

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7798 HOUSE HEALTH EDUCATION & SOCIAL SERVICES 63

Annette Island School District FY93 State Foundation Calculations

Funding Community	ADM	K-12 Units	Bl/Bic Units /1	Special Ed. Units	Voc. Ed. Units /1	Total Units
Annette	404.00	32.93	1.00	5.21	1.00	40.14

						1.03 Area Cost Differential
Total PL81-874 /2				\$1,952,942		41.34 Adjusted Units
Less Indian Land Add-on				(357,023)		\$61,000 Unit Value
Less Special Ed. Add-on				(167,823)		2,521,740 BASIC NEED
PL81-874 Eligible for Deductions				1,428,096		
Statutory deduction				90%		
				<u>1,285,286</u>	>>>>>>>	1,285,286 Less Deductible PL81-874
						<u>\$1,236,454</u> State Foundation Aid

/1 minimum of 1 unit for the district if providing services.

/2 PL81-874 are Federal payments direct to school districts.

Haines Borough School District FY93 State Foundation Calculations

Funding Community	ADM	K-12 Units	Bi/Bic Units /1	Special Ed. Units	Voc. Ed. Units /1	Total Units
Haines	413.40	33.56	0.00	3.54	1.00	
Mosquito Lake	18.90	3.78	0.00	0.33	0.00	
<b>Totals</b>	<b>432.30</b>	<b>37.34</b>	<b>0.00</b>	<b>3.87</b>	<b>1.00</b>	<b>42.21</b>

1.05 Area Cost Differential  
 44.32 Adjusted Units  
\$61,000 Unit Value  
\$2,703,520 BASIC NEED  
 477,711 Less Required Local Effort

1991 Full Value                      119,427,700 X .004 =

FY93 Required Local divided  
 by FY93 Budgeted Local  
 PL81-874 Percentage

\$477,711  
893,432  
 53.47%

Total PL81-874 /2	\$27,141	
Less Indian Land Add-on	(797)	
PL81-874 Eligible For Deduction	26,344	
PL81-874 Percentage	53.47%	
Amount Eligible For Statutory Deduction	14,086	
Statutory deduction	90%	
	<u>\$12,677</u>	>>>>>>>
		<u>12,677</u> Less Deductible PL81-874
		<u>\$2,213,132</u> State Foundation Aid

/1 minimum of 1 unit for the district if providing services.

/2 PL81-874 are Federal payments direct to school districts.

HANNA J COONSEY  
 2075955712

Funding Community	ADM	K-12 Units	Bl/Bic Units /1	Special Ed. Units	Voc Ed Units /1	Total Units
Bruce Hill	6.00	2.00	0.00	0.25	0.00	
Craig	14.00	2.80	0.00	0.25	0.00	
Edna Bay	18.00	3.60	0.00	0.25	0.10	
Hollis	22.00	4.25	0.00	0.25	0.10	
Howard Valentine	40.75	6.59	0.00	0.33	0.10	
J. R. Gildersteeve	19.00	3.80	0.00	0.25	0.10	
Kasaan	6.45	2.00	0.10	0.25	0.10	
LaBouchere Bay	22.00	4.25	0.00	0.25	0.00	
Meyers Chuck	5.00	2.00	0.10	0.25	0.00	
Naukai	32.40	5.55	0.00	0.34	0.10	
Polk Inlet	10.00	2.00	0.00	0.25	0.10	
Port Alexander	22.80	4.35	0.00	0.43	0.10	
Port Protection	12.00	2.40	0.00	0.25	0.10	
Rowan Bay	8.30	2.00	0.00	0.25	0.10	
Smith Cove	7.65	2.00	0.00	0.00	0.00	
Thorne Bay	153.65	16.24	0.00	1.45	0.11	
Whale Pass	18.00	3.60	0.00	0.34	0.10	
Hold Harmless /3		6.84				
<b>Total</b>	<b>418.00</b>	<b>76.27</b>	<b>1.00</b>	<b>5.64</b>	<b>1.21</b>	<b>84.12</b>

		1.04 Area Cost Differential
Total PL81-874 /2	\$687,273	87.48 Adjusted Units
Less Indian Land Add-on	(22,921)	\$1,000 Unit Value
Less Special Ed. Add-on	(4,665)	5,336,280 BASIC NEED
PL81-874 Eligible for Deductions	659,687	
Statutory deduction	90%	
	593,718 >>>>>>>	593,718 Less Deductible PL81-874
		\$4,742,562 State Foundation Aid

/1 minimum of 1 unit for the district if providing services.

/2 PL81-874 are Federal payments direct to school districts.

/3 Hold Harmless provision, when K-12 units decrease 10% or more in one year. First year is 75% of the difference, second year is 50% third year is 25%. The base year in this case is the 1991 school year.

SINGLE SITE

#2

This transcription is verbatim from the State Board of Education tapes, received from the Library for the Blind and Handicapped. During the middle of the discussion, where June Nelson is speaking, one tape ended and they started recording on a new tape. Subsequently, a portion of the discussion was lost during the changing of tapes.

I also reviewed the tape which I did here in the office, via teleconference. On this tape, I have the motion made by Stowell and only portions of the discussion. During this portion of the teleconference, the equipment which was being used at the Library for the Blind and Handicapped required Board members to hold down their microphone button in order for me to hear the conversation. Because Board members did not do this, I was unable to hear much of the discussion. I only have the portions which are in italics.

*Patti The Board will be taking a position on the single site school districts funding issue.*

*Stowell I move that the State Board of Education support HB267, contingent upon appropriation of sufficient additional funds to implement it.*

June And I will second the motion.

John Could Stowell explain what you just said.

*Stowell This would establish a position where if it is passed with that contingency, no district would lose funds on account of the single site supplemental formula. That is the purpose of the motion, I can go into it in greater depth, but I don't think you want me to.*

John I guess my question to Stowell is, are we doing anything by making this motion. If it is not going to take money away from other districts and there is no other money out there, then basically we are not really supporting it.

*Stowell Well I think that we are lending a great deal of support by the State Board taking a position that we are in favor of that particular scenario that is outlined in HB267, but we also, I think, don't want to be in a position of appearing not to support those other districts that are out there that would lose money if in fact that comes out of the initial foundation formula.*

June I think it does

(end of tape)

(beginning of next tape)

Post-It® brand fax transmittal memo 7671 # of pages = 3

To	Al Weinberg	From	Jeannette
Co.		Co.	
Dept.		Phone #	465-2802
Fax #		Fax #	465 4156

**June** ... politicians take care of it, this way we are saying that if the legislature allocates money we support it, and if they don't allocate money we are not crucified and not hurting any districts.

**Patti** They allocate a special amount of money, and not take it out of.

**June** And it is worded like that.

**Patti** Stowell would you read the motion again.

**Stowell** Let me pass it to you.

**June** It is worded - sufficient additional funds to implement it, appropriation of sufficient additional funds to implement it.

**June** Did Jeanette get this?

**Stowell** Yes.

**Patti** The key word here is additional funds.

**Judy** *Yes, I have been very torn on what to do about this. I like, I am going to support Stowell's motion because I do think it is important that the State Board of Education, even though I do not think, in this state, we are going to have all the money that we have had in the past, and most certainly will not cure all the educational ills, I do want fair and equitable funding for every district in the state. And I think that it depends on whether you are from a small or large district of whose perception is fair, and to me this is saying that yes we know that the single site districts do cost more to run and need the money, but I will say that if you are going to appropriate money for single sites, be sure you give money, you do not take it from the other districts. And so I am going to support Stowell's motion because of that.*

**Patti** Any other comments from Board members. Are you ready for the question?

**Patti** I would like a roll call vote on the motion, please Jeanette.

**Patti** *Did you go home Jeanette?*

**Jeanette** *No I did not go home.*

**Patti** *I would like a roll call vote on the single site issue please.*

**Jeanette** *Ok.*

**Roger** - yes

**Don** - yes

*John - yes*  
*Stowell - yes*  
*Jane - yes*  
*Judy - yes*  
*Patil - yes*

(Bob Walp and Beverly Ranney were not present.)

*Jeanette Morton passes.*



# ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS

326 Fourth Street • Suite 404 • Juneau, Alaska 99801-1101 • (907) 586-9702 • FAX (907) 586-6879

LEADERSHIP  
FOR LEARNING

Post-It™ brand fax transmittal memo 7671		# of pages • 1
To <i>Al Weunberg</i>	From <i>Steve McPhetres</i>	
Co.	Co. <i>ACSA</i>	
Dept.	Phone # <i>586-9702</i>	
Fax # <i>838-7328</i>	Fax # <i>586-5879</i>	

Janu

Jerry Covey, Commissioner  
Alaska Department of Education  
801 West Tenth Street, Suite 200  
Juneau, Alaska 99801-1894

Dear Commissioner:

The single site issue is before the State Board of Education January 12 in Anchorage. On behalf of the Alaska Association of School Administrators we would recommend to them House Bill 267, sponsored by Representative Richard Foster as a resolution to this issue.

As you are very aware of, this issue was identified as an issue and has been before the educational community since the formula was created in 1986.

Over the past years the legislature and the Department of Education have recognized the circumstance of the single site schools and they have appropriated funding needed to reconcile the problem.

Last legislative session, we witnessed how this issue could be used as a political football by either or both houses in the legislature. We as administrators had a difficult time watching the education of Alaska's youth be jeopardize because of political vindictiveness.

House Bill 267 has been before the legislature in one form or another for three years. The permanent fix to the formula is clearly understood by all and the fiscal note is within the annual supplemental appropriations experienced in the past.

This issue must be resolved this session. It is possibly the one issue with the existing formula that has been carefully researched and supported in some manner by previous legislatures.

We respectfully solicit your support and the support of the Alaska State Board of Education to bring this issue to a successful resolution.

Sincerely,

*Stephen T. McPhetres*  
Stephen T. McPhetres  
Executive Director

Resolution and Letters of Support



## ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS

326 Fourth Street • Suite 404 • Juneau, Alaska 99801-1101 • (907) 586-9702 • FAX (907) 586-5879

LEADERSHIP  
FOR LEARNING

November 19, 1993

Representative Richard Foster  
P.O. Box 1030  
Nome, Alaska 99762

Dear Representative Foster,

I hope you have had a restful summer and fall and are looking forward to your return to Juneau for the next session of the Alaska Legislature.

As you the issue of school funding has been a topic of discussion by the Department of Education as a part of Alaska 2000. They had appointed a committee to take a critical look at the funding mechanism. They attempted to design an Alaska School Price Index to replace the Area Cost Differential as well as addressing the single site issue.

Unfortunately, the DOE's committee on school funding was not able to come to a conclusion and the design for their fix to the single site issue leaves several of the schools identified as single site, without to proper funding they have been receiving within the supplemental appropriations over the past several years.

Our organization, the Alaska Association of School Administrators, at their annual conference in October took action which supports your legislation which provides the necessary fix for the long term to the single site issue.

Your House Bill # 267 "An Act increasing elementary and secondary instructional units for certain school districts with 800 or fewer students in average daily membership; and providing for an effective date" provides for a permanent, fair, and equitable solution to this issue.

We offer any assistance we can provide to see that this piece of legislation is successful during the early days of the coming session.

We hope you will consider this legislation a priority by requesting hearings early in the coming session. Working together, we believe it will successfully pass both houses.

Your House Bill #267 will finally put this issue to rest.

Sincerely,

Stephen T. McPhetres  
Executive Director



# NEA-ALASKA

*Affiliated with the National Education Association*

#4

January 11, 1994

**TO:** State Board of Education  
c/o Commissioner Jerry Cove

**FROM:** Claudia Douglas, President  
NEA-Alaska

**RE:** Single-Site School Districts

Post-It™ brand fax transmittal memo 7671		# of pages ▶	
To	WANDA COOKSEY	From	DONN
Co.		Co.	NEA-AL
Dept.		Phone #	586-3090
Fax #		Fax #	

NEA-Alaska opposes any reduction in the funding of REAA's.

We understand the State Board of Education will consider a position on single site supplemental formula at its January 12 meeting in Anchorage. We support and urge you to support the formula presently before the Alaska Legislature in House Bill 267 "An Act increasing elementary and secondary instructional units for certain school districts with 800 or fewer students in average daily membership..."

Inequities in the formula with regard to small single-site school districts have been before the legislature each year since enactment of the present foundation formula. For most years, under the present law, supplemental appropriations to small school districts have been passed. The formula in HB 267 is the same as that which has been appropriated for these 21 districts over the past two years.

All 21 districts are in accord with this proposal. Although the Department of Education has proposed other possible solutions, the Commissioner has indicated he is not opposed to either the formula proposed at the rate of approximately \$3.4 million.

The formula in HB 267 is supported by the Single Site School District Consortium, the Alaska Association of School Administrators and NEA-Alaska. We urge you to take a position in support of HB 267, a formula seen as resolving the single site schools issue.

CITY OF DILLINGHAM  
Dillingham, Alaska

RESOLUTION NO. 93-46  
Support Single Site School Funding

A RESOLUTION OF THE COUNCIL OF THE CITY OF DILLINGHAM, ALASKA,  
SUPPORTING ADEQUATE FUNDING FOR SINGLE SITE SCHOOL DISTRICTS.

WHEREAS, Article VII, Section I of the Constitution of the State of Alaska requires the state to establish and maintain a system of public schools open to all children of the state and the City of Dillingham believes that state funding should be appropriated to provide an equal education to all children of the state, and

WHEREAS, the present public school funding act was passed in the 1987 Legislative Session, and

WHEREAS, there was much discussion in Legislative hearings concerning the adequacy of the funding formula for small single site school districts of up to 1,000 (750, 525, 100-525) in enrollment, and

WHEREAS, no one was sure of the impact of the new formula on these districts and an appropriation of two million dollars was made to the State Department of Education to address unique and emergency circumstances substantiated by school districts to the Department, and

WHEREAS, subsequent fiscal year appropriations were made to the Department for specific school districts, the majority of which were single site school districts, and

WHEREAS, a review of testimony of HB126 (Chapter 91, SLA 1987), shows that the Legislature believes there is need for some adjustment in the foundation program for single site school districts and the passage of supplementals for FY88(2) 90, 91, 92 and 93 shows there is continuing need for additional support to single site districts, and

WHEREAS, there has been general agreement that single site districts as large as the Dillingham City School District need substantial adjustment, and

WHEREAS, the 4 mills property tax paid as required by State Law does not add revenue money to the single site school districts but offsets State moneys, and

WHEREAS, 4 mills of local contribution in fact subsidizes those districts larger than 1,000 student population and those districts where no contribution is required, and

WHEREAS, the Dillingham School District has cut school programs, laid off personnel, increased the student/teacher ratio in the classrooms, and initiated fund raising programs to provide for the education of the children of Dillingham, and

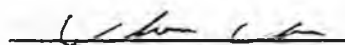
WHEREAS, in FY94 the City of Dillingham has contributed additional mills above the mandatory 4 mill contribution in an effort to provide only the most basic academic and social education for our children, now

THEREFORE, BE IT RESOLVED that the Dillingham City Council requests the Department of Education and the Alaska Legislature permanently revise the school foundation formula funding program to make sure the single site school districts of less than 1,000 students are adequately funded each year, and

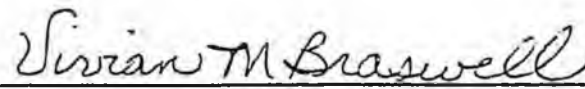
FURTHER, BE IT RESOLVED that the City Council encourages the other municipalities in the state that are also single site school districts to join in our effort to secure adequate permanent funding for our schools.

APPROVED AND ADOPTED this 18 day of November, 1993.

SEAL:

  
\_\_\_\_\_  
Thomas Tilden, Mayor

ATTEST:

  
\_\_\_\_\_  
Vivian M. Braswell, City Clerk

SINGLE SITE SCHOOL DISTRICT CONSORTIUM  
985 KSD WAY  
CHEVAK, ALASKA 99563  
858-7713 FAX 858-7328

January 24, 1994

Honorable Richard Foster  
Alaska House of Representatives  
State Capitol  
Juneau, Alaska 99801

Re: HB 267

Dear Representative Foster:

On behalf of the Single Site School District Consortium, I wish to thank you again for introducing HB 267. For the last several years, single site school districts have received supplemental appropriations in recognition of the inherent inequity in the foundation formula as regards single sites. In fact, the formula used for computing these supplemental appropriations the last two years is the precise formula contained in your bill.

As you know, the inequity affecting single sites is the result of the "front-end load" in the formula. A single site district gets the advantage of the front-end load once, but multiple site districts benefit again and again for each funding community. A concrete example of this can be seen by comparing two districts with almost identical average daily membership (ADM)-- Chugach, a multiple site district, and Skagway, a single site district.

The tables below compare FY '95 projected revenues for these two districts at the \$61,000 unit value and at the proposed \$59,855 unit value, and the tables compare state revenues with and without the single site supplemental funds. Comparisons exclude the area differential, a component of the formula intended to equalize dollars across the state.

The first table compares revenues generated solely from K-12 units. As can be noted, the single site district accrues substantially less revenues from K-12 units than does the multiple site district with comparable ADM.

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FY '95 PROJECTIONS-- \$61,000 UNIT VALUE

<u>District</u>	<u>ADM</u>	<u>K-12 Revenue</u>
Chugach	133	\$1,381,040
Skagway	135	915,000
Difference		(\$ 466,040) (33.8%)

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Single Site School District Consortium Letter

The next table shows the impact of the single site supplement based on the formula used for the last two years and contained in HB 267. Note that the single site district accrues substantially less K-12 revenues, even including the single site supplement.

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**FY '95 PROJECTIONS-- \$61,000 UNIT VALUE & SINGLE SITE SUPPLEMENT**

<u>District</u>	<u>K-12 Revenue</u>	<u>Single Site Supplem't</u>	<u>Total</u>
Chugach	\$1,381,040	-0-	\$1,381,040
Skagway	\$ 915,000	\$ 109,800	1,024,800
Difference			(\$ 356,240) (25.8%)

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The last table shows the impact of the proposed proration of the FY '95 unit value to \$59,855. This represents a reduction of 1.9% in the unit value. (For some city and borough districts, the reduction might slightly exceed 1.9% because of decreases that might occur in the local contribution and/or increases that might occur in the PL 874 deductible as a result of the decrease in the unit value.)

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**FY '95 PROJECTIONS-- \$59,855 UNIT VALUE vs \$61,000**

<u>District</u>	<u>K-12 Revenue @ \$61,000 w/ S S Supplem't</u>	<u>K-12 Revenue @ \$59,855 w/o S S Supplem't</u>	<u>Difference</u>
Chugach	\$1,381,040	\$1,355,117	(\$ 25,923) ( 1.9%)
Skagway	\$1,024,800	\$ 897,825	(\$126,975) (12.4%)

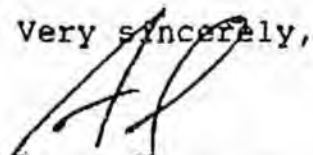
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The obvious facts to be discerned from the tables above are:

1. By virtue of the front-end load in the formula, single site districts accrue substantially less K-12 revenues than do multiple site districts of comparable ADM;
2. In the event of a downward proration of the instructional unit value accompanied by a loss of single site supplemental funds, single site districts will suffer substantially greater decreases in state funding than will multiple site districts of comparable ADM.

Thus, HB 267 is essential to ensure the parity among districts that has been created in the past several years with supplemental appropriations to single site districts.

Very sincerely,



B. A. Weinberg, Chairperson  
SINGLE SITE SCHOOL DISTRICT CONSORTIUM

ADDRESSES OF SINGLE SITE DISTRICTS

NATIVE AK

150/168	89	Galena - Box 299 - Galena, AK	99741-0299
165/239	69	Hoonah - Box 157 - Hoonah, AK	99829
106/120	88	Hydaburg - Box 109 - Hydaburg, AK	99922
144/181	80	Kake - Box 450 - Kake, AK	99830
191/194	98	Kashumamiut - 985 KSD Way - Chevak, AK	99563
116/207	56	Klawock - Box 9, Klawock, AK	99925
74/188	39	Nenana - Box 10 - Nenana, AK	99760
16/46	35	Pelican - Box 90 - Pelican, AK	99832
2/160	1	Skagway - Box 497 - Skagway, AK	99840
113/128	88	St. Mary's - Box 171 - St. Mary's, AK	99658
84/99	85	Tanana - Box 89 - Tanana, AK	99777
85/130	65	Yakutat - Box 429 - Yakutat, AK	99689
382/416	92	Annette Island - Box 7 - Metlakatla, AK	99926
75/483	16	Cordova - Box 140 - Cordova, AK	99574
96/305	31	Craig - Box 800 - Craig, AK	99921
383/514	75	Dillingham - Box 170 - Dillingham, AK	99576
69/343	20	Unalaska - Box 260 - Unalaska, AK	99658
143/527	27	Wrangell - Box 2319 - Wrangell, AK	99929
0/717	0	Adak - PSC Box 1234 - FPO AP	96506
517/773	67	Nome, Box 281, Nome, AK	99762
91/702	13	Petersburg, Box 289 - Petersburg, AK	99833

Addresses of Single Site Districts

**Sec. 14.03.090. Sectarian or denominational doctrines prohibited.** Partisan, sectarian, or denominational doctrines may not be advocated in a public school during the hours the school is in session. A teacher or school board violating this section may not receive public money. (§ 1 ch 98 SLA 1966)

**Opinions of attorney general.** — Although public school teachers may teach about various religions as part of the curriculum in public schools, they may not advocate a particular religious view or teach that a particular religious view is true or false. The Professional Training Practices Commission has jurisdiction to hear complaints about the inappropriate advocacy of personal religious views in

the classroom, and to take appropriate disciplinary action if the complaints are justified. Sept. 15, 1988 Op. Att'y Gen.

**Collateral references.** — What constitutes "prayer" under federal constitutional prohibition of prayer in public schools. 30 ALR3d 1352.

Constitutionality of teaching or otherwise promoting secular humanism in public schools. 103 ALR Fed 538.

Background Paper  
HB 339 NO CENSORSHIP:  
AMERICAN HISTORY DOCUMENTS

The establishment clause in the First Amendment to the United States constitution which provided the model for Article I, section 4 of Alaska's constitution, was not intended to hinder children's knowledge of the role of religion in the life of our state and nation. The Supreme Court of the United States affirmed this in *Abington v. Schempp*, 374 US 203.

Justice Clark, in the opinion of the Court, wrote:

We agree of course that the State may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to religion, thus "preferring those who believe in no religion over those who do believe" (374 US at 225).

The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect is to oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality. Though the application of that rule requires interpretation of a delicate sort, the rule itself is clearly and concisely stated in the words of the First Amendment (374 US at 226).

Justice Brennan, in a separate concurring opinion, wrote:

The holding of the Court today plainly does not foreclose teaching *about* the Holy Scriptures or about the differences between religious sects in classes in literature or history. Indeed, whether or not the Bible is involved, it would be impossible to teach meaningfully many subjects in the social sciences or the humanities without some mention of religion. . . . Any attempt to impose rigid limits upon the mention of God or references to the Bible in the classroom would be fraught with dangers (374 US at 300).

HB

291

# HOUSE COMMITTEE REPORT

(9)

Date Referred: April 22, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/18/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 291

HOUSE BILL NO. 291

CONSUMER PROTECTION INTERN PROGRAM

"An Act establishing a consumer protection intern program at the University of Alaska."

**RECOMMENDATIONS:**

be replaced with CS HB 291 (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 Law, University

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		X	
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		X	
		<i>[Signature]</i>	X		

*[Signature]*  
CHAIRMAN'S SIGNATURE



# Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

DATE: 3-18-94

PLACE: Capitol Room 106

SUBJECT OF MEETING:  
 #HB291: CONSUMER PROTECTION INTERN PROGRAM  
 — BILLS HELD OVER —  
 HB 456: RESTRICT STUDENT LOANS TO ALASKA SCHOOLS  
 HB 422: CHILD CUSTODY, VISITATION TRAVEL  
 \* INDICATES FIRST PUBLIC HEARING

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
SHERIE GOR	Alaska Women's Lobby	P.O. Box 22156 Juneau	99802		463-6744	(Y) N	HB 422
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

H/HESS ROLL CALL FORM

BILL HB 291 DATE 3/18/94  
 TAPE 94-File B NUMBER 089  
 SUBJECT OF VOTE TO PASS HB 291 OUT OF COMMITTEE WITH  
INDIVIDUAL RECOMMENDATIONS

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>4</u>	<u>1</u>	—

+++++

BILL CSHB 422 DATE 3/18/94  
 TAPE 94-File B NUMBER 130  
 SUBJECT OF VOTE TO PASS CSHB 422 OUT OF COMMITTEE  
WITH INDIVIDUAL RECOMMENDATIONS

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>4</u>	<u>1</u>	—

**FISCAL NOTE**

**STATE OF ALASKA  
1994 LEGISLATIVE SESSION**

**BILL NO. CSHB291(HESS)**

Revision Date: 3/18/94  
Title: Consumer protection internship program

Department Affected: University of Alaska  
BRU: University of Alaska, Anchorage  
Component: Anchorage Campus

Sponsor: Sanford  
Requestor: H HESS

**COMPONENT SERIAL NO.**

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

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE FD SOURCE</b>						
--------------------------	--	--	--	--	--	--

<b>FUNDING: (Thousands of Dollars)</b>						
1002 FEDERAL FUNDS						
1003 GF MATCH						
1004 GENERAL FUND						
1006 GF/MHTIA						
OTHER						
<b>TOTAL FUNDING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>POSITIONS:</b>						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

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

Prepared by: Wendy Matheny, Budget Analyst  
Division: Statewide Budget Office

Phone: 463-3086  
Date: \_\_\_\_\_

Approved by: Alison Elgee, Director  
Agency: Statewide Budget Office

Date: 3/18/94

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

8-LS1044J  
Ford  
3/18/91

CS FOR HOUSE BILL NO. 291( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE SANDERS

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing a consumer protection intern program at the University of  
2 Alaska."

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

4 \* Section 1. AS 14.40 is amended by adding a new section to read:

5 Sec. 14.40.105. CONSUMER PROTECTION INTERN PROGRAM. The University  
6 of Alaska shall establish a consumer protection intern program that provides university credit  
7 for work performed for the fair business practices section of the Department of Law. The  
8 program established under this section may include one person selected by the University of  
9 Alaska Anchorage, one person selected by the University of Alaska Fairbanks, and one person  
10 selected by the University of Alaska Southeast. A person who is accepted into the consumer  
11 protection intern program shall receive a stipend of \$1,000 from the University of Alaska.

HOUSE BILL NO. 291

AMENDMENT NO. 1

Page 1, line 8:

Delete: " must "                      Add:            may

**Explanation:**      At the present time applicable paralegal studies are only offered at the University of Alaska Anchorage and at Charter College in Anchorage. The Department of Law's fair business practices section is also located in Anchorage.

Page 1, line 11:

Delete: " may not participate for more than one semester and "

**Explanation:**      This will allow the program to retain at least one student to provide continuity to the program and lower the amount of training time the Department of Law will have to expend.

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB291

Revision Date:  
Title: Consumer protection internship program  
Sponsor: Sanford  
Requestor: H HESS

Department Affected: University of Alaska  
BRU: University of Alaska , Anchorage  
Component: Anchorage Campus

COMPONENT SERIAL NO.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	6.0	6.0	6.0	6.0	6.0	6.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	6.0	6.0	6.0	6.0	6.0	6.0

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

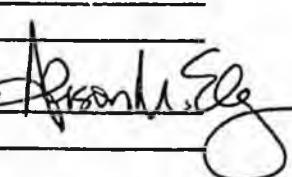
REVENUE FD SOURCE						
-------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)	FY95	FY96	FY97	FY98	FY99	FY00
1002 FEDERAL FUNDS						
1003 GF MATCH	6.0	6.0	6.0	6.0	6.0	6.0
1004 GENERAL FUND						
1006 GF/MHTIA						
OTHER						
TOTAL FUNDING	6.0	6.0	6.0	6.0	6.0	6.0

POSITIONS:	FY95	FY96	FY97	FY98	FY99	FY00
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)  
Funds reflected on the fiscal note are for 3 interns per semester for 2 semesters per year at \$1,000.00 per stipend.

Prepared by: Wendy Matheny, Budget Analyst Phone: 463-3086  
Division: Statewide Budget Office Date: \_\_\_\_\_  
Approved by: Alison Elgee, Associate Director  Date: 3/16/94  
Agency: Statewide Budget Office

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

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB 291

Revision Date: March 15, 1994  
Title: "An Act establishing a consumer protection intern program at the University of Alaska."  
Sponsor: Representative Sanders  
Requestor: Representative Sanders

Department Affected: Department of Law  
BRU: Legal Services  
Component: Fair Business Practices  
COMPONENT SERIAL NO. 1823

EXPENDITURES/REVENUES:

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

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

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

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)  
Please see the attached analysis.

Prepared by: Richard I. Pegues, Director  
Division: Administrative Services Division

Phone: 465-3672  
Date: March 15, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General  
Agency: Department of Law

Date: March 15, 1994

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB 291

ANALYSIS CONTINUATION:

This bill establishes a consumer protection intern program within the University of Alaska that provides university credit for work performed for the fair business practices section of the Department of Law. The bill requires that the program include one person selected by the University of Alaska Anchorage, one person selected by the University of Alaska Fairbanks and one person selected by the University of Alaska Southeast. The bill also provides that a person who is accepted into the consumer protection intern program may not participate for more than one semester and shall receive a stipend of \$1,000 from the University of Alaska.

The Department of Law's fair business practices section consists of one attorney, two paraprofessionals, and one legal secretary in Anchorage and one paraprofessional in Fairbanks. One of the two paraprofessionals in Anchorage and the paraprofessional in Fairbanks handle consumer protection matters, and the other paraprofessional in Anchorage handles antitrust investigations. The Anchorage attorney supervises all of the activities of the section and provides for enforcement of both the state's consumer protection and antitrust laws. The section has not had any onsite presence in Southeast Alaska since 1987.

Because of the small size of the section, and due to the section's large and varied responsibilities, the use of interns is somewhat problematic. Without any meaningful presence in Southeast Alaska, it would not be possible to train and supervise an intern in that region. It would be somewhat difficult to provide training and regular supervision in Fairbanks with just a single employee in that location. Providing training and supervision of an intern in Anchorage would not be easy, but benefits could result particularly in the legal research area. We also note that the one semester limit provided in the bill should probably be changed to two semesters, because it would probably take up to one semester to properly train an intern.



## Representative Jerry Sanders

District 19

Vice Chair, Rules Committee  
Vice Chair, Community & Regional Affairs Committee  
House State Affairs Committee  
Special Committee on Oil & Gas  
Legislative Council  
International Trade & Tourism

### SPONSOR STATEMENT

#### H B 291

This bill provides for a program for University of Alaska students to work with the fair business practices section of the Department of Law. The program will provide university credit and invaluable experience for the students plus a stipend. The student interns will be involved with the fair business practices section of the Department of Law.

In recent years, the fair business practices section of the Department of Law has been cut from 13 to 3 people. The student interns will be able to assist in developing cases and providing needed follow-up on other cases and in return will receive valuable experience in the world of business and business law. This program will also provide hands-on experience in business ethics for the students.

Alaskans are being ripped off nightly by unscrupulous telemarketers primarily based in the lower forty eight. Victims, especially in the remote bush areas of the state have little practicable recourse. Alaska has a telemarketing law that makes the crime a felony with the possibility of extradition of offenders and serious fines. Currently, telemarketing enterprises who violate the law are merely sent a copy of the law and regulations.

Without the availability of additional staff, vulnerable members of your constituency will not be protected, because laws do not enforce themselves.

#### SPONSOR STATEMENT

716 W. 4th Avenue • Suite 360 • Anchorage, Alaska 99501-2133 • (907) 258-8199  
During Session: State Capitol • Room 13 • Juneau, Alaska 99801-1182 • (907) 465-4945

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

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

### MEMORANDUM

March 8, 1994

**SUBJECT:** Sectional Summary of HB 291

**TO:** Representative Jerry Sanders

**FROM:** Michael F. Ford *M.F.*  
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. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Requires that the University of Alaska establish a consumer protection intern program that provides university credit for work performed for the fair business practices section of the Department of Law. The program must include one person selected by the University of Alaska Anchorage, one person selected by the University of Alaska Fairbanks, and one person selected by the University of Alaska Southeast. A person who is accepted into the consumer protection intern program may not participate for more than one semester and shall receive a stipend of \$1,000 from the University of Alaska.

MFF:lmb  
94-075.lmb



# AKPIRG

## ALASKA PUBLIC INTEREST RESEARCH GROUP

Post Office Box 10-1093 / Anchorage, Alaska 99510

(907) 278-3661 FAX (907) 278-9300

Alaska Senator Tim Kelly  
Chairman  
Senate Finance Law Subcommittee  
State Capitol  
Juneau, Alaska 99801  
February 28, 1994

Post-It™ brand fax transmittal memo 7671		# of pages ▶
To Bob Krogseng	From Cate Remme	
Co. Rep. Sanders	Co. AKPIRG	
Dept.	Phone # 907-278-3661	
Fax # 465-3476	Fax # 907-278-9300	

Dear Chairman Kelly:

I join with Rick Gilmore, President of the Better Business Bureau of Alaska, Inc., in urging your committee to add an additional attorney to the Fair Business Practice Section in Anchorage to enforce the telemarketing law and to supervise paralegal interns supplied at no cost from University of Alaska and Charter College. In addition, a toll free bush hot line can be established in Fairbanks to allow rural complaints to be taken and examined as potential violations of Alaska law. These modest increments should cost less than \$125,000, funds that will return to the state general fund through fines and settlements.

The figures I quote are drawn from Department records and budget requests of the Consumer Protection Section prior to its dissolution and merger with anti-trust and support for the APUC in the Fair Business Practices Section of the Department of Law.

Consumer fraud is a crime which robs both Alaska consumers and honest Alaska businesses. Estimated loss per year is \$460 per family. The National Chamber of Commerce estimates the loss to consumers at 20 billion dollars. The figures on telemarketing fraud from the BBB and the Department of Law suggest that 10 million dollars are drained from the Alaska economy every year, its consumers and its businesses. It appears that the loss to Alaska from consumer fraud is larger than caused by all of the property crimes regularly prosecuted by the Department of Law.

The telemarketing law made that crime a felony with the possibility of extradition of offenders with serious fines and prison terms, the possible result. However, despite the legislature's efforts to add this law to the arsenal of weapons against consumer fraud, current telemarketing enterprises who violate the law are merely sent a copy of the law and regulations. Without a new staff person, your committee's desire (and that of Alaska's first lady), that vulnerable members of your constituency be protected, will not occur because laws do not enforce themselves.

Fair Business Practice has only the use of one half time attorney and one full time investigator in Anchorage and a second in Fairbanks, operating on a current and proposed budget which is lower than that allocated in 1975 in 1975 dollars. The amount requested by the governor is the same amount left in the budget in 1992 after the legislature appropriated more than \$230,000 to return Alaska to the business of enforcing its consumer protection laws.

The Alaska BBB handles 100 complaints a day, but cannot handle the 15 to 20 percent of rural complaints that effectively have no place to go, given the absence of small claims courts in the bush and the difficulty of obtaining jurisdiction over long distance malefactors. This percent of rural calls is derived from BRUs of the consumer protection unit when it received 120 calls daily throughout the mid-1980s.

Consumer crime in its present state of neglect represents a hidden tax on Alaskans that competes with other property crimes including robbery and embezzlement. It is the single area of law enforcement that has the potential of reimbursing every dollar invested by the state. Records of the consumer protection agency demonstrate that with a modest increase in enforcement, \$145 per complaint can be retrieved on civil fines payable to the general fund and in direct compensation to consumers. This means that deterrence would effectively be provided Alaskans for free, its costs covered by monies recovered to the state and the Alaska economy.

With this in mind, Rick Gillmore of the Alaska Better Business Bureau and I urge you to consider two additions to the budget as proposed by the governor.

First, an additional full time attorney in Anchorage could enforce the telemarketing law and supervise a small, educated cadre of legal assistants provided as interns by the Justice program of the University of Alaska, Anchorage and Charter College. These trained persons could examine complaints as potential law violations and write letters leading to mediation. They could also pass complaints back to BBB where complainees are prepared to arbitrate or mediate and pass cases forward to the major fraud unit where cases demonstrate a special need for prosecution under consumer protection laws.

Since legal assistants must be supervised, an additional attorney is essential to this added dimension as well as to enforcement of the telemarketing law.

The second suggestion for improvement is to make better use of the Fairbanks investigator by allowing him to monitor a toll free hot line available to rural Alaska. Most cases could be settled with some passed forward to Anchorage for legal action.

Both of these suggestions are made with full recognition of the budgetary crisis now confronting our state. Yet these small changes could make a dent in consumer crime which now drains the Alaska economy. Where else can money be appropriated that fights crime against consumers and small businesses and pays for itself in funds recovered as it removes Alaska as the target of choice for scam artists from throughout the nation? The cost of an additional attorney and a toll free hot line would be less than \$125,000, according to Jim Forbes, \$25,000 for the hot line and \$93,000 for the attorney.

I am enclosing letters from the director of the UAA paralegal program and the President of Charter College. They are prepared to work with Jim Forbes and the Attorney General to help flesh out consumer protection with the assistance of trained and committed volunteers.

These additions to the consumer protection program of the Department of Law would not negatively impact its working relationship with the BBB and should in no way be taken as a criticism of that private program or the hard working personnel of the Fair Business Practices section.

In a year when crime is uppermost in our population's mind, to overlook the powerful effect of consumer crime would be a serious mistake, especially when it is the single area of law enforcement that consistently pays for itself.

Sincerely,



Stephen Conn  
Executive Director



## UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive Anchorage, Alaska 99508  
(907) 786-1810 (907) 786-7777 fax

JUSTICE CENTER

January 28, 1994

Steve Conn  
Alaska Public Interest Research Group  
442 West 5th Avenue, Suite 202  
Anchorage, Alaska 99501

Dear Steve:

The Justice Center would be able to provide qualified interns in support of the consumer protection unit, as we previously indicated. Our internship program is available to junior and senior students who have had considerable coursework in the Justice and Paralegal areas. The internship is a final requirement in the paralegal certificate program. Students wishing to enroll in it must submit writing samples which faculty evaluate before the student is accepted for enrollment. Further, students prepare resumes, apply for specific internships which we have established and are subjected to a selection process by agencies with whom the Justice Center has internship agreements. Interns involved in paralegal work must be under the supervision of an attorney although the supervisor doesn't have to be physically present at all times.

While it is true that the minimum number of hours per internship credit is 50, many internship placements require more than the minimum. The number of hours per week required of a student is written into each intern agreement. The assessment of the credit value takes into consideration the quality of learning from each internship. Thus, the assumption that students would work an average of only 2 hours per day is incorrect.

The number of students in the Justice Center internship is steadily increasing, and it could possibly provide 2 or 3 students each semester. In addition to Paralegal students, Justice baccalaureate majors also do internships in the Anchorage area. At the present time we are fortunate to have internships which students find very attractive. Placements are obviously more desirable if they involve interesting, meaningful work and a stipend. Unpaid internships cause hardships to some self-supporting students, particularly those who have dependent children. The Justice Center probably could not guarantee 4 interns at 20 hours per week on a continuous year round basis. A co-op position arrangement between UAA and agencies is one alternative which would give an agency with students for continuous work across semesters.

94 WED 12:39 UAA JUSTICE CENTER

P.02

S. Conn

Page 2

The Justice Center clearly supports the concept that student interns can provide necessary person power to support a viable consumer protection service in the Attorney General's office. There must, however, be a sincere commitment on the part of the Department of Law to establish a well-organized, high quality program which will benefit both the agency and internship students.

Please feel free to contact me at 786-1810 if you have any questions or if I can be of further assistance.

Very truly yours,



Lisa R. Rieger  
Coordinator, Paralegal Certificate Program

LRR/jla



## BETTER BUSINESS BUREAU OF ALASKA, INC.

*"Where good business performance becomes a community record"*

March 2, 1994

The Honorable Timothy D. Kelly  
Senator and Subcommittee Chairman  
Law Subcommittee  
Senate Finance Committee  
Juneau, Alaska 99801

Dear Senator Kelly: *Tim*

I am writing this letter in my role as Chairman of the Board of the Better Business Bureau of Alaska. I urge your support for a cost effective enforcement of the telemarketing law. Specifically, I have been informed that the cost of adding an additional attorney to the Fair Business Practices Section of the Department of Law in order to supervise paralegal interns supplied at no cost from the University of Alaska and Charter College would be more than offset by expected fines and settlements. That appears to be a fiscally responsible, zero impact addition to the state's law enforcement capabilities.

Alaskans are being ripped off nightly by unscrupulous telemarketers primarily based in the lower forty eight. The act which was passed last year put the issue on the books. This year, enforcement can be attained through passage of the requested appropriation.

As you know the BBB has an excellent working relationship with the Attorney General's staff whereby we handle the tremendous volume of consumer complaints while referring the criminal complaints to the AG. Our services are paid for strictly by our members and save hundreds of thousands of dollars to the state which otherwise would employ staff either in the AG's office or the Ombudsman's office to handle the consumer complaint. The credibility of our combined efforts against the "bad guys" falters, however, without a firm enforcement policy which is adequately staffed and functioning. I urge your personal support and the subcommittee's support for the appropriation.

Thank you for your consideration.

*Tim*  
With best regards,

FROM CHARTER COLLEGE

02.09.1994 17:32

P. 1



2221 East Northern Lights Boulevard, Suite 120  
 Anchorage, Alaska 99508  
 Telephone (907) 277-1000  
 Fax (907) 274-3342

February 9, 1994

Attention: Steve

Re: Paralegal Program and Prospective Paralegal Interns

I am responding to your recent request for information on the Charter College paralegal program and paralegal interns.

I would estimate that you might find here during each of our five ten-week terms perhaps three or four paralegal interns.

Very cordially,

Milton Byrd  
 President

MB:sm

POST-IT™ brand fax transmittal memo 7671		# of pages = 5
To	Steve	From
Co		Milton Byrd
Dept.		Co.
Fax #	278 9300	Charter College
		Phone #
		277-1000
		Fax #
		274-3342



## PARALEGAL

The paralegal studies program is American Bar Association approved and requires twelve months of study. The student is trained to assist in the delivery of legal services under attorney supervision in both public and private sectors, and to operate modern computer-based office equipment and software.

The busy legal profession in Anchorage seeks advanced skills that bring together an understanding of law, legal practice, legal research and legal documentation. Combined with word processing and computer skills, as well as financial reporting and management skills, this program prepares the best law office professionals in the business.

### Special Seven Month Paralegal Program for University Graduates

For students who already hold a bachelor's degree, the regular one-year Paralegal program can be completed in just seven months. Charter College honors these students' previous education and will waive a large block of required classes. So give your bachelor's degree an added value: a career with professional satisfaction and financial reward.

### Legal Clinic, Incorporated (Non-Profit)

Charter College is host to a free, non-profit Legal Clinic. Clients in need are able to receive free qualified legal assistance, under the supervision of a licensed attorney. The students in the Charter College Paralegal Internship program will attain practical hands-on experience in legal work as they participate in all aspects of the preparation of court cases. Clients and students alike benefit from this endeavor.

---

HB

299

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

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

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

**MEMORANDUM**

February 18, 1994

**SUBJECT:** Revocation of drivers license - (CSHB 299(HES))

**TO:** Representative Cynthia Toohey

**FROM:** Michael F. Ford *M.F.*  
Legislative Counsel

I wanted to alert you that CSHB 299(HES) contains a provision that should be changed in order to avoid confusion. In new sec. 28.15.183(g), a person whose driver's license is revoked is required to comply with the provisions of AS 28.15.-211(d) in order to receive a new license. However, the provisions of AS 28.15.211(d) are not readily applicable, at least not without considerable interpretation. This matter should be cleared up by amending AS 28.15.183(g) to clearly indicate which provisions of AS 28.15.211(d) are required to be met.

If you have further questions please contact me.

MFF:pl  
94-140.plm

Amendment to proposed House Health and Social Services Committee  
work draft 8-LS0961\O, dated 2/11/94

Page 3, after line 18, create new subsection (g) and insert:

In this section, if a person's driver's license, permit, or privilege to drive, or privilege to obtain a license is revoked under this section, the person's license may not be issued or reinstated until the person demonstrates compliance with the terms of A.S. 28.15.211 (d).

Mike, here is the proposed language. If technical changes are necessary, proceed.



Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY

State Capitol  
Juneau, AK 99801-1182

DISTRICT 13

### SPONSOR STATEMENT

#### House Bill 299

**"An Act relating to revocation of a driver's license for illegal possession or use of a controlled substance or illegal possession or consumption of alcohol; and providing for an effective date."**

This sponsor statement addresses the proposed committee substitute which is referred to as *"Use it-Lose it"* legislation.

There is no doubt that the dangerous association of controlled substances and alcohol with driving begins at an early age. It cannot be stressed enough that usage of alcohol or controlled substances causes a reduction of mental and physical capabilities and can severely impair one's ability to drive in a responsible manner. HB299 would provide the Department of Public Safety with a tool to help discourage youth from starting the dangerous and often fatal association of controlled substances and alcohol with driving.

Driving is a privilege looked forward to by all youngsters. Loss of this privilege can be a powerful deterrent. The intent of this bill is to provide the strongest possible incentive for our children to say "no" to controlled substances or alcohol. It gives youth a reason, that is acceptable to their peers, to say "no," while providing positive reinforcement to alcohol and drug-free teenagers by maintaining their eligibility to drive.

Under HB299, a minor who is old enough to have either a permit or license to drive would lose that license, permit, or privilege if said minor possessed, used, or consumed a controlled substance or alcohol. Revocation would be through an administrative proceeding.

This bill is supported by the Department of Public Safety, the Alaska Medical Association, the Alaska Council on Prevention of Alcohol and Drug Abuse, Alaskans for Drug-Free Youth, the Alaska Association of Chiefs of Police, and others. It has a fiscal note from the Department of Public Safety, but it is anticipated the revenue generated would more than cover the cost of the implementation. It would also enable the State to access additional federal funds. The Department of Law has a zero fiscal note. Your support would be appreciated.

SPONSOR STATEMENT

## POSITION PAPER - Department of Public Safety

---

**BILL NO:** CSHB 299 (HES)

**DATE:**

February 15, 1994

**TITLE:** Driver's License Revocation; Alcohol/Drugs

**CONTACT:**

Lorn M. Campbell  
Executive Director  
Highway Safety  
Planning Agency

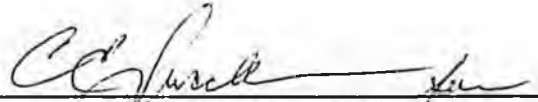
"An Act relating to revocation of a youth under 21 years of age driver's license for illegal possession or use of a controlled substance or illegal possession or consumption of alcohol."

Under Alaska Statute 28.15.011 the exercise to drive or have any degree of control over a motor vehicle upon a highway is a privilege and not a right guaranteed by law. Impaired driving and impaired-related crashes involving young drivers constitute a major problem in every motorized country in the world. In the United States, drivers age 16-19 have the highest crash rate--20.1 crashes per million miles driven in 1990--compared with a rate of 5.3 for all other ages combined.

Alaska is no exception to this problem as alcohol/drugs continue to be a major contributor in youthful traffic accidents and deaths in the State of Alaska. Statistics for 1992 showed 44.4 percent of youths under the age of 21 were impaired at the time of their deaths. Autopsy results disclosed that all of the youth who were impaired had blood alcohol levels well over 0.10.

As consumption or possession of alcohol or a controlled substance is unlawful by all persons under the age of 21 years, license revocation is a particularly appropriate penalty for young drivers for a number of reasons. First of all, mile for mile the teenage driver is a high-risk operator, especially when drinking. Every mile that this high-risk driving can be reduced by significant safety dividends for the individual and the public. Since the privilege to drive is important to a teenager, loss of the driver's license is particularly relevant in motivating the young driver to avoid alcohol or drug related offenses.

The Department of Public Safety strongly supports passage of CSHB 299 (HES) or similar legislation that saves the lives of our State's most valuable resource--our youth.

  
Richard L. Burton,  
Commissioner

8-LS0961NO  
Ford  
2/11/94

CS FOR HOUSE BILL NO. 299( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES TOOHEY, Bunde, Mulder

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to revocation of a driver's license for illegal possession or use  
2 of a controlled substance or illegal possession or consumption of alcohol; and  
3 providing for an effective date."

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

5 \* Section 1. FINDINGS. The legislature finds that

6 (1) drinking alcohol is a factor in approximately one-half of all fatal motor  
7 vehicle accidents;

8 (2) any blood alcohol level affects driving ability and increases the likelihood  
9 of accidents;

10 (3) youthful drivers who consume alcohol are far more likely than sober  
11 teenage drivers to be killed in single vehicle accidents;

12 (4) drinking and driving is a leading killer of youths in this country;

13 (5) youths under the age of 21 are twice as likely as any other age group to  
14 be involved in an alcohol-related automobile accident; and

1 (6) schools in this state should conduct educational programs to teach youths  
2 about the dangers of drinking or using controlled substances and driving.

3 \* Sec. 2. AS 28.15 is amended by adding new sections to read:

4 Sec. 28.15.183. ADMINISTRATIVE REVOCATION OF A MINOR'S  
5 LICENSE TO DRIVE. (a) If a peace officer has probable cause based on personal  
6 observation that a person who is at least 14 years of age but not yet 21 years of age  
7 has possessed or used a controlled substance in violation of AS 11.71, or possessed or  
8 consumed alcohol in violation of AS 04.16.050, the peace officer shall read a notice  
9 and deliver a copy to the person. The notice must advise that

10 (1) the department intends to revoke the person's driver's license or  
11 permit, privilege to drive, or privilege to obtain a license or permit;

12 (2) the person has the right to administrative review of the revocation;

13 (3) if the person has a driver's license or permit, the notice itself is a  
14 temporary driver's license or permit that expires seven days after it is delivered to the  
15 person;

16 (4) revocation of the person's driver's license or permit, privilege to  
17 drive, or privilege to obtain a license or permit, takes effect seven days after delivery  
18 of the notice to the person unless the person, within seven days, requests an  
19 administrative review.

20 (b) After reading the notice under (a) of this section, the peace officer shall  
21 seize the person's driver's license or permit if it is in the person's possession and shall  
22 deliver it to the department with a sworn report describing the circumstances under  
23 which it was seized.

24 (c) Unless the person has requested an administrative review, the department  
25 shall revoke the person's driver's license or permit, privilege to drive, or privilege to  
26 obtain a license or permit, effective seven days after delivery to the person of the  
27 notice required under (a) of this section, upon receipt of a sworn report of a peace  
28 officer

29 (1) that the officer had probable cause based on personal observations  
30 that the person is at least 14 years of age but not yet 21 years of age and has  
31 possessed or used a controlled substance in violation of AS 11.71, or possessed or

1 consumed alcohol in violation of AS 04.16.050;

2 (2) that notice under (a) of this section was provided to the person; and

3 (3) describing the circumstances surrounding the violation of the  
4 controlled substances provisions of AS 11.71 or the alcoholic beverages provisions of  
5 AS 04.16.050.

6 (d) The department shall impose the revocation required under this section

7 (1) for a first revocation, for a period of 90 days;

8 (2) for a second revocation, for a period of one year; or

9 (3) for a third or subsequent revocation, for a period of three years.

10 (e) Notwithstanding the provisions of AS 28.20.240 and 28.20.250, the  
11 department may not require proof of financial responsibility before restoring a driver's  
12 license, permit, or privilege that is revoked under this section.

13 (f) A revocation imposed under this section shall be consecutive to a  
14 revocation imposed under another provision of law, except that a revocation imposed  
15 under this section shall be concurrent with a revocation imposed under AS 28.15.185  
16 that is based on the same incident. A department hearing officer may grant limited  
17 license privileges in accordance with the standards set out in AS 28.15.201 to a person  
18 whose driver's license, permit, or privilege was revoked under this section.

19 Sec. 28.15.184. ADMINISTRATIVE REVIEW OF REVOCATION OF A  
20 MINOR'S LICENSE. (a) A person who has received a notice under AS 28.15.183(a)  
21 may make a written request for administrative review of the department's action. If  
22 the person's driver's license or permit has not been previously surrendered to the  
23 department, it shall be surrendered to the department at the time the request for review  
24 is made.

25 (b) A request for review of the department's revocation under AS 28.15.183  
26 shall be made within seven days after receipt of the notice under AS 28.15.183 or the  
27 right to review is waived and the action of the department under AS 28.15.183(c) is  
28 final. If a written request for a review is made after expiration of the seven-day  
29 period, and if it is accompanied by the applicant's verified statement explaining the  
30 failure to make a timely request for a review, the department shall receive and consider  
31 the request. If the department finds that the person was unable to make a timely

1 request because of lack of actual notice of the revocation or because of factors of  
2 physical incapacity such as hospitalization or incarceration, the department shall waive  
3 the period of limitation, reopen the matter, and grant the review request.

4 (c) Upon receipt of a request for review, if it appears that the person holds a  
5 valid driver's license or permit and that the driver's license or permit has been  
6 surrendered, the department shall issue a temporary driver's permit that is valid until  
7 the scheduled date for the review. A person who has requested a review under this  
8 section may request, and the department may grant for good cause, a delay in the date  
9 of the hearing. If necessary, the department may issue additional temporary permits  
10 to stay the effective date of its action under AS 28.15.183(c) until the final order after  
11 the review is issued.

12 (d) A person who has requested a hearing under this section and who fails to  
13 appear at the hearing, for reasons other than lack of actual notice of the hearing or  
14 physical incapacity such as hospitalization or incarceration, waives the right to a  
15 hearing. The determination of the department that is based upon the officer's report  
16 becomes final.

17 (e) Notwithstanding AS 28.05.141(b), the hearing under this section may be  
18 held telephonically at the discretion of the hearing officer.

19 (f) A review under this section shall be held before a hearing officer  
20 designated by the commissioner. The hearing officer may

21 (1) administer oaths and affirmations;

22 (2) examine witnesses and take testimony;

23 (3) receive relevant evidence;

24 (4) issue subpoenas, take depositions, or cause depositions or  
25 interrogatories to be taken;

26 (5) regulate the course and conduct of the hearing;

27 (6) make a final ruling on the issue.

28 (g) The hearing for review of a revocation by the department under  
29 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years  
30 of age but not yet 21 years of age and whether the person possessed or used a  
31 controlled substance in violation of AS 11.71 or possessed or consumed alcohol in

1 violation of AS 04.16.050.

2 (h) The determination of the hearing officer may be based upon the sworn  
3 report of a peace officer, if the sworn report is supported by probable cause based on  
4 personal observations as required under AS 28.15.183(a). The peace officer need not  
5 be present at the hearing unless either the person requesting the hearing or the hearing  
6 officer requests in writing before the hearing that the officer be present. If in the  
7 course of the hearing it becomes apparent that the testimony of the peace officer is  
8 necessary to enable the hearing officer to resolve disputed issues of fact, the hearing  
9 shall be continued to allow the attendance of the peace officer.

10 (i) Testimony given at the hearing is not admissible in a criminal trial unless  
11 the testimony given at the trial is inconsistent with testimony given at the hearing.

12 (j) If the issues set out in (g) of this section are determined in the affirmative  
13 by a preponderance of the evidence, the hearing officer shall sustain the action of the  
14 department. If one or more of the issues is determined in the negative, the  
15 department's revocation action shall be rescinded.

16 (k) If the action of the department in revoking a nonresident's privilege to  
17 drive a motor vehicle is not administratively contested by the nonresident driver or if  
18 the departmental action is sustained by the hearing officer, the department shall give  
19 written notice of action taken to the motor vehicle administrator of the state of the  
20 person's residence and to any state in which that person has a driver's license.

21 (l) Within 30 days of the issuance of the final determination of the department,  
22 a person aggrieved by the determination may file an appeal in superior court for  
23 judicial review of the hearing officer's determination. The judicial review shall be on  
24 the record without taking additional testimony. The court may reverse the  
25 department's determination if the court finds that the department misinterpreted the  
26 law, acted in an arbitrary and capricious manner, or made a determination unsupported  
27 by the evidence in the record.

28 (m) The filing of an appeal under (l) of this section or a petition for review  
29 does not automatically stay the department's order or revocation. The court may grant  
30 a stay of the order or revocation under the applicable rules of court, after a motion and  
31 hearing, and upon a finding that there is a reasonable probability that the petitioner

1 will prevail on the merits and that the petitioner will suffer irreparable harm if the  
2 order is not stayed.

3 \* Sec. 3. APPLICABILITY. This Act applies to violations of AS 04.16.050 or AS 11.71  
4 that occur on or after the effective date of this Act.

5 \* Sec. 4. This Act takes effect July 1, 1994.

# HOUSE COMMITTEE REPORT

(9)

Date Referred: May 6, 1993

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 2/17/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 299

HOUSE BILL NO. 299

DRIVER'S LIC REVOCATION/ALCOHOL PROGRAMS

"An Act relating to education programs on consumption of alcohol and to revocation of a driver's license for illegal consumption of alcohol; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with CS HB 299 (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 Public Safety

fiscal note(s) \_\_\_\_\_

zero fiscal note Law

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				

*[Signature]*  
CHAIRMAN'S SIGNATURE

Rep Brief



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

DATE: 2/11/94

PLACE: Capitol Room 106

SUBJECT OF MEETING:  
 \* HB 299: DRIVER'S LICENSE REVOCATION; Alcohol/Drugs  
 \* HB 417: POSSESSION OF FIREARMS IN SCHOOL LOCKERS  
 \* HB 418: EXTEND BOARD OF PAROLE  
 \* INDICATES FIRST PUBLIC HEARING

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Sam Russell	JDHS	William O'Neil		740-2646		(Y) N	299
Kai Morrison	JDHS	Concealed Pistol Sitka HR417		586-2883		(Y) N	299
Alisha Heric	JDHS			789-5120		(Y) N	299
Jesse Gemmill	JDHS			5864016		(Y) N	299
Vernon Marshall		NEA-AK				(Y) N	417-299
M.E. Olson	Member AARP (S) Anchorage, AK	1032 W. 11th		272-915		Y (N)	-
JAMIE MARKS	NEA/T					(Y) N	299
Margot Knuth	Law-Crim				3428	(Y) N	HB 299 HB 417
Terrie Stoll	KIDPAC				3-6744	(Y) N	HB 417 - I have an appt at 4:15 so that's
						Y N	
						Y N	



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

DATE: 2/6/94

PLACE: Capitol Room 106

SUBJECT OF MEETING:

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
RICHARD COLLIN	PAROLE BOARD	Box 112000 JUNEAU AK.	99801		465-3354	Y	N	HB 418
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO: CSHB 299 (HES)

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An Act relating to revocation of a driver's BRU: Motor Vehicles  
license ... and providing for an effective date. Component: Driver Services  
 Sponsor: Representative Toohay  
 Requestor: (H) HESS COMPONENT SERIAL NO. 500, 502

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	126.1	126.1	126.1	126.1	126.1	126.1
TRAVEL	1.5	0	0	0	0	0
CONTRACTUAL	17.4	16.1	16.1	16.1	16.1	16.1
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	42.0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>188.0</b>	<b>143.2</b>	<b>143.2</b>	<b>143.2</b>	<b>143.2</b>	<b>143.2</b>
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES (1005) <small>Revenue Code</small>	225.0	225.0	225.0	225.0	225.0	225.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	188.0	143.2	143.2	143.2	143.2	143.2
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>188.0</b>	<b>143.2</b>	<b>143.2</b>	<b>143.2</b>	<b>143.2</b>	<b>143.2</b>

Estimate of current year (FY 94) impact: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME	3	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)  
See Attached

Prepared By: Juanita M. Hensley Phone: 465-2650  
 Division: Motor Vehicles Date: 2/16/94  
 Approved by Commissioner: *[Signature]* Date: \_\_\_\_\_  
 Agency: Richard L. Burton, Dept. of Public Safety

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This bill will require the Division of Motor Vehicles to administratively revoke the driver's license of any person between the ages of 14 through 20 who has consumed or who is in possession of drugs or alcohol. The Division of Family and Youth Services (DFYS) reports approximately 1,200 youths between the ages of 14 through 17 are referred to their agency by police authorities for alcohol or drug offenses yearly. The Department of Public Safety Uniform Crime Report for 1992 shows approximately 1,300 persons between the ages of 18 through 20 are arrested or charged with drug and alcohol offenses (other than DWI) each year. The total number of youths whose driver's license or privilege to drive would be revoked is approximately 2,500.

In order to handle the additional 2,500 additional license revocations a year, and provide due process for the minor, one full-time Driver Improvement Specialist/Hearing Officer, and two full-time Motor Vehicle Representative I/II's would be required. The cost for personal services for a Driver Improvement Specialist/Hearing officer is 52.8; the cost for two Motor Vehicle Representative I/II's is 73.3. The total for personal services is 126.1. The Driver Improvement Specialist and one Motor Vehicle Representative will be located in the Juneau Driver Services office and will handle the all paperwork and hearings associated with administering the revocation of the driver's license. The second Motor Vehicle Representative will be located in the Anchorage Field Services section and will be used in the Motor Vehicle Field office to handle the reinstatement and issuance of a driver's license.

To revoke 2,600 additional driver's licenses a year takes over 30 processing steps per revoked license. It takes approximately 20 minutes to one hour to conduct an administrative hearing. Each processing step varies in the time it takes to complete. Complete accuracy is essential, as an error of entry onto a record could result in civil liability to the State. It takes approximately 20 minutes per applicant to reinstate a revoked driver's license; this time is exclusive of the time it takes a person to take the required tests; the person must make a new application for the driver's license or permit, take all of the required tests, and if the person is under the age of 18 a parent or legal guardian must give consent for the driver's license or permit, and pay the reinstatement fee. Travel and per-diem requested is to send the hearing officer to the National Judicial College for professional training in the fair hearing process.

Under existing law, each person whose license has been revoked must pay a \$100 fee when applying for reinstatement of his or her driver's license. Assuming that 90 percent of the minors who are eligible for reinstatement will comply with the reinstatement requirements, approximately 225.0 will be generated annually as program receipt/general fund revenue.

DETAIL	FY95	FY96
PERSONAL SERVICES	126.1	126.1
2 Motor Vehicle Representative I/II		
1 Driver Improvement Specialist/Hearing Officer		
TRAVEL	1.5	
Airfare and per-diem to National Judicial College		
Travel is a one-time expense		
CONTRACTUAL	17.4	16.1
323 sq. ft. office space lease		
@\$1.95 per sq. ft. 7.6		
Postage and tolls 1.7		
Telephone charges/conference call and long distance charges 6.8		
Tuition for National Judicial College 1.3		
Tuition is a one-time expense		
SUPPLIES	1.0	1.5
Routine Office Supplies		
EQUIPMENT	42.0	
3 Complete workstations 10.0 each		
Copier 11.0		
Telephone Purchase 1.0		
Equipment is a one-time expense		
TOTAL	188.0	143.2

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 299 (HES)

Revision Date: February 18, 1994  
Title: "...revocation of a driver's license for illegal possession or use of a controlled substance...alcohol..."  
Sponsor: Representative Toohy  
Requestor: Representative Toohy

Department Affected: Department of Law  
BRU: Prosecution  
Component: All  
COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

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

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

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

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)  
Please see the attached analysis.

Prepared by: Richard I. Peques, Director  
Division: Administrative Services Division

Phone: 465-3672  
Date: February 18, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General  
Agency: Department of Law

Date: February 18, 1994

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 299 (HES)

ANALYSIS CONTINUATION:

The House HES Committee version of HB 299 adds a new section to AS 28.15 that provides for the revocation of a driver's license of a person that is at least 14 years of age, but not yet 21 years of age, for the possession or use of a controlled substance in violation of AS 11.17, or the possession or use of alcohol in violation of AS 04.16.050.

Revocation would be handled administratively by the Department of Public Safety if a police officer had probable cause based on personal observation that the possession or use occurred. The administrative process includes a provision for an administrative appeals hearing, as well as providing for subsequent judicial review. A police officer would be required to read a notice and to deliver a copy to the person advising that revocation will occur in seven days, unless the person requests an administrative review within the seven days. The written notice would serve as a temporary seven day license or permit, and the police officer would seize the person's license or permit if it is in the person's possession. Revocation would include the person's driver's license, permit, privilege to drive, or privilege to obtain a license or permit. A first revocation would result in a revocation for a period of 90 days; a second revocation would result in a revocation for a period of one year; and a third revocation would result in revocation for a period of three years.

Current statute (AS 28.15.185) contains similar penalties for the same offense; however, the existing statute is limited to youths ages 13 through 17, and the penalties can be invoked only if the person is adjudicated by a juvenile court of misconduct involving a controlled substance or alcohol.

Because the revocation process will be handled administratively within the Department of Public Safety, the bill is unlikely to have a direct fiscal impact on the Department of Law. However, we are concerned that there will be a secondary impact caused by youthful offenders who drive while their license is revoked or who cannot obtain a license or permit during a revocation period. We also expect that there will be a larger number of revocations than now occurs under the existing statute, because the age span covered by the bill is greater and because revocation will not require an adjudication. Thus it appears that the incidence of DWLS offenses will increase. However, data is not available that would give any clear idea on the amount of increase that will result if the bill is approved. Consequently, fiscal impact costs have not been shown. We therefore caution that increasing prosecutor caseload at a time when revenues are decreasing, and at a time when the existing caseload is already increasing, will result in prosecutors being forced to decline prosecution of certain offenses in favor of prosecuting more serious offenses.

Finally, we note that the bill includes well-reasoned findings in respect to the dangers involved in mixing alcohol and driving and the particular danger to youths under the age of 21. However, no findings have been included in respect to controlled substances and the dangers they present to youths under the age of 21.

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

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

### MEMORANDUM

February 15, 1994

**SUBJECT:** Sectional Summary of CSHB 299( )  
(Work Order No. 8-LS0961\O)

**TO:** Representative Cynthia Toohey

**FROM:** Michael F. Ford *M.F. Ford*  
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. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

#### Section 1. Findings.

#### Section 2.

Sec. 28.15.183. Requires administrative revocation of a driver's license of a person who is at least 14, but not yet 21 years old, who has illegally consumed or possessed alcohol or a controlled substance. Establishes periods of mandatory revocation. Provides that revocation under this section is consecutive to revocation under another provision of law, except for a revocation under AS 28.15.185. Allows for the Department of Public Safety to grant limited license privileges.

Sec. 28.15.184. Provides for review of the administrative revocation before a hearing officer. If the illegal possession or consumption is proven by a preponderance of the evidence the revocation is required to be sustained. Provides for appeal of the hearing officer's decision to superior court.

#### Section 3. Applicability.

#### Section 4. Effective date.

MFF:pl  
94-132.plm

Sec. 04.16.050. Possession or consumption by persons under the age of 21. A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051(b). (§ 3 ch 131 SLA 1980; am § 8 ch 109 SLA 1983)

Effect of amendments. — The 1983 amendment substituted "21" for "19."

#### NOTES TO DECISIONS

Cited in *M.O.W. v. State*, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

Sec. 28.20.240. Proof required when driving privilege is restricted. Whenever under a law of this state the license of a person is suspended, revoked, limited under AS 28.15.201, or canceled for any reason, the department may not issue to that person a new or renewal of license until permitted to do so under the motor vehicle laws of this state. A period of suspension, revocation, or cancellation continues until proof of financial responsibility for the future is provided. Upon expiration of a period of limitation, the license remains revoked until proof of financial responsibility for the future is provided. (§ 26 ch 163 SLA 1959; am § 7 ch 78 SLA 1982; am § 12 ch 77 SLA 1983)

#### NOTES TO DECISIONS

A person convicted of operating a motor vehicle while under the influence of intoxicating liquor is required to furnish proof of his financial responsibility for the future. *Paulson v. National Indem. Co.*, 498 P.2d 731 (Alaska 1972). Cited in *Manderson v. State*, 655 P.2d 1320 (Alaska Ct. App. 1983).

Sec. 28.20.250. Action in respect to unlicensed person. (a) If a person does not have a license, but by final order or judgment is convicted of, or forfeits bail or collateral deposited to secure an appearance for trial for an offense requiring the suspension or revocation of license, or for driving a motor vehicle upon the highways without being licensed to do so, or for driving an unregistered vehicle upon the highways, a license may not be issued to the person unless the person gives and thereafter maintains proof of financial responsibility for the future.

(b) Whenever the department suspends or revokes a nonresident's operating privilege for conviction or forfeiture of bail, the privilege remains suspended or revoked unless the person has previously given or immediately gives proof of financial responsibility for the future. (§ 27 ch 163 SLA 1959)

#### NOTES TO DECISIONS

Effect of application. — AS 28.20.160 and this section provide simply that the unlicensed driver subject to those laws "may not be licensed" until certain conditions are met; they do not use the language of "suspending" or refer to any "privilege" the unlicensed driver may have had. *Francis v. Municipality of Anchorage*, 641 P.2d 226 (Alaska Ct. App. 1982).

**Sec. 28.15.185. Court revocation of a minor's license to drive.**

(a) A person who is at least 13 years of age but not older than 17 years of age who is adjudicated by a juvenile court of misconduct involving a controlled substance under AS 11.71 or possession or consumption of alcohol under AS 04.16.050 is subject to revocation of the person's driver's license under (b) of this section.

(b) The court shall impose the revocation for an offense described in (a) of this section as follows:

(1) for a first conviction or adjudication, the revocation may be for a period not to exceed 90 days;

(2) for a second or subsequent conviction or adjudication, the revocation may be for a period not to exceed one year.

(c) Upon conviction or adjudication of an offense listed in (a) of this section the court may, upon petition of the person, review the revocation and may restore the driver's license, except a court may not restore the driver's license until

(1) at least one-half of the period of revocation imposed under this section has expired; and

(2) the person has taken and successfully completed a state approved program of drug rehabilitation if convicted of misconduct involving a controlled substance under AS 11.71, or alcohol rehabilitation if convicted of possession or consumption of alcohol under AS 04.16.050; this paragraph does not apply to a person who resides in an area that does not offer a state approved drug or alcohol rehabilitation program or a person that the court determines does not need alcohol or drug rehabilitation.

(d) Notwithstanding the provisions of AS 28.20.240 and 28.20.250, upon conviction of an offense specified in (a) of this section, the department may not require proof of financial responsibility before restoring or issuing the person's driver's license. (§ 1 ch 130 SLA 1988)

Sec. 28.15.201. Limitation of driver's license. (a) A court of competent jurisdiction revoking a person's driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(b) may, for good cause, impose limitations upon the driver's license of a person that will enable the person to earn a livelihood without excessive risk or danger to the public. A limitation may not be placed upon a driver's license until after a review has been made of the person's driving record and other relevant information, and a limitation may not be imposed when a statute specifically prohibits the limitation of a license for a violation of its provisions.

(b) A court imposing a limitation under (a) of this section shall (1) require certification of employment;

(2) require proof of enrollment in and compliance with or completion of an alcoholism treatment program when appropriate;

(3) require the surrender of the driver's license; and

(4) issue to the licensee a certificate valid for the duration of the limitation.

(c) After the termination of a limitation as shown on the certificate issued under (b) of this section, the license of a person on whom a limitation was imposed is revoked until the person receives a new license meeting the requirements set out in AS 28.15.211.

(d) A court revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the department when revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant limited license privileges for the final 60 days during which the license is revoked if

(1) the revocation was for a violation of AS 28.15.181(a)(5) and not for a violation of AS 28.15.181(a)(8);

(2) the person has not been previously convicted; in this paragraph, "previously convicted" has the meaning given in AS 28.35.030 and also includes convictions based on laws presuming that the person was under the influence of intoxicating liquor if there was 0.08 percent or more by weight of alcohol in the person's blood;

(3) the court or the department determines that the person's ability to earn a livelihood would be severely impaired without a limited license;

(4) the court or the department determines that a limitation under (a) of this section can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public; and

(5) the court or the department determines that the person is enrolled in and is in compliance with, or has successfully completed, an alcoholism education and rehabilitation treatment program. (§ 19 ch 178 SLA 1978; am §§ 10, 11 ch 117 SLA 1982; am §§ 8, 9 ch 77 SLA 1983; am §§ 16 — 18 ch 119 SLA 1990; am § 12 ch 3 SLA 1992; am § 4 ch 59 SLA 1993)

Revisor's notes. — In 1990, the word "five" was substituted for "six" in the last sentence of (d) of this section to correct a manifest error in § 18, ch. 119, SLA 1990.

Effect of amendments. — The 1990 amendment, effective January 1, 1991, inserted "or a hearing officer under AS 28.15.165" in the first sentence and added the provision relating to considerations in determining whether to grant limited license privileges in subsection (a); inserted "or hearing officer" in subsection (b); and added subsections (d)-(f).

After July 1, 1993, Section 12(b), ch. 59, SLA 1993 provides that "[s]tatutes amended or added by this Act that refer to previous convictions apply according to

The 1992 amendment, effective April 1, 1992, rewrote subsection (f).

The 1993 amendment, effective July 1, 1993, rewrote this section.

Editor's notes. — Section 30, ch. 3, SLA 1992 provides that for the purposes of the amendment made to (f) of this section by § 12, ch. 3, SLA 1992, convictions for offenses committed before April 1, 1992 are considered previous convictions.

Section 12(a), ch. 59, SLA 1993 provides that the 1993 amendment of this section "applies to offenses that are committed af-

ter July 1, 1993." the terms of those statutes whether the previous convictions occurred before, on, or after July 1, 1993."

#### NOTES TO DECISIONS

Issuance of limited licenses. — This section affirmatively vests the courts with ongoing power to issue a limited license, provided that issuance of such license is not prohibited under a provision of law in effect when the limited license is requested. *Howell v. State*, 834 P.2d 1254 (Alaska Ct. App. 1992).

Although subsections (d) and (e) specifically authorize the issuance of limited licenses to drivers whose license is revoked for DWI/refusal convictions, nothing in subsection (a) restricts the issuance of limited licenses only to such drivers. *Howell v. State*, 834 P.2d 1254 (Alaska Ct. App. 1992).

Application held not retroactive. — Where defendant, whose driver's license

had been revoked, moved for the issuance of a limited license, in reliance on newly amended language in this section, and did so within the time limitations of R. Crim. P. 35(a), it was error for the trial court to rule the issuance of such license was precluded by AS 01.10.101 (relating to effect of repeals or amendments) because defendant had been sentenced prior to the amended provision's effective date. Application of this provision prior to the effective date of the amendment was not a retroactive application of an amendment to the sentencing scheme promulgated under AS 28.15.181(d) and 28.15.291(c). *Howell v. State*, 834 P.2d 1254 (Alaska Ct. App. 1992).

Sec. 28.05.141. Hearings and appeals. (a) Unless otherwise specifically provided, all hearings required under this title or regulations adopted under this title shall be conducted by the department under regulations adopted by the commissioner governing practice and procedure and consistent with due process of law. Hearings must be informal, and technical rules of evidence do not apply. A person who requests a hearing may retain an attorney. The hearing officer shall be appointed by the commissioner and may be appointed from the department. A hearing officer need not be an attorney, but must be impartial and may not have participated in the decision that is under review. The hearing officer does not have to file a full opinion or make formal findings of fact or conclusions of law, but the hearing officer must state the reasons for the determination and indicate the evidence relied upon. The proceedings at the hearing shall be recorded.

\* (b) A hearing ordered under (a) of this section shall be held at the office of the department nearest to the residence of the person requesting the hearing unless the department and the person agree that the hearing is to be held elsewhere. The department shall grant a hearing delay if the person presents good cause for the delay. If a person fails to appear for the hearing at the time and place stated by the department and if a hearing delay has not been granted, the person's failure to appear is considered a waiver of the hearing and the department may take appropriate action with respect to the person.

(c) If at the hearing under (a) of this section it appears that the record of the person sustains suspension, revocation, limitation, denial, or other remedial action, the hearing officer shall so order and the department may suspend, revoke, limit, deny, or take other remedial action against that person's license, registration, or title and, if appropriate, the department shall adjust the person's point total accumulated under AS 28.15.031.

(d) A person aggrieved by the decision of the hearing officer may, within 30 days, initiate a proceeding in district court to rescind the department's action by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters. The court shall conduct a hearing de novo. The decision of the department suspending, revoking, canceling, limiting, restricting, or denying a license, registration, title, permit, or privilege is stayed and does not take effect during the pendency of an appeal. (§ 6 ch 178 SLA 1978; am § 2 ch 60 SLA 1986)

*Cross references.* — For rules of court relating to appeals from administrative proceedings, see App. Rules 601-611.

*Effect of amendments.* — The 1986 amendment in subsection (c) inserted " registration, or title."

#### NOTES TO DECISIONS

This section does not apply to a revocation of a license under AS 28.35.032. *Graham v. State*, 633 P.2d 211 (Alaska 1981).



## ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

February 13, 1994

Representative Cynthia Tohey  
Alaska State Legislature  
P. O. Box V (MS 3100)  
Juneau, AK 99811

Dear Representative Tohey:

On behalf of the Alaska State Medical Association I would like to offer you our organization's strongest support for your committee substitute for House Bill #299. As physicians we are well aware of the trauma alcohol and drugs inflict upon Alaskans. These problems often begin while our youth are in their teens and this bill will serve as a ringing wake-up call that substance abuse has serious consequences and will not be tolerated. This bill is elegant in its simplicity and will be eloquent in its message once under-age drivers realize that substance abuse is incompatible with driving privileges. When enacted, this bill will be a model for other states to deal with this problem.

I thank you and your staff for your hard and thoughtful work on this bill. If I can be of any assistance to you in its passage, do not hesitate to contact me. If my testimony would ever be helpful, I would be happy to assist you.

Sincerely yours,

Donald P. Lehmann, M.D., A.B.F.P.  
President, Alaska State Medical Association

DRL:bj

# Alaska Association Chiefs of Police



February 15, 1994

Representative Cynthia Toohey  
Room 104  
State Capital Building  
Juneau, Alaska, 99801-1182

Dear Representative Toohey:

On behalf of the Alaska Association of Chiefs of Police I would like to offer our support for CSHB 299 (work draft of 2/11/94).

The number of teenagers killed while drinking and driving is an endless and ever increasing tragedy in today's society. In Alaska, where the illegal use of drugs and alcohol by minors is significantly higher than other parts of the country, the number of dysfunctional teens seems to be growing at an alarming rate.

The standard law enforcement approach of arrest and incarceration for possession or consumption has not solved or reduced this growing problem. (In the case of teens under the age of eighteen (18) it is simply a ride home with a later court appearance.) Education and counseling, along with innovative incentives is the only hope for reducing this behavior. Revocation of a minor's drivers license for any illegal possession or consumption, regardless of whether a vehicle was involved, is an extremely innovative approach to a very old problem. Because driving is such a cherished past time with most young people, the threat of losing this privilege may be the catalyst needed for some to finally "just say no".

If we can be of any assistance in the passage of this bill please let me know.

Very truly yours,

A handwritten signature in cursive script, which appears to read "Ronald L. Otte", is written over a horizontal line.

Ronald L. Otte  
President

RLO/lp



# Alaskans For Drug-Free Youth

## Statewide Headquarters

2417 Tongass, Suite #114, Ketchikan, Alaska 99901  
 Phone: 907-247-2273, 1-800-478-2273, fax 907-247-2232

February 15, 1994

**EXECUTIVE DIRECTOR**  
 Lynda Adams

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The Honorable Cynthia Toohey  
 State Capitol  
 Juneau, AK 99801-1182

Dear Representative Toohey:

Thank you for sending us the latest draft of HB 299. Our organization fully supports the "Use It - Lose It" administrative revocation of minors' permits and licenses. We believe this will be a very cost effective tool for law enforcement and more importantly, will provide our young people with a reason not to drink and use other drugs.

If there is one thing teenagers have in common, it is that they are all anxious to have a drivers license. The threat of losing it should make them think twice about taking a drink.

We are also interested in incorporating a .00 BAC for those under 21 years old. If it is possible to amend this bill to include that provision, we would appreciate it. We will continue to advocate for it in any case.

Thank you for being responsive to our suggestions for changes to your bill. If there is anything else we can do to help, please let us know. Lynda Adams will be back in the office next week and will be happy to answer any questions you may have.

Sincerely,

Cheri Davis,  
 Development Director





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

Founded 1962

February 15, 1994

Representative Cynthia Toohey  
House of Representatives  
State Capitol, Room 104  
Juneau, AK 99801-1182

Dear Representative Toohey,

Thank you for informing me about C.S. House Bill 299 draft dated February 11, 1994. The data you are about to read comes from the Robert Wood Johnson Foundation report dated October 1993. Prepared by the Institute for Health Policy, Brandeis University entitled *Substance Abuse the Nations Number One Health Problem, Key Indicators for Policy*. I am in support of this bill for the following reasons:

- Adolescent is a period of experimentation with substance use and teenagers are particularly at risk for being involved with alcohol and drug related vehicle injuries.
- Traffic crashes remain the single greatest cause of death among American youth and young adults and almost half of all traffic fatalities are alcohol-related.
- Diverse efforts under way in communities across the country including prompt license suspension, sobriety police checks, zero tolerance for underage drivers and public education have had an impact on alcohol impaired driving decline.
- The public supports stringent sanctions against driving while intoxicated and according to a national poll would like to see tougher enforcement of drinking age laws (64%) automatic license suspension for the first offense (89%) and automatic confiscation of plates for the second offense (89%).

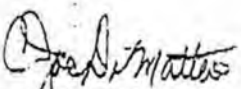
Representative Tooley  
February 15, 1994  
Page two

- Alcohol in any quantity is a risk factor for young drivers and nearly 40% of 16 to 19 year old drivers in alcohol involved fatal crashes had a B.A.C. level under 0.10%.
- Early use is related to later problems. By the eighth grade 70% of adolescents have consumed alcohol.

The above statistics show that any intervention we create as a community for young people will save many lives. Tougher laws and higher prices on alcohol and tobacco have proven to be effective deterrents for substance use and abuse among young people.

I wish you success in getting House Bill 299 approved. If there is anything that I can do to help, please feel free to call me.

Sincerely,

  
Joseph DiMatteo  
Executive Director

/JDM

HB

320

# HOUSE COMMITTEE REPORT

(9) Date Referred: January 10, 1994      FURTHER REFERRALS:      Finance

Date of Committee Action: 3/1/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:      HB 320

HOUSE BILL NO. 320      PUBLIC SCHOOL HEALTH AND SAFETY EDUCATION

"An Act relating to public school health personal safety education."

RECOMMENDATIONS:      CS HB 320 (HESS)       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 DOE       fiscal note(s) \_\_\_\_\_  
 zero fiscal note H+SS       zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Tom Bice</i>	<input checked="" type="checkbox"/>	<i>Pete Tost</i>		<input checked="" type="checkbox"/>	
<i>Bob [unclear]</i>	<input checked="" type="checkbox"/>	<i>Carl [unclear]</i>		<input checked="" type="checkbox"/>	
		<i>Carl Bunde</i>		<input checked="" type="checkbox"/>	
		<i>Audrey Olberg</i>		<input checked="" type="checkbox"/>	
		<i>[unclear]</i>		<input checked="" type="checkbox"/>	

*Carl Bunde*  
 CHAIRMAN'S SIGNATURE



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

DATE: 3/1/94

PLACE: Capitol Room 106

SUBJECT OF MEETING:  
 \* HB 507: LICENSING OF OPTOMETRISTS & PHYSICIANS  
 \* HB 492: REFERRALS INVOLVING DENTAL SERVICES  
 \* HB 324: EXTEND BOARD OF DENTAL EXAMINERS  
 \* INDICATES FIRST PUBLIC HEARING

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Jon Lettmann, M.D.	A.S.M.A.	700 KATLIAN "E" - SITE A	99585		747-5861	(Y) N	# 507
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

LTR1100-R01  
03/05/94

LEGISLATIVE TELECONFERENCE NETWORK

PAGE 01  
18:19:38

TCN: 40407 DATE & TIME: 03/01/94 15:00 TO 17:00 STATUS:7 STATS. IN

\*\*\*\* ORDER SUMMARY \*\*\*\*

SPONSOR: HHS HOUSE HEALTH, EDUCATION AND SOCIAL SERVI CHAIRS: TOOHEY  
PURPOSE: PUB PUBLIC HEARING LEGISLATIVE BUNDE  
CONTACT: LYNNE SMITH TEL#: (907)465-6825  
CHAIRING SITE: JUNEAU CAPITOL CAP106

SPONSOR REMARKS(PUB): TESTIMONY:Y ALLOWED 8 MINUTE LIMIT  
TCN REQUESTED ON 03/01/94 AND HAS 3 UPDATES

\*\*\*\* AGENDA \*\*\*\*

- 1 HB 507 LICENSING OF OPTOMETRISTS AND PHYSICIANS
- 2 HB 472 REFERRALS INVOLVING DENTAL SERVICES
- 3 HB 301 APPROP: EDUCATION FUNDING FOR FY 95

\*\*\*\* PARTICIPATING LIOS \*\*\*\*

LIOS	LOCATION	STAFF
JNU JUNEAU	CAPITOL	CAP106

\*\*\*\* VOLUNTEER & OFFNET SITES \*\*\*\*

PSG WRG WRANGELL LIC	LONGSHOREMEN'S	MABEL FENNIMORE	(907)874-3013
ZZZ OF1 OFFNET 1	ANCHORAGE	DR. MCGUIRE	(907)562-4142
ZZZ OF2 OFFNET 2	SOLDOTNA	DAN PITTS	(907)262-4989
ZZZ OF3 OFFNET 3	TANANA	RON DELAY	(907)366-7208



## Position Paper: Department of Education

Division Educational Program Support Bill Number C.S.H.B.320

Bill Title An Act relating to public school health personal safety education

Sponsor Representative Toohy

Position Statement: Explain briefly what the bill does, its impacts and Department's position.

### What the bill does:

This bill would amend existing law regarding health and safety education in public schools in three ways. First, it would require the school boards of each school district and regional educational attendance area to establish a health education curriculum advisory committee. Secondly, it would repeal the existing AS 14.30.360 and reenact this section to a) require instruction in human immunodeficiency virus and acquired immune deficiency syndrome, and b) encourage a district in the public school system to conduct a K-12 comprehensive health education program. In addition, it would increase the number and scope of the topics that would be encouraged as a part of this program. Finally, it would add a definitions section that includes definitions for the terms "family health," "health and personal safety education," "pregnancy prevention," and "reproductive health."

### Impacts and Department's position:

The Department recognizes the importance of a structured health education curriculum that will provide students with the information and skills they need to make health promoting choices throughout their lifetime. The Department agrees that it is important for students to be instructed in HIV prevention and other important health risks of this era. However, the decisions about what the content of curriculum should be, and the age at which that content is appropriately taught, and its level of emphasis are best decided by the local school boards in consultation with parents, local health providers and community members. For these reasons, the Department of Education continues to oppose imposition of any kind of state level curriculum mandates.

The Department does support the requirement for establishment of a health education curriculum advisory committee for the district. This practice will assure the district receives the best advice from local health experts, parents, and other community members. The language describing the role and operation of this committee should impose minimal additional expense to the school districts.

APPROVED:

Director Vince Barry DIVISION Educational Program Support

Signature  Date 2-24-94

Commissioner/Deputy Jerry Covey/Mike Maher

Signature  Date 2-24-94

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 320

Revision Date: \_\_\_\_\_  
Title: An Act relating to public school health personal safety education.

Dept. Affected: EDUCATION  
BRU: Educational Program Support  
Component: Basic Education and Instructional Improvement

Sponsor: Representative Toohy  
Requestor: Representative Toohy

COMPONENT SERIAL NO. 171

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	38.4	39.6	40.7	42.1	43.2	44.5
SUPPLIES	1.0	1.0	1.1	1.1	1.1	1.2
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>39.4</b>	<b>40.6</b>	<b>41.8</b>	<b>43.1</b>	<b>44.3</b>	<b>45.7</b>

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

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

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	39.4	40.6	41.8	43.1	44.3	46.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other:						
<b>TOTAL</b>	<b>39.4</b>	<b>40.6</b>	<b>41.8</b>	<b>43.1</b>	<b>44.3</b>	<b>45.7</b>

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

(SEE ATTACHED)

Prepared by: Helen Mehrkens, Health Promotion Specialist  
Division: Educational Program Support

Phone: 465-8730  
Date: 23-Feb-94

Approved by Commissioner:   
Agency: Department of Education

Date: 2-24-94

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Narrative Outline - Proposed Fiscal Note for C.S.H.B.320

Year 1:

	<u>Amount</u>	<u>Description</u>
<i>Personal Services</i>	0	Assumes that no monitoring of state mandates would occur, and that any technical assistance could be provided through the assistance of the currently funded cooperative agreement with Division of Adolescent and School Health, Centers For Disease Control and Prevention (CDC.)
<i>Travel</i>	0	Assumes that current level of training and technical assistance to local districts would be maintained through use of CDC funds.
<i>Contractual</i>	38,400.0	Contracts 7,000. Academy Training of Trainers staff costs - Fbks, Anc. & Jnu. 17,000. Training videos - purchase rights for use by districts 8,400. Presenter/district packets for ACSA or AASB meeting 5,000. Small pamphlet developed for district advisory committee use
<i>Supplies</i>	1.0	Supplies
<i>Equipment</i>	0	None
<i>Grants, Claims</i>	0	This assumes that districts would pick up all training costs for their staff. These costs are not known to the Department. A limited survey among seven of the largest districts yielded an estimated total of \$262,400 for a K-12 requirement to pay for substitute time, curriculum development, materials purchase and limited travel costs. The amount for the bill as written is not known. In addition, it would cost districts an estimated \$54,600. to send their local trainer(s) to the Academy Training of Trainers listed above.
<i>Total Operating</i>	39,400.0	= Year 1

Changes:

Year 2	3% inflation included
Year 3	3% inflation
Year 4	3% inflation
Year 5	3% inflation

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

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

### MEMORANDUM

February 23, 1994

**SUBJECT:** Sectional Summary of HB 320 ( ) - (Work Order No. 8-LS1255\O)

**TO:** Representative Cynthia Toohey

**FROM:** Michael F. Ford *M. F.*  
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. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Short title.

Section 2. Purpose section.

Section 3. Requires a school board in a regional educational attendance area to establish a health education curriculum advisory committee. Allows a meeting to be teleconferenced. Provides that the committee may include certain residents of the district and that the committee will advise the school board on the health education curriculum at schools in the community in which the committee is established.

Section 4. Requires school boards in borough school districts to establish a health education advisory committee. Provides that the committee may include certain residents of the district.

Section 5. Establishes specific mandatory and optional elements in a health education program in the public school system. Requires the state Board of Education to establish health education personal safety guidelines. Requires that a school health and personal safety education specialist position be established in the Department of Education.

Representative Cynthia Toohey  
February 23, 1994  
Page 2

Section 6. Adds definitions of the terms "family health," "health and personal safety education," "pregnancy prevention," and "reproductive health".

Section 7. Transition section.

MFF:mi:pl  
94-037.mai

8-LS12550  
Ford  
2/22/94

CS FOR HOUSE BILL NO. 320( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES TOOHEY, Hudson, Brice, Bunde, Finkelstein, Nordlund, Olberg,  
Porter, Sitton, B.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to public school health personal safety education."

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

3 \* Section 1. SHORT TITLE. This Act may be known as the "Healthy Students Act."

4 \* Sec. 2. PURPOSE. The purpose of this Act is to foster the development and  
5 dissemination of educational activities and materials that will assist students, teachers,  
6 administrators, and parents in the perception, appreciation, and understanding of health  
7 principles and problems, and adoption of responsible behavior.

8 \* Sec. 3. AS 14.08.115 is amended by adding a new subsection to read:

9 (c) A regional school board shall establish a health education curriculum  
10 advisory committee in the regional educational attendance area, and by regulation shall  
11 prescribe its manner of selection and organization. Members of the advisory  
12 committee required under this subsection may include residents of the district with  
13 expertise in public safety, mental health, alcohol and drug abuse, and public health.  
14 A meeting of a health education curriculum advisory committee may be

1 teleconferenced. A health education curriculum advisory committee shall advise the  
2 regional school board on the health education curriculum at schools in the regional  
3 educational attendance area.

4 \* Sec. 4. AS 14.12.035 is amended to read:

5 Sec. 14.12.035. ADVISORY SCHOOL BOARDS AND COMMITTEES IN  
6 BOROUGH SCHOOL DISTRICTS. A borough school district board shall establish  
7 a health education curriculum advisory committee and may establish other  
8 advisory school boards or committees, and by regulation shall prescribe their manner  
9 of selection, organization, powers, and duties. Members of the health education  
10 curriculum advisory committee may include residents of the district with expertise  
11 in public safety, mental health, alcohol and drug abuse, and public health. A  
12 health education curriculum advisory committee meeting may be teleconferenced.

13 \* Sec. 5. AS 14.30.360 is repealed and reenacted to read:

14 Sec. 14.30.360. CURRICULUM. (a) A school district shall conduct a  
15 program in health education that includes instruction in human immunodeficiency virus  
16 and acquired immune deficiency syndrome. Instruction under this subsection must be  
17 appropriate to the child's age and emphasize appropriate behavior.

18 (b) A district in the state public school system shall be encouraged to initiate  
19 and conduct a program in comprehensive health education for kindergarten through  
20 grade 12. The program should be appropriate to the child's age, emphasize appropriate  
21 behavior, and contain instruction in physical health and personal safety including

22 (1) alcohol, tobacco, and substance abuse and fetal alcohol syndrome  
23 education;

24 (2) first aid, including cardiopulmonary resuscitation (CPR);

25 (3) human growth and development, including reproductive health,  
26 pregnancy prevention, prevention and control of diseases, including sexually  
27 transmitted diseases;

28 (4) mental and emotional health, including suicide prevention;

29 (5) cancer prevention and early detection, nutrition, dental health,  
30 family health, and environmental health;

31 (6) the identification and prevention of child abuse, child abduction,

1 neglect, and sexual abuse, and domestic violence; and

2 (7) appropriate use of health services.

3 (c) A program under (a) or (b) of this section

4 (1) may include training, support groups, and pertinent literature  
5 designed to assist parents and other members of the community in the use of available  
6 community resources, and in participating in health and personal safety education; and

7 (2) must include a method of notifying parents of students of the con-  
8 tent of instructional materials used in a program described under (a) or (b)(3) of this  
9 section and of the parents' option to exempt their child from the instruction; a district  
10 shall use procedures to provide that students exempted from the program are not  
11 embarrassed by the exemption.

12 (d) The state board shall establish guidelines for a comprehensive health and  
13 personal safety education program. Personal safety guidelines shall be developed in  
14 consultation with the Council on Domestic Violence and Sexual Assault. Upon  
15 request, the Department of Education, the Department of Public Safety, the Department  
16 of Health and Social Services, and the Council on Domestic Violence and Sexual  
17 Assault shall provide technical assistance to school districts in the development of  
18 personal safety curricula. A school health and personal safety education specialist  
19 position shall be established and funded in the department to coordinate the program  
20 statewide. Adequate funds to enable curriculum and resource development, adequate  
21 consultation to school districts, and a program of teacher training in health and  
22 personal safety education shall be provided.

23 \* Sec. 6. AS 14.30.360 is amended by adding a new subsection to read:

24 (c) In this section.

25 (1) "family health" includes

26 (A) an understanding of the physical, mental, emotional, social,  
27 economic, and psychological aspects of close personal relationships and an  
28 understanding of the physiological, psychological, and cultural foundations of  
29 human development;

30 (B) the development of responsible personal values and  
31 behavior and the establishing of a strong family life for students in the future,

1 with emphasis on the responsibilities of parenting;

2 (C) knowledge of the law relating to the sexual conduct of  
3 minors and sexual abuse of minors, including criminal sexual conduct;

4 (2) "health and personal safety education" includes health education in  
5 a school setting that is planned and carried out with the purpose of maintaining,  
6 reinforcing, or enhancing the health, health-related skills, and health attitudes and  
7 practices of children and youth that are conducive to their good health and that  
8 promote wellness, health maintenance, and disease prevention; it includes age-  
9 appropriate, sequential instruction in health either as part of an existing course or as  
10 a special course;

11 (3) "pregnancy prevention" includes

12 (A) abstaining from sexual activity until marriage;

13 (B) skills to enable students to resist peer pressure and abstain  
14 from sexual activity;

15 (C) methods of contraception, and the risks and benefits of each  
16 method;

17 (4) "reproductive health" includes human physiology, conception,  
18 prenatal care and development, fetal alcohol syndrome, childbirth, and postnatal care.

19 \* Sec. 7. TRANSITION. A city or borough school district or a regional educational  
20 attendance area should begin development of a health education curriculum described in this  
21 Act by July 1, 1994, and shall have in place a program of health education regarding human  
22 immunodeficiency virus and acquired immune deficiency syndrome that is appropriate to a  
23 child's age and that emphasizes appropriate behavior as required by this Act by August 1,  
24 1996.

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TO:

ALL MEMBERS OF  
THE H.E.S.S. Committee

Rep Burde

FROM:

Michael Pierce  
Admin. Asst.

REMARKS:

To: All members of the H.E.S.S. Committee.

The question arose many times as to just what proportion of Alaska's school age children were receiving HIV/AIDS education.

Although I addressed this issue in my testimony, I have included the pertinent Bulletin from the Section of Epidemiology that reveals that as of 1992 only 52% of parents in AK feel that their school-aged children received instruction regarding HIV/AIDS.

Also included is a statement from Rita De Souza regarding other questions that were posed by the Committee.

MWP



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

Division of Public Health  
Peter M. Nakamura, MD, MPH, Director

Section of Epidemiology  
John Middaugh, MD, Editor

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Bulletin No. 18 May 26, 1993

## FACTS ABOUT ALASKA ADOLESCENTS

Adolescents aged 15-19 years comprised of an estimated 7% (37,151 of 550,043) of the state's 1990 population.<sup>1</sup> Data on sexually transmitted diseases, and risk behaviors among adolescents, as well as on public support for risk reduction education in schools follow.

### Sexually Transmitted Diseases<sup>2</sup>

In 1991, adolescents aged 15-19 years comprised 23% (199 of 880) of the state's total reported gonorrhea cases.

In 1992, adolescents aged 15-19 years comprised 28% (184 of 651) of the state's total reported gonorrhea cases.

In 1992, adolescents aged 15-19 years comprised 50% (92 of 184) of the positive chlamydia tests in four public health sites offering chlamydia testing.

### AIDS<sup>3</sup>

Of the 138 Alaskans confirmed with AIDS, as of December 31, 1992, 25% were persons aged 20-29 years. Many of these young people were likely infected with HIV during their teens.

### Public Support for AIDS Education<sup>7</sup>

	1988 (n=513)	1990 (n=506)	1992 (n=502)
Should education about AIDS be taught in schools within comprehensive health education? Percent responding yes.	96%	95%	96%
Should comprehensive health education include instruction on condoms as a preventive measure? Percent responding yes.	85%	87%	83%
Percent of parents with school-aged children who discussed AIDS with their children.	n/a	65%	78%
Percent of parents with school-aged children who reported that their children had received instruction about AIDS in school.	n/a	46%	52%

### HIV<sup>4</sup>

Of 50,349 individuals tested through the State Section of Laboratories through December 31, 1992, 457 are HIV positive. The age distribution of persons tested is as follows:

HIV TESTING BY AGE		
Age	No. Tested	No. Positive (%)
0-9	382	2 (0.5%)
10-19	4,846	20 (0.4%)
20-29	18,895	210 (1.1%)
30-39	16,805	161 (1.0%)
40-49	6,709	57 (0.8%)
50+	2,697	7 (0.3%)
Not Specified	13	0

### Adolescent Pregnancy<sup>5</sup>

In 1988, 9% (986 of 11,283) of all Alaska births were to adolescent women aged 15-19.

In 1989, 10% (1,107 of 11,652) of all Alaska births were to adolescent women aged 15-19.

### Proportion of Adolescents Who Have Had Sexual Intercourse<sup>6</sup>

In the 1988-89 school year, a survey of 5,458 students indicated that 52% of 10th graders surveyed have had intercourse. By the 12th grade, 73% of the females and 67% of the males surveyed reported they have had intercourse.

### References

1. Alaska Department of Labor, Alaska Population Overview, 1991.
2. Alaska Department of Health & Social Services, Section of Epidemiology.
3. Alaska Department of Health & Social Services, Epidemiology Bulletin #5, 1993.
4. Alaska Department of Health & Social Services, Epidemiology Bulletin #4, 1993.
5. Alaska Department of Health & Social Services, Bureau of Vital Statistics, 1988-1989 Annual Report.
6. Alaska Department of Health & Social Services, The State of Adolescent Health in Alaska, May 1990.
7. Alaska Department of Health & Social Services, Section of Epidemiology, AIDS Knowledge and Attitudes Surveys, 1988, 1990, 1992.



"ALHIV"™

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To: All members of the House H.E.S.S. Committee

In order to avoid further unnecessary delays concerning House Bill #320, ALHIV would like to supply to the Health, Education and Social Services Committee the information that was requested at the end of that Committee's hearing.

At the conclusion of the Hearing, the Committee decided to break for further consideration and clarification of certain issues. One of the questions brought up was whether House Bill #320 would encourage and include peer education programs within the mandate for HIV/AIDS education. Upon passage of House Bill #320 by the Legislature and being signed into law by the Governor, the Department of Education of Alaska may certainly and easily consult with the majority of other states that have already mandated HIV/AIDS education as to the best way that peer education programs could be incorporated into an HIV/AIDS curriculum for Alaska.

Further, as we know, the Bill already calls for the curriculum to be discussed at the District level by each community; so that each community can decide for itself what constitutes an effective HIV/AIDS education and to determine also what information is appropriate for each age group K-12. This process, inclusive of the input of the local communities, should insure cooperation and the satisfaction of all parties involved.

To conclude, I would like to reiterate that House Bill #320 includes a provision that should any parent object to their child receiving HIV/AIDS education, that they may simply remove their child from that class. No child will be forced to be exposed to HIV/AIDS education without the consent of his/her parents.

Rita De Souza

  
Executive Director

2-28-94