

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7889 HOUSE JUDICIARY

and commissions under AS 39.20.180.

Sec. 21.58.060. OFFICERS. At the first meeting of each year, the board of the corporation shall elect a chair and a vice-chair from among its members. The corporation shall prescribe their duties by regulation.

Sec. 21.58.070. MEETINGS AND QUORUM. The board of the corporation shall meet at least once every three months. Four members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the corporation.

Sec. 21.58.080. ADMINISTRATIVE PROCEDURE. Actions of the corporation under this chapter are subject to AS 44.62 (Administrative Procedure Act).

Sec. 21.58.090. STAFF AND PROFESSIONAL SERVICES CONTRACTS. The corporation shall employ an executive director who serves at the pleasure of the corporation as its chief administrative officer. The executive director may, with the approval of the corporation, select and employ additional staff as necessary. The executive director is in the exempt service under AS 39.25.110. Employees of the corporation other than the executive director are in the classified service under AS 39.25.100. In addition to its staff of regular employees, the corporation may contract for the services of consultants and professional, technical, and financial advisors the corporation considers necessary for the purpose of developing information, conducting hearings, studies, investigations, or other proceedings, or otherwise exercising its powers.

Sec. 21.58.100. GENERAL POWERS. The corporation may

(1) exercise the powers granted to insurers under the laws of the state when allowed under AS 21.58.130(c); if the corporation acts as an insurer, the corporation shall comply with the requirements applicable to insurers under this title;

(2) sue or be sued;

(3) make contracts and execute all instruments necessary or convenient for carrying out its business;

(4) establish administrative or accounting procedures;

(5) acquire, own, hold, dispose of, and encumber personal property and lease real property in the exercise of its powers;

(6) establish appropriate levels of reserves to cover expenses of the

corporation;

(7) perform all other acts necessary and proper to carry out the duties of the corporation.

Sec. 21.58.110. DUTIES. The corporation shall

(1) adopt regulations to implement this chapter;

(2) create and implement the formal public involvement process required under AS 21.58.320, for the purpose of gathering broad input on the state health insurance plan, options for financing the cost of coverage, cost-sharing of the health insurance plan, and the cost of plan administration;

(3) establish the comprehensive health care data system required under AS 21.58.260;

(4) create and implement a uniform claims form;

(5) develop and update the public health improvement plan for the state required under AS 21.58.310;

(6) establish the claims clearinghouse required under AS 21.58.220;

(7) develop a benefits package of health care services that enrollees in the state health insurance plan are entitled to receive and determine the eligibility requirements for enrollment;

(8) annually determine the appropriate fee to be paid by an enrollee, after considering the enrollee's income, assets, financial obligations, or other criteria, as determined by the corporation;

(9) define acceptable reasons for denial of claims under the state health insurance plan;

(10) at least annually, review the health care benefits package and revise it as determined by the corporation, taking into consideration the health needs of the state, available funding, and other relevant factors as determined by the corporation;

(11) establish the cost control system required under AS 21.58.180, 21.58.230, 21.58.250, 21.58.270, 21.58.290, and 21.58.330, and the voluntary cost control system required under AS 21.58.240 and 21.58.280;

(12) periodically review options to finance the state health insurance plan and present options to the legislature;

(13) with funds from the state health fund, provide or procure coverage required under the state health insurance plan; as provided under AS 21.58.130, the corporation may act as an insurer or procure coverage from one or more companies licensed to transact health insurance in the state for all persons who are eligible to be enrollees of the state health insurance plan;

(14) pursue necessary federal waivers from applicable federal law or other federal health care payers in order to incorporate both claims data and revenue streams into the corporation's data system and additional revenue into the state health insurance fund;

(15) implement the state health insurance plan as a market based single payer system;

(16) design a program to give incentives to primary care providers to practice in the state, especially in rural and under served areas of the state; incentives may include added premiums on prices for primary care providers, a student loan forgiveness program, an in-state family practice residency program, training and rotations for midlevel practitioners, and other appropriate incentives;

(17) impose a mandatory cost control system in part or overall if the corporation determines that the voluntary cost control system described under AS 21.58.280 has failed to substantially achieve the adopted expenditure target;

(18) establish committees of experts and others as needed to make recommendations to the corporation regarding how to contain the cost of health care, including incorporating a greater emphasis on healthful lifestyles, prevention of disease and injury, promoting effective medical treatments, identifying the optimal provider mix within the state, or other matters determined by the corporation;

(19) develop a plan that comprehensively addresses the needs of residents of the state for long-term care; and

(20) hold public meetings and annually report to enrollees, the governor, and the legislature.

Sec. 21.58.120. HEALTH INSURANCE FUND. The state health insurance fund is established as a separate account in the general fund. The fund shall be administered by the corporation and used to provide or to purchase insurance under AS 21.58.110 or 21.58.130. The fund consists of appropriations by the legislature,

individual or employer contributions, and private or government grants.

Sec. 21.58.130. PROCUREMENT OR PROVISION OF INSURANCE. (a)

The corporation shall

(1) solicit proposals from insurance companies that are licensed to transact health insurance in the state under the procurement procedures adopted by the corporation under AS 36.30.015(e); and

(2) if the corporation does not act as an insurer as provided under (c) of this section, select one or more companies with which it will contract to provide insurance, after considering the cost of the insurance, the availability from the company of program features directed at reducing the cost of providing health care services, and other relevant factors as determined by the corporation.

(b) The corporation may contract for insurance coverage for enrollees for a term that it considers to be the most advantageous to the corporation and its enrollees, for a period not exceeding three years.

(c) If, after the proposal process under (a) of this section has been completed, the corporation determines that the desired coverage or benefits are not available from insurers licensed in this state or the corporation can provide the desired coverage and benefits at a lower cost per eligible person, the corporation may act as an insurer.

Sec. 21.58.140. ENROLLEES. (a) A person is eligible to be an enrollee in the state health insurance plan under this chapter in a given year if the person is a resident of the state and has complied with the procedures established by the corporation under (d) of this section. For purposes of enrollment, the corporation shall by regulation define residency in a manner that is consistent with AS 01.10.055 and with this chapter.

(b) A person who is eligible to be an enrollee shall be enrolled by the corporation in the state health insurance plan.

(c) The corporation shall cancel an enrollee's coverage if, during the fiscal year, the enrollee becomes ineligible to be an enrollee.

(d) The corporation shall establish by regulation appropriate procedures for processing applications for enrollment, for determining the eligibility of enrollees, for enrolling enrollees, for determining and collecting the applicable fees, for canceling an enrollee's coverage, and for processing appeals by enrollees of adverse decisions

by the corporation regarding eligibility, enrollment, determination or collection of applicable fees, or cancellation of coverage.

Sec. 21.58.150. DISCRIMINATION AGAINST ENROLLEES PROHIBITED.

A health care provider may not discriminate against an enrollee with respect to the availability, cost, or quality of health care services wholly or in part on the basis of the person's status as an enrollee.

Sec. 21.58.160. CONFIDENTIALITY OF ENROLLEE INFORMATION.

Medical and financial information regarding applicants or current or former enrollees is confidential and is not subject to public disclosure. The corporation by regulation may establish reasonable standards for the release of limited information in specified circumstances, including the release of reasonably necessary information to insurance companies and the release of information with the written authorization of the applicant or enrollee.

Sec. 21.58.170. HEALTH INSURANCE PLAN. (a) The corporation shall adopt regulations specifying the health care services required to be covered by the state health insurance plan, taking into consideration the services requested by the public, the needs and characteristics unique to state residents, the goal of prevention of illness and promotion of wellness, the cost of providing the benefits package, the cost of providing or procuring the insurance coverage, and the funds available in the state health insurance fund.

(b) The corporation shall conduct a comprehensive public involvement process designed to solicit information and opinions regarding the services required to be covered under (a) of this section.

Sec. 21.58.180. DEDUCTIBLES AND COPAYMENTS. Subject to AS 21.58.170, the corporation shall establish the deductible and copayment amounts applicable under the state health insurance plan.

Sec. 21.58.190. PREMIUMS. A premium may be charged to an enrollee for coverage as established by the corporation by regulation. In establishing a premium, the corporation shall establish a standard fee and a sliding scale fee and shall consider the cost of coverage, funding available, and other factors the corporation determines are relevant.

Sec. 21.58.200. PROHIBITED DISCRIMINATION BETWEEN HEALTH

CARE PROVIDERS. The corporation may not discriminate between health care providers who are licensed to perform a covered health care service unless the type of health care service provided is not included under the state health insurance plan.

Sec. 21.58.210. SOLICITATION OF ELIGIBLE PERSONS. (a) The corporation, under a plan approved by the director, shall disseminate appropriate information to the residents of the state regarding the existence of the state health insurance plan and the means of enrollment.

(b) The corporation shall devise and implement a means of maintaining public awareness of the provisions of this chapter regarding the state health insurance plan and shall administer this chapter in a manner that facilitates public participation in the state health insurance plan.

Sec. 21.58.220. CLAIMS CLEARINGHOUSE. (a) The corporation shall establish a claims clearinghouse in the state. A provider of health care services shall submit all claims for payment under the state health insurance plan to the claims clearinghouse. The corporation may, by regulation, require providers to submit specified additional information pertaining to providing health care services in the state to the claims clearinghouse.

(b) Subject to appropriation, the claims clearinghouse shall pay claims approved for payment by the corporation under the state health insurance plan.

(c) The claims clearinghouse shall comply with the provisions of AS 21.54.025, except that the claims grievance procedure required by AS 21.54.025(a)(2) shall be submitted to the board of directors of the corporation for approval.

(d) The claims clearinghouse may deny a claim only for a reason that has been specified as an acceptable reason by the corporation under AS 21.58.110(9).

Sec. 21.58.230. REQUIRED AVAILABILITY OF PRICE LIST. (a) A health care provider shall prepare a list of the provider's prices that includes the dates during which the prices will be applicable. The price list shall be made available either by posting the price list in a conspicuous location in the health care provider's office or by similarly posting a notice that the price list is available for review upon request. The corporation shall determine by regulation the contents of the price list required under this section.

(b) At least annually, a health care provider shall submit to the corporation copies of the provider's current price list. The corporation shall specify by regulation the date for submitting the price lists.

Sec. 21.58.240. INFORMATION ON PRICES FOR HEALTH CARE SERVICES. The corporation shall at least annually publish a description of types of health care providers licensed to provide covered services and a comparative list of provider prices. The corporation shall make the publications available to the public upon request.

Sec. 21.58.250. COMPARATIVE LISTS OF PRICES. (a) At least annually, the corporation shall compile comparative lists of prices for commonly provided health care services based on abstracted data provided by the claims clearinghouse under AS 21.58.220, on the price lists submitted to the corporation under AS 21.58.230, and on other relevant information as determined by the corporation.

(b) The lists required under this section shall be prepared to allow identification and comparison of prices made by individual providers for the listed services. Hospital services may be compared on the basis of diagnosis related groups.

Sec. 21.58.260. HEALTH CARE DATA SYSTEM. (a) The corporation shall develop and periodically update a health care data system. To the extent practicable, the data system base year shall be calendar year 1993 and the system must include

(1) health care expenditures, including capital expenditures associated with receiving health care;

(2) demographic data;

(3) clinical information, including patient diagnosis, type of provider, type of service, location and length of care, referral patterns, quality of care, and result of care;

(4) billing and payment data; and

(5) public health data, including vital statistics and health status.

(b) The corporation may, by regulation, require health care providers, including providers not being reimbursed by the corporation, to submit claims data and additional information necessary to develop or update the data system required under (a) of this section.

Sec. 21.58.270. STATEWIDE HEALTH CARE EXPENDITURE TARGET.

(a) The corporation shall prescribe by regulation a statewide health care expenditure target, based on the data obtained under AS 21.58.260. To the extent practicable, the base year for the statewide health care expenditure target shall be calendar year 1993.

(b) The corporation annually shall adjust the health care expenditure target established under this section to reflect changes in the Consumer Price Index and the following factors:

- (1) changes in the size and demographic characteristics of the state's population including aging;
- (2) changes in medical technology;
- (3) changes that improve access to health care services;
- (4) changes in the burden of disease resulting from epidemics, disasters, and reduction or elimination of disease;
- (5) elimination of unnecessary care;
- (6) changes in costs associated with professional liability insurance;
- (7) changes in administrative costs;
- (8) changes in patterns of utilization.

Sec. 21.58.280. VOLUNTARY HEALTH CARE PROVIDER COMPLIANCE. The health care expenditure target adopted by the corporation under AS 21.58.270 shall constitute a recommended target for expenditures within each specified category or subcategory of health care services or products. Health care providers may voluntarily comply with the expenditure target and may take all appropriate steps not prohibited by law to attempt to ensure that annual expenditures for health care in the state do not exceed the expenditure target adopted by the corporation.

Sec. 21.58.290. REVIEW AND REPORT ON HEALTH CARE EXPENDITURES. The corporation shall annually review and report to the legislature and the governor on

- (1) the total amount of health care expenditures in the state;
- (2) the amount of increase or decrease in health care and capital medical expenditures in the state;
- (3) changes in health care provider prices;
- (4) changes in patterns of utilization or expenditures; and

(5) factors that are responsible for changes in patterns of utilization or expenditures.

Sec. 21.58.300. MANDATORY HEALTH CARE PROVIDER COMPLIANCE. (a) Based on the data compiled under AS 21.58.260, the corporation shall monitor the success of voluntary compliance under AS 21.58.280. At any time beginning three years after the voluntary expenditure target has been in effect, if the corporation concludes that voluntary compliance has failed substantially to achieve the adopted expenditure target, the corporation shall impose by regulation a mandatory expenditure limit as provided under (b) of this section.

(b) The corporation may, by regulation,

- (1) impose a mandatory expenditure limit on one or more subcategories or on specific items within the expenditure limit;
- (2) directly assume all or part of the cost control functions specified under AS 21.58.110(11);
- (3) establish mandatory price and utilization controls or guidelines;
- (4) annually monitor health care expenditures, patterns of utilization, and factors contributing to changes in expenditures or utilization;
- (5) establish cost sharing recommendations relevant to the mandatory expenditure limit.

(c) A health care provider shall comply with the mandatory cost control provisions that may be established by the corporation under (a) and (b) of this section. An enrollee who receives a charge that does not comply with the mandatory cost control provisions that are imposed under this section is not required to pay the portion of the charge that exceeds the mandatory cost control provisions. A health care provider shall refund an amount received that exceeds the mandatory cost control provisions.

(d) The corporation shall establish by regulation procedures for monitoring compliance with the mandatory cost control provisions and for providing notice to a person who is determined to have been overcharged.

Sec. 21.58.310. PUBLIC HEALTH IMPROVEMENT PLAN. (a) The corporation shall develop and annually update a public health improvement plan for the state. The plan required under this section must recognize the need for

- (1) community involvement in health care planning and delivery;
- (2) attention to local needs that may vary from place to place;
- (3) accountability for the use of public funds;
- (4) equity and stability in the distribution of public funds;
- (5) shared responsibility of all levels of government for administering and financing public health care delivery; and
- (6) coordination of basic public health services.

(b) The plan required under this section must include

- (1) an analysis of the health status of the residents of the state;
- (2) an assessment of the most appropriate role for various levels of government to play in addressing the health care needs of the residents of the state;
- (3) a delineation of the standards that should be used in performing assessment, policy development, and quality assurance in the delivery of public health services;
- (4) documentation of the extent to which the current public health system implements or achieves the standards identified under (3) of this subsection;
- (5) identification of interjurisdictional issues involved in health care access and delivery;
- (6) recommendations, including recommendations for specific legislative action when necessary, pertaining to the following:
 - (A) strategies, time lines, financial needs, and specific sources of stable revenue for bringing the state public health care system up to standards identified by the corporation;
 - (B) appropriate sharing of the responsibility of local, regional, state, and federal government entities to deliver public health care services efficiently and effectively, including recommendations for organization within state government;
 - (C) integration of the public health care system with state and national health care reform efforts;
 - (D) the corporation's estimate of the optimal share that public health should represent in the total health care delivery system of the state, expressed in terms of a percentage of health care expenditures in the state.

Sec. 21.58.320. **REQUIRED PUBLIC INVOLVEMENT PROCESS.** The corporation shall design, implement, and maintain an extensive community based public involvement process for the purpose of providing residents with an ongoing opportunity to participate in decisions made by the corporation's board of directors regarding

- (1) health care services residents want included in the benefit package;
- (2) financing options;
- (3) revenue sources that should be used to finance the health plan;
- (4) cost-sharing options; and
- (5) administration of the health care plan.

Sec. 21.58.330. **PEER REVIEW OF UTILIZATION AND QUALITY.** The corporation shall contract with health care providers in the state to develop utilization and quality controls. The contract must include the use of peer specialty groups that are given the goal of controlling utilization within a specialty. The corporation shall ensure that the contract stresses the development of the use of incentives to control costs.

Sec. 21.58.400. **DEFINITIONS.** In this chapter,

- (1) "clearinghouse" means the claims clearinghouse designated by the corporation under AS 21.58.220;
- (2) "Consumer Price Index" means the Consumer Price Index for Anchorage, All Items Index, compiled by the Bureau of Labor Statistics, United States Department of Labor;
- (3) "corporation" means the Alaska Health Insurance Corporation established in AS 21.58.010;
- (4) "enrollee" means a person whose application for coverage under the state health insurance plan has been accepted by the corporation, who has completed applicable enrollment procedures, who is covered by insurance under the program;
- (5) "health care provider" means an acupuncturist licensed under AS 08.06; an audiologist licensed under AS 08.11; a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a marital or family therapist licensed under AS 08.63; a direct-entry

midwife certified under AS 08.65; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; a naturopath licensed under AS 08.45; an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist licensed under AS 08.84; or a physician's assistant certified under AS 08.64; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; a clinical social worker licensed under AS 08.95; an emergency medical technician certified under AS 18.08.082; a mobile intensive care paramedic trained as required under AS 18.08.082; a hospital as defined in AS 18.20.130, including a governmentally owned or operated hospital; and an employee of a health care provider acting within the course and scope of employment;

(6) "health care services" means preventive, diagnostic, medical, surgical, reproductive, psychiatric, psychologic, rehabilitative, health maintenance, dental, podiatric, optometric, optical, audiologic, nutritive, and chiropractic care; prescription drugs, laboratory and radiologic services, medical supplies, durable medical equipment and devices; personal assistance services; inpatient and outpatient care; home health care; hospice care; and long-term or institutional care;

(7) "health insurance" means an individual or group contract or other plan providing coverage of health care services that is issued by the corporation or by a health insurance company, a hospital service corporation, a medical service corporation, or a health maintenance organization; "health insurance" includes disability insurance under AS 21.12.050;

(8) "health insurance company" means an insurer that is authorized to transact health insurance;

(9) "market based single payer system" means a system in which a single entity provides health insurance to all residents of the state and the insurance is based on market forces, including provider defined fees, defined patient copayments, sliding scale copayments for the indigent, provider fees that are posted or made otherwise available at the point of services, published or disseminated fees in comparative lists that allow fee comparison by consumers, voluntary expenditure targets, provider peer review and control of volume, utilization, and quality of health services, and a regularly published description of the various types of providers

licensed to provide services in the benefit package;

(10) "state health insurance fund" is the fund established in AS 21.58.120.

* Sec. 7. AS 24.20.206 is amended to read:

Sec. 24.20.206. DUTIES. The Legislative Budget and Audit Committee shall

(1) report to the legislature its recommendations relating to the confirmation of appointees to the Board of Trustees of the Alaska Permanent Fund Corporation;

(2) annually review the long-range operating plans of all agencies of the state which perform lending or investment functions;

(3) review periodic reports from all agencies of the state which perform lending or investment functions;

(4) present a complete report of investment programs, plans, performance, and policies of all agencies of the state which perform lending or investment functions to the legislature within 30 days after the convening of each regular session;

(5) present to the legislature within 30 days after the convening of each regular session a review of the report of the governor under AS 37.07.020(d) with recommendations for needed legislation;

(6) in conjunction with the finance committee of each house recommend annually to the legislature the investment policy for the general fund surplus and for the income from the permanent fund;

(7) provide for an annual post audit and annual operational and performance evaluation of the Alaska Permanent Fund Corporation investments and investment programs;

(8) provide for an annual operational and performance evaluation of the Alaska Housing Finance Corporation and the Alaska Industrial Development and Export Authority; the performance evaluation shall include, but is not limited to, a comparison of the effect on various sectors of the economy by public and private lending, the effect on resident and nonresident employment, the effect on real wages, and the effect on state and local operating and capital budgets of the programs of the Alaska Housing Finance Corporation and the Alaska Industrial Development and

Export Authority;

(9) provide assistance to the trustees of the trust established in AS 37.14.400 - 37.14.450 in carrying out their duties under AS 37.14.415;

(10) provide for an annual post audit and annual operational and performance evaluation of the Alaska Health Insurance Corporation.

* Sec. 8. AS 36.30.015(e) is amended to read:

(e) The board of directors of the Alaska Railroad Corporation, [AND] the board of directors of the Alaska Aerospace Development Corporation, and the board of directors of the Alaska Health Insurance Corporation shall adopt procedures to govern the procurement of supplies, services, professional services, and construction. The procedures must be substantially equivalent to the procedures prescribed in this chapter and in regulations adopted under this chapter.

* Sec. 9. AS 37.07.030 is amended to read:

Sec. 37.07.030. RESPONSIBILITIES OF THE LEGISLATURE. The legislature shall

(1) provide for a budget review function;

(2) analyze the comprehensive operating and capital improvements programs and financial plans recommended by the governor;

(3) adopt legislation to authorize implementation of the governor's comprehensive operating and capital improvements programs and financial plans or appropriate alternatives to those plans;

(4) provide for a post-audit function to cover financial transactions, program accomplishment, and compliance with legislative intent;

(5) adopt or revise the estimate of receipts required to balance the succeeding fiscal year's budget in order that proposed expenditures do not exceed estimated receipts for that fiscal year;

(6) adopt, revise, or initiate revenue measures in order to balance the succeeding fiscal year's budget and the capital improvements section of the budget for the succeeding six years;

(7) appropriate funds for the operation of the Alaska Health Insurance Corporation.

* Sec. 10. AS 39.25.110 is amended by adding a new paragraph to read:

(30) the executive director of the Alaska Health Insurance Corporation.

* **Sec. 11.** AS 44.62.330(a) is amended by adding a new paragraph to read:

(59) Alaska Health Insurance Corporation.

* **Sec. 12.** PHASED TRANSITION PERIOD. Notwithstanding the provisions of AS 21.58, the Alaska Health Insurance Corporation shall implement the provisions of AS 21.58 on an orderly and gradual basis as follows:

(1) by December 31, 1994, the corporation shall begin to implement the public involvement process required under AS 21.58.320, establish the data system required under AS 21.58.260 and begin collecting data, begin the first public health improvement plan required under AS 21.58.310, determine the federal waivers necessary to implement AS 21.58, and begin to develop incentives to attract health care providers required under AS 21.58.110(16);

(2) by June 31, 1995, the corporation shall complete the uniform claims form required under AS 21.58.110(4);

(3) by December 31, 1995, the corporation shall establish the claims clearinghouse required under AS 21.58.220, determine the health care services required under AS 21.58.170, begin monitoring health care expenditures and utilization patterns, and begin collecting fee information required under AS 21.58.230;

(4) by January 1, 1996, the corporation shall implement the peer review system for utilization and quality required under AS 21.58.330 and shall adopt regulations that establish eligibility criteria for enrollment in the state health insurance plan, including a definition of the term "resident" that is consistent with AS 01.10.055 and the purposes of this Act;

(5) by December 31, 1996, the corporation shall establish the voluntary cost control system required under AS 21.58.280;

(6) by January 1, 1997, the corporation shall develop a long-term health care plan required under AS 21.58.110(19), and establish the deductible and copayment amounts required under AS 21.58.180 and present options to the governor and the legislature on how to finance a state health insurance plan under a market based single payer system; in considering options on financing a state health insurance plan the corporation shall strive to structure the options in a manner that provides protection for benefits provided to retired employees through public or private retirement systems;

(7) by January 1, 1998, the corporation shall establish the statewide health care expenditure target required under AS 21.58.270, and, subject to appropriation, begin to provide health insurance coverage for state residents as required under AS 21.58.

* Sec. 13. Notwithstanding AS 21.58.270(b), enacted in sec. 6 of this Act, the corporation shall increase the health care expenditure target by the following percentages of the target established under AS 21.58.270:

- (1) in 1998, 1.5 percent;
- (2) in 1999, 1.0 percent; and
- (3) in 2000, 0.5 percent.

* Sec. 14. This Act takes effect July 1, 1994."

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CS HB 414 (HESS)

Revision Date: _____

Department Affected: Office of the Governor

Title: "An Act creating the Alaska Health Commission..."

BRU: Commissions and Special Offices

Sponsor: House Rules Committee

Component: Alaska Health Commission

Requestor: Governor

COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	640.2	734.3	749.9	766.6	783.3	801.3
TRAVEL	23.3	30.5	30.5	30.5	30.5	30.5
CONTRACTUAL	330.7	336.6	336.6	336.6	336.6	336.6
SUPPLIES	8.5	9.0	9.0	9.0	9.0	9.0
EQUIPMENT	78.5	.5	.5	.5	.5	.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1081.2	1110.9	1126.5	1143.2	1159.9	1177.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	1081.2	1110.9	1126.5	1143.2	1159.9	1177.9
1006 GF/MHTIA						
OTHER						
TOTAL	1081.2	1110.9	1126.5	1143.2	1159.9	1177.9

POSITIONS

FULL-TIME	11	11	11	11	11	11
PART-TIME						
TEMPORARY						

Estimate of any current year (FY94) cost: 0

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

Prepared by: Michael A. Nizich, Director
 Division: Division of Administrative Services

Phone: 465-3876
 Date: 3/11/94

Approved by Commissioner: Patrick P. Ryan, Chief of Staff
 Agency: Office of the Governor

Date: 3/11/94

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Fiscal impact of proposed amendments to HB414:

Amendment 1: Public Health Committee

Assumptions:

Committee has six members
 Assume staff work done by Health Commission staff and Division of
 Public Health employees
 Committee meets 3 times per year in person (2 in FY95)
 Committee has 4 additional teleconference meetings per year

	FY95	FY96 - 00
Personal Services:		
1 Research Analyst	30,000 (6 mos.)	59,000 (inflate 5% annually)
Travel:	4,800	10,500
Contractual:		
Public Notices	1,000	3,500
Equipment:	12,100	-0-

Amendment 2: Single Payor Analysis

No cost - already assumed in original fiscal note

Amendment 3: Erisa Waiver:

Assumptions: contracting for specialized assistance

	FY95	FY96 - 00
Contractual:	100,000	100,000 (each year)

Amendment 4: Pooling

No additional cost anticipated

Amendment 5: Disclosure of Prices

Assumptions: One research analyst is required to monitor
 compliance; travel included

	FY95	FY96 - 00
Personal Services:		
1 Research Analyst	30,000 (6 mos.)	59,000 (inflate 5% annually)
Travel:	1,500	3,000
Supplies:	500	1,000
Contractual:	3,400	6,800
Equipment:	12,100	-0-

PERSONAL SERVICES

580.2

Fiscal note assumes Commissioners appointments on 7/1/94 and provides for 11 months of staff within first year. Subsequent years include merit increases for staff.

3	Commissioners	Rg. 26C	290.7
1	Special Assistant	Rg. 23A	70.9
3	Research Analysts	Rg. 18A	155.9
1	Secretary I	Rg. 10A/B	32.9
1	Clerk Typist III	Rg. 08A/B	29.8

TRAVEL

17.0

Travel costs and per diem associated with Commission activities -- research, investigation, public hearings

CONTRACTUAL

226.3

Professional Services:

technical/legal assistance contracts	150.0
--------------------------------------	-------

Communication:

Telephone (toll costs, base/local fixed costs, fax postage) 900/mo x 12	10.8
---	------

Advertising, Printing:

Public hearing advertising, report printing	5.0
---	-----

Transportation:

Freight and express charges 75/mo x 12	.9
--	----

Minor Repair, Maintenance:

.8

Equipment rental:

Photocopier 600/mo x 12	7.2
-------------------------	-----

Rental for space:

1433 sq. ft. x \$3.00/ft x 12 mos.	<u>51.6</u>
	226.3

SUPPLIES 8.0

Data processing and office supplies

EQUIPMENT 54.3

Communication:

Phone system	4.0
Fax Machine	2.8
Mailing equipment	3.0

Data Processing Equipment:

PCs, system printer, software for 9 work stations	26.0
--	------

Furniture/Office equipment:

9 offices/work stations file cabinets, bookcases and miscellaneous office equipment	<u>18.5</u> 54.3
--	---------------------

H B

4 15

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

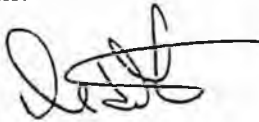
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 27, 1994

SUBJECT: 1994 Revisor's Bill (Work Order No. 8-LS1482\A)

TO: Representative Carl Moses, Chair
House Rules Committee

FROM: David R. Dierdorff 
Revisor of Statutes

The enclosed bill was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

* * * shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of * * * the statute law of this state.

To assist in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 17 and 18 delete, update, or repeal provisions that have become obsolete either through other legislative action or the passage of time.

Sections that correct errors or oversights: Sections 3, and 6 - 15 correct errors or oversights that can not be corrected editorially.

Sections that improve the form or substance of the law: Sections 1, 2, 4, and 5 propose amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Section 1. This section proposes a clarifying amendment to AS 09.38.015(a)(10), which includes an individual's permanent fund dividend in the items exempt from execution. Under current language there is some ambiguity, because it exempts "that portion" of a dividend exempted under AS 43.23.065(a). The exemption granted by

(a), however, is subject to certain restrictions set out in subsection (b). The proposed language restates the AS 09.38.015(a)(10) exemption to make it clear that the AS 09.38 exemption for dividends is the same as that granted under AS 43.23.065.

Sec. 2. In a recent decision, the Alaska Court of Appeals held that the definition of "property of another" found in AS 11.46.990 articulates the common law as expressed in a 1970 decision and applied that definition to the phrase as used in AS 11.41.520, establishing the crime of extortion. Woodward v. State, 855 P.2d 423 (Alaska App. 1993). The court noted that in the original draft revision of the criminal code, extortion was placed in the chapter dealing with crimes against property (AS 11.46). When, in a subsequent version, the crime was relocated to the chapter dealing with crimes against persons (AS 11.41), the legislature neither provided a new definition nor expressly made the definition in AS 11.46.990 applicable. The court suggested that this was an oversight rather than a deliberate legislative decision. This section of the revisor's bill codifies the court's decision by duplicating the definition in AS 11.46.990 in the extortion statute, AS 11.41.520.

Sec. 3. This amendment conforms the provisions for resident king salmon tags to the changes made by §§ 44 and 45, ch. 63, SLA 1993 (HCS CSSB 99(FIN) am H). The amendment was requested by the Department of Law.

Secs. 4 and 5. The two amendments simply change commissioner [of natural resources] to department to conform these two provisions to all others in AS 41.23.

Secs. 6 - 15. This series of amendments, made retroactive to August 11, 1993 by sec. 19, corrects drafting oversights in ch. 18, SLA 1993 (HCS CSSB 106(FIN)), that could not be corrected editorially. The need for the amendments was discovered immediately after adjournment of the first session. The amendments have been reviewed by the affected state agencies and the law has been administered as though the amendments were in place.

Sec. 16. In Executive Order No. 84, the powers and duties of the Alaska Women's Commission were transferred to a new Alaska Human Relations Commission and the Women's Commission was abolished. The Executive Order failed to amend or otherwise deal with AS 44.66.010(a)(12), which established the sunset review date for the Women's Commission. In this bill section, an amendment is proposed that changes the entry for the Women's Commission to one for the Human Relations Commission. The sunset date is not changed, and it would not be appropriate to do so in a revisor's bill. If the legislature chooses to make a change in the date, or do anything other than change the name or repeal the provision, this bill section should be deleted and another vehicle selected to accomplish the legislature's goal. The amendment is included in this draft at the request of the Department of Law.

Sec. 17. This amendment replaces an obsolete reference to a former division with a reference to the department.

Sec. 18. The repealers. The first two provisions proposed for repeal, AS 37.05.-140(b) and (c), are obsolete and probably should not have been codified in 1962. The third provision, AS 46.03.825(g)(13), defines a term that is not used in the section. The text of all repealed provisions is set out in an appendix attached to this memo.

Sec. 19. Makes secs. 6 - 15 retroactive to the effective date of ch. 18, SLA 1993.

Sec. 20. Provides an immediate effective date for the bill.

DRD:gc:lmb
94-029.lmb

Enclosure

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

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

MEMORANDUM

January 11, 1994

SUBJECT: 1994 Revisor's Bill (Work Order No. 8-LS1482\A)

TO: Representative Eldon Mulder, Chair
Legislative Council

FROM: David R. Dierdorff
Revisor of Statutes

The enclosed work draft was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

* * * shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of * * * the statute law of this state.

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APPENDIX - TEXT OF PROVISIONS TO BE REPEALED

AS 37.05.140(b) and (c):

(b) Accounting machines not otherwise needed by the agencies as determined by the Department of Administration that can be utilized by the Department of Administration shall be transferred to it on written direction after consultation with the head of the agency concerned, instead of the purchase of new machines.

(c) The calculable savings to the agencies resulting from the transfer of accounting functions to the Department of Administration shall be impounded and deposited in the general fund as part of the unappropriated balance. The calculable savings shall be used to offset those general fund appropriations made to the Department of Administration for purposes of performing centralized accounting, purchasing, and related functions. The calculable savings shall be determined by the department after consultation with the head of the agency concerned and shall be impounded from both general fund appropriations and from money from other funds available to the agencies involved in the transfer.

AS 46.03.825(g)(3):

(3) "registered" means registered under AS 46.04.035;

DRD:gc:lmb
94-029.lmb

CORRECTION

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

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

January 11, 1994

SUBJECT: 1994 Revisor's Bill (Work Order No. 8-LS1482A)

TO: Representative Eldon Mulder, Chair
Legislative Council

FROM: David R. Dierdorff
Revisor of Statutes

The enclosed work draft was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

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AS 46.03.825(g)(3):

(3) "registered" means registered under AS 46.04.035;

DRD:gc:lmb
94-029.lmb

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DRD:gc
94-012.glc

Representative Eldon Mulder
January 11, 1994
Page 3

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Sec. 19. Makes secs. 6 - 15 retroactive to the effective date of ch. 18, SLA 1993.

Sec. 20. Provides an immediate effective date for the bill.

DRD:gc
94-012.glc

Enclosure

cc: Deborah Behr
Department of Law

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

NO. _____
BILL VERSION: HB 415
PUBLISH DATE: _____

Revision Date: _____
Title: "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor..."
Sponsor: House Rules Committee
Requestor: House Rules Committee

Department Affected: Legislative Affairs Agency
BRU: All
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
Division: Administrative Services Date: 2/2/94

Approved By: Pamela A. Stoops, Executive Director *Pamela Stoops*
Agency: Legislative Affairs Agency Date: 2/2/94

Distribution (by preparer): _____

Gov. , & Impacted Agency(ies).

Alaska State Legislature

Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL COMMITTEE FISHERIES

MEMBER FINANCE SUBCOMMITTEES ON:
DEPT. OF FISH AND GAME
DEPT. OF PUBLIC SAFETY



SESSION
CAPITAL BUILDING, ROOM 204
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-4451
FAX: (907) 455-3445

INTERIM
716 W. 4TH AVE #630
ANCHORAGE, AK 99501-2133
PHONE: (907) 258-8167
FAX: (907) 258-8468

SPONSOR STATEMENT

HB 415 is the 1994 Revisor's bill. It makes adjustments to Titles 9, 11, 16, 37, 41, 42, 44, 46, and 47. It would make changes to correct problems discovered internally by the legal staff.

Such problems include, but are not limited to, the deletion, repeal or update of obsolete statutes, corrections of oversights and errors, and improvements to the form or substance of statutes.

The elements of the 1994 Revisor's bill have been reviewed by the Attorney General's office.

CEM/tb/stmt.5

ADAK • AKUTAN • AMCHITKA • ATKA • ATTU • BELKOFSKI • CHERNOFSKI • CHIGNIK • CHIGNIK LAGOON • CHIGNIK LAKE
COLD BAY • DUTCH CREEK • EEL RIVER • EREK • EREK RIVER • EREK RIVER • EREK RIVER • EREK RIVER • EREK RIVER
NELSON LAGOON • NELSON LAGOON • NELSON LAGOON • NELSON LAGOON • NELSON LAGOON • NELSON LAGOON
SHEMYA • SHEMYA • SHEMYA • SHEMYA • SHEMYA • SHEMYA

SPONSOR STATEMENT

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

1031 W 4TH AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 278-3550
FAX: (907) 278-3897

KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1588
FAX: (907) 458-1317

P.O. BOX ¹¹⁰³⁰⁰ STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 485-3800
FAX: (907) 482-5295 465-6735

February 2, 1994

David Dierdorff, Revisor of Statutes
Div. of Legal Services
Legislative Affairs Agency
130 Seward Street
Goldstein Bldg., Rm. 414
Juneau, AK 99801

Dear Dave:

We have reviewed HB 415, the 1994 revisor's bill. We find no legal problems. We believe the bill makes important technical changes to improve Alaska statutes.

Thanks again for the opportunity to review this important bill.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: *Deborah E. Behr*
Deborah E. Behr
Assistant Attorney General

DEB:cl

cc: Raga Elim, Legislative Liaison
Office of the Governor

DEPT. OF LAW ANALYSIS

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

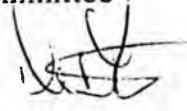
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 11, 1994

SUBJECT: Enclosed Amendment for HB 415 (1994 Revisor's Bill)

TO: Representative Brian Porter, Chair
House Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

Thank you for scheduling HB 415 for hearing. At that hearing, I will ask that the committee consider adopting the enclosed amendment, which brings the bill up to date.

The first proposed change adds a bill section amending AS 16.05.940(10), the definition of "domestic mammal" for the fish and game laws. A second new bill section would make the amendment retroactive to May 16, 1992. A short explanation is in order.

In sec. 30 of the 1992 revisor's bill, which became ch. 30, SLA 1992, effective May 16, 1992, the definition of "domestic mammal" was amended to include elk. It was believed that this was a technical change required by the fact that elk could now be farmed under AS 16.40.050, enacted in 1987. Our legal opinion in 1992 was that the phrase "lawfully owned" meant that in order for an elk to be considered a domestic mammal, it had to be owned under an elk farming license. There is now some question about whether that is the case. Because revisor's bills should only change substantive law when that change is required to conform provisions and when the legislature is fully informed about the change, I believe that it is incumbent upon me to propose "undoing" the 1992 amendment and make that change retroactive to its effective date. This action was requested by the Department of Fish and Game and is supported by the Department of Law.

Representative Brian Porter, Chair

February 11, 1994

Page 2

The only other addition to HB 415 is the proposed repeal of AS 08.80.030(5). This provision duplicates paragraph (4) of the same statute.^{1/} The redundancy was brought to our attention by the regulations attorney in the Department of Law.

Thank you in advance for your consideration and courtesies.

JBC:pl

94-123.plm

cc: Representative Carl Moses
Deborah Behr

^{1/} AS 08.80.030(5), proposed for repeal, provides:

(5) adopt regulations to carry out the purposes of this chapter;

AS 08.80.030(4), which would remain in effect, provides:

(4) adopt regulations and do whatever else is necessary and advisable to carry out the purposes of this chapter;

A M E N D M E N T

OFFERED IN THE HOUSE JUDICIARY COMMITTEE

TO: HB 415

Page 2, following line 31:

Insert a new bill section to read:

** Sec. 4. AS 16.05.940(10) is amended to read:

(10) "domestic mammals" include musk oxen, bison, [ELK,] and reindeer, if they are lawfully owned;"

Renumber the following bill sections accordingly.

Page 8, line 28, before "AS 37.05.140(b)":

Insert "AS 08.80.030(5);"

Page 8, following line 28:

Insert a new bill section to read:

** Sec. 20. Section 4 of this Act is retroactive to May 16, 1992."

Renumber the following bill sections accordingly.

Page 8, line 29:

Delete "6 - 15"

Insert "7 - 16"

H B

4 1 7

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 417 (HES)

Revision Date: March 8, 1994
Title: "...possession of deadly weapons...relating to school lockers..."
Sponsor: Representative Bunde
Requestor: Representative Bunde

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

Richard I. Peques
Prepared by: Richard I. Peques, Director Phone: 465-3672
Division: Administrative Services Division Date: March 8, 1994
Richard I. Peques FOR
Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law Date: March 8, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 417 (HES)

ANALYSIS CONTINUATION:

First, this bill amends AS 11.61.210(a) to include possession of a deadly weapon within the grounds of or on a parking lot immediately adjacent to a public or private preschool, elementary, junior high, or secondary school, within the crime of misconduct involving weapons in the fourth degree. The bill also prohibits possession of a deadly weapon while participating in a school-sponsored event. Current law prohibits possessing a firearm or defensive weapon in or near a school within the crime of misconduct involving weapons in the fifth degree. As a consequence, the penalty for this misconduct would be increased from a class B misdemeanor to a class A misdemeanor under most of these circumstances.

Second, the bill amends AS 14.03 to permit school officials, in private and public schools, to search and examine the contents of student lockers and other containers to determine compliance with school regulations and local, state, and federal laws. Schools would be required to post notices in prominent locations throughout a school two weeks before a search is conducted stating the right and the intention of a school to conduct a search or examination. The bill also provides that this requirement is satisfied if the notices are posted continuously.

These changes should not have a fiscal impact for the Department of Law. It is possible that schools could be liable for damages if they do not protect the privacy of students, by revealing the contents of lockers that are not the purpose of a search authorized by this bill.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: CSHB 417(HES)

Revision Date: _____ Dept. Affected: Public Safety
 Title: Possession of Firearms in Schools BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Rep. Bunde
 Requestor: H. HES COMPONENT SERIAL NO. 799

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

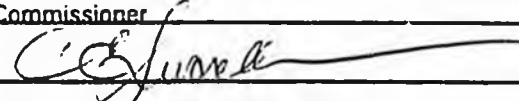
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact is anticipated to the Department of Public Safety.

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Office of the Commissioner Date: 2/23/94
 Approved by Commissioner:  Date: 2/23/94
 Agency: Richard T. Burton, Dept. of Public Safety

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HOUSE COMMITTEE REPORT

(9)

Date Referred: January 31, 1994

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 2/22/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 417

HOUSE BILL NO. 417

POSSESSION OF FIREARMS IN SCHOOL LOCKERS

"An Act relating to the possession of deadly weapons within the grounds of or on the parking lot of preschools, elementary, junior high, and secondary schools; and relating to school lockers and other containers provided in a public or private school by the school or the school district."

RECOMMENDATIONS:

be replaced with CS HB 417 (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, Public Safety

zero fiscal note(s) _____

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

[Signature]
CHAIRMAN'S SIGNATURE

(7)
Date Referred: February 24, 1994

FURTHER REFERRALS:

7/8/94
Rules

Date of Committee Action: 4-6-94

The JUDICIARY Committee considered:

HB 417

HOUSE BILL NO. 417

POSSESSION OF FIREARMS IN SCHOOL LOCKERS

"An Act relating to the possession of deadly weapons within the grounds of or on the parking lot of preschools, elementary, junior high, and secondary schools; and relating to school lockers and other containers provided in a public or private school by the school or the school district."

RECOMMENDATIONS:

the same title
 a new title

be replaced with CS HB 417 (JUD)

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(s) Public Safety / Law 2/24/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>James J. Bauer</i> Nordlund ✓	✓	<i>Robert Kott</i> Kott		✓	
<i>Joseph Greer</i> Greer ✓	✓	<i>Gail Phillips</i> Phillips		✓	
<i>Annette James</i> James ✓	✓				
<i>Brian D. Porter</i> Porter ✓	✓				
	(4)			(2)	

Brian D. Porter Porter
CHAIRMAN'S SIGNATURE



SPONSOR STATEMENT

HB 417

"An Act relating to the possession of deadly weapons within the grounds of or on the parking lot of preschools, elementary, junior high and secondary schools; and relating to school lockers and other containers provided in a public or private school by the school or the school district."

Our responsibility as lawmakers is to establish public policy. We need to anticipate problems and offer solutions to those problems before they become overwhelming burdens. Our highest priority should be safe schools that allow students the opportunity to learn and provide teachers an environment in which to teach.

School districts throughout the state currently search lockers for a variety of prohibited items. However, these searches are not backed up by the force of law. The intent of HB 417 is to enhance the ability of school districts throughout the state to avoid potentially fatal occurrences with deadly weapons. This bill will give school districts needed statutory authority to search lockers and other containers on school grounds.

Educational institutions already possess some right to conduct searches but the boundaries of that right are unclear, variable, and subject to constant constitutional challenges based on the argument that students have a "legitimate expectation of privacy" in their lockers. A school might believe that it needed a separate legal clearance for every locker search. Section 3 clarifies the conditions of locker searches.

Section 4 would announce that educational institutions could generally conduct or authorize the searches so long as students are warned ahead of time not to expect their lockers are private. Subsection (b) clarifies that advance warning must consist of the posting of notices throughout the school for at least two weeks before the searches occur. Schools wishing to conduct a policy of continual searches could keep notices permanently posted.

The purposes of such searches would not be confined to detection of deadly weapons. Instead, the purpose would be generally "to determine compliance with the institution's regulations, local, state, and federal laws." Thus a school might also search for miscellaneous illegal explosives, fire hazards, and health hazards, along with searching for deadly weapons.

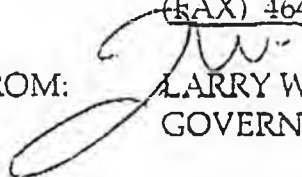
The amount of violence in schools throughout our state is escalating. If we do not take strong measures to curb the trend our students will pay the price. Schools will become places of fear instead of learning. Our standard of education will drop as teachers are forced to dedicate more of their scarce time to protecting students and themselves. This bill will provide the necessary back-up for a tool that is already in use by our schools and it will send a strong message to our students. I urge your support for HB 417.

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

LEGISLATIVE INFORMATION REQUEST

JANUARY 25, 1994

TO: REPRESENTATIVE CON BUNDE
C/O PATTI SWENSON
(FAX) 464-3871

FROM:  LARRY WIGET, DIRECTOR
GOVERNMENT RELATIONS/LEGISLATIVE LIAISON

SUBJECT: ASD SUSPENSIONS/ WEAPONS INCIDENTS: 1993

Per our conversation relating to weapon incidents in the Anchorage School District, I am attaching the following documents:

ASD Memorandum #486 (92-93): Suspension Report - Elementary
ASD Memorandum #489(92-93): Secondary School Suspension Report
for the 1992-93 School Year.

Elementary

Elementary students suspended during 1992-93 for weapons violations was one. In the "other" category, which includes such things as bringing knives to school, setting off fire alarms, racial slurs, rude gestures, pushing and hitting staff members, stealing, and making threatening remarks, 36 students were suspended.

The statistics for the 93-94 school year are currently being compiled and will be forwarded to you when available.

Secondary

A total of 106 suspensions for all types of weapons were reported for the year compared to 96 in 1991-92 and 69 in 1990-91. Suspensions related specifically to guns reached a total of 26 this year for various degrees of involvement in these incidents. A total of thirteen students were expelled for gun related incidents.

There were 10 firearm incidents, and 32 weapons incidents for the first quarter of the 1993-94 school year.

Enclosures

LARRY WIGET TEST.

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA*Copy for Principals*

ASD MEMORANDUM #486 (92-93)

June 28, 1993

TO: SCHOOL BOARD

FROM: OFFICE OF THE SUPERINTENDENT

Bob Christie

SUBJECT: 1992-93 SUSPENSION REPORT - ELEMENTARY EDUCATION

*WEA 2001-1*PERTINENT FACTS:

A summary of cumulative suspension activity for the elementary schools during the 1992-93 school year is included as Attachment A. The school-by-school cumulative compilation is shown as Attachment B.

Total suspensions in the elementary schools have decreased by fifty (50) or 8% since the 1991-92 school year. Although the overall rate of suspensions has decreased, the number of girls being suspended has increased by nineteen (19) or 18%; the number of suspensions for boys has significantly declined by sixty-nine (69), but is still high at 82%. The overall number of repeat suspensions has decreased by eight (8): the girls' rate was reduced by ten (10) or 8% while the number of boy repeaters increased by two (2) or 92% of the total.

The elementary school student population increased by 631 students during the 1992-93 school year. This positive decrease in the suspension rate can be attributed to the many proactive conflict resolution/anger management/school-wide discipline programs in the fifty-five elementary schools. The schools have taken on the task of infusing these standards and techniques into their curriculum and their staff training efforts in order to help students appreciate diversity and to cope with the increasing overcrowding in our elementary schools. This proactive action has been a collaborative effort on the part of principals, teachers, support staff, PTAs, parents, community members, and students. The nine schools which are fortunate enough to have elementary counselors have also noticed a considerable improvement in student decorum as the conflict resolution concepts are infused into their schools' curriculum. The School Board's leadership in adopting the Prejudice Elimination Resolution at the beginning of the school year also set the tone for acceptable behavior for students, staff, and the community.

While the decrease in the suspension rate is a positive trend; principals and central administration know that it is still too high. There has been a general tightening up of expectations for student behavior by principals, teachers, and parents as the schools are trying to cope with the increasingly aggressive and belligerent behavior among some of our student population, the increasing school enrollments, the lesser amount of playground space as a result of placing additional relocatables on the sites, and the considerable overcrowding and overuse of school facilities such as multipurpose rooms, corridors, bathrooms, etc. More and more classes of students must eat in their rooms in order to free up the multipurpose room for the physical education program; many support staff are jointly using closets, book rooms, and other substandard space. Student safety on the playground continues to be a concern as it is becoming more difficult to retain reliable noon duty attendants; this is partially due to the short period of employment each day (1 1/2 hours).

Overall increases were seen in the following categories for our female students: fighting (40%); larceny and coercion (60%); smoking (100%); profanity (20%); and other (70%). Increases for male students were seen in the larceny/coercion category (68%) and other (12%). Incidents that fall into the "other" category are such things as bringing knives to school, setting off fire alarms, racial slurs, rude gestures, pushing and hitting staff members, stealing, and making threatening remarks.

Areas in which the number of suspensions declined for both boys and girls were the following: destruction of property, disobedience and disruption, drug and alcohol related offenses, and weapons. Other areas declining for the boys were: fighting, use of profanity, and truancy.

Students receiving repeat suspensions showed increases for the following offenses: destruction of property (boys), disobedience and disruption (boys), larceny and coercion (boys), and other (girls). Decreases were noted for fighting (boys and girls), disobedience and disruption (girls), larceny and coercion (girls), smoking (boys), use of profanity (boys) and weapons (boys and girls).

Personnel in the elementary schools realize the significance of the increasing amount of violent and aggressive behavior so prevalent in our society and in Anchorage and are striving to improve the school climate and interpersonal relations within their school community. Most of the schools have begun some of the following activities: intensive conflict resolution training, parents and volunteers organizing playground activities, student mediators, skill streaming and pro-social skills training, the Developing Capable People program, Peer Assistance and Student Assistance teams through the Drug Free Schools Program, the Whole Child Project, prejudice elimination training, informal in-school suspension and time-out/detention programs, cross grade grouping at lunch recess periods (grades 1 and 6 out at the same

time, etc.), study buddies across the primary and intermediate grades, eating in the classrooms rather than in the very crowded multipurpose rooms, organized games at noon recess, study halls and tutorial sessions, etc. Considerable time and effort has been spent in training staff to be more accommodating to student learning styles, special needs, and cultural differences. Many of the principals are working closely with the staff, their PTAs, and the Community Schools and Parent Resource Centers where they have them, to educate parents in these areas so that there is a better match between school and home expectations and standards of behavior.

The elementary principals, teachers, and parents feel that the addition of more elementary counselors and noon duty/school aide positions is essential if the students are to be helped to learn acceptable methods of getting along in today's society. Many of the schools with a student mediator program have solicited a donation from a corporation or business or have used discretionary funds available to them during the 1992-93 school year to hire a student mediator coach/trainer. This discretionary fund was eliminated during the budget reductions for the 1993-94 school year.

The WISE project also mentioned the need for additional elementary counselors in many action plans. Elementary schools would like the flexibility of adding an "in-school suspension" program on an as-needed basis; this possibility has been eliminated with the reduction in discretionary funds. Conflict resolution training, also supported by the WISE project and the MECC, will be increased in more schools for the next school year; it is presently in over half of the elementary schools. All schools applying for Chapter II Instructional Improvement grants will be required to use the funds for prejudice elimination/conflict resolution training for the staff. Additional assistance for the elementary schools is essential if the gains made in the classroom are to be carried over to the playground, lunchroom, bus stops, etc. so that our suspension rate continues to decline. Approximately seventeen elementary schools will be over 600 students next year; additional administrative assistance would help reduce out of school suspension rates considerably because the administrators could take the time to work with the students and their parents to instill more self-discipline and a more cooperative attitude.

Elementary Education will continue to put a priority on reducing the suspension rate, while at the same time, ensuring a safe and orderly school learning environment so that all students can learn and that all teachers can teach.

BC/CC

House of Representatives

SPONSOR STATEMENT

HB 417

“An Act relating to the possession of deadly weapons-within the grounds of or on the parking lot of preschools, elementary, junior high and secondary schools; and relating to school lockers and other containers provided in a public or private school by the school or the school district.”

Our responsibility as lawmakers is to establish public policy. We need to anticipate problems and offer solutions to those problems before they become overwhelming burdens. Our highest priority should be safe schools that allow students the opportunity to learn and provide teachers an environment in which to teach.

School districts throughout the state currently search lockers for a variety of prohibited items. However, these searches are not backed up by the force of law. The intent of HB 417 is to enhance the ability of school districts throughout the state to avoid potentially fatal occurrences with deadly weapons. This bill will give school districts needed statutory authority to search lockers and other containers on school grounds.

Educational institutions already possess some right to conduct searches but the boundaries of that right are unclear, variable, and subject to constant constitutional challenges based on the argument that students have a “legitimate expectation of privacy” in their lockers. A school might believe that it needed a separate legal clearance for every locker search. Section 3 clarifies the conditions of locker searches.

Section 3 would announce that educational institutions could generally conduct or authorize the searches so long as students are warned ahead of time not to expect their lockers are private. Subsection (b) clarifies that advance warning must consist of the posting of notices throughout the school for at least two weeks before the searches occur. Schools wishing to conduct a policy of continual searches could keep notices permanently posted.

The purposes of such searches would not be confined to detection of deadly weapons. Instead, the purpose would be generally “to determine compliance with the institution’s regulations, local, state, and federal laws.” Thus a school might also search for miscellaneous illegal explosives, fire hazards, and health hazards, along with searching for deadly weapons.

The amount of violence in schools throughout our state is escalating. If we do not take strong measures to curb the trend our students will pay the price. Schools will become places of fear instead of learning. Our standard of education will drop as teachers are forced to dedicate more of their scarce time to protecting students and themselves. This bill will provide the necessary back-up for a tool that is already in use by our schools and it will send a strong message to our students. I urge your support for HB 417.

House of Representatives

MEMORANDUM

DATE: March 7, 1994
TO: Representative Brian Porter
Chairman House Judiciary Committee
FROM: Representative Con Bunde
Co-Chair House HESS Committee
RE: HB 417

This memo is a request for a House Judiciary Committee hearing for HB 417, "An Act relating to the possession of weapons within the grounds of or on the parking lot of preschools, elementary, junior high, and secondary schools or while participating in a school-sponsored event; and relating to school lockers and other containers provided in a public or private school by the school or the school district."

Our responsibility as lawmakers is to establish public policy. We need to anticipate problems and offer solutions to those problems before they become overwhelming burdens. Our highest priority should be safe schools that allow students the opportunity to learn and provide teachers an environment in which to teach.

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DIVISION OF LEGAL SERVICES
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Mail Stop 3101

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

MEMORANDUM

March 8, 1994

SUBJECT: Sectional Summary of CSHB 417(HES)
(Work Order No. 8-LS1589R)

TO: Representative Con Bunde
Attn: Patty

FROM: Jerry Luckhaupt *JEL*
Legislative Counsel

You have asked for a sectional summary of the above-described bill. Please be advised that a sectional summary is not an authoritative statement of the contents of a bill - the bill itself is the best statement of its contents.

Section 1 of the bill amends AS 11.61.210(a) by providing that a person commits the crime of misconduct involving weapons in the fourth degree if a person possesses a deadly weapon^{1/} or a defensive weapon,^{2/} on school grounds or the parking lot of a preschool, elementary, junior high, or secondary school, in certain situations or while participating in a school sponsored event. Violation of this section is a class A misdemeanor.^{3/} AS 11.61.220(g). The possession of firearms and defensive weapons is currently prohibited at schools and their grounds under AS 11.61.220-(a)(4) which is being repealed in sec. 3 of this bill.

Section 2 of the bill provides that a peace officer may possess a deadly weapon on school grounds.

^{1/} "Deadly weapon" is defined at AS 11.81.900(b)(13) as:

firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive . . .

^{2/} "Defensive weapon" is defined at AS 11.81.900(b)(16).

^{3/} A class A misdemeanor is punishable as provided in AS 12.55.135 (imprisonment) and 12.55.035 (fine).

Representative Con Bunde
March 8, 1994
Page 2

Section 3 of the bill amends AS 11.61.220(a) to correspond with the change made in sec. 1 of the bill.

Section 4 of the bill amends AS 14.03 by adding a new section that provides for the search and examination of school lockers by school officials. Subsection (c) of that section, provides that this grant of authority does not diminish any separate authority to search that might exist.

Section 5 of the bill amends AS 14.45 by adding a new section that permits private schools to search school lockers as provided in AS 14.03.105 (added by sec. 4 of the bill).

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Juneau, Alaska 99801-2105*

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

Mary Pagenkopf

HHSS

2-17-94

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ASD STATEMENT AND RESPONSE 1993

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To	Patti Swanson	From	Wagda
Co.	c/o BUNDE	Co.	ASD
Dept.		Phone #	269-2255
Fax #	465-3571	Fax #	

PREAMBLE

1. A primary responsibility of the Anchorage School District and its professional staff shall be the development of an understanding and appreciation of our representative form of government, the rights and responsibilities of the individual and the legal processes whereby necessary changes are brought about.
2. The school is a community and the rules and regulations of a school are the laws of that community. All those enjoying the rights of citizenship in the school community must also accept the responsibilities of citizenship. Among the responsibilities of school citizenship are respecting the laws of the community and the rights of other citizens and contributing to the fulfillment of educational purposes through cooperative conduct.
3. Young people in the United States have the right to receive a free public education, and deprivation of that right may occur only for just cause and in accordance with due process of law.
4. Students have the rights of citizenship as delineated in the United States Constitution and its amendments; and these rights may not be abridged, obstructed or in other ways altered except in accordance with due process of law. The First and Fourteenth Amendments to the Constitution of the United States prohibit states from unduly infringing upon the rights of speech and expression. In the school setting this restriction on state action limits the manner and extent to which schools may regulate the speech and expression of students. In order to curtail First Amendment rights, school authorities must show that the failure to do so would create a material and substantial disruption of school work and discipline.
5. Administrators and teachers also have rights and duties. The teacher is required by law to maintain a suitable environment for learning, and administrators have the responsibility for maintaining and facilitating the educational program.
6. The principal is authorized to recommend expulsion, and to suspend or discipline students for cause. The teacher has the authority to temporarily remove students from a class or discipline students for cause. The following rules, regulations and due process procedures statement are designed to protect all members of the educational community in the exercise of their rights and duties.
7. Nothing in this statement of student rights shall be held to limit the due process rights of educators or noncertificated school employees nor their use of District grievance procedures.

Rights, Responsibilities and Limitations

Any conduct prescribed by the following statement of rights, responsibilities and limitations shall be subject to appropriate corrective action from simple discipline to expulsion:

1. CRIMINAL ACTS

The following acts are among those crimes defined in detail under the laws of the State of Alaska:

AIDING AND ABETTING - Assisting in the commission of a crime, with the result of being treated as a principal. AS 11.16.100 - 130

ARSON - Damaging any property by intentionally or negligently starting a fire or causing an explosion, or attempting to start a fire or cause an explosion. AS 11.46.400 - 430

ASSAULT - Physically injuring or threatening to physically injure another person. AS 11.41.200-230

- BURGLARY** - Entering unlawfully or remaining unlawfully with intent to commit a crime. AS 11.46.300 - 310
- EXTORTION OR BLACKMAIL** - Obtaining money, property, or actions by violence or threat of violence or untrue accusations or public ridicule. AS 11.41.520 - 530
- FORGERY** - Falsely making or altering a written instrument or knowingly possessing a forged instrument. AS 11.46.500 - 11.46.50
- LARCENY** - Theft without force or violence against another person. A.S. 11.46.100-210
- MALICIOUS MISCHIEF** - Willful property damage or interference with property rights. A.S. 11.46.460-486
- RECKLESS ENDANGERMENT** - Engaging in conduct which creates a substantial risk of serious physical injury to another person. A.S. 11.41.250
- ROBBERY** - Stealing from the person of another by force or threat of force. A.S. 11.41.500-510
- SALE, USE OF, POSSESSION OF, INTOXICATING LIQUOR OR ILLEGAL DRUGS** - A.S. 17.10.010, 17.12.010, 4.16.010
- TRESPASS** - Presence on another's property without permission and/or refusal to leave another's property upon request. A.S. 11.46.320-330

The commission of, or participation in, any criminal activity in school buildings, on school property, or at school-sponsored events is prohibited. Disciplinary action may be taken by the school regardless of whether or not criminal charges or prosecution result.

2. **WEAPONS AND FIREARMS:** Students on school property or attending a school-sponsored event shall not carry on their person or place anywhere on school property, or in the vicinity of a school-sponsored event, any firearms or other weapons, except as assigned to students for, and used during, a regular course of instruction. Students found with any firearms or weapons at school or at school activities are subject to expulsion and arrest. Weapons include, but are not limited to, firearms, pellet guns, stun guns, shockers, knives, clubs, brass knuckles, numchuks and throwing weapons.
3. **SMOKING:** Students are not permitted to smoke on school property.
4. **ATTENDANCE:** Daily attendance of all who are enrolled in the ASD schools is required in accordance with State law and School Board rules. Students will attend regularly scheduled classes unless officially excused.
5. **DISRUPTIVE CONDUCT:** Conduct which materially and substantially interferes with the educational process or the lawful activities of others is prohibited.
6. **COOPERATION WITH SCHOOL PERSONNEL:** Students must obey the lawful instructions of all school district personnel.
7. **SELF IDENTIFICATION:** All students in school buildings, on school grounds, or at school-sponsored events must, upon request, identify themselves to authorized school district personnel or their designee.
8. **OFF-CAMPUS EVENTS:** Students at school-sponsored, off-campus events shall be governed by school district rules and regulations and shall be subject to the authority of school district personnel.
9. **FREEDOM OF SPEECH AND ASSEMBLY**
 - a. Students are entitled to express verbally their personal opinions in a manner that does not interfere with the freedom of others to express themselves. Obscenity and slander are prohibited.

BACK-UP MATERIALS

b. Students have the freedom to assemble peacefully. There is an appropriate time and place for such assemblies. Meetings of school-sponsored organizations on school property shall be conducted at times and places approved by the principal or his/her designee. Conducting demonstrations or meetings which interfere with the educational process or the lawful activities of others is prohibited.

10. FREEDOM OF SYMBOLIC EXPRESSION

- a. **STUDENT DRESS CODE:** Each student shall attend school dressed in a manner which is clean, not hazardous to the safety of him/herself or others, and which does not detract from the required educational environment. Students may not wear clothing or items that are associated with gangs. Students who do will be excluded from school until such time that they cease wearing the clothing or items to school or school events.
- b. **BUTTONS AND ARMBANDS:** Students may wear or display buttons, armbands, flags, decals and other badges of symbolic expression, unless the manner of expression materially or substantially interferes with the orderly process of the school or the rights of others. Items that are associated with gangs are deemed in and of themselves to substantially interfere with the orderly process of school.
- c. **PATRIOTIC ASSEMBLY:** A student may abstain from the pledge or salute if he/she desires.

11. FREEDOM TO PUBLISH

- a. Generally, the restrictions and regulations governing responsible journalism*, as defined by the American Society of Newspaper Editors, should be applied to ASD student publications with the clear understanding that school officials have the authority, indeed the duty, to provide for an ordered educational atmosphere free from constant turmoil and distraction. (Note School Board Policy 490.1 Student Publications)
Prohibited material: Material which is libelous or violates the rights of privacy; obscene according to community standards; profane or vulgar slang language which would not be used by the local newspapers; advocating the breaking of school policy or law; critical, demeaning or attacks any race, religion, sex, handicap or ethnic group; commercial solicitation for products, i.e., cigarettes, liquor, drugs or any product prohibited for any person 18 years of age or younger; endorsements of or solicitations regarding partisan causes, political candidates or ballot measures of a nature that it would cause a disruption of the school. (Note School Board Policy 490.14)
- b. Students are entitled to express in writing their personal opinions but are expected to exercise responsibility and good judgment. The distribution of such material may not interfere with or disrupt the educational process. A written expression of opinion must be signed by its author except that editorials representing a newspaper position may be printed without signature if all members of the editorial board are identified elsewhere in the paper. (Note School Board Policy 490.13)
- c. Students have the right to distribute leaflets and handbills at times and places as determined by the unit administrator or his/her designee. The students who edit, publish or distribute such leaflets and handbills among their fellow students assume the responsibility for the content of such publications. The administrator or his/her designee shall be entitled to predistribution examination of materials to ascertain whether these materials would disrupt the orderly educational process.

Non-school publications being distributed on school property may be seized by the unit administrator or his/her designee who has reasonable cause to believe that such publications contain libelous or obscene material. Seized publications must be returned to the student or made available to the parent/guardian at the end of the school day.

* Copies of the *Canons of Journalism* are available in the school office and the school library.

- d. Commercial solicitation not authorized by the Superintendent or designee will not be allowed on school property at any time. An exception to this rule will be the sale of non-school-sponsored student newspapers published by students of the school district. Nonschool newspapers may be distributed only at times and places as determined by the unit administrator or his/her designee.
- e. Students have the right to do necessary research for articles, including public opinion polls, and shall have the responsibility not to abuse that right. Poils shall be authorized by the unit administrator or his/her designee if they interrupt class time, and the unit administrator or his/her designee shall be informed of poils taken during students' free time in school.

12. SEARCH AND SEIZURE

The following rules shall apply to search and seizure pertaining to students and school property assigned to them (e.g., lockers, desks):

- a. Search of a specific area assigned to a student should be for a specific item and take place in the presence of the student and that of a third person if each, respectively, can be located.
- b. The school administration retains control over lockers and desk space loaned to students. The unit administrator or his/her designee has the right and duty to inspect and search students' lockers and desks, if he/she has reasonable cause to believe, upon information received from the police or otherwise, that drugs, weapons, dangerous illegal, or prohibited matter, or goods stolen from the school or from members of the staff or student body, are likely to be found therein. The unit administrator or his/her designee has the right and duty to search a student's person if he/she has reasonable cause to believe that drugs, weapons, dangerous illegal or prohibited matter, or such stolen goods, are likely to be found on the student's person. The fruits of such searches may be turned over to the police or used in school disciplinary proceedings.
- c. No search shall be conducted without attempting to secure the permission of the person possessing the property to be searched except if the suspected possession poses threat to life or property. Searches of lockers specifically for the purpose of locating weapons or firearms may be conducted by school authorities. Students will be notified at least once each semester that such searches will be conducted at the discretion of the unit administration.
- d. Illegal items (firearms, weapons) or other possessions reasonably determined to be a threat to the safety or security of others may be seized temporarily by school authorities and at the discretion of the unit administrator or his/her designee turned over to the police authorities. All legal items shall, upon request, be made available to the parent/guardian or the student at the end of the school day.
- e. The above provisions shall not apply to general searches conducted for a specific purpose and with announcement at least one day prior to the day of the search.
 - f. Items which are used to disrupt or interfere with the educational process may be seized temporarily by school authorities. Such items shall, upon request, be returned to the student or the parent/guardian at the end of the school day.
 - g. The unit administrator or his/her designee may search automobiles which are parked on school grounds if he/she wishes to determine that drugs, alcohol, weapons, dangerous illegal matter or goods stolen from members of the staff or student body are likely to be found therein.

13. STUDENT SEARCH PROCEDURES

A. Lockers and Desks

The School District retains control over locker and desk space

provided to students, as stated in the ASD Statement of Rights and Responsibilities. See School Board Policy #450.) The unit administrator and/or his/her designee may inspect and search students' lockers and desks, if he/she has reasonable cause to believe that drugs, weapons, illegal or dangerous materials, or stolen goods will be found inside.

B. Possessions and Outer Garments

The school administration has the authority to inspect and search the possessions (e.g., purses, gym bags, instrument cases) and outer garments (e.g., jackets, coats, shoes or boots) of students when the unit administrator has reasonable cause to believe that drugs, alcohol, weapons, illegal or dangerous materials, or stolen goods are likely to be found. No probable cause or warrant is required before a search may be conducted. A search may be conducted if a school official believes that a violation of a school rule or State law has taken place. Any such search must be conducted in private by the unit administrator or an assistant principal, and witnessed by a staff person. School authorities will make a reasonable effort to contact the student's parent/guardian to obtain his/her consent prior to the search. Searches will be limited to the examination of the contents of a student's possessions and outer garments, although a student may be requested to empty pockets or all contents. Materials discovered in a search may be used in school disciplinary proceedings, and turned over to the police.

C. Search of a Student's Person

Should an administrator have reason to believe that a student has drugs, weapons, illegal or dangerous materials, or stolen goods concealed on his/her person, the administrator may conduct a search of the student's person. No such search may be undertaken unless, in the administrator's judgment, there is adequate information based on direct observation by school personnel or reliable information from third parties, that a student is likely to have prohibited material on his/her person.

Prior to commencing a search of a student's person, the student must be told the nature of the information against him/her, and reasonable efforts must be made by school authorities to notify the student's parents/guardian and permit the parent/guardian the opportunity to be present. The student, or the student's parent/guardian if present, will be asked to sign a written consent form, specifying the nature of the search, the rights of the student, and the possible consequences faced by the student. If consent is refused, the student, or parent/guardian if present, will be asked to sign a written statement to that effect. In case of refusal, the search procedure will be immediately halted, and the matter turned over to the police.

Initial searches of a student's person shall be confined to a pat-down search unless the student specifically requests that the search proceed with the removal of garments rather than a pat-down search. Male students will be searched by men and female students only by women. During such a search, procedures to assure the privacy and dignity of the student will be followed.

Should a pat-down search provide reasonable cause to believe that the student has prohibited material concealed upon his/her person, the student will be requested to surrender the materials. If the pat-down search does not reveal any prohibited material, but based on information received, the administrator continues to have reasonable cause to believe there is a strong likelihood that prohibited material is concealed upon the student's person, the administrator may request the student to remove or adjust clothing to the degree necessary to determine

whether the student does in fact possess prohibited material. Prohibited material uncovered in a search may be used in school disciplinary proceedings, and turned over to the police. Any search will be conducted with the utmost respect for the

utmost respect for the student's privacy and dignity.

Should a student, or student's parent/guardian, at any point refuse permission to continue a search, the school authorities will immediately discontinue the search procedure. The student, and parent/guardian, will be informed that unless permission is granted to continue the search, the matter may be turned over to law enforcement officials. Should permission still be withheld, the student will be placed in a supervised area and the police called.

D. Emergency Exception

When an administrator believes with a reasonable certainty, on the basis of information provided through direct observations by school personnel, that a student possesses any weapon or dangerous material which poses an imminent threat to life or property, he/she may authorize an immediate search of the student's person or possessions. In such a case, the student's parent/guardian will be notified of the search as soon as possible. No physical force may be applied during any search of the student unless there is an immediate threat of imminent danger to persons or property.

STUDENTS

RIGHTS AND RESPONSIBILITIES

The ASD Statement of Rights and Responsibilities updated August, 1991, constitutes Board policy on matters pertaining to students' rights and responsibilities. In any case of conflict between the Statement of Rights and Responsibilities and any other District policy or procedure, the Statement of Rights and Responsibilities shall take precedent unless specifically limited by such other Board policy.

DUE PROCESS

The constitutional rights assured to individuals includes the guarantee that no person shall be deprived of life, liberty or property without due process of law. Students are recognized as "Persons" under the constitution and a system of constitutionality and legally sound procedures has been developed for the administration of discipline in the schools.

- 1. The hallmark of the exercise of disciplinary authority shall be fairness.
- 2. Before the imposition of a sanction, a student shall be given an opportunity to contest any alleged facts leading to the proposed disciplinary action and to present his or her version of the facts.

SANCTIONS

1. **SIMPLE DISCIPLINE:** Any disciplinary action against a student other than suspension or expulsion. No simple disciplinary action shall be taken in such a manner as to prevent a student from accomplishing specific academic grade, level or graduation requirement, provided that credit may not be granted for irregular attendance as described in the Secondary Administrative Manual. Simple disciplinary actions will be subject to the procedures established in Section 2(b) below.

2. **SHORT TERM SUSPENSIONS:** Denial, without a formal hearing, of the right of school attendance either from a single class or any full schedule of classes for a limited period of time not to exceed three (3) school days.

- a. **Short Term Suspension:** A short term suspension is a suspension ordered for any reason by the school administrator where the total sanction will not exceed three (3) school days.
- b. Prior to a student being placed on short term suspension, the student must be given written or oral notice of the charges against him/her, and, if he/she denies them, an explanation of the evidence the administrator has and an opportunity to present his/her side of the case. This explanation and opportunity to present facts may occur immediately and notice of the charges is given to the student.
- c. **Notice to Parent/Guardian:** Except in most extreme situations

for students whose presence poses an immediate or continuing danger to themselves, other persons or property, or an ongoing threat of disruption of the academic process, the school administrator shall endeavor to notify the parent/guardian of the student of the pending suspension. In addition, the student and/or his/her parent/guardian shall be provided written notice of the suspension prior to the time the suspension is to commence.

- d. **Appeal of Suspension:** After notification of the suspension, the student or his/her parent/guardian may request an informal hearing. The request shall be in writing. The hearing shall be held as soon as possible after receipt of the written request and shall be before an individual other than the individual who imposed the suspension. No persons other than the student, the parents/guardians and the individual who imposed the suspension may attend the hearing, although the individual designated to hold the hearing may, in his/her sole discretion, allow other persons with knowledge or facts relevant to the suspension to attend the hearing to describe their knowledge of the facts. The decision of the designated individual will be announced in writing within one school day after the hearing ends and shall be final.

The submission of a written request for a hearing shall stay further imposition of any remaining portion of the suspension. Failure to submit a written request for a hearing until after the completion of a suspension shall constitute a waiver of any right to such a hearing.

3. **LONG TERM AND EMERGENCY SUSPENSIONS:** Denial of the right of attendance from any single class or any full schedule of classes for a stated period of time greater than three (3) school days. The following limitations shall apply to all long term suspensions:

- No student shall be suspended from an elementary school for more than forty-five (45) consecutive school days.
- No student shall be suspended from a secondary school for more than ninety (90) consecutive school days.
- Emergency Suspension—**Suspension to be used in the most extreme situations for students whose presence poses an immediate or continuing danger to self, persons or property or whose behavior threatens to disrupt the academic process. Immediate removal from school may occur. In such cases, the necessary notice and opportunity for a hearing shall follow as soon as is practical, with the hearing and any subsequent proceedings to be governed by the procedures set out in Section 3, 4 and 5.

4. **EXPULSION:** The denial of the right of school attendance, either from a specific school or from the District, for an indefinite period of time. No student shall be expelled unless other means of correction have failed or would not be adequate in bringing about proper conduct. In addition, the matter of an expelled student's further education shall be referred to the appropriate authority.

5. **PROCEDURAL REQUIREMENTS:** The following guidelines will govern the procedures when suspension or expulsions under Sections 3 or 4 above are proposed by school authorities.

- When the school administrator, the Superintendent or his designee recommends long term suspension or expulsion, a written notice shall be delivered by mail or in person to the student and his/her parent/guardian. This notice shall state the student's right to a hearing, the specific charges lodged against him/her, and the recommended sanctions. The student and/or his/her parent/guardian may reply in writing within five (5) school days of receipt of the notice, indicating whether he/she wishes to have a hearing. If a reply is not received within the five (5) day period, the student and his/her parent/guardian shall be deemed to have waived his/her right to a hearing. If a hearing is requested, it shall be held as promptly as possible after receipt of the request.

- The student and/or parent/guardian does not request the formal hearing at the time of the suspension or expulsion.
- In extreme situations where the presence of the student poses an immediate or continuing danger to him/herself, other persons or property, or an ongoing threat of disruption of the educational process.

- The Hearing Officer:** The Hearing Officer shall be appointed by the Superintendent or his designee and shall conduct the hearing in accordance with these rules.

- The following procedural guidelines shall govern the hearing:

- Parent/guardian may be present at the hearing.
- The student, parent/guardian may be represented by legal counsel (or other spokesperson).
- The student or his/her representative shall be permitted to inspect in advance of such hearing any affidavits or exhibits which school authorities intend to submit at the hearing.
- The student shall be given an opportunity to present his/her version as to the charges by oral or written argument, affidavits, exhibits and such witnesses as desired.
- All relevant, not unduly repetitious, evidence shall be accepted.
- The student shall be allowed to observe all evidence offered against his/her. In addition, he/she shall be allowed to question any witness.
- All witnesses presenting testimony before the hearing officer shall be sworn to testify truthfully.
- The hearing authority shall make his/her determination solely upon the evidence presented at the hearing.
- Either a tape-recorded or verbatim record shall be made of the hearing by the School District.
- Within three (3) school days after completion of the hearing, the hearing officer shall render a written decision upholding, modifying, or rejecting the recommended sanction. The student and his/her parent/guardian shall be provided a copy of the decision within five (5) school days after completion of the hearing.

- The student and his/her parent/guardian shall have five (5) school days after receipt of the written decision to appeal the decision to the School Board. If an appeal is not made, the decision shall take effect at the end of this five (5) day period. If an appeal is requested, the imposition of the decision shall be stayed until the appeal is decided by the School Board except under the circumstances described in Section 5(a) (2) above.

- The following procedural guidelines shall govern an appeal to the School Board:

- The Board or its designee will schedule and hold a meeting to review the matter as promptly as possible after the receipt of such an appeal. The Board shall notify the student and his/her parent/guardian at least three (3) days prior to the scheduled meeting.
- At that time, the student, his/her parent/guardian or spokesperson shall have the right to present oral and/or written argument. Consideration by the Board will be restricted to evidence in the record submitted during the hearing, although the Board may consider, in its sole discretion any new, relevant evidence not available at the time of the hearing.

The Board, in deciding the appeal, shall determine:

- Whether the decision was arbitrary or capricious;
- Whether the decision was supported by substantial evidence in the record; and
- Whether the sanction was fair and reasonable in light of all circumstances.

- The Board, or its designee, shall issue a written decision within five (5) school days after the meeting. The student and his/her parent/guardian shall be provided a written copy of the decision, which shall be final and binding.

- In no circumstances shall either a long term suspension or expul-

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

ASD MEMORANDUM #489 (92-93)

June 28, 1993

TO: SCHOOL BOARD

FROM: OFFICE OF THE SUPERINTENDENT

SUBJECT: SECONDARY SCHOOL SUSPENSION REPORT FOR THE 1992-93 SCHOOL YEAR

~~WEAPONS - 104~~PERTINENT FACTS:

A summary of the suspension rates for the 1992-93 school year is attached as Attachment A. This document shows cumulative suspensions by category in the chart at the top of the page. Suspensions by school are shown on the chart on the bottom half of the page.

The overall suspension rate for this year compared to last year is essentially unchanged. Secondary student population increased by approximately 3.6 percent and the total number of suspensions is up by 3.5 percent. There is some variation in rates by category, however, most changes fall within the normal variations between years. Drug and alcohol suspensions remain constant at 25 percent of their peak in the mid 1980's. Fighting and weapon related suspensions are up 1,060 to 1,171 and 96 to 106 respectively. Vandalism and false fire alarms are down 66 to 31 and 11 to 3 respectively. At the same time, suspensions caused by refusal to cooperate with alternatives to suspension dropped from 650 to 413. Willful disobedience increased from 232 to 304 suspensions for the year.

Suspensions related to weapons have continued to increase even though they remain a small percentage of the total number of suspensions. A total of 106 suspensions for all types of weapons were reported for the year compared to 96 in 1991-92 and 69 in 1990-91. This is due, in part, to increased attention paid to the problem. Suspensions related specifically to guns reached a total of 26 this year for various degrees of involvement in these incidents. A total of thirteen students were expelled for gun related incidents. An additional eight students attended the Conflict Resolution pilot at REACH for serious weapons related incidents. The status of the weapons issue should continue to be judged as serious but is stable at this time. No gang related incidents other than graffiti were reported by the schools

ELEMENTARY EDUCATION SUSPENSION REPORT - 1992-93

Attachment .

SUSPENSION BY CATEGORY													
1992-93	GIRLS						BOYS						Grand Total Suspensions
	Am. Ind. AK Nat.	Asian Pac. Is.	Black	White	Hispanic	Total Susp.	Am. Ind. AK Nat.	Asian Pac. Is.	Black	White	Hispanic	Total Susp.	
Fight													
Damage to Property													
Disorderly/Disruption	3	1	6	17		27	30	1	22	83	5	141	168
Discipline			5			5	1	1	7	13		22	27
Larceny				1		1						0	1
Drugs	2			3		5				1		1	6
Smoking			4	1		5	2	1	6	13		22	27
Profanity						0				1		1	1
Truancy						0				1		1	1
Weapons		2	4	4		10		1	5	19	1	26	36
Other	7	5	44	45	2	103	67	17	92	278	16	470	573
TOTAL SUSPENSIONS													
REPEATED SUSPENSIONS													
Fight	1		2	1		4	16		6	17	2	41	45
Damage to Property						0				2		2	2
Disorderly/Disruption			2	1		3	16	1	7	16	2	42	45
Discipline						0	1		1	1		3	3
Larceny						0						0	0
Drugs						0						0	0
Smoking						0	1			2		3	3
Profanity						0						0	0
Truancy						0						0	0
Weapons			1			1	1			1		2	3
Other						0						0	0
TOTAL REPEATED SUSPENSIONS	1	0	5	2	0	8	35	1	14	39	4	93	101

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ELEMENTARY EDUCATION SUSPENSION REPORT - 1992-93

Attachment B

SUSPENSION BY SCHOOL															
(W2-9)	Am. Ind.	Asian	GIRLS			Total	Am. Ind.	Asian	BOYS			Total	Grand Total	Repeat	Enrollment
Schools	AK Nat.	Pac. Is.	Black	White	Hispanic	Susp.	AK Nat.	Pac. Is.	Black	White	Hispanic	Susp.	Suspensions	Suspensions	6/3/93
01 Akh Loop						0				9		11	11		518
02 Alpine Heights						0	1		2	6		9	9	1	407
04 Avas			4	2		6				5		7	13	4	563
05 Bakt						0			1	2		3	3		515
06 Baykre				1		1			1	1		2	3		645
08 Bay Valley				1		1	1	2	1	9		13	14	1	577
09 Blackod ABC				4		4				9	1	10	14		387
15 Wm L. Bowman				1		1	2		3	8		13	14	7	803
00 Caspell						0			1			1	1	1	415
00 Clear Valley				1		1			1	3		4	5		418
03 Clmkt		1	6	3		10	1		5	4		10	20	2	609
04 Clmkt Optional						0						0	0		242
00 Cgsp						0				5		5	5	1	606
00 Cgsp Gate						0	1		2	1		4	4	1	459
00 Crndale Park		1	2	7		10			9	6		15	25	1	435
00 Dead				1		1				1		1	2		544
00 Eagle River						0				2		2	2		665
00 Fairer	1	1	13	1		16	3		9	4	1	17	33	9	401
00 Fir Lake	1	1	1			3			1	13		14	17	1	605
00 Gward						0						0	0		121
00 Government Hill			3	1		4	7	2	3	7	1	20	24	4	278
00 Homekad						0			1	3		4	4	2	558
01 Hden						0				3		3	3	1	569
00 Inver				1		1				5		5	6		319
00 Inver			1	1		2			1	2		3	5		265
00 Kie						0	1			5		6	6		652
00 Ldls		1	3	3		7	1		6	20		27	34		701
00 Mc Sur						0				5		5	5		393
00 Mt	2	5	33	28	0	68	18	4	51	138	3	214	282	36	13670

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ELEMENTARY EDUCATION SUSPENSION REPORT - 1992-93

01-25-1994 09:17AM FRED TO 34653871724 P.07

Schools	GIRLS					Total Susp.	BOYS					Total Susp.	Grand Total Suspensions	Repeat Suspensions	Enrollment 6/3/93
	Am. Ind. AK Nat.	Asian Pac. Is.	Black	White	Hispanic		Am. Ind. AK Nat.	Asian Pac. Is.	Black	White	Hispanic				
60 Mt. View	4			2		6	9	1	8	7	4	29	35	7	599
70 Muldoon				2		2			1	3		4	6	1	399
80 North Star			1			1	5	2		14	3	24	25	15	518
90 No. Lights A&C						0				2		2	2		310
00 Northwood				2		2				6		6	8		632
10 Nunaka Valley	1			1		2	4		1	1		6	8	2	368
15 Ocean View						0	1		1	12		14	14		470
20 O'Malley						0				5	1	6	6		575
24 Orion						0				3		3	3		496
28 Ptarmigan			2	4	2	8	3		2	9		14	22	9	440
30 Rabbit Creek						0			1			1	1		522
35 Ravenwood			1			1				6		6	7	1	624
40 Rogers Park						0			1	2		3	3		540
45 Russian Jack.						0			2	1		3	3		418
50 Sand Lake						0				3		3	3	1	820
60 Sconic Park						0			1	2		3	3		586
62 Spring Hill			1	2		3			1	4		5	8	1	646
64 Susitna						0			1	2		3	3		582
65 Taku			1			1		1		11		12	13	5	411
70 Tudor						0				13		13	13		631
80 Turnagain						0	16			13		29	29	13	704
88 Ursa Major			1			1	1		5	1		7	8	2	398
88 Ursa Minor				1		1		3	3	6	1	13	14		291
90 Williwaw						0	6	1	3	2		12	12	1	472
400 Willow Crest			2	3		5			2	3		5	10	2	518
410 Wonder Park			2			2	4	5	8	9	3	29	31	5	467
418 Wood, Gladys						0					1	1	1		539
Sub Totals	5	0	11	17	2	35	49	13	41	140	13	256	291	65	13916
TOTAL SUSPENSIONS	7	5	44	45	2	103	67	17	92	278	16	470	573	101	27586

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

MEMORANDUM

December 1, 1992

TO: BOB CHRISTAL
ACTING SUPERINTENDENT

FROM: BILL MELL, EXECUTIVE DIRECTOR
SECONDARY EDUCATION

SUBJECT: WEAPONS INCIDENTS - FIRST QUARTER, 1992

The rate of incidents is up over the past two school years. The level of concern at schools has not returned to the early level exhibited in 1990. That is attributed to the schools acting quickly on information received. There have been no gang related incidents except for the neo nazi confrontation at Service. The outcomes for the students in that incident is attached as a separate memo.

Given the growth in violence related incidents and the sharp drop in drug and alcohol suspension, the Secondary Division is preparing a proposal for providing alternatives to suspension and expulsion for students involved with weapons or gangs using existing program staff. The proposal will be ready for review by December 18, 1992.

A District-wide review of weapons, firearms and gang related incidents is summarized in the chart below.

First Quarter Incident Frequency Chart
December 1, 1992

Year	Weapons Other than Firearms	Firearms	Gang Related Incidents
1990-91	5	0	0
1991-92	11	5	0
1992-93	15	8	1*

*Service neo nazi incident

Attachment, Service memo

Post-It™ brand fax transmittal memo 7671 # of pages 2

To	Patti Swenson	From	ZARY WIGED
Co.		Co.	ASD
Dept.		Phone #	269-2255
Fax #	465-3871	Fax #	269-2107

WEAPONS AND VIOLENCE RELATED SUSPENSIONS
Incident Report 2nd Quarter 1991-1994

Category	1991-92	1992-93	1993-94
Firearms	0	0	3
Weapons	20	39	36
Gang Related	0	0	16
Fighting	238	266	267

INCIDENT REPORT 1993-94
QUARTER 1 & 2

Category	Quarter 1	Quarter 2
Firearms	10	3
Weapons	32	36
Gang Related	5	16
Fighting	364	267

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

MEMORANDUM

May 7, 1991

TO: TOM O'ROURKE, SUPERINTENDENT
FROM: *Bob Christal*
BOB CHRISTAL, ASSISTANT SUPERINTENDENT OF
INSTRUCTION
SUBJECT: Survey Results - Gun Incident Report

Attached is the summary report of the survey we conducted in April regarding incidents of possession of guns on school grounds.

At the elementary level three schools reported having dealt with guns this school year. In all cases parents were contacted; the police department was contacted in two cases. The police department was not contacted in the case where the student brought a musket for Show and Tell.

The secondary schools reported twelve (12) cases. The police were contacted in all but one of the cases. The one where the police were not contacted involved a toy gun. Disciplinary action was taken in each case and involved the parents. The District has taken action to prohibit the possession of guns on school grounds. The Anchorage School District and the Municipality of Anchorage worked together last fall to develop the local ordinance, passed by the Assembly, to prohibit the possession of guns on school grounds.

Currently the secondary schools are involving parents and staff in a review of existing policies and procedures on the issues of weapons. A set of recommendations is due by the end of May for administration and School Board action.

\$2.75

Attachment

cc Carol Comeau
Bill Mell
School Principals

ANCHORAGE SCHOOL DISTRICT
INSTRUCTIONAL DIVISION
GUN INCIDENT REPORT
April 29, 1991

The Instructional Division conducted a survey of the elementary and secondary schools the week of April 15, 1991 to determine the number of incidents of guns being brought onto the school grounds

Following is a compilation of the survey results. If a school is not listed by name that indicates there were no reported incidents of gun(s) at that school. We have provided detailed information of schools where a gun was reported. The names of the students have been deleted for confidentiality reasons.

In every case when the school was informed the incident was dealt with immediately and disciplinary action was taken. The issue is one that warrants continued vigilance and positive action as has been the past practice in the District.

Elementary Schools - 55 schools reporting

Fifty-two (52) elementary schools reported no incidents of guns on school grounds. Three elementary schools did report a gun having been on the school grounds and following are the details on a school by school basis.

BAYSHORE:

Incident: Musket in backpack for sharing time. (Show N Tell)

Action Taken: Principal and parent dealt with the incident at the building level.

Police Contacted: Police were not contacted.

MULDOON:

Incident: Special Education student brought non-functioning hand gun to school.

Action Taken: Police and parent contacted. Conference held. Student suspended for one day out-of-school suspension.

Police Contacted: Police were contacted.

RUSSIAN JACK:

Incident: Child brought a pellet gun to school in his back pack.

Action Taken: Gun confiscated. All three students that played with gun were suspended for one day for their part with the gun. Parents worked closely and concurred with suspension.

Police Contacted: Police were contacted.

-
- ① This year we had a 6th grader at Mt View Elementary bring a loaded gun to school. Suspended for 45 days.
- ② 2nd grader Denali loaded semi automatic pistol lost Monday 2/24/92
- ③ 2nd grader West Hill School Stabbing.

Secondary schools /programs 29 reporting

Twelve (12) secondary schools reported no incidents of guns on school grounds. Eight secondary schools did report incidents of a gun on school grounds and following are the details on a school by school basis.

BARTLETT: (1 incident)

Incident: A gun was seen by other students who reported it to classroom teacher.

Action Taken: Security was notified and asked student for the weapon outside the classroom. Gun surrendered to Security without resistance. Student and weapon brought to office. Student expelled by Board Action 11/13/90.

Police Contacted: Police were contacted. Student was arrested and detained.

CLARK: (2 incidents)

Incident: (1) An administrator and teacher received information that a student had a gun in school. No gun was found but the student admitted to bringing a so-called plastic gun to school and made statements to the students while pointing it at them such as "Don't worry, it's not loaded". As a result of the investigation, it is believed that the gun involved was a real gun. (2) Window on employee's vehicle had been shot out with a BB gun while parked on school parking lot. An ex-student did the shooting, was not in school

Action Taken: (1) Security was notified and asked student for the weapon outside the classroom. (2) Police contacted/charges filed, weapon seized on school grounds, pending action by youth authorities.

Police Contacted: (1) Police were contacted. Student was arrested and detained. (2) Police were contacted, charges were filed for possession of weapon on school campus.

DIMOND: (2 incidents)

Incident: (1) An estranged father appeared on the student parking lot after school and noticed his daughter sitting in a student car. Earlier that day the father had requested assistance from the school in gaining custody of his daughter, who he considered a runaway. When a band of students surrounded the girl to prevent his taking custody, the father (apparently frightened) pointed a hand gun toward/above the students. (2) On November 28, 1990, a tip received by the Federal Bureau of Alcohol, Firearms and Tobacco was telephoned to Principal. The Dimond security person and the Assistant Principal, interviewed the suspect, received a full confession, and took custody of a large caliber hand gun which was reported by the student to be in his car.

Action Taken: (1)) action taken against the student. Counseling if requested. (2) Suspended pending recommendation to expel. Expulsion recommended. School Board suspended for first semester.

Police Contacted: (1) Police were contacted. Police took custody of the father until students were gone. (2) Immediately arrested by police for possession of weapon on school grounds.

GRUENING: (1 incident)

Incident: On March 1, a student brought a plastic toy gun which shoots small plastic discs. He was shooting this gun in the lunchroom.

Action Taken: Suspension for 3 days, conference with parents.

Police Contacted: Police were not contacted. Gun was a toy but fit under the School District's definition of a weapon.

SERVICE: (1 incident)

Incident: Gun under seat in truck in school parking lot - found during search for Drugs/Alcohol. Student gave permission for search on 3/26/91.

Action Taken: Suspension for 3 days. Transporting gun to Dad's house with parent permission.

Police Contacted: Police were contacted. Gun was taken to family.

STELLER: (1 incident)

Incident: The student brought an unloaded handgun to school in his backpack. He showed it to other students, one of whom reported it to a teacher who then reported to the principal.

Action Taken: Student was given a 9-day suspension. Recommendation for long-term suspension was made. Hearing to be scheduled.

Police Contacted: Police were contacted.

WENDLER: (1 incident)

Incident: A student reported that another student had a "stun gun" at school. The student was questioned and admitted possession. Student willingly produced the weapon.

Action Taken: Student was given a 9-day suspension.

Police Contacted: Police were contacted.

WEST: (3 incidents)

Incident: (1) A student was wearing a loaded 9mm hand gun in a shoulder under sweater. Other students reported incident to school administrators. (2) Students reported to school administrators that another student was in possession of a gun. (3) The third incident of a firearm on West High School grounds was in December. In December it was reported by

Action Taken: (1) Student was suspended under emergency suspension rules with recommendation for expulsion presented to School Board. The School Board expelled the student. (2) Student was suspended under emergency suspension rules with recommendation for expulsion presented to School Board. The School Board expelled the student. (3) The student was suspended for 9 days for having the unloaded weapon in his vehicle. Another student who had accompanied the first student at lunch was suspended for 5 days. Both students served the suspensions and there were no appeals.

Police Contacted: (1) Police were contacted. Citizen arrest made. (2) Police were contacted. Citizen arrest made. (3) Police were contacted, confiscated the weapon but made no arrests.

Fairbanks North Star Borough School District

ADDRESS TO THE FAIRBANKS CHAMBER OF COMMERCE

By Richard S. Cross, Superintendent of Schools

October 22, 1991

The purpose of Red Ribbon Week is to raise public awareness about problems caused by drug and alcohol abuse, and to recognize that this abuse is a wide-spread social problem which only a community-wide effort will solve. Our school district recognized the seriousness of this social issue years ago and implemented programs in the district not only to educate our children about the hazards of substance abuse but also to help those whose health and safety was endangered because of drugs and alcohol.

Some very committed people in our district took a leadership role in the campaign against substance abuse. The first was Terry Marquette, the North Pole High School principal, who has been involved with youth in our community both as a teacher and administrator for over twenty years. Terry instituted a program at North Pole High which has been duplicated at all of our secondary schools. Last spring, North Pole High was selected by the United States Department of Education to receive national recognition in the 1990-91 Drug Free Schools Program. Terry and his faculty were flown to Washington D.C. to be honored by President Bush and others for their efforts. Mike Thibodeau and Terry Solomon are two other individuals who have worked extremely hard over the past several years to ensure that every school in the district has a successful substance abuse program. Approximately 2,000 students are involved in school-sponsored drug-free clubs or activities and we have experienced a significant reduction in the number of students suspended due to drug and alcohol problems.

I believe this demonstrates that our school district is able to take a serious social issue and develop educationally sound, nationally recognized strategies to help students. However, most young people who drink or do drugs do so after school and on weekends. Red Ribbon Week is meant to remind us that substance abuse is a community-wide problem, not just a school problem. Schools alone cannot and will not "solve" the drug and alcohol problem.

We will continue our efforts in the area of substance abuse prevention but this is not the only problem we must face as a community. I am here today to talk about another social issue of grave concern—the escalation of violence in our schools and community.

I became aware of changes in people's perceptions about school safety late last spring. Jerry Hertzock, our assistant superintendent for secondary education, was one of the first to bring this problem to my attention. Jerry has been involved in the community over ten years, primarily working in the district's alternative education programs. He is not one to overreact just because a few kids start talking tough, boys start wearing earrings or dye their hair pink. When Jerry came to me and told me he was concerned because a number of incidents indicated that our students didn't feel safe in school, I took him very seriously. We brought outside experts from the National School

Safety Center to advise us and we formed a community-wide safety task force consisting of law enforcement agencies, social service agencies, school leaders and concerned community members to develop way of addressing school safety.

Jerry wasn't the only one to come to me with well-founded concerns. Recently, we have had, either in our schools or in our community, a series of occurrences that are unrelated, but whose sum total paints an alarming picture. It used to be that whenever something terrible happened in Fairbanks or nearby, such as the gruesome murders at Manley several years ago, the general perception was that it was an isolated act of random violence. No one felt the need to change their lifestyle or to question their basic assumptions about the quality of their life as a result.

Now, the violence is no longer random and isolated. It is reoccurring, it is accelerating and people's attitudes are changing as result. The violence in our community no longer has as its victims drug dealers, criminals or other unsavory characters. The violence we are experiencing is perpetrated against children, against families and against innocent bystanders. People are becoming fearful, and I believe with good reason. Let me give you some examples.

In the school district, we are seeing numerous instances of violent fights--on athletic fields, (in our schools) at events after games, and outside of dances. Not adolescent pushing and shoving contests, but fights which involve a level of violence that is shocking, fights which result in bodily injury and which involve weapons. The fighting and the potential for violence at football games and other athletic events has caused us to ask referees to blow quick whistles, to penalize any violation of rules and to treat fighting on the field the same as fighting off the field. In some instances, we have rescheduled sporting events to the daytime because principals are not sure they can control the crowd after dark.

We are closing school dances to all non-school people, even to students from other schools who would like to attend as someone's guest. We have had to hire security guards for dances, athletic events and even for our lunch periods.

We had a homemade bomb explode in the hands of a student in a high school cafeteria. The incident was down played in the media because the bomb was "only" made of firecrackers. It was made of hundreds of firecrackers and had they gone off all at once, as was intended, we would have had a serious injury or even a death.

We have had to remove students from school for possessing weapons--not only knives, not only guns, but loaded automatic weapons. We have had several serious attacks on teachers. Last week, a student being chased by police out of one of our schools threatened to "blow away" a teacher who was blocking the doorway. The police were chasing the student because he was suspected of stealing guns.

I have reviewed a number of essays written as part of a language arts class in one of our high schools that clearly lead me to believe that for a variety of reasons, students don't feel safe in their neighborhoods, they don't feel safe on their way to school, and they don't feel safe once they are in school. The essays were written after a student was suspended for carrying a gun to school. One young person wrote:

"I don't blame him for bringing a gun to school. I did it last year. I brought a loaded 44 magnum to school for a week for a reason much the same.

I no longer feel the need to carry a gun or knife but I'm never without protection. It's fear, fear of many people beating me 'till I can't walk. I won't let that happen, not if I can help it. If it has to be me or them, I'll make it them."

There is behavior in our community that shows tell-tale signs of the formation of gangs. If not gangs in the formal sense, then certainly groups of young people who are behaving in organized ways to intimidate and harass both students and parents. There has been a high incidence of thefts in our community and the police tell us that jewelry and guns are being taken, they're being taken by children, and it is their belief the guns are not being turned over to fences, but are being either sold or given to other children. We have had parents tell us that they're afraid to report certain things because their children tell them that the other kids will not only harm them, but they will harass the parents and threaten their homes.

Racism is becoming overt and wide-spread. Racial incidents are occurring on playgrounds, on buses, in hallways, and in other places where young people gather with minimal supervision. Children are hearing and repeating racial slurs. Derogatory names are being painted on lockers. Students tell us that racism is the number one cause of school violence as the chain-reaction of threats, intimidation, and retaliation escalates. Young people are gathering and socializing along racial lines as never before, and these groups are becoming increasingly hostile and polarized.

We have had two incidents of children being shot by air rifles and BB pistols, one causing serious injury. A little girl was shot on the playground of one of our elementary schools by two boys who were hiding in the woods. A little boy was abducted from his yard and injured. Several weeks ago, at a weekend party, a middle school boy shot at a high school girl with a .357 magnum. He missed. No adults were present. We have had several random drive-by shootings. Three young people have been murdered--Kathy Stockholm, Johnny Jackson, and Cara Zastrow.

We used to live in a community where we were fairly confident bad things would not happen to our children. Children could walk safely to and from the school bus. High school students could go back to school in the evening to get their homework. They could drive from the shopping mall to their job at the pizza shop. Now most of us think twice before letting our children out of sight. It used to be that if you lost sight of your child in the store or around your yard, your first reaction was not alarm but rather exasperation toward the child who had wandered away. Now the automatic reaction is fear. We're afraid something terrible has happened to the child.

People are afraid. Our community is beginning to appear like an armed camp. We have had reports of neighborhood watches where adults are patrolling the community and are arming themselves. At a recent neighborhood safety meeting, 50 people were expected to attend. Four hundred showed up. At least one was armed.

I do not believe as a school community we are overreacting when we say that our schools have changed, that our community has changed, and that the situation is at a very critical point. People have asked me what I think has caused these changes to our community. It is true that very often you have to identify causes to develop solutions but what I find in this case is that people aren't looking for solutions but are trying to blame

the changes in our community on one single event or another. If we are going to identify what has caused the problem, I believe we should identify every single reason. Otherwise, what we end up with is a not a long list of causes but a short list of scapegoats. Naming scapegoats will not solve anything but will only escalate the atmosphere of fear and distrust we are trying to alleviate. I refuse to lay blame on any one factor for this problem.

I can tell you that the problems we are having are not limited to any one sector of the community. Some of the violence we are experiencing is in schools where you would least expect it and has come from the children of longstanding, respectable members of our community. The violence is simply a reality that we must face. This is Alaska, but it is also America.

Certain people in the community say the situation in other parts of America is hopeless. Therefore, the situation in Fairbanks is hopeless. They say all our school district can do is ensure student safety in our schools and that what happens outside the school is out of control and we cannot do anything about it. I refuse to accept this premise.

Not only do we have a moral responsibility to accept that this situation is not hopeless, but there are very real and tangible reasons why it isn't. Fairbanks is different from other communities. We have some very important factors working for us that other urban areas in America do not. We have a significantly higher percentage of two parent households than similar communities in the United States. We are a relatively small community and have not experienced the alienation that exists in larger communities. We know our neighbors and the people in the stores. We talk with one another. As a state, we have financial and technical resources available that other states only dream about. Finally, there is a "can-do" spirit that exists in us; we believe we can solve problems and take charge of our destiny.

Therefore, in some important ways, we are bucking the trend that causes despair and hopelessness in other urban areas. If we collectively take a caring and concerned attitude toward the conditions in our community, we should not have to accept, nor should we tolerate, an atmosphere of fear or violence or hopelessness.

My reason for coming to the community rather than tackling this problem from the perspective of the school district is one of equilibrium. We can and will guarantee that children will be safe in our schools. After all, schools are restricted environments that are fairly easy to control. They can be monitored and additional restrictions added as necessary. If, in order to ensure student safety in school, we have to place metal detectors at our doorways, place armed guards in our schools, have guards on our school buses, guards in the hallways, close our lunch periods and not allow students to leave our secondary campuses, we will do that.

However, what we will create if we have to go to those extreme measures is a disequilibrium between the child's life in school and out of school. This disparity will likely exacerbate rather than reduce the violence and fear that exists in the community at large. Students will be in schools they find so restrictive that they will react even more violently to the freedom outside. So while I make the pledge that our students will be safe in our schools no matter what we have to do, I don't say that with any degree of comfort.

Without the cooperation of the rest of the community, safety in the schools will become a hollow accomplishment because it will be achieved at the cost of even more fearful and chaotic behavior outside of schools.

Another student wrote:

"We talk about closed campus and things but there's still the weaker.Js.

You still go to the movies and to parties. They can jump you there."

The appropriate action, it seems to me, is for the community and the schools to bring things under control together, so that an equal amount of restraint is being applied both in and out of school. To do so, we will have to change some rules. We can't accept behaviors that were accepted--or at least tolerated--in the past.

We need more adult presence wherever children are present. We must not let young people intimidate us so that we ignore inappropriate behavior. We must define and enforce clear expectations for their behavior at all times and in all situations. We cannot police what a child says or does at home but we can make it clear we will not tolerate inappropriate action or language in our presence or in public places. We must be concerned for other children, not just our own. Sue Wilken has told us that when she was a child growing up in Fairbanks, adults would stop and ask a young person on the street what they were doing out of school. Nowadays, the tendency is to ignore it.

We must communicate that violence is not an acceptable way to handle conflict and we must model the behavior we want young people to emulate. We must teach them acceptable ways to handle conflict. We need to offer young people constructive alternatives to unsupervised and unwholesome activities. We have no teen center, no public recreation center, no YMCA, no boy's club. We tell young people to make healthy choices but then we give them no real alternatives to being on the street.

This is a tall order, but we can do it. We can do it because we are not a typical urban community. We have all the ingredients here for a high quality life. The majority of us in Fairbanks have come here from somewhere else and we continue to live here at some sacrifice in terms of being separated from relatives and having to deal with isolation and cold, dark winters. Why do we stay? We stay because we believe Fairbanks has a quality of life which cannot be found outside. We stay because we believe this is a good place to raise children. We stay because we feel that we have gained more than we have given up in terms of quality of life.

I think in the last twelve months we've begun to recognize that the quality of life here is changing in a way that is alarming, and that what is required is an entire community effort to bring this concern of safety under control. The school district will do its part. But if the school district does it alone, all we can do is assure the safety of students in our schools and not in our community at large.

I am very proud of our district and I think we have good people who can be a tremendous resource to the community. Superintendents Jerry Hartssock, Betty Farni, and I have an average of 18 years committed to this community (Jerry and I admit we use Betty's heavy numbers to boost our stats!). As a comparison, James Ryan, who served longer than any of Fairbanks' twenty-five superintendents, was here for only ten years (1951-1961). Our principals have served the community for an average of 11 years and our teachers for an average of 9 years. Some of our classified staff have even more

seniority. We are Fairbanksans, this is our home--our community; we want it to be safe. But we cannot do it alone.

The reason I asked to speak to the Chamber of Commerce today is that you are all people who understand teamwork and commitment. You are actively involved in improving the quality of life in this community and you are people who can get things done. From now on, whenever someone asks the school district to do something about safety, if it makes sense and we can do it, we will. Then we are going to say to the community, "Now, what are you going to do to help make students safe outside of school?"

This community involvement is essential. From the time a child is born until they graduate from high school, they only spend 15 percent of the time they are awake in school. That means 85 percent of what influences them occurs outside of school. As a school district, we can guarantee their safety 15 percent of the time and we will work with you on the other 85 percent. But we cannot do it alone.

We all have the responsibility to make this community one in which our children can live with a feeling of relative safety and a lack of fear; to make this community one in which we as adults can live in relative safety and a lack of fear. Safety and comfort has to exist in our homes, in our schools, and in the rest of our community. To live in fear is to give up your liberty--people who live in fear are not free people. What we are experiencing in Fairbanks today is a basic loss of liberty. I, for one, am convinced we do not have to accept it. We do not have to raise and educate our children in a climate of fear and racism. Nor do we have to become vigilantes to prevent it. The problem will be solved when each of us accepts it as his or her responsibility.

I thank the Chamber for granting my request to speak to you today. I realize this subject is painful to listen to and to think about. I wouldn't have asked to come if I thought the situation couldn't be resolved. It can be resolved. I ask for your leadership and your help.

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Jermain Dunnagan & Owens, P.C.

LAW OFFICES

3000 A STREET, SUITE 800
ANCHORAGE, ALASKA 99503

TELEPHONE (907) 943-9644
FAX (907) 943-7332

WILLIAM K. JERMAN
CHARLES A. DUNNAGAN
BRADLEY D. OWENS
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March 31, 1994

OPINION OF COUNSEL

Bob Christal, Superintendent
Anchorage School District
P.O. Box 196614
Anchorage, AK 99519

Dear Bob:

You have requested an opinion on House Bill 417, relating to the possession of deadly weapons on school grounds and parking lots. I have reviewed the legislation and would strongly recommend that the District encourage Anchorage representatives to vote in favor of the measure.

During the past year, we have advised the District in numerous situations involving possession of weapons by students and non-students on school grounds and parking lots. Many of these situations involve former students or young adults who do not attend school. In most of these situations, school personnel have been left to deal with the situation without the aid or assistance of local law enforcement agencies. Law enforcement agencies are not able to assist or intervene to help school officials until some altercation breaks out or the school administrator makes a citizen's arrest for trespass under local ordinances. Obviously, once situations have escalated to the point of arresting someone for trespass or an altercation has occurred, a substantial risk of endangerment to the safety of school personnel and students has already arisen. Yet, local law enforcement agencies have no criminal law to enforce until situations escalate to the point of being out of control and dangerous. The proposed law would be a meaningful remedy and aid to school administrators. If the bill is passed into law, school officials would be able to call for assistance from local law enforcement agencies and they would be able to intervene to enforce the possession of a deadly weapon law. Moreover, such a law would eventually have a deterrent impact, particularly on the non-students who come on to school grounds with weapons in their possession.

Regarding the provision on school lockers, the proposed law would grant broad authority for school officials to conduct general random searches of school lockers with advanced notice. While I have not done an exhaustive constitutional analysis of this measure, some recent cases have greatly expanded the authority of school officials to conduct general random searches. *Isiah B. v. State of Wisconsin*, 500 N.W. 2d 637 (Wis. 1993). The proposed law would undoubtedly serve as a significant deterrent to students bringing weapons, drugs, or alcohol with them to school. If school districts adopt appropriate policies to implement this provision, I am confident the legislation could be applied in a constitutional manner.

MAR-31-94 THU 13:00
SENT BY: JDO

LEGISLATIVE LIAISON
: 3-31-94 : 12:50PM :

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P. 03
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March 31, 1994
Page 2

If you have any further questions regarding this matter, please do not hesitate to contact me.

Sincerely,

JERMAIN, DUNNAGAN & OWENS, P.C.

Howard S. Trickey

Howard S. Trickey

HST/jh

cc: Larry Wiget, Legislative Liaison



Lawrence A. Wiget, Ed.D.
Director, Government Relations/Legislative Liaison
4600 Debarr Road
P.O. Box 196614
Anchorage, Alaska 99519-6614
(W) 907 269-2255 (FAX) 907 269-2107

TO: REPRESENTATIVE CON BUNDE

SUBJECT: SUPPORT OF HB 417

DATE: MARCH 29, 1994

We support passage of House Bill 417. The Bill would provide statutory support for administrative procedures already in place in the Anchorage School District.

The section on notice for locker searches could be made more broad so as to allow notification through the student handbook and permanent posting of notices of the right to search in each school.

The Anchorage School District parent and students have discussed and approved of the concept of locker searches in the interest of safe schools.

Also in this series

- THE RIGHTS OF AUTHORS AND ARTISTS**
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AN AMERICAN CIVIL LIBERTIES UNION HANDBOOK

THE RIGHTS OF STUDENTS

THE BASIC ACLU GUIDE TO A STUDENT'S RIGHTS

THIRD EDITION

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**SOUTHERN ILLINOIS UNIVERSITY PRESS
CARBONDALE AND EDWARDSVILLE**

State courts, statutes, and local practices vary widely on the question of when students' lockers and desks can be searched. But one thing is certain: School officials have fewer restrictions on searching lockers and desks than on searching persons, and in many places they are much freer.

In one New York case a vice-principal conducted a search at the direction of a police officer who suspected the student possessed drugs; the court upheld the search on the ground that the student had no reasonable expectation of privacy since he knew the principal had a master key to all the locks.²⁰ Other courts have said schools can conduct locker searches triggered by drug-detecting dogs, because the school exercises control over the lockers.²¹

In contrast, the California Supreme Court makes no distinction between personal searches and searches of lockers; in both situations it requires reasonable and individualized suspicion.²² Like California, New Jersey insists there be definite grounds for suspicion in order to search a locker. The New Jersey Supreme Court ruled that it was unlawful to search a locker in a case where a police officer had received an anonymous call from someone claiming to be the parent of another student and naming a certain student as a drug dealer. The officer passed this information on to the school and an assistant principal searched the student's locker. The court found the information did not amount to reasonable suspicion and ruled that reasonable suspicion was required for a locker search if, as in this case, the student was justified in believing that the master key to the locker would be employed only at his request or convenience.²³ If the school had a publicized policy of regularly inspecting student lockers, the suspected student might not have had the same expectation of privacy.

A number of states have statutes insisting upon reasonable suspicion before lockers can be searched but do not require search warrants. Louisiana law, for instance, states that any teacher, principal, or administrator can search any "building, desk, locker, area or grounds" for contraband "when he has articulable facts which lead him to a reasonable belief that the items sought will be found."²⁴

Similarly, both Florida and Maryland permit searches of student lockers if there is reasonable suspicion that a prohibited object is contained in the area to be searched. Both states

require schools to notify students that these places are subject to search. Maryland limits such searches to items illegal under state law and requires that a third party be present when a locker is searched.²⁵

Many local school districts have written policies on locker searches which may or may not protect your privacy. The Detroit Board of Education Policy on Discipline and Student Rights permits locker searches but states "there must be reason to believe that the student is using his/her locker, desk or other property in such a way as to endanger his/her own health or safety or the health, safety and rights of other persons." In contrast, the Jackson, Mississippi, policy states that "desks and lockers are public property and school authorities may conduct an inspection for any reason related to school administration." Whether or not you have a reasonable expectation of privacy in your locker or desk may depend on the stated policy of your particular school.

Can schools require students to submit to blood and urine tests for drugs?

No. As more school districts impose such tests in an attempt to combat drug and alcohol use, there is bound to be litigation challenging their legality. Already, a federal district court has ordered the Arkadelphia, Arkansas, school board to stop its use of urinalysis testing of students and prohibited the board from using test results to discipline students.²⁶ The Arkadelphia policy had authorized schools to test any student they suspected of drug or alcohol use, whatever the reason for that suspicion, and to expel any student found to have even a trace of drugs, alcohol, paint or glue in his or her system. After a challenge by the New Jersey Civil Liberties Union, a New Jersey school district dropped a plan to give all students urine tests for drugs without any pretense of individualized suspicion as part of an annual physical. The judge ruled that even if the purpose was solely medical the test would violate the reasonable privacy expectations of children.²⁷ A federal court in Washington, D.C., has ruled that a school bus attendant has a reasonable expectation of privacy from search by mandatory urine testing for drugs if such testing is conducted without probable cause or individualized suspicion. The court stated that this privacy expectation outweighed public safety considerations.²⁸

Post-It™ brand fax transmittal memo 7671	# of pages > 1
To: P. SUNDHORN	From: R. BANNING
Co. Rep. on BANNING	cc: RECALL ACU
	DATE: 1/12

School board officials made Walter Bromenschenkel their first choice Thursday from a list of a half-dozen candidates. The decision contract.

Bromenschenkel told the board during an interview Tuesday that he likes to get out of the office and get

perintendent in Paducah, Ky. he spent eight years at Metlakatla, an Indian reservation in southeast Alaska near Ketchikan.

portion of the Chu bears

Student suspended; allegedly carried gun

By S.J. KOMARNITSKY
Daily News reporter

A sixth-grader at Chester Valley Elementary School in East Anchorage has been suspended after allegedly threatening four other students with a handgun, school officials said Friday.

The boy confronted four girls on Wednesday afternoon as they walked home from the school, said Sandra Tracy, executive director of elementary education.

The boy held an unloaded gun to the forehead of one of the girls; school officials found out about the incident after one of the girls ran back to the school and told a teacher, Tracy said.

Police were called and the boy was taken into custody Thursday. He was also suspended.

Tracy said she did not know where the boy got the gun, and she could not confirm it was unloaded.

She said the boy, whom she would not identify, will remain on suspension until school officials sort the details of what happened.

Police refused to talk about the incident or identify the youth, citing a court ruling that bans them from discussing cases involving juveniles.

It was the third time in the last seven months someone has reported an elementary student having a gun on or near campus, Tracy said.

Guatemala arrests

The Associated Press

FAIRBANKS — Authorities in Guatemala have arrested 20 people in the beating of a woman from Fairbanks.

The Guatemalan government said June Weinstock was the victim of mob hysteria over widespread rumors about kidnapping children for body parts.

Weinstock was listed in

critical condition at a malan hospital on Thursday unconscious two days after the attack in San Cristobal Verapaz.

Friends in Fairbanks Weinstock's chances of recovery were good, and that she was expected to regain consciousness in a couple of days.

"She is challenging for a respirator, which means

BOATERS: State cor

Continued from Page D-1

of the advisory board, said he thought off-limit zones "have very little practical adverse impact on powerboaters."

"But they provide peo-

ple who seek a quiet recreational experience guarantee that they will be the occasional annoyance getting up into the boat or that in the future opportunity for that experience will sti-

CLEANUP: Crews discover leaking drums

Continued from Page D-1

been complaints about the property, which is used to store contaminated materials.

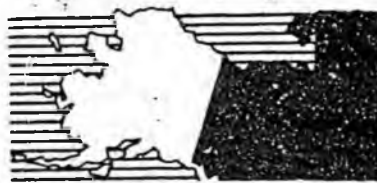
"I can tell you that there was enough of a concern before this event that we had a meeting proposed for next week to discuss some type of action," he said.

The company could face fines, he said.

The DEC has contacted one of the owners, who is coming up from California to deal with the problem, Pinard said.

The soils are supposed to be placed on liners and covered to protect it from runoff, he said. But it appears that wasn't the case.

"I do know they had been placed on a liner," he said. "But we had some questions about the integrity of the liners, and problems with



much of the fuel and material leaking from the drums had reached the stream. The

problem was not reported until Thursday, and Pinard said he had no idea how long it had been leaking.

Lower temperatures have reduced runoff through the area and are expected to help limit damage to the stream, he said.

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