

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10109 SENATE LABOR & COMMERCE

(c) Describes the circumstances when a settlement agent can pay out escrow money on the business day after the business day the items representing the money are deposited.

(d) Defines the phrase "available for withdrawal as matter of right" for this section.

Sec. 34.80.050. Prohibits a settlement agent from recording, filing, or delivering escrow documents until the money to be paid out is available under AS 34.80.040 for payment.

Sec. 34.80.090. Definition section.

Sec. 34.80.095. Short title: "Good Funds Act"

Section 4. This applies to escrow transactions that begin on or after the effective date of this Act.

Section 5. Effective date is July 1, 1999.

ED 4:05/05/99

FISCAL NOTE

No: 2

Bill Version: CSHB 13 (FIN)

(H) Publish Date: 3/11/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date: _____
Title: Regulation of Escrow Accounts
Sponsor: Rep. Rokeberg
Requester: _____

Dept. Affected Commerce & Econ. Dev.
BRU Banking Securities & Corp.
Component Banking Securities & Corp.
Component Serial No. 233

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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						
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CHANGE IN REVENUES []						
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FUND SOURCE (Thousands of Dollars)

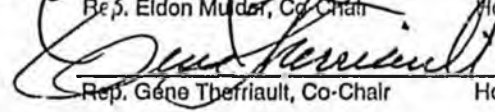
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by 
Rep. Eldon Mulder, Co-Chair House Finance Committee

Rep. Gene Therriault, Co-Chair House Finance Committee

Phone 465-2647
Phone 465-4797
Date 3/9/99

COMMITTEE COPY

HB

61

26 March 1999

Honorable Norman Rokberg:
Capital Building
Juneau, AK

RE: HB 61

Dear Rep. Rokberg:

For the past two years, airline employees throughout the State of Alaska have been working diligently on legislation to allow "trade days" for airline employees under Alaska law.

During this year's session Representative Halcro introduced in the State House of Representatives HB 61. This legislation is similar to legislation introduced last session by Representative Cowdery that would allow airline employees to trade workdays with each other without invoking overtime pay requirements.

Trading days allows individual workers the freedom to schedule specific time off or to make extra earnings VOLUNTARILY and BY THEIR OWN CHOICE. It becomes a "win-win" situation for all involved.

There are more than 6500 workers employed by airlines in Alaska who will all be effected positively by this legislation. The employees will be allowed flexibility in work hours and the airlines will receive happier, more productive employees.

In the past year, the states of Washington and Hawaii passed bills similar to Representative Halcro's proposal. I very much hope that the Alaskan Legislature will follow their lead and pass HB 61.

The attached list of employees from various airlines doing business in Alaska is a sample of the support there is for this bill.

If you have any questions or comments, please feel free to call me at 907-276-4364

Sincerely,



Michelle Buckmaster
Customer Service Representative
United Airlines Anchorage

ERA Aviation

TO: THE HOUSE OF LABOR AND THE COMMERCE COMMITTEE:

WE THE UNDERSIGNED WOULD LIKE TO ADD AN AMENDMENT TO THE ALASKA STATE LAW. IT WOULD STATE AS FOLLOWS, EXEMPTIONS: THE PROVISIONS OF AS 23.10.060; THIS SECTION DOES NOT APPLY WITH RESPECT TO:

AN EMPLOYEE EMPLOYED IN THE AIRLINE INDUSTRY WHICH INCLUDES CUSTOMER SERVICE REPRESENTATIVES, WHEREBY THE EMPLOYEE HAS SIGNED A WRITTEN AGREEMENT AND THE WRITTEN AGREEMENT HAS BEEN FILED WITH THE EMPLOYER. THIS AGREEMENT ALLOWS THE EMPLOYEE TO TRADE HIS OR HER SHIFTS, SECTORS, AND OR DAYS WHICH MAY EXCEED THE 8HR. OR 10HR. DAY, AND OR 40 HOUR WEEK. ALL TRADES WILL BE PAID STRAIGHT TIME PAY.

THANK YOU FOR YOUR CONSIDERATION ON THIS VERY IMPORTANT MATTER.

SIGNED:

Kira Sharp

Julia Ball

John Bolnick

Michelle Poiville

Meghan Foley

Wendy Darden

C. Taylor

3/20/89

TO: THE HOUSE OF LABOR AND THE COMMERCE COMMITTEE:

WE THE UNDERSIGNED WOULD LIKE TO ADD AN AMENDMENT TO THE ALASKA STATE LAW. IT WOULD STATE AS FOLLOWS; EXEMPTIONS: THE PROVISIONS OF AS 23.10.060; THIS SECTION DOES NOT APPLY WITH RESPECT TO;

AN EMPLOYEE EMPLOYED IN THE AIRLINE INDUSTRY WHICH INCLUDES CUSTOMER SERVICE REPRESENTATIVES, WHEREBY THE EMPLOYEE HAS SIGNED A WRITTEN STATEMENT AND THE WRITTEN AGREEMENT HAS BEEN FILED WITH THE EMPLOYER. THIS AGREEMENT ALLOWS THE EMPLOYEE TO TRADE HIS OR HER SHIFTS, HOURS, AND OR DAYS WHICH MAY EXCEED THE 8HR. OR 10HR. DAY, AND OR 40 HOUR WEEK. ALL TRADES WILL BE PAID STRAIGHT TIME PAY.

THANK YOU FOR YOUR CONSIDERATION ON THIS VERY IMPORTANT MATTER.

SIGNED:

Richard Bahosa 3-25-99
MANUEL PORRAS
~~MURRAY~~
Paula McGuire 3-25-99
JANE MITCHELL 3/26/99
Dilly Henry 3/26/99
Chrissy York-miller 3/26/99

United Airlines -
Counter

United Airlines - Air Freight

TO: THE HOUSE OF LABOR AND THE COMMERCE COMMITTEE:

WE THE UNDERSIGNED WOULD LIKE TO ADD AN AMENDMENT TO THE ALASKA STATE LAW. IT WOULD STATE AS FOLLOWS; EXEMPTIONS: THE PROVISIONS OF AS 23.10.060; THIS SECTION DOES NOT APPLY WITH RESPECT TO:

AN EMPLOYEE EMPLOYED IN THE AIRLINE INDUSTRY WHICH INCLUDES CUSTOMER SERVICE REPRESENTATIVES, WHEREBY THE EMPLOYEE HAS SIGNED A WRITTEN STATEMENT AND THE WRITTEN AGREEMENT HAS BEEN FILED WITH THE EMPLOYER. THIS AGREEMENT ALLOWS THE EMPLOYEE TO TRADE HIS OR HER SHIFTS, HOURS, AND OR DAYS WHICH MAY EXCEED THE 8HR. OR 10HR. DAY, AND OR 40 HOUR WEEK. ALL TRADES WILL BE PAID STRAIGHT TIME PAY.

THANK YOU FOR YOUR CONSIDERATION ON THIS VERY IMPORTANT MATTER.

SIGNED:

[Signature] 3/25/99

[Signature] 26 MAR 99

Theresa Bellut 26 MAR 99

Patricia Kueppel 26 MAR 99

Vincent Vernon 3/26/99

Linda EM 3/26/99

Jennifer Lynch - 3/26/99

Delta Airlines

TO: THE HOUSE OF LABOR AND THE COMMERCE COMMITTEE:

WE THE UNDERSIGNED WOULD LIKE TO ADD AN AMENDMENT TO THE ALASKA STATE LAW. IT WOULD STATE AS FOLLOWS; EXEMPTIONS: THE PROVISIONS OF AS 23.10.060; THIS SECTION DOES NOT APPLY WITH RESPECT TO:

ALL EMPLOYEES EMPLOYED IN THE AIRLINE INDUSTRY WHICH INCLUDES CUSTOMER SERVICE REPRESENTATIVES, WHEREBY THE EMPLOYEE HAS SIGNED A WRITTEN AGREEMENT AND THE WRITTEN AGREEMENT HAS BEEN FILED WITH THE EMPLOYER. THIS AGREEMENT ALLOWS THE EMPLOYEE TO TRADE HIS OR HER SHIFTS, HOURS, AND OR DAYS WHICH MAY EXCEED THE 8HR. OR 10HR. DAY, AND OR 40 HOUR WEEK. ALL TRADES WILL BE PAID STRAIGHT TIME PAY.

THANK YOU FOR YOUR CONSIDERATION ON THIS VERY IMPORTANT MATTER.

SIGNED:

Jack Suptel
Tom Larson
Wendy Blumkamp

Van Overman

Andy Glasgow

Janet G. Drummond

Alice M. Pearson

3/26/99

JA

ALASKA STATE LEGISLATURE

CO-CHAIR
COMMUNITY AND REGIONAL AFFAIRS

VICE-CHAIR
LABOR AND COMMERCE
TRANSPORTATION

SPECIAL COMMITTEE
ECONOMIC DEVELOPMENT AND TOURISM



REPRESENTATIVE ANDREW HALCRO

District 12

STATE CAPITOL, ROOM 418
JUNEAU, AK 99801-1182
(907) 465-4939
FAX (907) 465-2418
1-800-465-4939

INTERIM
716 WEST 4TH
ANCHORAGE, AK 99501
(907) 269-0244
FAX (907) 269-0248

HB 61 SPONSOR STATEMENT REPRESENTATIVE ANDREW HALCRO

HB 61 was introduced at the request of an ad hoc group of employees from United Airlines during the last session as HB 389. Support for the bill broadened to include the entire commercial airline industry in Alaska. The Alaska Air Carriers Association, its individual constituent members and their employees are asking the legislature to pass this legislation. Management and employees support the bill.

HB 61 is intended to allow airline employees to trade workdays with each other without invoking overtime pay requirements. Under strict interpretation of current statute, a substitute employee who works a shift for another employee must be paid overtime if the substitute employee already worked 8 hours in the same work day or 40 hours in the same work week. Consequently, shift trading can only occur when the substitute employee has a day off from his or her regular shift. This situation narrows the available pool of substitute workers and makes it impossible or very difficult to trade shifts.

Airline employees in Alaska are vexed under Alaska's statute (AS 23.10.160) because we are the only Western state that has a daily overtime requirement. This bill gives Alaskan employees of airlines the same treatment as their counterparts in the other Western states.

Shift trading among employees in the airline industry is a very common practice. Usually it is done informally with tacit approval of the employer. HB 61 will legitimize the practice that has become the custom in the industry. Without it, employer airlines could violate the law if they allow their employees to trade shifts.

There is no problem with the present law as long as the Department of Labor does not enforce the overtime statutes. However, neither the legislature, nor the Governor, should be party to any practice which condones arbitrary enforcement. Either we must tell the employees of the airline industry in Alaska that they can no longer trade shifts, or we must provide a mechanism for them to do it legally.

The Department of Labor, and representatives of labor unions have indicated their non-opposition to this legislation.

FISCAL NOTE

No: 1

Bill Version: HB 61

(H) Publish Date: 3/31/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction): _____
 Title: Overtime Wage Exemption
Airline Employees
 Sponsor: Representative Halcro
 Requester: House L&C

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: Wage & Hour Administration
 COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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						
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CHANGE IN REVENUE FUND SOURCE #						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

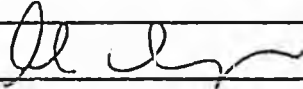
POSITIONS:

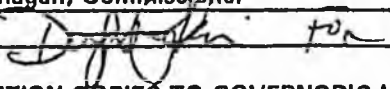
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY99) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

This bill would allow an exemption from the requirement for payment of overtime when a voluntary written agreement is in place between certain employees and their employers in the airline industry. There is no anticipated fiscal impact.

Prepared by: Alan W. Dwyer, Director  Phone: 465-4855
 Division: Labor Standards & Safety Date/Time: 3/25/99 11:20 AM

Approved by Commissioner: Ed Flanagan, Commissioner
 Agency: Department of Labor  Date: 3/25/99

HB

79

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

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

MEMORANDUM

February 17, 1999

SUBJECT: Sectional summary of HB 79 relating to letters of credit (Work Order No. 21-LS0375\D)

TO: Representative Norman Rokeberg, Chair
House Labor and Commerce Committee
Attn: Janet Seltz

FROM: *TS*
Theresa Bannister
Legislative Counsel

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

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill. The introductory remarks and the other descriptions of the sections necessarily contain some generalizations and simplifications. As a result, please keep in mind that the bill itself is the best statement of its contents.

Basic description: definitions used in summary. In general, a letter of credit is an agreement by a bank or other person made at the request of a customer that the bank or other person will honor demands for payment (or a demand for delivery of an item of value) when the conditions in the letter of credit are met. As an example, a letter of credit may be used when a bank customer wants to buy some merchandise, but the manufacturer won't ship without assurance of payment. The bank issues a letter of credit and is the "issuer." The customer requesting the letter of credit is the "applicant." The manufacturer (or other person who will be paid) is the "beneficiary."

To obtain the payment or delivery, the beneficiary must present the required documents. This is referred to as a "presentation" of the documents or "presenting" the documents. When the bank pays or delivers the item to the manufacturer, the bank "honors" the letter of credit. If the bank doesn't pay or deliver upon presentation of the documents, the bank "dishonors" the letter of credit.

If the bank authorizes another person to make the payment or deliver under a letter of credit, that person is a "nominated person." If the nominated person also undertakes to honor a letter of credit, that person is a "confirmer."

An "adviser" is a person who notifies the beneficiary (or another "adviser" who will notify the beneficiary) that a letter of credit has been issued, confirmed, or amended.

Representative Norman Rokeberg, Chair
House Labor and Commerce Committee
February 18, 1999
Page 2

This bill revises the rules that set up how letters of credit work and the relationships between all of the various parties involved.

Section 1. AS 09.30.070(b). Makes an amendment conforming this subsection to proposed AS 45.05.111(d). This bill section deals with interest on a court judgment and establishes when interest starts accruing before the judgment is handed down. Under AS 45.05.111(d), interest on money owed for a liability found under AS 45.05.111(a) - (c) starts when the letter of credit is wrongfully dishonored or on another appropriate date.

Section 2. AS 45.01.105(b). Makes an amendment conforming this subsection to the proposed AS 45.05 changes. AS 45.01.105 identifies which state or nation's law governs in certain cases involving more than one state or nation. The amendment states that AS 45.05.116 establishes what law governs for letters of credit.

Section 3. AS 45.02.512(a). Makes an amendment conforming this subsection to proposed AS 45.05.109(b). Excuses a buyer from making payment, even if the contract requires payment before inspection and the required documents are tendered, if the circumstances would justify an injunction under AS 45.05.109(b).

Section 4. AS 45.05.102. Defines the terms used in the revised chapter on letters of credit (AS 45.05). See the introductory comments to this memo for more simple definitions of the most important terms.

Section 5. AS 45.05.103. Defines the scope of AS 45.05.

AS 45.05.103(a). States that the chapter applies to letters of credit and transactions involving letters of credit.

AS 45.05.103(b). States that this chapter, by itself, does not govern how to treat another situation or person not covered by this chapter.

AS 45.05.103(c). States that you can change the provisions of this chapter by an agreement, except as provided by certain listed statutes. States that a general provision to excuse liability or limit remedies won't work to change the obligations imposed by this chapter.

AS 45.05.103(d). States that the rights and obligations of an issuer to a beneficiary, or to a nominated person, are independent of the contracts and arrangements underlying the letter of credit. In other words, the existence, performance, and nonperformance of the underlying contract or arrangement don't affect the rights and obligations under the letter of credit. Includes under this subsection contracts between the issuer and the applicant and between the applicant and the beneficiary.

Section 6. AS 45.05.104. Sets out just what a letter of credit and certain related documents must consist of. They must be in a form that can provide a record and must be authenticated

by a signature or authenticated as required under the parties' agreement or by the standard practice referred to in AS 45.05.108(e).

Section 7. AS 45.05.105. States that you don't need consideration (something of value to be received by a party) in order to issue, amend, transfer, or cancel a letter of credit, advice, or confirmation. Contracts usually require that each party receive something as consideration (not necessarily money or other property, but something of value to the party).

Section 8. AS 45.05.106(a). States that a letter of credit becomes enforceable against the issuer when the issuer sends it to the beneficiary or adviser. States that you can't revoke a letter of credit unless the letter says so.

AS 45.05.106(b). States that an amendment or cancellation of a letter of credit does not affect the rights and obligations of certain listed persons (e.g., beneficiary and applicant) unless they consent to the amendment or cancellation, or unless the letter of credit says it is revocable or that the issuer can amend or cancel it without the consent.

AS 45.05.106(c). States when a letter of credit expires if it does not state the date or does not have a provision that determines when it expires. The letter of credit expires one year after its stated date of issuance or, if not stated, one year after the date it is issued.

AS 45.05.106(d). States that a perpetual letter of credit expires five years after its stated date of issuance or, if not stated, five years after the date it is issued.

Section 9. AS 45.05.107(a). States that a confirmer is directly obligated on the letter of credit and has the rights and obligations of the issuer (as far as the letter of confirmation says it does). Also states that the confirmer has rights against, and obligations to, the issuer as if the issuer were the applicant and the confirmer had issued the letter of credit at the request of the issuer.

AS 45.05.107(b). States that a nominated person does not have to honor or give value when the necessary documents are presented to collect under a letter of credit, unless the person is also a confirmer.

AS 45.05.107(c). States that a person requested to advise may decline to act as an adviser. States that an adviser is not required to honor or give value when the necessary documents are presented to collect under a letter of credit, unless the adviser is also a confirmer. States that an adviser's job is to advise accurately about the terms of the letter of credit and related documents, and, with regard to the beneficiary, to check if the request to advise is authentic. States that a letter of credit, confirmation, or amendment is enforceable as issued even if the advice is not accurate.

AS 45.05.107(d). States that a person who notifies a transferee beneficiary (a person to whom the beneficiary has transferred the beneficiary's interest under the letter of credit)

about the terms of a letter of credit or related document has the rights and obligations of an adviser under (c) of this section. States that the terms of the notice to the transferee beneficiary and transferor beneficiary (the beneficiary who transferred the interest in the letter of credit) may be different, as allowed by the letter of credit or related document that is received by the person who notifies the transferee beneficiary.

Section 10. AS 45.05.108(a). Except as provided in the section on fraud and forgery, requires an issuer to honor a presentation that appears on its face to comply strictly with the letter of credit. The standard practice of financial institutions determines whether the presentation complies as required. Requires an issuer to dishonor a presentation that does not appear to comply, except as provided in AS 45.05.113 and otherwise agreed with the applicant.

AS 45.05.108(b). States that upon presentation an issuer has a reasonable time to perform certain acts. The reasonable time may not exceed seven business days after the day of receipt. These acts are to honor the presentation, to notify the presenter that there are problems, or, if the letter of credit provides for honor after seven business days after presentation, to accept a draft (check) or incur a deferred obligation.

AS 45.05.108(c). States that in two situations an issuer is prevented from asserting that a problem causes the issuer to dishonor the letter of credit. The first situation is when the issuer does not give timely notice of the problem. The second situation is if the issuer gives notice but the problem is not stated in the notice. This subsection is subject to the fraud, forgery, and expiration assertions under (d).

AS 45.05.108(d). States that an issuer can still assert that there has been fraud or forgery (under AS 45.05.109(a)) or that the letter of credit has expired before presentation in order to dishonor a presentation, even if the issuer failed to give the required notice or to mention the fraud, forgery, or expiration in the notice.

AS 45.05.108(e). Requires an issuer of a letter of credit to comply with the standard practice of financial institutions that regularly issue letters of credit when the issuer handles letters of credit. States that a court is the determiner of whether the issuer has complied with the standard practice. Directs a court to allow the parties to present evidence of what is the standard practice.

AS 45.05.108(f). States what an issuer is not responsible for. An issuer is not responsible for the performance or nonperformance of the contract, arrangement, or transaction underlying the letter of credit. An issuer is not responsible for another person's acts or omissions. An issuer is not responsible for knowing the usage of a particular trade, except for the standard practice of financial institutions issuing letters of credit.

AS 45.05.108(g). Directs an issuer to ignore certain nondocumentary conditions contained in a letter of credit.

AS 45.05.108(h). Requires an issuer who does not honor a presentation under a letter of credit to return the documents presented, or to hold them for the presenter and notify the presenter.

AS 45.05.108(i). Establishes certain rights and limitations for an issuer when the issuer honors a presentation under a letter of credit. The issuer is entitled to be reimbursed by the applicant; the reimbursement must be made in funds that are available immediately to the issuer not later than the date of payment. The issuer takes the documents presented without any claims by the beneficiary or presenter. The issuer may not claim a right of recourse under AS 45.03.414 - 45.03.415 on a draft (check). Except as provided in two other sections, the issuer may not get the money or another valuable back if there was a mistake, if the mistake involves obvious problems in the documents or tender that are apparent on the face of the presentation. The issuer is discharged unless a required signature of the beneficiary was forged.

Section 11. AS 45.05.109(a). Gives an issuer directions on what to do if presentation documents appear to meet the requirements of the letter of credit, but a document is either forged or materially fraudulent, and honoring the documents would result in a material fraud by the beneficiary on the issuer or applicant.

Directs the issuer to honor the presentation of the documents if honor is demanded by certain persons under certain circumstances. The first is a nominated person that has given value in good faith and without notice of the forgery or fraud. The second is a confirmer that has honored its confirmation in good faith. The third is a holder in due course of a draft (check) that was drawn up under the letter of credit and taken by the holder in due course after acceptance by the issuer or nominated person. The fourth is the person who has had the issuer's or nominated person's deferred (doesn't have to be paid immediately) obligation transferred (assigned) to the person, if before the obligation was incurred by the issuer or nominated person, the person gave value to get the assignment and did not have notice of the forgery or fraud.

Allows the issuer to honor or dishonor the request for payment if the issuer acts in good faith and if the situation does not fall under categories (1) - (4) above.

AS 45.05.109(b). Authorizes a court to enjoin an issuer from honoring a request for payment (or grant similar relief against the issuer or other persons) when an applicant claims forgery or fraud, but only if four listed conditions are met. The first is that the relief must not be prohibited under the law governing drafts that have been accepted by the issuer, or governing a deferred obligation incurred by the issuer. The second is that a beneficiary, issuer, or nominated person who may be adversely affected must be adequately protected against loss resulting from the court giving the relief. The third is that all of the conditions for obtaining the court relief in this state must be satisfied. The fourth is that applicant is likely to succeed on the claim of forgery or fraud and the person demanding that the presentation be honored does not qualify for protection under (a)(1).

Section 12. AS 45.05.110(a). Establishes certain things that the beneficiary warrants when the presentation is honored. The beneficiary warrants to the issuer, to another person to whom the presentation is made, and to the applicant that there is no fraud or forgery as those terms are described in AS 45.05.109(a). The beneficiary warrants to the applicant that the payment (or transfer of value) does not violate an agreement between the beneficiary and the applicant or another agreement connected to the letter of credit.

AS 45.05.110(b). States that the warranties in (a) are in addition to other warranties under AS 45.03 (UCC: negotiable instruments), AS 45.04 (UCC: bank deposits and collections), AS 45.07 (UCC: warehouse receipts, bills of lading, and other documents of title), and AS 45.08 (UCC: investment securities) that are related to the presentation or transfer of the documents.

Section 13. AS 45.05.111(a). Allows a beneficiary, successor beneficiary, or a nominated person to recover from the issuer of a letter of credit the amount in dispute if the issuer wrongfully dishonors or states that the issuer will not honor its obligation. If the issuer's obligation is not to pay money, this subsection allows the claimant to make the issuer perform what the issuer was supposed to perform, or, if the claimant elects, to recover an amount of money that equals the value of the performance. Allows the claimant to also recover damages that flow directly and immediately from the dishonor but not more remote damages. States that the claimant does not have to take action to avoid the damages that might result. However, reduces the awarded damages to the extent the claimant does avoid the damages. Requires the issuer to prove the amount of the damages that the claimant avoided. If the claim is based on the issuer repudiating the obligation before presentation of the documents, states that the claimant does not have to present the documents normally required to require the issuer to pay or deliver the value required.

AS 45.05.111(b). Allows the applicant to recover damages from the issuer if the issuer wrongfully dishonors a draft or demand presented under a letter of credit, or if the issuer wrongfully honors a draft or demand under the letter of credit. Allows the claimant to recover damages that flow directly and immediately from the wrongful act, but not the more remote "consequential" damages. Reduces the amount of awarded damages by any amount saved due to the wrongful act.

AS 45.05.111(c). Allows a person to recover from an adviser or nominated person, other than a confirmer, the person's damages resulting from the adviser's or nominated person's breach of an obligation under this chapter or from an issuer's breach of an obligation not covered by (a) or (b). Allows the person to recover only damages that flow directly and immediately from the breach, but not the more remote consequential damages, less any amount the person saves due to the breach. States that a confirmer has the liability of an issuer under (a), (b), and this subsection, to the extent of the confirmation.

AS 45.05.111(d). States that an issuer, a nominated person, or an adviser who is liable under (a) - (c) must pay interest on the amount owed from the date of the wrongful dishonor, or from another appropriate date.

AS 45.05.111(e). Directs the court to award attorney fees and costs to the party who wins a court action for a remedy under this chapter.

AS 45.05.111(f). Allows parties to establish ahead of time by agreement the amount of damages that would result from a breach of an obligation under this chapter. However, the amount or formula for calculating the amount must be reasonable.

Section 14. AS 45.05.112(a). Prohibits transferring the right of a beneficiary to payment or performance under a letter of credit, except when the transfer occurs by operation of law as provided under AS 45.05.113, or unless the letter of credit says the right is transferable.

AS 45.05.112(b). Allows in two circumstances an issuer to refuse to carry out or recognize a transfer, even if allowed under the letter of credit. The first circumstance is that the transfer would violate the law that applies to the situation. The second circumstance is that the transferor or the transferee has failed to comply with the letter of credit, or with another requirement that relates to the transfer, and that is within the standard practice of financial institutions regularly dealing with letters of credit or that is otherwise reasonable under the circumstances.

Section 15. AS 45.05.113(a). Allows a person who succeeds another person as the beneficiary under a letter of credit to perform certain listed acts without having to disclose that it is a successor of the beneficiary. The successor may consent to amendments. The successor may sign and present documents. The successor may receive payment or other items of value in the name of the beneficiary.

AS 45.05.113(b). Allows the successor of a beneficiary to perform certain listed acts in its own name as the disclosed successor to the beneficiary. The disclosed successor may consent to amendments. The disclosed successor may sign and present documents. The disclosed successor may receive payment or other items of value. Except as provided by (e), directs an issuer to recognize a person who is disclosed to be a successor beneficiary as a full beneficiary if the successor beneficiary complies with the standard practice for financial institutions regularly dealing in letters of credit, or, in the absence of the standard practice, with other reasonable procedures that will protect the issuer.

AS 45.05.113(c). States that an issuer does not need to determine whether a person alleging to be a successor beneficiary is actually such a beneficiary or whether the purported successor's signature is genuine or authorized.

AS 45.05.113(d) States that honoring a purported successor's presentation under (a) or (b) that appears to be in compliance has the consequences identified in AS 45.05.108(i) even if

the person is not really the successor of the beneficiary. States that documents signed in the name of the beneficiary or a disclosed successor by a person who is not really the beneficiary or the successor beneficiary are considered to be forged documents when applying AS 45.05.109.

AS 45.05.113(c). Allows an issuer (if the issuer's rights of reimbursement are not covered by (d) or by similar law), any confirmer, and any nominated person to decline a presentation as provided in (b).

AS 45.05.113(f). States that if a beneficiary changes its name after a letter of credit is issued, the beneficiary has the same rights and obligations as a successor beneficiary under this section.

Section 16. AS 45.05.114(a). Defines "proceeds of a letter of credit" for the section.

AS 45.05.114(b). Allows a beneficiary to assign (transfer to another person) its right to the proceeds of a letter of credit. Allows the beneficiary to do this before presentation, by assigning the right to receive proceeds when the conditions are satisfied in the letter of credit.

AS 45.05.114(c). Allows the issuer or nominated person to refuse to recognize an assignment of the proceeds of a letter of credit until the issuer or nominated person agrees to the assignment.

AS 45.05.114(d). States that an issuer or nominated person is not required to give or withhold its consent to an assignment (transfer to another person) of the proceeds of a letter of credit. Prohibits the issuer or nominated person from withholding the consent unreasonably if the assignee has and shows the letter of credit and if presentation of the letter of credit is required before honor.

AS 45.05.114(e). States that the rights of a transferee beneficiary (a subsequent beneficiary to whom a beneficiary's rights have been transferred) or of a nominated person do not depend on the beneficiary's assignment (transfer) of the proceeds of a letter of credit and are superior to the assignee's right to the proceeds.

AS 45.05.114(f). States that the rights under this section between an assignee and an issuer, a transferee beneficiary, or a nominated person, and the issuer's or nominated person's payment of proceeds to an assignee or a third person, do not affect the rights between the assignee and a person other than the issuer, transferee beneficiary, or nominated person. States that the creation and perfecting (making effective) of a security interest (an interest taken to secure a payment) in (or granting) a beneficiary's rights to proceeds, and assignment of (transferring) those rights, are governed by AS 45.09 (UCC: secured transactions) or other law. States that the rights and obligations arising on the creation and perfection of a security interest or arising on another assignment (transfer) of a beneficiary's rights to

proceeds, are governed by AS 45.09 or other law, as against a person other than the issuer, transferee beneficiary, or nominated person.

Section 17. AS 45.05.115. Limits how long a person has to bring an action in court to enforce a right or obligation under this chapter. Limits the time to the later of (1) one year after the expiration date of the letter of credit, or (2) one year after the basis for the action occurs. States that a basis for the action arises when there is a breach (of an obligation) under this chapter, even if the injured party does not know about the breach.

Section 18. AS 45.05.116(a). States that the liability of an issuer, a nominated person, or an adviser is governed by the jurisdiction that the parties choose by agreement if the agreement is in the form of a record signed or otherwise shown to be authentic by the parties under AS 45.05.104 or by a provision in the letter of credit, confirmation, or other undertaking. States that the selected jurisdiction is not required to be related to the transaction involved.

AS 45.05.116(b). States which jurisdiction governs the liability of certain listed persons for their acts or failure to act, unless (a) applies. States that the jurisdiction is the jurisdiction where the person is located. Considers the person to be located at the address stated in the person's promise. States that if more than one address is indicated, the person is considered to be located at the address from which the promise of the person was issued. When dealing with jurisdiction, selection of whose law to apply, and recognition of letters of credit between bank branches, but not a court judgment, the branches of a bank are considered to be separate juridical entities, and a bank is considered to be located where the bank's branch that is related to the matter is considered to be located under this subsection.

AS 45.05.116(c). States that, except as provided otherwise in this subsection, the liability of certain listed persons is governed by rules of custom or practice that the parties expressly select for the letter of credit or confirmation, or undertaking. Gives as an example the Uniform Customs and Practice for Documentary Credits. States that if both this chapter and the rules of custom or practice apply to the liability, the rules govern, unless they conflict with a provision of this chapter that cannot be changed (see AS 45.05.103(c)).

AS 45.05.116(d). States that this chapter governs if a conflict occurs between this chapter and AS 45.03 (UCC: negotiable instruments), AS 45.04 (UCC: bank deposits and collections), AS 45.09 (UCC: secured transactions), and AS 45.14 (UCC: funds transfers).

AS 45.05.116(e). States that the location for settling disputes under this chapter may be chosen in the same manner as the governing law is chosen under (a), and that the selection has the same binding effect.

Section 19. AS 45.05.117(a). States that an issuer who honors a letter of credit is subrogated to the rights of (is substituted for and can claim the rights of) certain listed

persons. The first person is the beneficiary, and the substitution is the same as if the issuer were a back-up debtor on the underlying obligation owed to the beneficiary. The second person is the person who requested the issuer to issue a letter of credit and the subrogation is to the same extent as if the issuer were the back-up debtor on the obligation owed to the applicant.

AS 45.05.117(b). States that an applicant that reimburses an issuer is subrogated to the rights of (is substituted for and can claim the rights of) certain listed persons. The subrogation is to the same extent as if the applicant were the secondary debtor on the obligation owed to the issuer, and the applicant has the subrogation rights of the issuer to the rights of the beneficiary stated in (a).

AS 45.05.117(c). States that a nominated person who pays or gives value against a draft (check) or demand presented under a letter of credit is subrogated to the rights of (is substituted for and can claim the rights of) certain listed parties.

AS 45.05.117(d). States that the right of subrogation in (a) and (b) don't arise until the issuer honors the letter of credit or otherwise pays under the letter of credit. States that the rights of subrogation in (c) don't arise until the nominated person pays or otherwise gives value under the letter of credit. These provisions apply even if there is an agreement that states otherwise. Until the events occur, the persons do not obtain under this section any present or future rights that would form the basis for a claim, defense, or excuse.

Section 20. AS 45.09.103(a). This amendment adds "rights to proceeds of written letters of credit" to the items that are covered by this subsection. The subsection deals with determining which jurisdiction's law applies when perfecting (making effective) secured transactions (agreements where one party transfers an interest in property to secure a contract), and what happens when collateral that is subject to a perfected security interest in another jurisdiction is brought into and kept in this state.

Section 21. AS 45.09.104. States that AS 45.09 (UCC: secured transactions) does not apply to the transfer of an interest in a letter of credit, except for the rights to proceeds of a written letter of credit.

Section 22. AS 45.09.105(c). Adds two definitions to the definitions that apply in AS 45.09 (UCC: secured transactions): "letter of credit" and "proceeds of a letter of credit."

Section 23. AS 45.09.106. Adds "rights to proceeds of written letters of credit" to the definition of "general intangibles" that is used in AS 45.09 (UCC: secured transactions).

Section 24. AS 45.09.304(a). States that to perfect (make effective) a security interest (interest given to a person to secure performance of a contract) in the rights to proceeds of a written letter of credit, the party that is secured must take possession of the letter of credit.

Representative Norman Rokeberg, Chair
House Labor and Commerce Committee
February 18, 1999
Page 11

Section 25. AS 45.09.305. Allows a person to obtain an interest that secures performance of an obligation in the "rights to proceeds of a written letter of credit" by taking possession of the letter of credit.

Section 26. Subsection (a) states that this Act applies to a letter of credit that is issued on or after the effective date of this Act. States that this Act does not apply to a transaction, event, obligation, or duty that is associated with a letter of credit issued before the effective date of this Act.

Subsection (b) states that a transaction associated with a letter of credit issued before the effective date of this Act, and the accompanying rights, obligations, and interests are governed by current law as if this Act had not occurred.

Section 27. Makes the Act effective January 1, 2000.

TLB:glc
99-066.glc

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 79

Revision Date/Time (Note if correction) _____ Dept. Affected Commerce & Econ. Dev.
 Title Uniform Commercial Code: Letters of Credit BRU Banking, Securities and Corporations
 Component Banking, Securities and Corporations
 Sponsor House Labor and Commerce by request
 Requester _____ Component Serial No. 1233

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Franklin T. Elder, Director Phone 465-2521
 Division Banking, Securities and Corporations Date/Time 2/26/99 11:49 AM
 Approved by Commissioner Deborah B. Sedwick Date 2/26/99
 Agency Commerce and Economic Development

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**SPONSOR STATEMENT FOR
BILL REVISING UNIFORM COMMERCIAL CODE, ARTICLE 5
(LETTERS OF CREDIT)**

House Labor and Commerce Committee

The basic purpose of the revision of Article 5 of the Uniform Commercial Code is to update the law governing the \$200 billion U.S. letter-of-credit industry. All 50 states and Puerto Rico, Guam, and the District of Columbia have adopted the UCC, including Article 5. It is now necessary for Article 5 to be revised, to recognize changes in technology and in commercial practices, so as to avoid litigation over the increasing number of issues that are no longer adequately dealt with in the decades-old current law. One of the main features of this revision is the simplification of Article 5. Another is its recognition of the Uniform Customs and Practices for Documentary Credits, a body of material that is used in conjunction with most international letters of credit.

Letters of credit are used to obtain payment as a backup to other kinds of credit extension; they are very important in international trade. Prior ambiguities in the law dealing with the concept of fraud in the transaction are clarified. Article 5 becomes much simpler and less detailed because of the explicit reliance upon standards of practice. It continues to provide rules that can be waived or modified by agreement between the parties.

This revision of Article 5, promulgated by the National Conference of Commissioners on Uniform State Laws in 1995, has already been enacted in 39 jurisdictions and, as of January 15 of this year, is pending in the legislature of an additional jurisdiction. It is necessary for Alaska to enact this bill in order to keep up with developments in the commercial law area, and avoid becoming a commercial backwater.

Thank you.

A Few Facts About
UCC ARTICLE 5 - LETTERS OF CREDIT

PURPOSE: Letters of Credit are used to obtain payment as a backup to other kinds of credit extension; they are very important in international trade. In the revisions there is explicit recognition of standards of practice, so that standards such as the Uniform Customs and Practices for Documentary Credits can govern many of the particulars of letters of credit. Prior ambiguities with the concept of fraud in the transaction are clarified. Damages for a dishonored or repudiated letter of credit are limited to amount of the document plus incidental damages. Consequential damages are not permitted. Article 5 becomes much simpler and less detailed because of the explicit reliance upon standards of practice. Article 5 continues to provide rules that can be waived or modified by agreement between the parties.

ORIGIN: Completed by the Uniform Law Commissioners, in conjunction with the American Law Institute, in 1995.

ENDORSED BY: American Bar Association

STATE ADOPTIONS:	Alabama	Mississippi
	Arizona	Missouri
	Arkansas	Montana
	California	Nebraska
	Colorado	Nevada
	Connecticut	New Hampshire
	Delaware	New Jersey
	District of Columbia	New Mexico
	Hawaii	North Dakota
	Idaho	Ohio
	Illinois	Oklahoma
	Indiana	Oregon
	Iowa	South Dakota
	Kansas	Tennessee
	Maine	Utah
	Maryland	Vermont
	Massachusetts	Virginia
	Michigan	Washington
	Minnesota	West Virginia
		Wyoming

1999
INTRODUCTIONS: Texas

For any further information about UCC Article 5, Letters of Credit, please contact John McCabe or Katie Robinson at 312-915-0195.

(1/15/99)

(Please note: This information can also be found on our Web Site at www.nccusl.org)

UCC ARTICLE 5 – LETTERS OF CREDIT

– NCCUSL

- WHAT:** Modernizes and clarifies our country's principal law dealing with letters of credit.
- WHY:** Our present law was drafted almost 40 years ago. It is outmoded and no longer reflects commercial practice.
- New legal issues have developed which are resolved by the new law.
- Revised Article 5 also conforms our law with international law and practice, which facilitates international trade.
- Finally, the use of letters of credit has expanded enormously in the past decade or two. They are now used in many large domestic commercial transactions.
- WHEN:** Now.
- Revised Article 5 has been approved by the American Law Institute and the National Conference of Commissioners on Uniform State Laws.
- American Bar Association approval is anticipated in due course.
- The final text of revised Article 5 is available now.
- HOW:** Introduction is anticipated this year or next year in about 20 states, including major money center states such as New York, California and Illinois.
- States which do not adopt revised Article 5 will find themselves behind the rest of the country and the rest of the world.
- WHO:** Drafted ^{by the NCCUSL} with the active participation of advisors from national and international businesses, banks, bar associations and government agencies.
- Professor James J. White, co-author of the White & Summers treatise on the Uniform Commercial Code, was the reporter.

WHY STATES SHOULD ADOPT UCC ARTICLE 5 – LETTERS OF CREDIT

— UCCUSL

The revision to Article 5 of the Uniform Commercial Code – Letters of Credit – updates the law governing the \$200 billion U.S. letter of credit industry. Banks, and occasionally other persons, issue letters of credit to better assure payment to a third party by a customer up to a stated amount, for a stated period of time. Half of all exports outside the U.S. are financed by letters of credit.

Since the 1950s when this article was originally promulgated, the practices and technologies employed with letters of credit have changed substantially, including the use of electronic and computer technology. Litigation has increased as the volume of credits and the uncertainties of the law have stimulated controversies. Thus revision to UCC5 is both appropriate and timely.

There are a number of reasons why every state should adopt revised UCC Article 5:

- ▶ **LETTERS OF CREDIT ARE IMPORTANT** – Letters of credit are very important in international trade. It has become a common method of guaranteeing and obtaining payment. The use of letters of credit has increased in recent years as foreign trade has expanded and increased. The law which regulates letters of credit – UCC Article 5 – is obviously an important component to expansion of foreign trade.
- ▶ **UCC5 RECOGNIZES THE UCP 500** – UCC5 recognizes the Uniform Customs and Practices for Documentary Credits (UCP 500), which is used in most international letters of credit. The UCP 500 was promulgated by the International Chamber of Commerce and provides operational rules and standards that have international acceptance.
- ▶ **STANDARDS OF PRACTICE ARE RECOGNIZED** – Revised UCC5 specifically includes the most commonly used standards of practice. The revision coordinates with current standards of practice by including: deferred payment obligations, reasonable time to examine documents, preclusion, and the return of documents.

- ▶ **UCCS IS MODERNIZED** – Original UCCS in many ways is out of touch with current practice and major gaps cause unnecessary litigation. The revised UCCS authorizes the use of electronic technology; expressly permits deferred payment letters of credit and two-party letters of credit; provides rules for unstated expiration dates and "perpetual" letters of credit; and conforms to existing practice for assignment of proceeds.
- ▶ **UNIFORMITY** – It is important that U.S. law regarding letters of credit be in accord with international rules and practices, but since letters of credit are a major instrument in domestic transactions as well, both international and domestic trade requires uniformity of law. These rules should be consistent within the United States.
- ▶ **CONCLUSION** – The revised UCC Article 5 is a significant improvement over current provisions, and will lessen litigation, clarify matters which had been disputed, and encourage sound practices, promoting international trade. For all of these reasons, UCCS should be adopted by all states as soon as possible.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

May 3, 1999

Honorable Jerry Mackie
Chair
Senate Labor and Commerce Committee
State Capitol, Rm 427
Juneau, AK 99801-1182

Re: HB 79 - UCC: Letters of Credit

Dear Senator Mackie:

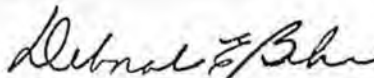
HB 79 (UCC: Letters of Credit) is presently before the Senate Labor and Commerce Committee. The bill was developed by the National Conference of Commissioners on Uniform State Laws after many years of study and consideration. The bill is important to provide a good business climate for interstate business transactions concerning letters of credit.

If you have questions, please contact me at 465-2122.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Deborah E. Behr
Assistant Attorney General

DEB:jf

cc: Hon. Norman Rokeberg, Chair
House Labor & Commerce Committee

Pat Pourchot, Legislative Dir.
Office of the Governor

Chrystal Smith, Legislative Contact
Dept. of Law

All Alaska Uniform Law Commissioners

Vince Usera
Mary Ellen Beardsley
Assistant Attorneys General
Juneau/Anchorage

TONY KNOWLES, GOVERNOR

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January 27, 1999

JAN 27 1999

The Honorable Norman Rokeberg, Chair
House Labor and Commerce Committee
Alaska State Legislature
Room 24, State Capitol
Juneau, Alaska 99801-1182

HAND DELIVERED

Re: Uniform Commercial Code, Revision of Article 5 -- Letters of Credit
(Last Legislature's HB 178)

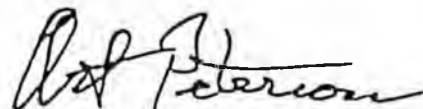
Dear Representative Rokeberg:

As I discussed with your assistant, Janet Seitz, yesterday, last legislature's HB 178 appears ready for re-introduction this session. At her request, you will find attached a "sponsor statement" for the bill. I will not go into the bill here, other than to say that it is basically an update of the law governing the \$200 billion U.S. letter-of-credit industry.

Also attached are three information sheets (one of which is two-sided) provided by the NCCUSL. As usual, I would be happy to provide any additional information that you may need. As you know, however, in Alaska's Uniform Laws delegation, Jerry Kurtz is the one with the most expertise in this area. He can be reached in Anchorage at 276-6100.

Since the bill passed the House unanimously last year, and, despite the lack of opposition, inexplicably got stuck in the Senate Judiciary Committee, I trust that it will pass this year. Thanks again for your support and your work on it.

Yours truly,



Arthur H. Peterson
Uniform Law Commissioner
for Alaska

The Honorable Norman Rokeberg, Chair
January 27, 1999

Page 2

AHP:dv

Enclosures (4)

cc w/encl: Rest of Alaska's ULC Delegation:
Honorable Jay A. Rabinowitz
W. Grant Callow, Esq.
Tamara Brandt Cook, Esq.
L. S. Kurtz, Jr., Esq.
Deborah E. Behr, Esq.

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February 22, 1999

Hon. Norman Rokeberg, Chair
House Labor & Commerce Committee
Alaska State Legislature
ATTN: Janet Seitz
Room 24, State Capitol
Juneau, Alaska 99801-1182

HAND-DELIVERED

Re: HB 79, Revision of UCC, Article 5 (Letters of Credit)
-- support

Dear Rep. Rokeberg:

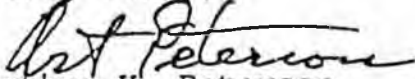
I understand that HB 79 is scheduled for a hearing before your committee this Friday, February 26. Unfortunately, I will be in Anchorage on business that day and cannot attend your hearing.

However, I wanted to repeat my strong SUPPORT for this bill, and I urge your committee to act on it favorably, with a "Do Pass" recommendation.

This bill presents a necessary piece in the ongoing efforts of the National Conference of Commissioners on Uniform State Laws to keep the Uniform Commercial Code up to date. It resolves issues pertaining to modern technology, current business practices, and the interpretation of the decades-old existing law. It is described more specifically in the sponsor statement and attached materials that I provided you with my January 27, 1999 letter.

Thank you.

Yours truly,


Arthur H. Peterson
Uniform Law Commissioner
for Alaska

cc: Rest of Alaska's ULC Delegation:
Jay A. Rabinowitz
W. Grant Callow
Tamara Brandt Cook
L. S. (Jerry) Kurtz, Jr.
Deborah E. Behr

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 19, 1999

TONY KNOWLES, GOVERNOR

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- P.O. BOX 110300-DIMOND COURT HC
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PHONE: (907) 465-3600
FAX: (907) 465-6735

Honorable Norman Rokeberg
Chair
House Labor & Commerce Committee
State Capitol, Rm 24
Juneau, AK 99801-1182

FEB 19 1999

Re: HB 79 - UCC: Letters of Credit

Dear Representative Rokeberg:

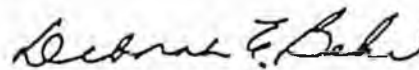
HB 79 (UCC: Letters of Credit) is presently before the House Labor and Commerce Committee. The bill was developed by the National Conference of Commissioners on Uniform State Laws after many years of study and consideration. The bill is important to provide a good business climate for interstate business transactions concerning letters of credit.

If you have questions, please contact me at 465-2122.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Deborah E. Behr
Assistant Attorney General

DEB:jf

cc: Pat Pourchot, Legislative Dir.
Office of the Governor

Chrystal Smith, Legislative Contact
Dept. of Law

All Alaska Uniform Law Commissioners

Vince Useni
Mary Ellen Beardsley
Assistant Attorneys General
Juneau/Anchorage

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April 26, 1999

Rep. Joe Green
 Alaska House of Representatives
 Room 214, State Capitol
 Juneau, Alaska 99801-11182

Re: HB 79 (Uniform Commercial Code, art. 5 - letters of credit)


Dear Rep. Green:

With regard to your question about New York and Texas at the April 12 House Judiciary Committee hearing on this bill, you will find attached a copy of the April 21, 1999 Fact Sheet from the National Conference of Commissioners on Uniform State Laws and the April 23, 1999 e-mail message from NCCUSL Legislative Director and Legal counsel John McCabe to me.

The former shows 40 enactments (including Texas, about which you asked) and four pending introductions (including Alaska). The latter explains the New York approach, and shows that that state will be coming along soon.

I trust that this information helps with your support of the bill.

Yours truly,


 Arthur H. Peterson
 Uniform Law Commissioner
 for Alaska

cc w/cncs.: Rep. Norman Rokeberg, Chair, Hse. Labor & Commerce Com.
 Rep. Pete Kott, Chair, Hse. Judiciary Committee
 Rep. Lisa Murkowski
 Rep. Eric Croft
 Rep. Beth Kerttula
 Rest of Alaska's Uniform Laws Delegation

A Few Facts About
UCC ARTICLE 5 - LETTERS OF CREDIT

PURPOSE: Letters of Credit are used to obtain payment as a backup to other kinds of credit extension; they are very important in international trade. In the revisions there is explicit recognition of standards of practice, so that standards such as the Uniform Customs and Practices for Documentary Credits can govern many of the particulars of letters of credit. Prior ambiguities with the concept of fraud in the transaction are clarified. Damages for a dishonored or repudiated letter of credit are limited to amount of the document plus incidental damages. Consequential damages are not permitted. Article 5 becomes much simpler and less detailed because of the explicit reliance upon standards of practice. Article 5 continues to provide rules that can be waived or modified by agreement between the parties.

ORIGIN: Completed by the Uniform Law Commissioners, in conjunction with the American Law Institute, in 1995.

ENDORSED BY: American Bar Association

**STATE
ADOPTIONS:**

Alabama	Mississippi
Arizona	Missouri
Arkansas	Montana
California	Nebraska
Colorado	Nevada
Connecticut	New Hampshire
Delaware	New Jersey
District of Columbia	New Mexico
Hawaii	North Dakota
Idaho	Ohio
Illinois	Oklahoma
Indiana	Oregon
Iowa	South Dakota
Kansas	Tennessee
Maine	Texas *
Maryland	Utah
Massachusetts	Vermont
Michigan	Virginia
Minnesota	Washington
	West Virginia
	Wyoming

40

**1999
INTRODUCTIONS:**

Alaska
Florida

North Carolina
Pennsylvania

For any further information about UCC Article 5, Letters of Credit, please contact John McCabe or Katie Robinson at 312-915-0195.

* 1999 Enactment

(4/21/99)

(Please note: This information can also be found on our Web Site at www.nccusl.org)

Art Peterson 586-4000

From: John M. McCabe
Sent: Friday, April 23, 1999 6:50 AM
To: art@dillonfindley.com
Subject: Article 5 in New York

Dear Art:

Uniform Commercial Code Article 5 is slowly moving towards consideration in the New York Legislature. The Legislature requires a report from the New York Law Revision Commission. That report is done, and is very favorable. In the past, the New York Legislature has refused to handle more than one UCC bill in any legislative year. New York has not adopted Revised Article 3 and the Article 4 Amendments, and that may have to precede consideration of Article 5. However, the New York Department of State is now managing the UCC bills, and is trying to establish an improved schedule for legislative consideration of UCC revisions. This bodes well for all the UCC revisions, including Article 5, because it is the first time that the executive branch in New York has taken a serious interest in the UCC. But it is not clear that putting these bills on the Governor's agenda will accelerate consideration of Article 5 that much.

The New York Law Revision report is very favorable, as I indicated. The New York State Bar Association just voted to support Article 5 a couple of weeks ago. We are very certain of City Bar of New York support. The banks support Article 5. I am told that New York banks are making letters of credit subject to the law of states with Revised Article 5, a practice that is causing some embarrassment in Albany. I know of no opposition in New York. The bill will get favorable consideration, given all of these factors. It is just a matter of clearing all of the procedural requirements that the Legislature imposes on UCC bills.

Thanks for your kind attention.

John M. McCabe
Legal Counsel/Legislative Director
NCCUSL

HB

94

FISCAL NOTE

Bill Version: HB 94

(H) Publish Date: 3/8/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Revenue
 Title Removing employee of the Alcoholic Beverage BRU ABC Board
Control Board from exempt service Component ABC Board
 Sponsor Rep. Kott
 Requester House Labor & Commerce Committee Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact on the ABC Board

Prepared by Doug Griffin, Director
 Division ABC Board
 Approved by Wilson L. Conlon
 Commissioner
 Agency Department of Revenue

Phone 465-2301

Date/Time February 25, 1999, 3:16 PM

Date 2/26/99

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fiscal94 - 2/25/99

Sponsor Statement

HB 94

An Act removing employees of the Alcoholic Beverage Control Board from the exempt service.

This bill is a house keeping measure. The Alcohol Beverage Control employees are now all in the classified service and the statue AS39.25.110(15) is now superfluous and should be repealed.

At one time the Alcohol Beverage Control (ABC) employees were exempt and were appointed to their positions. Presently all ABC employees are in the classified service. The present statute lists ABC employees as in the exempt service. This statute is no longer applicable to the current situation.

My interest in this matter is based on Mr. Charbonneau's letter to me explaining the situation. Mr. Charbonneau is a constituent and resides in my district. I am responding to a constituent's request as his representative to the Alaska Legislature.

It is my understanding that the administration does not oppose this bill.

I urge your support for this legislation.

PROPOSED STATUTE CHANGE
AS 39.25.110(15) EXEMPT SERVICE

Representative Pete Kott:
State Capitol, Room 204
Juneau, Ak. 99801-1182

Dear Representative Kott,

It has come to our attention that a contradiction exists between state statute and union representation involving employees of the Alcoholic Beverage Control Board.

The Statute AS 39.25.110(15) Exempt service, shows "officers, agents and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110" are exempt employees.

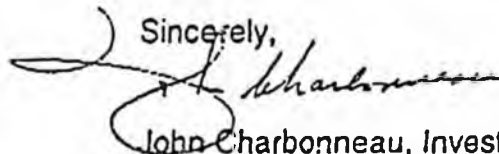
All employees of the Alcoholic Beverage Control Board are represented by a union, pay union dues, and have been so since unions started representing employees of the State of Alaska. At no time, have employees of the A.B.C. Board been treated as exempt employees, nor have they desired to be treated as exempt.

We are requesting AS39.25.110(15) be amended by the deletion of section(15).

The other investigators of this agency have been contacted regarding this matter and are in concurrence with this request.

Thank you for your consideration regarding this matter. If there is any thing further you need please do not hesitate to call me.

Sincerely,



John Charbonneau, Investigator
State of Alaska
Alcoholic Beverage Control
550 W. 7th. Ave. Suite 350
Anchorage, Ak. 99501

HB

105



Official Business

Alaska State Legislature

SENATE LABOR & COMMERCE COMMITTEE

State Capitol
Juneau, AK 99801-11

(907)465-3844

April 10, 2000

MEMORANDUM

To: Committee Members

From: Senator Mackie, Chair
Senate Labor and Commerce Committee

Re: CS HB 105 (Fin), Licensing of Speech Pathology/Audiology.

The section 16 exemptions (page 8) of CS HGB 105 (Fin) include school district employees that practice speech-language pathology. I have received several complaints from small school districts that, because of their size, must rely on contract services to provide for their speech pathology needs. Their concerns are that the bill will increase their costs directly and further restrict the supply of professionals available to serve their needs.

The proposed L&C committee substitute (M version) exempts both school district employees and contractors that practice speech-language pathology in the district (page 8, line 14) from the new licensing requirements. Qualification standards for these individuals then remain under the jurisdiction of the Department of Education.

Alaska State Legislature

DURING SESSION
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Representative_Con_Bundo@legis.state.ak.us

REPRESENTATIVE CON BUNDE

District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

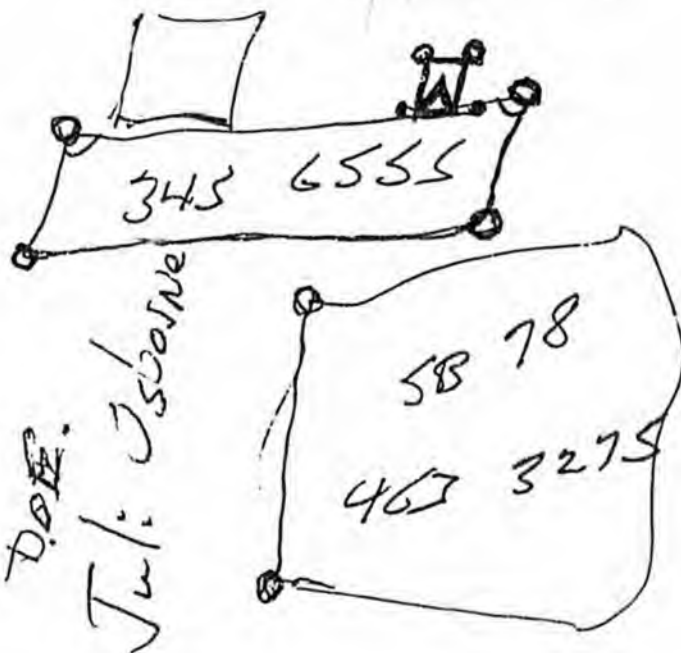
MEMORANDUM

DATE: February 8, 2000
TO: Senator Jerry Mackie
Chairman, Senate Labor & Commerce Committee
FROM: Representative Con Bunde *CBunde*
Vice Chair, House Finance Committee
RE: HB 105, "An Act providing for the licensing of speech-pathologist; and providing for an effective date."

The purpose of this memo is to request a Senate Labor and Commerce Committee meeting for HB 105.

A packet of information is included with this memo for your use. If you have any questions please call Patti at extension 6824. Thank you for your cooperation with this request.

*Kit Roberts
319-6151*



SENATE CS FOR CS FOR HOUSE BILL NO. 105(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BUNDE, Smalley

A B I L

FOR AN ACT ENTITLED

1 "An Act providing for the licensing of speech-language pathologists; relating to
2 fees paid by audiologists and speech-language pathologists; and providing for an
3 effective date."

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

5 * Section 1. AS 08.01.010(5) is amended to read:

6 (5) regulation of audiologists and speech-language pathologists under
7 AS 08.11;

8 * Sec. 2. AS 08.01.065(c) is amended to read:

9 (c) Except as provided in (f) and (g) of this section, the department shall
10 establish fee levels under (a) of this section so that the total amount of fees collected
11 for an occupation approximately equals the actual regulatory costs for the occupation.
12 The department shall annually review each fee level to determine whether the
13 regulatory costs of each occupation are approximately equal to fee collections related
14 to that occupation. If the review indicates that an occupation's fee collections and

1 regulatory costs are not approximately equal, the department shall calculate fee
2 adjustments and adopt regulations under (a) of this section to implement the
3 adjustments. In January of each year, the department shall report on all fee levels and
4 revisions for the previous year under this subsection to the office of management and
5 budget. If a board regulates an occupation covered by this chapter, the department
6 shall consider the board's recommendations concerning the occupation's fee levels and
7 regulatory costs before revising fee schedules to comply with this subsection. In this
8 subsection, "regulatory costs" means costs of the department that are attributable to
9 regulation of an occupation plus

10 (1) all expenses of the board that regulates the occupation if the board
11 regulates only one occupation;

12 (2) the expenses of a board that are attributable to the occupation if the
13 board regulates more than one occupation.

14 * Sec. 3. AS 08.01.065 is amended by adding a new subsection to read:

15 (g) Notwithstanding (c) of this section, the department shall establish fee levels
16 under (a) of this section so that the total amount of fees collected by the department
17 for all occupations regulated under AS 08.11 approximately equals the total regulatory
18 costs of the department for all occupations regulated by the department under
19 AS 08.11. The department shall set the fee levels for the issuance and renewal of
20 licenses issued under AS 08.11 so that the fee levels are the same for all occupations
21 regulated by the department under AS 08.11.

22 * Sec. 4. AS 08.02.010(a) is amended to read:

23 (a) An acupuncturist licensed under AS 08.06, an audiologist or speech-
24 language pathologist licensed under AS 08.11, a person licensed in the state as a
25 chiropractor under AS 08.20, a professional counselor licensed under AS 08.29, a
26 dentist under AS 08.36, a dietitian or nutritionist licensed under AS 08.38, a marital
27 and family therapist licensed under AS 08.63, a medical practitioner or osteopath under
28 AS 08.64, a direct-entry midwife certified under AS 08.65, a registered nurse under
29 AS 08.68, an optometrist under AS 08.72, a licensed pharmacist under AS 08.80, a
30 physical therapist or occupational therapist licensed under AS 08.84, a psychologist
31 under AS 08.86, or a clinical social worker licensed under AS 08.95, shall use as

1 professional identification appropriate letters or a title after that person's name that
2 represents the person's specific field of practice. The letters or title shall appear on all
3 signs, stationery, or other advertising in which the person offers or displays personal
4 professional services to the public. In addition, a person engaged in the practice of
5 medicine or osteopathy as defined in AS 08.64.380, or a person engaged in any
6 manner in the healing arts who diagnoses, treats, tests, or counsels other persons in
7 relation to human health or disease and uses the letters "M.D." or the title "doctor" or
8 "physician" or another title that tends to show that the person is willing or qualified
9 to diagnose, treat, test, or counsel another person, shall clarify the letters or title by
10 adding the appropriate specialist designation, if any, such as "dermatologist",
11 "radiologist", "audiologist", "naturopath", or the like.

12 * Sec. 5. AS 08.11 is amended by adding a new section to read:

13 **Sec. 08.11.015. Qualifications for speech-language pathologist license.** The
14 department shall issue a license to practice speech-language pathology to an individual
15 who

16 (1) is 18 years of age or older;

17 (2) applies on a form provided by the department;

18 (3) pays the fee required under AS 08.11.050;

19 (4) has not engaged in conduct that is a ground for imposing
20 disciplinary sanctions under AS 08.11.085; and

21 (5) furnishes evidence satisfactory to the department that the person
22 holds a Certificate of Clinical Competence in speech-language pathology from the
23 American Speech-Language-Hearing Association or the equivalent of the certificate.

24 * Sec. 6. AS 08.11 is amended by adding a new section to read:

25 **Sec. 08.11.025. Temporary license to practice speech-language pathology**
26 **as a speech-language pathologist.** (a) The department may issue a temporary license
27 for the practice of speech-language pathology as a speech-language pathologist to an
28 individual who is licensed to practice speech-language pathology in another state and
29 has submitted to the department an application for a license and appropriate fees under
30 AS 08.11.015.

31 (b) Subject to (c) and (d) of this section, the department may issue a temporary

1 license to the following:

2 (1) a nonresident for the practice of speech-language pathology as a
3 speech-language pathologist in the state for 60 days or less in a calendar year, if the
4 individual is licensed to practice speech-language pathology in another state, territory
5 of the United States, foreign country, or province that has requirements for a license
6 to practice speech-language pathology that are substantially equivalent to or higher
7 than the requirements of AS 08.11.015;

8 (2) a nonresident for the practice of speech-language pathology as a
9 speech-language pathologist in the state for 60 days or less in a calendar year, if the
10 individual meets the qualifications and requirements for a license under AS 08.11.015,
11 and resides in a state or territory of the United States or a foreign country or province
12 that does not license individuals to practice speech-language pathology.

13 (c) The department shall deny a temporary license to an applicant under (b)
14 of this section if the board finds that the applicant has committed an act that is grounds
15 for a disciplinary sanction under AS 08.11.085.

16 (d) The department may impose by regulation additional limitations that it
17 determines appropriate on a temporary license issued under this section.

18 * Sec. 7. AS 08.11.030(d) is amended to read:

19 (d) A suspended license is subject to expiration and must be renewed as
20 provided in AS 08.01.100, but the renewal does not entitle the individual while the
21 license remains suspended to practice audiology or speech-language pathology or to
22 engage in other activity or conduct that violates the order or judgment that suspended
23 the license.

24 * Sec. 8. AS 08.11.040 is amended to read:

25 **Sec. 08.11.040. Display of license.** (a) An individual licensed to practice
26 audiology as an audiologist or licensed to practice speech-language pathology as a
27 speech-language pathologist in the state shall display the license in a prominent place
28 at each place of business of the individual.

29 (b) If an audiologist or speech-language pathologist has more than one place
30 of business, the department shall, on request and payment of a fee, issue a duplicate
31 license for each place of business of the individual.

1 * Sec. 9. AS 08.11.050 is amended to read:

2 Sec. 08.11.050. Fees. The department shall set fees under AS 08.01.065 for
3 each of the following:

- 4 (1) application;
- 5 (2) credential review;
- 6 (3) audiologist license and speech-language pathologist license;
- 7 (4) temporary license;
- 8 (5) renewal of license;
- 9 (6) delinquency;
- 10 (7) reinstatement;
- 11 (8) duplicate license.

12 * Sec. 10. AS 08.11.080 is amended to read:

13 Sec. 08.11.080. Grounds for imposition of disciplinary sanctions on an
14 audiologist. After a hearing, the department may impose a disciplinary sanction on
15 an audiologist when the department finds that the licensee

- 16 (1) secured a license through deceit, fraud, or intentional
17 misrepresentation;
- 18 (2) engaged in deceit, fraud, or intentional misrepresentation in the
19 course of practicing audiology;
- 20 (3) advertised professional services in a false or misleading manner;
- 21 (4) has been convicted of a felony or other crime that affects the
22 person's ability to continue to practice competently and safely;
- 23 (5) continued to practice audiology after becoming unfit due to
 - 24 (A) professional incompetence;
 - 25 (B) use of drugs or alcohol in a manner that affects the person's
26 ability to practice audiology competently and safely;
 - 27 (C) physical or mental disability;
- 28 (6) permitted another person to use the licensee's license;
- 29 (7) employed a person who does not have a valid current license to
30 practice audiology to perform work as an audiologist covered by this chapter;
- 31 (8) failed to comply with a provision of this chapter or a regulation

1 adopted under this chapter, or an order of the department.

2 * Sec. 11. AS 08.11 is amended by adding a new section to read:

3 **Sec. 08.11.085. Grounds for imposition of disciplinary sanctions on a**
4 **speech-language pathologist.** After a hearing, the department may impose a
5 disciplinary sanction on a speech-language pathologist when the department finds that
6 the licensee

7 (1) secured a license or temporary license through deceit, fraud, or
8 intentional misrepresentation;

9 (2) fraudulently or deceptively used a license or temporary license;

10 (3) altered a license or temporary license;

11 (4) sold, bartered, or offered to sell or barter a license or temporary
12 license;

13 (5) engaged in deceit, fraud, or intentional misrepresentation in the
14 course of practicing speech-language pathology;

15 (6) advertised professional services in a false or misleading manner;

16 (7) has been convicted of a felony or other crime that affects the
17 person's ability to continue to practice competently and safely;

18 (8) engaged in unprofessional conduct, in sexual misconduct, or in lewd
19 or immoral behavior in connection with the delivery of professional services to clients;

20 (9) continued to practice speech-language pathology after becoming
21 unfit due to

22 (A) professional incompetence;

23 (B) use of drugs or alcohol in a manner that affects the person's
24 ability to practice speech-language pathology competently and safely;

25 (C) a physical or mental disability;

26 (10) permitted another person to use the licensee's license or temporary
27 license;

28 (11) employed a person who does not have a valid current license or
29 temporary license to practice speech-language pathology to perform work as a speech-
30 language pathologist covered by this chapter;

31 (12) failed to comply with a provision of this chapter or a regulation

1 adopted under this chapter, or an order of the department.

2 * Sec. 12. AS 08.11.090(a) is amended to read:

3 (a) When it finds that an audiologist has committed an act listed in
4 AS 08.11.080 or that a speech-language pathologist has committed an act listed
5 in AS 08.11.085, the department may impose the following sanctions singly or in
6 combination:

7 (1) permanently revoke a license to practice;

8 (2) suspend a license for a determinate period of time;

9 (3) censure a licensee;

10 (4) issue a letter of reprimand;

11 (5) place a licensee on probationary status and require the licensee to

12 (A) report regularly to the department on matters involving the
13 basis of probation;

14 (B) limit practice to those areas prescribed;

15 (C) continue professional education until a satisfactory degree
16 of skill has been attained in those areas determined by the department to need
17 improvement;

18 (6) impose limitations or conditions on the practice of a licensee.

19 * Sec. 13. AS 08.11 is amended by adding a new section to read:

20 **Sec. 08.11.095. Revocation of speech-language pathologist license.** After
21 a hearing, the department shall revoke the speech-language pathologist license of a
22 person who does not continue to be able to furnish the evidence required for licensure
23 under AS 08.11.015(5).

24 * Sec. 14. AS 08.11.100 is amended to read:

25 **Sec. 08.11.100. Prohibited acts.** Unless a person is licensed as an
26 audiologist under this chapter, the person may not

27 (1) practice audiology;

28 (2) use a title indicating or representing that the person practices as an
29 audiologist;

30 (3) advertise that the person practices audiology.

31 * Sec. 15. AS 08.11.100 is amended by adding a new subsection to read:

1 (b) Unless a person is licensed as a speech-language pathologist under this
2 chapter, the person may not

3 (1) practice speech-language pathology;

4 (2) use a title indicating or representing that the person practices as a
5 speech-language pathologist;

6 (3) advertise that the person practices speech-language pathology.

7 * **Sec. 16.** AS 08.11 is amended by adding a new section to read:

8 **Sec. 08.11.125. Exemptions.** (a) Except as otherwise specifically provided
9 in this section, this chapter does not apply to an individual who practices speech-
10 language pathology as part of the individual's duties as

11 (1) a physician licensed under AS 08.64;

12 (2) an employee of, or contractor with, a school district while practicing
13 speech-language pathology for the school district;

14 (3) a student, intern, or resident pursuing a course of study in speech-
15 language pathology at an accredited college or a clinical training facility approved by
16 the department if the activities of the student, intern, or resident constitute part of a
17 supervised course of study and the student, intern, or resident is designated as a
18 "speech-language pathology intern," "speech-language pathology trainee," or other title
19 approved by the department that clearly indicates that the person is training to be a
20 speech-language pathologist.

21 (b) An individual who is not licensed as a speech-language pathologist but
22 who is exempt under (a)(1) or (3) of this section may not use a title or description
23 stating or implying that the person is a speech-language pathologist.

24 (c) An individual who is not licensed under this chapter but who teaches the
25 practice of speech-language pathology in a speech-language pathology training program
26 at a college or university may use the title "speech-language pathologist" but may not
27 practice speech-language pathology.

28 * **Sec. 17.** AS 08.11.200 is amended by adding new paragraphs to read:

29 (6) "practice of speech-language pathology" means the application of
30 principles, methods, and procedures related to the development and disorders of human
31 communication, including but not limited to

1 (A) screening, identifying, assessing and interpreting,
2 diagnosing, rehabilitating, and preventing disorders of speech, such as
3 articulation, fluency, voice, and language;

4 (B) screening, identifying, assessing and interpreting,
5 diagnosing, and rehabilitating disorders of oral-pharyngeal function or
6 dysphagia or related disorders;

7 (C) screening, identifying, assessing and interpreting,
8 diagnosing, and rehabilitating cognitive and communication disorders;

9 (D) assessing, selecting, and developing augmentative and
10 alternative communication systems and providing training in their use;

11 (E) providing aural rehabilitation and related counseling services
12 to hearing impaired individuals and their families;

13 (F) enhancing speech-language proficiency and communication
14 effectiveness, such as accent reduction; and

15 (G) screening of hearing and other factors for the purpose of
16 speech-language evaluation or the initial identification of individuals with other
17 communication disorders, provided that judgments and descriptive statements
18 about the results of the screening are limited to pass-fail determinations;

19 (7) "speech-language pathologist" means an individual who is licensed
20 under AS 08.11.015 to practice speech-language pathology in the state.

21 * Sec. 18. AS 08.55.150(a) is amended to read:

22 (a) Unless a person is licensed under this chapter or is licensed as an
23 audiologist under AS 08.11, the person may not

24 (1) deal in hearing aids;

25 (2) use a title indicating or representing that the person deals in hearing
26 aids or is licensed to deal in hearing aids;

27 (3) advertise that the person deals in hearing aids.

28 * Sec. 19. AS 09.55.560(1) is amended to read:

29 (1) "health care provider" means an acupuncturist licensed under
30 AS 08.06; an audiologist or speech-language pathologist licensed under AS 08.11;
31 a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32;

1 a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing
2 optician licensed under AS 08.71; a naturopath licensed under AS 08.45; an
3 optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical
4 therapist or occupational therapist licensed under AS 08.84; a physician licensed under
5 AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under
6 AS 08.86; a hospital as defined in AS 18.20.130, including a governmentally owned
7 or operated hospital; an employee of a health care provider acting within the course
8 and scope of employment; an ambulatory surgical facility and other organizations
9 whose primary purpose is the delivery of health care, including a health maintenance
10 organization, individual practice association, integrated delivery system, preferred
11 provider organization or arrangement, and a physical hospital organization;

12 * Sec. 20. AS 42.05.296(b) is amended to read:

13 (b) A telephone subscriber is eligible for the service required by (a) of this
14 section if the subscriber is certified as deaf, hard of hearing, or speech impaired by a
15 licensed physician, a speech-language pathologist licensed under AS 08.11, an
16 audiologist, or the Department of Health and Social Services or if the subscriber is an
17 organization representing the deaf, hard of hearing, or speech impaired as determined
18 by the commission.

19 * Sec. 21. AS 44.62.330(a)(53) is amended to read:

20 (53) Department of Community and Economic Development concerning
21 the licensing and regulation of audiologists and speech-language pathologists under
22 AS 08.11;

23 * Sec. 22. AS 47.17.290(13) is amended to read:

24 (13) "practitioner of the healing arts" includes chiropractors, mental
25 health counselors, social workers, dental hygienists, dentists, health aides, nurses, nurse
26 practitioners, certified nurse aides, occupational therapists, occupational therapy
27 assistants, optometrists, osteopaths, naturopaths, physical therapists, physical therapy
28 assistants, physicians, physician's assistants, psychiatrists, psychologists, psychological
29 associates, audiologists and speech-language pathologists licensed under AS 08.11,
30 hearing aid dealers licensed under AS 08.55, marital and family therapists licensed
31 under AS 08.63, religious healing practitioners, acupuncturists, and surgeons;

1 * Sec. 23. The uncodified law of the State of Alaska is amended by adding a new section
2 to read:

3 REGULATIONS. The Department of Community and Economic Development may
4 proceed to adopt regulations necessary to implement this Act. Regulations adopted to
5 implement this Act take effect under AS 44.62 (Administrative Procedure Act), but not before
6 October 1, 2000.

7 * Sec. 24. Except as provided in sec. 25 of this Act, this Act takes effect October 1, 2000.

8 * Sec. 25. Section 23 of this Act takes effect immediately under AS 01.10.070(c).



**WRANGELL
PUBLIC SCHOOLS
DISTRICT OFFICE**

GATEWAY TO THE STIKINE

P.O. BOX 2319
WRANGELL, ALASKA 99929
Telephone (907) 874-2347
Fax # (907) 874-3137

February 14, 2000

Honorable Senator Jerry Mackie
State Capitol Room #427
Juneau, AK 99801-1182

Dear Senator Mackie:

I am writing in favor of CSHB 105 that will be coming to your committee soon. It is a wise move for Alaska to license Speech and Language Pathologists. There is one section of this bill however, that is problematic and serves no good purpose for Alaska's people. That section is "Sec.08.11.015 (5). This section should be changed to read furnishes evidence satisfactory to the department that the person has completed a master's level program from a university in the area of Speech and Language Pathology.

I see no reason to include an outside private agency in the licensing of Alaska's professionals. The way the bill is currently written it would give total authority to the American Speech-Language-Hearing Association. Anyone with a master's degree should be certainly qualified to practice in our state. There is and has been a shortage of these practitioners for the last twenty-five years. We should be looking for ways to open the opportunities for Alaskans to receive service. The bill, as written, would certainly restrict those opportunities for our people. As written, it would give control of all services in Alaska to a select few. Leaving the bill as written would serve to perpetuate the American Speech-Language-Hearing Association and its authority over these those who wish to practice in the state of Alaska.

Please protect those needing services of this type by making the above change to the bill. As written it is simply a "closed/union shop" bill that would be detrimental to Alaskans who already have difficulty finding needed service in the area of speech, language and hearing.

Thank you for your attention regarding this matter.

Sincerely,

Larry "Woody" Wilson
Superintendent

kg

Return-Path: <nhubbard@alaska.net>

Received: from alaska.net (root@kitsune.alaska.net [209.112.130.10]) by jnu-unix.legis.state.ak.us (8.9.1/8.9.1) with ESMTP id NAA25735 for <Senator_Jerry_Mackie@legis.state.ak.us>; Thu, 2 Mar 2000 13:49:37 -0900

From: nhubbard@alaska.net

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X-Mailer: Mozilla 3.0Gold (Macintosh; I; 68K)

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To: Senator_Jerry_Mackie@legis.state.ak.us

Subject: HB 105

Content-Type: text/plain; charset=us-ascii

Content-Transfer-Encoding: 7bit

L v C

Senator Mackie,

I wrote you recently, but sent incorrect information. This is regarding HB105. Licensure for Speech Pathologists. I would like your support in this bill. It keeps the credibility of those that have spent the time and energy to receive a masters level degree in speech. Additionally we have passed a national exam to become private speech pathologists. There are individuals who call themselves speech therapists, practicing in the state of Alaska, who don't even have a bachelors level degree in the field. It is a very frightening feeling to think that they are trying to represent us without the background. this bill would eliminate the possibility. They could become a speech aid, but not a therapist.

As I understand as being chairman of Labor and Commerce, you schedule what is heard and what isn't. I am requesting you bring HB105 to the schedule for a hearing. If you need further information please write. What can we do to help you further to understand this bill and why it needs to be scheduled? I don't want this to be something that gets stuck until the last days and passed because of time restraints.

Please respond.

Thank You
Nancy Hubbard



AMERICAN
SPEECH-LANGUAGE-
HEARING
ASSOCIATION

75TH ANNIVERSARY
1925-2000

February 8, 2000

The Honorable Con Bunde
Attn: Patti Swenson
Alaska State Capitol
Juneau, Alaska, 99801

Dear Representative Bunde:

On behalf of the American Speech-Language Hearing Association, I am writing in support of Alaska H.B. 105 that would establish licensure for the profession of speech-language pathology. Currently, there are 44 states that regulate the practice of speech-language pathology due to the specialized skills and technical knowledge required for this profession. In addition, licensure of speech-language pathology protects the general public from harm due to incompetently performed assessments and/or treatment procedures, errors of omission and misdiagnosis.

Speech-language pathologists assess, treat, and help to prevent a variety of speech, language, cognitive communication, voice, swallowing, fluency and other related disorders and provide services in a variety of settings. Work settings range from private practice to hospitals, clinics, health care organizations, government agencies, schools and colleges/universities. Speech-language pathologists are autonomous professionals who exercise independent judgment in providing services to clients in a variety of treatment settings without oversight by any other professional or entity. Licensure would establish a mechanism of oversight for the profession of speech-language pathology and would ensure that practitioners are held to professional and ethical standards.

Prevalence data shows that children and older persons are the two populations most in need of the services of speech-language pathologists. For children, misdiagnosis and ineffectual treatment may have severe educational implications. Older persons may be limited in their abilities and resources to ascertain the appropriate qualifications of service providers and to determine the services they are qualified to provide. Licensure is necessary to protect the citizens of Alaska from incompetent and inadequately trained practitioners and to ensure that care is entrusted only to those individuals who have met a minimal level of education and experience.

The American Speech-Language Hearing Association supports licensure for the profession of speech-language pathology. Licensure is essential to provide consumers with a system to identify properly trained professionals and to protect them from the dangers of incompetent and/or unethical behavior.

Sincerely,

Susan Pilch
Director, State Legislative and Regulatory Advocacy

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSHB 105(FIN)

ANALYSIS: (Continued)

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS FOR CSHB 105(FIN)

PERSONAL SERVICES **\$4.0**

Provide 1 month of an Occupational Licensing Examiner I position, Range 12, \$4.0.

CONTRACTUAL SERVICES **\$3.0**

Funding provides approximately 15 hours of AG legal time for regulations, license appeals, and discipline, \$1.5; and, printing, postage, communications, and advertising costs, \$1.5.

SUPPLIES **\$.5**

To fund daily operating supplies of the program.

TOTAL: **\$7.5**

REVENUE & FUND SOURCE: Revenue will be generated by licensing fees sufficient to cover program costs. This legislation directs the department to combine the costs and revenue of the audiology and speech pathology programs for fee setting purposes and to charge the same license fees to both professions. Approximately 25 speech pathologists are expected to seek licensure and renew licenses biennially. There are currently 45 licensed audiologists. Licensing fees must cover direct costs plus approximately \$100 per licensee for division/departement overhead for the two-year period. Based on 70 licensees and \$150 initial application fee, licensing fees are estimated to be \$315.00 for the first biennium. This figure does not incorporate any existing surplus or deficit from the audiology program. Audiology fees for the September 2000 renewal will be set before this bill goes into effect and will incorporate any audiology surplus or deficit. Fees for future license renewals will be identical for audiologists and speech pathologists and may be significantly higher or lower depending on the actual costs of regulating the professions.

FISCAL NOTE

Bill Version: CSHB 105 (FIN)

(H) Publish Date: 2/4/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Community & Econ. Dev.
 Title An Act providing for the licensing of speech- BRU Occupational Licensing
language pathologists; and providing for an effective date. Component Occupational Licensing
 Sponsor Rep. Bunde
 Requester House Finance Component Serial No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	4.0	3.2	3.2	3.2	3.2	3.2
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	3.0	0.5	0.5	0.5	0.5	0.5
Supplies	0.5	0.0	0.0	0.0	0.0	0.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	7.5	3.7	3.7	3.7	3.7	3.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	11.2	0.0	7.4	0.0	7.4	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	7.5	3.7	3.7	3.7	3.7	3.7
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	7.5	3.7	3.7	3.7	3.7	3.7

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time					
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

CSHB 105(Fin) creates licensing of speech-language pathologists by the Department of Community and Economic Development. The division of occupational licensing anticipates existing staff will perform the licensing and investigative functions; however, like all licensing programs, time spent on this program will be based on positive timekeeping. The personal services costs reflected in this fiscal note are estimates of time that will be required to implement this new program. All costs will be covered by licensing fees. The estimated costs are explained on the attached page.

Prepared by Jennifer Strickler, Administrative Manager
 Division Occupational Licensing
 Approved by Commissioner Deborah B. Sedwick
 Agency Community & Economic Development

Phone 465-2144
 Date/Time 2/2/2000 9:50 AM
 Date 2/2/00

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January 20, 2000

Commissioner Rick Cross
Department of Education and Early Development
801 West 10th Street, Suite 200
Juneau, AK 99801

Dear Commissioner Cross,

I would like to bring to your attention that the schools in Alaska are experiencing a severe shortage of trained, certified speech-language teachers. This problem has become more severe as districts have been called upon to provide more services to more students.

The certification requirement, which currently requires a Master Degree, is part of the problem. I know there are arguments for requiring a Master Degree for this certification, but districts are finding it near impossible to hire certified speech teachers who are willing to consider jobs in remote districts with current pay schedules.

I would make the argument that a graduate from a bachelor degree program if hired by a district can offer more to needy children than can be gotten from a certified person with a Master Degree who makes quick trips in and out of communities on expensive, private contracts.

I know state and national speech pathologist organizations will counter this argument. I do not believe they understand Alaska and the unique needs we have. There are universities offering a bachelor degree in speech, and graduates from these programs could be available to school districts if they could be certified by EED.

I recommend that regulations be changed to allow certification for a graduate from a four-year speech-pathologists program. I am available to discuss this further if you or your staff needs additional information.

Sincerely,

Darroll Hargraves
Executive Director

Alaska State Legislature

DURING SESSION
STATE CAPITOL, ROOM 501
JUNEAU, AK 99801-1182
(907) 465-4843 (800) 892-4843
FAX: (907) 465-3871

WEB SITE
<http://www.akrepublicans.org/Bunde.htm>

DURING INTERIM
716 W. FOURTH AVE.
ANCHORAGE, AK 99501-2133
(907) 269-0181
FAX: (907) 269-0184

E-MAIL
Representative_Con_Bunde@legis.state.ak.us

REPRESENTATIVE CON BUNDE

District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

Sponsor Statement

HB 105

“An Act providing for the licensing of speech-language pathologists; and providing for an effective date.”

Alaska is one of only six states that does not require Speech-Language Pathologists (SLP) to have a license. HB 105 sets out requirements for licensure of SLP's that will keep the quality of services provided by these practitioners consistently high.

The American Speech-Language Hearing Association sets out ethical and clinical competency standards. However, compliance with these national standards is currently voluntary in Alaska and does not guarantee a high standard of service delivery. HB 105 would make adherence to these national standards mandatory as part of the requirements for licensing in Alaska.

HB 105 will protect consumers from fraudulent practitioners who could emotionally and financially harm a client due to improper service delivery. Additionally, this legislation will make it less complicated for speech-language pathologists to obtain reimbursement from insurance companies that refuse to pay unlicensed practitioners.

The American Speech-Language Hearing Association and the Alaska Speech-Language Hearing Association support this legislation. I urge the committee to help these practitioners keep the standard of care in Alaska consistently high by passing this legislation.



Alaska Speech - Language - Hearing Association

January 10, 2000

Patti Swenson
Representative Bundy's Office
Alaska State Capitol, Rm 501
Juneau, Alaska 99801

Dear Ms. Swenson:

I am writing on behalf of the Alaska Speech-Language and Hearing Association in support of HB 105, licensure for speech-language pathologists.

For over a decade, the association has been investigating the need for licensure of speech-language pathologists in private practice. We have made the commitment as an association to support this bill as it works its way through the licensure process. It is the consensus of this association that this bill will help to assure consumers that the speech-language services they are receiving are of the highest standards. We are proud to be joining our fellow physical therapists, occupational therapists and audiologists in having professional licensing in the State of Alaska. As an active member of the national organization of speech-language pathologists we are increasingly aware of our uniqueness in not having standards such as those outlined in the bill. Licensure will allow us to join forty-four other states in regulating the profession of speech-language pathology.

We praise the efforts of your staff in helping this become a reality and on behalf of our Alaskan residents with communication impairments we applaud your energy and appreciate your support of the licensure bill.

Thank you.

Sincerely,

Susan Bunting, M.A., CCC-A/SP
Executive Council Member

EMERALD SPEECH & LEARNING CLINIC

615 East 82nd, #204, Anchorage, AK, 99518
(907) 349-6151, Fax 349-6383

October 30, 1998

The Honorable Con Bunde
Representative
716 W. 4th Ave.
Anchorage, AK 99501

Dear Representative Bunde,

It was a pleasure speaking with you on behalf of the Alaska Speech-Language-Hearing Association (AKSHA) regarding state licensure for speech-language pathologists. AKSHA members fully support licensing in the state of Alaska for one main reason: consumer protection.

State governments are the only agencies capable of passing regulations to protect its citizens. Forty-four states have already passed licensure laws for speech-language pathologists (SLP's). Here, in Alaska, we have already passed licensure laws for audiology, physical therapy and occupational therapy. Occupational licensing for SLP's would demonstrate the continuing commitment our state government has to protecting the consumer public.

Can consumers be injured through improper delivery of speech-language pathology? Absolutely yes! Consumers can be physically harmed during procedures to treat voice disorders and swallowing disorders. They can be injured during the fitting of prosthetic devices and augmentative communication devices.

Consumers can be emotionally harmed when they are misdiagnosed and mistreated by improperly trained SLP's; when they aren't referred to the right treatment sources for further testing and follow-up.

Consumers can be financially harmed when they pay for weeks and months of services from an incompetent provider. In addition, a problem that might have been overcome or eliminated, continues on, delaying or preventing the consumer from returning to their normal life.

Has this happened in Alaska? Yes. We have a man in Homer (see enclosed advertisement) advertising himself to be a SLP. He has a Bachelor of Arts Degree but it isn't even in the field of Communication Disorders. The public has complained about his services, but there is nothing we can do.

How will licensure protect the consumers of Alaska? Licensure is the only available means we have to protect consumers from improper service delivery. For years, SLP's have voluntarily imposed standards for practice of speech-language pathology upon themselves through the American Speech-Language-Hearing Association (ASHA). ASHA has developed very stringent educational and ethical requirements for the legal practice of the profession, culminating in the Certificate of Clinical Competence (C.C.C.). Until recently, Medicare/Medicaid and the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) referenced the C.C.C. as a necessary requirement to provide speech language pathology services in hospitals, etc. A new trend has developed, however, moving away from recognizing private accreditation groups, like

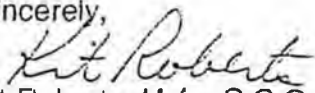
ASHA, to greater reliance upon state determination of qualifications via licensure. As a result, we are left with an even thinner veil of protection for the consumer.

Now that insurance companies and hospitals are relying more on state licensure to determine if a service provider is qualified to practice, we are even more vulnerable. Not only will an unqualified provider be able to practice, but also, qualified providers will be unable to be reimbursed for services. At least one insurance company has denied payment to a SLP in Anchorage because she was not licensed in the state of Alaska. Since licensing is not available, there is no solution to the problem.

AKSHA recognizes that the time has come to enact legislation to license SLP's in private and/or clinical practice in the state of Alaska. We have considered the Eligibility/ Renewal Requirements and would like them to be commensurate with current ASHA requirements for the C.C.C. Therefore, to be eligible for licensure, all speech-language pathologists presently practicing in the state must hold a current Certificate of Clinical Competence. Private practice/clinical SLP's moving to Alaska from other states or countries may use the ASHA C.C.C. or another state or country license with standards equivalent to the C.C.C. as evidence of meeting specific licensure requirements. We do not expect this license to apply to school SLP's certified by the State Department of Education, teachers of the deaf, physicians and their employees, students, nurses, or psychologists.

AKSHA is ready to work with you and the Alaska legislature in drafting and implementing a bill to license speech-language pathologists in our state. Thank you again for your support and willingness to protect the consumers of Alaska.

Sincerely,


Kit Roberts, M.A., C.C.C.
Speech-Language Pathologist

cc: Diane Poage, AKSHA President

**Alaska Speech - Language - Hearing Association**

February 1, 2000

Patti Swenson
Representative Bundy's Office
Alaska State Capitol, Rm 501
Juneau, AK 99801

Dear Ms. Swenson:

I am writing in response to the committee's questions in regards to House Bill 105, licensure for speech-language pathologists. Due to the power outage on the Kenai Peninsula, I was not available to respond to these questions during the teleconference.

The question from the committee was in regards to speech-language services among the Native Health Corporations and the affect the licensure would have on contract services or employees of the corporations.

I am not aware of any speech-language pathologist employed directly by a Native corporation. They have audiologists on staff but not speech-language pathologists.

It is my understanding that the speech-language services for the birth to three population are provided through the non-profit Infant Learning Programs around the state who provide speech-language services through a grant from the State of Alaska Maternal, Child and Family Health division of Health and Social Services. As private non-profit agencies they can select their own credentials for hiring speech-language pathologists, however, the Infant Learning Programs do hire speech-language pathologists to work with Medicaid eligible families and the minimal criteria for being a Medicaid provider in speech-language pathology is that the provider must have the Certificate of Clinical Competence from the American Speech-Language and Hearing Association. This would also be the requirement for licensure if HB 105 were to pass. Some of the Infant Learning Programs require the Department of Education certification and others contract their services directly through speech-language pathologists in private practice. The later would have to be in compliance with state licensure requirements. Those covered by the Department of Education certification would not be required to have occupational licenses. The hiring criteria would be up to the individual agencies providing the services.

The children ages three to twenty-one years could receive free speech-language services through school district employed speech-language pathologists and therefore it is unlikely that the Native corporations would contract independently for this client population. These therapists would not be required to have licensure under HB 105.

The adult population most likely would be receiving services through speech-language pathologists in private practice. The Native corporations would probably contract for services as needed and again the minimal criteria for Medicaid or insurance reimbursement is the Certificate of Clinical Competence with the American Speech-Language and Hearing Association. Speech-language pathologists in private practice would be required to hold a license should HB105 pass.

In many instances, the Native corporations, infant Learning Programs or hospitals who contract for speech-language services have paid for the certifications or memberships to professional associations as part of the contractual fees. The payment of licensure fees should HB 105 pass, may be a negotiated contract item for those speech-language pathologists in private practice.

I do not anticipate that HB 105 will have a significant impact on Native corporations or the speech-language services currently provided to the Native population around the state. The majority of speech-language pathologists practicing in the state meet the standards for licensure and those members of our association in private practice have expressed support for the bill.

If you need further clarification or have questions, please contact me. I apologize for the additional time or inconvenience the interrupted teleconference created.

Sincerely,



Susan Bunting, M.A., CCC-A/SP
Executive Council Member



STATES REGULATING AUDIOLOGY & SPEECH-LANGUAGE PATHOLOGY

- * 46 states regulate 1 or both professions
 - ** 46 states regulate AUDs (NH is the most recent--1996)
 - ** 44 states regulate SLPs (all but AK and CO)
 - ** 2 states regulate **only** AUDs (AK, CO), and not SLPs
 - ** 44 states regulate both AUDs and SLPs
 - ** all but 3 states regulate via licensure
 - *** CO regulates AUDs & MN regulates SLPs & AUDs via registration--a lesser form of regulation than licensure, which is mandatory
 - *** WA regulates AUDs & SLPs via certification, which is very similar to CO and MN registration. Because it's voluntary, it's a less restrictive form of regulation than licensure

- * 22 states permit licensed or registered AUDs to dispense HAs under AUD regulation (not have to meet additional requirements and/or pay additional fee)
 - ** AL, AK, AR, CO, CT, FL, GA, IN, LA, MA, MD, NH, NY***, OH, OK, RH, SC, TN, TX, UT, WA, WV
 - **** only in not-for-profit settings; AUDs dispensing in for-profit settings must be registered as hearing aid dealers

- * 9 states require all AUDs/SLPs to be licensed, regardless of work setting--includes school-based personnel; MD and NH require all AUDs to be licensed
 - ** AZ, CT, DE, HI, IL(?), KS, LA, MA, MD (AUDs), MT, NH (AUDs)

- * 30 AUD/SLP licensure laws recognize support personnel (may not regulate them)

- * 30 states require continuing education for license renewal

SPD/7-96/cel



AMERICAN
SPEECH-LANGUAGE
HEARING
ASSOCIATION



Fact Sheet: Speech- Language Pathology

Nature of the Work

Speech-language pathologists are professionals concerned with evaluation, treatment, prevention and research in human communication and its disorders. They treat speech and language disorders and work with individuals of all ages, from infants to the elderly. They diagnose and evaluate speech problems, such as fluency (e.g., stuttering), articulation, voice disorders, or language problems, such as aphasia and delayed language and related disorders, such as dysphagia (e.g., swallowing difficulties). They design and carry out comprehensive treatment plans to achieve the following:

- Help individuals learn correct production of speech sounds
- Assist with developing proper control of the vocal and respiratory systems or correct voice production
- Assist children and adolescents with language problems, such as understanding and giving directions, answering and asking questions, understanding and using English grammar, using appropriate social language and conveying ideas to others
- Assist individuals who stutter to increase the amount of fluent speech and to cope with their disorder
- Assist individuals who have had strokes or suffered other brain trauma relearn language and speech skills
- Help individuals to use augmentative and assistive systems of communication
- Counsel individuals with speech and language disorders and their families or care givers to understand their disorder and to communicate more effectively in educational, social, and vocational settings
- Advise individuals and the community on how to prevent speech and language disorders

Although speech and language professionals work closely with teachers, physicians, psychologists, social workers, and rehabilitation counselors, and other members of an interdisciplinary team, they are autonomous and do not work under direct medical supervision.

In addition to clinical applications focusing on the diagnosis, treatment and prevention of communication disorders, speech-language pathologists have almost an infinite variety of ways to use their skills: train future professionals in colleges and

universities; administer or manage agencies, clinics, organizations, or private practices; engage in academic, laboratory or medically related research to enhance knowledge about human communication processes; develop new methods and equipment to test and evaluate problems; establish more effective treatment programs; and investigate behavioral patterns associated with communication problems.

Work Sites

The practice and work of speech-language pathologists may take place in various settings:

- Public and private schools
- Hospitals
- Rehabilitation centers
- Nursing care facilities
- Community clinics
- Colleges and universities
- Private practice offices
- State and local health departments
- State and federal government agencies
- Home health agencies (home care)
- Long-term care facilities
- Adult day care centers
- Centers for persons with developmental disabilities
- Research laboratories

Entry Requirements

To enter this career, one must have a sincere interest in helping people, an above average intellectual aptitude, and the sensitivity, personal warmth, and perspective to be able to interact with the person who has a communication problem. Scientific aptitude, patience, emotional stability, tolerance, and persistence are necessary, as well as resourcefulness and imagination. Other essential traits include a commitment to work cooperatively with others and the ability to communicate effectively orally and in writing.

During high school, prospective speech-language pathologists should consider a program with courses in biology, physics, social sciences, English and mathematics, as well as in public speaking, language and psychology. On the undergraduate level, a strong liberal arts focus is recommended, with course work in linguistics, phonetics, anatomy, psychology, human development, biology, physiology and semantics. A program of study in communication sciences and disorders is available at the undergraduate level. The work of a speech-language pathologists is further enhanced by graduate education, which is mandated by ASHA. Speech-language pathologists and audiologists are also required by ASHA to obtain the ASHA Certificate of Clinical Competence (CCC) which involves the completion of a master's degree, a supervised Clinical Fellowship (CF), and a passing score on a national examination. In some areas, such as college teaching, research, and private practice, a Ph.D. degree is desirable. In most states, speech-language pathologists and

audiologists also must comply with state regulatory (licensure) standards to practice and/or have state education certification. The requirements are very similar or identical to ASHA's CCC requirements.

Earnings

Salaries of speech-language pathologists depend on their educational background, specialty and experience, along with the geographical location and type of setting in which they work. The median salary for ASHA-certified speech-language pathologists in 1997 was \$44,000. Persons in supervisory positions for example in administration and management, may earn well over \$53,000 per year. While the 1997 median salary for certified speech-language pathologists with 1-3 years experience was \$38,000, the median salary for certified speech-language pathologists with doctorate degrees was \$53,250. Good benefits packages, such as insurance programs and leave, are usually available to these professionals.

Working Conditions

Because there is such a wide variety of employment settings, working conditions also vary. Facilities in most school systems and established clinics are comfortable and adequately equipped, as are most facilities for research, colleges, and private practice. Since speech and hearing services are a vital part of total health care and the educational system, the number of work sites is constantly expanding. Because of the increasing demand for these services, work schedules may be heavy. An additional challenge is the constant need to update knowledge through educational experiences and reading periodicals. These challenges are balanced by the satisfaction of contributing to the quality of life of adults and children through facilitating the vital need of persons to communicate effectively.

Size of the Profession

The American Speech-Language Hearing Association (ASHA) represents 96,636 professionals. There are more than 79,000 ASHA-certified speech language pathologists. Also, there are approximately 1,400 persons who hold dual ASHA certification. That is, they are certified as both audiologists and speech-language pathologists. These individuals hold many major positions in clinical, academic, and research fields. There are an estimated 42,000 additional individuals who are providing services in the profession.

Future Outlook

The future of the speech-language pathology profession appears excellent. More frequent recognition of problems in preschool and school age children by teachers and parents, combined with the increased numbers of older citizens, and medical advances has created a growing need for speech and language services. There are shortages of qualified personnel in some areas of the country, especially in the inner city, rural and less populated

areas. Job opportunities in medically related areas are expected to grow at an above average rate. Although competition for positions in some areas is keen, the potential for private practice and contract work is increasing rapidly.

HB 105: Licensing of Speech-Language Pathologists

Laura Young-Campbell, M.S., CCC-SLP
P.O.Box 871045
Wasilla, AK 99687

Dear Representatives Mulder and Therriault,
Co-Chairs: House Finance

I am writing in support for the licensing of speech-language pathologists.

Although I currently work in the public schools, my education and training have allowed me to work with children and adults of all ages and a variety of disabilities. I deal with the treatment and diagnosis of those who have speech and/or language delays, voice disorders, require augmentative communication, are hard of hearing, have cleft lip/palates; and those who have impairments subsequent to stroke, head injury, oral cancer, and Parkinson's disease. As you can see, a speech-language pathologist needs to have extensive training to provide a variety of services in the area of communication disorders.

Currently, Alaska is one of six states that does not regulate the profession of speech-language pathology. I feel that as a state we may be putting our community members at risk if licensure is not passed. I, for one, would not want someone without the highest level of training to be providing speech pathology services to any member of my family. I am sure you or members of your committee would agree with me.

The requirement of certification from the American Speech-Language-Hearing Association (CCC-SLP), or it's equivalent, establishes that speech-language pathologists will have a master's degree, have passed a national board examination, and have participated a clinical fellowship year (CFY), which is nine months of intensive supervision. This requirement will make sure that a speech-language pathologist has met the highest standard of training.

I encourage you to pass this important bill.
Thank you for your consideration.

Laura Young-Campbell
M.S., CCC-SLP

Return-Path: <jeansagan@hotmail.com>

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Received: (qmail 77087 invoked by uid 0); 12 Apr 2000 22:42:18 -0000

Message-ID: <20000412224218.77086.qmail@hotmail.com>

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From: "Jean Sagan" <jeansagan@hotmail.com>

To: Senator_Jerry_Mackie@legis.state.ak.us

Subject: House Bill 105

Date: Wed, 12 Apr 2000 15:42:18 PDT

Mime-Version: 1.0

Content-Type: multipart/mixed; boundary="----=_NextPart_000_7ba95c50_2e18d18b\$3e6b406e"

Dear Senator Mackie:

Attached please find a letter of support for HB 105, which I understand is up for consideration by your committee this Friday. It has not been separately distributed to individual committee members.

Jean S. Sagan

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*S (FIN)
Fri - Apr. 14th*

<input type="checkbox"/> HB 105 Letter of Support.doc	<p>X-Mozilla-IMAP-Part: 2 Content-Type: application/msword; name="HB 105 Letter of Support.doc" Content-Transfer-Encoding: base64 Content-Disposition: attachment; filename="HB 105 Letter of Support.doc"</p>
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April 12, 2000

Senator Jerry Mackie, Chair
Senate Labor and Commerce Committee
Alaska State Legislature
Juneau, AK 99801

Via e-mail: Senator_Jerry_Mackie@legis.state.ak.us

Dear Senator Mackie:

A member of the Alaska Speech-Language-Hearing Association recently brought HB 105 to my attention. I understand that the proposed legislation will be considered by the Senate Labor and Commerce Committee on April 14. I am writing in support of its enactment.

Although I currently work as an attorney in private practice in Anchorage, I also hold a bachelors' degree in Speech and Drama. As a prerequisite to obtaining that degree, I was required to take several speech pathology and audiology courses in addition to those in my own area of emphasis. They were difficult courses which entailed mastering far more knowledge than how to properly pronounce or enunciate words. I have great respect for those who had the dedication to follow the pathology/audiology track rather than the rhetoric track I followed. So on a personal level I think HB 105 is a laudible bill.

As a citizen of the Alaska, I believe it is especially important for people who have, or whose children or other loved ones have, speech therapy needs related to swallowing disorders, cleft palate, laryngectomy, stroke and/or head injuries to be assured BEFORE beginning treatment that the person treating them has the appropriate education and is qualified to treat them. Licensing such professionals would help accomplish that goal. Failure to accomplish it could result in serious harm to individuals who are not properly treated.

I urge you and your committee to support this important legislation.

Sincerely,

Jean S. Sagan

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