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parents who believe in and are committed to establishing a youth court. This group contacted the Anchorage Bar Association, Young Lawyers Section for help with funding and for access to its resources in the community. They Young Lawyers have been involved ever since.

A group should use the following analysis to determine whether a youth court is appropriate for its community:

a. Make a rough needs assessment. Determine how many offenders enter the juvenile justice system each year and how each is handled. Determine whether diversion programs are currently in operation. If so, determine what kind of diversion programs exist. If not, determine whether the court system needs a youth court diversion as an alternative.

b. Identify one or more persons who are interested in helping start a youth court. There may be people involved in the local bar association, local law related education projects, the school system, or the juvenile justice system. Encourage such people to enlist support for the program and to attend initial meetings. Often judges, attorneys, local bar association members, probation personnel, police officers, teachers, students, and parents are interested in supporting a youth court.

c. Identify the target group of defendants based on the needs of the juvenile system, i.e. age, type of offense and usual disposition of case.

d. Learn the procedures that are followed with a juvenile from arrest until final disposition of the case. Is there a diversion mechanism already in place? What happens to first offenders? This information is necessary in order to formulate workable procedures for selecting appropriate cases for the youth court.

e. Meet with the chief judge of the trial court, the proposed referring authorities, the director of social services and community work service, and prosecuting and public defense attorneys. Such meetings should be designed to foster support for the program and to compile suggestions for implementation.

3. Considerations in Project Planning

a. Personnel Available

Four types of personnel are required for a youth court: (1) volunteer students willing to become bar association members and attorneys; (2) volunteer attorneys willing to be instructors and advisors; (3) community members willing to support the youth court including judges, police officers, school officials, and juvenile officers; and (4) advisory staff.

The ABA affiliate group should provide access to potential volunteer attorneys. The AYC contacted schools and other community leaders directly to solicit student involvement, community support, and staff help.

The advisory staff of the AYC consists of a Coordinator and Legal Advisor. Both jobs are time consuming. The Coordinator's position is a paid one and is currently part time, but could become full time.

The Coordinator is responsible for review and approval of referrals to the AYC. S/he also establishes, oversees, and directs the procedures and duties required to ensure the smooth and proper operation of the youth court. Further, the Coordinator must maintain accurate youth court records of costs and expenses and act as a liaison between the AYC Bar Association, Administrative Board, and Alaska Court system at large.

The Legal Advisor should be an attorney volunteer. His duties and responsibilities are to review, approve, together with, advise and direct AYC staff and members as requested, required or needed.

AYC has considered employing a law student intern to assist both the Coordinator and legal advisor. Because no law schools are located in Alaska, such a program is difficult in Alaska. Nonetheless, a law student intern could assist the Coordinator and legal advisor in his or her activities.

B. Revenue Availability

The first source for information about funding should be the local bar association. There are several funds set up for the specific purpose of starting and operating law related education programs.

The second source of information is the local library. Most libraries have a resource section which provides information about private foundations that donate money to legal programs. Some cities also have foundation centers. These centers are clearing houses for information about corporate and private foundations.

Another form of funding is self-generating. Fund raisers, seminars, and requests for donations can generate funds. An especially good private source of funds is private law firms. It is possible to run a youth court entirely on donations. The only items needed for a youth court are time, office space and operating expenses. These can all be donated. Private law firms in Anchorage have donated hundreds of hours of time to AYC. They have also donated office space and copying. Further, The Alaska State Court System has donated the use of their courtrooms for AYC hearings and trials. Similarly, the local library has donated the use of its theater for meetings.

Even though personnel and funding are the usual stumbling blocks associated with establishing and operating a youth court, the essential element is dedicated individuals who are committed to a youth court. Although a great deal of funding is not necessary for starting a program, individuals who are dedicated to starting a youth court are essential.

C. Evaluation Design

It is important to evaluate the youth court periodically. Regular evaluations allow for the youth court to be revised as needed. A timetable should be set up for evaluation. Items to be evaluated include: the status of pending cases, available personnel and available resources.

Statistics should also be kept throughout the tenure of the court. Some statistics that should be kept are: number of inquiries about the youth court, number of students who register to take the youth court training course, number of students who pass the youth court bar examination, number of cases referred to the youth court, the number of cases returned to the referring authority, the number of cases in which defendants have been found not guilty or guilty, and the sentences served by defendants found guilty.

Finally, the year's goals should be reviewed and compared with the status of the program. If any disparity exists, the youth court goals and methods should be re-examined for possible change.

III. IMPLEMENTATION

A. Timetable

To establish a youth court, a timetable of at least six months is advisable before trials commence. Six months allows sufficient time to organize volunteers and arrange for courtrooms, community support, community work service, and cooperation of schools, court system, attorneys, and police officers. The following provides a loose outline of the chronology of events:

1. Formalize the proposed youth court by preparing a youth court constitution. This constitution should outline the responsibilities of each organization and the procedure and roles of student members. The constitution should be reviewed and adopted by students.

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3. Establish a curriculum and bar exam for new members of the youth court bar association.

4. Begin to enroll students in the bar review course.

5. When at least ten to twenty students have enrolled, set the date classes are to begin.

6. Start the eight to ten week bar review course.
7. Set the bar examination and swear in all students passing the bar as members of the youth court bar association.
8. Begin the youth court bar association monthly business meetings and continuing legal education program.
9. Ask the referring authority to refer its first case to youth court.

B. Fund Raising

Look for all avenues of funding. Funding can come from grants, donations, and fundraisers. Even though grants are the best kind of funding available, it must be noted that grant applications take a great deal of time to prepare. Secondly, foundations that award grants may make disbursements only once or twice a year.

AYC approached the Young Lawyers division of the American Bar Association for an initial grant. AYC was awarded \$1,700.00 to begin its project.

Subsequently, AYC approached the Anchorage Bar Association. It funded the first year of AYC by providing a grant of \$11,000.00. Private individuals, law firms and corporations have donated office space, equipment and time. In-kind donations have been essential to AYC's first year.

Recruitment and Training

AYC's organization consists of cooperation between local high schools, juvenile intake, the court system, and volunteer attorneys and paralegals. The AYC has three arms. The first arm is the AYC non-profit corporation. It is directed by an Administrative Board. The second arm is the AYC Bar Association which is directed by student bar members. The third arm is the AYC court system which is directed by the AYC Coordinator. Volunteers are needed to staff all three arms.

The AYC Constitution establishes that the Administrative Board consists of residents of the Municipality of Anchorage. An equal number of members represents the youth community and the adult community. Each member serves for a term of one year. Student representatives are selected from each school which has a student participating in AYC. Adult nominees are selected from and represent the following: the judiciary, juvenile probation, law enforcement, education, the Anchorage Bar Association, the adult community at large and parents of youths over whom the AYC has jurisdiction.

The duties of the Administrative Board include, but are not limited to, fiscal matters, appointing staff members, maintaining liaison between the AYC and law enforcement agencies of the State of Alaska, the Municipality of Anchorage, as well as general supervision of AYC. Members of the Administrative Board receive no training, but usually come to the Board with an expertise or interest which is important to the functioning of AYC.

The AYC Bar Association consists of members of the AYC who are enrolled in grades seven through twelve and in a public or private school in the Municipality of Anchorage. The students must successfully complete an eight to ten week training course and pass an AYC bar examination. In order to hold any elected or appointed position, a member must have active standing. In order to qualify as an active member must have attended a majority of AYC Bar Association meetings held within the last three months and attend continuing legal education classes.

The AYC Bar Association has a president, vice president, secretary, judges, and clerk, all of whom are elected. Further, bailiffs, attorneys and jurors are appointed on a case by case basis.

A significant amount of time must be spent by volunteer attorneys to educate students about substantive and criminal procedures, evidence, constitutional law and trial advocacy. Much of the training is done during the eight to ten week training course.

D. Publicity

The AYC uses two types of publicity; one is intended to gain the participation of AYC students and the other is intended to gain community support for AYC. AYC has waged a successful public relations campaign on both fronts. Stories have appeared in the "Anchorage Daily News", the "Anchorage Times", Alaska Bar Association publications, and the "ABA/YLD Affiliate". The AYC Coordinator has appeared before numerous public and private organizations, corporations and schools. The Anchorage community is extremely supportive and interested in the program. Speaking opportunities are easily available. A youth court should ensure that its coordinator is willing to submit press releases and speak publicly as opportunities arise.

The student members should also participate in the campaign. Each fall AYC students ensure that other students in the Anchorage community are aware of the AYC program by writing newspaper articles notifying students of the AYC bar review registration. Students deliver similar notices to local radio stations, T.V. stations and schools.

E. Day to Day Operations

The AYC organization operates as follows: After a preliminary investigation, a referring authority, usually juvenile intake, refers the case to AYC. The referring authority meets with the defendant and his or her custodial parent or guardian to explain the purposes of AYC, and its procedures including sentencing. After the opportunity to confer with counsel, the defendant is given the choice of proceeding to AYC or being handled through regular juvenile intake channels which may include a formal court hearing and a criminal record. If the defendant and his or her parent or guardian agrees to proceed with AYC, they will sign a voluntary agreement with the understanding that their case will be held open for 90 days to complete the youth court process. This voluntary agreement states that failure to comply with AYC and other established conditions, once agreed to, may result in having the case handled in a formal court proceeding.

The AYC Coordinator receives a copy of the defendant's signed voluntary agreement to participate in AYC, available arrest reports and other related documents. If the case is not accepted by AYC, the case is returned to the referring authority together with all documents relating to the case. If the case is accepted, proceedings in AYC are conducted in substantial conformity with the rules and statutes governing normal adult criminal proceedings. The rules and statutes are applied and modified as necessary to promote the prompt and just resolution of cases and legal education. At all times, AYC proceedings are conducted to ensure confidentiality.

The chief judge or his appointee presides over all courtroom proceedings of the AYC with the assistance of two associate judges. If the defendant pleads guilty or is found guilty at trial, the judges determine an appropriate sentence at a sentencing hearing to be held within five days of the verdict or plea. Sentencing is in accordance with the informal sentencing guidelines established by the referring authority.

If the defendant chooses to exercise his right to appeal, he must submit a written statement including reasons for appeal to the chief judge within three days following the sentencing hearing. If the defendant does not submit a written appeal within this time frame, his right to appeal is waived. Upon receipt of the appeal, the chief judge appoints a three member appeals panel. If the appeals panel finds for the defendant on any point of appeal, the case is remanded accordingly. The Coordinator oversees the defendant's compliance with AYC sentencing orders and provides status reports to the referring authority as required.

Once a year, the AYC recruits new members. In order to become a member of AYC, young people complete a legal training course whereby they learn basic legal principals and practices. The course covers such topics as constitutional law, criminal law, criminal procedure, evidence, trial advocacy, and ethics. After having completed the course, students take a bar examination. Once students pass the bar examination, they become AYC Bar Association members. They are then qualified to serve on the court as bailiffs, clerks, attorneys, and judges. They will also be able to participate in AYC Bar Association meetings through which they continue their legal education. At the meetings members participate in activities designed to give broader perspective of the justice system, such as workshops, mock trials, speakers, and movies about the judicial system. The initial and ongoing training require regular attention by the Coordinator.

IV. EVALUATION

As a result of AYC, Anchorage youth have gained an awareness and respect for their legal responsibilities to society. They are afforded the opportunity to play a positive role in administration of justice. The volume of cases

burdening the judicial system has been lightened and Anchorage lawyers have been able to provide a service to the public by educating students about substantive and procedural criminal law. Meanwhile, the community has received valuable service and redress for the wrongs committed.

AYC students, however, provide probably the best evaluation of AYC. A question on their first bar examination was, "What is Anchorage Youth Court?" Their responses were as follows:

A Tenth Grader's response:

The Anchorage Youth Court provides the benefits of citizenship to the youth of Anchorage by providing an alternative system of judgement and sentencing. It will allow those who commit misdemeanors, early in life, a chance to pay for their damage without incurring a criminal record. It shall also attempt to be fair in the proceedings by providing these defendants with a jury, judge, and lawyers composed of their peers. By modeling itself after the real court system, Anchorage Youth Court will attempt to foster a spirit of respect for the law.

A Twelfth Grader's response:

The Anchorage Youth Court is an opportunity for youth to constructively exercise their responsibility to themselves and society in securing and promoting a just legal system. It provides youth offenders with an alternate method to pay for the consequences of their actions -- by having a trial by their peers, but not incurring any criminal record, and by paying back their community with restitution and community service hours. Anchorage Youth Court also provides active members with hands-on experience in the legal field and participation that could not be gained by any other source. The community as a whole benefits by the service Anchorage Youth Court provides.

An Eleventh Grader's response:

Anchorage Youth Court is essentially an opportunity. It is an opportunity for students of all kinds to come together in a healthy environment to learn about the laws that govern them. It is an opportunity for youth of Anchorage to help better their community. But mostly, it is an opportunity for kids who have made mistakes to have another shot, not so much to go unpunished, but to have another chance to reconsider the consequences of their actions without having a criminal record follow them through life.

AYC is essentially an opportunity, an opportunity for young people and adults to work together to resolve problems in their community.

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ANCHORAGE YOUTH COURT CONSTITUTION

* (As Revised Spring, 1991)

Preamble

Municipality of Anchorage youths, recognizing the importance of respect for the law, and firmly believing that acceptance of responsibility is essential toward being conscientious citizens, hereby establish the Anchorage Youth Court as a practical application of their responsibility to themselves and their community.

Statement of Purpose

Anchorage Youth Court is intended to provide benefits of citizenship to the youth of the Municipality of Anchorage. It shall do so by providing an alternate adjudication and sentencing procedure for young offenders. It shall offer an opportunity for those who make mistakes early in their lives to constructively pay their debt to society without incurring a criminal record. It shall foster an atmosphere of respect for the law through the principle of judgement by peers and restitution for wrongs committed.

The Anchorage Youth Court will emulate adult proceedings so as to provide an opportunity for youths to learn about criminal justice. Unless an action or procedure is specifically addressed by this constitution, the general principles of court proceedings shall apply as far as practicable.

Article I: Organization

Section 1. The Anchorage Youth Court is not recognized as a court of original or appellate jurisdiction by the laws of the State of Alaska. All cases tried must be referred to the Anchorage Youth Court by a Referring Authority as defined in Section 2, below, (hereinafter "Referring Authority"), and all referrals will be made solely at the discretion of the appropriate Referring Authority. The Anchorage Youth Court's findings and recommendations in a case shall be returned to the Referring Authority before final disposition.

Section 2. For purposes of the Anchorage Youth Court, a Referring Authority shall include but is not limited to the Department of Health and Social Services and all recognized courts within the State of Alaska.

Section 3. The Anchorage Youth Court shall have only such power to enforce a sentence as is delegated by the Referring Authority. A person tried by the Anchorage Youth Court is not discharged from the jurisdiction of the Referring Authority until a recommendation of discharge of the case has been made by the Anchorage Youth Court to the Referring Authority, and the individual is discharged. Failure to comply with the sentence imposed by the Anchorage Youth Court will result in an automatic return of the case to the Referring Authority.

Section 4. The Anchorage Youth Court shall have jurisdiction over only those individuals who are charged with delinquent conduct occurring in the Municipality of Anchorage and are enrolled in grades 7 through 12 and/or are 12 to 18 years of age. Younger

defendants may be considered upon special agreement and with the understanding that the defendant will be adjudicated by 7 - 12 graders.

Section 5. Anchorage Youth Court shall consist of one or more organized courts.

Article II: Administrative Board

Section 1. Composition. The Administrative Board shall consist of residents of the Municipality of Anchorage. An equal number of members shall represent the youth community and the adult community, each to serve for a term of one year. Nomination of Board members shall be made by a nominating committee comprised of the existing Administrative Board (except that the first nominating committee shall be the establishing constitutional committee). Any member of the Anchorage Youth Court Bar Association may nominate a member for a position on the Administrative Board, and that nomination must be given to the nomination committee within ten (10) days of the due date of nominations. The nominating committee shall be formed no less than 30 days prior to the due date of the list of nominees.

Youth nominees shall be selected from and represent one from each school which has students participating in Anchorage Youth Court. Youth nominees must maintain active status and attend Executive Board Meetings. Adult nominees may be selected from and represent the following:

- 1) the judiciary;
- 2) juvenile probation;
- 3) the field of law enforcement;
- 4) the field of education;
- 5) the Anchorage Bar Association
- 6) the adult community at large; or
- 7) parents of youths over whom the Anchorage Youth Court has

jurisdiction.

The list of nominees shall be given to the Anchorage Youth Court Coordinator who shall provide a written notice of the appointees within 15 days of receiving the list of nominees.

Section 2. Duties. The Administrative Board shall promote the purpose of this constitution. The duties of the board shall include, but are not limited to fiscal matters, appointing staff members, maintaining liaisons between the Anchorage Youth Court and law enforcement agencies of the State of Alaska and the Municipality of Anchorage, as well as general supervision of the Anchorage Youth Court. The Administrative Board may adopt any lawful resolution necessary to further the purposes of the Anchorage Youth Court not in conflict with the Anchorage Youth Court Constitution.

Section 3. Meetings. The Administrative Board shall meet at least once each semester with advance notice.

Article III: Advisory Staff

Section 1. The advisory staff of the Anchorage Youth Court shall be appointed by the Administrative Board and shall consist of a Coordinator and a Legal Advisor, and such other staff deemed necessary. The advisory staff shall report to the Administrative Board. The term of service for an advisory staff member shall be one year.

Section 2. In selecting a Coordinator, special consideration shall be given to applicants with some interest, experience, or education in law. It shall be the responsibility of the Coordinator to review and approve, together with the Legal Advisor, referrals to the Anchorage Youth Court; to establish, oversee, and direct such procedures and perform such duties as are required to ensure the smooth and proper operation of the Anchorage Youth Court network; to maintain accurate, current records of costs and expenses of the Anchorage Youth Court; and to act as liaison between the Anchorage Youth Court Bar Association and membership, and the Administrative Board and the Anchorage court system at large. In so far as elected positions are concerned, the Coordinator shall be responsible for receiving nominations, preparing and distributing ballots, and publishing election results.

Section 3. Legal Advisor. The Legal Advisor preferably should be an attorney. The duties and responsibilities of the Legal Advisor shall be to review and approve, together with the Coordinator, referrals to the Anchorage Youth Court; and to generally confer with, advise, and direct Anchorage Youth Court staff and members as requested, required, or needed.

Article IV: Membership and Positions

Section 1. Membership. To qualify as a member of the Anchorage Youth Court, a person must be enrolled in a grade between 7 and 12 in a public or private school in the Municipality of Anchorage, and must successfully complete a training course and pass an Anchorage Youth Court Bar examination. In order to qualify as an active member, a member must have attended a majority of Anchorage Youth Court Bar Association meetings held within the last three months. A member may avoid inactive status, when necessary, by making prior arrangement with the coordinator for pending absence. Upon return, the member may re-establish his or her standing by participating in a Youth Court function. All members are subject to the rules and guidelines established by the ethics committee.

Section 2. Nomination. The Administrative Board shall be responsible for appointing nominating committees from time to time. A nominating committee shall be responsible for compiling a list of nominees for positions of the administrative board and for obtaining written confirmation from those nominees of their willingness to serve. Except as provided in Article II, Section 1, and Section 5, below (Special Elections), a nominating committee shall be formed in a reasonable time prior to the due date of a final list of nominees. The final list of nominees shall be due no later than three weeks prior to the election and shall be given to the Coordinator. Nomination for candidacy for elected office shall be made verbally at the Bar Association meeting prior to the meeting at which elections are held. In order to become a candidate for office, one must be an active Bar Association member and within two (2) weeks of nomination submit a written letter of intent outlining expected duties, responsibilities, and level of commitment if elected.

Section 3. Election. Members of the Anchorage Youth Court shall elect from among members nominated pursuant to Article IV, Section 2, one Chief Judge, one Assistant Chief Judge, a pool of at least six Associate Judges, one Clerk, one Anchorage Youth Court Bar Association President, one Vice President, one Treasurer, and one Secretary. The term of each of these offices shall be one year. Elections shall be held annually in February at a meeting announced two weeks in advance in writing to all Anchorage Youth Court Bar Association members. A simple majority of those present and

voting shall be required for election to any office. Officers will assume positions the first of April, following election.

No one shall hold more than one elected position at any time. A vacancy of an elected position may be filled by the appointment of any active bar member, including members holding elected positions at the time. To assume the appointed position on a permanent and elected basis as outlined in Section 5 below, the said officer must resign his first position. If any member elected to a position is unable to fill that position, a new vote must be taken as soon as practicable.

Voting shall be by secret, written ballot. Each voter may cast one vote for each position to be elected. All ballots shall be placed by the voter in a sealed ballot box. At the conclusion of voting, the ballot boxes shall be delivered to the graduating seniors, who shall count and tally all ballots under the supervision of the Coordinator and report the results to the membership.

Section 4. Removal. Any person elected may be removed from office by a two-thirds majority of the votes cast by the members of Anchorage Youth Court, but only after the grounds therefor have been presented to the person in writing and the person has had an opportunity for a hearing before the Anchorage Youth Court Bar Association membership at a meeting set for that purpose.

Section 5. Vacancies. In the event of a vacancy in an elected position, the officers of the Anchorage Youth Court Bar Association (i.e., Bar Association President, Bar Association Vice President, Bar Association Secretary) shall have the authority to appoint a temporary replacement, if necessary, until an election can be held to fill the position. But no appointment shall be for more than 45 days, and an appointment shall end immediately upon election of a person to fill the position. Elections shall be held in the same manner as provided in Sections 2 and 3, above.

Section 6. Anchorage Youth Court Bar Association President. Any attorney who is at least 16 years old or at least a junior in high school is eligible to hold the office of Bar President. The Anchorage Youth Court Bar Association President shall chair all meetings of the Anchorage Youth Court Bar Association, assign attorneys to Youth Court cases, supervise all other business of the Bar Association with the assistance of the Coordinator, and serve as the student representative of the Anchorage Youth Court to the community. The Anchorage Youth Court President is authorized to create and fill any position he or she deems necessary. The Anchorage Youth Court Bar Association may remove appointees by 2/3 vote of the members present. The President shall preside over the executive board, which will consist of officers or their representatives, appointees and representatives from each active committee. This board will meet with the coordinator at a regularly scheduled time.

Section 7. Anchorage Youth Court Bar Association Vice President. Any attorney who is at least 16 years old or is a junior in high school is eligible to hold the office of Bar Association Vice President. The Anchorage Youth Court Bar Association Vice President shall serve in the absence of or at the request of the Anchorage Youth Court President, and in that event shall serve in place of and with the same power and authority of the Anchorage Youth Court Bar Association President.

Section 8. Secretary. Any member who is at least 16 years old or is at least a junior in high school is eligible to hold the office of Secretary. The Secretary shall take minutes and keep recordings of all Anchorage Youth Court Bar Meetings, maintain all

current membership records and attendance records, and assist the Anchorage Youth Court Bar Association President. The Secretary shall publish the minutes of all Anchorage Youth Court Bar Association Meetings and keep Anchorage Youth Court Bar Association members informed of the time and date of upcoming meetings.

Section 9. Treasurer. Any member who is at least 16 years old or is at least a junior in high school is eligible to hold the position of Treasurer. Duties of the Treasurer are, but not limited to; control of student funds, maintain and keep current records, provide treasurer's reports at all Anchorage Youth Court Bar Association meetings.

Section 10. Judges. All judges must be enrolled in grades 10, 11, or 12, and must have served at least two times as prosecuting attorney and at least two times as defense attorney, unless candidates with these qualifications are not available. In case the above qualifications cannot be met, the nominee must have been involved in at least one case. Three Associate Judge positions must be filled by students with fall enrollment in grades 10 or 11.

To qualify for the position of Chief Judge or Assistant Chief Judge, a person must have been an Associate Judge at least once.

The Assistant Chief Judge shall serve in the absence of or at the request of the Chief Judge, and in that event shall serve in place of and with the same power and authority as the Chief Judge.

Section 11. Clerk. Any member in grade 7-12 may be elected to the position of Clerk. Under the supervision of the coordinator, the Clerk shall set the Anchorage Youth Court calendar, and send out timely court notices to the Referring Authority and defendants as required. The Clerk of the Anchorage Youth Court shall be responsible for tape-recording all court proceedings, maintaining the tape library of the Anchorage Youth Court, keeping the records of all the Anchorage Youth Court proceedings, maintaining defendant files, and generally assisting the Chief Judge. The Clerk may appoint such assistants, not to exceed three (3), as the Clerk deems necessary.

Section 12. Baliff. Any member in grade 7-12 may be appointed to the position of Baliff. Baliff shall be appointed by the Bar President on a case-by-case basis. The Baliff shall swear-in witnesses, assist in setting up the courtroom, and assist the Chief Judge in maintaining order and decorum in the courtroom.

Section 13. Attorneys. Any member in grade 9-12 may be appointed as an Attorney. Under special circumstances and/or exceptional evaluations, and after consultation with the Chief Judge, the Coordinator may approve the appointment of an Attorney who is in grade 7 or 8.

The selection of attorneys to serve on cases that are referred to the Anchorage Youth Court shall be made by the Bar Association President on a rotating, case-by-case basis. Attorneys shall zealously represent their client to the best of their ability in accordance with the Alaska State Court and American Bar Association rules.

Section 14. Jurors. All youth in grades 7 through 12 and enrolled in a public or private school in the Municipality of Anchorage are eligible to serve as jurors, including any Anchorage Youth Court member.

The method for selecting jurors shall be established by the Administrative Board. The Coordinator shall be responsible for maintaining a list of available jurors.

Jurors are bound to maintain the confidentiality of the defendant and all court proceedings.

Article V: Referral Procedure

Section 1. After a preliminary investigation, the Referring Authority may refer a case to the Anchorage Youth Court. The Referring Authority will meet with the defendant and his/her custodial parent or guardian and explain the purpose of Anchorage Youth Court and its procedures, including sentencing. After an opportunity to confer with counsel, the defendant will be given the choice of proceeding to Anchorage Youth Court or being handled through regular channels, which may include a formal court hearing and a record.

Section 2. If the defendant and his/her custodial parent or guardian agrees to proceed with Anchorage Youth Court, they will sign a voluntary agreement, with the understanding their case will be held open for one hundred twenty (120) days to complete the process. This voluntary agreement will also state that failure to comply with Anchorage Youth Court and other established conditions, once agreed to, may result in having their case handled in formal court proceedings.

Section 3. Anchorage Youth Court proceedings will begin with the referral from the Referring Authority. The Coordinator will receive a copy of the signed voluntary agreement to participate in Anchorage Youth Court, available arrest reports and other related documents. If the case is not accepted by Anchorage Youth Court, the case will be returned to the Referring Authority, together with all documents relating to the case.

Article VI: Anchorage Youth Court Procedure

Section 1. Proceedings in Anchorage Youth Court shall be conducted as far as practicable in substantial conformity with rules and statutes governing adult proceedings in the Alaska court system. The rules and statutes shall be applied and modified as necessary to promote the prompt and just resolution of cases and legal education.

Section 2. At all times, Anchorage Youth Court proceedings will be conducted to ensure that the defendants' rights guaranteed by the Alaska and United States constitutions are protected, including but not limited to the following:

1. the right to be represented by an Anchorage Youth Court attorney;
2. the right to trial by jury;
3. the right to call and cross-examine witnesses;
4. the right against self-incrimination; and
5. the right to appeal.

At all times, Anchorage Youth Court proceedings will be conducted to ensure confidentiality.

Section 3. The Chief Judge or his appointee shall preside over all courtroom proceedings of the Anchorage Youth Court, with the assistance of two associate judges.

Section 4. If after an Anchorage Youth Court court proceeding, the defendant pleads guilty or is found guilty at trial, the judges will determine an appropriate sentence at a sentencing hearing to be held within five (5) days of the verdict or plea. Sentencing shall be in accordance with the informal sentencing guidelines established by the Referring Authority and the Anchorage Youth Court Judges.

Section 5. The Chief Judge shall submit to the Coordinator the findings, recommendations, and sentence of the Anchorage Youth Court. The Coordinator shall submit the findings, recommendations, and sentence to the Referring Authority before final disposition of the case.

Section 6. If the defendant chooses to exercise his right to appeal either a verdict or a sentence, he shall submit a written statement, including reasons for appeal, to the Chief Judge within three (3) days of the sentence. The Chief Judge shall appoint a three-member appeals panel.

There are seven grounds for appeal:

1. verdict not in conformity with Alaska Constitution, statutes or rules;
2. verdict not supported by the evidence;
3. sentence not supported by the evidence;
4. improper legal procedure;
5. inadequate legal representation;
6. new evidence discovered which substantially affects the case; and
7. plea not voluntarily given.

If the appeals panel finds for the defendant, the case shall be remanded for a new trial.

Section 7. The Coordinator shall oversee the defendant's compliance with the Anchorage Youth Court sentencing order (s) and provide status reports to the Referring Authority as required.

Article VII: Voting and Adoption of Rules

Section 1. All members of the Anchorage Youth Court may vote concerning Anchorage Youth Court matters.

Section 2. All matters put to a vote shall be decided by a simple majority of those present unless otherwise specified in this constitution.

Section 3. The Anchorage Youth Court Bar Association may pass rules deemed necessary to its proper functioning, as long as such rules do not conflict with this constitution or the bylaws.

Article VII: Amendments and Ratification

Section 1. In order to ratify and amend this constitution, a constitution committee shall publicize the proposed constitution or the proposed revisions or amendments and provide notice of the voting date and place in a reasonable manner best calculated to reach the largest number of qualified voters as defined below.

Section 2. A qualified voter, for the purpose of ratification and amendment of this constitution, shall be any active member of Anchorage Youth Court Bar Association.

Section 3. The constitutional committee shall have the responsibility of preparing and distributing ballots for voting. Each qualified voter may cast one secret, written ballot for each proposal. The constitution committee will be responsible for counting and tallying of all ballots.

Section 4. A majority of all persons in grades 7 through 12 voting on the proposal (s) shall be required for ratification and amendment.

Section 5. The constitution committee shall promptly announce the outcome of the vote.

* Amendments passed March and April, 1991 in bold type.

Alaska State Legislature



Legislative Research Agency

P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 143-3991
Fax: (907) 143-3351

October 25, 1990

MEMORANDUM

TO: Senator Jay Kerttula

FROM: Maureen Weeks ^{MW}
Legislative Analyst

RE: Teen Courts in Alaska and Other States
Research Request 90.364

You asked for information about teen courts (courts in which young defendants charged with minor offenses appear before juries of their contemporaries). This memorandum begins with information about teen courts in general and continues with brief descriptions of teen courts in Anchorage, Alaska; Hillsborough County, Florida; Denver, Colorado; Odessa, Texas; and Pasco County, Florida. For comparison, selected characteristics of the five model courts are presented in the attached table.

Background

Most youthful, first-time offenders who commit misdemeanors do not go to court, do not appear before a jury and are not sentenced by a judge. Instead, they receive a letter warning them not to offend again and they may be ordered to attend several hours of class for shoplifters or substance abusers. Teen courts are an effort to change this. They replace the "slap on the wrist" of a letter with the intimidating formality of a court appearance. Furthermore, they ask young people to appear before juries composed of other young people--tribunals which juvenile justice experts say tend to be harder on young offenders than adult jurors would be. By giving young, first-time offenders a glimpse of "real life" before judge and jury, these courts function as juvenile diversion, early intervention programs. Their purpose is to stop the progress from misdemeanor to felony by asking young offenders to take responsibility for their acts and accept sanctions determined by their peers.

Teen courts are composed of student volunteers who act as jurors and sometimes lawyers, clerks and bailiffs. Most are conducted by volunteer adult judges. Cases are generally screened. Defendants may be referred by the police, school officials, judges and, sometimes, private businesses. Most cases involve petty crimes. Teen courts are not recognized as courts of original or appellate jurisdiction.

Teen Courts in Alaska + Other States - Legislative Research

Although the five courts we have chosen as models for discussion in this memorandum differ in many ways, all offer teen-age defendants the right to trial by their peers--defined in these courts as trial by one's contemporaries. Three carry this principle further by also using young people as prosecutors, defense lawyers, clerks and bailiffs. One (the Anchorage Youth Court) expands the concept to its fullest by allowing students to preside as judges.

All five teen courts hold their proceedings in local courtrooms to impress upon defendants that the session is "real." How court is conducted varies, however. For example, while the East Pasco Juvenile Court stresses the authenticity of the hearing by seating teens as jurors in regular juvenile court proceedings (presided over by a sitting judge and argued by actual prosecutors and public defenders), the Anchorage Youth Court asks teen-age defendants to accept verdicts and fulfill sentences determined solely by what many young people consider the most formidable of forums--other teen-agers.

The role of the jury also varies with the court. Three of the five courts we studied accept only defendants who are willing to admit guilt. In these courts, the teen-age jury hears arguments before determining an appropriate sentence. Two teen courts, however, allow not-guilty pleas. In one (East Pasco County Juvenile Court), young jurors recommend a verdict and, where appropriate, a sentence to the sitting juvenile court judge. In another (Anchorage Youth Court), young people are allowed much more authority. Here, after listening to arguments by youthful prosecutors and defense lawyers, teen juries determine a verdict and teen judges pronounce sentence.

Teen courts differ from each other in other ways. The Odessa Teen Court, begun in 1983 and the oldest of the courts we studied, emphasizes family responsibility by requiring parents of teen-age defendants to attend parent training workshops. The Denver Teen Court, which opens next month, is designed to replace school suspension and expulsion (which many students perceive as rewards) with community service and restitution. The Hillsborough County Teen Court stresses a variety of sentencing options by allowing student jurors to impose modified house arrest and restrict a defendant's driving privileges.

The advantages of teen courts are several. First, they place young, first-time misdemeanants before a court, a forum they take seriously. Second, they allow young people to be tried and sentenced by juries of their peers. Third, they allow defendants to pay their debts to society without incurring criminal records. Fourth, sentences by youth courts encourage a sense of responsibility by stressing redress to the community. Fifth, teen courts allow young people--defendants and court officials--to learn court proceedings first hand. And sixth, teen courts reduce the volume of cases brought before regular juvenile courts.

Senator Kerttula
October 25, 1990
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Teen Courts

Anchorage Youth Court

Contact: Blythe Marston
Chair, Youth Court Advisory Committee
Bogle & Gates
907-276-4557 or

Sharon Leon, Coordinator
Anchorage Youth Court
274-5986 (between 1 p.m. and 5 p.m.)

The court is composed of middle school and high school students (ages 12 to 18) who volunteer as judges, jurors, bailiffs, clerks, prosecutors and defense attorneys. To be eligible to sit on the court, students must attend an eight-to-ten week class and pass a Youth Court Bar Examination. About 100 students are members of the bar, with another 200 in preparation classes where they are taught constitutional law, criminal law and procedure, ethics and advocacy. Legal advisors prepare student prosecutors and defense lawyers before their cases go to trial.

Judges are elected by members of the Youth Bar Association. They must have argued twice as prosecutors and twice as defense attorneys. The chief judge and assistant chief judge must have served at least once as associate judge.

Defendants, who are also between the ages of 12 and 18, are usually first offenders charged with petty crimes. They have been referred through the juvenile probation department, but they may be referred by other organizations, such as a store alleging shoplifting. Defendants and their parents must agree to allow the Youth Court to hear the case. Court proceedings insure them the right to be represented by a lawyer, the right to trial by jury, the right to cross-examine witnesses, the right against self-incrimination and the right to appeal.

At arraignment, defendants may plead guilty or not guilty. Student jurors and judges hear arguments before they determine the verdict and set the sentence.

Offenses include petty crimes, but the Youth Court has also heard felonies and civil suits.

Sentences include community service and restitution. A defendant who wishes to appeal a verdict or sentence must submit the appeal within three days of the sentence. Once a sentence is served satisfactorily, the record is expunged.

Miscellaneous: This court is the most developed of teen courts we studied. It is the only court in which students serve as judges, the only court in which student lawyers argue cases for defendants who have pleaded not guilty, and the

Senator Kerttula
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Page 4

only court which requires students to pass a bar examination before qualifying to sit on the court.

The court has heard between 30 and 40 cases in the three years it has existed. (Juvenile probation officers have begun to refer cases increasingly frequently, according to Ms. Marston.) Trials are conducted at the Anchorage Courthouse in the evening.

The court is administered by two groups. A 16-member administrative board of lawyers, judges, police officers and students meets quarterly to oversee funding. This board is composed equally of adults and students. In addition, the Anchorage Youth Court Bar Association, composed of students who have passed the bar examination, meets weekly. The court was originally funded solely by the Anchorage Bar Association. Recently, funds have been appropriated from the Interest On Lawyers' Trust Association (IOLTA) funds. Private individuals also contribute to the court.

We will send under separate cover an Anchorage Youth Court video tape of the case of *State v. Pat O'Shea*, in which the defendant is accused of "minor assault" the night of March 23, 1989, after an evening of dancing at the Flaming Turban. The tape shows a three-judge panel presiding with youthful lawyers arguing before an attentive jury in procedures modeled after state court proceedings.

Hillsborough County, Florida

Contact: Bob Sleczkowski,
Director, Juvenile Services,
Thirteenth Judicial Circuit, Florida
813-272-5110

The court is composed of students from area high schools who volunteer to serve as prosecutors and defense attorneys, as well as bailiffs, court clerks and jurors. They must complete a three-hour orientation and training before they are allowed to participate on the court.

The judge is a volunteer from the Young Lawyers Association.

Defendants, who are between 13 and 17 years old, participate voluntarily in teen court. No defendant appears before court officials from his or her own high school. Defendants are referred by the police through the state's attorney. First-time misdemeanants who do not qualify for teen court hearings may go to juvenile arbitration.

Defendants are required by statute to plead guilty. Jurors hear arguments and decide the sentence.

Offenses heard in teen court include school offenses (e.g. battery, trespassing) and alcohol offenses.

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Page 5

Sentences last for five weeks. They include community service, modified house arrest, driver's license restriction, attendance at Alcoholics Anonymous meetings, written apologies, essays and jury duty. Sentences must be served exactly as determined by the teen court. After five weeks, the director of juvenile services rehearses the case and, if the sentence is completed satisfactorily, the record is expunged.

Miscellaneous: The Hillsborough County teen court was established in March 1990. It meets Tuesday and Thursday nights in a county courtroom. Four cases are heard each night. Nineteen area high schools participate in teen court on a rotating basis (each school sends a teen court once every six weeks). Adult staff includes the teen court coordinator, counselor, a secretary and director of juvenile services for the Thirteenth Judicial Circuit.

Denver, Colorado

Contact: Jan Church
Chair, Teen Court Advisory Board
1700 Lincoln, Suite 4100
Denver, Colorado 80203
303-861-7000

The court is composed of students who volunteer to serve as jurors and prosecutors and defense attorneys.

The judge is a volunteer retired judge.

Defendants are students in trouble in middle school and high school who have committed acts for which they would be suspended or expelled from school (but not serious enough to warrant a criminal charge). They participate in teen court voluntarily, although court organizers ask school principals to "strongly encourage" young people to choose teen court over traditional punishments which keep them out of school.

To appear in court, a teen must sign a contract admitting guilt. Jurors hear arguments and set the sentence.

Offenses heard by teen court include stealing, fighting, trespassing and possessing alcohol on campus.

Sentences include community service, apology to the victim and restitution. Those who do not comply with the teen court sanction are referred to the school or the police department.

Miscellaneous: The purpose of this program is to replace traditional negative school punishment, such as suspension and expulsion, with sanctions which keep the student in school and encourage him or her to serve the community. It is an attempt to intervene before students commit more serious offenses for which

Senator Kerttula
October 25, 1990
Page 6

they will be charged. Teen court, sponsored by the Denver Bar Association, holds its first hearing in November 1990. This court replaces a teen court begun in the 1970s and disbanded in the mid-1980s.

Odessa, Texas

Contact: Natalie Rothstein
201 N. Grant
Odessa, Texas 79761
415-333-3641

The court is composed of teen-agers who volunteer to act as jurors, bailiffs, clerks, prosecutors and defense lawyers. A master jury trained in interview and assessment skills hears traffic cases; other juries hear miscellaneous cases. Student court officials are trained during pre-trial and post-trial meetings with the judge and the teen court director.

The judge is a volunteer retired district court judge.

Defendants are referred by police, local courts, the justice of the peace courts and the schools. They participate in teen court voluntarily. No defendant may go through the teen court twice.

To qualify for teen court, defendants must plead guilty. Jurors hear arguments before determining the sentence.

Offenses heard in teen court include traffic offenses and Class C and B misdemeanors, including some drug possession cases.

Sentences include community service and jury duty. Alcohol or drug offenders must take a chemical abuse workshop. The parents of all offenders must take a parenting workshop. If the sentence is satisfactorily completed, the record is labeled "dismissed through Teen Court."

Miscellaneous: The Odessa Teen Court was established in November 1983. It meets every Tuesday night in the county courthouse, with seven juries hearing 21 trials. One "master jury" hears 15 traffic cases each night, while six other juries hear other cases. Parent participation is mandatory. Parents must be present at the initial interview with the teen court director, as well as at the trial. In addition, parents must attend three-hour parenting workshops, taught by the court director and by her husband, a professor at the University of Texas. The director says this parent training is vital to the program's success. The program is sponsored by the Junior League of Odessa. Two-thirds of the program's funding is from the city council and one-third is from the schools.

Senator Kerttula
October 25, 1990
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Pasco County, Florida

Contact: Judge Lynn Tepper
East Pasco Juvenile Court
813-996-7341

The court is composed of students from the local high school (Zephyrhills High School). Jurors, selected from the school's law studies class, sit as the jury in actual cases heard by the East Pasco Juvenile Court. Jurors are trained by the law studies teacher, who discusses jury instructions in class, and by the sitting judge, who appears before the class once each semester to discuss the state's juvenile justice system. The judge also asks the state's attorney, the public defender and a pre-trial case worker to speak to the class. During court, jurors sit in the jury box. The trial proceeds as with a non-jury trial, except that all objections by lawyers must be made and argued on the floor where the jurors can hear them. Bench conferences, voir dire and objection to particular jurors are not allowed.

The judge is Circuit Court Judge Lynn Tepper (replacing Judge Maynard F. Swanson, Jr., who began the program).

Defendants are juveniles whose cases are on the regular docket; cases are not screened.

Defendants may plead guilty or not guilty. Jurors recommend the verdict by majority vote and, if the verdict is guilty, jurors also recommend sentencing. (Judge Swanson says his verdict differed from the jury's only once; he attributes that anomaly to his mistake in not properly instructing the jury.)

Offenses include any offense on the juvenile court docket.

Miscellaneous: This is the only court we studied in which jurors serve under a sitting judge. It has received national publicity on both the NBC Today Show and NBC Nightly News.

We attach an article describing the Pasco County Teen Court ("Pasco Juvenile Justice Program Wins National Fame," *Florida Bar News*, May 15, 1990); a description of the Hillsborough County Teen Court ("Teen Court," provided by Bob Sleczkowski, director of juvenile services in Tampa, Florida); and an article describing the Odessa Teen Court (Robert Rothstein, "Teen Court: A Way to Combat Teen-age Crime and Chemical Abuse," *Juvenile & Family Court Journal*, 1987, p. 1-4). In addition, we attach several documents from the Anchorage Youth Court. The documents include step-by-step instructions in how to set up similar courts in other areas ("Anchorage Youth Court: Trial by Peers") and the Anchorage Youth Court Constitution.

I hope this information is useful. If you have any questions, or want additional information, please contact this agency.

8-LS0599R
Chenoweth
4/1/93

CS FOR HOUSE BILL NO. 195()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES SITTON, Ulmer, Willis, Foster, Brown, B.Davis, Olberg, Porter

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing youth courts by which to provide for peer adjudication of
2 minors who have allegedly committed violations of state or municipal laws,
3 establishing a juvenile justice grant fund and authorizing grants from that fund
4 in order to provide financial assistance for organization and initial operation of
5 youth courts, and relating to young adult advisory panels in the superior court."

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

7 * Section 1. PURPOSE OF ACT; CONSIDERATIONS RELATING TO ITS ADOPTION.

8 (a) The purpose of this Act is to provide a means by which young people under the age of
9 18, with the concurrence of the juvenile intake unit of the Department of Health and Social
10 Services, may choose to work with their peers and with interested adults in order to resolve
11 their legal problems without receiving a criminal record.

12 (b) The authorization and expansion of the youth court model within the system of
13 juvenile justice made by this Act is prompted by the success enjoyed by the Anchorage Youth

1 Court model since its inception in 1989. In the Anchorage Youth Court model, interested
2 young people and adults, with the generous support and assistance of the juvenile intake
3 office, Department of Health & Social Services, the Alaska Court System, the Alaska Bar
4 Association, the Anchorage Bar Association, law enforcement and school district officials,
5 professionals, and parents, have developed and implemented a mechanism by which to respond
6 to juvenile legal problems and to adjudicate them informally, promptly, and effectively, in a
7 way that is meaningful to the offender, the victim, and the community.

8 (c) This Act is adopted in furtherance of the recommendation expressed in Legislative
9 Resolve 61 adopted by the Seventeenth Alaska State Legislature urging expanded use of youth
10 courts within the state.

11 * Sec. 2. AS 18.05 is amended by adding a new section to read:

12 ARTICLE 2. YOUTH COURTS.

13 Sec. 18.05.100. YOUTH COURTS. (a) Under AS 47.10.020(a)(2), the
14 department may use youth courts to hear, determine, and dispose of cases involving
15 a minor whose alleged act that brings the minor within the jurisdiction of
16 AS 47.10.010 - 47.10.142 constitutes a violation of a state or municipal law.

17 (b) Unless otherwise directed by the commissioner, the jurisdiction of a youth
18 court is coextensive with the boundaries of the municipality in which the youth court
19 is located. Only one youth court may be established within the boundaries of a
20 municipality. Nothing in this subsection prohibits two or more municipalities from
21 operating a single youth court for the municipalities by agreement between them.

22 (c) A person may obtain recognition from the commissioner to serve as a
23 youth court. The person who obtains recognition from the commissioner may exercise
24 only the powers that are delegated to a youth court by applicable court rule or by the
25 person or agency appointed by the superior court under AS 47.10.020(a)(2) to make
26 a preliminary inquiry and report for the information of the court, and shall exercise
27 those powers as authorized by the commissioner, or if the person is a corporation, as
28 authorized by the corporation's articles of incorporation and bylaws. The bylaws of
29 the corporation or authorization of the commissioner must set out standards and
30 procedures by which the person, in its capacity as a youth court,

31 (1) guarantees the constitutional rights of the juvenile that are

1 guaranteed by the state and federal constitutions;

2 (2) may secure jurisdiction over a juvenile;

3 (3) sets out the process for disposing of matters referred to it for
4 resolution;

5 (4) provides a process for appeal of a verdict or sentence, and defines
6 the basis for appeals; and

7 (5) prepares and delivers a report of the disposition of the matter
8 referred to it for resolution to the person or agency that had referred the matter.

9 (d) In any matter brought under AS 47.10.010 - 47.10.142 that proceeds as
10 authorized by AS 47.10.020(a)(2) within a municipality in which a youth court has
11 been established, the superior court may permit or direct the person or agency whom
12 the court has appointed to conduct a preliminary inquiry in a case to refer the case to
13 a youth court that has jurisdiction over the minor.

14 * Sec. 3. AS 44.47 is amended by adding new sections to read:

15 ARTICLE 4A. JUVENILE JUSTICE GRANT FUND.

16 Sec. 44.47.235. JUVENILE JUSTICE GRANT FUND. There is created in the
17 department the juvenile justice grant fund. From legislative appropriations to the fund,
18 the department shall make grants to persons eligible under AS 18.05.100 to operate as
19 a youth court.

20 Sec. 44.47.240. ELIGIBILITY. Persons proposing to establish and operate
21 youth courts under AS 18.05.100 may apply to the department for an organizational
22 grant under AS 44.47.235. A grant under this section must be matched on a dollar-for-
23 dollar basis by the grantee in cash or in kind. The commissioner may waive the match
24 required under this section on a showing satisfactory to the commissioner by the
25 prospective applicant that the match is not available.

26 Sec. 44.47.245. GRANTS. Grants made under AS 44.47.235 shall be used to
27 defray the costs of organization of youth courts under AS 18.50.100. The department
28 shall assure that the grant is spent for necessary organizational assistance and that
29 appropriate accounting procedures are maintained. Grants made under AS 44.47.235
30 and this section may not exceed \$5,000. Only one grant may be made to a grantee
31 under authority of this section.

1 Sec. 44.47.249. REGULATIONS. The department shall adopt regulations to
2 carry out the purposes of AS 44.47.235 - 44.47.249.

3 * Sec. 4. AS 47.10.020(a) is amended to read:

4 (a) Whenever a person informs the court of the facts that bring a minor within
5 this chapter, the court shall appoint a competent person or agency to make a
6 preliminary inquiry and report for the information of the court to determine whether
7 the interests of the public or of the minor require that further action be taken. Upon
8 the receipt of the report, the court

9 (1) may informally adjust or dispose of the matter without a hearing;
10 if the court informally adjusts or disposes of the matter under this paragraph, the
11 minor may not be detained or taken into the custody of the court, and the matter
12 shall be closed by the court upon adjustment or disposition:

13 (2) may, upon the recommendation of the person or agency
14 appointed by the court to make a preliminary inquiry and in the manner
15 authorized by AS 18.05.100, provide opportunity for a minor who is brought
16 within AS 47.10.010 - 47.10.142 to request diversion of the matter into a youth
17 court; if the court provides and the minor accepts disposition of the matter by a
18 youth court under this paragraph.

19 (A) the minor may not be detained or taken into the custody
20 of the court;

21 (B) the court may, at the request of the youth court, issue
22 a subpoena to a person whose testimony is required before the youth court,
23 in the manner provided by AS 47.10.030(b); and

24 (C) the matter shall be closed by the court upon disposition
25 by the youth court and successful completion of any sentence
26 recommended by the youth court; or

27 (3) [, OR IT] may authorize the person having knowledge of the facts
28 of the case to file with the court a petition setting out the facts. [WHERE THE
29 COURT INFORMALLY ADJUSTS OR DISPOSES OF THE MATTER, THE MINOR
30 MAY NOT BE DETAINED OR TAKEN INTO THE CUSTODY OF THE COURT,
31 AND THE MATTER SHALL BE CLOSED BY THE COURT UPON ADJUSTMENT

1 OR DISPOSITION.]

2 * Sec. 5. AS 47.10.075(a) is amended to read:

3 (a) Unless the minor objects, in any matter in which the court retains
4 jurisdiction of a minor under AS 47.10.020(a)(3) that proceeds under this chapter
5 on the basis of a petition filed under AS 47.10.020(b) seeking adjudication of the
6 minor as a delinquent, the court may select a young adult advisory panel to hear the
7 case and advise the court of a recommended judgment and order. The court may
8 consider any of the panel recommendations in making its judgment and order in the
9 case.

10 * Sec. 6. AS 47.10.090 is amended by adding a new subsection to read:

11 (d) The provisions of (a) of this section apply to the records of a youth court
12 as to a matter considered and disposed of by the youth court.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY

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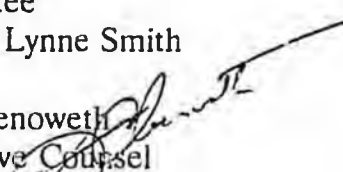
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 1, 1993

SUBJECT: Draft CSHB 195 () (Work Order No. 8-LS0599R)

TO: Representative Con Bunde, Co-Chair
Representative Cynthia Toohey, Co-Chair
House Health, Education and Social Services
Committee
ATTN: Lynne Smith

FROM: Jack Chenoweth 
Legislative Counsel

In the enclosed draft I have made the changes requested. Please note especially:

Because of your substitution of "person" for "nonprofit corporation," I added some additional language in proposed AS 18.05.100(c), the source of authority to operate as a youth court, to cover situations where the applicant is an individual or an entity other than a corporation. Incidentally, I assume the committee does understand "person" to have the meaning given it by AS 01.10.060(8):

DEFINITIONS. In the laws of the state, unless the context otherwise requires,

...
(8) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;
....

All of what had been the juvenile justice grant component of the combined "Community Legal Assistance and Juvenile Justice Grant Fund" of the original bill has been separated out and reformatted as a separate grant fund unto itself. That appears in bill section 3. The last codified section, proposed AS 44.47.249, "Regulations," simply reflects what is now in law (AS 44.47.230) and would have been applicable to the combined fund. I don't think it is necessary to retain this provision in order for the department to prepare and adopt regulations under the Administrative Procedure Act for this new fund. If the committee is disposed not to allow the

Representative Con Bunde, Co-Chair
Representative Cynthia Toohey, Co-Chair
April 1, 1993
Page 2

department to adopt regulations, it is not enough to remove AS 44.47.249 from the bill. Rather, that section should be rewritten to say that the department "may not" adopt regulations.

In the last line of what is set out as AS 44.47.240 in this version, I have substituted "the match is" for "matching funds are" to reflect the fact that the required match may be in cash or in kind.

All else in the bill is unchanged.

JBC:gc
93-300.glc

Enclosure

HB

210

FISCAL NOTE

STATE OF ALASKA

BILL NO. HB210

1994 LEGISLATIVE SESSION

Revision Date: December 8, 1993

Department Affected: Education

Title: An Act relating to employment of chief

BRU: K-12 Support

school administrators

Component: Foundation Program

Sponsor: Rep. Martin

Requestor: Rep. Martin

COMPONENT SERIAL NO. 141

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE FUND SOURCE:

(Thousands of Dollars)

FUNDING:						
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary.)

HB210 will not have a fiscal impact on the Department of Education.

Prepared by: Eddy Jeans

Phone: 465-8685

Division: School Finance

Date: December 8, 1993

Approved by Commissioner: [Signature]

Jerry Covey

Agency: Education

Date: 12-8-93

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HOUSE COMMITTEE REPORT

(9)

Date Referred: March 10, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/31/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 210

HOUSE BILL NO. 210

HIRING OF CHIEF SCHOOL ADMINISTRATOR

"An Act relating to employment of chief school administrators."

RECOMMENDATIONS:

be replaced with _____

CS HB 210 (HESS)

the same title

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 Education

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Car Bunde</i>	<input checked="" type="checkbox"/>	<i>Al Vigen</i>		<input checked="" type="checkbox"/>	
		<i>Pete Foster</i>		<input checked="" type="checkbox"/>	
		<i>Jan L. Jan</i>			<input checked="" type="checkbox"/>
		<i>John Doe</i>	<input checked="" type="checkbox"/>		

Car Bunde
CHAIRMAN'S SIGNATURE



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

DATE: 3/31/94

PLACE: Capitol Room 106

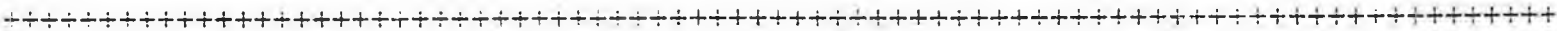
SUBJECT OF MEETING:
 SB 225: INSURANCE TAX CREDIT: GIFTS TO COLLEGES
 HB 210: HIRING OF CHIEF SCHOOL ADMINISTRATOR
 HB 351: ID REQUIRED TO ENROLL CHILD IN SCHOOL

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Al Alvarez	AK Pacific University	4101 University Dr Anchorage	99508	345-2164	564-8347	<input checked="" type="radio"/>	<input type="radio"/>	SB 225
Larry Meyers	D. O. R.			2320		<input type="radio"/>	<input checked="" type="radio"/>	SB 225
Steve Mophetres	ACSA	3200 4th St. #104	91801	6-9702		<input checked="" type="radio"/>	<input type="radio"/>	HB 210
Stow, Jeffrey	SELF	2601 Monmouth	99500	w/a	-	<input type="radio"/>	<input checked="" type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
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						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	

H/HESS ROLL CALL FORM

BILL HB 210 DATE 3/31/94
 TAPE 94-103, A NUMBER ~~430~~ 470
 SUBJECT OF VOTE TO ADOPT AMENDMENT 1

MEMBER	YEA	NAY	ABS
Rep. Cynthia Toohey	—	✓	—
Rep. Con Bunde	✓	—	—
Rep. Gary Davis	—	✓	—
Rep. Al Vezey	✓	—	—
Rep. Pete Kott	✓	—	—
Rep. Harley Olberg	—	—	—
Rep. Bettye Davis	—	—	—
Rep. Irene Nicholia	—	—	—
Rep. Tom Brice	—	—	—
TOTAL	<u>3</u>	<u>2</u>	—



BILL HB 210 DATE 3/31/94
 TAPE 94-103, A NUMBER 106
 SUBJECT OF VOTE TO PASS HB 210 AS AMENDED OUT OF COMMITTEE

MEMBER	YEA	NAY	ABS
Rep. Con Bunde	✓	—	—
Rep. Gary Davis	—	✓	—
Rep. Al Vezey	✓	—	—
Rep. Pete Kott	✓	—	—
Rep. Harley Olberg	—	—	—
Rep. Bettye Davis	—	—	—
Rep. Irene Nicholia	—	—	—
Rep. Tom Brice	—	—	—
Rep. Cynthia Toohey	—	✓	—
TOTAL	<u>3</u>	<u>2</u>	—

HB 210

District	ADM	# Cent. Office Staff	# Principals	Total Central Office	Total Administrative	Total Budget	Admin Payroll as	Superintendent	Assistant Superintendent	Business Manager		
		(Includes Supts.)	(Incl. ass(st.))	and Principals	Payroll	%age of Budget	Salary	Base Salary	Top Salary	Base Salary	Top Salary	
ADAK	674	4.5	1.5	6	\$369,000	\$5,391,385	7%	\$88,000	\$70,000	\$70,000	\$39,400	\$70,000
ALASKA GATEWAY	509	4	2	6	\$426,599	\$5,398,462	8%	\$95,137				\$53,958
ALEUTIAN REGION	23	1.4	0	1.4	\$76,706	\$760,549	10%	\$85,000			\$47,840	\$63,856
ALEUTIANS EAST	459	4	2	6	\$332,440	\$5,262,014	6%	\$81,120		\$74,175		\$53,750
ANCHORAGE	46,115	26	111	137	\$9,770,685	\$286,701,533	3%	\$101,000	\$86,992	\$89,088		\$85,734
ANNETTE ISLANDS	417	2.5	2	4.5	\$302,661	\$3,487,374	9%	\$90,000				
BERING STRAIT	1,580	10	17	27	\$1,906,000	\$22,034,629	9%	\$92,500	\$75,276	\$85,944		
BRISTOL BAY	318	2	1	3	\$169,424	\$3,174,438	5%	\$90,527				
CHATHAM	356	2	2	4	\$288,664	\$4,306,000	7%	\$73,100		\$69,360		
CHUGACH	147	3	0.55	3.55	\$206,436	\$1,939,761	11%	\$83,000				\$54,745
COPPER RIVER	608	3	3	6	\$400,550	\$5,538,035	7%	\$76,000				\$52,500
CORDOVA	488	1.5	1.5	3	\$215,771	\$3,829,333	6%	\$87,720				\$56,424
CRAIG	358	4	1	5	\$251,177	\$2,300,066	11%	\$76,650				\$35,000
DELTA GREELY	946	3	3	6	\$382,069	\$6,527,876	6%	\$78,300		\$70,600		
DENALI	373	2	2	4	\$279,922	\$3,412,095	8%	\$78,000		\$63,000		
DILLINGHAM	497	6	2	8	\$464,292	\$4,961,709	9%	\$87,478				\$63,860
FAIRBANKS	15,608	7	39	46	\$3,104,724	\$05,762,900	3%	\$100,000	\$56,751	\$83,997		
GALENA	156	1	0.5	1.5	\$105,664	\$2,003,573	5%	\$73,000				
HAINES	433	1	2	3	\$195,548	\$3,361,628	6%	\$70,098				
HOONAH	268	1	1	2	\$135,570	\$2,824,769	5%	\$75,000				
HYDABURG	117	2	0.75	2.75	\$142,873	\$1,328,150	11%	\$65,000				
IDITAROD	446	4.5	6	10.5	\$623,619	\$5,751,419	11%	\$85,000				\$61,172
JUNEAU	5,413	9.5	12.5	22	\$1,518,052	\$34,241,000	4%	\$91,000			\$72,944	\$81,665
KAKE	176	1	1	2	\$119,695	\$2,086,669	6%	\$65,000				
KASHUNAMIUT	192	3	1	4	\$246,975	\$1,904,669	13%	\$84,450				\$50,425
KEVAI	9,597	11	40	51	\$3,520,260	\$67,124,275	5%	\$95,500	\$74,500	\$79,000		\$79,000
KETCHIKAN	2,837	5.5	8	13.5	\$923,339	\$16,207,124	6%	\$85,000		\$80,810		\$69,818
KLAWOCK	202	1	1	2	\$130,260	\$2,198,013	6%	\$75,210				
KODIAK	2,564	5	10	15	\$1,064,094	\$17,829,545	6%	\$85,000	\$76,590	\$81,880	\$57,500	\$67,160
KUSLUK	431	4	4	8	\$557,962	\$5,700,693	10%	\$90,308				
LAKE & PENINSULA	469	13	7	20	\$1,208,424	\$8,295,900	15%	\$106,482		\$85,456		\$79,700
LOWER KUSKOKWIM	3,079	10	25	35	\$2,579,426	\$43,368,778	6%	\$90,000		\$81,703	\$63,096	\$85,532
LOWER YUKON	1,660	9	11	20	\$1,425,803	\$17,035,469	8%	\$90,000	\$63,037	\$83,839	\$50,430	\$67,071
MATANUSKA-SUSITNA	10,688	11	36	47	\$3,260,982	\$67,265,276	5%	\$98,289	\$93,609	\$98,289		
NENANA	229	1	1	2	\$116,639	\$2,450,000	5%	\$65,000				
NOME	724	2	3	5	\$351,977	\$6,385,635	6%	\$74,000				
NORTH SLOPE	1,826	3	13	22	\$2,054,247	\$36,975,000	6%	\$110,000		\$109,000	\$69,790	\$96,273
NORTHWEST ARCTIC	1,942	15	13	32	\$1,973,888	\$21,264,000	9%	\$93,450		\$76,732	\$66,675	\$75,779
PELICAN	48	2	0	2	\$103,753	\$698,719	15%	\$55,000				\$48,753
PETERSBURG	706	3	2	5	\$273,343	\$4,692,899	6%	\$76,600			\$29,994	\$38,834
PRIBLOF	164	2	0	2	\$127,000	\$2,200,000	6%	\$87,000				\$40,000
SITKA	1,845	3	6	9	\$534,757	\$10,708,090	5%	\$74,000		\$69,000	\$39,790	\$44,200
SKAGWAY	170	2	0	2	\$106,890	\$1,369,300	8%	\$64,000				\$42,890
SOUTHEAST ISLAND	416	7	1	8	\$598,463	\$5,848,312	10%	\$87,776		\$77,418		\$53,550
SOUTHWEST REGION	637	6	3	9	\$654,614	\$8,669,031	8%	\$90,270		\$71,506		\$72,720
ST. MARYS	127	5	1	6	\$158,500	\$2,167,589	7%	\$82,500				\$46,000

District	ADM	# Cent. Office Staff (Includes Supts.)	# Principals (Incl. assist.)	Total Central Office and Principals	Total Administrative Payroll	Total Budget	Admin Payroll as %age of Budget	Superintendent Salary	Assistant Superintendent Base Salary	Top Salary	Business Manager Base Salary	Top Salary
TANANA	120	1	0.5	1.5	\$107,000	\$1,728,070	6%	\$75,000				
UNALASKA	374	2.1	1	3.1	\$188,356	\$3,777,615	5%	\$85,000			\$47,840	\$63,856
VALDEZ	964	2.67	3	5.67	\$416,317	\$6,840,310	6%	\$89,529			\$66,943	\$73,601
WRANGELL	521	1	2	3	\$193,452	\$3,671,330	5%	\$70,600				
YAKUTAT	144	1	0	1	\$68,000	\$1,300,000	5%	\$68,000				
YUKON FLATS	454	4	5	9	\$585,273	\$6,251,967	9%	\$97,000		\$72,255		\$61,800
YUKON-KOYUKUK	580	5	9	14	\$982,816	\$8,196,442	12%	\$90,000				
YUPIK	364	4.75	4.5	9.25	\$476,987	\$5,400,000	9%	\$97,000			\$55,000	\$70,000

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE MARTIN

TO: HB 210

Page 1, line 9:

Delete "500"

Insert "1,000"

Page 1, line 10, after "district;"

Insert "a district that does not meet the minimum average daily membership requirement of this paragraph may employ a chief school administrator if the district shares the services of the chief school administrator with another district and the combined average daily membership of the districts meets the minimum average daily membership requirement of this paragraph;"

Page 2, line 4:

Delete "500"

Insert "1,000"

Page 2, line 5, after "district.":

Insert "A district that does not meet the minimum average daily membership requirement of this subsection may employ a chief school administrator if the district shares the services of the chief school administrator with another district and the combined average daily membership of the districts meets the minimum average daily membership requirement of this subsection."

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE MARTIN

TO: HB 210

Page 1, line 9:

Delete "500"

Insert "1,000"

Page 1, line 10, after "district;"

Insert "a district that does not meet the minimum average daily membership requirement of this paragraph may employ a chief school administrator if the district shares the services of the chief school administrator with another district and the combined average daily membership of the districts meets the minimum average daily membership requirement of this paragraph;"

Page 2, line 4:

Delete "500"

Insert "1,000"

Page 2, line 5, after "district.":

Insert "A district that does not meet the minimum average daily membership requirement of this subsection may employ a chief school administrator if the district shares the services of the chief school administrator with another district and the combined average daily membership of the districts meets the minimum average daily membership requirement of this subsection."

To: The Honorable Con Bunde, Co-Chair
The Honorable Cynthia Toohey, Co-Chair
House Hess Committee

From: David Dossett, Assistant Superintendent
Southeast Island School District

Subject: HB 210

Date: March 29, 1994

As Assistant Superintendent of Southeast Island School District I would like to address a number of concerns regarding the possible adoption of HB 210, "An Act Relating to Employment of Chief School Administrators." As an administrator of a Regional Education Attendance Area I will focus my comments mainly on those areas directly relating to REAA's. However, I believe that most of my comments are relevant to other sections of this bill as well.

This bill will make significant changes in the ways in which school districts are operated. While some of the motivation for this bill may well be to reduce education costs throughout the state, certain aspects of this bill will significantly alter the administration of schools and, as a result, significantly increase costs, for both the State of Alaska and local districts.

For many years, Section 3 AS 14.08.111 (3) has required school districts to employ a chief school administrator. The removal of this requirements should not be taken lightly. It appears that under the addition of Section 2 AS 14.08.101 (11) districts may employ a chief school administrator if there are at least 500 students in ADM. However, it appears that there is no requirement that they do so. Since the proposed bill does not address districts with under 500 ADM, I am uncertain as to whether districts may do as they please or may not hire a chief school administrator at all. This seems to be an odd way of approaching school administration in Alaska, and I would offer the following observations:

1. I believe strongly that the lack of a chief school administrator in a district, given the training required for certification and the extensive experience required to be hired, would place local school boards and

the district in general in frequent positions of high liability. The State of Alaska has concerned and responsible school boards. At the same time, the vast majority of Board members are not trained in the detailed legal and fiscal requirements regarding the operation of schools. Without a plan to provide that kind of support and direction in the absence of a chief school administrator, I believe that Alaska school districts would quickly find themselves in a sea of litigation. While many of the various forms of the school reform movement advocate decentralization of decision-making and authority (e.g. site-based management), I know of none that seriously espouse the absence of a chief school administrator.

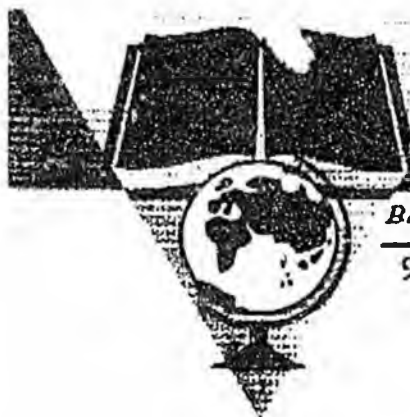
2. For those of us in districts with less than 500 ADM, the intent of this bill is confusing at best. There appear to be three possible scenarios. First, if Section 2 AS 14.08.101 (11) implies that districts of ADM less than 500 may not hire a chief school administrator, I believe that approximately 70% of the districts in the state will be affected. This is a striking change in the administration of small school districts, with no plan in place whatsoever to provide boards with training or communities with any means of determining appropriate alternate forms of school governance. If the paragraph implies that districts under 500 ADM may do what they wish, then I would suspect that most districts will retain a chief school administrator and no savings would be seen from this change.
3. I have heard a third scenario implied -- which is that small districts would band together and jointly hire a chief school administrator. This means that two or more district boards would share a superintendent. I believe that this scenario implies a major lack of understanding of the role of the chief school administrator and the role of local boards in determining their own destiny in the education process. Having both observed and participated in the process of preparation for board meetings, as well as establishing lines of communication so that a board is well-informed, I would suggest that doing so with multiple boards would consume most of the time of a chief school administrator, leaving little time for other administrative duties. This would require additional administrators to be available in each district. Most small

district administrators wear many hats. Working with multiple school boards will only mean that some of those hats will have to be passed to another administrator, thus again removing any savings this proposal might have thought to achieve.

4. In addition to working with multiple school boards, a shared superintendent will, in many cases, work with both REAA's and small city districts, each driven by different statutes, different funding formulas, different tax bases, different problems and different solutions. Wearing many hats is one thing. Riding many horses is an entirely different matter. I suggest that this is an unworkable situation for a superintendent. A shared superintendent could easily find him/herself expected to be on both sides of testimony in a legislative hearing. Worse yet, he/she could be expected to represent districts on opposite sides of a lawsuit. Shared superintendencies will inevitably result in untenable positions.

I would summarize by saying that this bill will create confusion for districts in its implementation, provide untried options for school governance without proper support and leadership for such drastic changes, and could result in considerable liability and litigation for both school districts and the State of Alaska. I seriously urge you to reject this bill.

DD:eb



CRAG SCHOOL DISTRICT

Bob Whicher, Principal

907/826-3274

Dr. Martin Laster, Superintendent

FAX: 907/826-3322

To: House Health, Education and Social Services Committee
From: Paul Thibodeau, Board President Craig City Schools
Martin Laster, Superintendent Craig City Schools
Subject: HB210
Date: March 28, 1994

Honorable Members of House HESS:

At any time it is worthy to consider legislation that has the potential to reduce costs and support direct services to constituents. Most certainly during periods of fiscal challenge, such as this session, it is inexcusable not to review administrative costs for potential reductions. Education should be able to withstand such scrutiny.

In return, the legislation should be thoughtful, systematic and a genuine approach to enhancing direct services to students. We would, therefore, like to offer the following testimony against HB210.

First, we are concerned that there is no mechanism suggested for implementing the massive changes this legislation mandates. If the bill stays in its current form, 31 of the 54 districts or 57% of the state is impacted. If amended to read "at least 1000 students", 40 districts or approximately 75% of the state's school systems will have to decide how they are going to operate in this new environment. It seems to us that this will shift the focus from students and education to politics and economics.

While Sec. 8 AS. 14.20.025 does not speak specifically to this issue, it does address displaced personnel. It appears to preserve "seniority, salary level, tenure, leave, and retirement." This begs the question who bears fiscal implications of this bill? Does the legislature, the originally hiring district or do the coopted districts cover the cost of displaced but contracted personnel?

These are difficult times that call for innovative, well conceived solutions.

Chief school administrator's jobs clearly differ in large and small student population districts. In a large district one can rely on levels of administrative support that does not exist in small districts. In a smaller setting, the superintendent must do more while still being accountable for the same laws and regulations which affect larger settings.

Legislators must have faith that school board members, elected officials like themselves, are doing their job and reviewing the superintendent's performance. There is a similar base of expertise and sense of responsibility on local school boards as in the legislature. We are certain that it is not the legislature's intent to usurp local control and responsibility from well over half the district boards in the state. Local control should not be sacrificed for perceived cost savings.

Boards and superintendents have responsibility to be cost effective and deliver on high expectations for student performance. The Craig City School Board has taken these challenges seriously. We are involved in a series of collaborative efforts with neighboring districts to cut costs and expand service. These strategies include:

- Shared speech services
- Shared music instruction
- Shared testing services
- Shared professional resources
- Shared staff development opportunities

In addition, we are currently developing an interactive video classroom network to deliver instruction in multiple schools at the same time, thereby reducing cost.

As you can see these build capacity and keep costs down. No one mandated these efforts: we just know that it is responsible school governance. We are also listening to our community and holding our school system accountable for increased student performance.

Listening and responding to constituents is what boards, legislators, and superintendents are expected to do. We are trusting that responsible solutions will come from those we serve. We ask that you also have faith that local boards, administrators, staffs, students, and communities are in this effort with you. We recognize that these are tough times but we ask that the actions you take preserve choice for local decision makers in developing innovative, well conceived solutions to our mutual yet unique challenges.

Thank you.

TANANA CITY SCHOOL DISTRICT

P.O. Box 89
Tanana, Alaska 99777
(907) 366-7203 / 7207
FAX: (907) 366-7201

Ron DeLay
Superintendent

Wednesday
March 30, 1994

Representatives Con Bunde and Cynthia Toohey
House Health, Education, and Social Services Committee
Room 106, Capitol
Juneau, Alaska 99801

Re: HB 521 Remove De Novo Trials
HB 210 Limit Administrators

Dear Representatives Bunde and Toohey:

I was unable to get on teleconference this afternoon to testify on the bills referenced above, so please consider the following:

HB 210 Remove De Novo Trials

As you may have heard in Justice Moore's "State of the Judiciary" message yesterday afternoon, our Alaska Court System is jammed beyond capacity with cases, many of which may not see court room resolution for years. The Justice's solution? Simplify, simplify, simplify-get rid of unnecessary trials!

Right now trial de novo embodies exactly what Justice Moore is suggesting be eliminated. Trial de novo adds a step to due process that no other public employee, save a public school teacher, is granted. If I were an attorney, I would love trial de novo because it guarantees double my fee because it doubles the length of the process. As a teacher, I love it, for it guarantees an added safeguard, albeit already guaranteed by statute, which will cost school districts thousands upon thousands of extra dollars.

As a teaching administrator of a small, single-site school district, trial de novo as it is now in statute is a budget killer. We may well be heading into such a situation involving de novo as of this writing. As a district we do everything we can to help a teacher improve. Not only is it common sense to do that, but it is the most cost effective way to ensure the best is ^{happening} ~~being~~ in the classroom for kids. That said, when you have exhausted all the options for helping a teacher and it comes down to a

The mission of the Tanana City School District, in partnership with the community, is to produce students who possess the necessary attitudes, skills, and knowledge to pursue their dreams through a curriculum which celebrates the diversity of all people while preserving each individual's unique cultural heritage.

hearing of non-retention or dismissal, that hearing alone can cost in the neighborhood of \$30,000 (Hearing officer, attorney costs, depositions, costs of subs, et al). I wish I were guilty of hyperbole, but I just spoke with our attorney. And those costs are pre de novo. My point is,

H E L P! Get Rid of De Novo!

HB 210 Limit Administrators

What Representative Martin's bill is talking about is consolidation and that is where the Athabascan Indian Community of Tanana takes issue. While it may be good press to go after those "high priced" administrators, what Representative Martin is talking about is eliminating local control and self-determination. The village fought long and hard to gain what little it has--by any standards--and it is not willing to give up its direct role in the education of its children. Though Tanana is a first class city, it is basically a poor village in the middle of the Yukon with very few homes boasting running water or indoor plumbing. What the village can boast is a school district which serves its predominantly native population, few if any dropouts, and a supportive community/school relationship. Do not take away what little Tanana has, especially given the negligible cost savings if any.

Am I saying all of this to save my job? NO. My daily rate of pay was significantly more when I was teaching full time than I now make as a "high priced" administrator. Note the duties someone like me has in a district like Tanana. I do everything but the windows here.

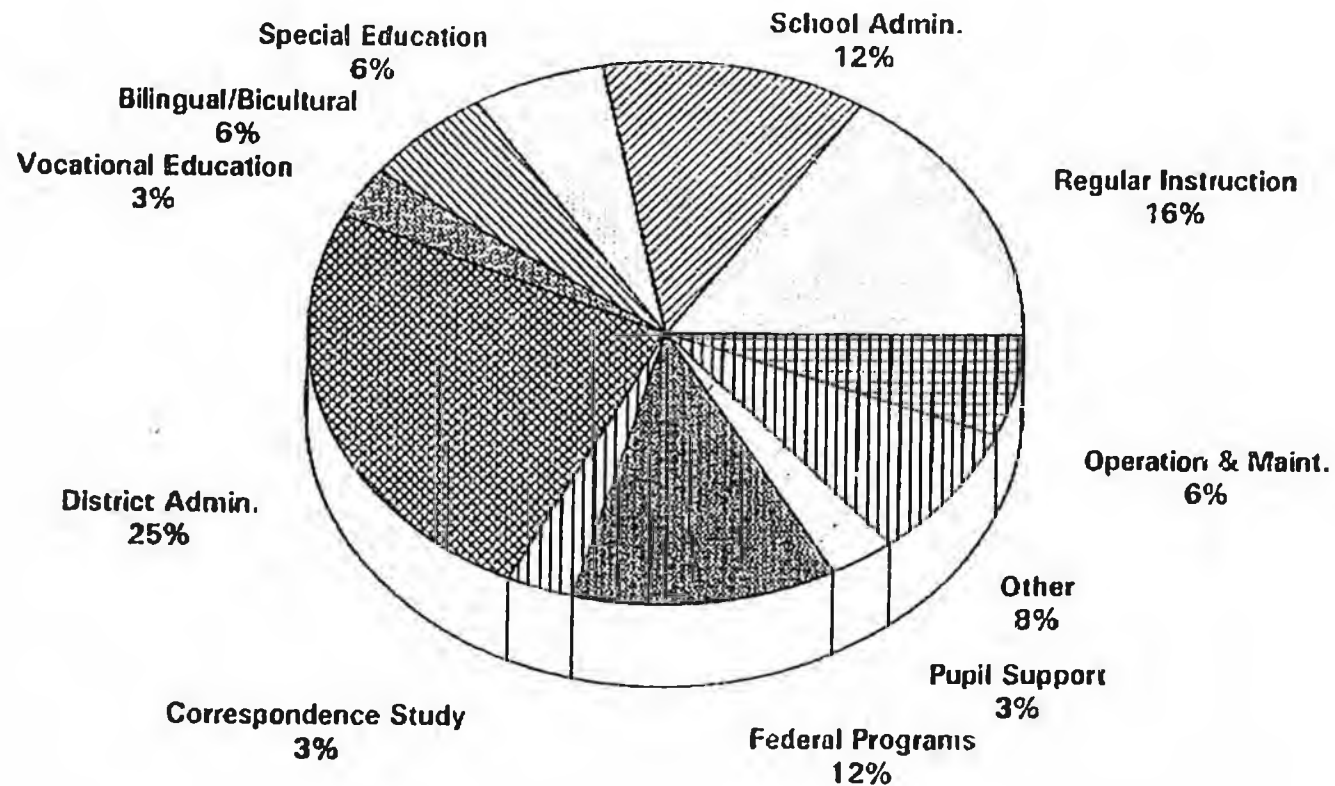
Finally, if Representative Martin truly wants districts to save more money, let the school boards determine where cuts can be made, let them do their job--it is theirs to do. They know best where and what to cut. Or let's tackle the debt retirement issue which is costing all of us big bucks. Let's not micro-manage to the point that we think of saving pennies by removing the steering wheel of our educational vehicle.

Thank you for taking the time to consider these thoughts.

Regards,


Ron DeLay

Superintendent's Duties



ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN

HOME
355 DONNA DR., #11
ANCHORAGE, AK 99504
PHONE: 333-6990

DURING SESSION
P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE: 465-3783

Alaska House of Representatives

SPONSOR STATEMENT

HB 210

"An Act relating to Chief School Administrators"

An old law that required a superintendent for each school district has proven very costly for rural Alaska and small city-borough local governments. When Alaska first became a state, there were few school districts, namely large cities like Anchorage, Fairbanks, and Juneau, where the need for a superintendent was expected. However, since the Bureau of Indian Affairs began transferring authority over schools from federal to state government in the mid-70's, and local communities demanded autonomy over their school sites in the early 80's, the cost of the chief school administrator's office has erupted.

The problem in Alaska is multi-tiered in that there are too many school districts, thereby creating too many superintendent positions. The superintendents are clearly overpaid in many districts and have an unnecessary entourage of support staff, which escalates the level of the problem to a direct fiscal impact on each school district. Interestingly, the complexity grows as specific requests are sent to legislators by these very districts, particularly single sites, who complain of a reduced funding for teachers in their community and yet have a ridiculously exorbitant chief school administrative office and staff.

As small communities attempt to make an argument for special single site funding, regions such as Southeast Alaska represent over 31% of the 54 districts in the state and yet only have an Average Daily Membership (ADM) of 11%. This disproportion is most evident with the Prince of Wales Island which has four (4) operating districts: Klawock, Craig, Hydaburg and the Rural Education Attendance Area (REAA) of Southeast Island, which does not have its headquarters stationed on the island (its office is in Ketchikan).

Currently, Alaska statute requires one superintendent per district, which is expensive and unjustifiable. In the example referencing Prince of Wales Island, of the 4 school districts on the island with only 1,095 students, two are only seven

Sponsor Statement

(7) miles apart on a good road. In the case of the superintendent in the Southeast Island REAA, beyond a \$87,776 salary with a 35% benefits package, this small district of 418 students also employs an assistant superintendent at \$77,418 and a business manager at \$53,550, and yet the average new teacher's salary is \$36,000. In regards to the REAA's office in Ketchikan, the rent per month is \$9,731 and the average lease per year is \$116,772.

Examples of a shared superintendent are the Aleutian Region School District and the Unalaska School District which employ one chief school administrator. Yupit is an example of inefficiency with a merging of three villages, costing 65% for administration and 35% for instruction. In St. Mary's School District, the administration is in financial turmoil and it is presently looking for other options to contract out. HB 210 would greatly alleviate their frustrations.

The purpose of HB210 is to eliminate the requirement for every school district to employ a chief school administrator (superintendent). In particular, if a school district has under 1000 students (as amended), it will be ineligible to hire a superintendent. If the ADM is over 1000 (as amended), employment of a superintendent is optional, but not required. Also, as enacted, 13 school districts with over 1,000 ADM will remain unchanged, leaving the other 41 districts to analyze where administrative consolidation can occur.

In light of our present fiscal decline, Alaska cannot fail to recognize that the education of our children is of the highest priority. With this in mind, waste and inefficiency should be the foremost deletion in our plan for recovery. HB 210 represents one means by which excess fat can be trimmed. School districts throughout the state must better utilize their educational resources. HB 210 is the mechanism through which many of these districts can reduce spending for unnecessary administrators while increasing their teacher/student ratios, in both instances benefiting the student. This bill will not reduce funding to school districts, but will allow school boards to maximize their revenues for instructional purposes.

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN

HOME
355 DONNA DR., #11
ANCHORAGE, AK 99504
PHONE: 333-6990



Alaska House of Representatives

DURING SESSION
P O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE: 465-3783

SPONSOR STATEMENT

HB 210

"An Act relating to Chief School Administrators"

SECTION 1:

Eliminates the requirement that the annual school performance report be presented to the chief school administrator.

SECTION 2:

Requires that the chief school administrator may only be employed if the average daily membership is over 500 (amend to 1,000).

SECTION 3:

Removes the requirement to employ a chief school administrator.

SECTION 4:

States each school board may employ a chief school administrator, providing the ADM is over 500 (amend to 1,000).

SECTION 5:

States the administrator must follow the specified policies, if employed.

SECTION 6:

States the administrator shall control employment of staff, under the board's approval, if employed.

Sectional Analysis

SECTION 7:

Deletes requirement of employing a chief school administrator at a state boarding school.

SECTION 8:

States that a limited teaching certificate must be issued through a chief school administrator, unless there is not such a position, then it must go to the department.

SECTION 9:

States that if a chief school administrator is hired and absorbs another district, the transfers shall fall under his/her authority.

SECTION 10:

States that if a chief school administrator is hired, he/she shall authorize intradistrict teacher reassignments.

Rep. Terry Martin
State Capitol
Juneau, AK 99801-1182

2/23/93

Dear Rep. ~~Martin~~,
Terry

Last fall you and I spoke briefly about the high cost of school administration.

Having been a school administrator I know there is redundancy at the administrative level. As an example, there are three school districts on Prince of Wales (POW) Island, one each at Craig, Klawalk and Hydaburg in addition to the REAA operating out of Ketchikan, a total of four (4) operating districts.

Enclosed is an article from the Ketchikan Daily News, 2/23/93, about the REAA unit headquartered here in Ketchikan. It relates a rather cavalier attitude toward education expenses exhibited by Southeast Island School District.

There was a time, early in the operation of this REAA, when it was appropriate to headquarter in Ketchikan. That time has past especially in view of the budget crunch. During the fall campaign, many residents of POW expressed to me a desire to have Southeast Island School District headquarters move to the island. The move would reduce REAA delivery costs.

There may be a more appropriate approach to cost savings, "district consolidation". Expect turf protection fights if a consolidation review were to be undertaken. The goal would be a more cost effective delivery of education and a reduction of overhead administration.

Moving the REAA out of Ketchikan to POW would impact employment of the support staff as it is presently constituted in Ketchikan. I do not know but suspect the support staff is greater than necessary.

As you search for budget solutions, district consolidation and REAA operations may be worthy of review.

Sincerely,

Carroll
Carroll G. Fader
Box 5794
Ketchikan, AK 99901

(907) 225 3389

Letter of Support

SUPERINTENDENT ANALYSIS 1993

SCHOOL DISTRICT	# OF STUDENTS	SUP. SALARY	BENEFITS	AS	AA	BM
ANCHORAGE	48,115	\$101,000		Y	Y	Y
FAIRBANKS	15,608	\$100,000		Y	N	N
MAT-SU	10,689	\$98,289		Y	Y	Y
KENAI	9,597	\$95,500		Y	N	Y

(TOP 4 IN SIZE)

ALEUTIANS EAST	469	\$81,120		Y	Y	Y
BRISTOL BAY	318	\$90,527		N	N	N
DILLINGHAM	497	\$87,478		N	Y	Y
GALENA	156	\$73,000		N	N	N
KODIAK	2,564	\$85,000		Y	N	Y
LAKE & PENNINSULA	469	\$106,482		Y	N	Y
NEVANA	229	\$65,000		N	N	N
NOME	724	\$74,000		N	N	N
NORTH SLOPE	1,826	\$110,000		Y	N	Y
NEW ARCTIC	1,942	\$93,450		Y	Y	Y
ST. MARYS	127	\$82,500		N	N	Y
TANANA	120	\$75,000		N	N	N
TNALASKA	374	\$85,000 (SHARED)		N	Y	Y
VALDEZ	964	\$89,529		N	N	Y

(BOROUGH AND CITIES)

ADAK	674	\$88,000		Y	N	Y
AK GATEWAY	509	\$95,137		N	N	Y
ALEUTIAN REGION	23	\$85,000 (SHARED)		N	Y	Y
BERING STRAIT	1,580	\$92,500		Y	Y	N
CHUGACH	356	\$83,000		N	N	Y
COPPER RIVER	608	\$76,000		N	N	Y
DELTA GREELY	946	\$78,300		Y	N	N
DENALI	373	\$78,000		Y	N	N
IDITAROD	446	\$85,000		N	N	Y
KASHUNAMUTT	192	\$84,450		N	N	Y
KUSPUK	431	\$90,308		N	Y	N
LOWER KUSKOKWIM	3,079	\$90,000		Y	N	Y
LOWER YUKON	1,660	\$90,000		Y	N	Y
PRIBILOF	164	\$87,000		N	N	Y
SOUTHWEST REGION	637	\$90,270		Y	N	Y
YUKON FLATS	454	\$97,000		Y	N	Y
YUKON-KOYUKUK	580	\$90,000		N	N	N
YUPIIT	364	\$97,000		N	N	Y

(REAS)

CHATHAM	356	\$73,100		Y	N	N
YAKUTAT	144	\$68,000		N	N	N
HAINES	433	\$70,098		N	N	N
SKAGWAY	170	\$64,000		N	N	Y
UNEAU*	5,413	\$91,000		N	N	Y
PELICAN	49	\$56,000		N	N	Y
HOONAH	268	\$75,000		N	N	N
SITKA	1,845	\$74,000		Y	N	Y
KAKE	176	\$65,000		N	N	N
PETERSBURG	706	\$76,600		N	N	Y
WRANGELL	521	\$70,600		N	N	N
SOUTHEAST ISL.*	418	\$87,776		Y	N	Y
KLAWOCK	202	\$75,210		N	N	N
CRAIG	358	\$76,650		N	Y	Y
KETCHIKAN*	2,637	\$85,000		Y	N	Y
HYDABURG	117	\$65,000		N	Y	N
ANNETTE ISLANDS*	417	\$90,000		N	N	N
17 DISTRICTS	14,230	\$1,263,034		4	2	8

(SOUTHEAST)

* NOTE: OUT OF THE 54 SCHOOL DISTRICTS - 32 SUPERINTENDENTS MAKE MORE THAN THE GOVERNOR'S SALARY OF \$81,648 AND OF THOSE SUPERINTENDENTS, 15 HAVE LESS THAN 500 STUDENTS. IN ADDITION, WHILE THE SOUTHEAST SCHOOL DISTRICTS CONSIST OF 31.5% (17) OF THE TOTAL NUMBER OF 54 SCHOOL DISTRICTS IN ALASKA, THEY ONLY ENROLL 11% OF THE STUDENTS IN THE STATE.

COMPILED BY REP. TERRY MARTIN AND STAFF

Background Information

SUPERINTENDENT ANALYSIS (SOUTHEAST) 1993

SCHOOL DISTRICT	# OF STUDENTS	SUP. SALARY	BENEFITS	AS	AA	BM
CHATHAM	356	\$73,100		Y	N	N
YAKUTAT	144	\$68,000		N	N	N
HAINES	433	\$70,098		N	N	N
SKAGWAY	170	\$64,000		N	N	Y
IUNEAU*	5,413	\$91,000		N	N	Y
PELICAN	49	\$56,000		N	N	Y
HOONAH	268	\$75,000		N	N	N
SITKA	1,845	\$74,000		Y	N	Y
KAKE	176	\$65,000		N	N	N
PETERSBURG	706	\$76,600		N	N	Y
WRANGELL	521	\$70,600		N	N	N
SOUTHEAST ISL.*	418	\$87,776		Y	N	Y
KLAWOCK	202	\$75,210		N	N	N
CRAIG	358	\$76,650		N	Y	Y
KETCHIKAN*	2,637	\$85,000		Y	N	Y
HYDABURG	117	\$65,000		N	Y	N
ANNETTE ISLANDS*	417	\$90,000		N	N	N
17 DISTRICTS	14,230	\$1,263,034		4	2	8

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 32 SUPERINTENDENTS MAKE MORE THAN THE GOVERNOR'S SALARY OF \$81,648 AND OF THOSE SUPERINTENDENTS, 15 HAVE LESS THAN 500 STUDENTS. IN ADDITION, WHILE THE SOUTHEAST SCHOOL DISTRICTS CONSIST OF 31.5% (17) OF THE TOTAL NUMBER OF 54 SCHOOL DISTRICTS IN ALASKA, THEY ONLY ENROLL 11% OF THE STUDENTS IN THE STATE.

New Floating School For Gildersleeve Families

If you happen to fly over Tolstoi Bay on the eastern shore of Prince of Wales Island look closely at Gildersleeve Logging's floating camp. Tucked in amongst this picturesque floatilla is a brand new floating school facility. Designed by A.B.A. M. Engineering in conjunction with Southeast Island School District and built in Fife, Washington by McClure & Sons, this one of a kind school made the 7 day float to Tolstoi Bay this summer and is now fully operational.

By Colleen Gildersleeve

I have been asked to write an article on the new J. R. Gildersleeve School which is now located in Tolstoi Bay, approximately 50 miles northwest of Ketchikan.

This school, funded wholly by state dollars, to the tune of approximately \$2 million, continues the tradition first started by Maureen and J. R. Gildersleeve in Thome Bay 35 years ago when they personally financed and built the first Gildersleeve School. That school, by the way, was in continuous operation up until 4 years ago and is still in use as a "community center" at our Polk Inlet location. Since that first school in 1957, there has always been an operating school for the children of the parents employed by Gildersleeve Logging.

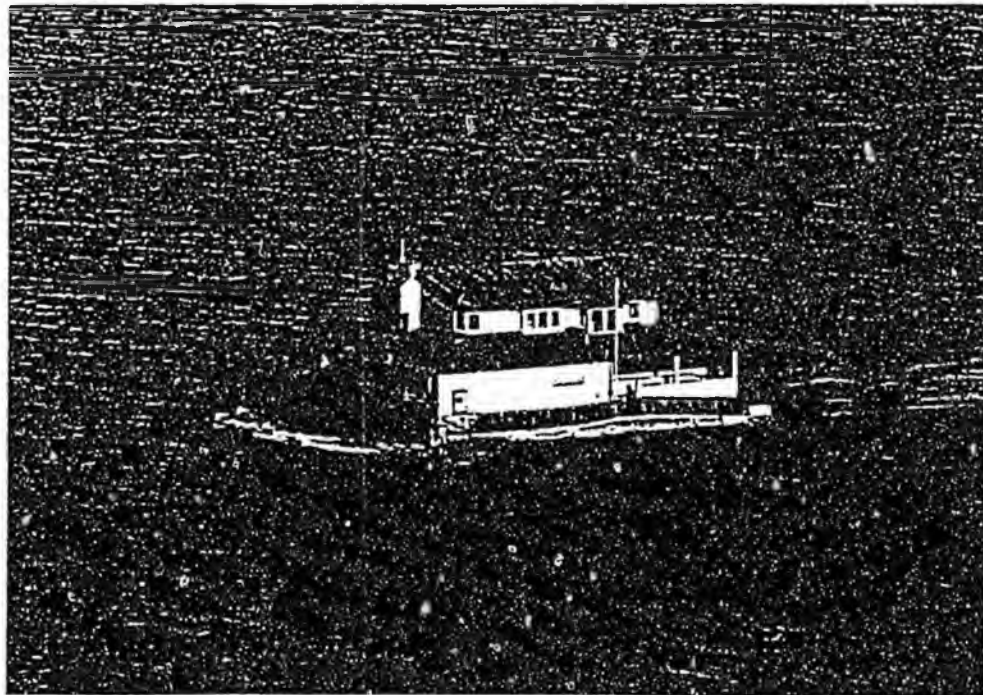
Our new school is a two story building, built out of cedar with a steel roof. The building is approximately 55' x 65' and sits on 9 cement pontoons. There is a separate elementary room, secondary room, library, science and kindergarten rooms. There are also two bathrooms and a teacher conference room all located on the first floor. The second floor is an apartment for the teaching staff. In the "basement", (one of the pontoons) is all of the support equipment, i.e., a 40 kw generator, (back-up use only), sewer and water treatment plants, electrical panels, etc. The two oil furnaces are located on the first and second floors. Located inside the entrance are lockers for the children to hang up their coats and lifejackets.

The science room is state of art and serves 5 to 8 children from the secondary class. With our "right on the water" setting, maybe we will turn out some marine biologists. The library is spacious and is the only room with an adequate amount of windows as well as being well lit from overhead. There are three computers set up in the library for use by all of the children. The elementary students are currently taking computer keyboard each day. They are amazingly adept and I foresee them typing their own book reports and research papers by the time they enter the secondary class (7th thru 12th grades). All of the rooms are accessible from the entry

or "common" area. There is access to each individual room without ever having to pass through another room, the traffic patterns are smooth and non-disruptive to other students. The overall soundproofing is adequate, the children can practice their musical instruments in the kindergarten without disturbing any other class activities. The elementary room is no larger than that in the "old" school, but with the library having an adjoining door, classes can handily spill over into the library. The secondary room has two computers which are in constant use, a cook range and a refrigerator. The class room has adequate room for the children and excellent soundproofing but a remarkable LACK of windows as is the case with all of the rooms, up and down, save the library.

The apartment upstairs is a great idea adding to the self-contained aspect of the building. However, one gets the distinct impression that you are entering a state mental hospital as all drawers and cabinets are extremely small in the kitchen and bathroom. Not only do they look institutional, they all have locks on them. The windows are small and have been installed too high for viewing out from a sitting position. Space constraints here do not allow me to further elaborate on other design and construction flaws.

Suffice it to say that this facility is being thoroughly enjoyed by students and teachers. It is a real pleasure to go to the school and see the harmonious flow of activities. This new school has not brought with it new found wisdom to the teachers (already quite wise), or involvement by the parents (ours, I believe, are more involved than most), or a greater capacity for learning by the children. These traits can not be bought and are the foundation of a good education.



The new floating school in Tolstoi Bay at Gildersleeve Logging's floating camp.

providers focus on two-year-olds because all primary series of immunizations are meant to be complete by the age of 18 months, said Nugent.

Nugent said children should be immunized early because several diseases — measles, H.flu, and pertussis — can be deadly to very young children.

The overall, on-schedule immunization level in the state is 55 percent, said

Jenkerson. Some urban areas don't do as well as rural areas, she said. A special "Immunization Action Plan" will begin soon in Anchorage, Fairbanks and Juneau where 49 percent of children are being immunized on schedule, she said.

Rural areas do better, despite geographical challenges, said Jenkerson. Rural regions average between 58 and 67 percent, she said.

Between 99 and 100 percent of children are immunized by the time they start school, said Jenkerson. The Division of Health has an aggressive tracking program and schools are routinely assessed for immunization levels, she said.

"Our state has been extremely supportive of programs that affect children, See 'Vaccinations,' page 2

Somebody might sue

Southeast Islanders, superintendent at odds

By GERRIT KOEPPING
Daily News Staff Writer

Whatever the results of an upcoming Southeast Island School Board meeting, it's possible somebody is going to get sued.

The Southeast Island School District might be sued if its School Board does not rescind the actions it took at a January 1992 meeting, Charles Thomas Beck, a former mayor of Thorne Bay, said Friday.

Meanwhile, the board has received a letter from the personal lawyer of the district superintendent indicating that the board or its members might be sued if they do negate the actions of that meeting.

Beck said because of inadequate public notice the meeting was in violation of the Alaska Open Meetings Act and the School Board's meeting notification policy.

A lawsuit would be filed if the district's board does not nullify at its next meeting the actions it took at that January 1992 session, he said.

During that January 1992 meeting District Superintendent Bob Weinstein had his contract extended for one-and-a-half years and was given a \$5,000 bonus, said Board Clerk Elaine Price, who did not attend that meeting.

Beck, who is not on the board, said it angered him that Weinstein was getting a bonus when, he said, money is tight for the district.

A group of 386 people have pledged \$20 a piece to pay for the legal fees, Beck said, for a total of \$7,720.

On Monday, Price said she received a letter from Weinstein's personal attorney Clifford H. Smith.



Bob Weinstein

ney Clifford H. Smith.

Smith wrote that recent events suggest Price and other individuals are using the Open Meetings Act as a way to invalidate Weinstein's contract which is good through June 30, 1995.

"Any further efforts by Ms. Price or other Board members to participate in, or aid or sanction action by other persons toward efforts to breach Mr. Weinstein's employment contract, or otherwise harm his professional reputation will result in vigorous legal action against all involved parties."

Price said the letter, which was also addressed to the three other board mem-

See 'SEISD,' page 2



truck while Lt. Dave Hull stands by cab for easy engine access and Fla., about three weeks ago. The

Staff photo by Hall Anderson

KETCHIKAN DAILY NEWS 2/22/92

Bridge alternative

An alternative to the proposed horseshoe-shaped bridge to the Ketchikan International Airport would provide shortened travel with an "S"-shaped curve.

Long-time bridge advocate Ralph Bartholomew said the suggestion has been passed on to the bridge consultants Peratrovich, Nottingham and Drage Inc. That firm is working with the consultant Montgomery Consulting/Engineering Inc. which has contracted with the state Department of Transportation and Public Facilities to do an draft Environmental Impact Statement for a proposed hardlink here.

The "S"-shaped bridge would start near the existing airport ferry terminal on Revillagigedo Island. The horseshoe-shaped bridge starts farther away from Ketchikan at Peninsula Point.

The new bridge alternative would include a 175-foot clearance for cruise ships traveling down the Narrows, said Bartholomew. It also is within the 5 percent incline grade that the consultants are striving for.

The bridge could remain similar to the horseshoe-shaped proposal with a pedestrian walkway underneath the bridge.

The horseshoe proposal has been estimated to cost \$60 million, compared to the option of building a \$120 million hardlink from Ketchikan to Pennock Island and Pennock to Gravina Island.

Gov. Walter J. Hickel appropriated \$250,000 towards the EIS for the proposed project. About \$60,000 of that has been used for the project's scoping.

Montgomery plans to start working on the draft EIS in April, said Bartholomew.

January weather

It was a bit drier in January than in years past and the high temperature for the month came just under 4 degrees of the all-time record.

There were 12.3 inches of precipitation last month in Ketchikan, compared to a normal level of 14.1 inches, according to information from the National Weather Service.

The most precipitation recorded in January during a 24-hour period was 4.1 inches on the 29th. The greatest precipitation on record is 6.88 inches in 1962.

Measurable precipitation was measured on 17 of the 30 days.

The high temperature for the month was 58 degrees on Jan. 31. The all-time high for January was 62 degrees in 1947.

The lowest temperature last month was 11 degrees on Jan. 11. The record low is minus 4 degrees.

Weather observations are made by Federal Aviation Administration Flight Service office at the Ketchikan Interna-

SEISD

bers of the district, was a threat; but that she was not concerned.

Since December she said that she has received a variety of requests for information, some from the people trying to rescind Weinstein's contract, but that was the extent of her involvement.

"I guess he assumes because I gave these people information about the January 1992 meeting that I'm part of it," she said.

Price said all she did was give out public information and has no interest in rescinding his contract.

The meeting was announced in the Daily News two days before it occurred, but most residents of the district subscribe to the weekly paper the Island News, which is based in Thorne Bay, and not to the Daily News, Beck said.

The Daily News generally announces meetings two times before they occur.

Colleen MacCannell, publisher of the Island News, said the district did not announce the January 1992 meeting in her paper and does not normally do so.

The district policy states board meetings should be published five days in advance, but does not state if that means the meeting needs to be announced in the media five days in advance or the media needs to just be told five days in advance.

To Beck that means there should have been an announcement in the papers at least five days before the meeting.

Edward G. King, a partner in the law firm of Ziegler, Cloudy, King, and Peterson, which represents the district, said he felt the district had not violated the Open Meetings Act.

"I've enough experience with the Open Meetings Act to know that if we violated it, we would quick like a bunny rabbit give longer notice," he said.

King said he and Weinstein's personal attorney and the staff attorney of the Association of Alaska School Board concluded the district has not violated the Alaska Open Meetings Act.

Smith wrote in his letter to the four board members that the board for years had considered its policy to mean there needed to be a five-day notification to the media before a meeting, not a particular notice or advertisement in a newspaper five days before a meeting.

Concerns about advance notification of a February 1993 board meeting led to its cancellation when two board members refused to attend.

Price said she and Board member Daniel Hayes refused to go to the meeting when they found the meeting had

not been announced in the media five days before it was to occur.

She said she had talked to Weinstein a week before the February meeting about making sure proper notice was given.

When she found that three days before the meeting there had been no notice in the media she faxed a letter to the district office saying she would not attend.

With Hayes also refusing to attend and another board member out of the state, the five-member board did not have a quorum and the meeting was canceled.

King said he wanted board members "to get back to the table."

"The administration will do what the board tells them to do, but we have to have a meeting to let those views be known," King said.

Smith's letter to Price states that board members' refusal to attend meetings makes it impossible for Weinstein to do his job and thus violates his contract.

"On behalf of Mr. Weinstein, I would ask that the Board immediately cease this nonsense and get on with running the School District," states Smith's letter.

One of the issues to be discussed at the February 1993 meeting was whether to move the district office to Thorne Bay.

Beck said the issue has been one of contention and Weinstein has angered people by opposing the move.

The office is currently in an office building in Ketchikan, which costs the district \$9,731 a month in rent, according to a letter to the Island News editor from Price. Ketchikan is not within the boundaries of the Southeast Island School District.

Price said moving the district office is a "big deal" and in her letter supported the idea.

Beck said it originally made sense to have the office in Ketchikan because there wasn't an established road system on Prince of Wales Island, but that now a road network is developed and the office should be moved inside the district.

In the Feb. 8 edition of the Island News there was a petition advocating the office be moved to the island signed by about 350 of its residents.

Weinstein said he had no comment on any of the above matters.

The next scheduled board meeting will be at 6 p.m. Thursday at Naukati School in Naukati. It is not known if there will be a quorum.

Audit Report

POTENTIAL FOR ADMINISTRATIVE SAVINGS FROM SCHOOL DISTRICT CONSOLIDATION

May 11, 1992



Audit Control Number:
05-4409-92

Division of Legislative Audit
P.O. Box W, Juneau, Alaska 99811-3300

SUBMITTED BY: REP. MARTIN

5-11-92 Legislative Audit - Potential for Administrative Savings from School District Consolidation

ORGANIZATION AND FUNCTION

Title 14 of the Alaska Statutes sets out the duties and organization of the Department of Education. The statutes establish a seven-member State Board of Education appointed by the Governor, which sets the policy for education in Alaska's public schools. The State Board appoints the commissioner of the Department of Education to implement and carry out its policy decisions.

There are a total of 54 school districts in Alaska. The school districts include 21 Regional Education Attendance Areas (REAs) which serve the unorganized borough, 18 first class city districts, and 15 borough and home rule municipality districts. Each district has an elected school board that works within the state guidelines to set policies for their respective district. City and borough school districts are funded by a combination of local taxes and state funding. REAs are within unorganized areas which have no taxing authority and receive almost all operational funding from the State.

As set out in AS 44.47 the Department of Community and Regional Affairs' (DCRA) basic mission is to advise and assist regional governments. One of DCRA's functions is to provide staff support to the Local Boundary Commission (LBC). The LBC is made up of five members appointed by the governor, one each from the four judicial districts and one from the State at large. Appointments are made for overlapping five-year terms. The LBC adopts regulations to define and clarify the standards for borough incorporation, annexation, dissolutions, and any other actions affecting municipal boundaries.

Although DCRA provides technical and administrative support to LBC, the department and the commission are independent in matters of policy. While DCRA staff assist LBC and may make recommendations, boundary decisions are made independently by LBC.

BACKGROUND INFORMATION

Local control is the overriding public policy principle for rural Alaskan schools

The principle of local control is the central aspect of school administration public policy in Alaska. Since 1975, both administrative and legislative actions have reaffirmed the primacy of this public policy principle for schools throughout the State.

Local control of education, particularly in the rural, predominantly native regions of the State is considered of critical importance. This may be due in part to the history of school governance in rural Alaska. For most of this century these rural schools were administered and controlled by outside groups – either the church, the State, or the federal government.

Comparatively, the more urban sections of the State have had local control of their schools since early in the century. In 1905, the U.S. Congress authorized Alaskan municipal governments to establish and locally operate schools separate from the existing federal schools in the territory.

Later, the Uniform School Act of 1917 established the territorial Department of Education to systematize school administration on the state level. Rural, predominantly native schools were still administered by the U.S. Department of Interior, Bureau of Indian Affairs (BIA).

In the early 1960s the Mandatory Borough Act (see discussion on the next page) granted organized boroughs authority for school administration. Rural schools in the unorganized regions of the State still were administered either by BIA or as part of the

CREATION OF 1985 REAAs DEMONSTRATED IMPORTANCE OF LOCAL CONTROL

Despite opposition from the State Board of Education, two new Rural Education Attendance Areas (REAAs) were formed in 1985. The five villages included in the two REAAs were contract schools that previously had been funded by the BIA. As such, the schools had been operating independently outside the jurisdiction of the surrounding REAAs.

The State Board of Education and the Department of Education both advocated that the new villages be consolidated into existing REAAs. Their opposition to creation of new, separate REAAs were based on three major points:

1. The cost involved in establishing five new school districts; (The original legislation proposed separate REAAs for each village. This proposal was subsequently changed so that the villages of Akiachak, Akiak, Tuluksak, and Cheformak were consolidated into one of the new REAAs).
2. The adverse effects of fragmenting the existing delivery system in a manner not contemplated by existing municipal or education law.
3. The potentially dangerous precedent the bill would create respecting relationships between REAAs and their respective communities.

The five villages protested the absorption of their schools into the existing REAAs believing it to be a loss of local control.

Despite the well-founded objections of the State Board of Education, the legislature did create new, separate REAAs.

While reduction of the number of new REAAs from five to two did reflect some compromise, the legislature found local objections and concerns over the loss of local control compelling. Rather than consolidating the villages into the existing REAAs, they carved out new districts from inside the boundaries of the Lower Yukon and Lower Kuskokwim REAAs.

statewide State-Operated School (SOS) system. Over time both the BIA and SOS schools had allowed for some measure of local control through the establishment of advisory boards at the community level.

Legislation mandating boroughs was the first step in implementing constitutional requirement

**STATE CONSTITUTION REQUIRES
STATE TO BE DIVIDED
INTO BOROUGHS**

Article X, Section 3 of the Alaska Constitution requires that:

The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible.

Article X provides for maximum local self-government with a minimum of local governmental units. These local government units, called boroughs, were to be based on economic, geographic, social and political factors.

The boroughs were to be large enough to allow for the provision of all local services within the boundaries of a single unit but would prevent the establishment of too many subdivisions.

As discussed in inset at left, the Alaska Constitution established the borough as the State's standard local government unit. Despite this constitutional requirement, by 1963 no local borough governments had yet been formed. In an effort to begin establishing local government, the legislature began mandating the formation of boroughs.

The Mandatory Borough Act (Chapter 52 SLA 1963) required eight regions of Alaska to form boroughs by local initiative prior to January 1, 1964 or be incorporated automatically under the provisions of the law. The eight regions included the Boroughs of Ketchikan Gateway, Kodiak Island, Juneau, Sitka, Fairbanks North Star, Kenai Peninsula, Matanuska-Susitna, and Anchorage.

Currently there are 15 organized boroughs or unified home rule municipalities and 1 unorganized borough. Unified home rule municipalities are former boroughs which have joined together with all of the cities within its boundaries. There are four classifications of organized boroughs: home rule, and first, second, and third class. All four classifications of boroughs are required to provide areawide education under Alaska Statute (AS 29.35.160).

Outside of the original mandatory legislation, all borough formation has been a result of local initiative. Areas of the State that remain without any local regional government essentially make up one large, unorganized borough. It is generally felt that this structure of 1 unorganized and 15 organized boroughs satisfies the letter of constitutional directive that "*the entire State shall be divided into boroughs, organized or unorganized.*"

According to one of its framers this structure does not meet the Constitution's intent.³ The legislature, as a whole, is considered as the sitting governing assembly for the unorganized borough. In this role, the legislature is responsible for delivering services to the residents of the unorganized borough with primary and secondary education given high priority.

REAs were established in response to a court decision and were based on university study

In 1975 the legislature established a quasi-governmental structure, termed Regional Education Attendance Areas (REAs). These special type of school districts were created in response to an Alaska Supreme Court decision *Molly Hootch, et al., v. the Alaska State-Operated School System, et al., Alaska, 536 P.2d (May 23, 1975)*. They were developed in large part from recommendations made in a January 1974 University of Alaska report titled *Prehigher Education in the Unorganized Borough: Analysis and Recommendations*.

REA boundaries were designed to "essentially" conform to the regional native corporation boundaries or sub-boundaries as established under the Alaska Native Claims Settlement Act. The transportation and communication network between communities, as well as language, culture and socio-economic factors served as a basis for establishing the boundaries of the original twenty-one REAs.⁴

Critics claimed that REAs weakened fiscal control and prevented borough formation

Critics of the REA concept felt that the formation of these quasi-school districts was bad public policy. In their view, formation of REAs allowed unorganized areas of the State to have their own school board and make decisions regarding their schools while the State essentially provided all the funding. Without local fiscal responsibility, local school boards would have no incentive to spend wisely. One prominent critic claimed that "*if these school boards have no fiscal responsibility, their wildest dreams and wishes will become absolute necessities.*"

A second concern, was that the creation of REAs would delay the formation of boroughs in the unorganized area of the State. The critics complained that the State Constitution directed that local government powers, such as education, should be vested only in boroughs and cities.

³ Former state Senator Victor Fischer, one of the signers of the constitution, viewed the current "left-over" unorganized borough as a historical anomaly. According to Senator Fischer the framers envisioned that there would be a number of small local government boroughs designated throughout the State, and as development progressed, they would make the transition from unorganized to organized boroughs.

⁴ It should be noted that the factors specified in the formation of REAs (transportation, communications, language, culture, and socio-economic factors) are similar to the factors identified in the constitution as serving as a basis for boroughs: *population, geography, economy, transportation, and other factors* (see inset on page 6).

REAs in the <u>Unorganized Borough</u>	Model Boroughs with Consolidated Schools
Adak Aleutians Pribilof Islands	Aleutians/Pribilof
Alaska Gateway Copper River Delta Greely	The Delta Greely/Alaska Gateway/Copper River model borough is referred to in the report as Interior East/Roadway Borough
Annette Island	Annette Island
Bering Straits	Nome/Bering Straits
Chugach	Prince William Sound
Iditarod Area	Iditarod Area
Kashunamiut Kuspuk Lower Kuskokwim Lower Yukon Southwest Region Yupit	Calista
Yukon-Koyukuk	Yukon-Koyukuk
Under LBC's projected boundaries, various communities in each of the following three REAs would be divided into two or more model boroughs. Notes 7, 8, 12, and 14 in the Notes to the Schedule of Estimated Savings that begin on page 28 identify in detail how each REA's communities would be allocated for the purpose of our analysis.	
Yukon Flats	Fairbanks North Star Borough Yukon Flats
Chatham	Haines City and Borough of Sitka Chatham Borough
Southeast Island	Ketchikan Gateway Borough Prince of Wales Island Chatham Borough City and Borough of Sitka

These critics charged that creating REAAs not only violated this constitutional direction, but that it also hindered accomplishing the Constitutional requirement that the State be divided into boroughs (see inset on page 10). In their view, creation of REAAs was contrary to the legislature's duty to promote the formation of organized regional government in order to carry out these constitutional requirements. Creation of REAAs, it was felt, undermined borough organization, since authority over schools was the primary incentive to form local governments. Writing in 1975, a former Speaker of the House asserted:

There are... areas [in the State] that within the next seven or eight years would have formed local governments for the opportunity to control their local affairs including the schools. Now, its questionable as to whether or not they will because through [formation of REAAs] they obtain control of their schools but have none of the financial burden.

REAAs were intended to be a transitional form of government

REAAs originally were envisioned as a transitional form of governance necessary to deliver education to the children in the unorganized areas. Since 1975, REAAs have become entrenched as a "quasi-unit" of local government even though they have neither constitutional status nor independent taxing authority. Their existence continues to be seen as a deterrent to borough formation in the unorganized regions of the State. Further, the REAAs' lack of taxing authority may be prompting some local governments to consider "disincorporating." At least three first class or home rule cities have inquired of the Local Boundary Commission (LBC) about dissolving their jurisdictional status.⁵

Since the transition of REAAs to boroughs is the next most logical phase in Alaska's regional local government structure, we have based our school consolidation analysis on these projected boroughs.⁶ Using model borough boundaries for projected consolidated school districts, the number of the State's 54 school districts is reduced in half. The table on the opposite page lists how existing REAAs currently in the unorganized borough would be consolidated into these projected boroughs.

⁵LBC has received inquiries from Nenana, Galena, and Hoonah about procedures to follow for reclassification as a second class city rather than as a home rule or first class city. In a June 5, 1990 letter responding to the City of Nenana, a DCRA official commented that "it was apparent to the Commission that interest in this matter stems in large part from the desire on the part of communities to seek relief from the financial burden of operating city school districts." In the view of LBC, this involves the larger issue of service delivery in the unorganized and organized areas of the State, and that, as such, it was an issue that first needed to be addressed by the Legislature.

⁶ It should be noted that LBC stresses that the model borough boundary study was not designed to promote the formation of new boroughs or the annexation of additional territory by existing boroughs.

Special legislative committee undertakes evaluation of school performance

In 1989, the legislature established the Joint Committee on School Performance. In the committee's enabling legislation it was directed to identify and recommend those subjects for priority legislative attention that might lead to improved school performance. One of the areas identified by the Joint Committee where school performance could be improved was school governance and finance.

In its January 1991 report, the committee observed that:

In recent years criticism of schooling in general has increased steadily. For example, the "bankruptcy" of the wholly funded Copper River Valley REAA by action of its superintendent and board did much to damage the credibility of "local control" in the legislature and with the general public. Public comment regarding school district expenditures for lobbying, litigation, and legal fees not connected with litigation has been negative as well.

Committee suggests that incongruous governance structures may hamper school performance

One of the issues raised in the report of the Joint Committee on School Performance was the effect that organizational flaws may have on school performance. The mixture of three different types of school districts⁷ that have evolved in the State create what the committee termed an

...anomalous political and geographical boundaries arranged in a way that may be difficult to justify from a number of important standpoints. These include the problems of equitable distribution of decision making authority, of efficiency of daily operation and prudent expenditure of financial resources, and of the capacity to make programmatic changes that might lead to improved school performance.

Examples of organization arrangements that cause these problems include the following: the Chugach REAA surrounds the city of Cordova and skirts the city of Valdez; the Lower Yukon REAA surrounds the Kashunamuit REAA and the municipality of Saint Mary's; the Lower Kuskokwim REAA geographically includes the Yupiit REAA; and the Southeast Islands REAA includes the municipalities of Craig, Hydaburg, Kake, Klawock, Petersburg, and Wrangell. These are just some of the extraordinary organization arrangements that have

⁷As discussed earlier in the Organization and Function section, three different types of school district governing structures that have evolved include: (1) city school districts administered by each first class city in the unorganized borough; (2) borough school districts administered by organized borough governments, regardless of classification; and (3) the REAAs governed locally, funded by the State for schools in the area outside organized boroughs and first class cities in the unorganized borough.

evolved over the past fifteen years that affect equity, efficiency, prudence, and judicious change. Organization, however, is only one probable cause of these problems; ...[Emphasis added.]

In the report, discussion of this issue leads to the accompanying question of what potential cost savings may be realized from a more rational organization and consolidation of school districts, even though any major restructuring would likely, to some degree, be at the expense of local control.

Efficiency of REAA administration is of critical interest to the State

Since local REAAs participate to a relatively minor extent, if at all, in funding their schools, the State retains a legitimate interest in how effectively and efficiently REAAs deliver services. As reflected in the previous discussion, the current number and structure of REAAs have developed more in response to the public policy precept of promoting local control rather than with regard to operational efficiencies.

The Joint Committee of School Performance has observed that legislation enacted in recent years concentrated control of education at the district and REAA level, further detaching the involvement of state government. The Joint Committee of School Performance now suggests that either: (1) school performance may have suffered from this emphasis on local control, or (2) problems of inadequate performance, whatever their cause, cannot be left entirely in the hands of the local school boards.

The Hickel administration is interested in pursuing some consolidation of school districts

The need to reexamine the governance structure of schools and consider possible consolidation of various districts has also been identified as an objective of the Hickel administration. The director of the Office of Management and Budget testified before the State Board of Education that the administration is interested in pursuing the possible consolidation of some of the REAAs. Among many points the administration made in its presentation was a desire to:

study the organization of school districts in Alaska to determine whether or not there needs to be as many as 55 school districts, making a concerted effort to consolidate or require cooperative sharing of certain administrative functions. [Emphasis added.]

The director anticipated that significant administrative savings could be realized.

POSITION PAPER: DEPARTMENT OF EDUCATION

Division School Finance and Data Services Bill Number HB 210

Bill Title "An Act relating to employment of chief school administrators."

Sponsor Representative Terry Martin

The Department of Education believes that each district does benefit from the oversight of an individual with the programmatic and administrative training equivalent to the superintendent certification requirements. Through statute and regulation, the Department mandates the academic preparation and experience required to receive administrative certification. The type and range of management responsibilities inherent in all school districts require the services of a chief school administrator.

Under current statute each district can receive these services either by directly employing an individual that has the qualifications or by entering into a cooperative agreement as provided for in AS 14.14.110. Specifically, this section allows a district to cooperate with other districts in order to provide more efficient or more economical educational services. Currently, there are two districts, Aleutian Region and Unalaska that have entered into this type of agreement. Other districts are considering this type of cooperative agreement on a voluntary basis.

Based on AS 14.12.010, Alaska is divided into 54 school districts made up of 16 boroughs, 18 home rule/first class cities and 20 Regional Educational Attendance Areas (REAs). Borough school districts are administered by organized borough governments. City school districts are administered by each home rule/first class city in the unorganized borough. REAs are governed locally and funded by the State for schools in the area outside organized boroughs and home rule/first class cities in the unorganized borough. The size of individual school districts and the number of districts is a separate issue from the management of the school district.

Twenty-nine districts with average daily membership (ADM) under 500 would be affected by this bill. There will be no savings to the State because the Foundation formula is based on ADM and instructional units rather than persons employed. Each school board determines local resource allocations. There are no statutes or regulations that define how dollars will be utilized at the local level.

In summary, the department believes that in order to bring both quality and consistent educational services to Alaska's students, each district must have the benefit of the programmatic and administrative training equivalent to the superintendent certification requirements.

APPROVED:

Director Duane Guiley Division School Finance

Signature *Duane Guiley* Date 4/1/93

Commissioner/Deputy _____

Signature *Terry Martin* Date 4/1/93

HB

217

HOUSE COMMITTEE REPORT

(9) Date Referred: March 10, 1993 FURTHER REFERRALS: Judiciary

Date of Committee Action: 3-24-93

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 217

HOUSE BILL NO. 217 NATIVE CORPORATION DIVIDENDS TO MINORS

"An Act relating to Native corporation dividends and other distributions due to minors in state custody."

- 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 H+SS [] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>		<i>[Signature]</i>	X		
<i>[Signature]</i>	✓	<i>[Signature]</i>		✓	
<i>[Signature]</i>	✓	<i>[Signature]</i>		✓	
<i>Betty Davis</i>	✓				
<i>Irene Nicholas</i>	✓				
<i>Tom Bruce</i>	✓				

[Signature]
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 217

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act relating to Native corporation BRU: Family and Youth Services
dividends and other distributions due to minors in state.." Component: Southeast, Southcentral, Northern, &
 Sponsor: REPRESENTATIVE MACLEAN Central Office
 Requestor: HOUSE HESS Committee COMPONENT SERIAL NO. 0258 0254 0255 0259

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
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 FUND SOURCE						
----------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact to the department if this bill were to become law. Any additional administrative support or line staff services needed would be absorbed by already existing resources.

Prepared by: Deborah R. Wing, Director *Deborah R. Wing* Phone: 465-3191
 Division: Department of Health & Social Services Date: 03/16/93

Approved by Commissioner: Theodore A. Mala, MD, MPH *Theodore A. Mala* Date: 3/22/93
 Agency: Department of Health & Social Services

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Fiscal Note - H+SS

SPONSOR STATEMENT

HB 217

Representative Eileen P. MacLean

The purpose of HB 217 is to require Native corporation's under the Alaska Native Claims Settlement Act (ANCSA) to hold a minor's dividends in an interest bearing account while the minor is in custody of the state.

With the passage of ANCSA on December 18, 1971, unique Native regional corporations were established and every Alaska Native became eligible to receive 100 shares of a regional corporation stock. Under the original act, the stock was inalienable and could not be sold or otherwise transferred, (except by inheritance), until December 18, 1991. Stock was limited to living Natives as of December 18, 1971. Those born after that date, "afterborns", could only acquire stock by inheritance.

The creation of ANCSA corporations resulted in a new class of minor's who were similarly situated in that they were eligible for 100 shares of Native corporation stock. In an effort to insure protection of dividend funds for minors in state custody the state filed a class action suit to assure that dividends were protected and spent for the child's benefit while in state custody. Because the stock was issued only to Alaska Natives living on December 18, 1971 and the restrictions on stock ownership were set to expire on December 18, 1991, the issue of protecting dividends of minors in state custody was temporary.

In 1987, Congress amended ANCSA and extended the alienability of Native corporation stock indefinitely. The federal amendments to ANCSA have brought back the issue of dividend protection for children in state custody and raised the need for a permanent solution. As a result, the Department of Health and Social Services and Native corporations have requested this legislation.

HB 217 adds a new section to corporations organized under the Alaska Native Claims Settlement Act requiring the corporation to set up interest bearing accounts for minors held in state custody under the child-in-need-of-aid category. The bill prohibits the corporation from using the property in the account unless approved by a court and specifies when corporations can distribute property.

Sponsor Statement

Sponsor Statement

HB 217

page 2

HB 217 exempts the retention and distribution of dividends and distributions under this legislation from the Uniform Transfers to Minors Act (UTMA). UTMA sets out requirements for custodians of Native corporation stock. HB 217 does not affect the procedure or requirements for custodians of Native corporation stock, it requires Native corporations to hold dividends in an interest bearing account while a minor is in state custody.

The Department of Health and Social Services is in support of the bill. HB 217 has a zero fiscal note.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

COPY

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 10, 1993

SUBJECT: Sectional Summary of HB 217

TO: Representative Eileen MacLean
Attn: Rena

FROM: Theresa L. Bannister *TB*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional 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. Adds a new section to the chapter on for-profit corporations.

Sec. 10.06.961(a) requires a Native corporation organized under AS 10.06 and under the Alaska Native Claims Settlement Act (ANSCA) to retain a minor's dividends and other distributions in an interest-bearing account while the minor is in the custody of the state under AS 47.10.010(a)(2) (child-in-need-of-aid category).

Sec. 10.06.961(b) prohibits the corporation from using the property in the account unless the use is approved by a court.

Sec. 10.06.961(c) tells the corporation when it can distribute the property in the account.

Sec. 10.06.961(d) states that the retention and distribution of dividends and distributions under this section is not subject to the Alaska Uniform Transfers to Minors Act (AS 13.46).

Sec. 10.06.961(e) defines "minor" for the section.

Section 2. Is a transition provision for sec. 1. States that sec. 1 doesn't apply to dividends paid, or distributions made by the corporation before sec. 1 takes effect.

TLB:gc
93-219.glc

Sectional Summary

POSITION PAPER

HB 217

For An Act Entitled: "An Act relating to Native corporation dividends and other distributions due to minors in custody."

Background

When the Alaska Native Claims Settlement Act (ANCSA) became law on December 18, 1971 every living Alaska Native was entitled to 100 shares of stock in a regional native corporation and depending on the residence location to become a shareholder in a village corporation as well. Alaska Natives born after December 18, 1971 ("afterborns") could become shareholders only by inheritance.

With very limited exceptions, corporate stock in regional and village corporations could not be sold or otherwise disposed of until December 18, 1991. On that date the stock in regional and village corporations was to be canceled and new shares issued. The new stock was to be with out the restrictions or alienation that was required originally issued under ANCSA. Congress amended ANCSA prior to December 18, 1991 and retained the alienability of native corporation stock. This action holds the stock to the original restrictions under the act.

A class action suit was brought on behalf of children in the custody of the department (Ak. v Ahtna) to assure that stock dividends were protected from irresponsible expenditure by the minor's parent(s). Trust accounts were established at Alaska banks on behalf of those children in custody of the department and notice was given to the trust officer by the department when a child entered or left state custody. This process ended when the original dividend holders reached the age of majority and protection of their assets was no longer a fiduciary issue.

Now the issue of "after born" dividend holders has brought back the need for protection of dividend funds for minors that are in the department's custody.

Analysis/Program Impact

The department recognizes the need for protection of dividends paid to minors in the department's custody. Failure to establish these protection exposes children to exploitation by irresponsible parents or guardians.

The department believes that the native corporations are best able to protect dividends that are issued to "after born " children. This belief supports self determination for Alaska Native children by enabling the corporations to act in the best interests of the child by ensuring that the child is the ultimate benefactor of the dividend.

The department would work with corporations to identify children enrolled in corporations distributing dividends when those children enter and leave custody. When custody orders are entered for a Alaska Native youth enrolled in an ANCSA corporation the department will provide the information to the corporation so that the proper account for the funds may be established.

DEPARTMENTS POSITION

The department strongly supports this bill as it would protect the dividends of the "after born" children entering or leaving state custody. It supports the underpinnings of the department's mission to act in the best interests of the child while at the same time supporting self determination by enabling the corporation to act as the child's fiduciary.

Recommended: Deborah R. Wing Date: 3/22/93

Deborah R. Wing, Director
Division of Family and Youth Services

Approved: Theodore A. Mala Date: 3/22/93

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

Flewa



March 12, 1993

Representative Eileen MacLean
House of Representatives
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Eileen:

This letter is being sent in support of HB 217 which will give native corporations authority to create dividend accounts for minor shareholders under state custody.

Arctic Slope Regional Corporation has received requests from shareholders for the Board of Directors to authorize the establishment of accounts for minors under State custody to insure that the minors' benefits are protected, so the passage of HB 217 will be of benefit for our shareholders.

HB 217 will help give ASRC authority to create dividend accounts and save the dividends of the minor shareholders so that these dividends can be used on their behalf or dividends can be held in that account until the minor reaches the age of 18 years.

ASRC has minor shareholders under the care of immediate family members because natural parents are incarcerated but custodianship is still under the natural parents and they are not willing to relinquish custodianship. Unless there is a court order terminating parental rights and legal guardianship appointed dividends have to be issued to the custodian of record.

I have asked our legal counsel to review this proposal further to see if there are additional matters we would like to see addressed in this Bill and will advise you as soon as possible if there are such additional matters.

Arctic Slope Regional Corporation highly recommends the passage of HB 217 so that the rights of minor shareholders can be protected.

Quyanaqpak, Eileen!

Sincerely,

Flossie Chrestman
Flossie Chrestman
Corporate Secretary

Letters of Support

COOK INLET REGION, INC.

March 23, 1993

Eileen MacLean
House of Representatives
State Capitol
Room 507
Juneau, AK 99801-1182

Re: House Bill No. 217, "An Act relating to Native corporation dividends and other distributions due to minors in state custody"

Dear Representative MacLean:

CIRI strongly supports House Bill No. 217 as an attempt to close a gap in the law that endangers the interests of minor shareholders who have been placed in the custody of the state as children in need of aid.

The Alaska Uniform Transfers to Minors Act ("AUTMA") requires Native corporations such as CIRI to make distributions on behalf of a minor shareholder to the adult who has been appointed custodian for that minor's stock pursuant to the AUTMA. That requirement creates a troubling situation when the State has removed physical custody of the child from that adult, who nevertheless remains custodian of the stock presumably until the special provisions of the AUTMA for terminating stock custodianships have been invoked. House Bill No. 217 should remedy that situation and help protect the minor shareholder's dividends from misuse.

I do have two comments regarding the legislation as currently drafted. First, I note that it applies only to minors in the custody of the State of Alaska and not to those in the custody of other states. CIRI (and, we believe, many other Native corporations) typically has several minor shareholders at any given time who are in the custody of states other than Alaska. The Alaska Statutes (A.S. 13.16.705(e)) make Alaska the situs of ANCSA stock regardless of where the shareholder lives, thus affording all Alaska Natives—residents of Alaska and non-residents alike—uniform and consistent rules regarding their ANCSA stock. The AUTMA itself purports to apply to all custodianships of ANCSA stock, again without regard to the residence of either the transferee or transferor shareholder. I suggest that House Bill No. 217 be broadened to extend the same protection to minors in the custody of other states, since in all other aspects their situation is the same as that of children in need of aid in Alaska.

CORRECTION

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

COOK INLET REGION, INC.

March 23, 1993

Eileen MacLean
House of Representatives
State Capitol
Room 507
Juneau, AK 99801-1182

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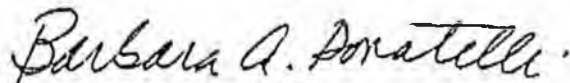
Eileen Mac'lean
March 23, 1993
Page 2

Second, the draft legislation provides for the distribution to the legal guardian of the minor of all monies held if state custody terminates while the minor is under eighteen. I note this potential problem: Unless the original stock custodian has been removed by court order in accordance with the AUTMA, and a new custodian appointed, the question will arise whether subsequent distributions must still be delivered to the original stock custodian, even if physical and legal custody of the child himself has been removed from that person.

On behalf of CIRI, I am gratified that efforts are being made to fill a gap in the statutes to resolve a problem that seriously affects certain of our shareholders.

Very truly yours,

COOK INLET REGION, INC.



Barbara A. Donatelli
Vice President, Administration

cc: Roy Huhndorf
Carl Marrs

Date: March 11, 1993

To: The Board of Directors of Arctic Slope Regional Corporation
P.O. Box 129
Barrow, Alaska 99723

Dear: Members of the Board:

Hello, my name is Bertha E Akpik, Akootchook, I am a shareholder of Arctic Slope Regional Corporation. On behalf of the minor children involved, I would like to take time to put in writing my concern which has been on my mind for quite some time now, and because I believe that it is a very sensitive issue which may affect and address some shareholders and their children of this corporation, I feel it is best and appropriate for me to put it into writing for the record instead of addressing it to the general public so that I may unintentionally direct it to anyone who may fall under this category.

As you all may know, my younger sister, Nellie Ruth Akpik Itta died of an untimely death as a result of domestic violence, and because of the nature of her death the children have been pretty much left as orphan's since their father, by law; has been granted an order not to have any contact with the minor children.

Since the tragedy, the immediate family of Nellie R Itta has taken on the responsibility of raising these four children.

Leonard and I have been granted physical custody of Nora Marie and Robert Thomas Jr., Mr. and Mrs. Max Akpik of Wainwright have been granted the physical custody of Ellis Mathew, and my mother Mrs. Marjorie Akpik and Miss Theresa Akpik have been granted dual physical custody of the youngest child, Ellen Joyce.

By State law, Division of Family and Youth Services have obtained legal custody of the minor children of Robert and Nellie Itta (deceased). But according to the Arctic Slope Regional Corporation Stock records, these children are still in the under the legal guardianship of Robert Allen Itta, Sr,. As we know, A.S.R.C. dividends were distributed in December of 1992. and since the stock records show that Robert Itta, Sr. is still the legal guardian of the minor children involved; we, the PHYSICAL CUSTODIANS were unable to retrieve the dividends for these children. I have unsuccessfully requested from Robert Itta Sr to sign an ASRC "Waiver" of Custodianship and turn over the legal guardianship regarding ASRC shares over to the members of the family but have only received negative response from him. That is why I am requesting your support to consider awarding those dividends which are still being held at A.S.R.C. to the children to be used for the benefit of the children. I would also like to thank Michael Stotts and his staff for their efforts to assist me.

In closing , I highly recommend that the Board of Directors establish an account program similar to the Alaska Permanent Dividend Fund application to insure that the rightful gaurdian receives the dividend on behalf of the minor child who is living with them, whether he or she is, or isn't in State Custody. i.e: aunt, uncle, grandparents., and, or establish a trust fund account for other children who are in long-term legal custody of the state.

Thank you for your time in voicing my concern. If you have any questions you can reach me at 852-5590.

Sincerely,

Bertha E. Akootchook

Bertha E Akootchook
P.O. Box 251
Barrow, Alaska 99723

C.C: Dept of H.S. S.