

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
6812 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

These reports were substantiated by six school districts which in their survey response related that previously non-negotiable items were being raised during bargaining. The most commonly addressed non-negotiable item being discussed is class size. Currently, ALRA is considering the negotiability of a specific issue whose status is unclear.

According to information provided by NEA-Ak, 31 negotiated contracts have been settled under the provisions of PERA. This total includes contracts for both certificated staff and support staff. Nine additional contracts are currently being negotiated and ten districts have not negotiated under the provisions of PERA. As of this time under PERA, there has been no contracts imposed on unions by the school districts nor have there been any union strikes against the school districts. Of the 37 school districts who responded to our questionnaire, only 3 (8%) said that they had gone as far as advisory arbitration to reach contract settlement.

Only 5 (13%) of our school district respondents felt they had conceded more in negotiations under PERA than they would have conceded under Title 14. When we contacted those school districts, we found that the concessions were in the way of contract language and the union classification of employees rather than of a direct financial nature.

When polled, only one school district said that being under PERA was an improvement over being under Title 14. The one district that preferred PERA thought the law provided more clearly defined ground rules for labor relations. There were 31 (82%) school districts who felt that being under PERA was a disadvantage because of increased bureaucracy. They also did not like the potential for ULPs and strikes.

#### ALRA role has involved delay and has been less extensive than originally envisioned

While ALRA has had some involvement in school district labor relations, the amount of contact has been less than what was originally anticipated by the ALRA hearing examiner. The hearing examiner said that while she had expected up to 50% of ALRA cases to involve education issues, in actuality, less than 25% of ALRA's cases have been education-related.

According to ALRA's administrative hearing examiner, the small percentage of education cases can be attributed to two factors. One factor is that not every school district has negotiated a contract under PERA; therefore, ALRA has had jurisdiction over only some of the State's 54 school districts. A second factor is that both education unions and school districts are just learning about PERA and how ALRA is available to answer questions and hear issues.

There has been some frustration expressed by the education unions and school district administrators over the length of time involved in the ALRA hearing process. Two of the education cases that have advanced to the hearing process have taken as long as eight months to one year for a decision from the ALRA board.

ALRA EDUCATION-RELATED CASES AND ISSUES			
Type of Action	Date of Filing	Parties to Cases	Status as of 10/7/91
Unfair Labor Practice	7/20/90	<i>Kenai Peninsula Borough School District v. Kenai Peninsula Education Support Association</i>	Closed
Unfair Labor Practice	7/25/90	<i>Lower Kuskokwim Education Association v. Lower Kuskokwim School District</i>	Closed
Unfair Labor Practice	7/25/90	<i>Classified Employees Association v. Matanuska-Susitna Borough School District</i>	Closed
Unfair Labor Practice	7/27/90	<i>Yukon Flats School District v. Yukon Flats Education Association</i>	Open
Unfair Labor Practice	8/14/90	<i>Kenai Peninsula Education Association v. Kenai Peninsula Borough School District</i>	Closed
Unfair Labor Practice	8/20/90	<i>Anchorage Education Association/NEA-Alaska v. Anchorage School District</i>	Suspended
Unfair Labor Practice	11/26/90	<i>Kashunamiut School District v. Chevak Education Association</i>	Dismissed
Unfair Labor Practice	2/25/91	<i>Mid-Kuskokwim Education Association v. Kuspuk School District</i>	Open
Unit Clarification	4/16/91	<i>Classified Employees Association/NEA-Alaska v. Matanuska-Susitna Borough School District</i>	Closed
Amended Clarification	5/2/91	<i>Matanuska Susitna Education Association and Matanuska Susitna Nurses Association Merger</i>	Requires Posting
Representation Petition	5/24/91	<i>In re IBEW, petition for Decertification and Certification (Fairbanks North Star Borough School District)</i>	Closed
Regulatory	5/29/91	<i>Anchorage Education Association</i>	Added to project list
Unit Clarification	6/26/91	<i>Yakutat Education Association/NEA-Alaska v. Yakutat City School District</i>	Open
Representation Petition	8/7/91	<i>Teamsters Local 959 v. Fairbanks North Star Borough School District</i>	Prehearing Upcoming
Representation Petition	8/21/91	<i>Alaska Vocational Technical Teachers' Association v. State of Alaska</i>	No Action Necessary

One reason for the delay in case resolution is that ALRA, as it is currently organized, was formed only nine days after the effective date of Chapter 180, SLA 1990. And there has been a turnover of board members since that time. Executive Order No. 77 combined the labor relations functions of three separate entities under the one agency -- ALRA. There was a period immediately following this when offices were being moved, furnished, and staffed. Shortly after the agency was settled in and ready to work effectively, a new administration replaced the board members with new appointees. Because of these changes, ALRA has not had full opportunity to become as effective as originally envisioned by the legislature when they placed school employees under PERA.

ALRA has received favorable comments for its advisory role and mediation function

In spite of the frustration over delays in issuing decisions on ULPs, there have been many positive comments about ALRA. Union members and school district administrators who have contacted ALRA report that there is a considerable body of knowledge about labor relations at the agency. They have found ALRA to be a reliable, unbiased source of information. The comment was also frequently made that despite the length of delay at ALRA it is still a faster alternative than going to court to get a decision. It is significant to note that ULPs can be, and are being, filed by school districts almost as often as by unions.

ALRA's 15 education cases involve union certifications, regulations, and ULPs

The table on the opposite page summarizes ALRA's 15 education related cases. Eight of the cases involve ULP allegations (the sidebar on the right explains the types of cases filed at ALRA other than ULPs). Only three of the ULP allegations went to a final hearing. The other five ULP allegations either have been resolved by mutual consent of the two parties, dismissed by ALRA, or suspended pending completion of contract grievance procedures.

The one case that has gone to the hearing process and has had a decision rendered was a case filed by the *Classified Employees Association v. Matanuska-Susitna Borough School District*. This case is of particular interest because the school district raised the question, "When the terms of a collective bargaining agreement that pre-dates application of the PERA conflicts with the Act, does the agreement or the Act govern?" In this particular instance, the collective bargaining agreement that was being questioned had been negotiated under Title 14 and not under PERA. The school district believed that any definitions of confidential employees in PERA would not apply since it had a preexisting agreement. The classified employees association felt that the PERA definition was applicable.

In their decision based on the hearing, ALRA said they did not perceive any conflict between PERA and the agreement; therefore, ALRA could reach a decision on the case without addressing the question of which would apply in the event there was a conflict. After ALRA decided that they could determine whether certain employees were designated as confidential, the issue was subsequently converted to a unit clarification petition by mutual consent of the two parties.

**ALRA HANDLES OTHER CASES  
BESIDES ULPs**

Union representation is the subject of three petitions filed at ALRA. Representation petitions are requests by unions that they be recognized as the bargaining agent for a group of employees.

Unit clarifications are the content of two of the cases filed at ALRA. Unit clarifications deal with which school district employees are considered confidential and therefore are prohibited from joining a union because of their access to management information.

Amendment to a unit certification is one case filed at ALRA. This case involves an agreement between two local unions and the school district regarding the merger of the two bargaining groups.

Regulatory request is one of the filed actions at ALRA. This case results from a petition from a local union requesting ALRA define in regulation their concept and approach of advisory arbitration.

ALRA is still considering two ULPs as of the date of this report. Both cases have gone to a hearing and a decision is pending; one case has been open for eight months and the other case has been open for a year and three months. The first case deals with a school district that refused to open negotiations with the certificated employees association when notice of intent to bargain was received one day late.

The second pending ALRA ULP case is of considerable interest because it deals with an item that was considered as negotiable in the "Kenai '77" court case. The school district filed the case against their local education association. The school district argued that while they have to bargain procedural requirements on voluntary transfers, they do not have to bargain substantive criteria. The education association responded that the wording in the contract that the district is questioning has been there for years and is clearly a permissible subject to bargain. When ALRA makes their decision on this case, it could be the first step in defining how the "Kenai '77" court case applies to PERA.

Unions feel that playing field is level, administrators prefer Title 14 process

The general attitude of public school employees is that while they would prefer to have binding arbitration as their means to finality, they find having the right to strike an acceptable alternative. Public school employees said there has been a perceptible change at the negotiating table now that they are under the provisions of PERA. There is a feeling that PERA has brought equality to the two sides and that more serious negotiations are now taking place. The phrase used most often by education personnel is that PERA "has levelled the playing field." Education personnel say that neither side has the upper hand in negotiations; school districts can impose and school personnel can strike. They also say that the knowledge of either side being able to file ULPs has made each side less likely to resort to "game-playing" in the negotiation process.

The general attitude of school district administrators is a great deal more mixed. On their responses to the questionnaire, only 3 (8%) of the administrators felt that it would become a common practice for teachers in their district to go on strike. Yet, 28 (74%) of the respondents said that they would prefer to have their employees return to Title 14, and 29 (76%) said they were opposed to having their employees remain in PERA with a class (a)(3) classification.

When questioned in person, the respondents had attitudes that were different than those reflected in the survey. Some school district administrators said that in public they will support the position expressed by the Commissioner of Education and by their individual school boards, but their personal feeling was different. Many school district administrators stated that it is acceptable to them if public school employees remain under the provisions of PERA as class (a)(3) employees. School administrators consistently remain strongly opposed to binding arbitration for their employees, but they find the right to strike an acceptable compromise.

## AUDITOR COMMENTS

### School district experience with PERA has been limited by two-year trial period

Because of the cyclical nature of school district contracts, not every district has had the opportunity to negotiate under the provisions of PERA during the eighteen months prior to the time of our review. Twenty percent of the school districts have not yet begun to negotiate a contract under the provisions of PERA.

Further, since the Alaska Labor Relations Agency (ALRA) was reorganized essentially at the same time that school district personnel came under PERA, that agency has not had the opportunity to fully demonstrate its effectiveness in overseeing school district labor relations. All unfair labor practice (ULP) charges must be settled before the two parties can proceed to the next step of the negotiation process. Since ULP charges for one district have been open for more than a year, contract negotiations have been stalled.

Despite the limited period involved, we believe PERA's impact on public school employees has been beneficial enough to warrant recommending that employees remain classified under AS 23.40.200 as (a)(3) employees (see Recommendation No. 1 in the Findings and Recommendation section of this report). However, if the legislature is still unsure about the benefits and impact of PERA, we would recommend extending the provisions of Chapter 180, SLA 1990 at least another three years and as many as six in order to provide more historical experience for setting public policy in this area.

### A right to strike does not necessarily lead to strikes

Even though there has been no strikes since the Anchorage School District court decision, we were told that provisions of Title 14 should not be considered as having prevented strikes. Individuals experienced with school district labor relations in both Alaska and other parts of the United States, reported that statutory prohibitions against strikes did not necessarily prevent them from happening. One example cited was the State of Michigan, where teachers often strike illegally despite statutory prohibitions.

In our interviews with school employees, we were told that in the past illegal strikes were often a very real possibility in some communities. In several instances where a school district had imposed a contract on their employees, votes had been conducted for illegal strikes. We were told by different employee unions that conducted strike votes, that from 70% to 100% of their members had voted for illegal strikes in the past. In these instances, strikes had been avoided when the school district administration heard about the results of the strike vote and agreed to return to negotiations.

Just as not having a right to strike does not prevent strikes, having that right does not necessarily cause strikes. Strikes are caused by high labor expectations and low funding available to management and administrators to meet those expectations. We were told by

many individuals from both labor and management that strikes occur when the collective bargaining system breaks down. Nobody makes the decision to go on strike, light. Everyone acknowledges that strikes are very disruptive to a community.

In small, rural communities employees fear for their personal safety if they were to go on strike. According to labor representatives, having the right to strike actually forces them to weigh how serious they are about items under negotiation. They must continually evaluate if the issues involved are important enough to them that they would rather strike than settle. As disruptive as all strikes are, illegal strikes are potentially even more disruptive. Most often illegal strikes take place in situations where there is no labor relations oversight agency such as the ALRA to moderate and oversee the situation.

Major benefit of PERA is not the right to strike, but in changes of attitude

Since public school employees are neither more nor less likely to go on strike by having the right to strike, then the real benefit of being under PERA is the perceived attitude change. All public school employees who spoke to us felt they had been patronized when negotiating under AS 14.20.500. In their view, both sides now recognize that there is an equality of power at the negotiating table. Public school employees feel that being under PERA offers additional benefits, such as oversight by ALRA, a more clearly defined negotiating process, and the right to bargain for a standard assessment of dues and fees.

Public school employees includes more than teachers

It is important to note that Chapter 180, SLA 1990 affected not just certificated staff but also non-certificated personnel. Non-certificated staff includes secretaries, bookkeepers, maintenance workers, and other public school employees. Prior to 1990, when the definition section of PERA excluded teachers from the provisions of PERA, it also was interpreted as excluding all non-certificated staff.

a sufficient period to show that PERA has successfully worked for public school employees. Based on our interviews with school district personnel, administrators, and the responses to our survey, on balance we feel that the 1990 legislation did promote harmonious and cooperative relations between school district personnel and administration.

It was widely conceded that teachers have more bargaining power under PERA than under Title 14. However, few school districts that reached agreement under the statute's provisions reported that they felt they had made major financial concessions. Although almost all districts responded that they favored a return to Title 14, from our interviews we felt this was because the district's enjoyed the wide degree of discretion and latitude provided by the statute rather than out of concern that they were at a great negotiating disadvantage under PERA.

#### Presence of Alaska Labor Relations Agency also beneficial

In our view, another aspect of PERA that promotes both cooperative labor relations and good faith bargaining is the jurisdictional role of the Alaska Labor Relations Agency (ALRA). Although as we report in the Auditor Comments and Report Conclusion sections, ALRA has in some respects been slow to respond to the demands of the education community; we feel that its structure and approach are of great potential benefit. Placing public school employees back under the provisions of Title 14 as currently written, will eliminate this important benefit of PERA.

AS 14.20, Article 6 has not promoted harmony or cooperative relations between school districts and its employees. There had been a growing frustration on the part of employees, prior to the 1990 legislation, with the labor relation provisions of Title 14.

These employees had been lobbying the legislature for fifteen years for a means to resolve their dissatisfaction. PERA status and classification as (a)(3) employees under AS 23.40.2(X) does represent a compromise that, for the most part, has satisfied school district employees. We anticipate that if school district employees are returned to the labor relations provisions of AS 14.20, the lobbying effort will begin anew. In our view, the legislature made an important step towards settling public policy in this area with passage of Chapter 180, SLA 1990. To return public school employees to Title 14 after the two year trial period would not be in the State's best interests.

#### Laws applicable to school employees and other public employees should be more alike

In their ruling on the Anchorage strike case (see inset on page 10), a majority of the Alaska Supreme Court presumed that the legislature had a public policy purpose for classifying teachers differently than other public employees. The court felt that absence of an oversight agency, no specific mention of teachers in PERA, and a lack of a clear right to strike under Title 14 was indicative of the legislature's desire to treat teachers differently. However, in our view the placement of teachers in Title 14 compared with statutory declaration of policy contained in AS 23.40.070 is inconsistent. Besides the language of AS 23.40.070, we are

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

Public school employees should remain under the provisions of the Public Employment Relations Act (PERA), classified as (a)(3) employees.

Chapter 180, SLA 1990 contained an automatic repeal provision of two years. The effect of this repeal clause would be to again subject the labor relations for public school employees to the provisions of AS 14.20, Article 6, if no legislative action is taken.

In our view, the legislation should be enacted to lift the two-year repeal provision that was originally part of Chapter 180, SLA 1990. We further suggest that public school employees remain classified as (a)(3) employees, entitled to a right to strike after submitting to advisory arbitration, as provided for under PERA (AS 23.40).

Returning public school employees to the provisions of AS 14.20.550 would result in treating the largest public employment occupational group differently than all other public employees. In our view, this would be inconsistent with the legislature's previously established public policy in this area. AS 23.40.070 states in part that

*...The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method for dealing with disputes and work stoppages, ... The legislature declares that it is the public policy of the state to promote **harmonious and cooperative relations** between government and its employees and to protect the public by assuring effective and orderly operations of government.*

Other public employees covered by the provisions of PERA have the means to conclude negotiations through either binding arbitration or the right to strike. AS 14.20, Article 6, as currently written, does not provide public school employees such a method to achieve finality. Under this statute school districts had the right to, and did, impose employment contracts on teachers. In testimony before the Senate Labor and Commerce committee and in interviews with us, teachers reported that imposed contracts cause severe morale problems. In the past, imposed contracts have reduced wages and benefits and have pushed teachers to consider calling illegal strikes. Such circumstances do not suggest to us that AS 14.20, Article 6 promoted *harmonious and cooperative relations* between the school districts and its employees.

### PERA has promoted harmonious and cooperative relations

As discussed in the Auditor Comments section, we recognize that two years has not provided an adequate trial period for all aspects of the legislation. However, we feel that it has been

also persuaded by the observations of Chief Justice Rabinowitz, who wrote in a dissenting opinion in the Anchorage strike case that

*If public school teachers are so essential to society that they must be denied the right to strike then they should also be given the right to compulsory arbitration. On the other hand, if teachers are not so essential as the 'critical' employees then they should enjoy the same limited strike rights given to other 'semi-critical' public employees.*

In line with Chief Justice Rabinowitz's reasoning, we believe that retaining public school employees under PERA is in the best interests of the State and more consistent with previously established public policy in the area of public employee labor relations.

#### Recommendation No. 2

If certificated public school employees remain subject to the provisions of PERA, the legislature should consider adopting legislation to clarify what issues are negotiable.

When the legislature first developed labor relations statutes for teachers in 1970, it provided that nothing in the law be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the school board including its right to make final decisions on policy, (AS 14.20.610). As observed by the courts in the Kenai '77 case, to a degree this statutory provision conflicts with the requirements of AS 14.20.550 that districts bargain with employees regarding their employment and professional duties.

Admittedly, in view of the emphasis that state public policy has traditionally placed on local control of schools, this conflict between employee rights and board prerogatives is difficult to resolve. As discussed on page 11, the Alaska Supreme Court made its distinctions about what they thought could be negotiated without abrogating the local board's legal authority over policy. However, the courts did so rather reluctantly, stating in their decision that *it would be helpful if the legislature, through future enactments, provided more specific guidance on a number of the items which the unions seek to negotiate.*

At the present time under PERA, there is even more uncertainty on the part of public school employees and administrators as to what issues are subject to negotiation. It is uncertain under PERA if the guidelines set down in the Kenai '77 case still apply. We suggest the legislature should assess this situation and consider legislation that sets out negotiable issues as compared to the policy prerogatives of local school boards. If the legislature does not address this issue, then it is most likely that future decisions regarding negotiable items will be made either by ALRA or again by the courts.

## APPENDIX A

### RESULTS OF SCHOOL DISTRICT SURVEY

Listed below are 20 questions on the topic of moving teachers into class (a)(3) of PERA. This classification change gave teachers the right-to-strike. This classification allows both teachers and school boards to file Unfair Labor Practice charges with the Alaska Labor Relations Agency. Another effect of this change is that the Alaska Labor Relations Agency certifies union elections.

Please circle the response to each question that reflects your school district's experience with Title 23. If you wish to offer additional comments, please feel free to attach a memorandum. Thank you for your time.

1. *Who negotiates on behalf of your school district?*

Superintendent	23
Personnel Director	4
Attorney	3
Hired Consultant	5
School Board Member(s)	17
Business Manager	3
School Principal	2
Labor Relations Director	1

2. *Do you feel that it costs more to negotiate a contract under Title 23 than it did to negotiate a contract under Title 14?*

Yes	13
No	12
No Opinion	13

3. *Under Title 23 as compared to Title 14 has the time involved in negotiating agreements with teachers:*

Not Applicable	11
Increased	8
Decreased	1
Remained the same	18

APPENDIX A

RESULTS OF SCHOOL DISTRICT SURVEY

(cont.)

4. *Do you feel that your district has conceded more in negotiations under Title 23 than it would have under Title 14?*

Not Applicable	16
Yes	5
No	17

5. *Do you feel that it will become a common practice for teachers in your district to go on strike?*

Yes	3
No	33
No Opinion	2

6. *Have you seen items that were non-bargainable under Title 14 now being addressed in negotiations under Title 23?*

Yes	6
No	19
No Opinion	13

7. *Have you filed an Unfair Labor Practice charge with the Alaska Labor Relations Agency against your teachers union?*

Yes	3
No	35

8. *Has the school district been charged with an Unfair Labor Practice?*

Yes	3
No	35

APPENDIX A

RESULTS OF SCHOOL DISTRICT SURVEY  
(cont.)

9. *Have you experienced any direct increase in legal services costs that was attributable to Title 23?*

Yes	11
No	27

10. *If your previous answer was "Yes", were the legal costs attributable to:*

Negotiations	8
Preparations for ULP charge	6

11. *Do you feel that the negotiations process is more clearly defined under Title 23 than under Title 14?*

Yes	2
No	32
No Opinion	4

12. *Under Title 14 did you ever impose a contract on your teachers?*

Yes	4
No	30
No Opinion	4

13. *Have you had any experience with the Alaska Labor Relations Agency with respect to a union election?*

Yes	2
No	36

14. *Has being under Title 23 affected the way in which your administration deals with teachers?*

Yes	5
No	31
No Opinion	2

APPENDIX A

RESULTS OF SCHOOL DISTRICT SURVEY  
(cont.)

15. *Have you received any formal training about the provisions of Title 23?*
- |     |    |
|-----|----|
| Yes | 26 |
| No  | 12 |
16. *Do you feel that being under Title 23 is an improvement over being under Title 14?*
- |            |    |
|------------|----|
| Yes        | 1  |
| No         | 32 |
| No Opinion | 5  |
17. *Have you gone to advisory arbitration under Title 23?*
- |     |    |
|-----|----|
| Yes | 3  |
| No  | 35 |
18. *Would you prefer a return to Title 14 over remaining under Title 23?*
- |            |    |
|------------|----|
| Yes        | 28 |
| No         | 9  |
| No Opinion | 1  |
19. *Would you prefer that teachers be classed as (a)(1) or (a)(2) under Title 23, which would permit binding arbitration?*
- |            |    |
|------------|----|
| Yes        | 2  |
| No         | 33 |
| No Opinion | 3  |
20. *Would it be acceptable to you if the two-year repeal provision were lifted and teachers remained classified as (a)(3) employees under Title 23?*
- |            |    |
|------------|----|
| Yes        | 8  |
| No         | 29 |
| No Opinion | 3  |

## APPENDIX B

### RESULTS OF PUBLIC SCHOOL EMPLOYEES SURVEY

Listed below are 20 questions on the topic of moving public school employees into class (a)(3) of Title 23. This classification change gave public school employees the right to strike. This classification allows both public school employees and school boards to file Unfair Labor Practice charges with the Alaska Labor Relations Agency. Another effect of this change is that the Alaska Labor Relations Agency certifies union elections.

Please circle the response to each question that reflects your local union's experience with Title 23. If you wish to offer additional comments, please feel free to attach a memorandum. Thank you for your time.

1. *What local union are you filling out this survey on behalf of?*

Responses	38
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2. *Do you feel that it costs your union more to negotiate a contract under Title 23 than it did to negotiate a contract under Title 14?*

Yes	0
No	34
No Opinion	4

3. *Under Title 23 as compared to Title 14 has the time involved in negotiating labor agreements:*

Not Applicable	14
Increased	1
Decreased	15
Remained the same	8

4. *Do you feel that your union has gained more in negotiated contract concessions under Title 23 than it would have under Title 14?*

Not Applicable	12
Yes	11
No	15

## APPENDIX B

### RESULTS OF PUBLIC SCHOOL EMPLOYEES' SURVEY (cont.)

5. *Do you feel that it will become a common practice for your union members to go on strike?*

Yes	1
No	37

6. *Do you believe that the decision reached in the Kenai court decision on what items are bargainable and nonbargainable still applies now that public school employees are under the provisions of Title 23 rather than the provisions of Title 14?*

Yes	18
No	3
No Opinion	12

7. *Under Title 23, has your union addressed any items at the negotiating table that would not have been addressed under Title 14?*

Yes	5
No	28
Not Applicable	5

8. *Have you filed an Unfair Labor Practice charge with the Alaska Labor Relations Agency against your school district?*

Yes	6
No	32

9. *Has your local union been charged with an Unfair Labor Practice by the school district?*

Yes	2
No	36

APPENDIX B

RESULTS OF PUBLIC SCHOOL EMPLOYEES SURVEY  
(cont.)

10. *Have you experienced any direct increase in legal services costs that was attributable to Title 23?*
- |     |    |
|-----|----|
| Yes | 1  |
| No  | 37 |
11. *Under Title 14 did your union ever take a vote to hold an illegal strike?*
- |     |    |
|-----|----|
| Yes | 5  |
| No  | 33 |
12. *Do you feel that the negotiations process is more clearly defined under Title 23 than under Title 14?*
- |            |    |
|------------|----|
| Yes        | 34 |
| No         | 3  |
| No Opinion | 1  |
13. *Under Title 14 was a contract ever imposed on your union?*
- |     |    |
|-----|----|
| Yes | 16 |
| No  | 22 |
14. *Has a contract been imposed on your union now that you are under the provisions of Title 23?*
- |     |    |
|-----|----|
| Yes | 0  |
| No  | 38 |
15. *Have you had any experience with the Alaska Labor Relations Agency certifying a union election?*
- |     |    |
|-----|----|
| Yes | 3  |
| No  | 35 |

APPENDIX B

RESULTS OF PUBLIC SCHOOL EMPLOYEES SURVEY

(cont.)

16. *Have you received any formal training about the provisions of Title 23?*

Yes	24
No	14

17. *Do you feel that being under Title 23 is an improvement over being under Title 14?*

Yes	36
No	1
No Opinion	1

18. *Would you prefer a return to Title 14 over remaining under Title 23?*

Yes	0
No	37
No Opinion	1

19. *Would you prefer being classed as (a)(1) or (a)(2) under Title 23, which would permit binding arbitration?*

Yes	32
No	3
No Opinion	3

20. *Would it be acceptable to you if the two-year repeal provision were lifted and you remained classified as (a)(3) employees under Title 23?*

Yes	36
No	0
No Opinion	2

DEPARTMENT OF EDUCATION

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OFFICE OF THE COMMISSIONER

January 7, 1992

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RECEIVED  
JAN 7 1992

LEGISLATIVE AUDIT

RE: Audit Control Number 05-4419-92

Dear Mr. Welker:

This is a reply to your preliminary audit report, "Impact of the Public Employment Relations Act on Local School Districts", dated November 8, 1991. The Department has reviewed the findings and recommendations and provides the following response:

Recommendation No. 1

Public school employees should remain under the provisions of the Public Employment Relations Act (PERA), classified as (a)(3) employees.

The Department does not concur with Recommendation No. 1. Clear direction for negotiations between local school boards and unions was established by Title 14 and further defined by two Alaska Supreme Court decisions as referenced in the audit report. Placement of public school employees under PERA (AS23.40) has the effect of re-opening issues previously set by past practice and the court decisions. Having a right to strike does not necessarily cause strikes. Under any circumstance, teacher strikes are not good for students.

Local school boards have lost their authority to negotiate evenly with unions under Title 23, and prefer, as evidenced by your report, to negotiate under Title 14. Yet the "opt out" provision which applies to municipalities is denied to school districts. Teachers have achieved and maintained the highest average teacher salaries in the nation under Title 14, and as such have not suffered at the hands of local boards. According to the September 1991, Institute of Social and Economic Research (ISER) report to the legislature, "salaries for many Alaska teachers remain substantially higher than national averages". In fact, "The average fiscal year 1989 teacher's salary and benefits cost the school district \$50,000 in Anchorage, \$53,000 in Fairbanks, and \$58,000 in Juneau. Using ISER Anchorage/U.S. and McDowell's (1988) within Alaska differentials, these salaries are 22 percent, 24 percent, and 37 percent higher, respectively, than the U.S. average of \$36,000." The report does indicate that teacher salary schedules and total compensation varies throughout the State. However, due to local control, "the difference reflects to some extent different attitudes about encouraging teachers to remain and make a commitment to the community."

SB 15 should be allowed to sunset in order to return to a system which has overwhelming local support and interpretation and guidance established by the court.

Randy S. Welker  
Page 2  
January 7, 1992

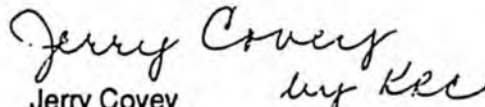
Recommendation No. 2

If certificated Public School Employees remain subject to the provisions of PERA, the Legislature should consider adopting legislation to clarify what issues are negotiable.

The Department does not concur with Recommendation No. 2. SB 15 should sunset due to the many uncertainties associated with public school employees remaining under PERA as (a)(3) employees.

Other provisions such as 2-year tenure, rehire, dismissal, non-retention, and teacher retirement which are related to total compensation and employment security are already provided for under Title 14 or have been granted by the Legislature.

Sincerely,

  
Jerry Covey  
Commissioner

cc: Duane Guiley, Director, EFSS  
Mike Maher, Special Assistant



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

## ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE  
ANCHORAGE, ALASKA 99503  
(907) 274-0536  
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## JUNEAU OFFICE

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FAX: (907) 586-2744

## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456-4444  
FAX (907) 456-2150

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

12/12/91  
DEC 17 1991  
LEGISLATIVE AUDIT

Dear Mr. Welker:

Thank you for providing NEA-Alaska with a copy of the "CONFIDENTIAL" PRELIMINARY REPORT ON:

"IMPACT OF THE PUBLIC EMPLOYMENT RELATIONS ACT ON LOCAL SCHOOL DISTRICTS."

We find the Report extremely comprehensive, thorough, and precise in its attention to the detail which pertains to the various nuances of the public school district collective bargaining process. LB & A staff are to be commended for this energetic effort.

We are also gratified to learn that LB & A intends to supplement the Report with a survey of public school employee bargaining agent union presidents, similar to the survey of superintendents. The results of this particular survey will bring more balance and broadened insights.

It is appropriate to provide some brief comments on some components of the Report before responding to the specific recommendations.

- > On page 5, in the third paragraph, the number of public school teachers in Alaska is probably understated by 700+.
- > On page 7, it may be more accurate to say that impasse "may" exist after a mediator and advisory arbitrator have tried to resolve issues; and, is probably more accurately described when both parties acknowledge that they are unwilling to make further modification of their positions on the issues in dispute.
- > On page 8, in the second paragraph, seldom, if ever, was an actual written report produced by the mediator under AS 14.20.550.
- > On page 9, from our perspective, it is also appropriate to emphasize that PERA contains provision for finality through right to strike or binding arbitration as one of its significant differences from AS 14.20.550.
- > On page 10, the conclusion in the third paragraph is somewhat general in nature and while it may be true in some instances, it is certainly not accurate to all districts and/or each round of negotiations in a district.
- > On page 12, in the paragraph relative to school district taxing authority it may be more accurate to say there "may be a reluctance" rather than an "unwillingness" to support additional property taxes.

- Recent national polls in fact show that the general public is willing to pay more taxes for public schools and the recent school bond vote in Anchorage is indicative of their willingness to support the operation of schools.
- In the same paragraph, it should also be noted that teachers contribute 8.65% of their pay to the retirement system and that part of that cost increase is due to benefit improvements and the RIP.
- > On page 21, in the second paragraph, settlement of a pending ULP is not necessarily a prerequisite for continuation of negotiations. Naturally, resolution of ULPs is desirable for the successful potential of the negotiations process.
- > In the last paragraph on page 21 the reasons given for causing strikes are not the exclusive reasons although they are certainly contributing ones. The presence of unresolved ULPs and provocative and offensive conduct are frequently major contributing factors when employees strike.

RECOMMENDATION # 1: Public School Employees Should Remain Under the Provisions of the Public Employment Relations Act (PERA), Classified as (a) (3) Employees.

NEA-Alaska agrees with this recommendation and will be working aggressively in the legislative process for the removal of the "sunset" provision from the current legislation. We will continue training programs for our members in better understanding of their rights and responsibilities under the PERA. We will seek its full implementation on behalf of all employees covered by it with a minimum of conflict and confrontation.

We will continue to work closely with the ALRA to facilitate their procedures and seek resolutions to problems and conflicts at the earliest administrative levels.

We will seek the opportunity for joint training and seminars with AASB and ACSA on our common concerns under the PERA. Pilot efforts in this regard in Anchorage and Fairbanks in the fall of 1990 were moderately successful.

RECOMMENDATION # 2: If Certificated School Employees Remain Subject to the Provisions of the PERA, the Legislature Should Consider Adopting Legislation to Clarify What Issues are Negotiable.

It is desirable to have clarity on the scope of negotiations and which issues are mandatory or permissive topics of negotiations. NEA-Alaska is confident that the "Kenai" decision will continue to provide a general frame of reference for the parties. However, over the extended period of time both circumstances and dynamics of process change.

The diversity and the magnitude of differences in public education in Alaska school districts may in fact require some flexibility in the articulation of mandatory and permissive subjects of negotiations. The policy responsibilities of school boards as employers will continue to provide sufficient guidance on disputes pertaining to negotiability.

There are two examples from the Kenai decision which may serve to emphasize the need for some flexibility in definition over the extended period and because of changing circumstances.

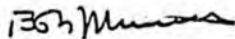
The Kenai decision makes class size a non-mandatory topic for negotiations because it is more in line with policy than with the economic interests of employees. However, increasing student enrollments, limited funding, reductions to student programs and services are just a few components which all contribute to significantly increasing class sizes, especially in urban areas. Administrators, school boards, employees and the general public are all interested in finding viable solutions to the problem.

Because a solution has not been found and because the problems continue to exacerbate it is becoming one of a "condition of employment" as well. Increasing class sizes increase negligence and liability potential, contribute to the possibility of increasing student discipline problems, mean more out of pocket employee expenses for classroom supplies and materials, contribute to an increased workload in homework, tests, preparation, and may constrain one's ability to achieve annual performance goals thereby contributing to possible negative annual evaluations. There is a point where the class size problem becomes a condition of employment and should be negotiable.

A similar scenario exists on the issue of employee workload, especially for rural secondary teachers who may be required to teach subjects out of their areas of certification. Again, adverse impacts on employee evaluations can be the direct result and a similar conclusion on negotiability is valid.

Thank you again for the opportunity to respond to the Preliminary Audit Report. I hope that our comments and recommendations are helpful to your process.

Respectfully submitted:



Bob Manners  
Executive Director

nea\121091BM\emr

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 23, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 1/28/92

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 68

HOUSE BILL NO. 68

EDUCATION EMPLOYEE COLLECTIVE BARGAINING

"An Act including public school employees in the Public Employment Relations Act as class (a)(3) employees entitled to a right to strike after advisory arbitration; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 68 (NES)

[ ] the same title

[ ] a new title

[ ] have attached amendments(s)

[ ] do pass

[ ] do not pass

[ ] no recommendations

[X] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: H NESS letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS:

(Dept/Date)

[X] fiscal impact Administration

[ ] fiscal note(s)

[ ] zero fiscal note

[ ] zero fiscal note(s)

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not	No Rec	Amend
		Pass		
<i>Patricia Cuff</i>	<i>Cheri Davis</i>			<input checked="" type="checkbox"/>
<i>Mary Miller</i>				
<i>Bettye Davis</i>				
<i>Paul Henderson</i>				
<i>J. C. Longles</i>				

*Patricia Cuff*  
Chairman's Signature

**A Resolution of the Alaska Municipal League Board of Directors**

**Board Resolution No. 92-2**

**A RESOLUTION URGING THE PASSAGE OF LEGISLATION THAT  
WOULD ESTABLISH A BARRIER-FREE REMODELING FUND  
TO ASSIST MUNICIPALITIES TO COMPLY WITH THE  
FEDERALLY-MANDATED "AMERICANS WITH DISABILITIES ACT"**

WHEREAS, the Alaska Municipal League urges reimbursement to municipalities for the costs of transferred responsibility or regulations; and

WHEREAS, the 1990 "Americans With Disabilities Act" ("ADA") extended civil rights protection to people with disabilities beginning January 26, 1992; and

WHEREAS, the federally-mandated protections affect state and local governments ensuring that all programs, activities, and services provided or made available by them do not discriminate against individuals with disabilities; and

WHEREAS, state and local governments may not discriminate against a person with a disability regarding terms or conditions of employment and must provide reasonable accommodation unless doing so represents undue hardship for the employer; and

WHEREAS, state and local government facilities and services, including public transportation and communications, must be accessible by providing, for example, wheelchair ramps and special arrangements for people who have hearing impairments or who are sightless; and

WHEREAS, both the State of Alaska and some municipalities already have architectural barrier removal statutes but have not appropriated or do not have sufficient funds to enforce their own ordinances or the new federal regulations; and

WHEREAS, state financial assistance for federally-mandated capital expenditures would allow for progress in providing for accessibility for Alaskans;

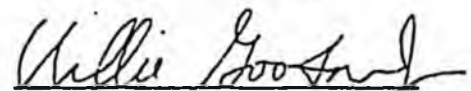
NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Alaska Legislature and the Governor to pass legislation that would establish and capitalize a Barrier-Free Remodeling Fund to provide financing for the remodeling of state and municipal facilities to comply with the 1990 "Americans With Disabilities Act."

BE IT FURTHER RESOLVED that the Alaska Municipal League urges the Governor and the Alaska Legislature to work with the League to address the problem of unfunded federal mandates on state and local governments.

Adopted this 30th day of January 1992 in Juneau, Alaska.

Attest:

  
Scott A. Burgess, Executive Director

  
Willie Goodwin, Jr., President

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HB 68

Revision Date: January 23, 1992

Department Affected: Administration

Title: Act providing advisory arbitration for school employees prior to striking.

BRU: Personnel/OEEO

Sponsor: Boyer

Component: Labor Relations

Requestor: House HESS Committee

COMPONENT SERIAL NO. 

0	0	5	8
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

The advisory arbitration provisions of this bill will affect only one State teacher bargaining unit (Mt. Edgecumbe). This fiscal note assumes that no advisory arbitrations will be required for this unit and that any additional negotiation workload will be absorbed by current staff.

Prepared by: Fl. H. King  
Division: Personnel/OEEO

Phone: 465-4430  
Date: January 23, 1992

Approved by Commissioner: Nancy Bear Usura  
Agency: Administration

Date: 1/23/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE LINCOLN

TO: HB 68

Page 1, line 1, after "including":

Insert ", for four additional years,"

Page 1, line 5, through page 4, line 28:

Delete all material.

Insert a new bill section to read:

"\* Section 1. Section 2, ch. 180, SLA 1990, is amended to read:

Sec. 2. Section 1 of this Act is repealed on the date six [TWO] years after the effective date of this Act."

Renumber the following bill section accordingly.

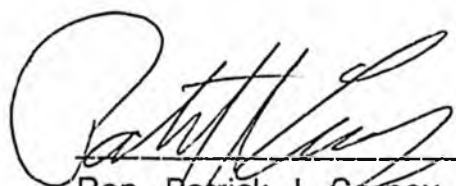
January 28, 1992

By the Health, Education and Social Services Committee

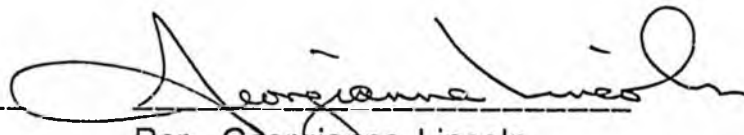
HB 68

**Letter of Intent**

It is the intent of the legislature that nothing in this act shall be construed as either adding or deleting negotiable items between public school employees and their employers during the collective bargaining process.



Rep. Patrick J. Carney  
Co-Chair, House HESS Committee



Rep. Georgianna Lincoln  
Co-Chair, House HESS Committee

# DRAFT

HB 68

Letter of Intent

It is the intent of the legislature that nothing in this act shall be construed as either adding or deleting negotiable items between public school employees and their employers during the collective bargaining process.

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HB 68

Revision Date: January 22, 1992  
 Title: Act providing advisory arbitration for school employees  
prior to striking.  
 Sponsor: Boyer  
 Requestor: House HESS Committee

Department Affected: Administration  
 BRU: Personnel/OEEO  
 Component: Labor Relations

COMPONENT SERIAL NO. 

0	0	5	8
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	6.0	0	6.0	0	6.0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>6.0</b>	<b>0</b>	<b>6.0</b>	<b>0</b>	<b>6.0</b>	<b>0</b>

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

GENERAL FUND	6.0	0	6.0	0	6.0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>6.0</b>	<b>0</b>	<b>6.0</b>	<b>0</b>	<b>6.0</b>	<b>0</b>

POSITIONS:

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

Estimate of current year impact:

**ANALYSIS:** (Attach a separate page if necessary.)  
 Assumes advisory arbitration to be conducted by paid arbitrator for one State teacher bargaining unit (Mt. Edgecumbe) at \$6,000 in fees for each hearing. Assumes issues would be largely repetitive (e.g., wages). The contract expires in FY 93. Assumes teachers' bargaining will remain under PERA and that contracts will be of at least two years' duration. Assumes additional negotiations workload will be absorbed by current staff.

Prepared by: R. H. King *Michael P. ...*  
 Division: Personnel/OEEO

Phone: 465-4430  
 Date: 1/22/92

Approved by Commissioner: Nancy Bear Userra *Nancy Bear Userra*  
 Agency: Administration

Date: 1/22/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

HB

69

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811  
(907) 465-3867 or 465-2450  
FAX (907) 465-2029

Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

### MEMORANDUM

January 30, 1991

**SUBJECT:** Sectional Analysis  
(HB 69)

**TO:** Representative Mark Boyer  
ATTN: Alexis Gabay

**FROM:** Terri Lauterbach *TLL*  
Legislative Counsel

This memo contains a brief section-by-section description of HB 69. If I can be of further assistance with specific legal questions about any particular provision, please let me know.

Section 1. Adds a statement of legislative purpose to AS 18.07. These purposes will be the standards used by DHSS when it does certificate of need (CON) reviews.

Sec. 2. Deletes obsolete references to federal laws that have been repealed. CON programs are no longer assisted or required by the federal government.

Sec. 3. Broadens and clarifies the types of actions that are subject to CON review.

Sec. 4. Technical nonsubstantive amendment.

Sec. 5. Clarifies the scope of the validity of CON's.

Sec. 6. Requires CON review of a transfer of a certificate as well as a modification or termination of activities authorized by a certificate.

Sec. 7. Provides application criteria for CON review of certificate transfers.

Sec. 8. Sets up a procedure for expedited CON review in emergency situations.

Sec. 9. Sets a time limit for CON review action.

*Sectional Analysis*

Representative Mark Boyer  
January 30, 1991  
Page 2

Sec. 10. Expands the category of persons who can request a hearing on a CON review.

Sec. 11. Deletes a 60-day limit on suspension of certificates.

Sec. 12. Extends to one year the allotted time for beginning activities under an approved CON. The current requirement is 6 months.

Sec. 13. Specifies that filing an accusation seeking suspension or revocation of a CON in bad faith is a class B misdemeanor, which is punishable by imprisonment of up to 90 days and a fine of up to \$1000. Under current law, the penalty is a fine of up to \$1000.

Sec. 14. Adds reporting requirements for health facilities and expands the options available to DHSS to enforce the CON laws.

Sec. 15. Specifies that DHSS regulations must cover application fees and establish the amount of variation that may occur in an activity authorized by a CON without requiring a modification of the CON. My understanding is that current regulations already cover the variation issue; this amendment would ensure that a similar regulation remains in place.

Sec. 16. Extensively rewrites definitions applicable to the CON program.

Sec. 17. Technical nonsubstantive amendment.

Secs. 18-19. Delete references to the Statewide Health Coordinating Council, which is abolished in sec. 20.

Sec. 20. Repealing AS 18.07.011 abolishes the Statewide Health Coordinating Council (SHCC). Repealing AS 18.07.041 abolishes the current standards of CON review; the new standards for review are in sec. 1 of the draft. The third section in the repealer is technically required to correspond to other changes in the draft. The last three sections in the repealer delete references to the abolished SHCC.

Sec. 21. Gives the draft an immediate effective date.

TML:pl  
91-052.pl:m

# Alaska State Legislature

REPRESENTATIVE  
MARK BOYER

VICE CHAIRMAN  
HOUSE FINANCE COMMITTEE



House of Representatives

MEMORANDUM

FAIRBANKS

1098 LAKEVIEW TERRACE  
FAIRBANKS, ALASKA 99701  
(907) 456-6473

JUNEAU

P.O. BOX V  
STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-3466

DATE: March 6, 1991

TO: Representative Pat Carney, Co-chair  
Representative Georgianna Lincoln, Co-chair  
House HESS Committee

FROM: Representative Mark Boyer *MB*

RE: HB 69 - Certificate of Need/Health Planning and  
Development

I would like to request that you schedule HB 69, relating to the certificate of need process and abolishing the Statewide Health Coordinating Council, at your earliest convenience.

Attached is a copy of the bill and back-up information. Legal Services has drafted a sectional analysis, which I've included here. For your information, Senator Duncan has introduced identical legislation, SB 84. Last year similar legislation was sponsored by the Governor and passed the House near the end of the session. As a member of the Health Care Cost Containment Task Force, I've been very involved in this issue and its reintroduction is at the recommendation of the Task Force.

The primary purpose of this legislation is to amend the certificate of need (CON) process within the Department of Health and Social Services. HB 69 also seeks to provide health care services that promote public health and avoid unnecessary increases in health costs by revamping the CON.

Under the terms of the proposed CON process, individuals or facilities would not be allowed to make capital expenditures of more than \$1 million for construction of a health care facility. Additionally, it would also prohibit the construction or acquisition cost of a facility from being divided, fragmented or structured to circumvent the requirements of the law.

Why do we need this restriction? In 1979, total health care expenditures in Alaska were \$250 million. In 1989, the expenditures approached \$1.5 billion, with only a small increase in population during that 10 year period. Health care costs in Alaska have risen more than 20 percent over

FAIRBANKS 20B

*SPONSOR STMT*

the past five years alone. Other states and the federal government are also attempting to seek ways to slow the increase in health care costs. These increases have driven health insurance premium costs for all employers, making it difficult, if not impossible, to continue providing coverage.

HB 69 would add new language regarding the issuance of the CON. It would make the certificate valid only for the defined scope, physical location and person stated in the certificate. HB 69 would also outline what must be contained in the transfer application of a certificate of need.

The legislation would give the Department 150 days to approve a completed application and issue a CON that lists conditions the Department considers appropriate or deny the CON or recommend modifications. The limitation acts as an assurance that H&SS does not kill applications by failing to act.

For your information, the Health Care Cost Containment Task Force recently published its final report. You should have received a copy in your office. Many of the issues that are raised by this bill are addressed in that report.

If you have questions regarding HB 69 please do not hesitate to contact my office at 465-3467. Thanks for your assistance and early scheduling of this legislation.



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCHV  
JUNEAU, AK 99811  
465-3759

M E M O R A N D U M

TO: REP. GEORGIANNA LINCOLN, CO-CHAIR  
REP. PATRICK CARNEY, CO-CHAIR  
REP. BETTYE DAVIS, VICE-CHAIR  
REP. CHERI DAVIS  
REP. JOHN GONZALES  
REP. MARK HANLEY  
REP. MARY MILLER  
PAT JACKSON  
CAROLINE LOMBARD  
LIBRARY FILE  
REFERRAL FILE  
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

FR: PATTI, HESS COMMITTEE SECRETARY, EXT. 4923 *Patti*

DT: APRIL 3, 1991

RE: HB 69, HESS HEARING 4/3/91

-----

AS REQUESTED, LARRY STREUBER, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, HAS PROVIDED OUR COMMITTEE WITH AN ALASKA NURSING HOMES CENSUS, WHICH DESCRIBES THE UNUSED BEDS STATEWIDE.

FOR YOUR HESS HB 69 FILE.

# ALASKA NURSING HOMES CENSUS

AS OF : February 28, 1991

PAGE 1 OF 2

FACILITY	MEDICAID PER DIEM RATE	CERTIFIED CAPACITY		MEDICAID/GRM PLACEMENTS		NON-DMA PLACEMENTS**		TOTAL CENSUS	VACANT BEDS	% OCCUPANCY OF TOTAL BEDS	
		SNF/ICF	SWING BEDS	ICF	SNF	MEDI-CARE	OTHER			OVERALL	MEDICAID
CORDOVA HOSPITAL LTC	\$282.90	10	4	9	2	n/a	0	11	3	79%	79%
DENALI CENTER (Fairbanks)	199.79	101	0	35	13	5	8	61	40	60%	48%
HERITAGE PLACE (Soldotna)	220.51	45	0	23	1	4	6	34	11	76%	53%
ISLAND VIEW MANOR (Ketchikan)	237.70	46	0	17	1	5	3	28	18	61%	39%
KOTZEBUE SENIOR CITIZEN CARE CTR.	205.87	9	0	6	3	0	0	9	0	100%	100%
KODIAK ISLAND HOSPITAL LTC	234.13	19*	4	17	n/a	0	3	20	3	87%	74%
MARY CONRAD CENTER (Anchorage)	220.08	73*	0	72	n/a	n/a	1	73	0	100%	99%
OUR LADY OF COMPASSION (Anchorage)	184.69	224	0	138	55	4	20	217	7	97%	86%
PETERSBURG HOSPITAL LTC	256.27	14	4	10	0	0	1	11	7	61%	56%
QUYAANA CARE CENTER (Nome)	292.48	15*	0	14	n/a	n/a	0	14	1	93%	93%
SOURDOUGH PLACE (Valdez)	212.18	16*	0	10	n/a	n/a	4	14	2	88%	63%
SOUTH PENINSULA HOSP. LTC (Homer)	265.21	18	4	15	0	n/a	1	16	6	68%	73%
ST. ANN'S NURSING HOME (Juneau)	209.64	45	0	30	6	0	3	39	6	87%	80%
WESLEY REHAB. CARE CENTER (Seward)	165.42	66	0	41	0	n/a	4	45	21	68%	62%
WRANGELL GENERAL HOSPITAL LTC	290.09	14	4	8	2	0	2	12	6	67%	56%
<b>SWING BEDS (Acute to LTC):</b>											
CENTRAL PEN. HOSPITAL (Soldotna)	181.75	0	4	0	0	0	0	0	4	0%	0%
SEWARD GENERAL HOSPITAL	177.51	0	2	0	0	1	0	1	1	50%	0%
SITKA COMMUNITY HOSPITAL	181.75	0	2	0	0	1	0	1	1	50%	0%
VALDEZ COMMUNITY HOSPITAL	181.75	0	4	2	0	0	0	2	2	50%	50%
VALLEY HOSPITAL (Palmer)	181.75	0	4	0	0	3	0	3	1	75%	0%
<b>TOTAL:</b>			751	447	83	23	56	611	140	79%	71%

\* - beds certified ICF only.  
 \*\* - Includes VA, private pay, insurance, and other.


  
 KAREN MARTZ  
 DIVISION OF MEDICAL ASSISTANCE (907) 561-2171  
 DATE 3/27/91

ICF/MR AND IMH CENSUS

AS OF: February 28, 1991

PAGE 2 OF 2

PSYCHIATRIC BEDS	PER DIEM RATE	CERTIFIED BEDS	CURRENT OCCUPANCY			NON-MEDICAID	TOTAL CENSUS	VACANT BEDS
			TOTAL	MEDICAID				
				UNDER 22	OVER 65			
ALASKA PSYCHIATRIC INSTITUTE Anchorage	336.39	160	22	18	4	62	84	76
CHARTER NORTH HOSPITAL Anchorage	N/A	60	37	37	0	31	68	-8
NORTH STAR HOSPITAL Anchorage	N/A	34	9	9	0	8	17	17

ICF/MR BEDS	PER DIEM RATE	CERTIFIED BEDS	CURRENT OCCUPANCY		TOTAL CENSUS	VACANT BEDS
			MEDICAID	NON-MEDICAID		
HARBORVIEW DEVELOPMENTAL CENTER Valdez	324.28	64	52	0	52	12
HOPE COTTAGES Anchorage	314.69	40	40	0	40	0

NOTE: New rate for Hope Cottages

*Karen Martz* 2/27/91  
 KAREN MARTZ DATE  
 DIVISION OF MEDICAL ASSISTANCE (907) 561-2171

Position Paper  
House Bill 69

"An act relating to state coordination of health planning and development; abolishing the Statewide Health Coordinating Council; and providing for an effective date."

The Department of Health and Social Services supports House Bill 69.

House Bill 69 makes substantial changes to Alaska's Certificate of Need program (AS 18.07). House Bill 69 significantly broadens and strengthens program coverage of hospital and nursing home development in Alaska. House Bill 69 would require many more types of hospital and nursing home development to come under Certificate of Need review and approval from the Department.

In the present Certificate of Need law (AS 18.07) there are "gaps" that exist that allow certain types of major hospital and nursing home developmental activities to go into effect without any Certificate of Need review. Even though no Certificate of Need review is presently required on many activities, these activities have fiscal impacts on the Medicaid budget. The Department feels that the types of activities that are presently exempted from coverage should come under Certificate of Need review. The Department feels that by strengthening the Certificate of Need program, as is done in House Bill 69, more containment of medicaid costs will be achieved. Therefore, the Department supports House Bill 69.

Recommended by: Janet Clarke  
Janet Clarke  
Director  
Division of Administrative  
Services

Date: \_\_\_\_\_

Approved by: Theodore A. Mala  
Theodore A. Mala, MD, MPH  
Commissioner  
Department of Health and  
Social Services

Date: 2 April 1991

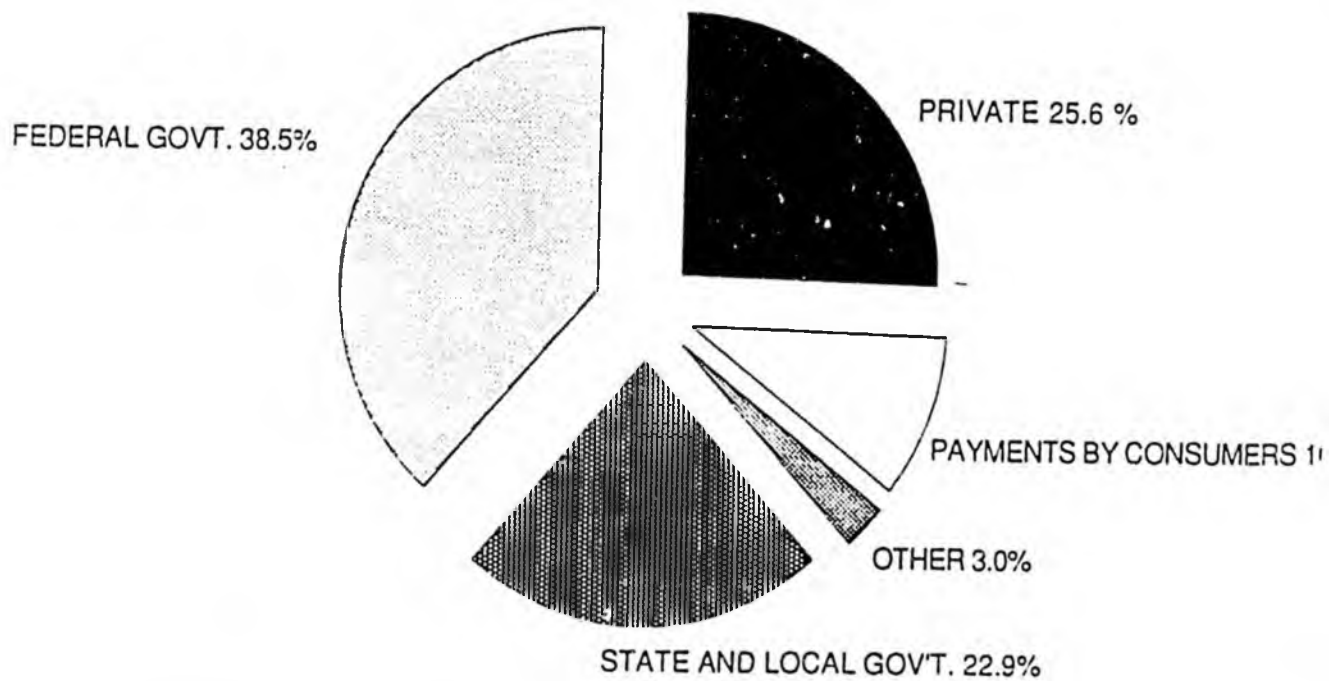
**STATE OF ALASKA**  
**HEALTH CARE COST CONTAINMENT TASK FORCE REPORT**

**HEALTH CARE EXPENDITURES STUDY**

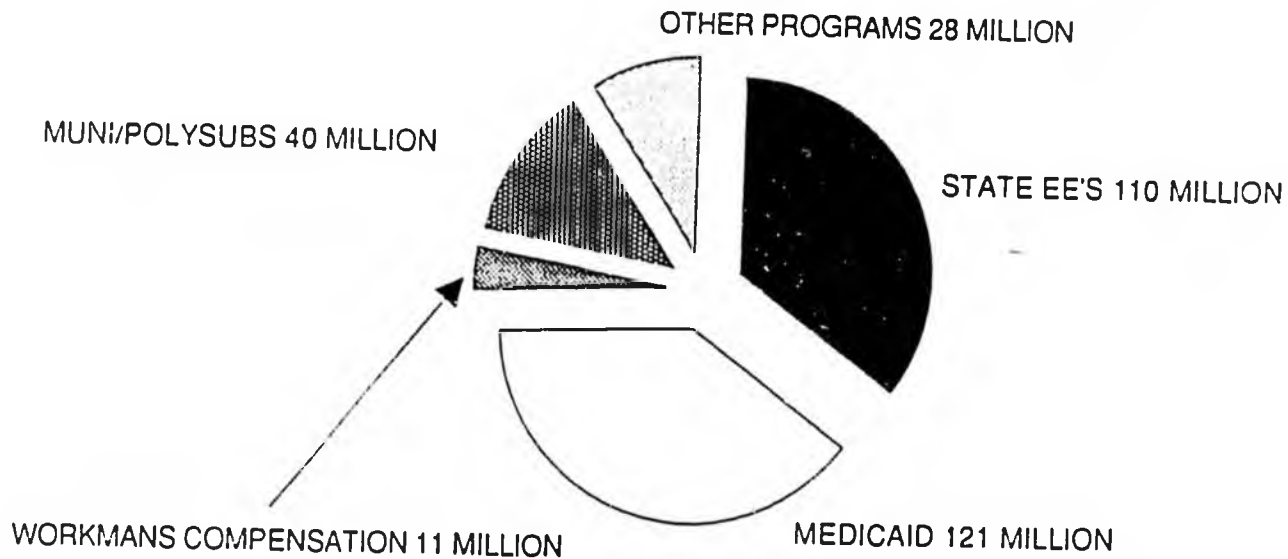
**JULY 11, 1990**

*Health Care Expenditures Study - 7/11/90  
Health Care Cost Containment Task Force*

PERCENT OF ALASKA HEALTH CARE EXP. BY SOURCE OF PAYMENT 1989



1989 STATE OF ALASKA HEALTH CARE EXPENDITURES FOR STATE AND LOCAL GOVT.



TOTAL STATE GOV'T HEALTH CARE EXPENDITURES

1989-----310 MILLION

# **CORRECTION**

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

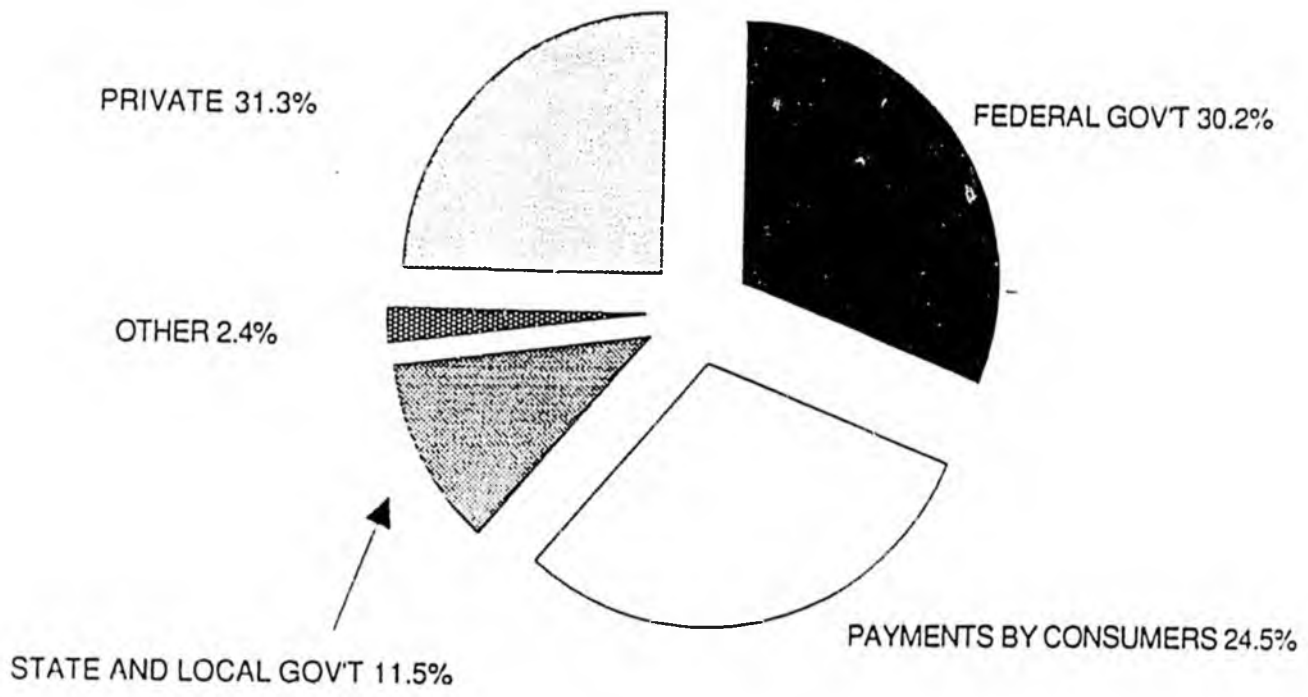
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**HEALTH CARE COST CONTAINMENT TASK FORCE REPORT**

**HEALTH CARE EXPENDITURES STUDY**

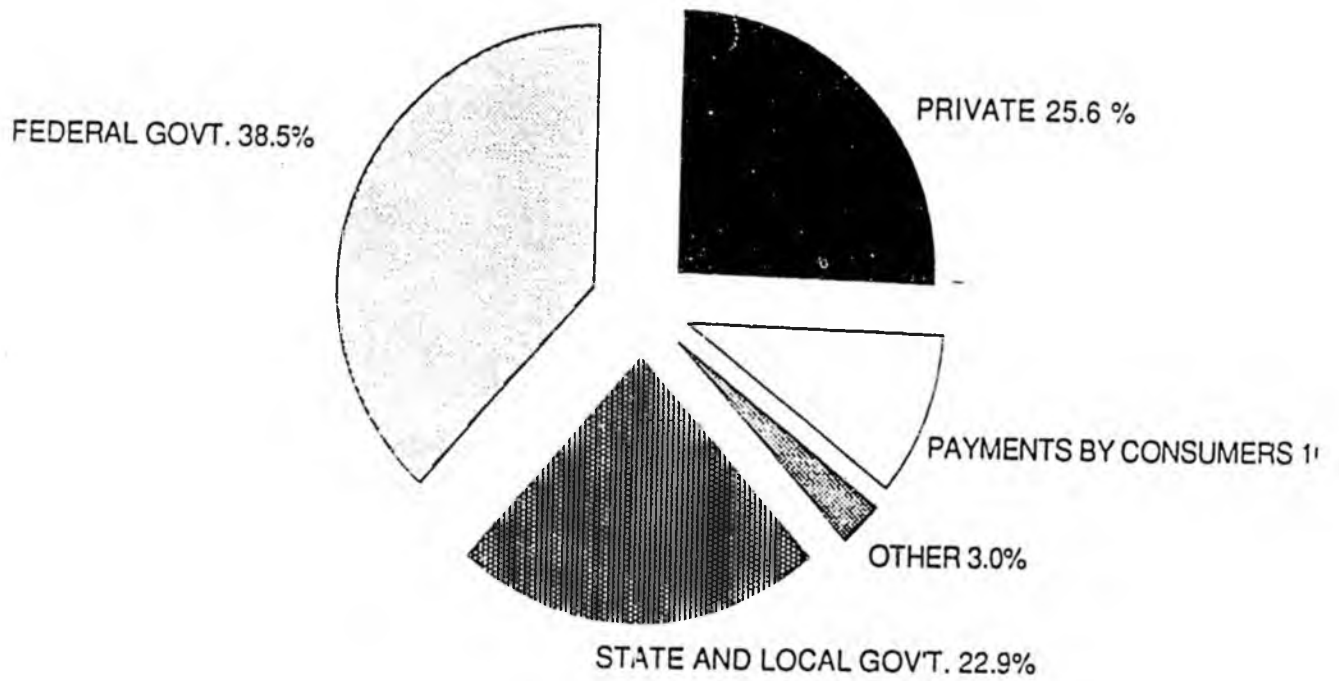
**JULY 11, 1990**

*Health Care Expenditures Study - 7/11/90  
Health Care Cost Containment Task Force*

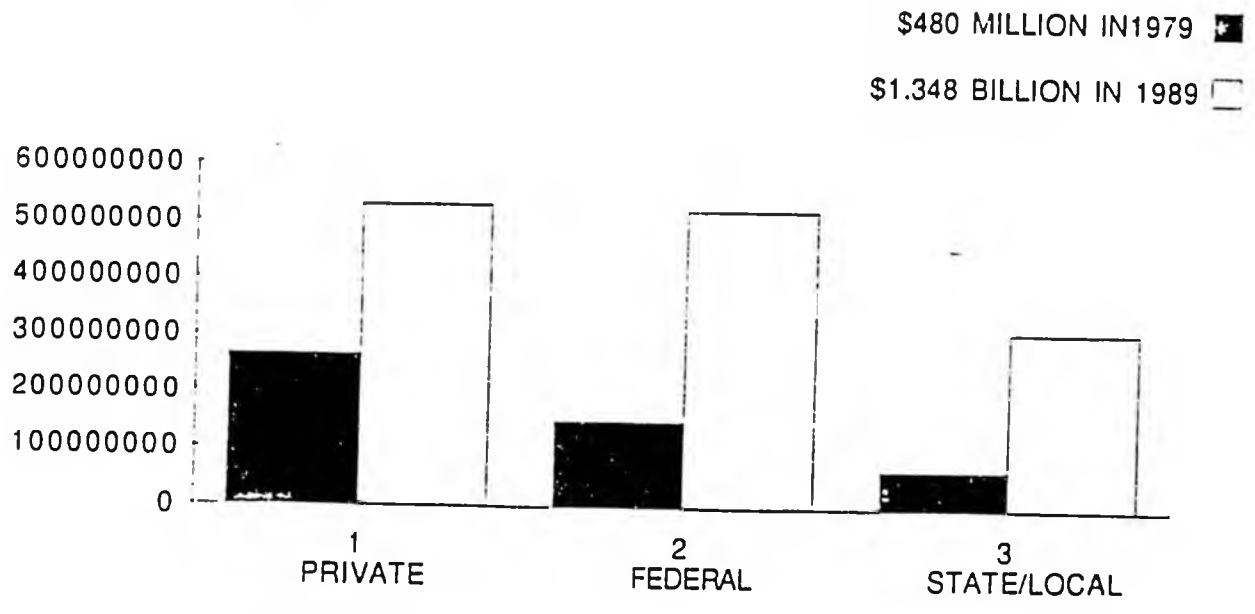
PERCENT OF U.S. HEALTH CARE EXP. BY SOURCE OF PAYMENT 1989



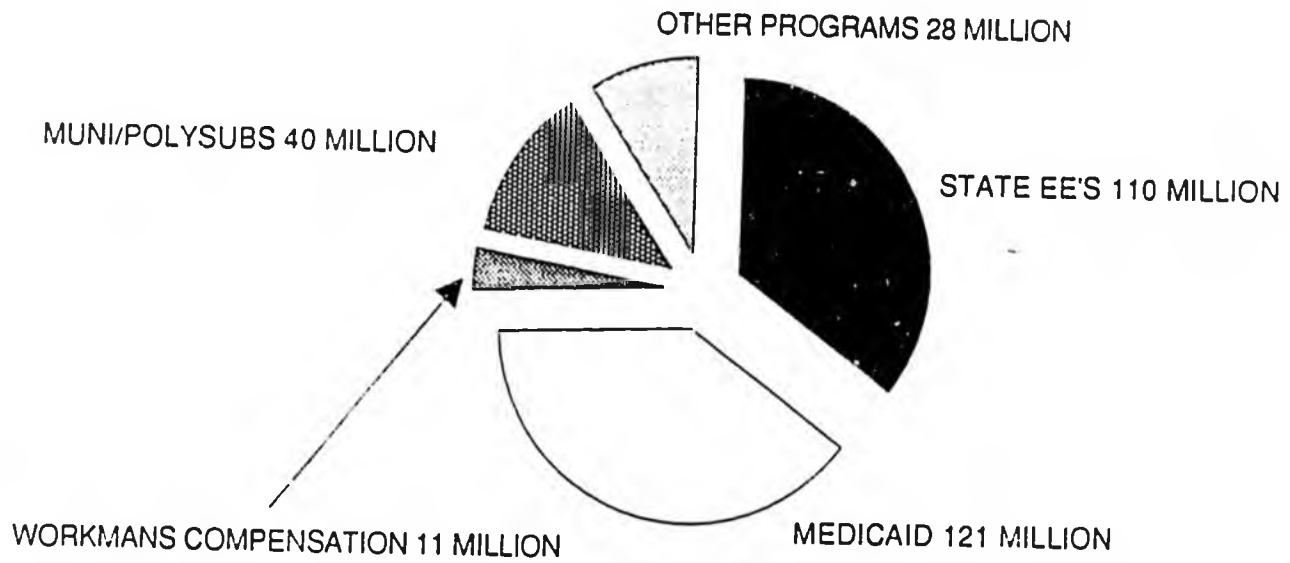
PERCENT OF ALASKA HEALTH CARE EXP. BY SOURCE OF PAYMENT 1989



STATE OF ALASKA HEALTH CARE EXPENDITURES 1979 VS 1989



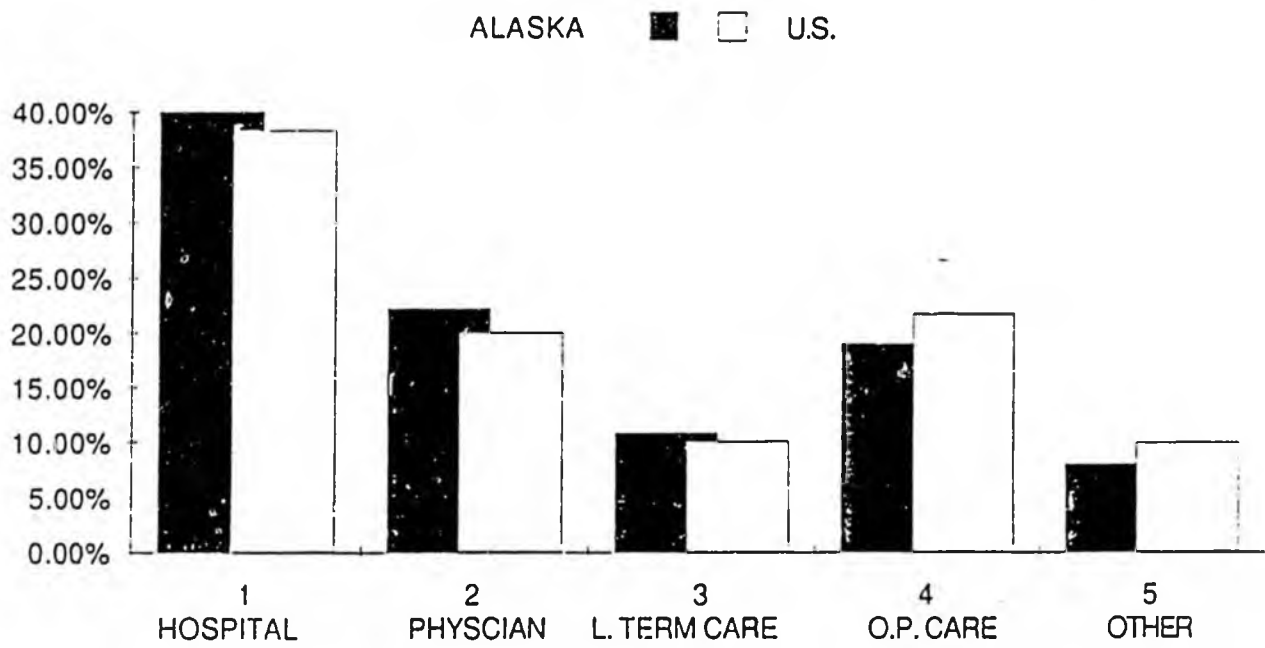
1989 STATE OF ALASKA HEALTH CARE EXPENDITURES FOR STATE AND LOCAL GOVT.



TOTAL STATE GOV'T HEALTH CARE EXPENDITURES

1989-----310 MILLION

ALASKA VS U. S. HEALTH CARE EXPENDITURES BY SERVICE CATAGORY  
1989



## STATE OF ALASKA

	1979	1984	1989
POPULATION	401,000	522,000	534,000
H.C. EXPD.	\$480 MILL.	\$710 MILL.	\$1.34 BILL.
PER.CAP. H.C. EXP.	\$1197.00	\$1360.00	\$2524.00

## STATE OF ALASKA HEALTH CARE EXPENDITURES STUDY

### METHODOLOGY

Due to the nature of this study it was necessary to compile statistics from numerous sources in order to supplement our existing health care data base.

This information while current and credible had to be manipulated to assure that the parameters and time periods were similar.

The evaluation and reporting of data is according to standard statistical analysis procedures in order to assure accuracy within +/- 10%.

THE INFORMATION CONTAINED IN THIS REPORT IS OUR INTERPELLATION OF THE DATA ON HEALTH CARE EXPENDITURES IN ALASKA AND THE UNITED STATES.

### SOURCES

Battelle Study  
Dept. of Health and Social Services\*  
Division of Retirement and Benefits\*  
Division of Insurance\*  
State Demographer\*  
Institute of Social and Economic Research ( Univ. of Alaska )  
Health Care Financing Administration ( HCFA )  
U. S. Bureau of The Census

\*State of Alaska

DEFINITION OF HEALTH CARE PAYORS

STATE / LOCAL GOVERNMENT (Alaska)

State employees/retirees and dependents  
Political subdivisions employees/retirees and dependents  
Medicaid recipients (50%)  
Workmans Compensation medical benefits  
Community based health programs  
Pioneer Homes  
General relief medical

FEDERAL

Federal employees / retirees and dependents  
Indian Health Services  
CHAMPUS  
Veterans Administration  
Medicare  
Medicaid (50%)

PRIVATE

Private pay  
Private health insurance

DIRECT CONSUMER PAYMENTS

Health care costs paid directly by residents to providers  
(deductibles, co-payments, uninsured procedures)

HEALTH CARE COST CONTAINMENT

TASK FORCE

REPORT TO THE LEGISLATURE

Draft Outline

I. Introduction

A. History of Task Force.

1. Beginnings
2. Purpose
3. Accomplishments

B. Extension.

1. Finish investigation of long range solutions.
2. Effects of uninsured/underinsured residents' health care.

II. Investigation and work plan.

A. Determine the nature and extent of rising health care costs in Alaska

B. Work Plan

1. Research.
2. Surveys.
3. Public hearings.

III. Findings: Nature of health care in Alaska.

- A. Funding sources (Fed., State, local govt., and private).
- B. Alaska population health care payment and accessibility demographics
- C. Health care provider demographics.

IV. Findings: Sources of health care cost increases.

- A. Previous capital expenditures
- B. Labor availability and cost.
- C. Technology.
- D. Uncompensated care.
- E. Costs associated with litigation.
- F. Inefficient delivery and reimbursement systems
- G. Cost shifting from other programs
- H. Federal program changes.
- I. Health care market place competition issues

V. Long term cost containment proposals.

VII. Recommendations

VIII. Future considerations for Health care in Alaska

**STATE OF ALASKA**  
**HEALTH CARE COST CONTAINMENT**  
**TASK FORCE REPORT**  
**TO**  
**THE SEVENTEENTH LEGISLATURE**

*SUMMARY OF FINDINGS AND RECOMMENDATIONS*

**DISCUSSION DRAFT -I**  
**CONFIDENTIAL , FOR TASK FORCE MEMBERS USE ONLY**

FEBRUARY 1991

STATE OF ALASKA  
HEALTH CARE COST CONTAINMENT TASK FORCE  
REPORT TO THE SEVENTEENTH LEGISLATURE

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## *EXECUTIVE SUMMARY*

The purpose of this section of the report is to give an overall perspective of the problems facing Alaska with rapidly rising health care costs and propose solutions to stem this problem.

### OVERVIEW

Health care costs in Alaska are rising at a pace two and three times the inflation rate for all other goods and services. In 1989, total Alaska health care expenditures are estimated to be in excess of 1.5 billion dollars up from 250 million in 1979, with no substantial change in the states population.

Health care expenditures have been rising at a rate of over 20% each of the last five years in Alaska. These trends are not unique to Alaska alone. Nationally, the Federal Government and virtually all other states are seeking ways to reduce these expenditures or slow the health care inflation rate to be in line with the market basket CPI.

These rapidly rising costs further exacerbate the uninsured population in Alaska, which recent estimates indicate that more than 90,000 Alaska residents are uninsured. This increase in costs have substantially driven up health insurance premiums for all employers , making it very difficult if not impossible, to continue coverage.

The Health Care Cost Containment Task Force initially was charged with the task of investigating , analyzing and recommending ways to reduce or stabilize the health insurance costs for State of Alaska employees, retirees and their dependents. With this work completed and showing favorable results, the Task Forces' charge was expanded during the last session to include reviewing the health care costs for all Alaska residents.

The Task Force, in its expanded role, has investigated the problem of rapidly increasing health care costs in Alaska through public testimony, surveys, research (statewide and nationally) and a detailed analysis of options available to the state.

During this review the Task Force has identified not a sole culprit but numerous contributing factors that must be reviewed in a all encompassing manner to provide the best long term solutions. The contributing factors identified by the Task Force Include:

- \* Inefficient Medical Care Delivery Systems
- \* Overbuilt Health Care Facilities
- \* Cost Of New Medical Technology
- \* Malpractice Insurance Costs and Protective Measures
- \* Limited competition For Providers/Insurers
- \* Health Care delivery System Waste, Overhead And Administrative Costs
- \* Limited Wellness Promotion And Resources
- \* Large population of Under/Uninsured Residents
- \* Cost Shifting Between Public and Private Health Plans
- \* Life Style diseases and injuries
- \* Mandated Benefit Coverage
- \* Limited Access to Private Health Plans
- \* No Managed Care Delivery Systems IN Place

Although a long and far reaching list each item must be comprehensively addressed to achieve the stated goal of stabilized medical costs in Alaska and basic Health coverage for all Alaskans'.

### FINDINGS

The Health Care Cost Containment Task Force has been reviewing the causes for the rapidly rising costs in the State Of Alaska not only for State sponsored plans, but health care costs statewide.

1. Health care expenditures in Alaska have increased 157.2% over the last 10 years, the second highest in the nation<sup>12</sup>

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1

<sup>2</sup> Families USA Foundation Report Nov.1990

*FINDINGS CONT.*

2. The health care expenditures portion of the State of Alaska budget is the fastest growing component of the whole budget, 385.5 Million in FY 90, and at this pace will exceed 2.0 Billion in FY 95.
3. The number of uninsured residents in Alaska has increased at an alarming rate to a estimated 90,000 uninsured residents, representing 16.5% of the total population in Alaska.
4. The cost of providing health coverage for State employees and their dependents has been reduced and stabilized at \$385.00 for FY 90 and 91. This compares favorably with the most recent survey of State's health care premiums that showed only one other state (Arizona) premiums were reduced, and three other State's premiums were held at the 1989 level<sup>3</sup>.
5. The survey done by the Task Force revealed :

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<sup>3</sup>Survey of State employee health benefit plans 1990 Martin E Segal Company

# DISCUSSION DRAFT

## STATE OF ALASKA HEALTH CARE COST CONTAINMENT TASK FORCE

### RECOMMENDATIONS

The Health Care Cost Containment Task Force has over the last nineteen months reviewed the rapidly increasing costs of health care in Alaska and have identified not one sole culprit but many contributing factors that collectively drive the health care economy in Alaska.

The Task Force has identified the following main contributing factors that should be focused on as a minimum starting point to bring health care expenditures in control for Alaska.

- \*Low occupancy rates at facilities
- \*Cost shifting from other programs
- \*Federal program cost shifting
- \*Inefficient delivery systems
- \*Uninsured / underinsured Alaska State residents
- \*Accessibility of care
- \*Mandated coverage costs
- \*Lack of involvement and education for end users
- \*Lack of current and meaningful data

After evaluating the many contributing factors, the following recommendations are designed to provide long term health care cost management for Alaska.

1. Establish a State Health Insurance Authority that would be responsible for:

A. Establishing and maintaining health care provider payment and utilization schedules taking into consideration geographic, availability, medical necessity and overall cost effectiveness (potentially using an established system as a foundation);

- B. Establish a health care procurement and financing pool to maximize purchasing power for;
- i State , local gov't and political subdivisions (Voluntary)
  - ii. Underinsured/uninsured for State residents
  - iii.Small employers plan

These Pools would be governed by a board and would provide health insurance on the most cost efficient basis.

C Collection and analysis of state health care utilization/cost data, to recognize trends and recommend solutions to the appropriate entity.

.2 Continued monitoring and certifying of facilities.expansion and substantial equipment purchases to assure need and eliminate duplication or unnecessary expense.

3.Promote health awareness, preventative medicine and quality health care for all state residents.

4. Provide health care for the underinsured/uninsured at an affordable premiums.

5. Continue to evaluate the effect of Federal program changes and maximize the use of Federal Funds.

...not just that 29 cents is an unwieldy price for a stamp - which it is.

The really troubling thing about the 29-cent stamp is that it's a stark indication of how things have gotten

1981: Feb. 17, 1982  
25 cents.

1988:

...for a single ...ing at the Park ...to spend more than \$40 a night for a hotel room seemed a little extravagant.

...so just ... that, before long, the ...cent letters and \$215- ...rooms will feel nostalgic ...remembered as the good ...back when prices still made

# MY TURN

## A solution to the high cost of health care in Alaska

By Sen. JIM DUNCAN

The rising costs of health insurance in our state is one of the most critical problems facing all Alaskans. Total health expenditures in Alaska during 1990 are estimated at \$1.5 billion, up 300 percent from the \$480 million expended in 1979. Over 90,000 Alaskans are either uninsured or underinsured. If the current inflationary trend continues unchecked, it is estimated health expenditures will increase to at least \$10 billion with over 25 percent of the state's population uninsured by the year 2000.

The problem is not restricted to Alaska. The federal government and virtually all states are grappling with ways to control health care costs. The National Governors Association has identified it as a principal issue of concern. Seventeen states including Alaska have already established approaches to containing costs and report encouraging results. The Alaska Health Care Cost Containment Task Force, which I chair, has been investigating this serious problem for two years and has determined it is time for our state to act.

Interest from private employers for a solution to the problem of rapidly escalating health care costs was detected by the Task Force in meetings over the last year. The Task Force met with a number of Alaska's largest private employers and found that many are paying higher premiums for less benefits than the State of Alaska. In other cases private employers have found it difficult, if not impossible, to continue coverage thus adding to the ranks of uninsured and underinsured Alaskans. In addition to inflationary pressures, increases can also be attributed to uncompensated costs incurred by providers. From my work on the Task Force, I know many small businesses are not able to keep up with the high costs of health insurance. As a result, their employees either have no insurance or inadequate coverage.

Task Force measures accounted for savings in excess of \$20 million in

the cost of providing health coverage for state employees over the last two years, but these measures can only be viewed as temporary fixes. Any administrative attempt to control increases in the state's operating budget will have to confront the inflationary pressures of higher health care costs. Task Force findings show health care costs are the fastest growing component of the budget and accounted for \$385.5 million of the Fiscal Year 1990 operating budget. Without immediate action, according to the Task Force, costs will continue to escalate at the rate of the last 10 years and exceed \$1 billion in Fiscal Year 1995.

The Task Force has endorsed legislation designed to control these costs. I have sponsored Senate Bill 83 and Rep. Mark Boyer of Fairbanks has introduced companion legislation, House Bill 71. The legislation is designed to develop ways to provide all Alaskans with access to affordable quality health protection. It presents an opportunity to explore ways of providing the more than 90,000 uninsured and underinsured Alaskans with the protection of health insurance coverage. The legislation I introduced previously calling for an arrangement to provide interested private employers and nearly 135,000 public employees, government retirees and their dependents with cost effective health care.

A Health Resources Authority is created by the legislation and outline a two phased approach. During the initial phase the authority is required to create and begin to implement a system or method that streamlines or results in cost efficient payments to health care providers. This system includes schedules of maximum allowable reimbursement for health care related services based on actual provider costs, geographic regions and availability of care. The authority is also directed to create a statewide utilization standards system to monitor, track and verify patterns of treat-

ment by health care providers to assure that cost efficient and cost effective care is delivered without reducing the quality of medical care available to participants.

After July 1, 1992, the Authority may procure or provide a comprehensive group health insurance plan to all sectors of private and public employers who elect to participate. This will expand the pool of subscribers, maximize the opportunities for health care cost management and should realize significant savings. At this point, the Authority will also be charged with identifying Alaskans who are presently uninsured or underinsured and procuring or providing a health protection plan for their use. It may also devise plans for the sole proprietor or small Alaskan employer.

The legislation is structured to allow each group electing to participate the flexibility to maintain its own plan and rates by paying its proportionate share of expense. This means we can reduce the cost with-

out impacting collective bargaining agreements. Unions will have the ability to pursue additional coverage at the bargaining table. I believe it is important in this process to recognize and maintain the integrity of the collective bargaining system.

This legislation represents a comprehensive solution to a complex problem. Given the rapidly increasing costs of health care and the impact it will surely have on all Alaskans, it is a problem that cries out for a solution. I am convinced through my work on the Alaska Health Care Cost Containment Task Force that this legislation offers the best possible approach. It deserves your consideration and support as it is debated this legislative session. If you have any questions or concerns about the legislation, I encourage you to contact me by writing P.O. Box V, Juneau, Alaska 99811, or call 465-4766.

Sen. Jim Duncan represents Juneau in the Alaska Senate.

### Berry's World



*Jim Berry*  
© 1981 by WEA, Inc. 10  
"You are to avoid stress. That means no more watching WORLD, NATIONAL or LOCAL news."

2/91 Health Care Cost Containment Task Force Rpt



**Alaska State Legislature**  
**House of Representatives**  
 COMMITTEE ON HEALTH, EDUCATION  
 AND SOCIAL SERVICES

SUBJECT OF MEETING:  
~~HEALTH PLANNING DEVELOPMENT~~

DATE: 4/3/91

PLACE: Capitol Room 106

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
✓ Harlan Knudson	Hospital Nursing Home Assn.	319 Seward St	99501	586-1790	586-6790	<input checked="" type="radio"/>	N	H 13 69
✓ Larry Strauber	Health & Soc Services	Box H - JUNEAU AK 99802	99802	780-2044	3015	<input checked="" type="radio"/>	N	H 13 69
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	

# FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB69

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: An Act relating to state coordination of BRU: Administrative Services  
health planning and development Component: Planning and Development  
 Sponsor: Boyer, Navarre  
 Requestor: by the HESS Committee COMPONENT SERIAL NO. 0323

Expenditures/revenues: (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES	59.4	82.2	62.2	62.2	62.2	62.2
TRAVEL	3.2	3.3	3.3	3.3	3.3	3.3
CONTRACTUAL	20.4	20.4	20.4	20.4	20.4	20.4
SUPPLIES	0.5	0.5	0.5	0.5	0.5	0.5
EQUIPMENT	10.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>93.5</b>	<b>86.4</b>	<b>86.4</b>	<b>86.4</b>	<b>86.4</b>	<b>86.4</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

FUNDING: (Thousands of Dollars)

GENERAL FUND	46.75	43.2	43.2	43.2	43.2	43.2
FEDERAL FUNDS	0.00	0.0	0.0	0.0	0.0	0.0
INTER-AGENCY RECEIPTS	46.75	43.2	43.2	43.2	43.2	43.2
<b>TOTAL</b>	<b>93.50</b>	<b>86.4</b>	<b>86.4</b>	<b>86.4</b>	<b>86.4</b>	<b>86.4</b>

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current year impact: No FY91 fiscal impact.

ANALYSIS: (Attach a separate page if necessary)

During 1990, the department completed six Certificate of Need reviews requiring the full time efforts of a Health and Social Services Planner II (R 19). If House Bill 69 is passed, which gives the department much broader and stricter review powers, the department estimates that Certificate of Need (CON) reviews will increase by another six to eight projects. Therefore, the department estimates that a Health and Social Services Planner II will be required to keep up with the increased workload. Duties of this position include: writing appropriate regulations; reviewing letters of intent to deter-

(Continued)

Prepared by: Janet Clarke, Director *J. Clarke*  
 Division: Division of Administrative Services

Phone: 465-3082  
 Date: 03/28/91

Approved by Commissioner: Theodore A. Mala, MD, MPH *T. Mala*  
 Agency: Department of Health and Social Services

Date: 2 April 91

Distribution (by preparer):  
 Legislative Finance OMB  
 Legislative Sponsor Impacted Agency(ies)  
 Requestor

**ANALYSIS (cont.):**

mine whether a CON is required; assisting applicants through pre-application conferences in CON preparation; reviewing all data elements in CON application for completeness; preparing and submitting all advertising related to CON; holding CON public meetings; completing major CON review reports which determine whether or not a CON application is approved or disapproved; and acting as expert witness at all appeals/litigation related to CON.

DESCRIPTION	COMMENT #	FY92	FY93
<b>Line 100 - Personal Services</b>			
II&SS Planner II, PFT, 12 months,(R 19)-Juneau	(1)	59,436	62,172
<b>Line 200 - Travel</b>			
Staff Travel for Public Meetings:			
a) 3 CON Public Meetings x 1 staff x 2 days = 6 days	(2)		
b) 6 days x \$115 per diem		690	690
c) 1 staff x \$475 avg. airfare x 3 Public Meetings	(3)	1,425	1,500
d) 1 staff x \$35 misc. expense x 3 Public Meetings		105	105
Staff Travel for Hearing Appeals:			
a) 1 Hearing Appeal x 1 staff x 4 days = 4 days	(4)		
b) 4 days x \$115 per diem		460	460
c) 1 staff x \$475 airfare x 1 Hearing		475	500
d) 1 staff x \$35 misc. expense x 1 Hearing		35	35
<b>TOTAL TRAVEL</b>		<b>3,190</b>	<b>3,290</b>
<b>Line 300 - Contractual Services</b>			
a) Advertising of 6 CON reviews @ \$400 each		2,400	2,400
b) Hearing Officer, assume 1 appeal @ \$5,000		5,000	5,000
c) Attorney time and all costs related to litigation	(5)	6,000	6,000
d) Office space rental for staff		3,000	3,000
e) Communications including local, long distance, fax and postage		4,000	4,000
<b>TOTAL CONTRACTUAL</b>		<b>20,400</b>	<b>20,400</b>
<b>Line 400 - Supplies</b>			
a) Paper, office supplies, etc.		500	500
<b>TOTAL SUPPLIES</b>		<b>500</b>	<b>500</b>
<b>Line 500 - Equipment</b>			
a) Personal computer, software, printer, etc.		7,500	0
b) Desk, chair, file cabinets, calculator, etc.		2,500	0
<b>TOTAL EQUIPMENT</b>		<b>10,000</b>	<b>0</b>
<b>TOTAL FOR PROJECT (6)</b>		<b>93,526</b>	<b>86,362</b>

- (1) The staff costs for FY93 assumes a 5% cost of living increase
- (2) This assumes that out of 6-8 additional CON reviews, that 3 will require Public Meetings
- (3) For FY93, it is assumed that average travel costs will increase from \$475 to \$500 per trip.
- (4) This assumes that Hearing Appeals will increase to one per year from the present of one every 2 or 3 years.
- (5) The \$6,000 figure was provided by the Department of Law as what they would charge to handle all costs related to litigation for 1 Hearing.
- (6) A recent determination was made that Certificate of Need activities are eligible for Medicaid funds (50% federal-50% state) as they directly affect the Medicaid Program.



**STATE OF ALASKA**  
**HEALTH CARE COST CONTAINMENT**  
**TASK FORCE REPORT**  
**TO**  
**THE SEVENTEENTH LEGISLATURE**

*RELATING TO THE ACCESS, QUALITY, DELIVERY AND*  
*FINANCING OF*  
*HEALTH CARE FOR ALL ALASKA RESIDENTS*

*WITH*  
*SUMMARY OF FINDINGS AND RECOMMENDATIONS*

FEBRUARY 1991

STATE OF ALASKA  
HEALTH CARE COST CONTAINMENT  
TASK FORCE

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MR. JEFFREY MALEK, CONSULTANT

STATE OF ALASKA  
HEALTH CARE COST CONTAINMENT TASK FORCE  
REPORT TO THE SEVENTEENTH LEGISLATURE

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## EXECUTIVE SUMMARY

The purpose of this section of this report is to give an overall perspective of the problems facing Alaska with rapidly rising health care costs and illustrate Task Force recommendations that provide solutions to assure affordable quality health care access to all Alaska residents.

### OVERVIEW

Health care costs in Alaska are rising at a pace two and three times the inflation rate for all other goods and services. In 1990, total Alaska health care expenditures are estimated to be in excess of \$1.5 billion up from \$480 million in 1979. Without a plan for a long term health care delivery system, quality assurance, and financing management, total health care expenditures in Alaska will exceed \$10.0 billion by the year 2000 of which the state governments portion will be \$3.0 billion. (see exhibit one on page 10)

Health care expenditures in Alaska have been rising at a rate of over 20% each of the last five years. These trends are not unique to Alaska alone. Health care expenditures in the U.S. exceeded \$606 billion in 1989 and consumed twelve percent of our Gross National Product. Nationally, the Federal Government and virtually all other states are seeking ways to reduce these expenditures or slow the health care inflation rate to be in line with the market basket Consumer Price Index.

These rapidly rising costs further exacerbate the uninsured population in Alaska, recent estimates indicate that more than 90,000 Alaska residents are uninsured. At this rate twenty-five percent of Alaskas' population will be uninsured by the year 2000<sup>1</sup>(see exhibit two on page 11). These increase in costs have substantially driven up health insurance premiums for all employers, making it very difficult if not impossible, to continue to provide or offer coverage.

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<sup>1</sup> Familles U.S.A. Foundation

The Health Care Cost Containment Task Force initially was charged with the task of investigating, analyzing and recommending ways to reduce or stabilize the health insurance costs for State of Alaska employees, retirees and their dependents

With these recommendations implemented, the monthly premium cost was reduced and stabilized at \$385.00 until January 31, 1992, resulting in net savings in excess of \$20 million for FY 90 & 91<sup>2</sup>.

The Task Forces' charge was expanded early last session to include reviewing the delivery, quality, access and financing of health care for all Alaska residents.

The Task Force, in its expanded role, has investigated the problem of rapidly increasing health care costs in Alaska through public testimony, surveys, research (statewide and nationally) and a detailed analysis of potential solutions.

During this review the Task Force has identified not a sole culprit but numerous contributing factors that must be reviewed in an all encompassing manner to provide the best long term solutions. The contributing factors identified by the Task Force include:

- \* Inefficient Medical Care Delivery Systems
- \* Overbuilt Health Care Facilities
- \* Cost of New Medical Technology and Facilities
- \* Malpractice Insurance and Protective Measure costs
- \* Limited Competition For Providers / Insurers
- \* Health Care Delivery System Waste, Overhead And Administrative Costs
- \* Limited Wellness Promotion And Resources
- \* Large Population of Under / Uninsured Residents
- \* Cost Shifting Between Health Plans and Programs
- \* Life Style Diseases and Injuries
- \* Mandated Benefit Coverage
- \* Limited Access to Private Health Plans

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<sup>2</sup> 1990 Health Care Cost Containment Task Force Report

- \* No Managed Care Delivery Systems in Place
- \* Lack of End User Involvement and Education

Although a long and far reaching list each contributing area must be comprehensively addressed to achieve the stated goal of stabilized medical costs in Alaska and basic health care access for all Alaskans'.

## SPECIFIC FINDINGS

The Health Care Cost Containment Task Force has been reviewing the causes for the rapidly rising costs in the State of Alaska not only for State sponsored plans, but health care costs statewide.

1. Health care expenditures in Alaska have *increased 300% over the last 10 years, the second highest in the nation*
2. The health care expenditures portion of the *State of Alaska budget is the fastest growing component of the whole budget, 385.5 Million in FY 90, and at this pace will exceed 3.0 Billion in FY 2000 (see exhibit one on page 10).*
3. The number of *uninsured residents in Alaska* has increased at an alarming rate to an *estimated 90,000 uninsured residents, representing 16.5% of the total population in Alaska. At this rate twenty five percent of Alaskas' population will be uninsured by the year 2000 (see exhibit two on page 11).*
4. The cost of providing health coverage for *State employees and their dependents* has been reduced and *stabilized at \$385.00 (per month, per employee) for FY 90 and 91.* This compares favorably with the most recent Survey of State's health care plans that showed *only one other state (Arizona) where premiums were reduced, and only three other State's premiums were held at the 1989 level<sup>3</sup>.* It is important to note that while these were important short term measures, a long term solution to this problem must be implemented soon to avoid further large rate increases.
5. One area that has come to light, and is significant in its impact on health care expenses, is cost or liability shifting between programs. It is an item of significant impact. When a health program either reduces benefits or payments the natural reaction by health care providers is to shift those costs to other payors.

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<sup>3</sup> 1990 Martin A. Segal Company Summary of State Health Plans

## SURVEY RESULTS

The survey done by the Task Force was designed to give greater insight to health insurance plans offered by Alaska employers, the costs for these plans, who is covered by health insurance, along with additional data and perspectives from health care providers.

Over 300 surveys were mailed to various groups in Alaska including, municipalities, school districts, health care providers and private sector employers.

The survey questions were tailored to gather specific information relative to each category of respondent.

Questions ranged from those eligible / ineligible for employer health plans, number of employees, plan design, employee / employer contributions, cost containment measures implemented, premium costs, ideas to help reduce ever increasing health care costs and the reasons for these increasing costs. The questionnaires sent to health care providers had additional questions to determine their specific perspective about rising health care costs and certain contributing factors *ie.*; bad debt, malpractice insurance costs and others.

The survey results gave us information that previously was not available such as, range of employer sponsored health plan designs, eligibility, associated premium costs, cost containment strategies employed, respondents perspective, and impressions about the health care delivery system in Alaska.

In comparison to the State of Alaska active employee health plan, the survey results showed that the state no longer had either the most expensive health plan (64% of respondents plans premium or premium equivalent was in excess of the states \$385. per month) and no longer was the States plan the best in coverage (54% of respondents provide similar or better benefits).

Surprisingly 94% of the respondents do offer some form of health insurance to their full-time employees while none of the respondents provide coverage for part-time, seasonal, or occasional employees.

The majority of respondents have implemented ways to reduce their health plan costs. Seventy one percent of respondents have implemented at least two cost containment measures. Sixty percent have also made benefit changes in the last two years.

In addition respondents also are implementing alternate financing of health insurance. Thirty one percent of the respondents have self insured their plans.

The survey confirmed earlier information that the majority of health insurance in Alaska is underwritten by three carriers, Aetna, Blue Cross and Great West insurance companies.

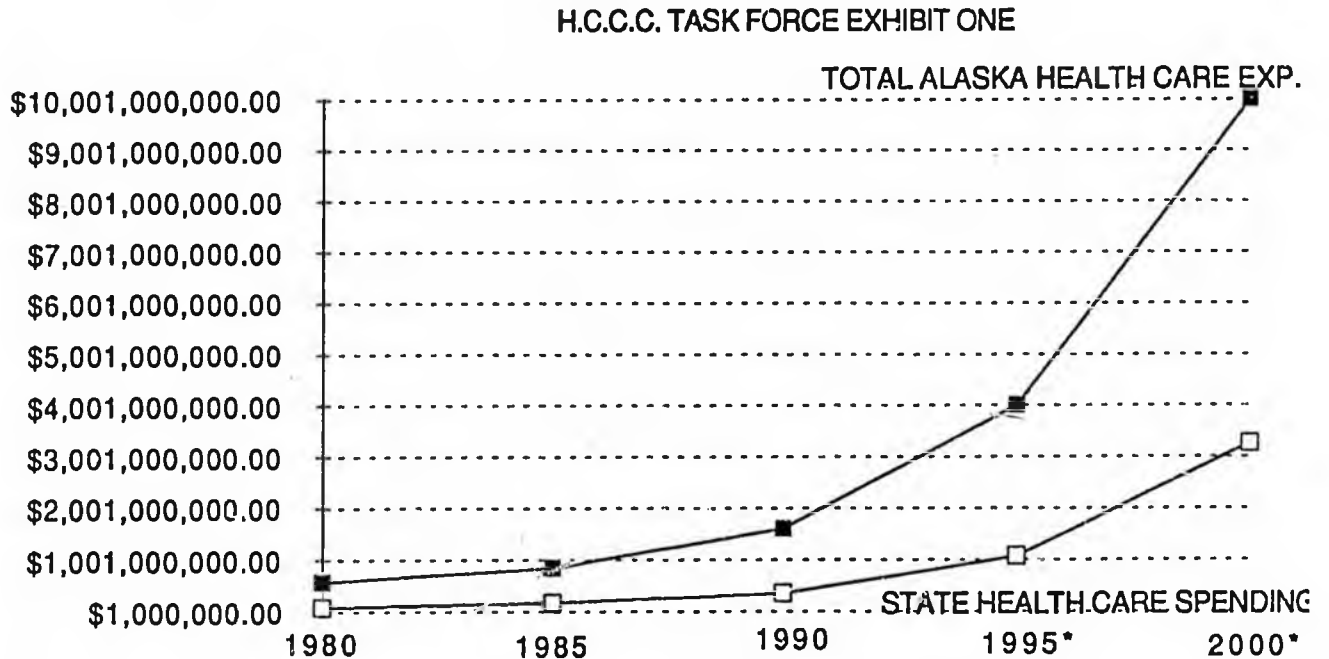
#### THE FUTURE

The State of Alaska Health Care Cost Containment Task Force has reviewed and recommended ways to reduce health care costs in the short term, but in order to assure quality affordable health care protection for all Alaskans a long term strategy such as the Alaska State Health Resources Authority (ASHRA) outlined in the legislative recommendations, section 8, of this report must be implemented.

In addition, because of the size and scope of the health care related problems facing the state of Alaska the Task Force recommends that a group comprised of a cross section of Alaska employers, health care providers, legislature, Executive branch, nonprofit, uninsureds and consumers continue the work of the Health Care Cost Containment Task Force to continue towards the goal of assuring quality affordable health care for all Alaskans.

EXHIBIT : ONE

Exhibit one demonstrates the rise in health care spending in Alaska from 1980 through the year 2000.



Source, Noble Lowndes

Illustrates total health care expenditures in Alaska

1980=\$576. million, 1985=\$852. million, 1990=\$1.608 billion  
1995=\$4.0 billion\*, 2000=\$10.0 billion\*

Illustrates health care spending by the State .

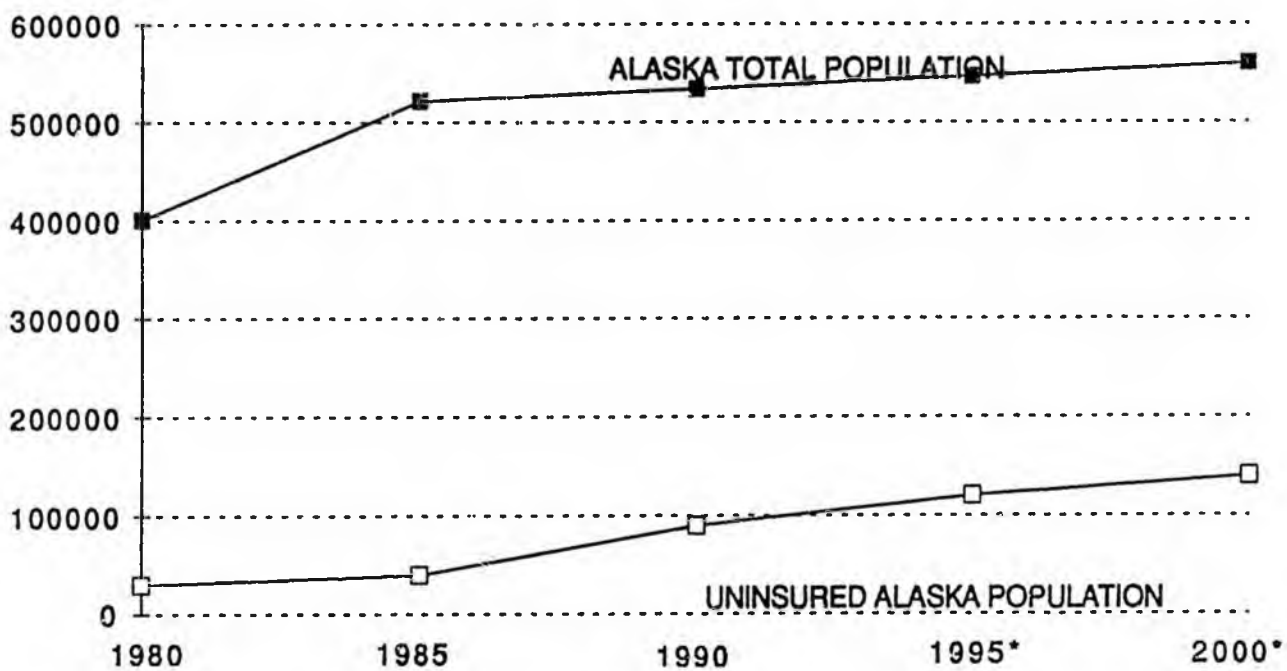
1980=\$75. million, 1985=\$175. million, 1990=\$350. million  
1995=\$1.068 billion\*, 2000=\$3.26 billion\*

\* estimate

EXHIBIT : TWO

Exhibit two illustrates Alaskas total population and the population of residents without health insurance (uninsured).

H.C.C.C. TASK FORCE EXHIBIT TWO - COMPARISON OF ALASKAS UNINSURED TO TOTAL POPULATION



Source, Noble Lowndes

Illustrates total Alaska population.

1980= 401,000, 1985= 522,000, 1990= 534,000  
1995= 547,000, 2000= 560,000

Illustrates the uninsured population in Alaska.

1980= 30,000, 1985= 40,000, 1990= 90,000  
1995= 120,000\*, 2000= 140,000\*

\* estimates

STATE OF ALASKA  
HEALTH CARE COST CONTAINMENT TASK FORCE  
REPORT

SECTION ONE

TASK FORCE WORK PLAN AND OBJECTIVES

## WORK PLAN AND OBJECTIVES

One of the major realizations of the previous year's work was that the health cost experience and expectations of any one particular group, such as state employees, cannot be viewed in isolation. Influences from the cost of service to all other health care consumers and correlated systemic factors contribute a significant portion to any one group's eventual cost, regardless of use.

Last session the work plan for the Task Force was redesigned to address unresolved health care cost issues identified in the February, 1990 report to the legislature. These issues included concerns about such long term and destabilizing effects as cost shifting, uncompensated care, and health delivery system inefficiencies. Other issues were identified that in a preliminary way held promise for some measure of control or alleviation of the health care cost spiral. In addition to this work, the Task Force would monitor closely the effects of cost containment measures established for state employee health plans and seek appropriate containment measures for retired public employees.

The main objectives of the plan were to understand, in as complete a manner possible, the financial nature of Alaskans' health care and health care delivery system. Secondly, the Task Force sought a broad spectrum of opinions about what could be done to preserve or improve access to quality affordable health care for all Alaskans in the context of financial trends and constraints.

These objectives were served by analyses of all health care funding and expenditures in the state, and informational surveys of municipalities, school districts, health care providers, and health care facilities. Information on the Alaskan perspective was additionally obtained from three public hearings and other meetings with the following groups:

- \* Alaska School Board Association
- \* Alaska Municipal League
- \* Alaska Municipal Finance Officers' Association
- \* Alaska Hospital and Nursing Home Association
- \* Alaska State Medical Association
- \* Alaska Chiropractic Society
- \* Anchorage Medical Society
- \* Alaskan private sector employer group
- \* National Education Association of Alaska
- \* Alaska State Employees Association
- \* Public Employees Retirement System Advisory Board
- \* Teachers Retirement System Advisory Board

The Task Force recognized that the health care problems it was addressing were also being discussed in other states, public forums, and by research groups throughout the nation. Indeed, the issue has attracted considerable attention in professional journals and other print media. An appreciation for the larger context of health care cost and access, viable solutions were gained through meetings and discussions with the following:

- \* National Governors' Association Conference on Affordable Health Care
- \* American Federation of State, County and Municipal Employees, Washington, D.C.
- \* Families USA Foundation (Senior citizen advocacy group)

- \* National Leadership Commission on Health Care
- \* Physicians Payment Review Commission (Congressional)
- \* State of Maryland, Health Services Cost Review Commission
- \* State of Washington
- \* State of Hawaii
- \* State of Minnesota
- \* State of Wisconsin
- \* State of Arizona
- \* State of New Mexico
- \* State of Massachusetts
- \* State of Oregon
- \* State of Oklahoma
- \* State of Utah
- \* State of Kansas
- \* State of South Carolina
- \* State of Louisiana
- \* State of California
- \* State of Colorado
- \* State Alliance for Universal Health Care

The health care funding and expenditure analyses were based in part on all federal, state, and local government expenditures for different categories of health care and groups of people. State data included, in addition to employee and retiree costs, the health costs of prisoners, medicaid, Pioneer Homes, Alaska Psychiatric Institute, and rural health aides, among others. Similarly, federal data included military and military dependents' expenditures, Indian Health Service, veterans, and medicare. In all categories the number of Alaskans benefitted were determined or estimated. Alaska Department of Labor statistics were used for the private sector labor force to estimate the private sector's contribution. Two recent studies, the 1990 Health Care Cost Containment Task Force Report and the Families USA Foundation gave new estimates of the

number of Alaskans who are without health insurance or any other type of medical care. In contrast to the funding and expenditure side, revenue reports of all major health care institutions were obtained and consolidated.

Municipalities and school districts were target groups for the informational survey because they are large employee groups whose health care cost increases most directly affect state budgetary considerations. The survey sought specific information on their health plan cost increases over the last ten years, the nature of the benefit, and cost containment features employed. The survey also had questions on the effectiveness of cost containment measures and solicited opinions on what could be done to slow medical inflation.

Survey forms sent to health care facilities and health care providers were to determine the nature of their employees' health care coverage and cost experience. Additional information requested concerned the nature of their business as providers. This information included percentages of practice devoted to different categories of payors (medicare, medicaid, state employee, et. al.), the amount of uncompensated services, its increase, and the amount of fee and rate increases over the last ten years.

The expenditure and funding analyses and the survey information provided a useful foundation for meetings with the Alaskan groups listed above. They illustrated the overall nature of the issue and brought focus to the discussions. In addition to the information gained, the meetings with the second group listed above underscored the gravity with which other health care professionals, public officials, labor and management organizations view the health care cost and accessibility issue. It gave the Task Force a sense of commonality in its search for a solution.

STATE OF ALASKA  
HEALTH CARE COST CONTAINMENT TASK FORCE  
REPORT

SECTION TWO

STATE EMPLOYEE AND RETIREE PLAN UPDATE & RESULTS

STATE OF ALASKA  
EMPLOYEE AND RETIREE HEALTH PLAN UPDATE

The Health Care Cost Containment Task Force continued to review and monitor the health plans for actives and retirees during the last year.

ACTIVE EMPLOYEE HEALTH PLAN

This work resulted in the continued moratorium on premium increases for the active employees plan. This resulted in the monthly premiums being held at the \$ 385.00 level until January 31, 1992 allowing state agencies substantial relief from increasing costs associated with health insurance. This resulted in savings in excess of \$20 million for FY90, 91.

The Task Force strongly encourages the State to continue to review the possibility of self or alternate funding the plan to improve the plans financial position and overall management. In addition, the State should during the Request For Proposal process for the state plan request proposals for both an all inclusive and unbundled basis. That is, major components (cost containment, utilization review, etc.) should be bid collectively and separately to determine the most advantageous end result.

RETIREES HEALTH PLAN

The Task Force reviewed and recommended cost management techniques that could be utilized by the retirees health plan to improve the plans financial experience, without compromising the current level of benefits.

These recommended cost management techniques were ratified by the Public Employees Retirement System and the Teachers Retirement System boards and are currently being implemented. These changes will not only reduce the premium requirements but also may improve the funds future.