

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
6891 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

S B

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Alaska State Legislature

Please enter into the record my testimony to the HFS
 committee name
 hearing April 10 8:30AM
 committee on SB 395, dated 4-7-92
 bill/subject

In May of 1990 a special needs child was placed in our home as a foster child. We are currently adopting this child. This child's medications cost over \$300 per month. This is a condition that he will outgrow between the ages of 7-12, however, this is his medication needs right now. I know of other children currently in state custody in similar situations. It is not fair to expect potential parents to pay this. Most of these children are very difficult to care for ~~now~~ anyway - Please don't make it any worse! Children belong in homes and cost is a major factor regarding adoption. Please allow Medicaid to continue to pay. (I have to work or I would be at teleconference)

Signed: Jackie P Swayne
 Testifier

J P Swayne

Representing (Optional)

2755 Parkwood Wasilla AK 99654

Address:

376-7403

Phone No.

Alaska State Legislature

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2828



During Interim
3111 C Street, Suite 540
Anchorage, Alaska 99503
(907) 561-2040

Senator Virginia Collins

SB 395

Medicaid Coverage for Certain Adoptees

SB 395 would allow the state to collect federal Medicaid dollars for those in state custody who need medical care in order to be placed for adoption.

Persons with special medical needs under the age of 21, of whom the state has custody, are difficult to place for adoption. Under AS 25.23.190 - .210 (relating to adoption assistance), the state pays for the cost of care provided these children and young adults.

With the passage of SB 395, federal Medicaid could be used to provide health care coverage for this group.

The bill would also make this group the last to be eliminated from Medicaid coverage if sufficient funding were not available.

SB 395 would not affect the payments made to parents who adopt these children nor would it place additional requirements on them.

The bill does not increase the number of children being served nor does it increase the total amount being paid for their medical care.

In an era of projected declines in state revenues, SB 395 is a revenue generator, saves the state money, and does not require any expenditure of state monies.

Sponsor Statement

FEB 26 1992

"An Act relating to Medicaid coverage for certain persons under the age of 21 for whom an adoption assistance agreement is in effect; and providing for an effective date"

SB No. 395 will add a new group to the list in AS 47.07.020 of persons eligible for coverage under Medicaid in Alaska. This new group consists of children under the age of 21 who have special medical needs, who are therefore difficult to place for adoption, and for whom there is in effect a state adoption assistance agreement. The bill would make this new group the last to be eliminated from Medicaid coverage under AS 47.07.035 if there are insufficient appropriations to cover all optional services and groups.

ANALYSIS

At present, adoptive parents of these children are subsidized by the state under AS 25.23.190 -- AS 25.23.210. State money often pays for the cost of medical care provided for these children. Under the federal Medicaid program, a state may select these children as an optional group to be covered by Medicaid. The statutory changes made by the bill would not change the subsidy payments made to the adoptive parents, and there would be no additional requirements imposed on them. The changes would not increase the number of children served, nor the total amount being paid. SB No. 395 would simply allow one-half of the cost of the medical care being paid for by the state to be paid instead with federal money.

Savings to the State in the first full year alone will exceed \$163,000.

POSITION

The Department supports the passage of SB No. 395. Given Alaska's short and long-term revenue picture, it is important that we take advantage of every legitimate opportunity we have to reduce state expenditures by claiming on federal matching funds for the necessary medical services we furnish to needy Alaskans.

Recommended by: Kimberly B. Busch
Kimberly B. Busch
Director
Div. of Medical Assistance

Date: _____
Approved by: Theodore A. Mada
Theodore A. Mada, MD, MPH
Commissioner

Date: 26 Feb 92

DHSS POSITION

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JURISDICTION, ALASKA 99511
907-465-3800

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

Senate Health, Education
and Social Services Committee
2/16/92 meeting (SB 395)

(7)

HOUSE COMMITTEE REPORT

Date Referred: March 11, 1992

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/10/92

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

SB 395

SENATE BILL NO. 395

MEDICAID IN CERTAIN ADOPTION CASES

"An Act relating to Medicaid coverage for certain persons under the age of 21 for whom an adoption assistance agreement is in effect; and providing for an effective date."

RECOMMENDATIONS:

[] the same title

be replaced with _____

[] a new title

[] have attached amendments(s)

[x] do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note _____

[] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bill / M Carney</i>	<input checked="" type="checkbox"/>				
<i>Georganna Miller</i>	<input checked="" type="checkbox"/>				
<i>Mary Miller</i>	<input checked="" type="checkbox"/>				
<i>Benny Davis</i>	<input checked="" type="checkbox"/>				
<i>G. G. Sample</i>	<input checked="" type="checkbox"/>				
<i>Cheri Davis</i>	<input checked="" type="checkbox"/>				

Bill / M Carney
CO-CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 1

Bill Version: SB 395

(S) Publish Date: 2-26-92

STATE OF ALASKA

1992 LEGISLATIVE SESSION

Revision Date: 2/25/92 Department Affected: DH&SS

Title: An Act Relating to Medicaid BRU: Medical Assistance

Coverage Component: Medicaid

Sponsor: Collins

Requestor: _____ COMPONENT SERIAL NO.

0	2	2	9
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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	326.1	413.8	523.9	664.2	838.4	1,061.4
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	326.1	413.8	523.9	664.2	838.4	1,061.4

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

GENERAL FUNDS	163.0	206.9	261.9	332.1	419.2	530.7
FEDERAL FUNDS	163.0	206.9	261.0	332.1	419.2	530.7
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	326.1	413.8	523.9	664.2	838.4	1,061.4

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.)

See attached

Prepared by: Kimberly B. Busch, Director *Kimberly B. Busch* Phone: 907-465-3355

Division: Medical Assistance Date: 2-25-92

Approved by Commissioner: Theodore A. Nala, M.D., M.P.H.

Agency: Health and Social Services *Theodore A. Nala* Date: 2/26/92

Distribution (by Preparer: Leg. Fir

Rev 10/7/91

Impacted Agency(ies)

FN DHSS Medical Assistance

Page 1 of 2

Fiscal Note Attachment

The Division of Family and Youth Services currently pays a direct monthly reimbursement to adoptive parents to pay for the medical needs of an adoptive child with special medical or rehabilitative needs. This bill would authorize Alaska to add the Medicaid option to provide coverage for these state-subsidized adoptive children. Medicaid would then provide for payment of these children's medical needs, eliminating the need for direct reimbursement from the Division of Family and Youth Services and accessing federal Medicaid funding available to the State at a 50 percent match rate.

The Division of Family and Youth Services will spend \$258,192, all from the state general fund, on direct reimbursement to adoptive parents in FY 92. These funds currently provide payment for medical services averaging \$326 per month to 66 special needs adoptive children. With addition of the Medicaid option to cover this group of children, the FY 93 cost shifts to the Division of Medical Assistance Medicaid program. Then adoptive parents will no longer be reimbursed directly for the child's medical expenses, but will be provided with Medicaid coupons for payment of the child's medical services.

The Medicaid cost in FY 93 will be \$326,112, anticipating a 20 percent growth in the current caseload of 66 children and 5.5 percent medical expense inflation rate. This calculation is detailed below:

FY 92: 66 children X \$326 per month = \$21,516 X 12 months = \$258,192

FY 93 \$326 X 5.5% inflation rate = \$344
66 children X 20% caseload growth = 79
79 children X \$344 X 12 months = \$326,112 total funds
 \$163,056 GF
 \$163,056 FED

FY 94 - 98: For future years, we assume the same caseload and inflation growth rates.

Because this is a Medicaid option, the federal government will contribute 50% of the total costs.

Total savings to the State are the amount of Federal funds (\$163,056 in FY 93).

Cross reference: Fiscal note by the Division of Family and Youth Services

FISCAL NOTE

No. 2

Bill Version: SB 395

(S) Publish Date: 2-26-92

STATE OF ALASKA

1992 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: _____

Title: An Act Relating to Medicaid

BRU: Family & Youth Purchased Services

Coverage: _____

Component: Foster Care

Sponsor: Senator Collins

Requestor: _____

COMPONENT SERIAL NO.

1	2	5	2
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(326.1)	(413.3)	(523.9)	(664.2)	(338.4)	(1,061.4)
MISCELLANEOUS						
TOTAL OPERATING	(326.1)	(413.3)	(523.9)	(664.2)	(838.4)	(1,061.4)

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING (Thousands of Dollars)

GENERAL FUNDS	(326.1)	(413.8)	(523.9)	(664.2)	(838.4)	(1,061.4)
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY:						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)
 See attached analysis.
 DFYS saves cost of medical portion of program as shown.
 50% Federal participation in funding achieved by this method.

Prepared By: Brian Saylor, Acting Director *[Signature]* Phone: 465-3633
 Division: Family and Youth Services Date: 2/25/92

Approved by Commissioner: Theodore A. Mala, MD, MPH *[Signature]*
 Agency: Department of Health and Social Services Date: 2/25/92

FISCAL NOTE ATTACHMENT

SB 395: AN ACT RELATING TO MEDICAID COVERAGE

Adoption Assistance Fiscal note

1. DFYS surveyed 1/3 of their 9/91 state subsidized adoption caseload to determine to the portion of the caseload receiving extra funds for medical needs (26 of the 37, or 73%) and the average payment for medical needs per child (\$326 per month).

Current FY 92 caseload is 90 children; 73% with medical needs = 66.

2. 66 children with special medical needs x average monthly payment of \$326 = \$21,516 x 12 months = \$258,192 in FY 92.

To estimate future growth, we considered the fact the DFYS has had a major permanency planning move over the last two years, to address the problem of children remaining in long term foster care without permanent homes. This effort to "catch up" requires a continued growth rate over the next few years, although it is expected to level off within the next three to five years, as the effects of the permanency planning effort reduce the backlog and the family preservation efforts reduce the number of the new cases. The 20% figure is a best estimate based on current growth patterns. The Anchorage CPI of 5.5% is used to estimate growth in costs.

FY 93: 20% caseload growth = 79 (66 x 20%) Avg. month pymt \$326
x 5.5% cost increase = \$344 x 79 x 12 = \$326,112

FY 94: 79 x 20% = 95 \$344 x 5.5% = \$363 \$363 x 95 x 12
= \$413,820

FY 95: 95 x 20% = 114 \$363 x 5.5% = \$383 \$383 x 114 x 12
= 523,944

FY 96: 114 x 20% = 137 \$383 x 5.5% = \$404 \$404 x 137 x 12
= \$664,176

FY 97: 137 x 20% = 164 \$404 x 5.5% = 426 \$426 x 164 x 12
= \$838,368

FY 98: 164 x 20% = 197 \$426 x 5.5% = \$449 \$449 x 197 x 12
= \$1,061,436

FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 395

1992 LEGISLATIVE SESSION

Revision Date: 2/25/92 Department Affected: DH&SS

Title: An Act Relating to Medicaid Coverage BRU: Medical Assistance
 Component: Medicaid

Sponsor: Collins

Requestor: _____ COMPONENT SERIAL NO.

0	2	2	9
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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	326.1	413.8	523.9	664.2	838.4	1,061.4
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	326.1	413.8	523.9	664.2	838.4	1,061.4

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

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TOTAL	326.1	413.8	523.9	664.2	838.4	1,061.4

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.)

See attached

Prepared by: Kimberly B. Busch, Director *Kimberly B. Busch* Phone: 907-465-3355

Division: Medical Assistance Date: 2-25-92

Approved by Commissioner: Theodore A. Malaf, M.D., M.P.H.

Agency: Health and Social Services *Theodore A. Malaf* Date: 2/26/92

Distribution (by Preparer: Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies))

Fiscal Note Attachment

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Because this is a Medicaid option, the federal government will contribute 50% of the total costs.

Total savings to the State are the amount of Federal funds (\$163,056 in FY 93).

Cross reference: Fiscal note by the Division of Family and Youth Services

FISCAL NOTE

STATE OF ALASKA

BILL NO.

SB 395

1992 LEGISLATIVE SESSION

Revision Date: _____

Department Affected:

Title: An Act Relating to Medicaid

BRU: Family & Youth Purchased Services

Coverage: _____

Component: Foster Care

Sponsor: Senator Collins

Requestor: _____

COMPONENT SERIAL NO.

1	2	5	2
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EXPENDITURES/REVENUES: (Thousands of Dollars)

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PERSONAL SERVICES						
TRAVEL						
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MISCELLANEOUS						
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CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING (Thousands of Dollars)

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FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY:						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

DFYS saves cost of medical portion of program as shown.

50% Federal participation in funding achieved by this method.

Prepared By: Brian Saylor, Acting Director

Phone: 465-3633

Division: Family and Youth Services

Date: 2/25/92

Approved by Commissioner: Theodore A. Mala, MD, MPH

Agency: Department of Health and Social Services

Date: 2/25/92

Distribution (by Preparer: Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legls. Ofc., & Impacted Agency(ies)

FISCAL NOTE ATTACHMENT

SB 395: AN ACT RELATING TO MEDICAID COVERAGE

Adoption Assistance Fiscal note

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To estimate future growth, we considered the fact the DFYS has had a major permanency planning move over the last two years, to address the problem of children remaining in long term foster care without permanent homes. This effort to "catch up" requires a continued growth rate over the next few years, although it is expected to level off within the next three to five years, as the effects of the permanency planning effort reduce the backlog and the family preservation efforts reduce the number of the new cases. The 20% figure is a best estimate based on current growth patterns. The Anchorage CPI of 5.5% is used to estimate growth in costs.

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FY 95: 95 x 20% = 114 \$363 x 5.5% = \$383 \$383 x 114 x 12
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FY 96: 114 x 20% = 137 \$383 x 5.5% = \$404 \$404 x 137 x 12
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FY 97: 137 x 20% = 164 \$404 x 5.5% = 426 \$426 x 164 x 12
= \$838,368

FY 98: 164 x 20% = 197 \$426 x 5.5% = \$449 \$449 x 197 x 12
= \$1,061,436

S B

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SENATE BILL 396

"An Act clarifying the responsibilities of the Department of Health and Social Services and parents for children who are committed to the custody of the department and are placed by the department with the parents; and providing for an effective date."

The Department of Health and Social Services strongly supports SB396, which clarifies the responsibilities of the Department for children committed to its legal custody who continue to reside with the parent or parents. The Bill amends AS 47.10.084(a) to expressly require a parent or parents to provide for the day to day care of their children if the children are residing with them when the state has legal custody as a result of child protective services purposes.

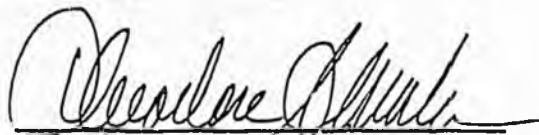
This bill was made necessary as a result of the Alaska Supreme Court ruling in the case of In re E.A.O., 816 P.2d 1352 (Alaska 1991), in which the court ruled that the current AS 47.10.084 requires the department to pay for medical costs associated with the care of children, even though they live with their parents. The department has never interpreted the statute in this manner in the past. Therefore, absent an amendment, the department will incur substantial additional financial expenses for these medical costs and may also be exposed to legal suits to resolve the responsibility for other costs of child rearing, including food, shelter, and education, while a child is placed at home by the department. The department has not budgeted for these type of costs, and these costs would significantly impact our budget, as well as the Medicaid budget. Although the court did acknowledge a possible right of reimbursement from the parents, the collection would not be practical nor cost-effective.

The bill provides for a retroactive effective date to August 30, 1991, the date that the court issued its ruling. A retroactive effective date is necessary to avoid the additional unbudgeted expenses and to resolve a legal question as to the department's responsibilities for other expenses, such as shelter, which the court did not direct address in its decision.

The Department of Health and Social Services urges the passage of this bill.



Deputy Commissioner
Health and Social Services



Commissioner
Health and Social Services

Date: 3/3/92

Date: 3 March 1992



Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

March 16, 1992

SUBJECT: Sectional Summary of CSSB 396 (HES)
TO: Members, Senate Judiciary Committee
FROM: Senator Virginia Collins *VC*

What follows is a sectional analysis of the above described bill. As a preliminary matter, please note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 amends AS 47.10.084(a) by clarifying responsibilities of a child's parent when a child is committed to state custody and placed by the state with the child's parent.

Section 2 makes the Act retroactive to August 30, 1991, the date of the Supreme Court decision in the case of In re E.A.O.

Section 3 makes the Act effective immediately.

sectional analysis

Alaska State Legislature

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2828



During Interim
3111 C Street, Suite 540
Anchorage, Alaska 99503
(907) 561-2040

Senator Virginia Collins

To: Rep. Georgianna Lincoln, Co-Chair
House HESS Committee

From: Senator Virginia Collins 

Re: CSSB 396 (HES)

Date: April 29, 1992

Please schedule CSSB 396 (HES) for a hearing before your committee.

CSSB 396 (HES) clarifies the responsibilities of the Department of Health and Social Services and parents for children who are committed to the custody of the department and are placed by the department with the parents.

In the August 1991 decision in the case of In re E.A.O., the Alaska Supreme Court ruled that the department must pay for the medical costs of children in state custody even though the children live with their parents.

The ramifications of this decision are enormous. The state will be responsible for substantial expenses in medical care, and, it may be held liable for other costs of child rearing such as food, shelter, and education.

CSSB 396 (HES) responds to the costly implications of this recent court decision.

Thank you for your consideration of this request.

sponsor statement

Alaska State Legislature

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2828



During Interim
3111 C Street, Suite 540
Anchorage, Alaska 99503
(907) 561-2040

Senator Virginia Collins

CSSB 396 (HES)

Clarifying parental responsibilities for a child in state custody

CSSB 396 (HES) clarifies the responsibilities of the Department of Health and Social Services and parents for children who are committed to the custody of the department and are placed by the department with the parents.

The bill responds to a recent Alaska Supreme Court decision that will incur new and potentially substantial costs to the state.

In the August 1991 decision in the case of In re E.A.O., the court reversed a lower court decision and ruled that the state must pay for the medical costs of a child in state custody even though the child lives with his or her parents. Prior to this decision, the state only paid for medical care costs of children in its custody who were placed out-of-home.

The ramifications of this decision may also lead to the state's being held liable for other costs of child rearing such as food, shelter, and education.

In an era of projected declining revenues, CSSB 396 (HES) responds to these costly implications.

BILL: SB 396 SHORT TITLE: PARENTAL CARE FOR CHILD IN STATE CUSTODY
NAME: CSSB 396(HES)
TITLE: "AN ACT CLARIFYING THE RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES AND PARENTS FOR CHILDREN WHO ARE COMMITTED TO THE CUSTODY OF THE DEPARTMENT AND ARE PLACED BY THE DEPARTMENT WITH THE PARENTS; AND PROVIDING FOR AN EFFECTIVE DATE."

SPONSOR(S): SENATOR(S) COLLINS

CURRENT STATUS: (H) HES
THEN JUD, RLS

STATUS DATE: 04/27/92

HEARING: (H) HES MAY 08 08:30 AM

02/12/92	2056	(S)	READ THE FIRST TIME - REFERRAL(S)
02/12/92	2056	(S)	HES, JUDICIARY
03/09/92	2338	(S)	HES RPT CS 5DP SAME TITLE
03/09/92	2338	(S)	ZERO FN TO SB AND CS PUBLISHED (DHSS)
03/18/92	2424	(S)	JUD RPT 3DP 1NR (HES)CS
03/18/92	2424	(S)	PREVIOUS ZERO FISCAL NOTE (DHSS)
04/24/92	2835	(S)	RULES TO CALENDAR 4/24/92
04/24/92	2837	(S)	READ THE SECOND TIME
04/24/92	2837	(S)	HES CS ADOPTED UNAN CONSENT
04/24/92	2837	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/24/92	2837	(S)	READ THE THIRD TIME CSSB 396(HES)
04/24/92	2838	(S)	PASSED Y19 N- A1
04/24/92	2838	(S)	EFFECTIVE DATE SAME AS PASSAGE
04/24/92	2842	(S)	TRANSMITTED TO (H)
04/27/92	3229	(H)	READ THE FIRST TIME - REFERRAL(S)
04/27/92	3229	(H)	HES, JUD

Senate Bill History

FISCAL NOTE

No. 1

Bill Version: SB396

BILL (S) Publish Date: 3-9-92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected Health and Social Services
 Title: Medical costs...children in custody BRU: DFYS - Purchased Services
 Sponsor: Senator Collins Component: Foster Care
 Requestor: Governor COMPONENT SERIAL NO. 0252

Expenditures/Revenues

(Thousands of Dollars)

	FY93	FY94	FY95	FY96	FY97	FY98
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING:

(Thousands of Dollars)

	FY93	FY94	FY95	FY96	FY97	FY98
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

This bill is critical to the Division of Family and Youth Services. There will be no increased costs incurred if this bill passes, but there is a serious potential for a sizeable increase in foster care costs if it does not pass.

Prepared by: Brian Saylor, Deputy Commissioner *Brian Saylor*
 Division: Family and Youth Services

Phone: 465-3030
 Date: February 25, 1992

Approved by Commissioner: *[Signature]*
 Agency: Department of Health and Social Services

Date: 3/3/92

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

Changes in CS SB 396 HES
 have no fiscal impact. This
 fiscal note is appropriate.

[Signature] *[Signature]*
 date Comte Aide(initial)

HOUSE COMMITTEE REPORT

(7)
Date Referred: April 27, 1992

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 5/8/92

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: CSSB 396(HES)

CS FOR SENATE BILL NO. 396 (HES) PARENTAL CARE FOR CHILD IN STATE CUSTODY
"An Act clarifying the responsibilities of the Department of Health and Social Services and parents for children who are committed to the custody of the department and are placed by the department with the parents; and providing for an effective date."

- RECOMMENDATIONS: the same title
 be replaced with _____ a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

- fiscal impact _____ fiscal note(s) _____ 3-9-92
 zero fiscal note _____ zero fiscal note(s) Senate HSS

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>J. C. Soyala</i>	-	<i>[Signature]</i>			✓
<i>B. H. Davis</i>	-	<i>[Signature]</i>			
<i>Betty Davis</i>	✓				
<i>[Signature]</i>	✓				

[Signature]
CHAIRMAN'S SIGNATURE

agree with Graslø that the "ordinary consumer" standard is necessarily objective. Graslø analogizes to *Prince v. Parachutes, Inc.*, 685 P.2d 83, 88 (Alaska 1984), where we stated that the ordinary user standard was an objective test for product liability cases based on a failure to warn. In *Prince*, we rejected the argument that the subjective knowledge of the actual user was relevant to the duty to warn. *Id.*

[14] The expectations of the ordinary consumer must also be an objective test. The focus in a strict product liability case is on the product, not on the conduct of the defendant. *Beck*, 593 P.2d at 883. If the defendant knew that one individual consumer could not safely use its product, that defendant may be negligent. That defendant will not be strictly liable under the first prong of *Beck*, however, unless the product fails to meet the safety expectations of the ordinary consumer. Therefore, the superior court correctly refused to instruct the jury that the class of ordinary consumers was limited to the unskilled employees of Ruby Electric.

III. CONCLUSION.

The judgment entered below is **AFFIRMED**.

BURKE, J., not participating.



of this case, each side could argue its version to the jury. Similarly, Keogh could argue to the jury that the class of ordinary consumers eligible to sue in strict liability would not include "kite flyers and passerbys." On this record, we cannot say that Keogh was prejudiced by any

In the Matter of E.A.O. A Minor Under the Age of Eighteen (18) Years.

L.O., Appellant,

v.

STATE of Alaska, Appellee.

No. S-3467.

Supreme Court of Alaska.

Aug. 30, 1991.

After child was adjudicated child in need of aid, and was placed in temporary legal custody of Department of Health and Social Services, child's guardian ad litem filed motion to clarify Department's responsibility to provide costs of child's medical care. Department objected to master's report, following disposition hearing, by which master found that child should continue to be committed to custody of Department. The Superior Court, Third Judicial District, Anchorage, Victor D. Carlson, J., released child to custody of parents subject to supervision of Department and ruled that Department was not responsible for costs of medical care of child in its legal custody who was returned to parents, and appeal was taken. The Supreme Court, Burke, J., held that Department was responsible for medical expenses incurred by child while she was in Department's legal custody, though she was placed in her parents' home.

Reversed and remanded.

Infants ↔228

Department of Health and Social Services was responsible for medical expenses incurred by child in Department's temporary legal custody, as child in need of aid, even during period that child was returned to her parents' home; it was relationship of legal custody, and not placement of child,

arguments Graslø raised to this effect. See Alaska R.Civ.P. 61. In short, the superior court did not abuse its discretion by rejecting Keogh's proffered instruction defining the class of ordinary consumers as the employees of Ruby Electric.

Supreme Court Decision

that imposed on Department duty of providing child with medical care. AS 47.10.084(a), 47.10.142(e).

Blair McCune, Asst. Public Defender, John B. Salemi, Public Defender, Anchorage, for appellant, L.O.

Philip J. McCarthy, Jr., Deputy Public Advocate, Anchorage, guardian ad litem, for E.A.O.

Dianne Olsen, Asst. Atty. Gen.; Anchorage, Douglas B. Baily, Atty. Gen., Juneau, for appellee.

Before RABINOWITZ, C.J., and BURKE, MATTHEWS, COMPTON and MOORE, JJ.

OPINION

BURKE, Justice.

In this appeal from the superior court, the mother and guardian ad litem of E.A.O. seek to clarify the responsibility of the Department of Health and Social Services for the medical costs of children in the department's legal custody who are placed in their parents' home. The superior court held that in such a case the department has no responsibility. We reverse.

I

E.A.O. was born prematurely on June 11, 1987, at Anchorage's Humana Hospital and soon transferred to Providence Hospital's Neonatal Intensive Care Unit. On August 12, 1988, the Department of Health and Social Services petitioned to have E.A.O. adjudicated a child in need of aid (CINA) under AS 47.10.010(a)(2)(A) based on the following facts:

[E.A.O.] was born prematurely (30 weeks gestation) due to alcohol abuse by her mother. [E.A.O.] has remained hospital-

ized at Providence Hospital since birth with one trip to Seattle for heart surgery. She must have 24 hour oxygen, BEM and heart monitor and be fed through a gastrometer. [E.A.O.] has stabilized enough to be discharged to a home setting. [E.A.O.'s mother] has completed in-patient treatment in Seattle and continues to receive aftercare through Charter North. She regularly attends Alcoholics Anonymous meetings. Her husband works out-of-town and they have three other children. The parents are requesting placement in a medical foster home until [E.A.O.'s father] returns in November. (A medical foster home has been recruited by this worker and is available.) Due to [the father's] absence and [the mother's] treatment needs, the parents are unable to provide the needed care for [E.A.O.] at this time.

At an emergency custody hearing on August 26, 1988, the parents stipulated to the facts alleged in the petition, and the superior court gave temporary legal custody to the department pursuant to AS 47.10.142.¹ The order authorized the department to place E.A.O. in a medical foster home.

The department apparently returned E.A.O. to her parents' home in October 1988. In an order effective December 7, 1988, the superior court adjudicated E.A.O. a child in need of aid, granting continued "temporary custody" to the department and authorizing the department "to place the minor in a home deemed suitable, which it indicates at the present time to be in the home of the minor's parents." On January 20, 1989, the child's guardian ad litem filed a motion to "clarify" the department's responsibility, as E.A.O.'s legal custodian, to provide the cost of her medical care.

Before any ruling on this motion, a disposition hearing was held on March 6, 1989. The parents and guardian ad litem argued

1. AS 47.10.142 provides:

(c) If the court finds that probable cause exists it shall order the minor committed to the department for temporary placement, or order the minor returned to the custody of the minor's parents or guardian subject to the department's supervision of the minor's care and treatment....

(f) When a minor is committed to the department for temporary placement under (c) of this section, the court order shall specify the terms, conditions, and duration of placement.

that the department should continue to have legal custody of E.A.O., emphasizing that the family had no means of paying for the extensive and continuing medical care required by E.A.O.² The department argued that the conditions justifying intervention—the mother's alcoholism and the father's work-related absence—no longer existed and that legal custody should be returned to the parents, with supervisory monitoring by the department. The department specifically rejected any assertion that it took action because of E.A.O.'s medical needs.

Subsequent to this disposition hearing, the Children's Master concluded that he could

not agree with the Department that the situation has improved to the extent that this court can approve a return of legal custody to the parents. I find that the Department must continue to play a pinnacle role in the coordination and delivery of services in this case, and that therefore, the child should be committed to the custody of the Department pursuant to AS 47.10.080(c)(1).

The master emphasized that the "fact that [E.A.O.] is a special needs child is a material factor in this case." He made no ruling on the guardian's motion concerning the department's responsibility for medical costs.

The department objected to the master's report on the ground that the family's limited abilities to meet E.A.O.'s medical needs "do not relate to any specific child protec-

2. E.A.O. was hospitalized for fluid in her lungs at the time of this hearing. She had been hospitalized numerous times during the period that the department had legal custody of her. The record reveals numerous, persistent medical problems requiring constant care.

3. The mother and guardian ad litem filed a joint appellant's brief. The guardian ad litem did not participate in the reply brief due to a change in attorneys. We have generally used the term "the mother" both to refer to the main appellant brief and to the reply brief.

4. The period of time during which the state had legal custody of E.A.O. but placed her in her parents' home was approximately nine months.

5. Because resolution of this issue involves statutory interpretation, this court will apply its inde-

tion risk caused by the parents. Under the circumstances, the department need not have legal custody of the child." The superior court agreed. It released E.A.O. to the custody of her parents subject to the supervision of the department. Concerning the guardian ad litem's motion for clarification of responsibility for medical costs, the court ruled:

The Department of Health and Social Services is not responsible for the costs of medical care of children in their legal custody who continue to reside with their parents.

... The Department of Health and Social Services is responsible for paying the costs of medical care of children in foster care, subject to the existence of other insurance and subject to reimbursement by the child's parents.

E.A.O.'s mother³ appeals solely on the question of whether the department was responsible for the costs of E.A.O.'s medical care when the state had legal custody of the child, but she actually resided with her parents.⁴

II

This narrow question requires us to interpret the provisions of Alaska's CINA statute.⁵ Concerning legal custody and various rights and responsibilities, the law provides:

(a) When a child is committed under AS 47.10.080(b)(1) or (c)(1) to the department or released under AS 47.10-

pendent judgment. *Waller v. Richardson*, 757 P.2d 1036, 1039 n. 4 (Alaska 1988).

As an initial matter, we note that E.A.O. is no longer in the legal custody of the state, nor is there any indication that she is likely to be again in the future. The case may therefore be technically moot. *Doe v. State*, 487 P.2d 47, 53 (Alaska 1971). We have long held, however, that the mootness doctrine in Alaska "is a matter of judicial policy, not constitutional law." *R.L.R. v. State*, 487 P.2d 27, 45 (Alaska 1971). We find the circumstances of this case to fall under the exception to the mootness doctrine for cases "where the matter is one of grave public concern and is recurrent but is capable of evading review." *Doe*, 487 P.2d at 53. We will thus consider the merits of the case.

080(b)(2) or (3) or (c)(2) to the child's parents, guardian, or other suitable person, a relationship of legal custody exists. This relationship imposes on the department and its authorized agents or the parents, guardian, or other suitable person the responsibility of physical care and control of the child, the determination of where and with whom the child shall live, the right and duty to protect, train and discipline the child, and the duty of providing the child with food, shelter, education, and medical care. These obligations are subject to any residual parental rights and responsibilities and rights and responsibilities of a guardian if one has been appointed. When parental rights have been terminated, or there are no living parents and no guardian has been appointed, the responsibilities of legal custody include those in (b) and (c) of this section. The department or person having legal custody of the child may delegate any of the responsibilities under this section, except authority to consent to marriage, adoption, and military enlistment may not be delegated. For purposes of this chapter a person in charge of a placement setting is an agent of the department.

(c) When there has been transfer of legal custody or appointment of a guardian and parental rights have not been terminated by court decree, the parents shall have residual rights and responsibilities. These residual rights and responsibilities of the parent include, but are not limited to, the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling under AS 09.65.100, and the responsibility for support, except if by court order any residual right and responsibility has been delegated to a guardian under (b) of this section.

6. The department initially frames the issue in terms of whether parents are relieved of their responsibility to pay for the medical care of children who live with them merely because the children are in the legal custody of the state. The answer is clearly that the parents are not

AS 47.10.084. Although section .084 on its face only applies to cases where children are committed to the department after a disposition hearing, AS 47.10.080, the parties agree that its principles apply here, where the commitment was the result of a temporary placement hearing, AS 47.10.142(a). The parties also agree that when the department has legal custody over a child placed in a foster home, the department is responsible for the cost of the child's medical care. The parties disagree, however, over the scope of the department's responsibilities when it has legal custody, but chooses to place a child in the parents' home.

The core of the department's argument is that "AS 47.10.084 read in conjunction with other applicable statutes does not require the department to pay for the costs of medical care for E.A.O. during the time she resided with her parents, simply because the department had legal custody of her for child protection purposes." Appellee's Brief at 9. It argues that the statutory scheme taken as a whole provides a rational basis for distinguishing the legal custody of children in the parental home from legal custody of children removed from the parental home.

The department points first to AS 47.10.084(c), which provides for residual parental responsibilities. The department would interpret that to mean that parental responsibility eliminates any departmental responsibility in the absence of a specific provision to the contrary. The department notes that other sections of the statute authorize it to pay maintenance costs and to apply for medicaid benefits when a child is placed in a foster home, AS 47.10.230(b), and require it to pay for the medical expenses of handicapped foster children, AS 47.10.230(d). The inclusion of these specific terms, the department argues, presumptively excludes terms which are not men-

relieved of ultimate responsibility, and the mother concedes as much; but the salient issue on the facts of this case is whether the department is also responsible, by virtue of having legal custody, for medical costs.

tioned. Thus, it is not authorized to pay costs of a child left in the parental home and it is not required to pay for the care of handicapped children left in the home.

The department buttresses this view of the law through reference to the statutory statement of "[p]urpose and policy relating to children:"

The purpose of this title as it relates to children is to secure for each child the care and guidance, preferably in the child's own home, that will serve the moral, emotional, mental, and physical welfare of the child and the best interests of the community; to preserve and strengthen the child's family ties unless efforts to preserve and strengthen the ties are likely to result in physical or emotional damage to the child; removing the child from the custody of the parents only as a last resort when the child's welfare or safety or the protection of the public cannot be adequately safeguarded without removal; and, when the child is removed from the family, to secure for the child adequate custody and care and adequate planning for permanent placement of the child.

AS 47.05.030 (emphasis added). The department asserts that the emphasized text accords with its view that the AS 47.10.084(a) discussion of the responsibilities of legal custody "primarily" applies to situations where the child is removed from the parental home.

The department refers to an analysis by the Legislative Affairs Agency of AS 47.10.084 before its enactment, which explained the rationale of the legal custody provision:

By stating the major rights and responsibilities of those with legal custody or appointed guardians it is hoped these persons can act without feeling unduly restrained, because of fear of not having

7. The first portion of the policy argument is entitled "The Alaskan child protection system is not an entitlement program of last resort." It attributes without specific citations a number of arguments to the appellants that they simply do not make. For example, the department alleges that the appellants "would have the court believe that E.A.O. was taken into custody because

the right and power to act in certain instances. By stating the residual rights and responsibilities of the parents it is intended to assert the paren[is] inherent rights and responsibilities and thus help maintain the parent and child relationship.

Children's Code Revision Task Force, Legislative Affairs Agency, Memorandum to Rep. Terry Gardiner (April 13, 1977). The department translates this passage as meaning "the intent is to inform those with the physical care of the child that they may provide day-to-day care to the child, but not to limit the parent's inherent rights and responsibilities."

The department finally makes a vigorous policy argument against holding it responsible for the medical costs of children in its legal custody who are still living at home.⁷ The result of such a holding, the department fears, could be "a chilling effect on the department's willingness to take legal custody of children," because it is not budgeted to pay for the medical care of children left at home. It points out that the medical costs of children placed in foster homes are generally covered by Medicaid, which often—as in E.A.O.'s case—is not available for children left at home. The goals of legal custody have only been to attain the power to protect the child and provide treatment services. The department fears that these goals would be sacrificed if legal custody were held to include a responsibility the department is not capable of accepting.

We find the department's arguments unpersuasive. We think it clear that the department is responsible for the medical costs of children in its custody, whether the children are placed at home or in a foster home. Alaska Statute 47.10.084(a) is very explicit in saying that the "relationship [of legal custody] imposes on the department

of [her extraordinary] medical needs." Appellee's Brief at 20. What the mother and guardian in fact say is that the "question is not so much why or under what circumstances the state obtained custody over E.A.O., but what its responsibilities were once it obtained custody." Appellant's Brief at 19.

... the duty of providing the child with ... medical care." As this court has noted, "[i]f the meaning of a statute is plain[,] it should be enforced as it reads without judicial modification or construction." *Horowitz v. Alaska Bar Ass'n*, 609 P.2d 39, 41 (Alaska 1980).⁸

Nothing in other statutory provisions necessarily contradicts the plain and unambiguous language of AS 47.10.084(a). Any apparent contradictions should be harmonized, if possible, rather than read to make one provision negate another. *In re Estate of Hutchinson*, 577 P.2d 1074, 1075 (Alaska 1978). The language concerning residual parental responsibilities, for example, should be read as clarifying that the department's responsibility for medical care does not mean that parents are relieved of responsibility. Rather, the law provides a basis for the department, having fulfilled its duty toward the child, to turn to the parents for reimbursement. AS 47.10.084(c); AS 47.10.120. The department's reading that residual parental responsibilities eliminate the department's responsibility, besides being strained, would unnecessarily contradict the plain language of section .084(a).⁹

Alaska Statute 47.10.230, which the department claims only allows it to pay maintenance costs of foster children, can also be harmonized with the explicit language of section .084(a). The only specific limitation concerning foster children appears in paragraph (d): "In addition to money paid for the maintenance of foster children under (b) of this section, the department (1) shall pay the costs of caring for physically or mentally handicapped foster children..." AS 47.10.230(d). The paragraph goes on to specify various expenses related to caring for physically and mentally handicapped

foster children—such as "respite care"—that the department will pay.

This statute means what it says, but it does not imply that the state has no responsibility to pay for the medical care of its wards who are not foster children. Such an implication would mean that the state could not pay medical care for children under its jurisdiction who are institutionalized. Instead, as E.A.O.'s mother suggests, it seems far more likely that the statute was enacted to fulfill the legal commitments the state is required to make in order to receive federal funds under Title IV-E of the Social Security Act.

Section .084(a) plainly and specifically assigns the department the duty of providing medical care to children in its legal custody. Elsewhere, in the context of a discussion of placement of children in foster care, the law specifies that the department may pay the medical costs of foster children. AS 47.10.230(d). There is no more reason to view this as a prohibition of paying medical costs of children placed at home, than there would be to view it as a prohibition of paying medical costs of children placed in institutions.

The purpose sections of the statute and of the Legislative Affairs Agency memorandum are both vague and they do not provide any convincing reason to ignore the plain language of the statute. *Alex*, 646 P.2d at 208 n. 4. Section .060 is only obliquely supportive of the department's position. The memorandum is not at all inconsistent with the position of the mother.

The department's policy argument—that holding the department responsible for medical costs of children in its custody who are placed at home would result in less protection for children because of budgetary constraints—is beyond the purview of

8. We have rejected a "mechanical" plain meaning rule, recognizing that ambiguity is a matter of degree. *State v. Alex*, 646 P.2d 203, 208 n. 4 (Alaska 1982). The appropriate approach involves a "sliding scale," such that the plainer the language, the more convincing must be evidence contrary to that plain meaning. *Id.*; *State v. Haines*, 527 P.2d 1047, 1049 n. 6 (Alaska 1981). The statutory language of section .084(a) seems quite plain.

9. The term "subject to" in section .084(a) best connotes the idea that the state's responsibility is subordinate to that of the parent, not that it is eliminated because the parents are also responsible. See *Black's Law Dictionary* 1425 (6th ed. 1990) ("Subject to" defined as "subordinate, subservient, inferior").

this court. Whether the department is adequately funded to carry out its statutory responsibilities, or whether these responsibilities should be changed in response to budgetary realities, is a question for the legislature to answer. The law as it stands today clearly assigns to the department the duty to pay the medical costs of all children in its legal custody, subject to reimbursement from the parents.

The decision of the superior court is REVERSED and this case REMANDED for entry of appropriate judgment.



John J. SHAW, Appellant,

v.

STATE of Alaska, DEPARTMENT OF ADMINISTRATION, PUBLIC DEFENDER AGENCY, and David C. Backstrom, Appellees.

No. S-3720.

Supreme Court of Alaska.

Aug. 30, 1991.

Convicted criminal defendant, following postconviction relief, brought legal malpractice action against attorney and Public Defender Agency. The Superior Court, Fourth Judicial District at Fairbanks, Richard D. Savell, J., granted summary judgment in favor of counsel, and convicted defendant appealed. The Supreme Court, Rabinowitz, C.J., held that convicted criminal defendant must obtain postconviction relief before pursuing action for legal malpractice against his or her attorney and, thus, limitations period applicable to legal malpractice claim does not commence to run until postconviction relief is obtained.

1. Attorney and Client \S 129(1)
Limitation of Actions \S 105(1)

Convicted criminal defendant must obtain postconviction relief before pursuing action for legal malpractice against his or her attorney and, thus, limitations period applicable to legal malpractice claim does not commence to run until postconviction relief is obtained.

2. Attorney and Client \S 129(2)

Dispositive postconviction relief is relevant in convicted criminal defendant's legal malpractice action against his or her attorney as to issues of proximate causation and damages.

3. Judgment \S 559

If convicted criminal defendant had been denied postconviction relief, collateral estoppel would have served to eliminate any frivolous legal malpractice claim.

4. Attorney and Client \S 105, 129(1)

Elements of legal malpractice arising from civil litigation apply to malpractice action by convicted criminal defendant, with additional requirement that defendant must first obtain postconviction relief.

5. Malicious Prosecution \S 34.

Establishing tort of malicious prosecution requires plaintiff to prove unsuccessful prosecution occurred, which element is not established until cessation of underlying action.

Joseph L. Paskvan, Hoppner & Paskvan, P.C., Fairbanks, for appellee.

Randy M. O'Connell, Esq., Gen. Atty. Gen., Fairbanks, and D. J. Moore, Esq., Atty. Gen., Juneau, for appellant.

Before RABINOWITZ, C.J., and BURKE, MATTHEWS, COMPTON and MOORE, JJ.

OPINION

RABINOWITZ, Chief Justice.

John Shaw brought suit against David Backstrom and the Public Defender Agency alleging legal malpractice. The superior

Cite as 816 P.2d 1358 (Alaska 1991)

ing that the action was barred by the statute of limitations. We reverse and hold that a convicted criminal defendant must obtain post-conviction relief as a precondition to maintaining a legal malpractice claim against his or her attorney.

Facts and Proceedings

On March 8, 1973, John Shaw and Toney Powell, both represented by assistant public defender David Backstrom, were convicted of two counts of burglary not in a dwelling and two counts of larceny in a building. Powell had stolen seventeen pairs of pants from a men's store where he and Shaw worked as janitors, and Shaw had allegedly assisted him. Shaw has steadfastly maintained his innocence.

While representing both Shaw and Powell on the burglary and theft charges, Backstrom advised the superior court that a "conflict situation" was arising. However, separate attorneys for the defendants were never provided. The conflict continued through the trial. Powell was willing to testify that Shaw had nothing to do with the theft but defense counsel did not permit him to do so. Further, Backstrom did not advise Shaw that he could take the stand in his own defense, because he wanted to protect Powell. Additionally, several witnesses at trial were not allowed to testify as to statements by Shaw because of the threat to Powell.¹ As noted above, Powell and Shaw were convicted. Sentencing was set for April 10, 1973. Backstrom indicated to Shaw that he would file an appeal, but he did not. Nor did Backstrom contact Shaw, although he had indicated that he would.

Shaw never appeared for sentencing because "he was not going to jail for something he didn't do." He left the jurisdiction and from mid-March of 1973 until September of 1978, Shaw lived in St. Louis, Missouri. The superior court issued a bench warrant for his arrest. Shaw later returned to Alaska and on December 26,

1979, he was stopped in Fairbanks for operating a motor vehicle with a defective tail light. This stop resulted in a routine check, revealing the outstanding warrant for his arrest. Shaw was subsequently charged with failure to appear.

Thereafter, the superior court scheduled a sentencing hearing for Shaw's 1973 convictions. Shaw was originally represented by the Public Defender Agency ("PDA"), but, due to conflict, the superior court released the PDA as his counsel and appointed Daniel Saluri to represent Shaw. After a hearing, the court suspended imposition of a sentence for the 1973 convictions and placed Shaw on probation for two years.

Saluri also represented Shaw in his April 1980 jury trial for failure to appear. After his conviction for failure to appear, the superior court sentenced Shaw to a term of three years with two suspended. An appeal followed. While the appeal was pending, Shaw moved to Barrow, where he was employed by the North Slope Borough until his arrest in 1981 for receiving a stolen handgun and being a felon in possession of a handgun. Again represented by Saluri, Shaw pled *nolo contendere* to the possession charge, and the larceny charge was dropped.

After Shaw's arrest on the felon in possession charge, his probation officer petitioned to revoke Shaw's probation on the 1973 burglary and larceny convictions. Originally, Saluri represented Shaw on this matter, but later the law firm of Birch, Horton, Bittner, Pestinger and Anderson was appointed to represent Shaw. In early 1984, an attorney with that firm notified Shaw that he intended to argue that Shaw was denied effective assistance of counsel in connection with the 1973 burglary and theft convictions, based on Backstrom's original representation of Shaw.

Later, in 1986, the Office of Public Advocacy was appointed to represent Shaw in a sentence appeal for the felon in possession

1. On December 23, 1985, the Public Defender Agency raised the following argument in trying to get Shaw's original conviction vacated:

Because the State of Alaska provided one at-

not want to use Powell to exculpate Shaw, because then Powell would be prejudiced. This is a classic case of conflict of interest between clients.

SB

412

HOUSE COMMITTEE REPORT

(7)

Date Referred: May 10, 1992

FURTHER REFERRAL

Referred back from Rules to HES: May 10, 1992

Date of Committee Action: 5/11/92

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: CSSB 412(HES)

CS FOR SENATE BILL NO. 412 (HES) INSURANCE REQUIRED FOR DOG OWNERS

"An Act directing the Department of Health and Social Services to adopt regulations under which a nonprofit corporation could become licensed by the department for the purpose of designating 'safe homes' for runaway minors; relating to licensure of facilities; and providing for an effective date."

RECOMMENDATIONS: [] the same title
 be replaced with _____ [] a new title

[] have attached amendments(s)

do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

[] fiscal impact _____

[] fiscal note(s) DFYS 3-25-92

[] zero fiscal note _____

[] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		<i>Josephine Lincoln</i>		✓	
<i>Patricia Lee</i>	✓	<i>Betty Davis</i>		X	
<i>Mary Miller</i>	✓				
<i>J. G. Longaker</i>	✓				
<i>Cheri Davis</i>	✓				

Josephine Lincoln
 CHAIRMAN'S SIGNATURE

No. 1

Bill Version: SB 412

(S) Publish Date: 3-25-92

FISCAL NOTE

BILL

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date Work Draft 03/16/92 Dept. Affected Health and Social Services
 Title: "An act directing DHSS to develop non-profit agency approved "safe homes" for runaway minors." BRU: Family and Youth Services
 Component: Central Office
 Sponsor: Senators Fischer and Pearce
 Requestor: Senator Fischer COMPONENT SERIAL NO. 0259

Expenditures/Revenues

(Thousands of Dollars)

OPERATING	FY93	FY94	FY95	FY96	FY97	FY98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	5.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	5.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
---------	-----	-----	-----	-----	-----	-----

REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
---------	-----	-----	-----	-----	-----	-----

FUNDING:

(Thousands of Dollars)

GENERAL FUND	5.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	5.0	0.0	0.0	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: NONE

ANALYSIS: (Attach a separate page if necessary)

This bill, if passed, would require the Department of Health and Social Services to develop regulations for agencies to approve "safe homes" for runaway minors.

Changes in CS SB412 HES have no fiscal impact. This fiscal note is appropriate.

ZAMACIA date MALALA Conte Aide (initial)

Prepared by: Brian Saylor, Deputy Commissioner
Division: Division of Family and Youth Services

Phone: 465-3030
Date: March 16, 1992

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

Date: 3/18/92

Distribution (by preparer):

Legislative Finance OMB
Legislative Sponsor Impacted Agency(ies)
Requestor

S B

4 30

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

March 9, 1992

SUBJECT: Qualifications for teachers (CSSB 430 (), dated 3/3/92, Work Order No. 7-LS1581D)

TO: Senator Dick Shultz

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked whether CSSB 430 () would be likely to withstand constitutional challenge.

In my opinion, it probably would.

The first two sections of the bill address eligibility for teacher certificates and for evaluating applicants for teaching positions. The third section addresses eligibility for the teacher scholarship loan program.

Section 1 requires that applicants for teaching certificates have training in Alaska studies and multicultural education or cross cultural communications. Teachers may not receive teaching certificates until they complete that course work.

Under state equal protection analysis, the court

uses a "'uniform-balancing' test which place[s] a greater or lesser burden on the state to justify a classification depending on the importance of the individual right involved." The minimum burden the state must meet is the rational basis test . . . This rational basis test questions whether the classification is "reasonable, not arbitrary" and rests "upon some ground of difference having a fair and substantial relation to the object of the legislation." . . . The burden on the state increases in proportion to the primacy of the interest involved. Eventually this burden reaches the function equivalent of the federal compelling state interest test in those cases where fundamental rights and suspect categories are at issue.

SENATE BILL NO. 430

AN ACT RELATING TO QUALIFICATIONS FOR TEACHERS.

CO-CHAIRMAN FOURCHOT DIRECTED THAT SB 430 BE BROUGHT ON FOR DISCUSSION.

SENATOR SHULTZ STATED:

THERE ARE TWO CHANGES, ONE IS THAT AT THE PRESENT TIME A PERSON COMING UP FROM THE LOWER 48 TO GET A JOB TEACHING IN THE STATE, ONCE THEY REACH THE CERTIFICATION REQUIREMENTS OR UPON GRADUATION, IF THEY DO NOT HAVE AN ALASKA HISTORY OR A BI-LINGUAL, BI-CULTURAL, ONE OF THE THINGS THE DEPARTMENT ASKS IS THAT DURING THE PERIOD THEY WOULD MEET THEIR REGENCY REQUIREMENTS WHEN THEY COME BACK IN FIVE YEARS FOR RENEWAL, THEY WOULD PICK UP THESE COURSES. WHAT I'M ASKING FOR IN THIS LEGISLATION IS THAT THEY BE GIVEN A PROVINCIAL CERTIFICATE, AND THEY HAVE TO COMPLETE THAT COURSE WORK WITHIN TWO YEARS. IT GIVES SOME ADVANTAGES TO PEOPLE THAT GRADUATE IN ALASKA.

THE OTHER CHANGE IS TO THE DEFINITION OF THE WORD "RURAL" ON PAGE TWO OF THE BILL. THIS WAS FOR THE PURPOSE OF THE TEACHER SCHOLARSHIP LOAN. THERE IS A LIST THAT WAS PROVIDED TO THE MEMBERS FILES SHOWING WHICH SCHOOLS ARE ELIGIBLE FOR THE LOAN (ATTACHMENT A).

CO-CHAIRMAN FOURCHOT INQUIRED WHAT THE PURPOSE OF THE TEACHER SCHOLARSHIP LOAN PROGRAM IS.

END SFC TAPE #33, SIDE 1
BEGIN SFC TAPE #33, SIDE 2

DIANE BARRANS, POST SECONDARY EDUCATION, CAME BEFORE COMMITTEE. POST SECONDARY SUPPORTS THE LEGISLATION BECAUSE THE PLANNED OBJECTIVE OF THIS PROGRAM HAS YET TO BE MET. A LIST WAS PROVIDED TO THE COMMITTEE SHOWING SCHOOLS THAT ARE ALSO ELIGIBLE UNDER THE NEW LEGISLATION (ATTACHMENT B).

DISCUSSION FOLLOWED CONCERNING JUST WHICH COMMUNITIES WERE ELIGIBLE AND FOR WHAT REASONS. THIS DISCUSSION ALSO PERTAINED TO THE "RURAL" DEFINITION, AND THE EFFECT ON THE HIRING OF TEACHERS IN CERTAIN COMMUNITIES. NOME AND BETHEL AND THEIR STATUS WAS BROUGHT UP AS EXAMPLES.

SENATOR ADAMS WISHED TO KNOW HOW MUCH MONEY IS IN THE TEACHER LOAN PROGRAM AT THIS TIME?

MS. BARRANS REPLIED JUST OVER \$1 MILLION. OVER THE SIX YEAR LIFE OF THE PROGRAM, IT IS APPROXIMATELY \$3 MILLION INVESTED.

SENATOR ADAMS ALSO WISHED TO KNOW IF THE MONEY ON THE FISCAL

*Senate Finance
5-31-92*

CORRECTION

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

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450

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240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

March 9, 1992

SUBJECT: Qualifications for teachers (CSSB 430 (), dated 3/3/92, Work Order No. 7-LS1581\D)

TO: Senator Dick Shultz

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked whether CSSB 430 () would be likely to withstand constitutional challenge.

In my opinion, it probably would.

The first two sections of the bill address eligibility for teacher certificates and for evaluating applicants for teaching positions. The third section addresses eligibility for the teacher scholarship loan program.

Section 1 requires that applicants for teaching certificates have training in Alaska studies and multicultural education or cross cultural communications. Teachers may not receive teaching certificates until they complete that course work.

Under state equal protection analysis, the court

uses a "uniform-balancing" test which place[s] a greater or lesser burden on the state to justify a classification depending on the importance of the individual right involved." The minimum burden the state must meet is the rational basis test This rational basis test questions whether the classification is "reasonable, not arbitrary" and rests "upon some ground of difference having a fair and substantial relation to the object of the legislation." . . . The burden on the state increases in proportion to the primacy of the interest involved. Eventually this burden reaches the function equivalent of the federal compelling state interest test in those cases where fundamental rights and suspect categories are at issue.

Herrick's Aero-Auto-Aqua Repair Service v. State, 754 P.2d 1111, 1114 (Alaska 1988) (citations omitted). The opportunity to work has been held to be an important right, requiring the court to closely scrutinize the law. State v. Enserch, 787 P.2d 624 (Alaska 1989). Close scrutiny requires that the state's interest underlying the enactment be an important interest and that the nexus between the enactment and the important interest it serves be close. The court's decision depends on the particular facts and justification presented in the case. It seems likely that the state could justify the requirement for the course work required by sec. 1 of the bill. The classification does not involve a suspect category (race or residence, for example) and the goal of the legislation (better informed teachers) is directly related to the requirement that sets up the two categories of teachers.

Section 2 requires that, in districts in which a significant number of the students are from diverse cultural backgrounds, school districts give preference to applicants demonstrating by training or experience that they are likely to be sensitive to the traditions and culture of the backgrounds represented in the student population. The equal protection analysis discussed above would apply to examination of this bill section, too. If school districts are able to demonstrate an important governmental interest in fostering sensitivity to the diverse cultural background of students at the time of hire, rather than in later on-the-job training, the hiring preference should be able to withstand an equal protection challenge.

Section 3 of the bill changes the definition of rural as it applies to the teacher scholarship loan program. The change made by the bill, increasing the maximum population of a community and including smaller communities that are connected by road or rail to Anchorage or Fairbanks, should be supportable against an equal protection challenge to the amendment. I have not considered the question of whether the rural preference created by the existing statute would be subject to challenge.

If I may be of further assistance, please advise.

TC:pl
92-167.plm

SENATE BILL NO. 430

AN ACT RELATING TO QUALIFICATIONS FOR TEACHERS.

CO-CHAIRMAN POURCHOT DIRECTED THAT SB 430 BE BROUGHT ON FOR DISCUSSION.

SENATOR SHULTZ STATED:

THERE ARE TWO CHANGES, ONE IS THAT AT THE PRESENT TIME A PERSON COMING UP FROM THE LOWER 48 TO GET A JOB TEACHING IN THE STATE, ONCE THEY REACH THE CERTIFICATION REQUIREMENTS OR UPON GRADUATION, IF THEY DO NOT HAVE AN ALASKA HISTORY OR A BI-LINGUAL, BI-CULTURAL, ONE OF THE THINGS THE DEPARTMENT ASKS IS THAT DURING THE PERIOD THEY WOULD MEET THEIR REGENCY REQUIREMENTS WHEN THEY COME BACK IN FIVE YEARS FOR RENEWAL, THEY WOULD PICK UP THESE COURSES. WHAT I'M ASKING FOR IN THIS LEGISLATION IS THAT THEY BE GIVEN A PROVINCIAL CERTIFICATE, AND THEY HAVE TO COMPLETE THAT COURSE WORK WITHIN TWO YEARS. IT GIVES SOME ADVANTAGES TO PEOPLE THAT GRADUATE IN ALASKA.

THE OTHER CHANGE IS TO THE DEFINITION OF THE WORD "RURAL" ON PAGE TWO OF THE BILL. THIS WAS FOR THE PURPOSE OF THE TEACHER SCHOLARSHIP LOAN. THERE IS A LIST THAT WAS PROVIDED TO THE MEMBERS FILES SHOWING WHICH SCHOOLS ARE ELIGIBLE FOR THE LOAN (ATTACHMENT A).

CO-CHAIRMAN POURCHOT INQUIRED WHAT THE PURPOSE OF THE TEACHER SCHOLARSHIP LOAN PROGRAM IS.

END SFC TAPE #33, SIDE 1
BEGIN SFC TAPE #33, SIDE 2

DIANE BARRANS, POST SECONDARY EDUCATION, CAME BEFORE COMMITTEE. POST SECONDARY SUPPORTS THE LEGISLATION BECAUSE THE PLANNED OBJECTIVE OF THIS PROGRAM HAS YET TO BE MET. A LIST WAS PROVIDED TO THE COMMITTEE SHOWING SCHOOLS THAT ARE ALSO ELIGIBLE UNDER THE NEW LEGISLATION (ATTACHMENT B).

DISCUSSION FOLLOWED CONCERNING JUST WHICH COMMUNITIES WERE ELIGIBLE AND FOR WHAT REASONS. THIS DISCUSSION ALSO PERTAINED TO THE "RURAL" DEFINITION, AND THE EFFECT ON THE HIRING OF TEACHERS IN CERTAIN COMMUNITIES. NOME AND BETHEL AND THEIR STATUS WAS BROUGHT UP AS EXAMPLES.

SENATOR ADAMS WISHED TO KNOW HOW MUCH MONEY IS IN THE TEACHER LOAN PROGRAM AT THIS TIME?

MS. BARRANS REPLIED JUST OVER \$1 MILLION. OVER THE SIX YEAR LIFE OF THE PROGRAM, IT IS APPROXIMATELY \$3 MILLION INVESTED.

SENATOR ADAMS ALSO WISHED TO KNOW IF THE MONEY ON THE FISCAL

*Senate Journal
5-31-92*

NOTE WAS FROM PROGRAM RECEIPTS.

SENATOR SHULTZ STATED IT WAS.

CHARLIE MAE MOORE, ADMINISTRATOR, DOE, CAME BEFORE COMMITTEE. SHE WENT OVER THE CHANGES TO THE BILL THAT NOW CONSTITUTE CSSB 430(HES). SHE THEN CONTINUED:

I HAVE MET WITH THE FIVE DEANS OF THE UNIVERSITY TO DISCUSS THE CYCLE ON WHICH THESE TWO COURSES ARE OFFERED. I WAS CHECKING TO SEE IF THEY COULD OFFER THIS TYPE OF SERVICE TO SOMEONE WHO LIVES IN SHAKTOOLIK OR KOBUK. CAN THESE PEOPLE FINISH THE REQUIREMENTS IN TWO YEARS? THE RESPONSE WAS POSITIVE.

SHE ALSO STATED THAT THE UNIVERSITY OF ALASKA, FAIRBANKS DOES OFFER ALASKAN HISTORY THROUGH CORRESPONDENCE STUDY. THOSE TEACHERS WHO COME FROM OUT OF STATE THAT HAVE TAKEN A MULTI-CULTURAL CLASS CAN GET CREDIT FOR IT HERE. ALASKAN HISTORY MUST BE TAKEN HERE. THE DEPARTMENT IS NOW FACING ALL THE TEACHERS WHO CERTIFIED IN 1987 AND ARE COMING UP FOR RENEWAL, AND IF THEY DO NOT HAVE THESE TWO COURSES, THEY CAN NOT BE RENEWED.

DISCUSSION WAS HELD ON LINE 12 OF THE BILL DEALING WITH "DIVERSE CULTURAL BACKGROUNDS", BETWEEN CO-CHAIRMAN POURCHOT AND SENATOR SHULTZ.

CO-CHAIRMAN POURCHOT ASKED SENATOR SHULTZ WHAT IS INTENT WAS IN SPONSORING THE LEGISLATION.

SENATOR SHULTZ REPLIED:

TO GIVE AN OPPORTUNITY, OR EDGE, WHEN CONSIDERING TEACHER APPLICATIONS, THAT WE GIVE THE OPPORTUNITY TO PEOPLE WHO GRADUATE FROM THE STATE OF ALASKA WHO HAVE IN FACT MET THESE REQUIREMENTS.

THE MEMBERS DISCUSSED CHANGING THE LINES 11-13 FROM THE BILL.

SENATOR ADAMS INQUIRED CONCERNING WHETHER THIS APPLIED ONLY TO THE NEW TEACHERS COMING INTO THE STATE.

SENATOR SHULTZ REPLIED THAT SENATOR ADAMS WAS CORRECT.

MS. MOORE STATED THAT THE BILL WOULD MOVE THE PREVIOUS 5 YEAR TIME FRAME FOR FINISHING THESE COURSES (FOR THOSE TEACHERS CERTIFIED IN 1987) AND CHANGE IT TO 2 YEARS.

VERNON MARSHAL, NEA ALASKA, CAME BEFORE COMMITTEE. HE EXPRESSED SOME CONCERNS WITH THE LEGISLATION. HE DISCUSSED THE ISSUES OF COURSE AVAILABILITY, LENGTH OF THE PROVISIONAL

CERTIFICATE, AND THE AMOUNT OF TIME ALLOWED FOR COMPLETION OF THE COURSES. THE QUESTION OF EVALUATION AND WHO IS DOING THE EVALUATING (SUPERINTENDENTS AND PRINCIPALS) SHOULD ALSO BE LOOKED AT. HE ALSO EXPRESSED CONCERN WITH ALASKA NATIVE PERSONS WHO GET THEIR DEGREES OUT OF STATE COMING BACK AND NOT GETTING JOBS BECAUSE THEY DON'T HAVE ALASKA HISTORY COURSES. THIS WOULD BE A RATHER IRONIC SITUATION.

SENATOR SHULTZ STATED THAT MANY OF MR. MARSHAL'S CONCERNS HAD BEEN SPOKEN TO IN THE PREVIOUS TESTIMONY. MS. MOORE HAS SPOKEN TO THE UNIVERSITY, AND THEY HAVE RESPONDED AFFIRMATIVELY THAT THE COURSES CAN BE OFFERED WITHIN TWO YEARS. "THERE IS GOING TO HAVE TO BE SOME INITIATIVE ON THE PART OF THE TEACHER TO BE ABLE TO PLUG THEMSELVES INTO THE REQUIREMENT."

DIRECTING ATTENTION TO PAGE 1, LINES 12 AND 13 OF CSSB 430(HES), CO-CHAIRMAN FOURCHOT MOVED TO AMEND THE LEGISLATION WITHIN A SENATE FINANCE CS. THE NEW LINE 11-13 WOULD NOW READ "IN EVALUATING AN APPLICANT FOR A POSITION, A DISTRICT OR REGIONAL EDUCATIONAL ATTENDANCE AREA." NO OBJECTION HAVING BEEN RAISED TO THE AMENDMENT, IT WAS ADOPTED INTO THE NEW CSSB 430(FIN).

SENATOR ADAMS HAD FURTHER QUESTIONS ON THE FISCAL NOTE. HE WISHED TO KNOW WHY MONEY WAS NEEDED FOR MEETING WITH THE UNIVERSITY.

MS. MOORE REJOINED THE COMMITTEE AT THE TABLE. SHE STATED THAT THE REASONS WERE 1. FOR REPROGRAMMING OF EQUIPMENT; 2. MEETINGS WITH THE UNIVERSITY OF ALASKA FOR THE DEVELOPMENT OF COURSE WORK; 3. THE PUBLISHING OF REGULATIONS DUE TO THE LEGISLATION.

CO-CHAIRMAN FOURCHOT TOGETHER WITH MS. MOORE MADE IT CLEAR TO THE COMMITTEE THAT THE \$19,000 ON THE FISCAL NOTE WOULD COME FROM PROGRAM RECEIPTS, NOT THE GENERAL FUND. THE FISCAL NOTE WAS IN ERROR DUE TO THE FACT THAT IT SHOWED THE MONEY COMING FROM GENERAL FUND. MS. MOORE STATED THAT THE DOE WOULD HAVE A CORRECTED FISCAL NOTE SHOWING THE MONEY COMING FROM PROGRAM RECEIPTS PROVIDED FOR THE LEGISLATION.

SENATOR SHULTZ MOVED FOR PASSAGE OF SB 430 FROM COMMITTEE, WITH INDIVIDUAL RECOMMENDATIONS. NO OBJECTION HAVING BEEN RAISED, CSSB 430(FIN) REPORTED OUT OF COMMITTEE WITH THE AMENDED DOE FISCAL NOTE SHOWING PROGRAM RECEIPT SOURCES FOR THE EXPENDITURES.

FISCAL NOTE

No. 2

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: SB 430

(S) Publish Date: 4-1-92

Revision Date: 3-31-92

Department Affected: Education

Title: An Act relating to qualifications for teachers.

BRU: Educational Finance and Support Services

Sponsor: Senator Shultz

Component: Teacher Certification

Requestor: (S) Finance

COMPONENT SERIAL NO.

1	2	4	0
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL	3.0	2.0	2.0	0		
CONTRACTUAL	15.0	3.0	2.0	2.0		
SUPPLIES	1.0	1.0	1.0	0		
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	19.0	6.0	5.0	2.0	0	0

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

REVENUE FUND SOURCE:						
-----------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE: PR	19.0	6.0	5.0	2.0		
TOTAL	19.0	6.0	5.0	2.0		

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

The funding source for this fiscal note is General Fund Program Receipts derived from teacher certification fees.
See attached.

Prepared by: Charlie Mae Moore
Division: Educational Finance and Support Services

Phone: 465-2865
Date: 3-31-92

Approved by Commissioner: [Signature]
Agency: Education

Jerry Covey
Date: 3-31-92

Changes in CSB 430 (FIN)
reflect NO FISCAL CHANGE from the original
fiscal note. This fiscal note is appropriate.
3-31-92 [Signature]
date Comte Aide (initial)

SB 430
Fiscal Note
3-31-92

The costs associated with the implementation of this bill are:

1. Travel: Funds will be used to meet with university and Department of Education personnel in the implementation of this statute.
2. Contractual: Funds will be used to advertise for the public notices concerning regulations, as well as for printing and distribution of same.
3. Supplies: Purchase of necessary supplies needed to implement the act. Implementation of a new certification form and reprogramming computers.

2082

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Version: CSSB 430 (HES)

(S) Publish Date: 4-1-92

Revision Date: _____
 Title: "An Act relating to qualifications for teachers."
 Sponsor: Senator Schultz
 Requestor: (H) HES

Department Affected: Education
 BRU: Postsecondary Education Commission
 Component: Program Administration

COMPONENT SERIAL NO.

0	2	1	2
---	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.00					
TRAVEL	0.00					
CONTRACTUAL	0.00					
SUPPLIES	0.00					
EQUIPMENT	0.00					
LAND & STRUCTURES	0.00					
GRANTS, CLAIMS	0.00					
MISCELLANEOUS	0.00					
TOTAL OPERATING	0.00	0.00	0.00	0.00	0.00	0.00
CAPITAL	0.00	0.00	0.00	0.00	0.00	0.00

REVENUE FUND SOURCE:	N/A					
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.00	0.00	0.00	0.00	0.00	0.00
FEDERAL FUNDS	0.00					
OTHER FUND SOURCE:	0.00					
TOTAL	0.00	0.00	0.00	0.00	0.00	0.00

POSITIONS:

FULL-TIME	0.0					
PART-TIME	0.0					
TEMPORARY	0.0					

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

See Attached

Changes in CSSB 430 (FIN) have no fiscal impact. This fiscal note is appropriate.
3/31/92 date KSO Comte Aide (initial)

Prepared By: Allan Barnes Phone: 465-2962

Division: Commission on Postsecondary Education Date: March 17, 1992

Approved by Commissioner: _____

Agency: _____ Date: _____

FISCAL NOTE ANALYSIS
CSSB430 (HES)

Staff review of original program intent shows that the Teacher Scholarship Loan Program has been operating at an unanticipatedly low level since 1985. While the expansion of the "rural" definition to include those communities, of a certain maximum size, on road or rail to Anchorage or Fairbanks, may result in a larger number of program participants than the status quo, it is unlikely that the impact would exceed the originally expected level.

For the first few years of the program, it was administered with a 90 nominee per year cap. However, because of the attrition rate experienced by the program, the cap was removed. The most students to participate in any one year was 175 in the 1991-92 academic year. With the addition of seven districts newly eligible to nominate program participants, the level of program activity would be monitored and if necessary in the future, the cap would be reinstated.

It is estimated the the current level of staffing will be adequate to meet any increased program demand.

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 14, 1992

FURTHER REFERRALS:

Finance

Date of Committee Action: 5/1/92

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: CSSB 430(FIN)

CS FOR SENATE BILL NO. 430 (FIN)

TEACHER QUALIFICATIONS

"An Act relating to qualifications for teachers; and the teacher scholarship loan program."

RECOMMENDATIONS: the same title
 be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		Cheri Davis		✓	
J. G. Gonzales	✓	Betty Davis		✓	
<i>[Signature]</i>	✓	<i>[Signature]</i>		✓	

[Signature]
 CHAIRMAN'S SIGNATURE

**THE FOLLOWING PAGES
WERE TREATED AS A UNIT
IN THE ORIGINAL FILE**

SENATE FINANCE COMMITTEE REPORT

DATE: 3/18/92

FURTHER:

DATE TURNED INTO OFFICE: 3-31-92

The Finance Committee considered SENATE BILL NO. 430

"An Act relating to qualifications for teachers."

and recommends:

replace with CS SB 430 (FINANCE)
or adopt previous CS (/)
 attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes DOE/POST SECONDARY 3-17-92

fiscal notes DOE 3-31-92 19.0

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

DO PASS:

Al Adams
Dick Slight
Armen Hoffmann
Pat Laubert

1. Pat Laubert do pass
Co-Chair: Signature/Recommendation

OTHER RECOMMENDATIONS:

2. _____
Co-Chair: Signature/Recommendation

MEMORANDUM

State of Alaska
Department of Education

TO: Jerry Covey
Commissioner


DATE: March 12, 1992

FILE NO: EPSADMIN1789

TELEPHONE NO: 465-2026

THRU: Duane Guiley 
Director, EF&SS

SUBJECT: SB430

FROM: Charlie Mae Moore, Administrator 
Teacher Education and Certification

The attached report addresses concerns raised during Senate Public Hearing on SB 430.

If I may be of further assistance, please do not hesitate to contact me.

Teacher Training Programs

Four Year Program

Certification

	Alaska Studies	Multi-Cultural Cross-Cultural	Alaska Studies	Multi-Cultural Cross-Cultural
University of Alaska Anchorage*		X		
University of Alaska Southeast	X	X	X	X
University of Alaska Fairbanks**		X		
Alaska Pacific University	X	X	X	X
Sheldon Jackson College	X	recommended		

*Except for History and Social Science, majors are required to take Alaska Studies and Multicultural as part of their program.

**Only those students of education are required to take both courses.

Bristol Bay Campus, Dillingham
Chukchi Campus, Kotzebue
Interior Campus, Fairbanks

Kuskokwim Campus, Bethel
Northwest Campus, Nome

ALASKAN STUDIES

- ANS 250 Current Alaska Native Leadership Perspectives
- ANS 310 Alaska Native Corporations
- ANS 320 Language and Culture: Applications to Alaska
- ANS 325 Native Self Government
- ANS 401 Knowledge of Native Elders
- ANS 415 Comparative Economic Development Processes: Applications for Native Alaska
- ANS 425 Federal Indian Law and Alaska Natives
- ANS 430 Alaska Native Education
- ANS 475 Alaska Native Social Change
- Anth 123 Origins of Alaska's Native Peoples
- Anth 242 Native Cultures in Alaska
- Anth 245 Native Cultures in Alaska
- Anth 293 Contemporary Inupiat Culture and Culture Changes
- Hist 115 Alaska, Land and It's People
- Hist 484 Seminar in Northern Studies
- P.S. 263 Alaska Native Politics
- R.D. 265 Perspectives on Subsistence

Ed 493 - Native Ways
MULTICULTURAL EDUCATION

- Psy 655 Healing: Implications for Clinical/Community Practice
- Psy 661 Cross-Cultural Counseling
- ANTH 104 Social/Cultural Anthropology

Psy 240 - OK Mult-Cul

MULTICULTURAL EDUCATION

- Ed 350 Communication in Cross-Cultural Classrooms
- Ed 380 Cultural Influences in Education
- Ed 424 Small High School Programs
- Ed 430 Multicultural Teaching Techniques
- Ed 450 Education and Cultural Transmission
- Ed 456 Orientation to Teaching in Rural Alaska
- Ed 490 Curriculum Development in Cultural Perspective
- Ed 532 Teaching as Reflective Inquiry
- Ed 583 Teaching as Decision-Making and Invention
- Ed 584 Practicum: Teaching in Small and Large Schools
- Ed 610 Education and Cultural Processes
- Ed 611 Learning, Thinking and Perception in Cultural Perspectives
- Ed 612 Cultural and Philosophical Foundations of Education
- Ed 615 Social Organization of Classrooms and Learning
- Ed 619 Reflective Inquiry into Multicultural
- Ed 620 Language, Literacy and Learning
- Ed 621 Cultural Aspects of Language Acquisition
- Ed 631 Small Schools Curriculum Design
- Ed 645 Small Schools Institute
- Ed 660 Educational Administration in Cultural Perspective
- Ed 682 Designing Learning Environments
- Ed 690 Seminar in Cross-Cultural Studies
- Ed 375. Exceptional Learner
- COURSES NOT ACCEPTABLE
- ANS 375 Native American Religion and Philosophy

ALASKAN STUDIES

- Anth 200 Natives in Alaska
- Anth 250 Rural Education
- Anth 325 Anthropology Cook Inlet
- Anth 371 Dena'ina Language and Mythology
- Anth 440 Structures of an Alaskan Native Language
- Hist 341 History of Alaska
- Hist 342 History of Russian America
- Hist 343 History of American Alaska
- Ed 351 Workshop on Alaska
- Ed 485 Rural Special Education
- Ed 650 Alaska Economic Issues
- PAdm Administrative Problems in Alaska
- PS 231 Alaska State Government
- PS 340 Topics in Contemporary Politics: Alaska Native Politics
- Alaska State Government (Distant Delivery)

MULTICULTURAL EDUCATION

- Anth 210 Introduction to Anthropological Linguistics
- Anth 202 Cultural Anthropology
- Anth 335 Native North Americans
- Anth 340 Urban Anthropology
- Anth 403 Anthropological Perspectives on Education
- Anth 456 Anthropology and the Law
- Soc 222 Small and Rural Communities
- Soc 309 Urban Sociology
- Soc 408 American Minority Groups
- Just 455 Rural Justice
- Just 456 Anthropology and the Law
- Just 462 Indian Law and the Settlement Act
- Ed 240 Developmental Psychology in a Cross-Cultural Perspective
- Ed 350 Cross-cultural Communications
- Ed 419 Exceptionalities: Culture and Learning
- Ed 477 ESL/Second Language Methods
- Ed 478 Methods and Materials for Bilingual Education
- Ed 479 Assessment of Bilingual/ESL Education
- Ed 480 Education of Culturally Different Youth
- Ed 621 Culture, Language and Literacy
- NS 315 or NS 423 Transcultural Nursing
- Ed 617 Partners across the Pacific

Geo 300
 Ed 651 - Economics for Educators
 Specific Topics in Economics for Educators;
 Alaska's Economic Future"

Islands Campus, Sitka
Ketchikan Campus, Ketchikan

ALASKAN STUDIES

Anth 200 Introduction to Native
Cultures of Alaska

Anth 225 The Art and Legends of
Alaska Natives

Anth 342 Anthropology of the
Natives of Alaska and the
Arctic

Hist 341 History of Alaska

Hist 497 Local History and
Education (Independent Study)

Geog 302 Geography of Alaska:
People, Places and Potential

CROSSCULTURAL COMMUNICATIONS

Spch 330 Intercultural Communications

MULTICULTURAL EDUCATION

Ed 473 Methods and Materials for Bilingual
Education

Ed 480 The Multicultural Classroom / 280-
91

Ed 693 Multicultural Education Seminar

COURSES NOT ACCEPTABLE

Hist 493 Museum Course (Per J. Pugh 3/6/89)

Ed 593-6 multicecultural Interdisciplinary
Ed 680 Multicultural Ed Seminar

ALASKAN STUDIES

SS 375/SO 675 History of the Native Peoples of Alaska

SBS 292 ST: Alaska Native Issues - ANCSA and 1991

SBS 292 ST: Alaska Native History Pre-ANCSA

SS 192 ST: Alaska Native Claims Settlement Act

SO Athabascan Culture

AN 427 History and Culture of Alaska Natives

SS 627

MULTICULTURAL EDUCATION

Edu 3/6 Multicultural Education

Edu 453 Multicultural Education

Edu 455 Introduction to Teaching English as a Second Language

Edu 456 Field Work and Study in Bilingualism and TESL

Edu 457 Workshop in Bilingual Education and Teaching English as a Second Language

~~Edu 652 History and Philosophy of Bilingual/Multicultural Education~~

Edu 675 Culture and Communication

Edu 688 Seminar: Bilingual Multicultural Education

Edu 692 ST: Cross-Cultural Learning Theories

Edu 650 Bilingual Reading Process

ALASKAN STUDIES

Hist 201 Alaska History

Hist 331 Alaska History: National
and Global Significance

Anth 230 Natives of Alaska

MULTICULTURAL EDUCATION

Anth 225 Intercultural Experience

Anth 325 Intercultural Experience (Advanced)

Anth 360 Culture and Personality

Anth 365 Cultures of the World

Ed 479 The Culturally Different Child

RE: CSSB 430 (FIN)

The Teacher Scholarship Loan Program was a direct attempt by the legislature to "home grow" elementary and secondary teachers to meet the manpower needs of rural school districts which otherwise experience difficulty attracting, and retaining, teachers.

The TSL program was to result in a pool of individuals who were inherently sensitive to and in touch with the community and cultural needs of small, and in certain instances, extremely isolated Alaskan towns and villages.

The program began in 1985-86 with a target participation of 90 new students joining the program each year. After four years of activity there would be approximately 350 total participants. In reality, due to an unanticipated high attrition rate, the greatest number of students to use the TSL program in any one year has been 175 in 1991-92.

Section 3 of CSSB430 (FIN) would amend the TSL definition of "rural" by including towns, on road or rail to Anchorage or Fairbanks, with a restricting population cap and increase the population cap on those communities not on road or rail to Anchorage or Fairbanks.

Approximately 54 additional schools will be able to employ TSL graduates and use TSL forgiveness as an incentive to teach at that school for up to five years in order to receive full forgiveness benefits. An additional seven school districts will be able to nominate students to participate in this program.

Because this program is still operating at below the original intended level, in spite of some growth in the last two years, staff does not believe that this change would adversely impact the program. If substantial growth were seen in the initial year following the definition change, it would be possible to replace the 90-nominee cap.

Unlike recently conceived loan forgiveness bills, the TSL program is not subject to General Fund appropriation because it was in existence prior to the student loan programs being funded through the sale of tax exempt bonds. Forgiveness granted to these students was a factor in the baseline calculation when the original loan fund was indentured.

As of the 1990-91 academic year, 86% of TSL graduates have been certified to teach in the state of Alaska and 30% of those graduates are teaching in their nominating districts.

home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away;

(2) "undergraduate" means a student who has not completed a baccalaureate, graduate or professional degree. (§ 1 ch 51 SLA 1978)

Revisor's notes. — Formerly AS 14.40.960. Renumbered in 1982.

Article 7. Teacher Scholarship Loan Program

<p>Section 600. Findings and intent 610. Program established 620. Teacher scholarship revolving loan fund</p>	<p>Section 630. Administration 640. Conditions of loans 650. Selection criteria 700. Definition</p>
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Sec. 14.43.600. Findings and intent. (a) The legislature finds that there is a wide and unacceptable disparity between the distribution of Native teachers and Native students in rural elementary and secondary schools in the state. Many rural schools have virtually no Native teachers and no non-Native students. The undesirable effects of this disparity include the following:

- (1) there is a serious weakness in the ability of teaching staffs in rural schools to foster a sense of Native traditions and cultures in the Native students;
- (2) many rural students are forced to exist in two entirely separate situations: the essentially traditional atmosphere of many Native homes, and the essentially modern atmosphere of the classroom;
- (3) almost no Native students return to rural schools to teach, continuing the imbalance and exacerbating its effects; and
- (4) there is an annual turnover of 40 percent among teachers in rural educational attendance areas in the state.

(b) The legislature further finds that existing programs have failed to increase the proportion of Natives teaching in rural schools. Therefore, it is the intent of the legislature to establish the teacher scholarship loan program to encourage rural high school graduates to return to rural schools as teachers and relieve the conditions described in this section. (§ 1 ch 121 SLA 1984)

Sec. 14.43.610. Program established. There is established the teacher scholarship loan program to provide an incentive for rural high school graduates to pursue teaching careers in rural elementary and secondary schools in the state. (§ 1 ch 121 SLA 1984)

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Sec. 14.43.620. Teacher scholarship revolving loan fund.

(a) There is created a teacher scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.600 — 14.43.700. Unless the instrument evidencing the teacher scholarship loan has been sold or assigned to the Alaska Student Loan Corporation, repayments of principal and interest on a teacher scholarship loan shall be paid into the teacher scholarship revolving loan fund and shall be used to make new teacher scholarship loans. If estimated funds available are inadequate to fully fund estimated teacher scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) The student financial aid committee created under AS 14.43.095 may sell or assign notes and other instruments evidencing teacher scholarship loans to the Alaska Student Loan Corporation and enter into agreements with the corporation relating to loans, the administration of the student loan fund created under AS 14.42.210 and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of the notes or other instruments shall be deposited in the teacher scholarship revolving loan fund. (§ 1 ch 121 SLA 1984; am §§ 13, 14 ch 92 SLA 1987)

Effect of amendments. — The 1987 amendment substituted "Unless the instrument evidencing the teacher scholarship loan has been sold or assigned to the Alaska Student Loan Corporation" for "All" and "a teacher scholarship loan" for "teacher scholarship loans" in the third sentence and in the last sentence deleted "from teacher scholarship loan repayments" following "funds available"; and added subsection (b).

Sec. 14.43.630. Administration. (a) The teacher scholarship loan program shall be administered by the student financial aid committee (AS 14.43.095) in accordance with regulations adopted by the committee. The committee shall

(1) allocate the loan awards available for teacher scholarship loans annually to local school boards giving a preference to rural school districts; and

(2) develop and distribute to the local school boards an application form for teacher scholarship loans; the form shall include a requirement that the applicant supply a high school academic transcript and a statement of intent to enter a teaching career at the elementary or secondary school level in the state.

(b) The local school boards shall select the recipients of the teacher scholarship loans according to the criteria in AS 14.43.650. (§ 1 ch 121 SLA 1984)

Sec. 14.43.640. Conditions of loans. (a) The conditions provided in AS 14.43.120 apply to teacher scholarship loans except as otherwise provided in this section.

(b) If a borrower meets the conditions provided in (a) of this section and is employed as a teacher in a rural elementary or secondary school, the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan: —

- (1) one year employment, 15 percent;
 - ~~(2) two years employment, an additional 15 percent;~~
 - (3) three years employment, an additional 15 percent;
 - (4) four years employment, an additional 25 percent;
 - (5) over four years employment, an additional 30 percent.
- (c) A loan may not exceed \$7,500 in a school year.

(d) Proceeds from a teacher scholarship loan may be used only for undergraduate expenses of books, tuition, required fees, room and board, and the transportation expense for two round trips between the loan recipient's home and school.

(b) If a borrower meets the conditions provided in (a) of this section and is employed as a teacher in a rural elementary or secondary school, the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan:

- (1) one year employment, 15 percent;
- (2) two years employment, an additional 15 percent;
- (3) three years employment, an additional 15 percent;
- (4) four years employment, an additional 25 percent;
- (5) over four years employment, an additional 30 percent. (§ 1 ch 121 SLA 1984; am § 15 ch 92 SLA 1987)

Effect of amendments. — The 1987 14.43.120(j)" in the introductory language amendment deleted "notwithstanding AS of subsection (b).

Sec. 14.43.650. Selection criteria. (a) To be eligible for a teacher scholarship loan, a student must

- (1) be a graduate of a public or private high school in the state, with sufficient credits to be admitted to an accredited college or university;
- (2) be enrolled in or show evidence of intent to enroll in a degree program directed at a teaching career at the elementary or secondary school level;
- (3) meet the conditions set by the student's local school board with respect to the district's requirements for teachers in particular subject areas;
- (4) submit to the local school board an application provided by the student financial aid committee under AS 14.43.630(a)(2); an applica-

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§ 14.43.700

EDUCATION

§ 14.43.720

tion may be submitted six months before graduation from high school;
and

(5) not have a past due child support obligation established by court
order or by the child support enforcement division under AS 47.23.160
— 47.23.220 at the time of application.

(b) A local school board shall award teacher scholarship loans giv-
ing a preference to applicants from rural schools who meet the qualifi-
cations for a loan and taking into account the applicants' academic
records.

(c) A student may not be awarded a teacher scholarship loan under
AS 14.43.600 — 14.43.700 if a family education loan is made on behalf
of the student under AS 14.43.710 — 14.43.790 or if the student re-
ceives a scholarship loan under AS 14.43.090 — 14.43.160 for the
same school year. (§ 1 ch 121 SLA 1984; am § 3 ch 116 SLA 1986; am
§ 16 ch 92 SLA 1987)

Effect of amendments. — The 1986
amendment added paragraph (a)(5) and
made related technical changes.

The 1987 amendment rewrote subsec-
tion (c).

Legislative history reports. — For
legislative letter of intent, see 1984 Sen-
ate Journal at p. 3117.

Sec. 14.43.700. Definition. In AS 14.43.600 — 14.43.700, "rural"
means

(1) a community in the second, third, or fourth judicial district of
the state with a population of 4,500 or less that is not connected by
road or rail to Anchorage or Fairbanks; or

(2) a community in the first judicial district of the state with a
population of 4,500 or less. (§ 1 ch 121 SLA 1984)

Article 8. Alaska Family Education Loan Program.

Section
710. Program established
720. Family education loan account
730. Administration

Section
740. Loan terms and conditions
750. Eligibility
790. Definitions

Sec. 14.43.710. Program established. The Alaska family educa-
tion loan program is established to provide low interest loans to fami-
lies to assist in paying the costs of postsecondary education for family
members. (§ 17 ch 92 SLA 1987)

Sec. 14.43.720. Family education loan account. (a) The family
education loan account is created within the scholarship revolving
loan fund (AS 14.43.090). The account shall be used to make family
education loans to families selected under AS 14.43.710 — 14.43.790,
to pay the costs of collecting family education loans that are in default
if those costs are not recovered from the family, and to pay the costs of

administering the account. Unless the instrument evidencing the family education loan has been sold or assigned to the Alaska Student Loan Corporation, repayments of principal and interest on family education loans shall be paid into the family education loan account. If estimated funds available from family education loan repayments are inadequate to fully fund estimated family education loans in a fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) The student financial aid committee created under AS 14.43.095 may sell or assign notes and other instruments evidencing family education loans to the Alaska Student Loan Corporation and enter into agreements with the corporation relating to loans, the administration of the student loan fund created under AS 14.42.210, and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of notes and other instruments shall be deposited in the family education loan account. (§ 17 ch 92 SLA 1987)

Sec. 14.43.730. Administration. The family education loan program shall be administered by the student financial aid committee (AS 14.43.095) under regulations adopted by the committee. (§ 17 ch 92 SLA 1987)

Sec. 14.43.740. Loan terms and conditions. (a) The provisions of AS 14.43.100, 14.43.110, 14.43.115, 14.43.120(a) — (d), (i), (m), and (r), and 14.43.135 apply to a loan made under AS 14.43.710 — 14.43.790.

(b) The provisions of AS 14.43.120(p) apply to a loan made under AS 14.43.710 — 14.43.790 with respect to the family member on whose behalf a loan is made.

(c) Interest on a loan made under AS 14.43.710 — 14.43.790 is at a rate of five percent a year unless the loan is in default. Interest on a loan that is in default is 10 percent a year.

(d) Repayment of the principal and interest on a loan made under AS 14.43.710 — 14.43.790 begins on the first of the month immediately following loan disbursement. The loan may be cancelled without prejudice at any time before actual disbursement. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement.

(e) Provision shall be made for payment by the borrower of fees and costs incurred in collection of delinquent or defaulted loans. (§ 17 ch 92 SLA 1987)

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§ 14.43.750

EDUCATION

§ 14.43.910

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Sec. 14.43.750. Eligibility. (a) A person may apply for and obtain a family education loan on behalf of a family member if

(1) the borrower is a resident of the state at the time of application for the loan; for purposes of this paragraph, a borrower qualifies as a resident of the state if the borrower has been physically present in the state for at least two years immediately before the time of application for the loan;

(2) the family member has been claimed as a dependent for federal tax purposes by the borrower for the tax year immediately before the time of application and

(A) is enrolled as a full-time student in a career education, associate, baccalaureate, or graduate degree program; or

(B) is a graduate of a high school or the equivalent, or scheduled for graduation from a high school within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university; and

(3) neither the borrower nor the family member is delinquent or in default on a previously awarded student loan from the state.

(b) A family education loan may not be made on behalf of a family member if the family member receives a scholarship loan under AS 14.43.090 — 14.43.160 or a teacher scholarship loan under AS 14.43.600 — 14.43.700 for the same school year. (§ 17 ch 92 SLA 1987)

Sec. 14.43.790. Definitions. (a) In AS 14.43.710 — 14.43.790

(1) "default" means a loan that is 120 days or more past due in repayment;

(2) "delinquent" means a loan that is 60 days or more past due in repayment.

(b) The definitions set out in AS 14.43.160 apply to AS 14.43.710 — 14.43.790. (§ 17 ch 92 SLA 1987)

Article 9. General Provisions.

Section

910. Confidentiality of financial need information

Sec. 14.43.910. Confidentiality of financial need information.

All information submitted in support of a determination of financial need as provided in this chapter is confidential. However, an applicant may inspect or copy information from the applicants' application, or records relating to the applicant's own application, or authorize release of the application or records to designated individuals or organizations. (§ 1 ch 51 SLA 1978)

Schools Currently TSL Eligible

*Adak Region Schools

--NO SCHOOLS MEET "RURAL" CRITERIA--

*Alaska Gateway Schools

Eagle Community School
Tetlin School

*Aleutian Region School District

Atka School
Nikolski School

*Aleutians East Borough School Dist

Akutan School
Cold Bay School
False Pass School
King Cove Schools
Nelson Lagoon School
Sand Point School

*Anchorage School District

--NO SCHOOLS MEET "RURAL" CRITERIA--

*Annette Island Schools

Metlakatla Elementary School
Metlakatla High School

*Bering Strait Schools

Aniguiin School
Anthony A. Andrews School
Brevig Mission School
Diomede School
Gambell Schools
--Hogarth Kingeekuk Sr. Memorial H.S.
James C. Isabell School
Koyuk-Malemute School
Martin L. Olson School
Shaktoolik School
Shishmaref School
Tukurngailnguq School
Unalakleet Schools
Wales-Kingikme School
White Mountain School

*Bristol Bay Borough Schools

Bristol Bay Cons. High School
Naknek Elementary School
South Naknek Elementary School

*Chatham Schools

Angoon School
Chatham Correspondence
-- Corner Bay School
Cube Cove School
Elfin Cove School
Freshwater Bay School
Gustavus School
Hobart Bay
Klukwan School
Tenakee Springs School

*Chugach Schools

~~Chenega Bay School~~
Chugach Extension Correspondence
-- Icy Bay School
Tatitlek Community School
Two Moon Bay Community School
Whittier Community School

*Copper River Schools

--NO SCHOOLS MEET "RURAL" CRITERIA--

*Cordova City Schools

Cordova Jr/Sr High School
--- Mount Eccles Elementary School

*Craig City Schools

-- Craig Elementary School
Craig High School

*Delta/Greely Schools

--NO SCHOOLS MEET "RURAL" CRITERIA---

*Dillingham City Schools

Dillingham Elementary School
Dillingham High School

*Fairbanks North Star Borough School

--NO SCHOOLS MEET "RURAL" CRITERIA--

*Galena City School District

Galena Elementary School
Galena High School

*Haines Borough School District

--NO SCHOOLS MEET "RURAL" CRITERIA--

*Hoonah City Schools

Hoonah Elementary School
Hoonah High School

*Hydaburg City Schools

Hydaburg Elementary School
Hydaburg Jr/Sr High School

*Lake & Peninsula Schools

Chignik Bay School
Chignik Lagoon School
Chignik Lake School
Egegik School
Igiugig School
Ivanof Bay School
Kokhanok School
— Lake and Peninsula Correspondence
— Levelock School
Newhalen School
..... Nondalton School
..... Pedro Bay School (Dena'ina)
..... Perryville School
..... Pilot Point School
..... Port Alsworth School
..... Port Heiden School (Meshik)

*Lower Kuskokwim Schools

Akiuk Memorial
Akula Elitnaurvik School
Anna Tobeluk Memorial School
Arviq School
Ayaprun School
Chaptnguak School
— Dick R Kiunva Memorial School
Eek School
JoAnn A. Alexie Memorial School
Kipnuk School
— Kuinerrarmiut Elitnaurviat
Kwethluk Community School
Kwigillingok School
— Lewis Angapak Memorial School
Napakiak School
Nelson Island Area Schools
Nightmute School
Nunivaarmiut School
— Paul T. Albert Memorial School
Qugcuun Memorial High
Rocky Mountain School
Z. John Williams Memorial School

*Lower Yukon School District

Alakanak School
Emmonak School
Hooper Bay School
Kotlik School
Marshall School
Mountain Village School
Pilot Station School
Pitkas Point School
Russian Mission School
Scammon Bay School
Sheldon Point School

*Iditarod Area Schools

Blackwell School
David-Louis Memorial School
Holy Cross School
Innoko River School
— Lime Village School
McGrath School
Takotna School
Telida School
Top of the Kuskokwim School

*Juneau Borough Schools

--NO SCHOOLS MEET "RURAL" CRITERIA--

*Kake City Schools

Kake Elementary School
Kake High School

*Kashunamiut School District

Chevak School
--- Kashunamiut Correspondence

*Kenai Peninsula Borough Schools

Bartlett School
English Bay School
Port Graham School

*Ketchikan Gateway Borough Schools

--NO SCHOOLS MEET "RURAL" CRITERIA--

*Klawock City Schools

Klawock Elementary School
Klawock Jr/Sr High School

*Kodiak Island Borough Schools

Akhiok School
Chiniak School
Karluk School
Larsen Bay School
Old Harbor School
Ouzinkie School
Port Lions School

*Kuspuk School

Aniak High School
— Auntie Mary Nicoli Elementary
Chuathbaluk School
George Morgan Sr. High School
George Willis School
Gusty Michael School
— Joe Parent Regional VE Center
Johnnie John Sr. School
— Joseph and Olinga Gregory School
Kuspuk Correspondence
— Lower Kalskag School
Sleetmute School

*Pribilof School District

Pribilof Island Correspondence
--- St. George Island School
St. Paul Island School

*Railbelt School District

--NO SCHOOLS MEET "RURAL" CRITERIA--

*Saint Marys School District

Andreafski High School
Elicarvicuar Elementary School

*Sitka School District

--NO SCHOOLS MEET "RURAL" CRITERIA--

*Skagway City School

--NO SCHOOLS MEET "RURAL" CRITERIA--

*Southeast Island Schools

Bruce Hill School
-- Craik Logging School
Edna Bay School
--- Hobart Bay School
--- Hollis School
Howard Valentine School
J.R. Gildersleeve School
--- John Green School
Kasaan School
LaBouchere Bay School
Meyers Chuck School
-- Naukati School
--- Polk Inlet School
Port Alexander School
--- Port Protection School
Rowan Bay School
S.E. Island Correspondence
--- Smith Cove School
Thorne Bay School
Whale Pass School

*Southwest Region Schools

Aleknagik North Shore School
Aleknagik South Shore School
Clarks Point School
Koliganek School
--- Manokotak School
New Stuyahok School
Togiak School
--- Twin Hills School
William "Sonny" Nelson School

*Tanana City Schools

Tanana City School

*Mat-Su Borough Schools

Skwentna School

*Nenana City Schools

NO SCHOOLS MEET "RURAL" CRITERIA---

*Nome City Schools

Nome Correspondence

Nome Elementary School

Nome-Beltz Jr/Sr High School

*North Slope Borough School District.

Alak School

Barrow High School

Cully School

Harold Kaveolook School

— Ipalook Elementary School

Meade River School

— North Slope Correspondence Study

Nuiqsut Trapper School

Nunamiut School

Tikigaq School

*Northwest Arctic Borough Schools

Alternative Learning Ctr. SAVE

Ambler School

— Aqaluk High School

— Buckland Elementary School

Buckland High School

Deering School

Kiana Elementary School

Kiana High School

Kobuk School

-- Kotzebue Elementary School

Kotzebue High School

— Kotzebue Middle School

McQueen Elementary School

McQueen High School

— NW Arctic Dist Wide Correspondence

- Napaaqtugmiut Elementary School

Napaaqtugmiut High School

Noorvik Elementary School

Selawik Elementary School

Selawik High School

Shungnak School

*Pelican City Schools

Pelican School

*Petersburg City Schools

Petersburg Elementary School

Petersburg High School

- Petersburg Middle School

*Unalaska City School District

- Unalaska Elementary School
- Unalaska High School

*Valdez City Schools

--NO SCHOOLS MEET "RURAL" CRITERIA

*Wrangell City Schools

- Evergreen Elementary School
- Stikine Middle School
- Wrangell High School

~~*Yakutat City School District~~

- Yakutat Elementary School
- Yakutat Junior/Senior High School

*Yukon Flats Schools

- Arctic Village School
- Beaver "Cruikshank" School
- Birch Creek School
- Chalkyitsik School
- Fort Yukon School
- Rampart School
- Stevens Village School
- Venetie School
- Yukon Flats Correspondence
- Yukon Flats Vocation Center

*Yukon/Koyukuk Schools

- Allakaket School
- Andrew K. Demoski School
- Bettles School
- Hughes School
- Jimmy Huntington School
- Kaltag School
- Koyukuk School
- Merrelaine A Kangas School
- Northwind School (Correspondence)

*Yupiiit School District

- Akiachak Elementary School
- Akiachak High School
- Akiak Elementary School
- Akiak High School
- Tuluksak Elementary
- Tuluksak High School

**THE PRECEDING PAGES
WERE TREATED AS A UNIT
IN THE ORIGINAL FILE**

CORRECTION

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SB 435 "An Act establishing an elementary school class size reduction pilot program; and providing for an effective date."

Fiscal note (blue) DOE with Fiscal Impact Analysis

1. Senate HESS Minutes
2. Senate Finance Minutes
3. Sponsor Statement
4. Department of Education Position Paper
5. Sponsor's Back-up Materials

