9525 SENATE HEALTH EDUCATION & SOCIAL SERVICES

residence, and to notify the FBI if the department is unable to locate a sex offender. It also requires the department adopt regulations for address verification every 90 days of sex offenders registered for life .

Section 14 provides that the Department of Public Safety and other law enforcement agencies may not be found civilly liable for an error in administering the sex offender registration requirements.

Section 15 clarifies the duties of the Departments of Public Safety and Corrections for registration as a sex offender of an inmate being released from prison.

Section 16 requires the Department of Corrections to inform a person of sex offender registration requirements when taking supervision of the person under the Interstate Corrections Compact.

Sections 17 and 18 contain repealers. They are described in two sections because of different effective dates.

Section 19 attributes the burden of showing that a person is not required to register as a sex offender as a result of being unconditionally discharged before July 1, 1984, to the person claiming the exempt status.

Sections 20 - 22 contain procedural and effective date provisions.

DEPARTMENT OF JUSTICE

Office of Redress Administration; Civil Rights Division; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Redress Payments for Japanese Americans: Guidelines for Individuals Who Involuntarily Relocated to Japan During the War, and Guidelines under *Ishida* v. *United States.*

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days from the date listed at the top of this page in the Federal Register.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact the Office of Redress Administration Clearance Officer, 202–219–6900, or Telephone Device for the Deaf (TDD) 202–219–4710, Civil Rights Division, U.S. Department of Justice, Room N1519, 200 Constitution Avenue, NW, Washington, DC 20001 or P.O. Box 66260, Washington, DC 20035–6260. Additionally, comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Comments may be submitted to DOJ via facsimile to 202–514–1534.

Request for Emergency Approval

Overview of This Information Collection

(1) Type of information collection. Existing Collection in Use without an OMB Number.

(2) The title of the form/collection. Redress Payments for Japanese Americans: Guidelines for Individuals Who Involuntarily Relocated to Japan During the War and Guidelines under *Ishida* v. *United States.*

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection. Form: None. Two forms are used to collect the information. Office of Redress Administration, Civil Rights Division, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. Primary: Individuals or households. Other: None. This collection contains the forms which persons of Japanese ancestry will use to apply for redress compensation under the Civil Liberties Act of 1988.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond. 140 respondents: Declaration at 10 minutes per response; 2,000 respondents: Declaration at 10 minutes per response.

(6) An estimate of the total public burden (in hours) associated with the collection. 356 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: March 28, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–8345 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–13–M

Office of the Attorney General

[AG Order No. 2014–96]

RIN 1105–AA36

Final Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

AGENCY: Department of Justice.

ACTION: Final guidelines.

SUMMARY: The United States Department of Justice (DOJ) is publishing Final Guidelines to implement the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

EFFECTIVE DATE: April 4, 1996.

FOR FURTHER INFORMATION CONTACT: Bonnie J. Campbell, Director, Violence Against Women Office, U.S. Department of Justice, Tenth and Pennsylvania Avenue, NW, Washington, DC 20530, 202–616–8894.

SUPPLEMENTARY INFORMATION: Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, 108 Stat. 1796, 2038 (codified at 42 U.S.C. 14071), contains the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (hereafter referred to as the "Jacob Wetterling Act" or "the Act"). The Act provides a financial incentive for states to establish 10-year registration requirements for persons convicted of certain crimes against minors and sexually violent offenses, and to establish a more stringent set of registration requirements for a sub-class of highly dangerous sex offenders, characterized as "sexually violent predators." States that fail to establish such systems within three years (subject to a possible two year extension) face a 10% reduction in their Byrne Formula Grant funding (under 42 U.S.C. 3756), and resulting surplus funds will be reallocated to states that are in compliance with the Act.

Summary of Comments on the Proposed Guidelines

On April 12, 1995, the U.S. Department of Justice published Proposed Guidelines in the Federal Register (60 FR 18613) to implement the Jacob Wetterling Act. The original 90 day comment period expired on July 11, 1995. To ensure the public ample opportunity to review and comment on the Proposed Guidelines, on September 14, 1995, the Department published a notice in the Federal Register to reopen the comment period for an additional 45 days (60 FR 47760). In addition, the Department mailed copies of the Proposed Guidelines to state registration authorities and requested their comments. The extended comment period closed on October 30, 1995.

Following the publication of the Proposed Guidelines, the Department of Justice received 19 letters, mostly from state officials. These letters contained numerous comments, questions, and recommendations, all of which were carefully considered in developing the Final Guidelines. A summary of the comments and responses to them are provided in the following paragraphs.

A. Coverage of the Jacob Wetterling Act

One respondent expressed concern that the Act does not provide for sex offender registration and notification in relation to military offenders who are convicted in court martial proceedings, in prosecutions under the federal criminal code, or in prosecutions by foreign host nations. In order to extend registration as far as possible to categories of convicted sex offenders who may not be within the scope of the statute as presently formulated, the Guidelines have been revised to encourage states to consider including federal and military sex offenders within their registration programs.

B. "Sexually Violent Predator" Determinations

1. Necessity for Determination

A number of respondents questioned the need for a two-tier registration system under which states must adopt means for determining whether an offender is a "sexually violent predator" and follow more stringent registration procedures for offenders so classified. The Department recognizes that this scheme may require states to make changes in their existing registration systems. The two-tier scheme was established by the Act, however, and cannot be modified by the Guidelines, absent legislative changes. As explained in the Final Guidelines, a two-tier approach can be dispensed with only if a state is willing to subject all persons convicted of a "sexually violent offense" to the more stringent registration requirements and standards provided by the Act for "sexually violent predators."

2. State Board of Experts

A number of commenters posed questions about the composition and activities of the state boards of experts that will assist sentencing courts in determining whether an offender is a "sexually violent predator". In particular, respondents questioned the necessity for using such boards, inquired as to what qualification experts must possess to serve on the boards, and raised concerns about the timing of the "sexually violent predator" determination. One commenter also expressed concerns about the ability of small states to assemble panels of experts.

States wishing to comply with the Act must utilize boards of experts to assist sentencing courts in making "sexually violent predator" determinations because the statue expressly requires this procedure. The Guidelines have been clarified to address commenters' other concerns, however. In particular, the Guidelines make clear that states are free to (1) determine who qualifies as an expert for purposes of board participation, (2) utilize out-of-state experts, and (3) decide at what point the "sexually violent predator" determination will be made.

3. Definition of "Sexually Violent Predator"

A number of commenters expressed concerns about the definition of "sexually violent predator" and sought various clarifications in the definition. The Guidelines have not been changed to reflect these concerns. The Act itself contains definitions of "sexually violent predator" and the component term "mental abnormality." The Guidelines cannot alter definitions appearing in the statute. Since the Act does not define the component term "personality disorder," the Guidelines already provide that the definition of this term is a matter of state discretion.

4. Required Documentation

One respondent expressed concern about the extent of documentation required by the Act concerning treatment received by a "sexually violent predator" for a mental abnormality or personality disorder. The Guidelines have been modified to reflect this concern. Under the Final Guidelines, states may comply with the requirement to document an offender's treatment history simply by noting that the offender received treatment.

The respondent also proposed that the Guidelines clarify that documentation of treatment history is a one-time event. However, this change is unnecessary because nothing in the Act or Guidelines states or suggests that the treatment history of a "sexually violent predator" must be updated following the initial submission of information.

5. Interaction with Insanity Defense

One respondent raised questions about the possible interaction between a determination that an offender is a "sexually violent predator" and the insanity defense. The commenter questioned whether a state may classify an offender as a "sexually violent predator" only when the offender successfully raised an insanity defense, and also questioned whether a determination that an offender is a "sexually violent predator" could bolster the offender's insanity claim.

The Guidelines have not been revised to reflect these concerns because there is no relationship between the two legal categories. Of course, if an offender had successfully raised an insanity defense, he could not be convicted for the offense charged, and no registration requirement based on that offense would arise under the Jacob Wetterling Act. Further, because the elements in the statutory definition of "sexually violent predator" do not establish the necessary elements of an insanity defense under state laws, a state could conclude that an offender is a "sexually violent predator," though the offender could not successfully raise an insanity defense. Finally, with regard to an offender who was classified as a "sexually violent predator" in connection with a previous prosecution and conviction, the Act does not contemplate any impact from that determination on the offender's ability to raise an insanity defense in a later prosecution.

C. State Law Enforcement Agency

1. Designation of Agency

One commenter posed questions concerning how, when, and by whom the state law enforcement agency responsible for registration matters is to be designated, and another expressed concerns about the types of entities that may be selected. The Guidelines have been revised to clarify that states have discretion with regard to the means by which an agency is designated as the state law enforcement agency, the timing of such a designation, and the agencies that may be designated.

2. Necessity for using a State Agency

A number of respondents questioned the necessity for using a state agency to receive registration information and conduct address verification. These commenters noted that in several states, registration and verification is conducted at the county or local level, rather than at the state level.

The Guidelines have not been revised to reflect these concerns. Although the Act provides that registration information is to be shared with local law enforcement agencies, it requires that this information be submitted to a *state* law enforcement agency and that the state agency also conduct address verification. These procedures, which are set forth clearly in the Act, cannot be modified by the Guidelines, absent statutory changes.

D. Public Access to Registration Information

One commenter expressed concern about the effect of the Act on a state's ability to disseminate registration information to the public. The Guidelines have not been modified to reflect this concern because they already

afford states the maximum discretion in this area that is consistent with the terms of the Act. The Guidelines make it clear that any restrictions placed by the Act on the disclosure of information do not constrain the release of information that a state would have independently of the operation of the registration system. Further, the Guidelines note and elaborate on the Act's provisions that registration information may be disclosed for certain law enforcement and background check purposes, and as necessary for public safety. The Guidelines also provide that states have discretion concerning the nature and extent of disclosure (including community notification and access to information on request by members of the public) that is necessary for public safety.

E. Compliance Review

One commenter suggested that the Department provide states with written feedback concerning their compliance with the Act no later than the date on which a state receives its Byrne Formula Grant Funding. This recommendation has not been adopted in the Guidelines because the Department is still in the process of developing compliance review procedures. States will be notified about these procedures as they are developed.

Final Guidelines

These guidelines carry out a statutory directive to the Attorney General, in section 170101)a)(1), to establish guidelines for registration systems under the Act. Before turning to the specific provisions of the Act, four general points should be noted concerning its interpretation and application.

First, states that wish to achieve compliance with the Jacob Wetterling Act should understand that its requirements constitute a floor for state registration systems, not a ceiling, and that they do not risk the loss of part of their Byrne Formula Grant funding by going beyond its standards. For example, a state may have a registration system that covers a broader class of sex offenders than those identified in the Jacob Wetterling Act, or requires address verification for such offenders at more frequent intervals than the Act prescribes, or requires offenders to register for a longer period of time than the period specified in the Act.

Exercising these options creates no problem of compliance, since the provisions in the Jacob Wetterling Act concerning duration of registration, covered offenders, and other matters, do not preclude states from imposing additional or more stringent requirements than encompass the Act's baseline requirements. The general objective of the Act is to protect people from child molesters and violent sex offenders through registration requirements. It is not intended, and does not have the effect, of making states *less* free than they were under prior law to impose registration requirements for this purpose.

Second, states that wish to achieve compliance with the Jacob Wetterling Act also should understand that they may, within certain constraints, use their own criminal law definitions in defining registration requirements, and will not necessarily have to revise their registration systems to use technical definitions of covered sex offenses based on federal law. This point will be explained more fully below.

Third, the Jacob Wetterling Act contemplates the establishment of programs that will impose registration requirements on offenders who are subsequently convicted of offenses in the pertinent categories. The Act does not require states to attempt to identify and impose registration requirements on offenders who were convicted of offenses in these categories prior to the establishment of a conforming registration system. Nevertheless, the Act does not preclude states from imposing any new registration requirements on offenders convicted prior to the establishment of the registration system.

Fourth, the Act gives states wide latitude in designing registration programs that best meet their public safety needs. For instance, the Act allows states to release relevant information necessary to protect the public, including information released through community notification programs. Some state registration and notification systems have been challenged on constitutional grounds. A few courts have struck down registration requirements in certain cases. *See Rowe* v. *Burton*, 884 F. Supp. 1372 (D. Alaska 1994) (on motion for preliminary relief); *State* v. *Babin*, 637 So.2d 814 (La. App. 1994), *writ denied*, 644 So.2d 649 (La. 1994); *State* v. *Payne*, 633 So.2d 701 (La. App. 1993), *writ denied*, 637 So.2d 497 (La. 1994); *In re Peed*, 663 P.2d 216 (Cal. 1983) (en banc). However, a majority of courts that have dealt with the issue have held that registration systems like those contemplated by the Jacob Wetterling Act do not violate released offenders' constitutional rights.

Some recent decisions have held that aspects of New Jersey's community notification program violate due process guarantees, or violate ex post facto guarantees as applied to persons who committed the covered offense prior to enactment of the notification statute. *See Artway* v. *Attorney General of New Jersey*, 876 F. Supp. 666 (D.N.J. 1995) (appeal pending); *W.P.* v. *Poritz*, No. 96–97 (JWB) (D.N.J. Mar. 15, 1996); *Diaz* v. *Whitman*, No. 94–6376 (JWB) (D.N.J. Jan. 6, 1995). However, the Department of Justice believes that the New Jersey community notification statute at issue in those cases does not violate the Ex Post Facto Clause and that the Fourteenth Amendment's Due Process Clause of its own force does not require recognition of such a liberty interest on the part of offenders affected by that statute, and has filed "friend of the court" briefs in cases challenging the New Jersey law. Moreover, the New Jersey Supreme Court, in *John Doe* v. *Deborah Poritz*, 662 A.2d 367 (N.J. 1995), upheld the New Jersey statute, although it imposed certain procedural protections under federal and state law.

There has been ongoing litigation over the validity of notification systems in other states as well. *see, e.g., Doe* v. Pataki, No. 96 Civ. 1657 (DC) (S.D.N.Y.); *Nitz* v. *Otte*, No. A95–486CI (JWS) (D. Alaska Jan. 25, 1996) (appeal pending).

The remainder of these guidelines address the provisions of the Jacob Wetterling Act in the order in which they appear in Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994.

General Provisions—Subsection (a)(1)–(2)

Paragraph (1) of subsection (a) of § 170101 directs the Attorney General to establish guidelines for state programs that require:

(A) Current address registration for persons convicted of "a criminal offense against a victim who is a minor" or "a sexually violent offense," and

(B) Current address registration under a different set of requirements for persons who are determined to be "sexually violent predators."

For purposes of the Act, "state" should be understood to encompass the political units identified in the provision defining "state" for purposes of eligibility for Byrne Formula Grant funding (42 U.S.C. 3791(a)(2)) in light of the tie-in between compliance with the Act and the allocation of Byrne Formula Grant funding. Hence, the "states" that must comply with the Act to maintain full eligibility for such funding are the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

Paragraph (2) of subsection (a) states that the determination whether a person is a "sexually violent predator" (which brings the more stringent registration standards into play), and the determination that a person is no longer a "sexually violent predator" (which terminates the registration requirement under those standards), shall be made by the sentencing court after receiving a report by a state board composed of experts in the field of the behavior and treatment of sexual offenders.

"State board" in paragraph (2) should be understood to mean a body or group containing two or more experts that is authorized by state law or designated under the authority of state law. Beyond the requirement that a board must be composed of experts in the field of the behavior and treatment of sexual offenders, the Act affords states discretion concerning the selection and composition of such boards. For example, a state could establish a single permanent board for this purpose, could establish a system of state-designated boards, or could authorize the designation of different boards for different courts, time periods, geographic areas or cases. In addition, the Act permits states to set their own standards concerning who qualifies as an expert in the field of the behavior and treatment of sexual offenders for purposes of board participation, and to utilize qualifying experts from outside the state to serve on the boards.

As noted above, subsection (a)(1) requires states to register persons convicted of certain crimes against minors and sexually violent offenses, but states are free to go beyond the Act's minimum standards and include other classes of offenders within their sex offender registration programs. For example, states are encouraged to require sex offenders convicted in federal or military courts who reside in their jurisdictions to register. Although the Act does not require states to register such offenders, the presence of any convicted sex offender in the state—whether the offender was prosecuted in a state, federal, or military court—raises similar public safety concerns. Some states, including Washington and California, already require sex offenders convicted in federal or military courts to register.

Definition of "Criminal Offense Against a Victim Who is a Minor"—Subsection (a)(3)(A)

The Act prescribes a 10-year registration requirement for persons convicted of a "criminal offense against a victim who is a minor." Subparagraph (A) of paragraph (3) of subsection (a) defines the term "criminal offense against a victim who is a minor." "Minor" should be understood to mean a person below the age of 18, consistent with the normal understanding.

The specific clauses in the definition of "criminal offense against a victim who is a minor" are as follows:

(1) Clauses (i) and (ii) cover kidnapping of a minor (except by a parent) and false imprisonment of a minor (except by a parent). All states have statutes that define offenses—going by such names as "kidnapping," "criminal restraint," or "false imprisonment"—whose gravamen is abduction or unlawful restraint of a person. States can comply with these clauses by requiring registration for persons convicted of these statutory offenses whose victims were below the age of 18. The Act does not require inclusion of these offenses in the registration requirement when the offender is a parent, but states may choose to require registration for parents who commit these offenses.

(2) Clause (iii) covers offenses consisting of "criminal sexual conduct toward a minor." Such offenses include convictions under general provisions defining sexually assaultive crimes—such as provisions defining crimes of "rape," "sexual assault," or "sexual abuse"—in cases where the victim is in fact a minor. Coverage is not limited to cases where the victim's age is an element of the offense (such as prosecutions for specially defined child molestation offenses).

States can comply with clause (iii) by requiring registration for persons convicted of all statutory sex offenses under state law whose elements involve physical contact with a victim, where the victim was below the age of 18 at the time of the offense. Offenses that do not involve physical contact, such as exhibitionism, are not subject to the Act's mandatory registration requirements pursuant to clause (iii), but states are free to require registration for persons convicted of such offenses as well if they so choose.

(3) Clause (iv) covers offenses consisting of solicitation of a minor to engage in sexual conduct. This covers any conviction for an offense involving the solicitation of conduct that would be covered by clause (iii) if carried out.

(4) Clause (v) covers offenses consisting of using a minor in a sexual performance. This includes both live performances and using minors in the production of pornography.

(5) Clause (vi) covers offenses consisting of solicitation of a minor to practice prostitution.

(6) Clause (vii) covers offenses consisting of any conduct that by its nature is a sexual offense against a minor. This clause is intended to insure uniform coverage of convictions under statutes defining sex offenses in which the status of the victim as a minor is an element of an offense, such as specially defined child molestation offenses, and other offenses prohibiting sexual activity with underage persons. States can comply with this clause by including convictions under these statutes uniformly in the registration requirement.

(7) Considered in isolation, clause (viii) gives states discretion whether to require registration for attempts to commit offenses described in clauses (i) through (vii). However, any verbal command or attempted persuasion of the victim to engage in sexual conduct would bring the offense within the scope of the solicitation clause (clause (iv)), and make it subject to the Act's mandatory registration requirements. Moreover, this provision must be considered in conjunction with the Act's requirement of registration for persons convicted of a "sexually violent offense," which does not allow the exclusion of attempts if they are otherwise encompassed within the definition of a "sexually violent offense."

Hence, state discretion to exclude attempted sexual offenses against minors from registration requirements pursuant to clause (viii) is limited by other provisions of the Act. The simplest approach for states would be to include attempted sexual assaults on minors (as well as completed offenses) uniformly as predicates for the registration requirement.

At the conclusion of the definition of "criminal offense against a victim who is a minor," the Act states that (for purposes of the definition) conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger. For example, suppose that state law prohibits sexual relations with a person below the age of 16, where the defendant is more than 4 years older than the victim. Suppose further that an 18-year-old is convicted of violating this prohibition by engaging in consensual sexual relations with a 13-year-old, where the conduct would not violate state law but for the victim's age. Under the provision, if a state did not require such an offender to register, the state would still be in compliance with the Act. However, here again, states are free to go beyond the Act's baseline requirements. The exemption of certain offenders based on age from

the Act's mandatory registration requirements does not bar states from including such offenders in their registration systems if they wish. Moreover, the scope of subsection (a)(3)(A)'s exemption is also limited by other provisions of the Act that require registration of persons convicted of "sexually violent offenses" (as defined in (a)(3)(B)), with no provision excluding younger offenders where the criminality of the conduct depends on the victim's age.

Since the Act's registration requirements depend in all circumstances on conviction of certain types of offenses, states are not required to mandate registration for juveniles who are adjudicated delinquent—as opposed to adults convicted of crimes and juveniles convicted as adults—even if the conduct on which the juvenile delinquency adjudication is based would constitute an offense giving rise to a registration requirement if engaged in by an adult. However, states remain free to require registration for juvenile delinquents, and the conviction of a juvenile who is prosecuted as an adult does count as a conviction for purposes of the Act's registration requirements.

Definition of "Sexually Violent Offense"—Subsection (a)(3)(B)

The Act prescribes a ten-year registration requirement for offenders convicted of a "sexually violent offense," as well a for those convicted of a "criminal offense against a victim who is a minor."

Subparagraph (B) of paragraph (3) defines the term "sexually violent offense" to mean any criminal offense that consists of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code, or as described in the State criminal code), or an offense that has as its elements engaging in physical contact with another person with intent to commit such an offense. In light of this definition, there are two ways in which a state could satisfy the requirement of registration for persons convicted of "sexually violent offenses":

First, suppose that a state has offenses in its criminal code that are designated "aggravated sexual abuse" and "sexual abuse," or has a definitional provision that characterizes certain offenses in its criminal code (however denominated) as constituting "aggravated sexual abuse" and "sexual abuse" for registration purposes or other purposes. Such a state could comply simply by requiring registration for all offenders who are convicted of these state offenses, and all offenders convicted of any state crime that has as its elements engaging in physical contact with another person with intent to commit such an offense.

Second, a state could comply by requiring registration for offenders convicted for criminal conduct that would violate 18 U.S.C. 2241 or section 2242—the federal "aggravated sexual abuse" and "sexual abuse" offenses—if subject to federal prosecution. (The second part of the definition in subparagraph (B) of paragraph (3), relating to physical contact with intent to commit aggravated sexual abuse or sexual abuse, does not enlarge the class of covered offenses under the federal law definitions, since sections 2241 and 2242 explicitly encompass attempts as well as completed offenses.)

Specifically, 18 U.S.C. §§ 2241–42 generally proscribe non-consensual "sexual acts" with anyone, "sexual acts" with persons below the age of 12, and attempts to engage in such conduct. "Sexual act" is generally defined (in 18 U.S.C. 2246(2)) to mean an act involving any degree of genital or anal penetration, oral-genital or oral-anal contact, or direct genital touching of a victim below the age of 16 in certain circumstances even without penetration.

States that elect this second option—requiring registration for offenses that consist of aggravated sexual abuse or sexual abuse as defined in federal law provisions (18 U.S.C. 2241–42)—do not necessarily have to refer to these federal statutes in their registration provisions, but could alternatively achieve compliance by requiring registration for the state law offenses that encompass types of conduct proscribed by 18 U.S.C. 2241–42. Moreover, a state does not have to have sex offenses whose scope is congruent with 18 U.S.C. 2241–42 to take the latter approach. If state law does not criminalize some types of conduct that are covered by 18 U.S.C. 2241–42, then a person who engages in the conduct will not be subject to prosecution and conviction under state law, and there will be no basis for a registration requirement. On the other hand, if state sex offenses are defined more broadly than 18 U.S.C. 2241–42, then states are free to require registration for all offenders convicted under these state provisions (notwithstanding their greater breadth), and this would be sufficient to ensure coverage of convictions for criminal conduct that would violate 18 U.S.C. §§ 2241–42 if subject to federal prosecution.

Definition of "Sexually Violent Predator"—Subsection (a)(3)(C)–(E)

Offenders who meet the definition of "sexually violent predator" are subject to more stringent registration requirements than other sex offenders.

(1) Subparagraph (C) defines "sexually violent predator" to mean a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(2) Subparagraph (D) essentially defines "mental abnormality" to mean a condition involving a disposition to commit criminal sexual acts of such a degree that it makes the person a menace to others. There is no definition of "personality disorder" in the Act; hence, the definition of this term is a matter of state discretion. For example, a state may choose to utilize the definition of "personality disorder" that appears in the Diagnostic and Statistical Manual of Mental Disorders: DSM–IV. American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (4th ed. 1994).

(3) Subparagraph (E) defines "predatory" to mean an act directed at a stranger or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

As noted earlier, the Act provides that the determination whether an offender is a "sexually violent predator" is to be made by the sentencing court with the assistance of a board of experts. The Act does not require, or preclude, that all persons convicted of a sexually violent offense undergo a determination as to whether they satisfy the definition of "sexually violent predator." It also does not specify under what conditions such an inquiry must be undertaken. A state that wishes to comply with the Act must adopt some approach to this issue, but the specifics are a matter of state discretion. For example, a state might provide that the decision whether to seek classification of an offender as a "sexually violent predator" is a matter of judgment for prosecutors, or might provide that a determination of this question should be undertaken routinely when a person is convicted of a sexually violent offense and has a prior history of committing such crimes.

Similarly, the Act affords states discretion with regard to the timing of the determination whether an offender is a "sexually violent predator." A sate may, but need not, provide that a determination on this issue be made at the time of sentencing or as a part of the

original sentence. It could, for example, be made instead by the sentencing court when the offender has served a term of imprisonment and is about to be released from custody. In addition, a determination whether an offender is a "sexually violent predator" need not be made by the judge who imposed the original sentence, so long as the determination is made in the same court that imposed the sentence.

As with other features of the Jacob Wetterling Act, the sexually violent predator provisions only define baseline requirements for states that wish to maintain eligibility for full Byrne Formula Grant funding. States are free to impose these more stringent registration requirements on a broader class of offenders, and may use state law categories or definitions for that purpose, without contravening the Jacob Wetterling Act.

If a state chooses to subject all persons convicted of a "sexually violent offense" to the more stringent registration requirements and standards provided by the Act for "sexually violent predators," then a particularized determination that an offender is a "sexually violent predator" would have no practical effect and would be superfluous. Hence, if a state elected this approach, it would not be necessary for the state to have "sexually violent predator" determinations made by the sentencing court, or to constitute boards of experts to advise the courts concerning such determinations, prior to the commencement of registration. In a state that eschewed particularized "front end" determinations of "sexually violent predator" status in this manner, however, it would still be necessary to condition termination of the registration requirement on a determination by sentencing court (assisted by a board of experts) pursuant to section 170101(b)(6)(B) of the Act that the person does not suffer from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.

Specifications concerning State Registration Systems under the Act—Subsection (b)

Paragraph (1) of subsection (b) sets out duties for prison officials and courts in relation to offenders required to register who are released from prison, or who are placed on any form of post-conviction supervised release "parole, supervised release, or probation").

The duties, set out in subparagraph (A) of paragraph (1), include: (i) informing the person of the duty to register and obtaining the information required for registration (i.e., address information), (ii) informing the person that he must give written notice of a new address within 10 days to a designated state law enforcement agency if he changes residence, (iii) informing the person that, if he changes residence to another state, he must inform the registration agency in the state he is leaving, and must also register the new address with a designated state law enforcement agency in the new state within 10 days (if the new state has a registration requirement), (iv) obtaining fingerprints and a photograph if they have not already been obtained, and (v) requiring the person to read and sign a form stating that these requirements have been explained.

Beyond these basic requirements, which apply to all registrants, subparagraph (B) of paragraph (1) of subsection (b) requires that additional information be obtained in relation to a person who is required to register as a "sexually violent predator." The information that is specifically required under subparagraph (B) is the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person. The Act does not require that prison officials or courts conduct an investigation to determine the offender's treatment history. For purposes of documenting the treatment received, prison officials and courts may rely on information that is readily available to them, either from existing records or the offender. In addition, prison officials and courts may comply with the requirement to document an offender's treatment history simply by noting that the offender received treatment for a mental abnormality or personality disorder. If states want to require the inclusion of more detailed information about the offender's treatment history, however, they are free to do so.

States that wish to comply with the Act will need to adopt statutes or administrative provisions to establish the duties specified in subsection (b)(1) and ensure that they are carried out. These informational requirements, like other requirements in the Act, only define minimum standards, and states may require more extensive information from offenders. For example, the Act does not require that information be obtained relating to registering offenders' employment, but states may legitimately wish to know if a convicted child molester is seeking or has obtained employment that involves responsibility for the care for children.

As a second example, although it is not required under the Act, states are strongly encouraged to collect DNA samples from registering offenders to be typed and stored in state DNA databases. States also are urged to participate in the FBI's Combined DNA Index System (CODIS). CODIS is the FBI's program of technical assistance to state and local crime laboratories that allows them to store and match DNA records from convicted offenders and crime scene evidence. The FBI provides CODIS software, in addition to user support and training, free of charge, to state and local crime laboratories for performing forensic DNA analysis. CODIS permits DNA examiners in crime laboratories to exchange forensic DNA data on an intrastate level, and will enable states to exchange DNA records among themselves through the national CODIS system. Thus, collection of DNA samples and participation in CODIS greatly enhances a state's capacity to investigate and solve crimes involving biological evidence, especially serial and stranger rapes.

Paragraph (2) of subsection (b) states that the responsible officer or court shall forward the registration information to a designated state law enforcement agency within three days after receipt of the information. The Act leaves states discretion in designating an agency as the responsible "state law enforcement agency," including the means by which such a designation is made, the timing of such a designation, and the agencies that may be designated. States are not required to select the state police as the designated agency, and may choose any agency with functions relating to the enforcement of law or protection of public safety. For example, states may designate as the pertinent "State law enforcement agency" a correctional agency, a crime statistics bureau or criminal records agency, or a department of public safety. States also are permitted to employ a private contractor to carry out the functions of the designated state law enforcement agency.

After receiving the registration information from the responsible officer or court, the designated state law enforcement agency must immediately enter the information into the appropriate state law enforcement record system and notify a law enforcement agency having jurisdiction where the person expects to reside. The Act leaves states discretion in determining which state record system is appropriate for storing registration information. States that wish to achieve compliance with the Act, however, may need to modify state record systems if

they are not currently set up to receive all the types of information that the Act requires from registrants.

The state law enforcement agency is also required to transmit immediately the conviction data and fingerprints to the Federal Bureau of Investigation. No changes will be required in the national records system because the Act only requires transmission of conviction data and fingerprints, which the FBI already receives. The Act should not be understood as requiring duplicative transmission of conviction data and fingerprints to the FBI at the time of initial registration if the state already has sent this information to the FBI (e.g., at the time of conviction).

Paragraph (3) of subsection (b) relates to verification of the offender's address. In essence, annual verification of address with the designated state law enforcement agency is required for offenders generally, through the return within ten days of an address verification form sent by the agency to the registrant. However, the verification intervals are 90 days (rather than a year) for "sexually violent predators." As noted earlier, these are baseline requirements which do not bar states from requiring verification of address at shorter intervals than those specified in the Act.

Paragraph (4) requires the designated state law enforcement agency to notify other interested law enforcement agencies of a change of address by the registrant. Specifically, when a registrant changes residence to a new address, the designated law enforcement agency must (i) notify a law enforcement agency having jurisdiction where the registrant will reside, and (ii) if the registrant moves to a new state, notify the law enforcement agency with which the offender must register in the new state (if the new state has a registration requirement).

Paragragph (5) further requires an offender who moves out of state to register within ten days with a designated state law enforcement agency in his new state of residence (if the new state has a registration requirement). This partially reiterates the requirements concerning notice of changes of address by the offender that were described above.

Subparagraph (A) of paragraph (6) states that the registration requirement remains in effect for ten years. As noted earlier, states may choose to establish longer registration periods.

Subparagraph (B) of paragraph (6) states that the registration requirement for "sexually violent predators" under the Act terminates upon a determination that the offender no longer suffers from a mental abnormality or personality disorder that would make him likely to engage in a predatory sexually violent offense. This provision does not require review of the offender's status at any particular interval. For example, a state could set a minimum period of 10 years before entertaining a request to review the status of a "sexually violent predator," the same period as the general minimum registration period for sex offenders under the Act.

Moreover, this termination provision only affects the requirement that a person register as a "sexually violent predator" under subparagraph (B) of subsection (a)(1) of the Jacob Wetterling Act. It does not limit states in imposing more extensive registration requirements under their own laws, and does not limit any registration requirement that arises independently under other provisions of the Jacob Wetterling Act from the person's conviction of a "criminal offense against a victim who is a minor" or a "sexually violent offense."

Criminal Penalties for Registration Violations—Subsection (c)

The Act provides that a person required to register under a state program established pursuant to the Act who knowingly fails to register and keep such registration current shall be subject to criminal penalties. Accordingly, states that wish to comply with the Act will need to enact criminal provisions covering this situation as part of, or in conjunction with, the legislation defining their registration systems, if they have not already done so. If the violation by a registrant consists of failing to return an address verification form within 10 days of receipt, the state may allow a defense if the registrant can prove that he did not in fact change his residence address, as provided in subsection (b)(3)(A)(iv).

Release of Registration Information—Subsection (d)

Subsection (d) governs the disclosure of "information collected under a State registration program." Restrictions on the release of information under this subsection do not constrain the release of information that a state would have independently of the operation of the registration system. For example, a state will normally have criminal history information about an offender, and will often have current address information as part of general probation or parole supervision requirements, independently of any special requirements imposed as part of the sex offender registration system. The Act does not limit the release of such information.

Subsection (d) states specifically that the information collected under a state registration program shall be treated as private data, except under specified conditions.

The first condition under which disclosure is authorized—paragraph (1)—is that "such information may be disclosed to law enforcement agencies for law enforcement purposes." This exemption permits use of the information for all law enforcement purposes, including all police, prosecutorial, release supervision, correctional, and judicial uses.

Paragragph (2) in subsection (d) says that registration information may be disclosed to government agencies conducting confidential background checks. "Confidential" should be understood to mean a background check where information is disclosed to an interested party or parties—such as a background check conducted by a government agency that provides information concerning prospective employees to public or private employers—as opposed to release of the information to the general public. Release to the public, and other non-law enforcement, non-background check uses, are governed by paragraph (3).

Paragragph (3) in subsection (d) says that the designated state law enforcement agency, and any local law enforcement agency authorized by the state agency, may release relevant information that is necessary to protect the public concerning a specific person required to register under this section. The Act does not impose any limitations on the standards and procedures that states may adopt for determining when public safety necessitates community notification. For example, states could implement this authority by engaging in particularized determinations that individual offenders are sufficiently dangerous to require community notification concerning the offender's presence. Alternatively, states could make categorical judgments that protection of the public necessitates community notification with respect to all offenders with certain characteristics or in certain offense categories.

Releases of information for public-protection purposes short of general community notification—such as giving notice about an offender's location to the victims of his offenses, or to agencies or organizations in specified categories—are also permitted under paragraph (3).

The language in paragraph (3), like that in paragraphs (1) and (2), is permissive, and does not require states

to release information. Paragraph (3) also does not deprive states of the authority to exercise centralized control over the release of information, or if the state prefers, to generally authorize local agencies to release information as necessary. In addition to permitting proactive community notification and other notification, as discussed above, paragraph (3) and other provisions of the Act do not bar states from making registration information available upon request, if it is determined that such access is necessary for the protection of the public concerning who are required to register.

A proviso at the end of paragraph (3) in subsection (d) states that the identity of the victim of an offense that requires registration under the Act shall not be released. The purpose of this proviso is to protect the privacy of victims, and its restrictions may accordingly be waived at the victim's option. The proviso only applies to paragraph (3), and does not limit the disclosure of victim identity pursuant to paragraphs (1) and (2), relating to law enforcement uses and confidential background checks.

Immunity for Good Faith Conduct—Subsection (e)

Subsection (e) states that law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under the Act.

Compliance—Subsection (f)

States have three years from the date of enactment (i.e., September 13, 1994) to come into compliance with the Act unless the Attorney General grants an additional two years where a state is making good faith efforts at implementation. States that fail to come into compliance within the specified time period will be subject to a mandatory 10% reduction of Byrne Formula Grant funding, and any funds that are not allocated to noncomplying states will be reallocated to states that are in compliance. The reallocated funds will be distributed among complying states in proportion to their populations.

States are encouraged to submit descriptions of their existing or proposed registration systems for sex offenders to the Department of Justice as promptly as possible. States may find it convenient, for example, to submit such descriptions in conjunction with their applications for Byrne Formula Grant funding. These submissions will enable the Department of Justice to review the status of state compliance with the Act, and to suggest any necessary changes to achieve compliance before the funding reduction goes into effect.

To maintain eligibility for full Byrne Formula Grant funding following the end of the three-year implementation period provided by the Act, states will be required to submit information that shows compliance with the Act in at least one program year, or an explanation of why compliance cannot be achieved within that period and a description of good faith efforts that justify an extension of time (but not more than two years) for achieving compliance. States will also be required to submit information in subsequent program years concerning any changes in sex offender registration systems that may affect compliance with the Act.

Dated: March 27, 1996.

Janet Reno,

Attorney General.

[FR Doc. 96–8186 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a proposed consent decree in *United States* versus *American Recovery Company, et al.*, Civil Action No. 95–1590, was lodged on March 22, 1996 with the United States District Court for the Western District of Pennsylvania. The Consent Decree requires defendant Thomas A. Mekis & Sons, Inc. to pay $14,135 to reimburse a portion of the United States' past costs associated with the investigation and clean up of the Municipal & Industrial Disposal Company Superfund Site ("Site"), located in Elizabeth Township, Pennsylvania.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* versus *American Recovery Company, et al.*, DOJ Ref. #90–11–2–949.

The proposed consent decree may be examined at the office of the United States Attorney, 633 Post Office & Courthouse, 7th & Grant Streets, Pittsburgh, PA 15219; the Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $5.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–8194 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Amendment to Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Amendment to Consent Decree in *United States* v. *Citizens Util. Co. of Ill.*, Civil Action No. 92 C 5132, was lodged on March 27, 1996, with the United States District Court for the Northern District of Illinois. The Amendment to Consent Decree modifies the injunctive relief provisions of a Consent Decree entered by the Court on March 23, 1995, to permit Citizens' to implement either the remedial program described in the original decree or an alternative remedial program set out in the Amendment to Consent Decree. The purpose of both the original remedial program and the alternative remedial program is to ensure that Citizens achieves and maintains compliance with its National Pollutant Elimination Discharge System ("NPDES") permit for the West Suburban Treatment Plant No. 1 ("WSB #1"), a wastewater treatment plant owned and operated by citizens in Bolingbrook, Illinois. The original remedial program included the construction of improvements and implementation of operational changes at WSB #1, primarily to improve the plant's secondary treatment capacity. The alternative remedial program, if elected by Citizens, would include connecting WSB #1 to a nearby publicly-owned treatment plant operated by the Town of Bolingbrook and thereafter eliminating all direct discharges from WSB #1, except for limited discharges of excess flow form an equalization lagoon in accordance with terms and conditions of the NPDES permit for the WSB #1 facility.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be

section to be submitted to the President and Congress by January 1, 1996.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1996.

(Pub.L. 103-322, Title XV, § 150008, Sept. 13, 1994, 108 Stat. 2036.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report Nos. 103-324 and 103-489, and House Conference Report No. 103-711, see 1994 U.S. Code Cong. and Adm. News, p. 1801.

LIBRARY REFERENCES

American Digest System

Appropriation and disbursement of federal funds, see United States ⇨82(1) et seq., 85.

Powers and duties of federal officers, agents, and employees generally, see United States ⇨40, 41.

Encyclopedias

Appropriation and disbursement of federal funds, see C.J.S. United States § 122 et seq.

Powers and duties of federal officers, agents, and employees generally, see C.J.S. United States § 38 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

SUBCHAPTER VI—CRIMES AGAINST CHILDREN

§ 14071. Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program

(a) In general

(1) State guidelines

The Attorney General shall establish guidelines for State programs that require—

(A) a person who is convicted of a criminal offense against a victim who is a minor or who is convicted of a sexually violent offense to register a current address with a designated State law enforcement agency for the time period specified in subparagraph (A) of subsection (b)(6) of this section; and

(B) a person who is a sexually violent predator to register a current address with a designated State law enforcement agency unless such requirement is terminated under subparagraph (B) of subsection (b)(6) of this section.

(2) Court determination

A determination that a person is a sexually violent predator and a determination that a person is no longer a sexually violent predator shall be made by the sentencing court after receiving a report by a State board composed of experts in the field of the behavior and treatment of sexual offenders.

(3) Definitions

For purposes of this section:

(A) The term "criminal offense against a victim who is a minor" means any criminal offense that consists of—

(i) kidnapping of a minor, except by a parent;

(ii) false imprisonment of a minor, except by a parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of a minor to engage in sexual conduct;

(v) use of a minor in a sexual performance;

(vi) solicitation of a minor to practice prostitution;

(vii) any conduct that by its nature is a sexual offense against a minor; or

(viii) an attempt to commit an offense described in any of clauses (i) through (vii), if the State—

(I) makes such an attempt a criminal offense; and

(II) chooses to include such an offense in those which are criminal offenses against a victim who is a minor for the purposes of this section.

For purposes of this subparagraph conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger.

(B) The term "sexually violent offense" means any criminal offense that consists of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of Title 18 or as described in the State criminal code) or an offense that has as its elements engaging in physical contact with another person with intent to commit aggravated sexual abuse or sexual abuse (as described in such sections of Title 18 or as described in the State criminal code).

(C) The term "sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disor-

der that makes the person likely to engage in predatory sexually violent offenses.

(D) The term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(E) The term "predatory" means an act directed at a stranger, or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(b) Registration requirement upon release, parole, supervised release, or probation

An approved State registration program established under this section shall contain the following elements:

(1) Duty of State prison official or court

(A) If a person who is required to register under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, or in the case of probation, the court, shall—

(i) inform the person of the duty to register and obtain the information required for such registration;

(ii) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(iii) inform the person that if the person changes residence to another State, the person shall register the new address with the law enforcement agency with whom the person last registered, and the person is also required to register with a designated law enforcement agency in the new State not later than 10 days after establishing residence in the new State, if the new State has a registration requirement;

(iv) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(v) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) In addition to the requirements of subparagraph (A), for a person required to register under subparagraph (B) of subsection

(a)(1) of this section, the State prison officer or the court, as the case may be, shall obtain the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person.

(2) Transfer of information to State and the FBI

The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation.

(3) Verification

(A) For a person required to register under subparagraph (A) of subsection (a)(1) of this section, on each anniversary of the person's initial registration date during the period in which the person is required to register under this section the following applies:

(i) The designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person.

(ii) The person shall mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form.

(iii) The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency.

(iv) If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed the residence address.

(B) The provisions of subparagraph (A) shall be applied to a person required to register under subparagraph (B) of subsection (a)(1) of this section, except that such person must verify the registration every 90 days after the date of the initial release or commencement of parole.

(4) Notification of local law enforcement agencies of changes in address

A change of address by a person required to register under this section reported to the designated State law enforcement agency shall be immediately reported to the appropriate law enforcement agency having jurisdiction where the person is residing. The designated law enforcement agency shall, if the person changes residence to another State, notify the law enforcement agency with which the person must register in the new State, if the new State has a registration requirement.

(5) Registration for change of address to another State

A person who has been convicted of an offense which requires registration under this section shall register the new address with a designated law enforcement agency in another State to which the person moves not later than 10 days after such person establishes residence in the new State, if the new State has a registration requirement.

(6) Length of registration

(A) A person required to register under subparagraph (A) of subsection (a)(1) of this section shall continue to comply with this section until 10 years have elapsed since the person was released from prison, placed on parole, supervised release, or probation.

(B) The requirement of a person to register under subparagraph (B) of subsection (a)(1) of this section shall terminate upon a determination, made in accordance with paragraph (2) of subsection (a) of this section, that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.

(c) Penalty

A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(d) Release of information

The information collected under a State registration program shall be treated as private data except that—

(1) such information may be disclosed to law enforcement agencies for law enforcement purposes;

(2) such information may be disclosed to government agencies conducting confidential background checks; and

(3) the designated State law enforcement agency and any local law enforcement agency authorized by the State agency may release relevant information that is necessary to protect the public concerning a specific person required to register under this section, except that the identity of a victim of an offense that requires registration under this section shall not be released.

(e) Immunity for good faith conduct

Law enforcement agencies, employees of law enforcement agencies, and State officials shall be immune from liability for good faith conduct under this section.

(f) Compliance

(1) Compliance date

Each State shall have not more than 3 years from September 13, 1994, in which to implement this section, except that the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement this section.

(2) Ineligibility for funds

(A) A State that fails to implement the program as described in this section shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 3756 of this title.

(B) Reallocation of funds

Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.

(Pub.L. 103-322, Title XVII, § 170101, Sept. 13, 1994, 108 Stat. 2038.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report Nos. 103-324 and 103-489, and House Conference Report No. 103-711, see 1994 U.S. Code Cong. and Adm. News, p. 1801.

LIBRARY REFERENCES

American Digest System

Criminal prosecutions under laws for protection of children, see Infants ⇐20.
Discharge of prisoner by prison authorities in general, see Prisons ⇐14.
Parole conditions; status, rights, and supervision of parolee, see Pardon and Parole ⇐64 et seq., 66, 68.
Prevention and investigation of crime generally; criminal records, see Criminal Law ⇐1222 et seq., 1226(1 to 5).

Encyclopedias

Criminal prosecutions under laws for protection of children, see C.J.S. Infants §§ 92 et seq., 100 et seq.

Discharge of prisoner by prison authorities in general, see C.J.S. Prisons and Rights of Prisoners §§ 154, 155.
Parole conditions; status, rights, and supervision of parolee, see C.J.S. Pardon and Parole §§ 55 et seq., 58.
Prevention and investigation of crime generally; criminal records, see C.J.S. Criminal Law § 1724 et seq.

WESTLAW ELECTRONIC RESEARCH

Criminal law cases: 110k[add key number].
Infants cases: 211k[add key number].
Pardon and parole cases: 284k[add key number].
Prisons cases: 310k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

SUBCHAPTER VII—RURAL CRIME

§ 14081. Rural Crime and Drug Enforcement Task Forces

(a) Establishment

The Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, may establish a Rural Crime and Drug Enforcement Task Force in judicial districts that encompass significant rural lands. Assets seized as a result of investigations initiated by a Rural Crime and Drug Enforcement Task Force and forfeited under Federal law shall be used, consistent with the guidelines on equitable sharing established by the Attorney General and of the Secretary of the Treasury, primarily to enhance the operations of the task force and its participating State and local law enforcement agencies.

(b) Task Force membership

The Task Forces established under subsection (a) of this section shall be carried out under policies and procedures established by the Attorney General. The Attorney General may deputize State and local law enforcement officers and may cross-designate up to 100 Federal law enforcement officers, when necessary to undertake investigations pursuant to section 873(a) of Title 21 or offenses punishable by a term of imprisonment of 10 years or more under Title 18. The task forces—

(1) shall include representatives from—

(A) State and local law enforcement agencies;

(B) the office of the United States Attorney for the judicial district; and

(C) the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, and the United States Marshals Service; and

SB

134

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/12/97

FURTHER:

Date of 5-Day Notice: 4/3/97
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/11/97

HESS Committee considered SENATE BILL NO. 134

"An Act relating to home schooling for elementary and secondary students."

and recommends:

[ ] be **replaced** with ____ CS SB134 (HES)

[ ] adopt **previous** ____ CS ____ ( )

[ ] attached amendment(s)

[ ] adopt Letter of Intent by ____ Committee

[ ] further referral to the ____ Committee

Senate Bill:
[ ] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical title
[ ] new: SCR#____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
Amy Ward	✓				
[illegible]					
Drew D. Lyman	✓				
Lydia Green	✓				
CHAIR:		*CHAIR:* Gary Wilken	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Education	4/10/97	✓	
(This FN applies			
to SB134 + CSSB134(HES))			

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

[ ] **APPROPRIATION -- no fiscal note**

***Include fiscal notes accompanying Governor's bill**

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 134

Revision Date:
Dept. Affected: EDUCATION
Title: "An Act relating to home schooling for elementary and secondary students."
BRU: K-12
Component: Foundation
Sponsor: Senator Leman
Requester: Senate HESS
COMPONENT SERIAL NO. 141

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGES IN REVENUES						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY97) cost: $ $0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
AS 14.30.010(b) currently contains eleven exemptions from compulsory attendance. SB 134 will add a twelfth exemption to the statute. The Department of Education does not intend to regulate home schools if this legislation becomes law. The department cannot project changes to the foundation program due to the passage of this legislation.

Prepared by: Eddy Jeans
Phone: 465-8679
Division: Education Support Services/School Finance Manager
Date: 4/10/97

Approved by Commissioner: Shirley J. Holloway, Ph.D
Date: 4/10/97
Agency: Department of Education

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4/10/97

CS FOR SENATE BILL NO. 134( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS LEMAN, Miller, Phillips

A BILL

FOR AN ACT ENTITLED

"An Act relating to home schooling for elementary and secondary students."

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

*** Section 1.** AS 14.30.010(b) is amended by adding a new paragraph to read:

(12) is being educated in the child's home by a parent or legal guardian.

New Text Underlined [DELETED TEXT BRACKETED]

SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095

SB 134

Home Schooling Education Program

Sponsor Statement

Senate Bill 134 adds a paragraph to the compulsory attendance policy (AS 14.30.010(b)), providing an exemption for children schooled at home by a parent or guardian. This bill requires students be instructed in: reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar.

Currently there are no **specific** provisions in Alaska Statutes pertaining to home schooled students. There are several ways current home schoolers comply with the law. Home schoolers in technical compliance are now required to follow provisions for Private and Exempt Schools (AS 14.45.100-130), or they may participate in a government-sponsored course (AS 14.45.010 (b)(11)). Neither provision was designed with home schoolers in mind. SB 134 will correct this.

Families in which children are home schooled are numerous. Their number is growing in our state. It is time we acknowledge them by law. SB 134 recognizes the important contribution home schooling parents and students make to our state.

APHEA
Alaska Private & Home Educators Assoc.
P.O.Box 141764 • Anchorage, AK 99514

April 9, 1997

The Honorable Loren Leman
Alaska State Senate
State Capitol
Juneau, AK 99801

Dear Senator Leman:

Thank you for introducing Senate Bill 134, relating to home schooling in Alaska. Coming on the heels of last year's Senate Concurrent Resolution 25, which passed both houses unanimously, SB 134 is the next logical step in Alaska asserting the value and importance of home schooling as a part of our overall education system.

As you know, the Alaska Private & Home Educators Association (APHEA) has, for more than a decade, worked to keep home schooling families in Alaska free from unnecessary interference and to help home school parents do their job well. APHEA sponsors seminars and coordinates the efforts of a network of local home school support groups throughout the state. It also works with the Department of Education and with local officials to help clarify the status of home school families, when necessary.

The APHEA board of directors supports SB 134 because it will clearly establish the status of home schooling as a legitimate part of Alaska's educational infrastructure, and not merely as a subset of private day schools. The several provisions of AS 14.30.010 treat home schoolers as either private schools or special cases. For example, AS 14.30.010 (b)(11) allows a parent to demonstrate to the local school board that a child is "equally well-served" by a home schooling program, and thereby excused from compulsory attendance. Such provisions are cumbersome and difficult, and are contrary to the assumption established by the Supreme Court in *Pierce v. Society of Sisters* that parents have the right to direct the education of their children.

Alaska is a state that has long treasured the independent spirit, self sufficiency and cultural diversity. Home school families exemplify those qualities. They are contributing to society well-rounded, well-educated children at no cost to the state. The academic track record of home school children is enviable. Many home-taught Alaska children have gone on to excel at some of the nation's best colleges, and many are in the Alaska workforce. The Alaska legislature should join other states, like Michigan and Arizona, in codifying its support for the home school community.

Sincerely,

Jack E. Phelps
Vice President

Darren A. Jones
Home School Legal Defense Association
P.O. Box 159
Paeonian Springs, VA 20129

Sen. Loren Leman
Alaska State Capitol
Room 115
Juneau, AK 99801

April 2, 1997

Dear Senator Leman:

I apologize for the delay in getting back to you. I hope that the information in this letter helps.

We feel that having a specific home school statute which is friendly to families can help home schoolers in several ways. First, in some states such as Alaska, home schooling is not specifically mentioned in the law. Instead, parents are given the options of a private tutor (who must be a certified teacher) or a religious or private school. Most of our members qualify under one or more provisions of the law; however, there is some uncertainty at times as to whether they are actually in compliance with the law.

Second, a home school statute clarifies the intent of the legislature to recognize the constitutional right of parents to educate their children. This right has been recognized by the Supreme Court of the United States on several occasions. It displays the confidence of the legislature that parents are assumed to make the best educational choice for their children.

Third, a home school statute relaxing the restrictions which have been placed upon parents would fit the national trend of deregulation in the area of home schooling. Many states, including Arizona, Michigan, and Arkansas, have recently passed laws reducing the red tape with which home schoolers must comply.

Fourth, a home school statute that does not institute burdensome requirements on parents accords well with Alaska's history as a freedom-loving state. Government is restricted to its proper role, and parental freedom is enhanced.

I trust that this letter is sufficiently responsive to your needs. If you have any further questions, please feel free to call.

Very truly yours,

Darren A. Jones

Darren A. Jones

Article 1. Compulsory Education.

Collateral references. — 68 Am. Jur. 2d Schools, § 216 et seq.

78A C.J.S. Schools and School Districts, §§ 734-739.

Teacher's civil liability for administering corporal punishment. 43 ALR2d 469.

Regulations as to fraternities and similar associations connected with educational institution. 10 ALR3d 389.

Student organization registration statement, filed with public school or state university or college, as open to inspection by public. 37 ALR3d 1311.

What constitutes a private, parochial, or denominational school within statute making attendance at such school a compliance with compulsory school attendance law. 65 ALR3d 1222.

Student's right to compel school officials to issue degree, diploma, or the like. 11 ALR4th 1182.

Sec. 14.30.010. When attendance compulsory. (a) Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent, guardian or other person having the responsibility for or control of a child between seven and 16 years of age shall maintain the child in attendance at a public school in the district in which the child resides during the entire school term, except as provided in (b) of this section.

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; or

(C) attendance at an educational program operated in compliance with AS 14.45.100 — 14.45.200 by a religious or other private school;

(2) attends a school operated by the federal government;

(3) has a physical or mental condition that a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or denied admittance according to AS 14.30.045;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this subsection does not apply if the child resides within two miles of a federal or private school that the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in

(A) the state boarding school established under AS 14.16; or

(B) a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, the request for excuse is made in writing by the child's parents or guardian, and approved by the principal or administrator of the school that the child attends. (§ 37-7-1 ACLA 1949; am § 36 ch 98 SLA 1966; am § 5 ch 71 SLA 1972; am § 5 ch 190 SLA 1975; am § 1 ch 30 SLA 1976; am § 1 ch 10 SLA 1977; am § 4 ch 126 SLA 1978; am § 3 ch 11 SLA 1984; am § 1 ch 78 SLA 1987; am § 4 ch 73 SLA 1988)

NOTES TO DECISIONS

Quoted in L.A.M. v. State, 547 P.2d 827 (Alaska 1976).

Stated in In re S.D., 549 P.2d 1190 (Alaska 1976).

Cited in Matthews v. Quinton, 362 P.2d 932 (Alaska 1961); D.R.C. v. State, 646 P.2d 252 (Alaska Ct. App. 1982).

Collateral references. — Religious beliefs of parents as defense to prosecution for failure to comply with compulsory attendance law. 3 ALR2d 1401.

Applicability of compulsory attendance law covering children of a specified age, with respect to a child who has passed the anniversary date of such age. 73 ALR2d 874.

Power of public school authorities to set minimum or maximum age requirements for pupils in absence of specific statutory authority. 78 ALR2d 1021.

Residence for purpose of admission to public school. 83 ALR2d 497; 66 ALR3d 641.

What constitutes a private, parochial, or denominational school within statute making attendance at such school a compliance with compulsory school attendance law. 65 ALR3d 1222.

Sec. 14.30.020. Violations. A person who knowingly fails to comply with AS 14.30.010 is guilty of a violation. Each five days of unlawful absence under AS 14.30.010 is a separate violation. (§ 37-7-2 ACLA 1949; am § 37 ch 98 SLA 1966; am § 2 ch 78 SLA 1987)

Cross references. — For fines for violations, see AS 12.55.035.

Sec. 14.30.030. Prevention and reduction of truancy. The governing body of a school district, including a regional educational attendance area, shall establish procedures to prevent and reduce truancy. (§ 37-7-3 ACLA 1949; am § 1 ch 32 SLA 1949; am § 38 ch 98 SLA 1966; am § 55 ch 6 SLA 1984; am § 23 ch 85 SLA 1988; am § 3 ch 59 SLA 1996)

Effect of amendments. — The 1996 amendment, effective September 10, 1996, rewrote this section.

Sec. 14.30.040. Extension of provisions to United States public schools for aborigines. [Repealed, § 59 ch 99 SLA 1966.]

Sec. 14.30.045. Grounds for suspension or denial of admission. A school age child may be suspended from or denied admission to the public school that the child is otherwise entitled to attend only for the following causes:

(1) continued wilful disobedience or open and persistent defiance of reasonable school authority;

(2) behavior that is inimicable to the welfare, safety, or morals of other pupils or a person employed or volunteering at the school;

HOME EDUCATION
Across the United States

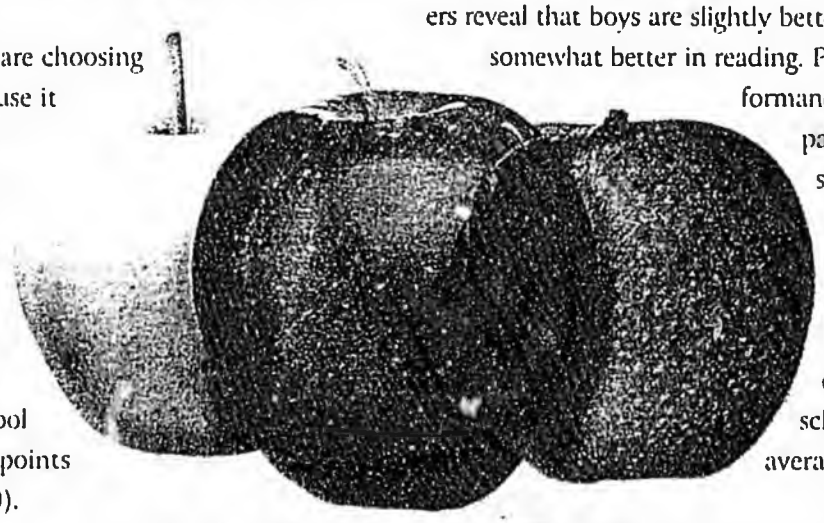
"There are two—and only two—keys to educational success: hard work and parental involvement," says Michael Farris, president of the Home School Legal Defense Association.

Home schooling is a flourishing phenomenon within the United States. In the 1980s, the general public had never heard of home schooling, but today almost everyone has.

Still, society at large knows little about home schoolers: their backgrounds, their activities, or their achievements. A recent study conducted by Dr. Brian D. Ray, president of the National Home Education Research Institute (NHERI), provides some answers. This study, *Strengths of Their Own: Home Schoolers Across America*, collected data on 5,402 home school students from 1,657 families for the 1994–95 and 1995-96 academic years. It is the largest and most comprehensive study on home schooling ever undertaken.

Just how prevalent is home education today? The data indicate there are approximately 1.23 million American children being taught at home. This exceeds the total public school enrollment for the state of New Jersey which has the 10th largest student population in the nation. Put another way, there are more home school students nationwide than there are public school students in Wyoming, Vermont, Delaware, North Dakota, Alaska, South Dakota, Rhode Island, Montana, and Hawaii combined. Home schooling has become a substantial portion of this nation's total K–12 student body (Figure 1.0).

More and more parents are choosing to home school. Why? Because it works. Compared to public school students, home educated students excel. Their scores on nationally-normed standardized achievement exams demonstrate this fact. On average, home schoolers out-perform their public school peers by 30 to 37 percentile points across all subjects (Figure 2.0).



And the longer a child is taught at home, the better he does on these tests (Figure 3.0). Students home schooled from early grades tend to score higher in subsequent years in some subject areas. (See *Ray*, 1997.)

Critics often claim only parents with teaching credentials can effectively home school. The data from this study suggest otherwise. Home school student test scores segmented by whether their parents have ever held a teaching certificate reveal a differential of three percentile points (88 v. 85—Figure 4.0).

The study also shows that home schooling parents' educational level has no practical significant effect on their children's academic performance (Figure 5.1). For public school students, however, a parents' educational level does affect their child's performance (Figures 5.2 & 5.3). In eighth grade math, public school students whose parents are college graduates score at the 63rd percentile, whereas students whose parents have less than a high school diploma score at the 28th percentile.

Does race make a difference in academic performance? Math and reading scores for minority home schoolers show no significant difference when compared to whites. However, a similar comparison for public school students demonstrates a substantial disparity (Figures 6.1 & 6.2).

When segmented by gender, test scores for home schoolers reveal that boys are slightly better in math, and girls are somewhat better in reading. Public school student performance in math follows a similar pattern, but boys' reading scores are markedly behind girls, a 15 percentile difference (Figure 7.0).

A cost-benefit analysis reveals that an average of $546 spent per home school student yields an average 85th percentile ranking

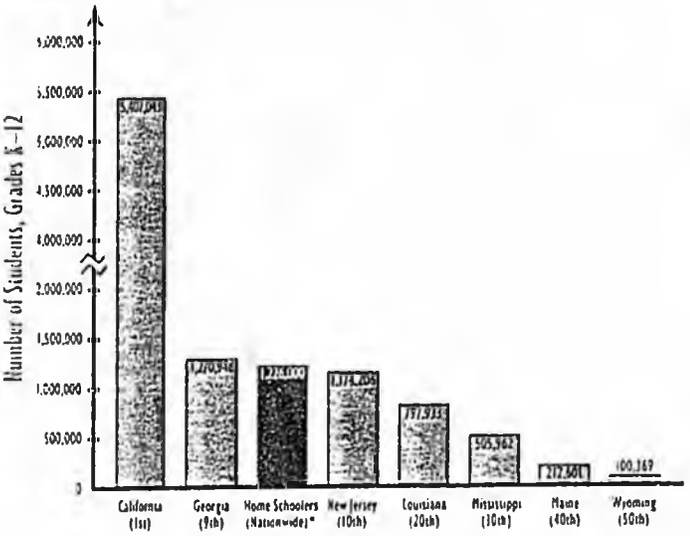
Continued on page 6

an executive summary provided by

HOME SCHOOL LEGAL DEFENSE ASSOCIATION

How Many Home Schoolers Are There?

Figure 1.0 – Home School Students Nationwide Compared to Selected State Public School Populations

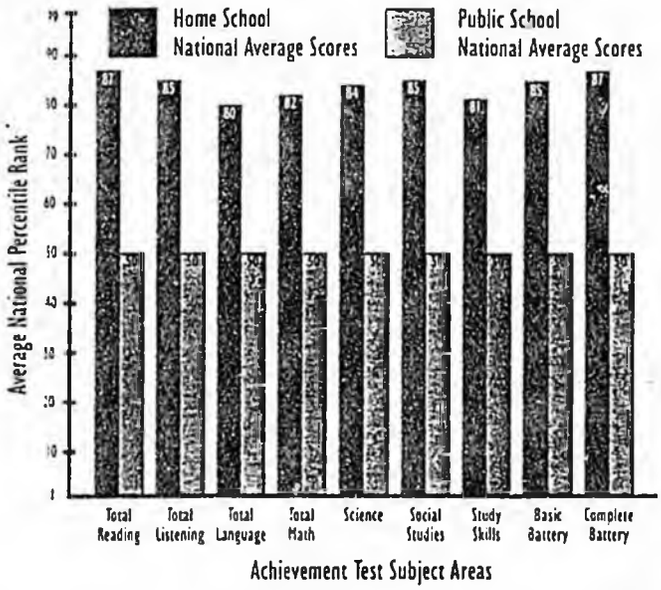


Footnote: *This study calculated that there were 1.23 million home schoolers in the U.S. during the fall of 1996. The estimated margin of error for this calculation is +/– 10%, yielding a range of 1,103,000 to 1,348,000. This is similar to the total public school enrollment of Georgia or New Jersey (ranked 9th and 10th largest respectively among state public school populations nationwide).

Public school state enrollment figures are for 1994 and the most recent available, based on table from the U.S. Department of Education, Office of Educational Research & Improvement, National Center for Education Statistics (1996, November). *Digest of Education Statistics (1996)*. Washington, DC: U.S. Department of Education.

How Do Home School Students Score?

Figure 2.0

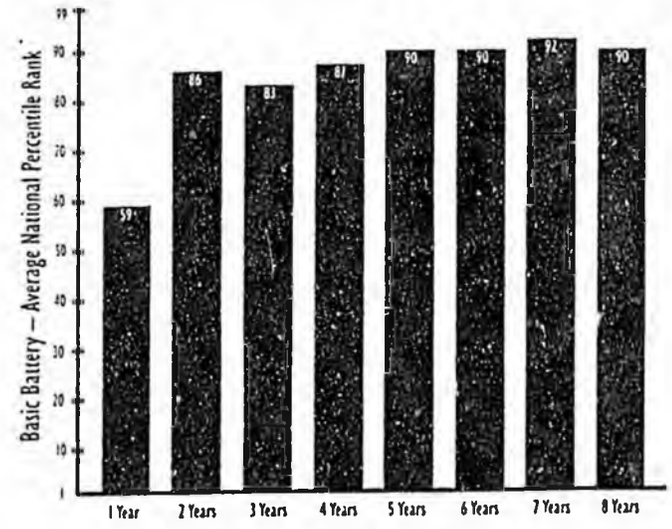


Footnote: Data collected for standardized academic achievement tests for the 1994-95 academic year.

* For more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale, see the complete study by Brian D. Ray *Strengths of Their Own–Home Schoolers Across America: Academic Achievement, Family Characteristics, and Longitudinal Traits*. (1997). Paeonian Springs, VA: Home School Legal Defense Association.

How Do Long-Term Home Schoolers Compare to Those Who Switch to Home Education Midstream?

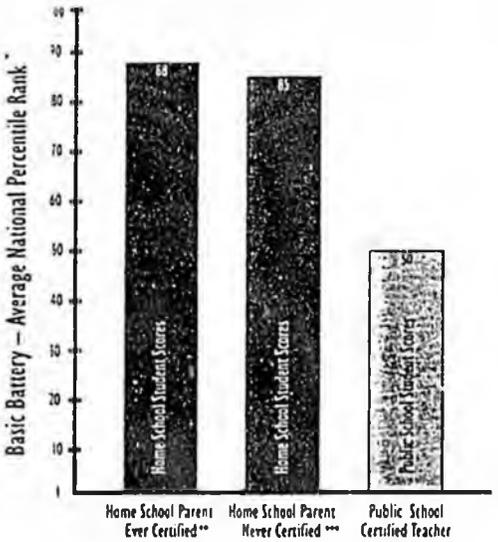
Figure 3.0 – Achievement for Eighth Grade Home Schoolers Segmented by Years Taught at Home



Footnote: * See *Ray* (1997) for more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale.

Is Teacher Certification Necessary for High Achievement?

Figure 4.0



Footnote: * See *Ray* (1997) for more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale.

** Either parent ever certified.

*** Neither parent ever certified.

Does Parent Education Level Predict Student Achievement?

For Home Schoolers: NO!

For Public Schoolers: YES!

Figure 5.1 – Home School Achievement – Basic Battery Test

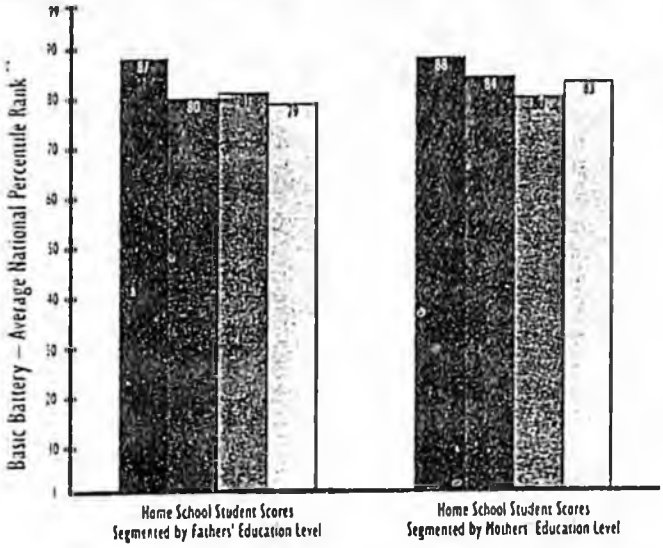


Figure 5.2 – Public School Achievement – Writing Test*

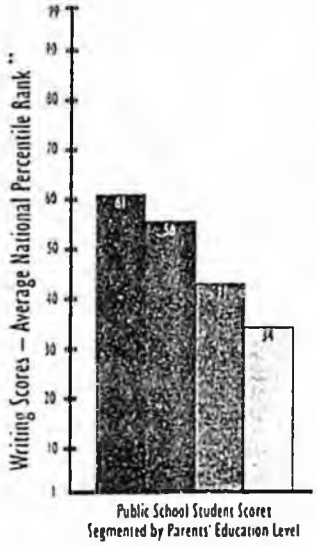
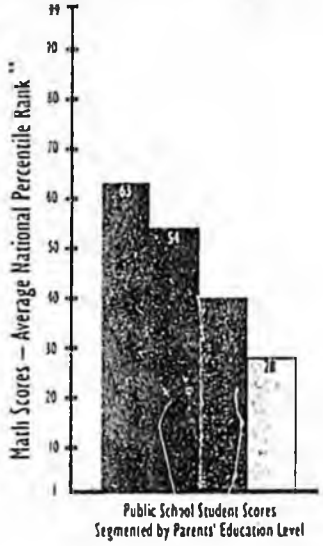


Figure 5.3 – Public School Achievement – Math Test*



Key for Figures 5.1–5.3: Parents' Highest Education Level Attained

Graduated College | Some Education after High School | Graduated High School | Less than High School Education

Footnote: Public school achievement figures are for eighth grade based on tables from the U.S. Department of Education, Office of Educational Research & Improvement, National Center for Education Statistics (1996, November). *National Assessment of Educational Progress (NAEP) trends in academic progress* [trends report and appendices]. Washington, DC: U.S. Department of Education.

Home school achievement figures are for grades K–12.

* Basic battery achievement test scores not available for public school students.

** See *Ray* (1997) for more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale.

How Do Minorities Fare in Home Education?

Figure 6.1 – Race Relationship to Reading Test Scores

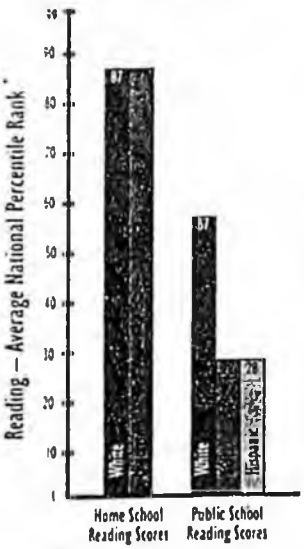
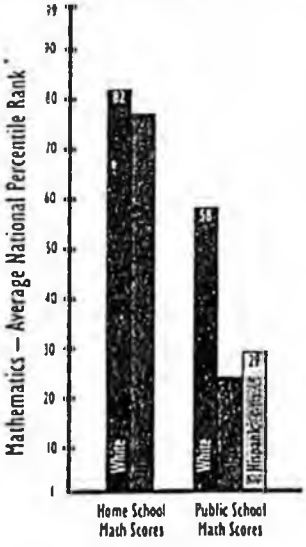


Figure 6.2 – Race Relationship to Mathematics Test Scores

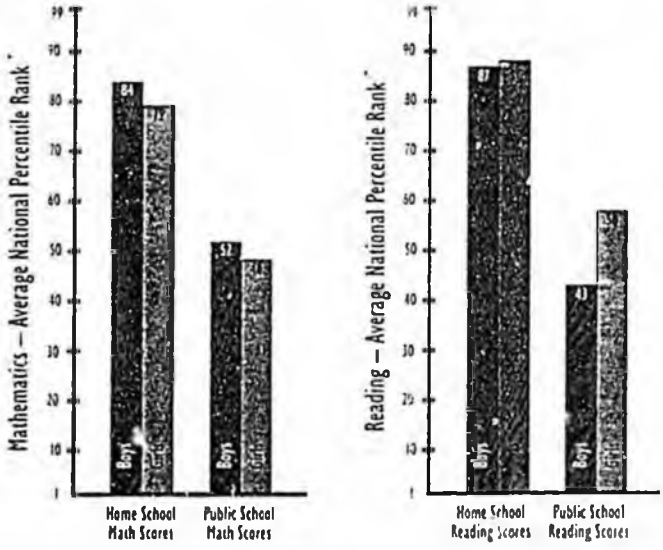


Footnote: Public school achievement figures are for eighth grade based on tables from the U.S. Department of Education, Office of Educational Research & Improvement, National Center for Education Statistics (1996, November). *National Assessment of Educational Progress (NAEP) trends in academic progress* [trends report and appendices]. Washington, DC: U.S. Department of Education.

* See *Ray* (1997) for more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale.

What About the Gender Gap in Academics?

Figure 7.0



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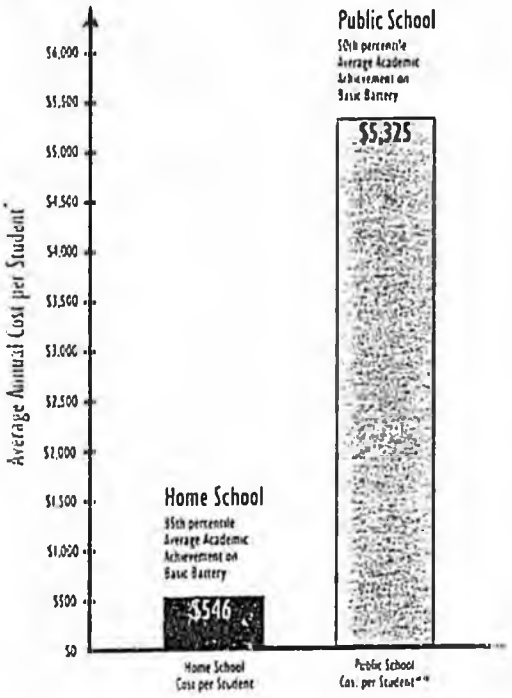
* See *Ray* (1997) for more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale.

Does Spending Correlate with Achievement?

Figure 8.0

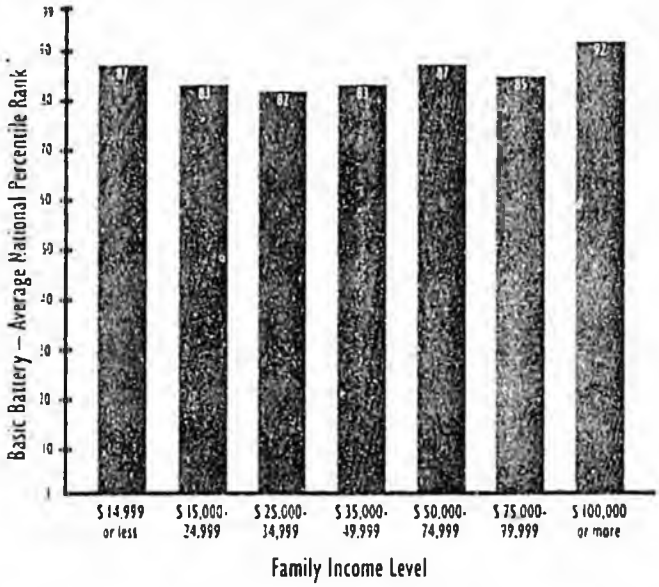


Footnote: * All cost-per-student amounts in this figure exclude capital costs.

** United States Department of Education, National Center for Education Statistics (1996). *Statistics in brief, June 1996: Revenues and expenditures for public elementary and secondary education: School year 1993–1994 [From: Common core of data: National public education financial survey]* Washington, DC: U.S. Department of Education.

Is Family Income a Predictor of Academic Achievement for Home Schoolers?

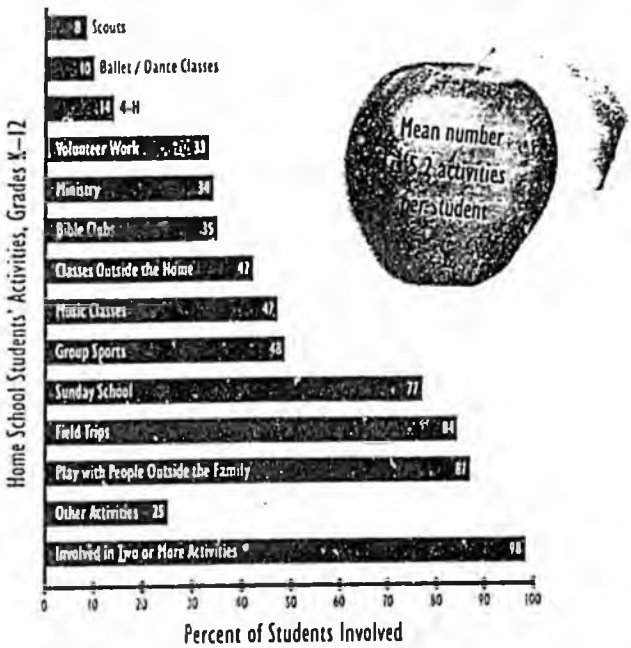
Figure 9.0 – No Impact on Achievement



Footnote: * See *Ray* (1997) for more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale.

What About Socialization?

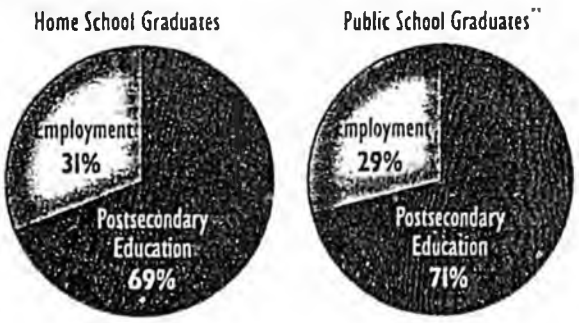
Figure 10.0 – Home Schoolers' Activities & Community Involvement



Footnote: * Participation in two or more of the 12 activities does not include "other activities." See Table 8 of *Ray* (1997).

What Happens After Graduation?

Figure 11.0*



Footnote: *Percentages do not include military, unemployed, missions, ministry, volunteer work, etc., since these categories were not available for both groups.

**Based on table from National Educational Longitudinal Survey (NELS) *1988–1994 Descriptive Summary Report.*

Is Government Regulation Necessary for High Achievement?

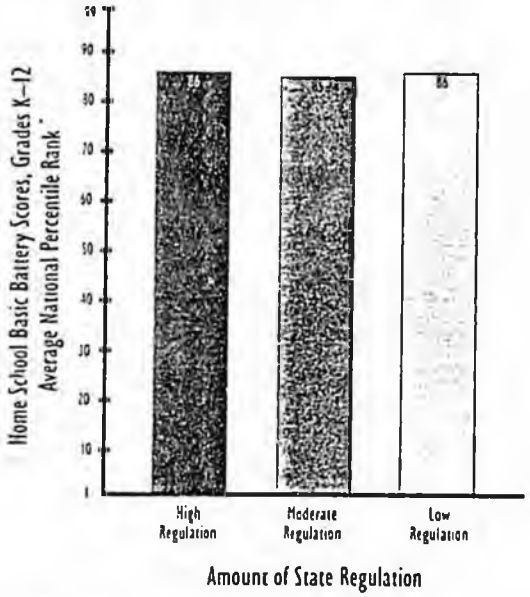
Key for Figures 12.1 & 12.2

Low Regulation
No state requirement for parents to initiate any contact with the state.

Moderate Regulation
State requires parents to send notification, test scores and/or professional evaluation of student progress.

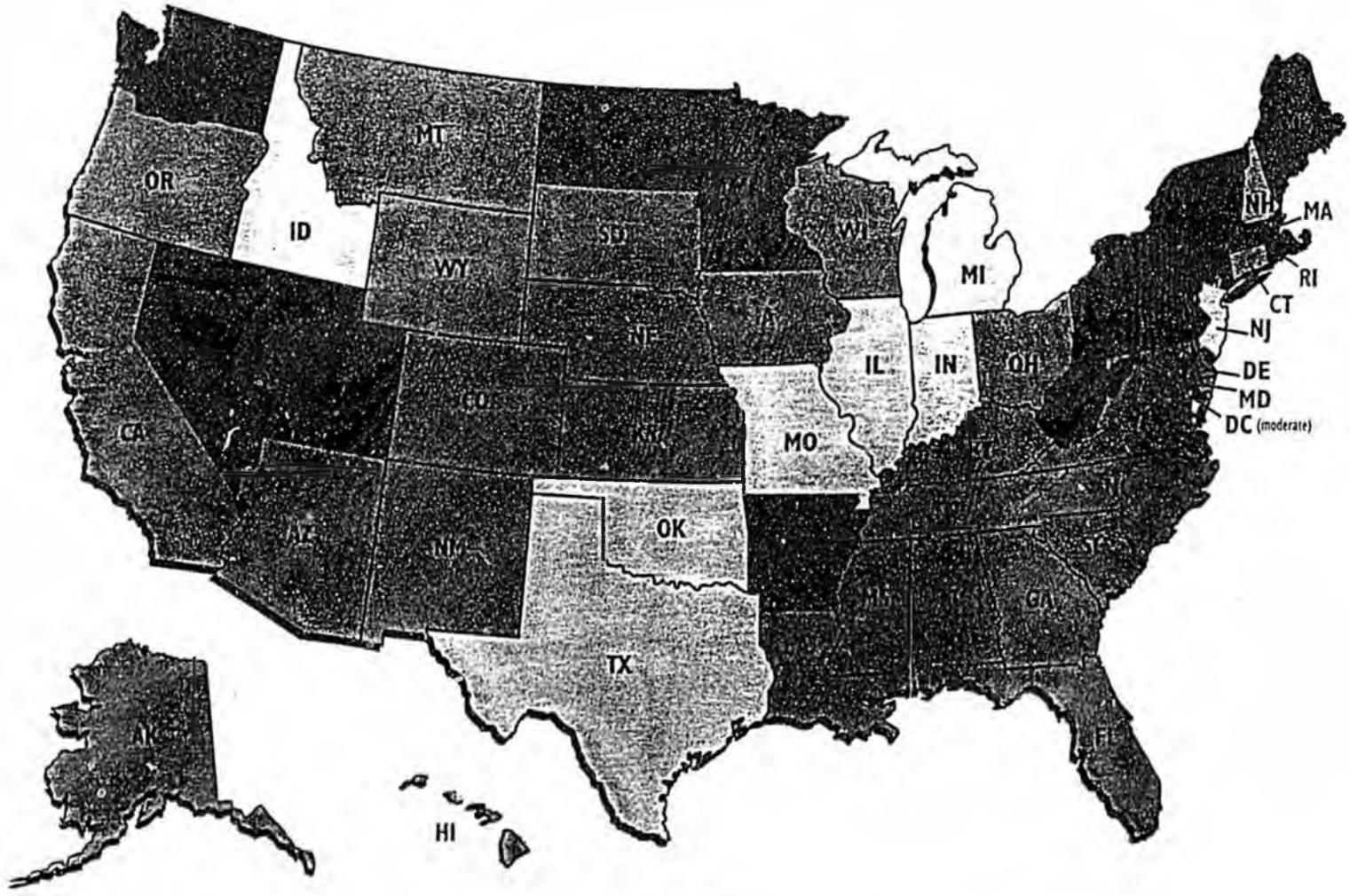
High Regulation
State requires parents to send notification or achievement test scores and/or professional evaluation, plus other requirements (e.g. curriculum approval by the state, teacher qualifications of parents, or home visits by state officials).

Figure 12.1 – State Regulation:
No Impact on Home School Achievement



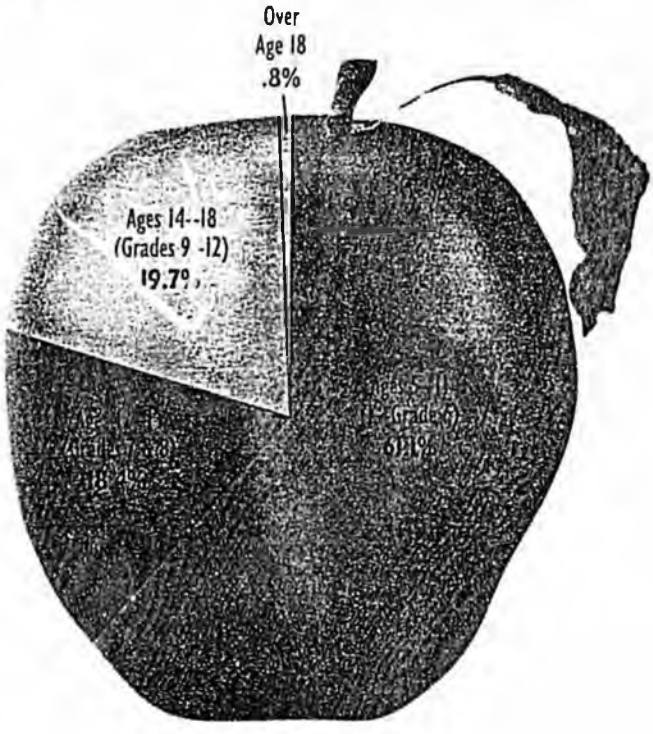
Footnote: * See *Ray* (1997) for more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale.

Figure 12.2 – Breakdown of States by Regulatory Policy



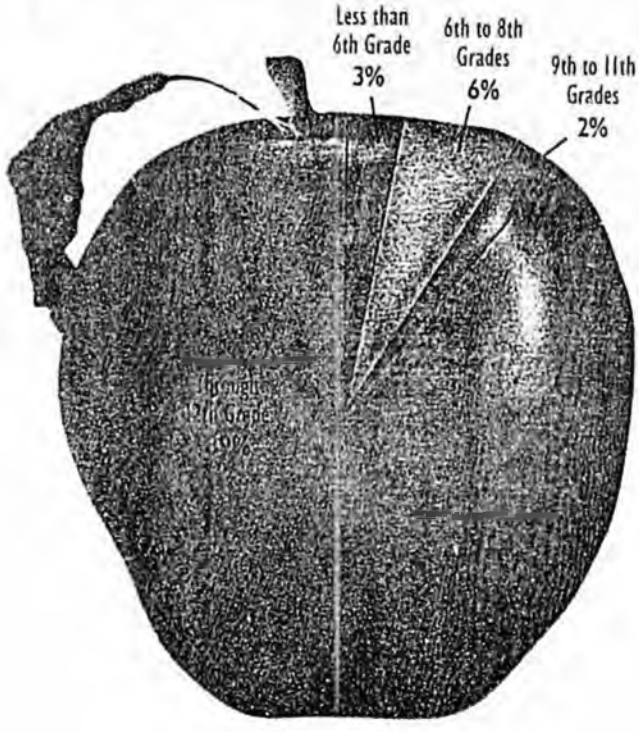
Ages of Home School Students in Study

Figure 13.0



How Long Are They Going To Home School?

Figure 14.0 – Parents' Intent to Continue Home Education



Continued from page 1

on test scores. Compare this to the average expenditure of $5,325 per public school student to achieve only an average 50th percentile ranking. And these costs do not include capital expenditures (Figure 8.0).

Segmenting student test scores by family income shows that financial status is not a determinant of academic performance for home schoolers (Figure 9.0).

Home schoolers are often accused of depriving their children of socialization. To the contrary, data on home school students activities and community involvement reveal that these children are engaged in an average of 5.2 activities outside the home with 98% involved in two or more (Figure 10.0).

Once they graduate from high school, home schoolers closely parallel their public school counterparts, whether they pursue more formal education or enter the job market (Figure 11.0)..

The degree of governmental regulation from state to state has no significant effect on the academic performance of home schoolers (Figure 12.1).

How enthusiastic are home school parents about their success? The vast majority (89%) intend to continue teaching their children at home all the way through high school (Figure 14.0).

This study demonstrates that home schooling works. It shows that direct parental involvement and hard work are the keys to educational success. Regardless of family income, parent education level, teacher certification, or the degree of government regulation, the scores of home educated students significantly exceed those of public school students. The results speak for themselves.

CONTACT INFORMATION:

Strengths of Their Own—Home Schoolers Across America: Academic Achievement, Family Characteristics, and Longitudinal Traits, the comprehensive report on the study is available from NHERI for $19.95 plus $2 shipping.

National Home Education Research Institute
P.O. Box 13939
Salem, OR 97309
(503) 364-1490
e-mail: mail@nheri.org

Home School Legal Defense Association
P.O. Box 159
Paeonian Springs, VA 20129
(540) 338-5600

APRIL 10, 1997

TO: MEMBERS OF THE SENATE HESS COMMITTEE

DEAR SIR:

PLEASE SUPPORT BILL SB-134. HOMESCHOOLING IS A GREAT WAY TO TEACH CHILDREN. THEY LEARN FASTER AND MORE IN A RELAXED ATMOSPHERE. THEY CAN WORK AT THEIR OWN SPEED, EX: DOING HOMEWORK AHEAD. UNLIKE PUBLIC SCHOOLS, MY HOMESCHOOLERS HAVE TO FINISH EACH BOOK TO GET CREDIT FOR THAT SUBJECT EVEN IF IT TAKES THEM INTO THE SUMMER TO DO IT.

THANK YOU,

SINCERELY,

KEITH & DONNA BUCHANAN
423 TAURUS RD.
FAIRBANKS, AK. 99712
PHONE & FAX: 1 907/457-4285

P.S. THANK YOU SENATOR LEMAN

Ruth Ewing

Testimony concerning SB134 to be teleconferenced at 9:00 AM on Friday, April 11 before the Senate HESS committee:

I support SB134 because the state needs to recognize a successful educational alternative-home schooling our children. As home schoolers we believe in our God-given mandate to "train up" our children into good, responsible, critically-thinking adults. We favor a traditional approach in the best sense of the word, stressing academic subjects as listed in the bill. The 180-day requirement for public schools does not fit our routine which can be variable, from getting up to going to bed, at intervals throughout the day, alternating with chores. Some days are shorter, other days are spent away but still schooling. We gage when we are finished not be number of days but rather by when the subject matter has been completed. We are getting successful results locally and nationwide while public education continues to fail. Anyone wanting an honest assessment of education will acknowledge this or do the homework required to verify it.

Testimony of Jack E. Phelps, Vice President
Alaska Private & Home Educators Association

In support of SB 134
Offered to the Senate HESS Committee

April 11, 1997

Mr. Chairman, members of the committee:

My name is Jack Phelps, and today I am testifying on behalf of the Alaska Private & Home Educators Association (APHEA), a non-profit educational corporation serving the home school community throughout Alaska. APHEA was founded in 1987, and currently has a membership of about 450 home schooling families in all parts of the state. It is governed by an elected board of directors of which I am currently vice president.

Robert Nesbitt in his famous book, *Megatrends*, mentioned home school as part of society's trend toward decentralization, and as a sign of increased personal responsibility. It is that and more. It has been called the fastest growing educational phenomenon in modern America. Estimates run as high as 2.5 million American school age children being educated by their parents, representing the full range of educational philosophies, and crossing all social and economic strata. Patricia Lines, a researcher for the U.S. Department of Education, estimated the number at well over a million several years ago, and it has continued to grow in the years since.

Home taught children are widely recognized as well educated and socially successful young people. They are now sought and recruited by many of the nation's best colleges and universities. Several books have been published in recent years acknowledging their successes and their unique contribution to American society. Several states, notable among them Michigan and Arizona, have recently acted to protect home schools and to codify their role in the range of educational options. In fact, the bill which you have before you today is patterned on the law passed in Michigan last year.

Last year, the Alaska legislature passed Senate Concurrent Resolution 24 (now 1996 Legislative Resolve #53) without a single dissenting vote. That put this body clearly on record asserting the importance of home schooling to Alaska families and the value of home schooling to Alaska society. SB 134 codifies that stand and will encourage the responsible activities of the Alaska home school community.

The APHEA board of directors supports SB 134 because we believe it will establish Alaska in the forefront of those progressive states which strongly support this option for parents who choose to take a direct and personal hand in the education of their children. Alaska parents who are teaching their children at home are contributing to Alaska society by preparing their children for the full range of workforce opportunities, and they are doing it at no cost to the state general fund because they bear the full expense themselves.

As the sponsor has pointed out in his sponsor statement, SB 134 is needed because under the current statutes home school families have to pretend they are regular, private day schools, and file all the paperwork attendant upon operating such a school, or they have to enroll in a state or district sponsored correspondence program which may work well for some, but clearly limits the options for others. Another option is for them to seek exemption from the local district under a cumbersome process that subjects them to unwelcome and unnecessary work and scrutiny. This route is particularly unacceptable because there are no uniform standards governing whether they will be granted the exemption. Making home school parents depend on the whim of the local school boards and the various superintendents is no way for the state to encourage and support the kind of personal responsibility being taken by those who choose to teach their own children at home. SB 134, especially with the amendments contained in the committee substitute you have before you today, would establish a very simple and uniform exemption, and allow home school parents to get on with the business of teaching their children.

SB 134 is simply good public policy. It is good for children and it is good for the state. It makes a very clear statement that Alaska recognizes the value of personal liberty, personal responsibility and academic freedom. Each of your constituencies will be well-served by the immediate passage of this legislation. I urge you to move it from committee as soon as possible.

Thank you very much for the opportunity to testify today. I will be happy to try to answer any questions you may have.

P.O. Box 670551
Chugiak, AK 99567
April 10, 1997

Dear Senator Leman,

Thank you for introducing S.B. 134. As a long-time home schooler (10 years), I appreciate your work and that of others who recognize home schooling as a viable option in Alaska.

Of my eleven children, two have graduated and are doing fine. In fact, you know my son, Peter Torkelson. He home schooled his last three semesters of high school. He did very well at UAA with almost a straight A average.

I am sometimes anxious about the future of home schooling and see this bill as a positive step in assuring our rights as parents to choose the education that we feel would best meet the needs of our children.

Thank you again and you have my whole-hearted support for S.B. 134.

Sincerely,

Jackie Torkelson

Jackie Torkelson

Dear Senator Leman,

We are homeschooling our children, now teenagers, and support your efforts on our behalf as represented by SB 134.

We will gladly assist you in any particular type of input that you need. Please let us know.

May God continue to bless your efforts.

Jon Ruth 3-22-97

Jonathan and Ruth Ewig
2325-30th Avenue
Fairbanks, AK 99701
phone/fax: 452-5538

April 10, 1997

Dear Senator Lehman,

Thankyou for introducing SB 134 so that Alaska's education statutes will clearly recognize homeschooling as a legitimate and highly effective option.

This bill is similar to one that passed in March of 1996, in the state of Michigan. According to Homeschool Legal Defense Association this bill has cut 95% of the calls to their office concerning homeschool conflict in that state. HSLDA highly recommends this bill.

As long-term homeschooling parents, we have 2 graduates

and 6 more to come, we feel this bill will help secure the future for homeschooling in Alaska.

We strongly urge the HESS committee to support SB 134.

Sincerely,

Deborah L. Speckels

HC 60, Box 226
Copper Center, Alaska
99573

822-3464 phone & fax

APRIL 10, 1997

TO: MEMBERS OF THE SENATE HESS COMMITTEE

DEAR SIR:

PLEASE SUPPORT BILL SB-134. HOMESCHOOLING IS A GREAT WAY TO TEACH CHILDREN. THEY LEARN FASTER AND MORE IN A RELAXED ATMOSPHERE. THEY CAN WORK AT THEIR OWN SPEED, EX: DOING HOMEWORK AHEAD. UNLIKE PUBLIC SCHOOLS, MY HOMESCHOOLERS HAVE TO FINISH EACH BOOK TO GET CREDIT FOR THAT SUBJECT EVEN IF IT TAKES THEM INTO THE SUMMER TO DO IT.

THANK YOU,

SINCERELY,

KEITH & DONNA BUCHANAN
423 TAURUS RD.
FAIRBANKS, AK. 99712
PHONE & FAX: 1 907/457-4285

P.S. THANK YOU SENATOR LEMAN

Apr. 10, 1997

Dear Senator Leman,

My oldest daughter was in homeschool for kindergarden, third, and seventh grades and graduated with honors as valedictorian last year at Grace Christian School. I have known many homeschool families and in every case, the parents have been able to recognize if the homeschool is meeting the educational needs of their children and make changes if it is not.

I support SB 134 but without the phrase "organized education" because of the possibility of differing interpretations of what is organized. Parents should be allowed to make decisions about their children's education and able to homeschool without regulation.

Because being a homeschool teacher does require a sacrifice of time and money, homeschool parents are committed to excellence in education.

sincerely,

Jan DeLand

Jan DeLand
2303 E. 49th Ct.
Anchorage, Ak. 99507

Subject: SB 134 Homeschooling Amendment
From: charlieh@Alaska.NET ("Charles, Jo, Luke, Shane, Rose") at CC2MHS1
Date: 4/10/97 7:03 PM

Dear Senators:

Please pass the amendment to SB 134 that would allow parents and legal guardians to
educate their child at home. I have been homeschooling for eleven years.

Thank you for your support of the homeschoolers in our state.

Sincerely,

Barbara Njaa
Nikiski, AK

Subject: SB 134 amendments favorable to homeschoolers
From: charlieh@Alaska.NET ("Charles, Jo, Luke, Shane, Rose") at CC2MHS1
Date: 4/10/97 6:56 PM

Dear Senator Leman:

PLEASE VOTE TO APPROVE ANY AMENDMENTS TO SB 134 THAT ARE FAVORABLE TO HOMESCHOOLERS.

Thank you so much for the time and effort you have put into making homeschooling recognized in Alaska. I have been homeschooling my children for six years now.

Let's set an example to the rest of the nation by passing this bill which exhibits strong support of the homeschooling community.

I would like to see the bill amended to read "is being educated in the child's home by a parent or legal guardian.", as was recommended in correspondence I received via email from your office earlier today.

Thank you once again. Please keep me informed as to the status of this legislation.

Cordially yours

Joanne Hardesty
Nikiski, Alaska

April 10, 1997

Dear Senator,

I am writing in support of the amendment to SB 134. I feel this amendment will make the bill an even stronger advocate for homeschooling families.

Thank you for your support and effort in passing SB134.

A Concerned Voter and Homeschooler,

Laura G. Mese
119 Naida
Kenai, AK 99611
(907) 283-2729

Jennifer M. Caeton
P.O.Box 110486
Anchorage, AK 99511

April 10, 1997

To Whom It May Concern,

I am a homeschool graduate and am writing to express my strong support of SB 134, as well as the amendment that would delete the following language :"...and is receiving an organized educational program that includes reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar."

I would also strongly support an amendment that stated "is being educated in the child's home by a parent or legal guardian."

Sincerely,

Jennifer M. Caeton

Jennifer M. Caeton

Anthony J. Caeton IV
P.O.Box 110486
Anchorage, AK 99511

April 10, 1997

To Whom It May Concern,

I am a homeschool graduate and am writing to express my strong support of SB 134, as well as the amendment that would delete the following language :"...and is receiving an organized educational program that includes reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar."

I would also strongly support an amendment that stated "Is being educated in the child's home by a parent or legal guardian."

Sincerely,

Anthony J. Caeton IV

Emma M. Caeton
P.O.Box 110486
Anchorage, AK 99511

April 10, 1997

To Whom It May Concern,

As a parent I am writing to express my strong support of SB 134, as well as the amendment that would delete the following language :"...and is receiving an organized educational program that includes reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar."

I would also strongly support an amendment that stated "is being educated in the child's home by a parent or legal guardian."

Sincerely,
Emma M. Caeton
Emma M. Caeton

April 10, 1997

Dear Senator,

I would like to register my support of the Board of Education amendment to Senate Bill 134. I believe the amendment is a further support of parental rights.

Thank-you for your concern for our children whom we love and cherish so dearly. They are the future of Alaska and the future of this great nation. We seek to turn them over to our future as strong and moral leaders. Thank-you for helping us do this.

Sincerely,

Mary Nichols
205 BIRCH ST. - Kenai

To: All committee members regarding homeschooling:

From: Robin and Gretchen Bogard
Box 7362
Nikiski, Ak. 99635 phone 776-5768

I urge your support for any bills which strengthen the rights of parents to homeschool their children.

My wife and I are both lifetime Alaskans. We are the proud parents of 4 young daughters, all of them also born here in Alaska. We are homeschooling them, and plan on continuing to do so. An annual S.A.T. for each child is part of our routine. We are committed and responsible parents. I believe that as taxpayers, we should have access for our children to make use of the public school facilities. I also highly favor what was once termed the "voucher system," where the same tax dollars appropriated to public schools for each child could be used for homeschooling.

April 10, 1997

Senator Loren Leman
Senate Health, Education & Social Services Committee
Fax No. 465-3810

Dear Senator Leman:

I am writing in support of SB 134. My husband is an Anchorage business owner who travels frequently. We have been homeschooling our two daughters for almost seven years. Homeschooling has provided the academic freedom and excellence which we desired for our children, and the flexibility my husband's business schedule has required.

This bill will guard and strengthen the freedom all Alaskan parents have to educate their children with each child's best interests in mind. I greatly appreciate your efforts in sponsoring this bill, and look forward to its passage.

Sincerely,

Anne M. Kincaid

Anne M. Kincaid
19208 McCrary
Eagle River, AK 99577

10 April 1997

Sen. Loren Leman
Alaska State Capitol
Room 115
Juneau, AK 99801

Dear Senator Leman:

As a former home schooling parent and one presently most interested in Christian education, I fully support Senate Bill 134.

It is my considered judgement that Senate Bill will be a major step along the road to educational freedom. Current Exemptions apply only to private schools. If some home schoolers are "taking refuge" under this exemption it could possibly result in an infringement on their liberties. The wisdom of SB 134 is that it EXEMPTS home schoolers as home schoolers.

The Alaska Constitution is flawed in that it gives the state a role in education. That needs to be changed. However, we need to deal with the de facto situation. In other words, what must be done to proceed along the road to educational freedom? How can we improve our situation? All battles are not won in one encounter. SB 134 does not "win it all" but is definitely a step in the right direction.

The concern that the requirements that parents follow a program which contains reading, spelling, etc.etc. will invite bureaucrats into the home schooling scene is unfounded. The bill makes no provision for enforcement by the State or any sanctions. A home schooling parent would be more secure under the provisions or SB 134 than they are at the present. Moreover, similar measures in other states have increased liberty of home schoolers--not restricted them.

Thank you for your concern in this vital area of guarding and improving our educational freedom.

Most sincerely,

Donnis Walters

Donnis Walters
13209 Brant Way
Anchorage Alaska 99515

Senator Gery Wilken,

I have been very exited to learn of SB 134! The freedom to educate our children according to our beliefs is of utmost importance to my husband and I.
There are also so many resources availabe to provide our children with a first rate education without some of the drawbacks involved with the available institutions. I have high hopes that Alaska will become a more user friendly state for homeschoolers. This legislation is in my opinion exactly what we need. Also I would be in favor of the deletion of the organized educational program phrase. Thank you very much for the time and effort you have taken to give parents greater freedom in thier efforts to give thier children the best education possible.

Sincerely,
Mrs. Caroline Smardo

Senator Gary Wilken.
Please suppport the ammendment to SB 134 that would delete the phrase about "organized educational program ect. ect." This most recent proposed amendment sounds great!
Sincerely,
John and Carol Broussard

April 10, 1997

Dear Senator,

I am writing in support of the amendment to SB 134. I feel this amendment will make the bill an even stronger advocate for homeschooling families.

Thank you for your support and effort in passing SB134.

A Concerned Voter and Homeschooler,

Laura E. Mese
119 Naida
Kenai, AK 99611
(907) 283-2729

SB

142

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/19/97

FURTHER: Finance

Date of 5-Day Notice: 5/2/97
(in accordance with Uniform Rule 23)
(24-hr rule in effect)

DATE TURNED IN TO OFFICE: 5/7/97

Health, Education and Social Services Committee considered SENATE BILL NO. 142

"An Act relating to formation of and taxation in regional educational attendance areas; and providing for an effective date."

and recommends:

[ ] be **replaced** with _____ CS _____ (_____)

[ ] adopt **previous** _____ CS _____ (_____)

[X] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[ ] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical title
[ ] new: SCR# _____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
Lyda Green	✓	Drew D. Ferman	✓		
CHAIR: Gary Wilken	✓	*CHAIR:*			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
C+RA	4/8/97		✓
C+RA	4/8/97	✓	
DOE	4/9/97	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

[ ] **APPROPRIATION -- no fiscal note**

***include fiscal notes accompanying Governor's bill**

5/7/97

AMENDMENT

Offered in the Senate

By Senator Torgerson

TO: SB 142

Page 2, line 4:

delete:

"1999"

insert:

"2000"

Page 2, line 19:

delete:

"2000"

insert

"1999"

FISCAL NOTE

STATE OF ALASKA **BILL NO.** SB 142

1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Education

Title: An Act realting to formation of and taxation in Regional education attendance areas; and providing ... BRU: K-12 Support

Component: Foundation Program

Sponsor: Senator Torgerson, Phillips

Requester: _____ **COMPONENT SERIAL NO.** 141

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	-22.1	-22.1	-22.1
MISCELLANEOUS						
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**-22.1**	**-22.1**	**-22.1**

CAPITAL EXPENDITURES						

CHANGES IN REVENUES						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	-22.1	-22.1	-22.1
1005 GF/Program Receipts						
Other:						
TOTAL	**0.0**	**0.0**	**0.0**	**-22.1**	**-22.1**	**-22.1**

Estimate of current year (FY97) cost: $ $0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note assumes that following school districts will be combined.

1) Alaska Gateway and Delta Greely School Districts

2) Lower Kuskokwim and Yupiit School Districts

3) Lower Yukon and Kashunamiut School Districts

This fiscal note does not address other potential consolidations of school districts or borough formations.

Prepared by: Eddy Jeans Phone: 465-8679

Division: Educaiton Support Services, School Finance Manager Date: 4/9/97

Approved by Commissioner: Shirley J. Holloway, Ph.D. Date: 4/9/97

Agency: Department of Education

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STATE OF ALASKA
1997 LEGISLATIVE SESSION

FISCAL NOTE

BILL NO: SB 142

Revision Date:

Dept. Affected: Community & Regional Affairs

Title: An Act relating to formation of and taxation in regional attendance areas ...

BRU: Local Gov't Assistance

Component: State Assessor

Sponsor: Sen. Torgerson, Phillips

Requestor: Senate HESS Committee

COMPONENT SERIAL NO. 673

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	302.0	302.0	302.0	302.0	302.0	302.0
TRAVEL	30.0	22.5	15.6	15.6	15.6	15.6
CONTRACTUAL						
SUPPLIES	3.0	3.0	3.0	1.5	1.5	1.5
EQUIPMENT	10.5	10.5	2.5	2.0	2.0	2.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**345.5**	**338.0**	**323.1**	**321.1**	**321.1**	**321.1**
CAPITAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	345.5	338.0	323.1	321.1	321.1	321.1
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	**345.5**	**338.0**	**323.1**	**321.1**	**321.1**	**321.1**

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME						
TEMPORARY						

Estimate of current (FY97) impact $ none

ANALYSIS: (Attach a separate page if necessary)

Office of the State Assessor:

Implementation of this legislation would have significant impact on the Office of the State Assessor. The above figures represent the department's preliminary assessment of the minimum impacts of this legislation. The department awaits further clarification of this legislation through the committee process. The department's final assessment of fiscal impacts could be much higher than the figures presented here. Details are discussed in the attached pages under the heading "Fiscal Impacts on the Office of the State Assessor."

Prepared by: Michael Cushing, Research Analyst — Phone: 465-4751

Division: Municipal and Regional Assistance Division — Date: 4/8/97

Approved by Commissioner: — Date: 4/8/97

Agency: Community & Regional Affairs

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Attachment: Fiscal Note Analysis for Senate Bill 142

Effects of SB 142

Under this legislation,

- DCRA is to divide the unorganized borough into educational service areas along the lines proposed in the 1995 "Model Borough Boundaries" report.
- The State Assessor's Office will be responsible for assessing value of taxable property, levying a property tax, and collecting the tax in each of these areas beginning January 1, 1999.
- DCRA is to develop a proposed method of levying and collecting taxes in these areas, including opportunity for public comment.
- DCRA is to prepare draft legislation reflecting above proposals by January 1, 2000.

Anticipated Fiscal Impacts of SB 142 on DCRA

This proposal places substantial new demands on the department. The department believes that much of the effort can be performed by existing staff and resources; however, some additional staff would be needed. The incremental expenditures presented in this fiscal note reflect those demands that cannot be met by existing staffing and resources. With regard to this department, there are two areas for which fiscal impacts need to be discussed:

- State Assessor Office support
- Local Boundary Commission support

Fiscal Impacts on these areas are discussed below.

Fiscal Impacts on the Office of the State Assessor

This bill requires the State Assessor to complete Full Value Determinations for each of the educational service areas established under this legislation. Additionally, at least for two years, the Assessor is to assess property and collect taxes for these areas and perform the mandatory duties of a municipality, a board of equalization or a municipal official under AS 29.45.010-500.

The fiscal impacts on the Office of the State Assessor are difficult to ascertain. The imposition and operation of separate tax regimens in numerous areas of the unorganized borough are a huge and daunting tasks that would demand significant expenditures for new staff and/or contractual arrangements. Actual collection of taxes is well beyond any current

activities undertaken by the Office of the State Assessor. Consequently, **the fiscal impacts presented here should be considered as preliminary and contingent upon further clarification of the requirements of the legislation through the legislative committee process.**

Basic requirements for the full value determinations, and the implementation of tax levy will require at the very least the addition in FY 98 of an Assistant State Assessor (Range 20), two Appraisers (new job class, Range 18) and three clerical support positions (Administrative Clerk III, Range 10). This fiscal note provides for these six new positions as well as additional travel and contractual funding associated with minimum establishment and maintenance of taxation regimens in the proposed educational services areas.

There is a vast difference in preparing a full value determination for an area and completing an assessment roll for property assessment and taxation purposes. In order to prepare an assessment roll, a detailed, lengthy process must be undertaken just to discover property ownership and taxability. Only after this discovery process is completed can the valuation step be taken. In order to complete a full value, "typicals" are used. That is the "typical" percentage of exemptions for this or that type and classification of property. Then "typical" value ranges are used for the "typical" number of taxable properties. Therefore, while The full value can be estimated with a minimum number of staff, a completed assessment roll would take a very large number of individuals to reliably cover the unorganized areas. It is likely that the cost of carrying out a property taxation approach would in many areas not be cost effective.

Regarding the long-term implications of this legislation, it is assumed that in the majority of these areas a property tax will not be an economically viable revenue generation alternative. It is conceivable, however, that it may be feasible to implement a property tax in several regions. Those regions which choose other revenue alternatives, such as sales tax, still require a full value determination by the Assessor. Consequently, the minimum requirements for additional positions outlined above would continue into the foreseeable future.

Fiscal Impacts on the Local Boundary Commission (LBC)

The provisions in SB 142 as written do not require any substantial new effort on the part of the Local Boundary Commission staff and therefore no significant fiscal impacts are anticipated by the department. Section 1 of SB 142, which would take effect July 15, 1999, requires DCRA to divide the unorganized borough into regional educational attendance areas (REAAs) using the Local Boundary Commission's model borough boundaries. The bill would result in the following boundary changes to existing REAAs:

- merger of Yupiit REAA with the Lower Kuskokwim REAA;

- merger of Kashunamiut REAA with the Lower Yukon REAA;
- merger of the Alaska Gateway REAA with the Delta Greely REAA;
- creation of a Prince of Wales REAA (from a large portion of Southeast Island REAA)
- creation of a Wrangell-Petersburg area REAA (from a large portion of the Southeast Island REAA and a relatively small portion of the Chatham REAA);
- reconfiguration of the Chatham REAA to include most of Admiralty Island and portions of Kuiu Island and Kupreanof Island;
- creation of a Glacier Bay REAA from a large portion of the Chatham REAA;
- alteration of the boundaries of the Adak and Aleutian Region REAA.[1]

Additionally, the model borough boundaries identified five regions of the unorganized borough that should be annexed to existing organized boroughs. These consisted of portions of the:

- Southeast Island REAA in the model boundaries of the Ketchikan Gateway Borough;
- Chatham REAA in the model boundaries of the City and Borough of Juneau;
- Chatham REAA in the model boundaries of the Haines Borough;
- Yukon Flats REAA in the model boundaries of the Fairbanks North Star Borough;
- Yukon-Koyukuk REAA in the model boundaries of the Denali Borough.

SB 142 does not express any intent that those five areas should be annexed to the five existing boroughs.[2] Therefore, it is assumed for purposes of this fiscal note that DCRA will not initiate the annexation of those areas to the existing boroughs. It is further assumed that those areas will not be formed into separate REAAs, but rather will be included with other REAAs as noted below:

- the area in question within the model boundaries of the Ketchikan Gateway Borough will be included in the new Prince of Wales REAA;
- the area in question within the model boundaries of the City and Borough of Juneau will be included in the revised Chatham REAA;

---

[1] The Local Boundary Commission drew model borough boundaries for the Aleutian region prior to the announcement of the closure of the Adak Naval base. The model boundaries divided the Aleutian region into two areas because of the then substantial military population. With the closure of the Adak base, DCRA no longer considers it appropriate to have separate school districts for the region. Ideally, SB 142 would allow the Local Boundary Commission to review and modify the boundaries before they are implemented. Such could be done in manner that results in little or no fiscal impact.

[2] In comparison, SB 30 which was also introduced by Senator Torgerson, expressed specific intent that those five areas would be annexed to existing boroughs.

- the area in question within the model boundaries of the Haines Borough will be included in the Glacier Bay REAA
- the area in question within the model boundaries of the Fairbanks North Star Borough will be included in the Yukon Flats REAA
- the area in question within the model boundaries of the Denali Borough will be included in the Yukon-Koyukuk REAA.

Since the bill does not consolidate city school districts with REAA school districts, some circumstances unintended by the Local Boundary Commission in drawing model boundaries may result. For example, Wrangell and Petersburg would continue to operate separate city school districts while schools, if any, within the remainder of the REAA would be operated by the REAA. Such could be addressed **without fiscal impact** if the bill allowed for the Local Boundary Commission to review and modify the boundaries before they are implemented.

STATE OF ALASKA
1997 LEGISLATIVE SESSION

FISCAL NOTE

BILL NO: SB 142

Revision Date: _____ Dept. Affected: Community & Regional Affairs

Title: An Act relating to formation of and taxation in regional attendance areas ... BRU: Local Gov't Assistance

Component: Local Boundary Commission

Sponsor: Sen. Torgerson, Phillips

Requestor: Senate HESS Committee COMPONENT SERIAL NO. 674

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY97) Impact $ none

ANALYSIS: (Attach a separate page if necessary)

Office of the State Assessor:

Implementation of this legislation would have no significant impact on the Local Boundary Commission staff. Local Boundary Commission considerations are discussed in the attached pages under the heading "Fiscal Impacts on the Local Boundary Commission."

Prepared by: Michael Cushing, Research Analyst Phone: 465-4751

Division: Municipal and Regional Assistance Division Date: 4/8/97

Approved by Commissioner: Date: 4/8/97

Agency: Community & Regional Affairs

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Sponsor Statement

SB 142 - Regional Education Attendance Areas

This legislation will (1) reduce school administration expenses by consolidation and (2) provide equity in local funding for Alaska's schools.

Consolidation: There are three types of school districts in Alaska: 18 Regional Education Attendance Areas (REAAs) which serve the unorganized borough, 18 first class city districts which are located in the unorganized borough, and 15 borough and home rule municipality districts. This bill would consolidate the 18 REAAs into 16 REAAs. This bill does not affect the city districts or the borough districts.

The estimated savings through consolidation are shown on the attached spread sheet, entitled *REAA Consolidation Savings*, and total some $1.6 million. The consolidation will conform to the Model Borough Boundaries, as established by the *Model Borough Boundary Report* (*MBBR*).

The Division of Legislative Audit issued a report May 11, 1992, titled *Potential for Administrative Savings from School District Consolidation*. The letter of transmittal from that report, dated June 3, 1992, sets out one of the reasons for this bill.

> "We conservatively estimate that consolidation could reduce school administrative costs by $5.3 million. Our estimates represent potential savings that may be generated from economies of scale realized from the consolidation of 39 school districts and Rural Education Attendance Areas that currently operate in the State's unorganized borough."

While this bill does not completely consolidate the districts (it does not affect the City Districts), there are still savings to be realized through the concept of consolidation of the REAAs.

The concept of utilizing the MBBR for these boundaries is a familiar one, and was used by the previously mentioned *Legislative Audit Report*, where they noted that REAAs were established in response to the Alaska Supreme Court Molly Hootch decision in 1975 and stated in a foot note that "It should be noted that the factors specified in the formation of REAAs (transportation, communications, language, culture, and socio-economic factors) are similar to the factors identified in the constitution as serving a basis for boroughs: population, geography, economy, transportation and other factors."

The report also noted that REAAs were intended to be a transitional form of government necessary to deliver education to the children in the unorganized areas. As a validation of the report's use of the MBBR for the consolidation, the report stated that:

> "Since the transition of REAAs to boroughs is the next most logical phase in Alaska's regional local government structure, we have based our school consolidation analysis on these projected boroughs." /1

Equity: Residents living in incorporated areas (borough and city districts) are currently required to contribute for education, but residents in the unincorporated areas (REAAs) are not.

- **92% of Alaska's population live in boroughs and are required to pay a local contribution--they receive 79% of State foundation formula;**
- **8% of the population pay no taxes and receive 21% of the state's foundation formula.**

The Borough and City schools districts are required to provide local contributions for the operation of the schools and so have taxing authority. The REAAs do not provide local contributions nor do they have taxing authority. This bill will remedy that inequity, by requiring a local contribution from the REAAs, through the authority of the legislature via this bill. The estimated local contribution is shown on the attached spread sheets *REAA Local Contribution.*

As required by the bill, the state assessor performs the functions necessary to collect the taxes levied under this bill. The Department of Community and Regional Affairs shall then develop a proposed method of levying and collecting the taxes, and prepare draft legislation for submittal to the legislature by January 1, 2000.

SS S(HES): SB 142: 4/7/97: mj

/1 The report utilized borough boundaries tentatively identified by the Local Boundary Commission when the Model Borough Boundary Study was still in progress. While there was some variance from those used and those finalized by the LBC Study, the report noted: "However, we are confident that the boundaries and preliminary designations used for our estimates will be substantially the same as those finally developed by the commission."

REAA CONSOLIDATION SAVINGS
SB 142 - S(HES)

New REAA	Current REAA	/ADM	S-Admin	S-A/ADM	D-Admin	D-A/ADM
Aleutian West	Aleutian Region	34	$30,829	$906.74	$190,200	$5,594.12
Annette Isl Reserve	Annette	403	$273,166	$677.83	$556,896	$1,381.88
Bering Strait	Bering Strait	1706	$1,643,375	$963.29	$1,900,964	$1,114.28
Prince William Sound	Chugach	157	$55,000	$350.32	$355,661	$2,265.36
Copper River Basin	Copper River	772.6	$409,290	$529.76	$492,132	$636.98
Upper Tanana Basin	Alaska Gateway	572.65	$470,805	$822.15	$543,620	$949.31
" " "	Delta/Greely	843.65	$576,960	$683.89	$641,858	$760.22
Iditarod Region	Iditarod	415.86	$648,304	$1,558.95	$642,374	$1,544.69
Kuspuk	Kuspuk	473.7	$389,232	$821.68	$635,844	$1,342.29
Lower Kuskokwim	Lower Kuskokwim	3371.53	$3,760,000	$1,115.22	$2,524,600	$748.80
" "	Yupiit	401	$428,471	$1,068.51	$733,146	$1,828.29
Lower Yukon	Lower Yukon	1735.95	$1,591,432	$916.75	$1,523,473	$877.60
Pribilof Islands	Pribilof	197.2	$119,280	$604.87	$423,400	$2,147.06
Southwest Region	Southwest Region	700.8	$606,733	$865.77	$796,499	$1,136.56
Yukon Flats	Yukon Flats	444	$128,780	$290.05	$491,689	$1,107.41
Yukon-Koyukuk	Yukon/Koyukuk	555.6	$198,858	$357.92	$1,030,938	$1,855.54
Prince of Wales Isl.	SouthEast Island	325.55	$120,287	$369.49	$507,425	$1,558.67
Chatham	Chatham	334.3	$189,519	$566.91	$317,213	$948.89
Sub-Total		13444.4	$11,640,321	$13,470.08	$14,307,432	$27,797.93
Averages				$748.34		$1,544.33
TOTAL ADMIN EXP			$25,947,753			
Total ADM/Total Adm			$1,930			

Consolidation Savings: District Administrative Costs

Upper Tanana Basin	Alaska Gateway	572.65	$470,805	$822.15	$543,620	$949.31
" " "	Delta/Greely	843.65	$576,960	$683.89	$641,358	$760.22
Sub-Total					$1,184,978	
MAX (Average +25%)					$740,611	
SAVINGS					**$444,367**	
Lower Kuskokwim	Lower Kuskokwim	3371.53	$3,760,000	$1,115.22	$2,524,600	$748.80
" "	Yupiit	401	$428,471	$1,068.51	$733,146	$1,828.29
Sub-total					$3,257,746	
MAX (Average+25%)					$2,036,091	
SAVINGS					**$1,221,655**	
Total Savings:					**$1,666,022**	

REAA Local Contribution

New REAA	Current REAA	1994 Value not in Local Tax Jursidiction	1994 O&G not in Local Tax Jurisdiction	Added local at 4.5 mills not in local
Aleutian West	Aleutian Region	3,535,000		$15,908
Annette Isl Reserve	Annette	0		$0
Bering Strait	Bering Strait	102,171,500		$459,772
Prince William Sound	Chugach	34,184,700		$153,831
Copper River Basin	Copper River	64,425,000	604,440,000	$3,009,893
Upper Tanana Basin	Alaska Gateway	146,755,700	407,340,000	$2,493,431
" " "	Delta/Greely			$0
Iditarod Region	Iditarod	30,600,000		$137,700
Kuspuk	Kuspuk	31,950,000		$143,775
Lower Kuskokwim	Lower Kuskokwim	339,446,800		$1,527,511
" "	Yupiit			$0
Lower Yukon	Lower Yukon	89,547,500		$402,964
Pribilof Islands	Pribilof	59,525,400		$267,864
Southwest Region	Southwest Region	40,108,000		$180,486
Yukon Flats	Yukon Flats	29,475,000	405,600,000	$1,957,838
Yukon-Koyukuk	Yukon/Koyukuk	44,400,000	446,760,000	$2,210,220
Prince of Wales Isl.	SouthEast Island	54,600,000		$245,700
Chatham	Chatham	17,175,000		$77,288
Total		**1,087,899,600**	**1,864,140,000**	**$13,284,178**
(4.5 mills on O & G)			**8,388,630**	

S(HES):SB 142:4/7/97:mj

SB 148

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/21/97

FURTHER: Finance

Date of 5-Day Notice: 3/27/97
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/4/97

Health, Education and Social Services Committee considered SENATE BILL NO. 148

"An Act relating to libraries."

and recommends:

[ ] be **replaced** with _____ CS _____ (_____)

[ ] adopt **previous** _____ CS _____ (_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[ ] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical title
[ ] new: SCR# _____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
Drew D. Hogan	✓				
Lyn Walt	✓				
G					
CHAIR: G Miller	✓	*CHAIR:*			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Education	4/2/97	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

[ ] **APPROPRIATION -- no fiscal note**

***include fiscal notes accompanying Governor's bill**

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 148

Revision Date: 21-Mar-97
Title: An Act relating to libraries

Dept. Affected: EDUCATION
BRU: Division of Libraries, Archives & Museums
Component: Libraries

Sponsor: Sen. Torgerson
Requester HESS

COMPONENT SERIAL NO. 208

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES						
CHANGES IN REVENUES						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Other:						
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of current year (FY97) cost: $

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)
This bill has no fiscal impact on the Department of Education nor will it have any on the Department of Community and Regional Affairs. The bill addresses the following issues: 1) It provides a definition of public libraries, and how they can be established, organized, and administered; and what services need to be provided in order to be eligible for the Public Library Assistance Grant program: 2) It clarifies eligibility for the already existing grant programs administered by the State Library; 3) It revises the Public Library Assistance Grant program by requiring local effort but also allowing in-kind contributions; and 4) repeals two public library construction statutes because these programs no longer exist. The State Library is already administering all programs impacted by the bill.

Prepared by: George V. Smith
Phone: 465-2910
Division: Libraries, Archives & Museums
Date: 4/1/97

Approved by Commissioner: Shirley J. Holloway, Ph.D.
Date: 4-2-97
Agency: Department of Education

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Sponsor Statement

SB 148 "An Act relating to libraries."

At the present time, there is no statutory definition of what a public library is; how it is established, organized, administered, or what services it should provide. SB 148 addresses those matters.

Since the enactment of the Public Library Assistance Grant program in 1982, a total of 55 new public libraries have been established. Unfortunately, 25 of them closed after only one or two years of operation, in part because of an unrealistic understanding of the effort needed to operate a public library.

Obviously, new libraries place pressure on the limited funds available for this service and funds allocated to those which subsequently closed unfortunately served to dilute those limited funds. SB 148 should help to alleviate this problem, thereby stabilizing the amounts made available to the public library community.

This bill (companion to HB 197) also revises some current language in the grant programs. A substantial change is the change in the formula for funding the grants. Currently, the funds are distributed by providing a $5,000 basic grant, without any local effort or contribution. Up to an additional $5,000 is then awarded on a one-to-one match of local funds. (The state has provided no more than a $2,000 match in recent years, so that no library receives more than a total of $7,000.)

This bill combines the basic and matching components into one basic grant of $7,000, which requires a one-to-one local match (this bill allows for "in-kind" local matches). In the event there are funds remaining after that disbursement, the balance will be appropriated on a per capita basis.

This bill also repeals two public library construction grant programs which are no longer funded, although the repeal date does not take effect until June 30, 1999, so current projects can be closed out.

This bill was drafted at the request of the public library community and is supported by the directors of the 18 largest public libraries. It is also supported by the Alaska Municipal League's Education Subcommittee.

SS: SB 148 S(HES): 4/2/97: mj

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Sectional Analysis

SB 148 "An Act relating to libraries."

Section 1: Amends existing grant fund to include "regional library services".

Section 2: (a) Amends the eligibility section of the existing grant fund by listing certain requirements for public libraries; requirements are:

(1) must be established under new section in this bill (section 6); or if in a municipality withcut a public library established under the section , a library that:
- (A) is a nonprofit and holds public meetings
- (B) provides services listed in new section 6
- (C) the municipality passes a resolution supporting the grant

(2) must share resources free of charge to other libraries in the state (interlibrary); and

(3) libraries which provide regional library services.

(b) Language stating that only one library per city or community is eligible for a grant during a fiscal year under previous (a)(1) above. Language stating library described in (a)2 above is eligible for interlibrary assistance grant. Language stating library described in (a)(3) above is eligible for regional assistance grant.

Section 3: Amends current language:
* revises the grant distribution to reflect a basic grant of not less than $5,000 or more than $7,000 and that there must be an equal local match of funds or in-kind services;
* new language stating that the value of in-kind services shall be determined by the division director;
new language providing for prorated funds if appropriation is not sufficient to fully fund the basic need;
* new language providing for per capita distribution of funds if in excess of the basic grant;

Section 4: Amendment to regulations section, language directing that they must include grant eligibility qualifications and provisions for use of grant funds.

Section 5: New section regarding public library boards; establishment, membership, vacancies, officers, and authority.

Section 6: New section regarding public libraries; establishment, service provision requirements, and reporting requirements.

Section 7: Repealing section for Rural Community Libraries (AS 14.56.200; 14.56.210; 14.56.220, 14.56.230, 14.56.240) and Public Library Construction Grants (AS 14.56.350).

Alaska State Legislature

Please enter into the record my testimony to the Senate Health, Education & Social Services committee name

committee on SB 148 (Public Libraries) bill/subject dated April 4, 1997.

Good morning. I am unable to participate in your hearing on SB 148, Public Library Law. On behalf of the Alaska Library Association, and as a public library director, I urge you to support Alaska Public Library Law. This legislation will provide the framework for communities to operate public libraries according to a definition of what a public library is and should offer. It will also call for increased local support and accountability in order for communities to receive grant funds. Thank you.

Signed: Mary Eileen Commons
Testifier

Alaska Library Association
Representing (Optional)

860 Century Drive, Wasilla, AK 99654
Address

907-376-4413
Phone No.

Senate Bill 148
Written testimony from hearing on April 4, 1997

I am Joyce Jenkins, director of the Petersburg Public Library. Thank you for the opportunity to testify on this bill. Thd change in the time of your hearing this morning meant that some of the people who wanted to testify could not be here, but I would like you to know that this bill is important to the libraries of Alaska and to all who use and provide information in Alaska.

This bill does will provide increased accountability for libraries and clarifies just what a library is and what services it must provide to be eligible for funding. This is a needed improvement in the law.

The most difficult part of the discussions on these changes that have been going on among Alaskan libraries for several years now was how to balance the needs of the smallest libraries which serve isolated communities and the large libraries which are such important supports for both their own communities and the little places. After much discussion there was concenssus among the librarians that the balance in this bill is a good compromise that meets the needs of both in a fair way. All communities, including tiny ones, are required to contribute to their libraries, but inkind contributions--their time and effort count. Having part of the formula be based on population supports our large libraries with a big population base to serve.

I encourage your support of this bill and appreciate the time you are taking to consider it this morning.

Joyce Jenkins

Joyce Jenkins
Petersburg Public Library
Box 549
Petersburg, Alaska 99833
907 772 3349
joycej@muskox.alaska.edu

SB

149

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/24/97

FURTHER: Finance

Date of 5-Day Notice: 3/27/97
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/4/97

HESS Committee considered SENATE BILL NO. 149

"An Act relating to reports and audits concerning health care facilities; and providing for an effective date."

and recommends:

[ ] be **replaced** with _____ CS _____(_____)

[ ] adopt **previous** _____ CS _____(_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ ___ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[ ] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical title
[ ] new: SCR#_____

SIGNING DO PASS	*DP*
CHAIR: G Wullen	✓

OTHER RECOMMENDATIONS	*NR*	*DNP*	*AM*
Lyn Ward	✓		
Drew A. Leman	✓		
Jon Ellis	✓		
Lyle Sheer	—		
CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Health + Social Services	4/2/97	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

[ ] **APPROPRIATION -- no fiscal note**

***include fiscal notes accompanying Governor's bill**

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 149

Revision Date:
Title: An Act relating to rates, reports, and inspections of health facilities under AS 47.07.
Sponsor: Senate HESS
Requestor: Senate HESS

Dept. Affected: Health and Social Services
BRU: Medical Assistance
Component: Medicaid Facilities
COMPONENT SERIAL NO. 230
See also (SN#):

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGES IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: $0.0

ANALYSIS: (Attach a separate page if necessary)

The attached bill amends AS 47.07.074 to clarify that the Department of Health and Social Services is authorized to consider the department's audits of financial and statistical information submitted by health care facilities, for the purpose of establishing Medicaid payment rates for such facilities. This bill also addresses the timing of the submission of reports by health facilities, and provides that Medicaid audits may be conducted less than annually on health care facilities.

3/28/97

Prepared by: Jack Nielson
Division: Medical Assistance/MRAC
Phone: 562-1996
Date: 03/28/97

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services
Date: 4-2-97

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Senate Committee on
Health, Education and Social Services

SENATE HESS COMMITTEE SPONSOR STATEMENT

SB 149 - Health Care Facility Audits & Reports

SB 149 clarifies that Medicaid audits may be used in the Medicaid rate setting process. This is a necessary clarification, since a recent rate appeal decision prevented the State from being able to set rates based on 1993 and 1994 Medicaid audits.

In addition to this, SB 149 repeals a State filing deadline that has been superseded by Federal deadlines. Even though the Alaska Department of Health & Social Services requires facilities to file a year-end report within 120 days after the year's end, it is often difficult for facilities to obtain needed documents from Federal payment intermediaries such as Blue Cross of Washington & Alaska in that time, since the Federal Government does not require filing for up to five months past the end of the year. This discrepancy in State and Federal deadlines has created a need for the 120-day deadline to be changed. SB 149 allows the Commissioner to change the State deadline to match the Federal one.

Finally, SB 149 adds language that acknowledges that it is not necessary for DHSS to audit every facility every year for Medicaid. Since facilities are audited by their independent C.P.A.'s every year, there should be no reason for DHSS to duplicate that audit effort, providing that the facility in question has no history of audit problems and the amount of Medicaid paid to that facility is not material compared to the total Medicaid budget. This acknowledgment is a first step in helping to facilitate a process which could be designed to reduce the administrative burden that DHSS and the facilities experience in auditing every facility every year, whether there is need to or not.

This bill has the support of the Administration, and the Alaska State Hospital and Nursing Home Association.