intensity of effects ranges from mild intoxication to unconsciousness, there

¹⁴ Sharp, C; Carroll, L., "Inhalant Abuse Among Pueblo Tribes of New Mexico" *Voluntary Inhalation of Industrial Solvents*, National Institute of Drug Abuse, Rockville, MD.

¹⁵ Oetting, E.R.; Edwards, R.W.; Beauvais, F., loc. cit. p. 185.

¹⁶ Frank, B.; Marek, R.; and Schmeidler, J., "The Continuing Problem of Youthful Solvent Abuse in New York State" *Epidemiology of Inhalant Abuse: Update*, NIDA Research Monograph No. 85, 1988, pp. 92-93.

may be partial or total amnesia. Tolerance may develop, resulting in the use of increasing amounts to achieve the desired effects.

Teary, glazed, or reddened eyes are symptomatic of persons who are using inhalants. They may also exhibit slurred speech, frequent cough, weight loss, loss of muscle coordination, unsteady gait, and erratic or "spacey" behavior. Unpleasant chemical breath may be accompanied by a rash or ulcers around the mouth and nose. Users report nausea, headache, nosebleeds, eye irritation, increased light sensitivity, double vision, and ringing in the ears.¹⁷ Physical dangers and symptoms increase with frequency of use and can end in hospitalization, coma, and even death.

B. Psychological Symptoms

The use of inhalants has been closely associated with depression. In a study by Allan and Ghodse, 70 percent of solvent abusers surveyed reported that they used inhalants because they were depressed.¹⁸ Inhalant users exhibit high levels of anxiety, psychopathology, depression, and suicide, and report feelings of anger and alienation. As with most youth involved with drugs, inhalant users tend to have low self-esteem and do not access traditional sources of help. Psychological and social development is arrested at the time that drug use begins.

It has been suggested that the use of inhalants by young people may provide strong feelings of power and influence which might otherwise be lacking in their lives.¹⁹ Beauvais poses that the use of inhalants may be an attempt by youth to reduce the stress provoked by rapid culture change (culture shock).²⁰

C. Sociological Effects/Symptoms

Research shows a high correlation between inhalant abuse and crime. Youth who are involved in inhalant use are known to show high rates of truancy, decreased scholastic performance, and negative interactions with school authorities. Many drop out of school completely. Most become loners and are excluded from the activities of their non-sniffing peers. Signs of use include: loss of interest in personal appearance, food, and family; cleaning rags in the bedroom, closet or

¹⁷ "Inhalants" National Native Association of Treatment Directors, P.O. Box 1882, Saskatoon, Saskatchewan, S7K3SZ

¹⁸ Jacobs, A.; Ghodse, A., "Depression In Solvent Abusers" *Social Science Medicine*, Vol. 24, No. 10, 1987, pp. 864-865.

¹⁹ White, K., "Handbook on Solvent Abuse" Project Solvabuse, Indian and Inuit Health Services, Medical Services Branch, Canada, p. 4.

²⁰ Beauvais, F., "Social and Psychological Characteristics of Inhalant Abusers" *Paper Presented at the World Health Organization Group Meeting on Adverse Effects of Volatile Substances/Inhalants*, Mexico City, April 1986.

basement; dried paint on clothing or body; and empty spray cans or tubes of glue in and around living areas.

V. TREATMENT

Research indicates that few people in the health care system have a clear or systematic applied concept of the nature of the inhalant abuse problem.²¹ There are few models available for the treatment of young inhalant users. The multiplicity of problems surrounding these youth make them difficult to fit into existing programs. Most youth come to treatment as referrals from the criminal justice system, and without family assistance and support. Many have histories of unsatisfactory encounters with helping professionals which have led to distrust and apathy. Most have been involved in inhalant abuse for two to three years prior to entering treatment. Although few enter treatment voluntarily, most do not stop using without professional assistance. The rate at which inhalant abusers drop out of treatment is higher than that of other drug abusers. In addition, inhalant users are asked to leave treatment settings due to rule infractions at twice the rate of other addicts.²²

Inhalant abusers appear to be less verbal and to suffer more severe psychological impairment than other addicts.²³ These youth have low self-esteem and are either very withdrawn, or uncooperative and disruptive in treatment settings. Research indicates that inhalant users have less ego strength than most addicts, possibly due to the fact that even among drug-using subcultures, the use of inhalants carries a negative social stigma as being "low class" or "kids' stuff." As stated previously, young inhalant users have high levels of psychopathology, depression, suicide, and anxiety and may require more intensive care than other addicts. Physiological difficulties affecting treatment include: memory lapse, confusion, depression, tremors, nausea, psycho-motor dysfunction, disorientation, and joint and muscle pain.

Pilot research suggests that the cognitive demands of most treatment settings are beyond the grasp of many inhalant abusers.²⁴ For these clients, the ability to keep appointments, tolerate the treatment environment, and establish basic trust are major undertakings. Inhalant users appear to be unmotivated and "test" staff intensely. Treatment is best targeted to disruptive youth, allowing for greater individualized attention and support. Behavior-oriented strategies with positive reinforcement of even small

21 Mason, T., "Inhalant Abuse and Treatment" University of Houston, U.S. Department of H.E.W., 1979, p. 53.

22 Mason, T., op.cit. p. 43.

23 McSherry, T., "Program Experience With The Solvent Abuser in Philadelphia" *Epidemiology of Inhalant Abuse: An Update*, NIDA Research Monograph No. 85, 1988, p. 115.

24 McSherry, T., op.cit. p.118.

demonstrations of appropriate behavior are warranted. Successful designs focus on basic living skills such as socialization, personal hygiene, verbal communication, and simple self disclosure. Structured and unstructured recreational activities can assist in the rehabilitation of psychomotor activities and the learning of appropriate interpersonal skills. The use of peer leaders and counselors appears to be effective, along with the assignment of special responsibilities to increase personal power. To assess possible nervous system impairment, it is suggested that inhalant abusers receive complete psychological and physical exams upon entering treatment.

VI. PREVENTION

As is true of prevention strategies for any type of drug abuse, strategies for the prevention of inhalant abuse must be comprehensive with multiple points of entry. The most successful self-regulating designs appear to be educational campaigns.²⁵ Because predisposing factors are in place by 4th and 5th grades, prevention education must begin early. Since friends and siblings provide access and instruction for inhalant use, the involvement of "peer clusters" in the design, implementation, and delivery of services is important. Inhalant users tend to be more socially isolated and alienated than other youth, making community education, socialization, and basic life skills important aspects of prevention programming. Outreach must go beyond the school and into the community.

Effective and comprehensive prevention efforts must couple educational programming with sociological and legislative change and public awareness. The alarming rate of inhalant use among Alaskan youth was recognized by the Alaska State Legislature in 1989. Senate Resolution No. 18 expanded the responsibilities of the State Office of Alcohol and Drug Abuse to include prevention, education and treatment of inhalant abusers. Federally, the Toxic Substance Control Act of 1976, administered by the Environmental Protection Agency, contains provisions for the regulation and possible banning of products containing toxic substances which are found to be unreasonable health risks. Legislation also mandates a limit to the amount of lead which can be contained in gasoline to diminish toxicity which can lead to lead poisoning. The amount of benzene in gasoline is considered such a hazard to health that the Occupational Safety and Health Administration set standards for the amount of gas fumes to which workers can be exposed. Environmental concerns about aerosols interfering with the ozone layer in the troposphere have resulted in a reduction in the use of freon as a propellant. Since chemical inhalants are not covered under the Comprehensive Drug Abuse Prevention and Control Act of 1970, there are no federal penalties for the possession or sale of these products. Thirty-one states have passed laws

²⁵ Kerner, K., "Current Topics In Inhalant Abuse" *Epidemiology of Inhalant Abuse: An Update*, NIDA Research Monograph No. 85, 1988, p. 21.

prohibiting the sniffing of volatile substances. Infractions are generally considered misdemeanors and are punishable by a minor jail sentence or fine. Some states include penalties under laws such as those for public drunkenness.

Legislation, however, is only one aspect of the number of sociological strategies which can be employed to combat and to prevent inhalant use. Community education is vital. Since the choice to use inhalants is largely based on availability, owners of retail outlets must be informed and educated about the patterns of use. Communities can make local decisions to limit or ban the sale of certain products to minors or to keep toxic substances safely behind cashier counters. Rural communities can take actions which result in the safe storage of toxic substances, including locks on gas tanks and fuel drums. We need to educate each other about the warning signs of inhalant abuse so tragedies resulting in death and disability can be avoided. We must raise our awareness about this growing problem among youth and offer safe recreational opportunities, support groups, counseling, and education to high-risk youth. Above all, we must learn to "tune in" to our youth and give them direction for the healthy resolution of their conflicts and fears.

The problem of inhalant use, like other forms of drug abuse, cannot be solved using a single strategy. Awareness, education, regulation, healthy alternatives for youth, and safe storage of toxic substances are all necessary. Likewise, all segments of a population/community must work together to bring change. What we do does count! We can make a difference!

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S B

136

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSSB 136 (HESS)
PUBLISH DATE: April 7, 1989

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Alaska Education Trust Fund
Sponsor: Kerttula and Kelly
Requestor: Senate HESS

Agency Affected: Education
BRU: Postsecondary Education
Components: General Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-0-	62.3	64.1	66.1	68.1	70.1
TRAVEL						
CONTRACTUAL		10.0	10.0	10.0	10.0	10.0
SUPPLIES		1.5	1.5	1.5	1.5	1.5
EQUIPMENT		7.4	-0-	-0-	-0-	
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		81.2	75.6	77.6	79.6	81.6

CAPITAL						
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REVENUE	*					
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		81.2	75.6	71.6	79.6	81.6
TOTAL						

POSITIONS:

FULL-TIME		1.5	1.5	1.5	1.5	1.5
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Personal services include one professional at Range 16 and one half-time support personnel at Range 9.

*Provided by the Department of Revenue.

Prepared by: Ronald A. Phipps, Executive Director
Division: Alaska Commission on Postsecondary Education

Phone: 465-2854
Date: April 7, 1989

Approved by Commissioner: _____
Agency: _____

Date: _____

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act Establishing the Alaska
Education Trust-Prepaid Tuition Fund
and Authorizing Advance Tuition Payment
Contracts; and Providing for an
Effective Date ."

Agency Affected: University of Alaska
BRU: SPS, UAA, UAF, UAS

Components: _____

Sponsor: Kerttula

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The fund is self-supporting and should cost the University of Alaska nothing. Some administrative time will be required in setting up the fund, this should be accommodated through current staffing levels.

Prepared by: Jim Lynch *Jim Lynch* Phone: 474-6556
Division: Statewide Finance Date: 2/21/89

Approved by Commissioner: Vice President, Brian Boers Date: 2/21/89
Agency: University of Alaska

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Revenue
 Title: Alaska education trust fund BRU: Treasury
 Sponsor: Kerttula Components: _____
 Requestor: Senate HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	45.0	84.0	127.0	174.0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	45.0	84.0	127.0	174.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	45.0	84.0	127.0	174.0
TOTAL	0	0	45.0	84.0	127.0	174.0

POSITIONS:

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

ANALYSIS: attach a separate page for analysis.

Prepared By: Milt Barker *MB*
 Division: Treasury

Phone: 465-2350
 Date: _____

Approved by Commissioner: Walter B. Barker for
 Agency: Department of Revenue

Date: _____

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Alaska Education Trust Fund
Sponsor: Kerttula
Requestor: Senate HESS

Agency Affected: Education
BRU: Postsecondary Education
Components: General Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-0-	62.3	64.1	66.1	68.1	70.1
TRAVEL						
CONTRACTUAL		10.0	10.0	10.0	10.0	10.0
SUPPLIES		1.5	1.5	1.5	1.5	1.5
EQUIPMENT		7.4	-0-	-0-	-0-	
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		81.2	75.6	77.6	79.6	81.6

CAPITAL						
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REVENUE	*					
---------	---	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		81.2	75.6	71.6	79.6	81.6
TOTAL						

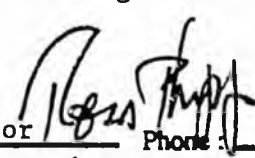
POSITIONS:

FULL-TIME		1.5	1.5	1.5	1.5	1.5
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Personal services include one professional at Range 16 and one half-time support personnel at Range 9.

*Provided by the Department of Revenue.

Prepared by: Ronald A. Phipps, Executive Director  Phone: 465-2854
Division: Alaska Commission on Postsecondary Education Date: February 14, 1989

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):

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

Alaska Education Trust Fund
Investment Management Expenses

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	(\$ Millions)						(\$000)				
Fiscal Year	Beginning Balance	Permanent Fund		Average Balance	Earnings	Ending Balance	Securities Safekeeping Fees	Common Stock	Performance	Audit	Total
		Dividends	Contributions					Management Fees	Measurement Fees		
FY90	0	460	23	14	1	24	1	22	12	10	45
FY91	24	477	24	39	3	51	2	60	12	10	84
FY92	51	471	24	66	5	80	3	102	12	10	127
FY93	30	466	23	95	8	111	5	147	12	10	174

Notes:

1. Column 6, prior year
2. From "Revenue Sources," Fall 1988, Department of Revenue
3. 5% of Column 2, assuming 5% participation by dividend recipients; initial participation in a similar Florida program was .37% of the population
4. Column 1 + (7.5/12)(Column 3) assuming transfer to trust fund occurs on average on November 15; also assumes no payouts during first four years of the program
5. 8% x Column 4
6. Column 1 + column 3 + Column 5
7. Column 4 x 5.25%/\$1000 per contract
8. Column 4 x .31% per contract x 50% asset allocation to common stocks
9. Per contract
10. Treasury Division estimate
11. Columns 7 + 8 + 9.



Brian Rogers
Vice President for Finance
(907) 474-7448

University of Alaska
Fairbanks, Alaska 99775-5260

April 11, 1989

APR 14 1989

The Honorable Jalmar M. (Jay) Kerttula
431 North Franklin
Juneau, AK 99811

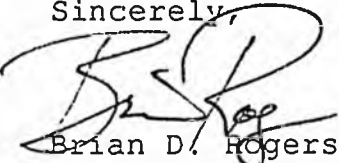
RE: Revised Fiscal Note for CSSB 136 (HESS)

Dear Senator Kerttula:

Enclosed is a copy of the University's fiscal note for CSSB 136 (HESS). A FAX copy of the revised fiscal note was sent to Senator Fischer today per his request.

If you have any questions about the note, please do not hesitate to contact me or Marsha Hubbard, director of Statewide Budget, at 474-7593.

Sincerely,


Brian D. Rogers
Vice President for Finance

BDR/pe

Enclosure

cc: Alison Elgee, Division Director for Office of Management
& Budget
Gina Spartz, Admin. Assistant for Legislative Finance
Division
✓ Senator Tim Kelly
✓ Senator Paul Fischer

FISCAL NOTE

REQUEST:

Revision Date: 4/11/89
 Title: "An Act Establishing the Alaska Education Trust-Prepaid Tuition Fund and Authorizing Advance Tuition Payment Contracts: and Providing for an Effective Date."

Agency Affected: University of Alaska
 BRU: SPS, UAA, UAF, UAS

Components: _____
 Sponsor: Kerttula, Kelly
 Requestor: Fischer

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The fund is self-supporting and should cost the University of Alaska nothing. Some administrative time will be required in setting up the fund, this should be accommodated through current staffing levels.

Prepared by: Marsha Hubbard *MA* Phone: 474-6490
 Division: Statewide Budget Date: 4/11/89

Approved by Commissioner: Vice President Brian Rogers Date: 4/11/89
 Agency: University of Alaska

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____

Title: Alaska education trust fund

Sponsor: Senate HESS

Requestor: Senate HESS

Agency Affected: Department of Revenue

BRU: Treasury

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	45.0	84.0	127.0	174.0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	45.0	84.0	127.0	174.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	45.0	84.0	127.0	174.0
TOTAL	0	0	45.0	84.0	127.0	174.0

POSITIONS:

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

ANALYSIS: attach a separate page for analysis.

Prepared By: Milt Barker *MB*
Division: Treasury

Phone: 455-2350
Date: 4-11-89

Approved by Commissioner: [Signature]
Agency: Department of Revenue

Date: 4/12/89

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

Alaska Education Trust Fund
Investment Management Expenses

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	
(\$ Millions)						(\$000)					
Fiscal Year	Beginning Balance	Permanent Fund Dividends	Contributions	Average Balance	Earnings	Ending Balance	Securities Safekeeping Fees	Common Stock Management Fees	Performance Measurement Fees	Audit	Total Fees
FY90	0	460	23	14	1	24	1	22	12	10	45
FY91	24	477	24	39	3	51	2	60	12	10	84
FY92	51	471	24	66	5	80	3	102	12	10	127
FY93	80	466	23	95	8	111	5	147	12	10	174

Notes:

1. Column 6, prior year
2. From "Revenue Sources," Fall 1988, Department of Revenue
3. 5% of Column 2, assuming 5% participation by dividend recipients; initial participation in a similar Florida program was .37% of the population
4. Column 1 + (7.5/12)(Column 3) assuming transfer to trust fund occurs on average on November 15; also assumes no payouts during first four years of the program
5. 8% x Column 4
6. Column 1 + column 3 + Column 5
7. Column 4 x 5.25¢/\$1000 per contract
8. Column 4 x .31% per contract x 50% asset allocation to common stocks
9. Per contract
10. Treasury Division estimate
11. Columns 7 + 8 + 9.



Alaska State Legislature

Senate

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

Official Business
March 21, 1989

TO: Senator Paul Fischer, Chair
Senate HESS Committee

FROM: Senator Jay Kerttula *J. Kerttula*

SUBJECT: Senate Bill 136, Education Trust Fund

At the March 15 committee hearing on Senate Bill 136, the members of the committee requested that I provide the following information:

- 1) What degree of participation in the program would be required in order for the administrative costs to be covered and for the program to pay for itself?
- 2) Could the University administer the program rather than the Division of Postsecondary Education?

PARTICIPATION AND ADMINISTRATIVE COSTS

The Department of Revenue fiscal note has been prepared using certain assumptions:

- a) The Department has assumed participation to be 5% of the permanent fund dividend recipients;
- b) The Department assumes an 8% rate of return on investments which the Department considers to be a conservative assumption; the state's investments are running above 9%.
- c) The Department assumes that no payments will be made during the first four years.

The fiscal note indicates that the earnings of the fund will far surpass the administrative costs.

I also asked the Department to considerably reduce the percentage of participation in the program and to tell me at what point the program would be operating at a loss. Even at a .05% rate of return (230 participants), the earnings are still sufficient to cover expenses.

As a matter of fact, at such a minimal rate of participation, the Department suggested that it would be better to forego a separate account and the resulting performance and audit fees, and pool the monies from the trust fund with the larger corpus of investments; it is sometimes difficult to get a good rate of return on a very small investment.

Furthermore, presently, the University of Alaska has an annual 5% increase in tuition costs. Even if we assume that the tuition costs increase at a rate of 7% (which is the national average), the 8% rate of return on investments as anticipated by the Department of Revenue would keep up with the tuition costs.

ADMINISTRATION OF THE PROGRAM

I have talked with the University of Alaska regarding the University's ability to administer the Education Trust Fund. From a purely technical standpoint, the University of Alaska could administer the program. However, from a policy perspective, there are several reasons why an Education Trust Fund would best be administered through the Division of Postsecondary Education:

a) other states have found a potential conflict of interest between the University and the Education Trust Fund. The thrust of an advance tuition program is to keep the tuition costs low so that the trust fund can keep up with inflation and operate in the black. On the other hand, the universities, who depend on the tuition rates, may well be interested in raising the tuition rates. This has been the case in Michigan.

b) The choice of an administrator could affect an IRS ruling. In Florida, the attorney who helped to write that state's tuition plan, has indicated that the IRS ruling on Michigan will not have a "large impact on Florida's program...because its trust is an entity of the state unlike Michigan's MET.

Similarly, if the University of Alaska were to administer the program, it would be done through a private foundation; with Postsecondary Education managing the program, the trust fund would be considered a state entity, similar to Florida's program.

c) The legislation, as presently written, is flexible; refunds may be applied to institutions other than the University of Alaska. The University has indicated that, under this circumstance, the program would best be managed by the Division of Postsecondary Education.

In sum, the University has indicated that they support the legislation as it is currently written.



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

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FAIRBANKS, ALASKA 99701
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March 13, 1989

To: Senator Paul Fisher, Chair
Members, Senate HESS Committee

Re: Senate Bill No. 136; "An Act establishing the
Alaska education trust fund and authorizing
advance tuition payment contracts; and providing
for an effective date."

NEA-Alaska supports and encourages your favorable
consideration of SB 136.

SB 136 effectively serves the public interest in Alaska in
at least three ways in addition to the creation of the
Alaska Education Trust Fund itself.

It provides an incentive for an individual to save money
toward the cost of attending the University of Alaska, it
focuses on the importance of planning for the financial
needs attendant to higher education, and it elevates the
significance of the University of Alaska as a legitimate
option as they and their parents and friends make plans for
post secondary education.

Additionally, it will bring greater emphasis to the
importance of the role of the University in meeting the
future needs of the State through meaningful programs and
services for its students.

Planning for higher education is essential, financial
planning even more so. SB 136 provides an incentive for
students to aspire and to attend the University of Alaska.

Thank you for your consideration of our position.

Respectfully submitted,

Bob Manners
Executive Secretary

cc: Senator Jay Kerttula



Alaska State Legislature

Senate

SECTIONAL ANALYSIS

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

Official Business PENNATE BILL 136

Section 1

Sec.14.42.400 Establishes the Alaska Education Trust fund. Contributions consist of an individual's permanent fund dividends, cash contributions, legislative appropriations, gifts, bequests, contributions of individual assets and earnings from the fund.

Establishes that the assets of the fund may be used to make payments to the University of Alaska for qualified beneficiaries(students)

Assets may be used to make refunds and to pay the administrative costs of the fund

Sec.14.42.410 Establishes the Commissioner of Revenue as the treasurer of the fund and sets out the duties of the Commissioner.

The Department of Revenue will administer and invest the assets of the fund and will report to the Postsecondary Education Commission

Sec.14.42.420 Sets out the provisions for contributions to the Alaska Education Fund which are either cash or permanent fund dividends.

Sec.14.42.430 The Commission on Postsecondary Education is the agency which will contract with a purchaser for an advance tuition payment for the University of Alaska.

Establishes the guidelines for payment plans and refunds

Sec.14.42.440 Establishes the provisions which are to be included in the advance tuition contracts and includes but is not limited to provisions for termination of a contract, provisions for dealing with a qualified beneficiary who is no longer a state resident

Sec.14.42.490 Definitions

Section 2 Effective date of July 1, 1989



Official Business

Alaska State Legislature

Senate

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

SPONSOR STATEMENT

Senate Bill 136, Alaska Education Trust Fund

As the cost of a college education steadily increases, parents have become increasingly concerned about their ability to provide a college education for their children. As a result, many states have been looking at innovative ways to provide parents and students with alternatives for financing college tuition.

Senate Bill 136 offers one such option. The legislation establishes a "guaranteed tuition plan" which assures future tuition payment to a University of Alaska campus upon an initial investment in a newly created Alaska Education Trust Fund. The amount of the initial investment is determined by the age of the child at the time of the investment; the younger the child, the cheaper the price. If the parent of an older child joined the program, the contribution would be higher because there would be less time for the money to earn interest.

The State would then invest the money, intending that, at a minimum, the tuition fund investments would have a rate of return that would equal the expected tuition cost for a child by the time he/she enrolls in college.

A contract would be made between between the state and the purchaser that would guarantee four years undergraduate tuition at the University of Alaska, no matter how much the costs rise.

Senate Bill 136 has been modeled on a similar program which was adopted and implemented by the State of Michigan. When Michigan adopted its plan in 1986, 44,000 persons applied during a two month period. In Florida, approximately 40,000 persons applied for a similar program.

While the option always exists for parents to place their money in other types of savings and investments, the guaranteed tuition plan offers low cost tuition and assurances for the future; in other words, there is a high degree of peace of mind.

GUARANTEED TUITION BILLS IN OTHER STATES

Nine states have passed guaranteed tuition bills:

FLORIDA

Florida Prepaid Postsecondary Education Expense Program (aka FL Postsecondary Cost Stabilization Fund). Includes 3 plans: 1) university plan (tuition); 2) community college plan (tuition); 3) dormitory residence plan. "Tuition" is defined as matriculation fee, financial aid fee, capital improvement fee and building fee. Single payment or monthly installments. Businesses and others may contribute to contracts for low-income students. Plans may be mixed (example: 2 years community college plus 2 years university and one year dorm). Fees not mentioned above, supplies and meals, etc., are not included. 1988 prices start at \$3,800/4 years' tuition for an infant. Contracts transferable to siblings. Refunds on principal only, no interest. Non-residents may not buy contracts; however, contracts will be honored if family moves out-of-state. Principal and interest may be transferred to a FL private school; difference in tuition to be borne by purchaser. ****IRS NOTES:** State's position: Trust monies are within the state treasury, therefore not taxable. However, there will be tax consequences at time of reimbursement. A state-specific IRS ruling is being requested.

INDIANA

Baccaulaureate Education System Trust (BEST). Modelled after the Michigan program. Working on administrative structure at this time. Indiana University and other schools also considering tuition futures.

MAINE

Student Education Deposit Plan (SEED), H.P. 581-L.D. 779. Ruling requested from Maine Attorney General on whether or not to proceed in light of Michigan ruling, or to ask IRS for own ruling. (Status of request for IRS ruling must be made known before contracts may be sold.)

SOURCE: "1988 Survey of College Savings and Guaranteed Tuition Programs," ECS, November 1988

MICHIGAN

Michigan Baccalaureate Education System Trust (BEST), Public Act No. 316. Applications accepted in August 1988, contracts entered into in September 1988. S&Ls will take payments and arrangement for loans if needed. Approximate prices: \$1,689/1 year's tuition for a newborn; \$2,055/1 year's tuition for a 10-year old. This was the first of the tuition guarantee programs to be passed, and serves as a model for the majority of others. Guarantee is good at the 15 state universities, 29 community colleges. Contracts also available for community colleges alone (at a lower rate) or combination community college/university. Refunds: Original investment minus administrative costs only, or original investment plus interest minus administrative costs, depending upon contract. A refund may also be paid directly to an independent degree-granting Michigan institution, the amount to be not less than the prevailing weighted average tuition cost at a state institution for the number of credit hours covered by the contract on date of termination. **IRS NOTES: IRS ruling of 29 March 1988: plan is tax-exempt to purchaser (although there may be a minimum tax liability to the qualified beneficiary upon redemption of the contract). Michigan Education Trust (MET) is tax liable at the corporate rate, but also benefits from corporate deductions, reducing net liability to an estimated 0-15%. MET has applied for tax exempt status based on the fact that it is a not-for-profit corporation.

MISSOURI

Missouri Access to Higher Education Act (HB 1456), sections 1 through 21 (tuition guarantee) and sections 360.015 through 360.120 (savings bonds). **IRS NOTES: IRS ruling needed before contracts may be sold.

OKLAHOMA

OK Tuition Trust Act, HB 2010, creates a prepaid tuition trust by either June 1990 or upon favorable IRS ruling, whichever occurs last. Modelled after Michigan plan.

TENNESSEE

Tennessee Baccalaureate Education System Trust Act, Public Chapter 281, (tuition futures plan). State will request a state-specific IRS ruling, and may sell contracts after the ruling is received, even if it's unfavorable. NOTE: The state is currently re-examining implementation procedures.