

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

1119 SENATE HEALTH, EDUCATION & SOCIAL SERVICES

Anchorage Daily News
Date: 9/24/02

Schools want damage limits erased

Anchorage School District officials want to erase limits that dictate the amount of money they can sue for when students vandalize school property. Current state law says the district can sue an 18-year-old culprit or a minor's parents for up to \$10,000. Sometimes that doesn't cover actual damages, Superintendent Carol Comeau said. Members of the School Board's legislative subcommittee plan to lobby state lawmakers to do away with the cap. They want the freedom to sue for actual costs.

On Monday, the board voted unanimously to ask the Alaska Association of School Boards to make this move one of its 2002 resolutions. They want the backing of that group when time comes to persuade politicians.

Students smash windows and computers and trash Anchorage schools often enough that the district budget includes about \$250,000 a year to clean up. But financial retribution is hampered by the \$10,000 limit. There used to be a \$2,000 ceiling on lawsuits but the Legislature increased it in 1995. "We need to be able to recover the full cost of vandalism," Comeau said. "The current law limits recovery, and we think it's wrong because it penalizes the taxpayer." School Board member Rita Holthouse said the subcommittee will push to change the law, whether or not the state school board association signs on. The \$10,000 limit wasn't as noticeable with the more frequent lower-cost incidents, said Howard Trickey, one of the district's attorneys. But when kids do more than \$100,000 in damage, \$10,000 hardly helps. And the district's insurance policy applies only to damage amounts of more than \$1 million.

The most recent big-ticket vandalism came last summer when two teenagers destroyed buildings and equipment at the school maintenance facility in South Anchorage. District officials and the public were outraged. "It looked like a tornado had been there," said Ed Conyers, then the district's maintenance director. Vandalism at schools results mostly in small losses that quickly add up -- broken windows, gouges in desks, busted locks. The maintenance facility vandalism spree packed a financial wallop originally estimated by police at \$500,000. Later district officials said the sum was closer to \$100,000. It was one of the more costly attacks in recent years but not an isolated incident. The new Dimond High School, currently under construction, sustained \$177,000 in damage last year when teenagers trashed the inside, which was just taking shape. Students broke into the then new Mirror Lake Middle School in Eagle River about five years ago and chewed through property with a forklift. The roughly 120 employees in the maintenance department spend up to 15 percent of their time cleaning up this vandalism, Conyers said.

The district has tried to reduce the problem. Crews board up windows at more than a dozen schools during summer. Last summer, the district recruited volunteers who lived in motor homes at various schools to keep an eye out for troublemakers. Comeau has asked people who live near schools to watch for suspicious activity. And whenever possible, the district sues. Their legal success is mixed, Comeau said. She or other employees attend hearings, give the judge impact statements on damage, and work closely with police. "We routinely get reimbursement just from kids breaking windows," Conyers said. "That may only be \$250, but we still get it."

ALASKA ASSOCIATION OF SCHOOL BOARDS

RESOLUTION 2.21 INCREASE LIABILITY FOR DESTRUCTION OF PROPERTY BY MINORS

AASB encourages the Legislature to increase the maximum that may be recovered from either parent, both parents, or the legal guardian of an unemancipated minor under the age of 18 years who, as a result of a knowing or intentional act, destroys real or personal property belonging to a school district from \$10,000 to the actual amount of damages.

Rationale. Vandalism damages a school district's physical plant, has a negative impact on student learning, and demoralizes hard-working staff and students. Every dollar spent on repairing vandalism is a dollar we cannot invest in textbooks, teachers or technology.

Currently, school districts can recover a maximum of \$10,000 from either parent, both parents, or the legal guardian of an unemancipated minor under the age of 18 years who, as the result of a knowing intentional act, destroys real or personal property belonging to a school district. The current law forces taxpayers to bear the cost of vandalism even when a parent's liability insurance is otherwise available to pay the full cost. Adopted 2002 (Sunset: Nov. 2007)

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/21/03

FURTHER: Judiciary

Date of 5-Day Notice: 2-20-03
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2-24-03

Health, Education and Social Services Committee considered

SENATE BILL NO. 2

SB 2 PARENT LIABILITY FOR DAMAGE BY CHILD

"An Act relating to recovery of civil damages from the parents or legal guardian of a minor; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
CED	2/21	1	✓	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>				✓
CHAIR:				

SB

8

Alaska State Legislature

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Senator Bettye Davis

S e n a t e B i l l 8 " A n A c t r e l a t i n g t o
t a m p e r i n g w i t h p u b l i c
r e c o r d s . "

Sponsor Statement

The tampering of public records at any time is illegal and can create problems and set in motion a series of unintended consequences. However when the tampering involves the records of a child under the age of 18 in the care or custody of the state those consequences can be grave.

Accurate and honest record keeping are of paramount importance to the state in the decisions that must be made for our most vulnerable citizens, our children. The mere fact that these children are already in the care or custody of the state suggests that they must be handled with extra care. We must take that extra step to insure all records dealing with their care are maintained with highest standard of integrity.

I ask for your support in the passage of this important legislation.

Alaska State Legislature

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S e c t i o n a l A n a l y s i s S e n a t e B i l l 8

Section 1. Amends the crime of tampering with public records in the first degree¹ by adding a new form of that crime that is committed when someone engages in certain activities prohibited by AS 11.56.820(a)(1) or (2) and the public record relates to a child in the care or custody of the state.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 8
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to tampering with public records." BRU Criminal Division
 Sponsor Senator Davis Component All
 Requester Senate HESS Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	F. 2007	FY 2008	FY 2009
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						
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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						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill increases the penalty to a C felony for knowingly making a false entry in or falsely altering a public record; or knowingly destroying, mutilating, suppressing, concealing, removing, or otherwise impairing the verity, legibility, or availability of a public record, knowing that the person lacks the authority to do so, if the public record relates to a child under 18 years of age in the care or custody of the state. This crime of tampering with public records is currently a class A misdemeanor.

Anytime a misdemeanor crime is changed to a felony, the costs of prosecution increase. However, the Department of Law does not expect many of these new felony prosecutions to arise, and does not anticipate a fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson
 Division: Attorney General's Office
 Approved by: Kathryn Daughhettee for Gregg D. Renkes, Attorney General
 Agency: Department of Law

Phone (907) 465-5370
 Date/Time 3/4/03 2:33 PM
 Date 3/4/2003



A Critical Look At the Child Welfare System Falsification of Records



Caseworkers often are caught in a Catch-22 situation, where they would have to doctor paperwork or have to acknowledge that they are not doing their job.

Benjamin Wolf -- American Civil Liberties Union
September, 1995

FALSIFICATION OF RECORDS

In southwest Florida, a supervisor of child-abuse investigators instructed several caseworkers to falsify reports to improve his unit's performance numbers, according to a 1991 Health and Rehabilitative Services Inspector General report.

In Broward County, state records show some child-abuse investigators were also lying about their cases. The investigators, many in an evening unit that tended to get the most dire cases, sometimes failed to visit reported child victims for up to a year. They never interviewed key witnesses, and decided without enough information whether or not children suffered abuse.

Worse, some supervisors were aware of these problems and failed to take corrective action.[1]

Investigators in Dade and Broward Counties, along with southwest Florida "have been caught faking and mishandling investigative reports." [2]

Notes the *Miami Herald* in part of an ongoing series: "This indicates an endemic problem. And, in fact, similar reports have implicated HRS offices elsewhere." [3]

What are the effects of all of this on the children the caseworkers are supposed to be protecting? According to the May 24 edition of the *Miami Herald*, the results are devastating:

- Even though HRS is supposed to be monitoring his welfare, 14-month-old

Courtney Sims is beaten for three months in a relative's home in Lauderhill. Two people warn that the child is in trouble, but the counselor supervising his care reports he is "doing fine." In October, he dies after being slammed into a metal door.

- Twice in 1991, HRS is told a Miami man is beating his children. Twice, police say, HRS investigators take too long to show up, then dismiss the complaints. In December, the man's infant son, Akeem Oats, dies of a beating.
- A child-abuse investigator in Broward gets a report in June that a man is sexually assaulting his 11-year-old niece. The investigator does nothing. By the time HRS finally sends another investigator out in November, the girl has been raped.

In 1994, a teen who spent most of her life in foster care or shelter homes filed suit against the Florida agency, charging that years of neglect left her mentally and physically scarred.

The girl's story of beating, torture and starvation at a foster home, rejection, intimidation, and allegations of sexual abuse at others, was chronicled in a 1993 *Tampa Tribune* series called "Nobody's Child," in which she is identified only as Jane.

In 1979, Jane was beaten, burned, tied to a bed and nearly starved to death at one foster home. A Health and Rehabilitative Services investigator would conclude that her caseworker either condoned the abuse or falsified visitation records.

"It's a horror story, not unlike many I've heard," said HRS Secretary Jim Towey.[4]

Do these narratives represent isolated cases? Sadly, falsification of visitation records, case histories, and even evidence would appear to be more the rule than the exception among many child protective services caseworkers. And the problem is not limited to Florida.

In South Carolina, the supervisor of the Aiken County Child Protective Services unit, along with the supervisor of the County Treatment Unit were arrested and charged with falsifying the records surrounding the removal of Krystal Scurry and her brother from their home.

A total of six Social Services workers, including the County Director of Foster Care, would eventually be charged in connection with the case. The multiple charges would include ethics violations, falsification of records, neglect of duty and embezzlement.

None of this would have come to light had two-year-old Krystal Scurry not been raped and murdered at the hands of the foster mother's son--after having endured a year of physical abuse at the hands of her foster mother.

Krystal Scurry was one of five foster children killed in South Carolina foster homes between February 1991 and January 1992. [5]

CULTURE OF LIES

In Louisiana, a 1990 case involved child protective caseworker Paula Bennett and her

supervisor Sheryl George. They were charged with misrepresenting facts concerning interviews with the plaintiff's children and the existence of crucial evidence, and of lying to a judge and the District Attorney.

The caseworkers claimed immunity from prosecution, but the Court of Appeals held that: "Any reasonable state actor employed in a capacity which embraces law enforcement would surely realize that misrepresenting or concealing facts to judges or prosecutors is a violation of the accuseds' guaranteed rights under the United States Constitution." [6]

Sometimes, child protective workers don't even bother to falsify their records. They simply don't maintain any.

In February of 1994, the state of Massachusetts terminated its contract La Alianza Hispana, a private agency that was supposed to be monitoring a Roxbury mother who allegedly scalded her 4-year-old son by plunging his hands into boiling liquid.

In at least nine of 17 cases reviewed by officials, families that should have been visited at least once a month by Alianza social workers had not been visited for a year, according to Massachusetts Department of Social Services Commissioner Linda Carlisle.

According to a source familiar with the investigation, Alianza was unable to produce any records for four families it was supposed to be monitoring. Carlisle also said Alianza case workers falsified reports, claiming to have visited some families when they had not.

A team of Department of Social Services officials reviewing the private agencies work reportedly wrote "outrageous" and "This is scary!" on some of their reports.[7]

In 1996, DSS commissioner Carlisle overhauled a Boston Department of Social Services office that lost track of two young boys under its watch who ended up dead, taking the unusual steps of firing a social worker and her supervisor and demoting two managers.

An internal review found that the social worker assigned to the case had filed no reports or records about the family, and had failed to enter any notations for any other family under her supervision for several months. Her supervisor did not review her casework, and had completed only six of the 360 quarterly reviews for which he was responsible.

At one point, about 40 employees came to the commissioner's office urging leniency. After Carlisle proceeded with the firings, union officials protested.[8]

So, too, did union officials protest the terminations of child protective caseworkers in a similar case in Illinois, where two caseworkers with the Department of Children and Family Services were charged with falsifying records in child-abuse cases and failing to make home visits that might have saved the lives of two children who later were murdered.

Hattie Roland was indicted by a Cook County grand jury on 63 counts of official misconduct and charged with failing to file reports, falsifying reports, failing to provide protective services and failing to make monthly family visits.

Diane Henton was indicted on eight counts of official misconduct on charges of closing a case improperly, failing to report abuse and failing to provide protective services.

Before being fired, both of the caseworkers had been promoted to supervisory positions.

A leader of the union that represents the Illinois department workers said that if the employees are being indicted for failing to adequately protect abused children, then "every single DCFS worker is guilty."

Said outspoken Cook County Public Guardian Patrick Murphy: "They lie, and they do it all the time. They can do this because there is nobody to scrutinize them. They are above the law."[9]

In a remarkably similar case, the Illinois Supreme Court upheld the firing of a caseworker who had falsified case records claiming that three girls she was supposed to be monitoring were: "doing fine and have adjusted well to placement with the maternal grandmother."

In reality, the siblings had died months earlier in a fire that gutted their apartment, leaving their grandmother severely burned.[10]

A spokesman for the American Federation of State, County, and Municipal Employees, which had successfully defended caseworker Vera DuBose in earlier proceedings, called the ruling a bad precedent for other cases involving agencies that drag their feet in disciplining workers.

Children's rights experts said that the case reflected larger problems at DCFS that were especially prevalent in the early 1990s, and agency critics said the case shed light on a "culture of lying" at DCFS.

Said Benjamin Wolf, the ACLU attorney who had successfully sued the agency to implement reforms in 1988: "Caseworkers often are caught in a Catch-22 situation, where they would have to doctor paperwork or have to acknowledge that they are not doing their job."

Like her companion workers in Cook County, DuBose had been promoted to a \$34,000 investigators position shortly after filing the false progress report on the girls.[11]

Her promotion proved to be her undoing when the caseworker assigned to replace her visited the girl's residence, only to discover a burned-out shell. Neighbors told him the girls had died in the fire.

A year later, she was still on the job. It took DCFS that long to make its decision to fire her.[12]

Around this time, another DCFS caseworker was convicted of lying to a judge in a case in which an infant had died.

Ahmad Muhammad told a Cook County Juvenile Court judge that a cocaine-addicted mother had completed her court-ordered drug treatment and parenting classes. On the basis of his testimony, the judge halted state monitoring of the woman. Six months later, she was charged with fatally beating her infant son while under the influence of cocaine.

Testimony at Muhammad's contempt trial revealed that he had never called the woman's drug-abuse counselor to check on her progress.

Just like his co-worker, a year later Muhammad was still on the job as a DCFS caseworker, notwithstanding that by this time it had come to light that he had a criminal conviction involving armed robbery, larceny and forgery in another state.

Ed M-Manus, a DCFS spokesman, said the agency had no prohibition against hiring someone with a criminal record, unless the crime involved child abuse, and that lying on a job application is reviewed on a case-by-case basis.

"We take it seriously, but we need good people, and we're not going to throw away a good person without a careful review," he said.[13]

FROM WHITE-OUT TO WHITEWASH

In Utah, after months of speculation about an alleged "whitewash" of wrongdoing in the Moab office of the Division of Child and Family Services, officials released drafts of an internal investigation that was "less heavily edited" than one which had been previously released to the public.

The investigation by the Bureau of Service Review began in September 1995, when Assistant Attorney General Kenton Goodwill provided Human Services officials with 58 items that he considered as problems in the Moab office.

Goodwill suggested in his list of complaints that staffers were deliberately not closing cases once the court discharged them in order to inflate caseloads. While the audit did verify that some cases were not closed, it did not conclusively determine why.

The investigative report verified that some treatment plans were falsified by having been backdated, interviews with children were not timely or were inadequate, and children in state custody were sometimes not visited for several months.

The report concluded: "This problem also is not isolated to the Moab office. Previously, the bureau has identified this issue as a statewide problem." [14]

The extent to which some individuals with a vested interest in maintaining the status quo is perhaps best illustrated by the outcome of this case.

In 1997, Sherianne Cotterell, a member of a three-member monitoring panel overseeing the State's compliance with a recent lawsuit, resigned citing job stress as a key factor.

Cotterell's role in writing reports critical of agency compliance and in pursuing information about the audit being kept secret in Moab led to death threats against her.[15]

By 1998, a member of the monitoring panel said the number of children who have been compromised while the settlement languished was "mind-boggling."

Pam Rasmussen said the division has reshuffled people but not terminated incompetent

employees, and that some workers continue to fabricate paperwork.

Apparently, they weren't very clever at how they did it either. "I mean, if you're documenting something from 1997, don't use a '98 form. That goes to show they're not even thinking that through. They're fudging the documents," said Rasmussen.[16]

In Texas, a Grand Jury was convened in Tom Green County in November of 1987. The Jury was charged with the task of investigating the regional Child Protective Services division of its Department of Human Services. Among the Jury's findings:

- That false entries into records at DHS have been made in violation of the law
- That the system that exists appears to encourage inaccurate or false recordkeeping with no system of verification

The Grand Jury also found that management in one regional office has failed to correct inadequacies "although they have been aware that problems have existed for two to three years." Among the recommendations put forth by the Grand Jury:

That the Commissioner of DHS determine whether inaccurate or false recordkeeping, though in violation of law and policy, is nevertheless being practiced statewide, at worker and management levels . . . [17]

In 1992, an attorney with the Texas Department of Protective and Regulatory Services alleged that she was instructed by her supervisor to proceed on a parental rights termination case, even though she felt there were no grounds to pursue the case.

She first wrote letters to general counsel of the Department, claiming that there were ethical problems and possible due process violations in the case.

Some time later, she was told by a Department employee that the caseworker assigned to the case had been instructed to alter the case record.

Her efforts to expose the possible misrepresentations and due process violations included discussions with her supervisor, the State Bar of Texas, the trial court and opposing counsel in the case, as well as the Office of the Inspector General.

Thereafter, she filed a Whistleblower lawsuit alleging that she had been retaliated against by her supervisor for her efforts in exposing the possible misrepresentations, also filing a claim that a former supervisor in the Texas Department of Human Services had falsified time records.[18]

The suit would never go to trial, as it was dismissed on procedural grounds, but the problems suggested by this case would appear to be widespread.

In May of 1990, the Regional Director of Protective Services in the Arlington region of Texas distributed an internal memorandum to CPS Program Directors and Supervisors. The subject of the memorandum: "Alternations, Backdating and Reconstruction of Case Records."

The memorandum detailed some of the methods employed by child protective caseworkers to falsify case records and service plans: "There should be absolutely no changes made to the service plans by use of white-out, correction tape, adding information or backdating.

"If part of a case record has been lost or a particular service plan was not done, do not reconstruct the plans and back date the plans with the date that the plan was actually due."

The memorandum concludes: "It is important to remember that whether or not there was a deliberate attempt to falsify, backdate or alter a case, it does indicate alteration of a case record which is considered to be a public record and may result in legal or personnel consequence, up to one including dismissal." [19]

The problem of backdating forms to render the appearance of being in compliance is not limited to Texas. In New York City, a 1989 audit conducted by the Office of the Comptroller determined that in more than one in five cases studied, caseworkers had falsified records "by altering dates and backdating forms" in order to appear to be in compliance with deadlines that had actually been missed--sometimes by years.[20]

In California, seven Los Angeles County social service employees were fired or disciplined in 1995 when children under their jurisdiction were fatally abused by parents or caretakers, according to a confidential report requested by county supervisors.

The report examines the homicides of a dozen children whose families had at some point been under investigation for child abuse or neglect. Eight of the children were under the supervision of the county Department of Children and Family Services when they died.

In one case, the department investigation found that when the child's social worker went on leave, a supervisor failed to reassign the case and falsified records. As a result, the child was "not seen or assessed for six months prior to his death." [21]

Some years earlier in California, the 1988-89 San Diego County Grand Jury examined several cases, one of which involved a six-year-old girl had been removed from her home on allegations of excessive punishment on the part of her parents.

During her first ten months in placement, the girl had experienced eight changes in placement. The child was then sent out of the State with incomplete paperwork. When that placement failed, she was returned to San Diego without a definite plan for foster care. After three weeks in San Diego, her parents had still not been notified of her return. By this time, the girl had been in foster care for two and a half years.

The Grand Jury observed "inaccurate statements in the social worker's report that were not corrected," noting that the social worker further delayed resolution of the case by failing to communicate with personnel regarding court orders.

In another case the Grand Jury examined, discrepancies were found between police and medical reports, and the caseworker's continuing written account, in which she indicated suspicions against a grandmother that were contrary to all available evidence.

Yet another case involved "conflicting statements between the school personnel and the social worker's report regarding the dates the abuse occurred and was reported." [22]

Three years later, another Grand Jury conducted a comprehensive investigation of the San Diego County child welfare system, interviewing hundreds of system professionals, examining thousands of pages of documents, observing nearly one hundred juvenile dependency cases and listening to one month of sworn testimony.

According to a letter addressed to the Chairman of the Public Safety Committee, the San Diego Grand Jury had:

seen repeated episodes of social worker perjury in court reports, and indeed, even in court testimony;

heard testimony of social workers lying to adoptive parents about the past history of children available for adoption;

read numerous Social Study reports written by social workers and filled with innuendo, half truths and lies;

seen documented evidence of social workers conspiring to place children for adoption with their own family members even while reunification with natural family members was in process.

The Grand Jury offered 92 recommendations, including that the Board of Supervisors seek legislative changes in the immunity provisions which insulated social workers against accountability.[23]

FRAUD, COERCION, PERJURY, COVER-UPS AND LIES

In 1996, Florida State Senator John Ostalkiewicz called for a full-scale investigation of the Florida Department of Health and Rehabilitative Services after hearing testimony from parents and experts, all of whom told horror stories of child abuse investigations mismanaged by the state agency.

"We need a full-scale investigation of this department, with subpoena power," he told a cheering audience at the Orange County Administration Center.

"What we're hearing about here is fraud, coercion, perjury, cover-ups and lies," he said. "It's time for this stuff to come to an end."

The most compelling testimony came from Glades County Chief Deputy Circuit Court Clerk Richard Blackwell, chairman of the HRS District 8 Human Rights Advocacy Committee, a volunteer advocacy group that investigates client complaints against HRS.

Blackwell told of his firsthand knowledge of the agency's misdeeds. His examples dated from 1991 to August 1995 and included the killing of a baby girl. Although neighbors told the media the baby's family had been reported for abuse several times, HRS workers denied it. Blackwell said.

When an HRS employee found records of those previous reports, agency workers secretly

destroyed them, he said.

"Documents were being altered, shredded," testified Charlotte Kay, a former HRS employee who watched the destruction of the documents. "It went on and on and on . . . It was nothing but a cover-up." [24]

The Massachusetts Department of Social Services finally admitted something many of its critics have long suspected -- that the department validates cases without even a cursory examination.

State social workers are filing abuse complaints against parents without interviewing them or their children, and then claiming in letters to the parents that family interviews were part of the investigation supporting the abuse charge.

The admission followed a decision to reverse an abuse claim against a doctor who was accused of neglect when she left her two young children unattended for less than two minutes in a locked car.

She was sent a letter 10 days after the incident informing her the charge of neglect against her was supported "after visiting with you and your children and talking to other people who know your family." The social worker had not talked to any of the people she cited and the doctor had been vacationing with her family in Colorado at the time. [25]

Falsifications such as these represent only the more overt practice of the art of deception, and cases such as these indicate fundamental problems in the child welfare system.

When caseworkers inflate their caseloads to increase or maintain government funding, or to justify inadequate response to crisis situations; when investigators falsify visitation records; when caseworkers falsify records to justify wrongful removals; and when supervisors ignore or encourage their deception, it is real children who suffer.

These children endure continued, and sometimes fatal abuse at the hand of heartless parents, foster parents and caretakers. Hundreds of thousands of children endure separation from loving families as they continue to "languish in inappropriate placements, with scarce hope of returning to their families or being adopted." all hope of a brighter future having been stripped away from them. [26]

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[Next](#) | [Index](#) | [Home](#) | [Footnotes](#)

Last Updated June 6, 1998

SB 8 Changes Underlined

AS 11.56.815. Tampering With Public Records in the First Degree.

(a) A person commits the crime of tampering with public records in the first degree if the person violates

(1) AS 11.56.820(a)(3) with intent to obtain a benefit for that person or any person or to injure or deprive another person of a benefit; or

(2) AS 11.56.820(a)(1) or (2) and the public record relates to a child under 18 years of age in the care or custody of the state.

(b) Tampering with public records in the first degree is a class C felony.

AS 11.56.820. Tampering With Public Records in the Second Degree.

(a) A person commits the crime of tampering with public records in the second degree if the person

(1) knowingly makes a false entry in or falsely alters a public record;

(2) knowingly destroys, mutilates, suppresses, conceals, removes, or otherwise impairs the verity, legibility, or availability of a public record, knowing that the person lacks the authority to do so; or

(3) certifies a public record setting out a claim against a government agency, or the property of a government agency, with reckless disregard of whether the claim is lawful, or that payment of the claim is not authorized in the budget of the government agency.

(b) In this section

(1) "certifies" means attesting to the existence, truth, or accuracy of facts, or that one holds an opinion, stated in a public record; the term includes the responsibilities for state officials set out in AS 37.10.030;

(2) "falsely alters" has the meaning ascribed to it in AS 11.46.580 ; and

(3) "makes a false entry" means to change or create a public record, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or by any other means, so that the record so changed or created states or implies a fact that the maker knows is not true, or states or implies an opinion that the maker does not hold.

(c) Tampering with public records in the second degree is a class A misdemeanor.

AS 12.55.125. Sentences of Imprisonment For Felonies.

(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

- (1) if the offense is a second felony conviction, two years;**
- (2) if the offense is a third felony conviction, three years.**

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/21/03

FURTHER: Judiciary

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 3.25.03

Health, Education and Social Services Committee considered

SENATE BILL NO. 8

SB 8 TAMPERING WITH PUBLIC RECORDS

"An Act relating to tampering with public records."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
LAW	3/4	X		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i> Guest			✓	
<i>[Signature]</i> Green	✓			
<i>[Signature]</i> Dyson				✓
<i>[Signature]</i> Wilksh			✓	
<i>[Signature]</i> Davis	✓			✗ Error
CHAIR:				

SB

10

ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

Memorandum

Date: January 24, 2003

To: Senator Fred Dyson
Chair, Senate Health, Education and Social Services Committee

From: Senator Gretchen Guess 

Re: Hearing Request

Please consider this a formal request for a hearing of Senate Bill 10, "*An act relating to a minimum expenditure for the instruction component in a public school budget; and providing for an effective date.*"

This bill would seek to increase the minimum percent of the school operating expenditures spent toward the instructional component of the district budget based on their economies of scale. The required expenditures would either be maintained at the current 70 percent or increase up to 85 percent by five percent increments.

If you have any questions regarding SB 10 please feel free to contact me or my aide Maridon Boario at 2435.

Thank you very much for your consideration.

FISCAL NOTE

STATE OF ALABAMA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 479
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
 Title Minimum Expenditure for Instruction BRU K-12 Support
 Component Foundation Program
 Sponsor Representative Guess
 Requester H Special Committee on Education Component No. 141

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation has no fiscal impact on the Department of Education and Early Development. The department currently reviews all school district budgets and financial audits for compliance with the 70% minimum expenditure for instruction required by AS 14.17.520. HB 479 changes the minimum expenditure for instruction requirement for some school districts.

Prepared by: Eddy Jeans, School Finance Manager
 Division: Education & Early Development
 Approved by: Ed McLain, Deputy Commissioner
 Agency: Education & Early Development

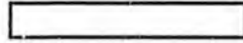
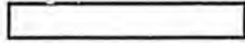
Phone 465-8675
 Date/Time 3/6/02 4:27 PM
 Date 3/6/2002

School District	Facility ADM	# of Schools	ADM/Schools	% Required
Anchorage	49,242.50	97.00	507.65	85%
Fairbanks	14,822.00	31.00	478.13	85%
Juneau	5,404.18	13.00	415.71	85%
Mat-Su	12,979.00	34.00	381.74	80%
Kashunamiut	337.00	1.00	337.00	80%
Sitka	1,530.00	5.00	306.00	80%
Ketchikan Gateway	2,415.00	8.00	301.88	80%
Valdez	893.90	3.00	297.97	75%
Dillingham	554.00	2.00	277.00	75%
Cordova	463.00	2.00	231.50	75%
Kenai Peninsula	9,283.00	41.00	226.41	75%
Petersburg	639.33	3.00	213.11	75%
North Slope	2,062.53	10.00	206.25	75%
Nenana	195.00	1.00	195.00	70%
Kodiak Island	2,811.00	15.00	187.40	70%
Unalaska	369.90	2.00	184.95	70%
Northwest Arctic	2,210.00	12.00	184.17	70%
Klawock	173.90	1.00	173.90	70%
Lower Yukon	1,814.00	11.00	164.91	70%
St. Mary's	162.00	1.00	162.00	70%
Yup'it	460.00	3.00	153.33	70%
Nome	735.00	5.00	147.00	70%
Wrangell	441.00	3.00	147.00	70%
Lower Kuskokwim	3,694.00	28.00	131.93	70%
Skagway	121.00	1.00	121.00	70%
Bering Strait	1,779.00	15.00	118.60	70%
Delta/Grceely	588.00	5.00	117.60	70%
Bristol Bay	229.00	2.00	114.50	70%
Craig	440.00	4.00	110.00	70%
Hoonah	219.00	2.00	109.50	70%
Annette Island	301.00	3.00	100.33	70%
Denali	289.00	3.00	96.33	70%
Haines	373.00	4.00	93.25	70%
Southwest Region	769.00	9.00	85.44	70%
Galena	252.00	3.00	84.00	70%
Kake	165.00	2.00	82.50	70%
Pribilof	141.75	2.00	70.88	70%
Copper River	554.15	8.00	69.27	70%
Yakutat	129.00	2.00	64.50	70%
Alaska Gateway	439.00	7.00	62.71	70%
Tanana	51.50	1.00	51.50	70%
Aleutians East	299.00	6.00	49.83	70%
Hydaburg	95.00	2.00	47.50	70%
Chatham	224.00	5.00	44.80	70%
Iditarod Area	345.80	8.00	43.23	70%
Kuspuk	459.00	11.00	41.73	70%
Yukon/Koyukuk	453.00	11.00	41.18	70%
Yukon Flats	296.00	8.00	37.00	70%
Lake & Peninsula	419.65	15.00	27.98	70%
Southeast Island	212.00	8.00	26.50	70%
Chugach	74.00	3.00	24.67	70%
Aleutian Region	63.00	3.00	21.00	70%
Pelican	19.00	1.00	19.00	70%
TOTALS:	123,491.09	486.00	7,988.26	

School District	School Facilities	ADM 2000	ADM/School	2000 % of S.O.E.
Fairbanks	31	15499.45	499.98	67%
Anchorage	98	47520.95	484.91	72%
Juneau	13	5630.94	433.15	74%
Mat-Su	31	12093.13	390.10	73%
Sitka	5	1677.61	335.52	76%
Ketchikan	8	2560.1	320.01	69%
Kashunamiut	1	298.2	298.20	69%
Valdez	3	865.2	288.40	68%
Dillingham	2	561.8	280.90	67%
Cordova	2	485.45	242.73	66%
Kenai Peninsula	41	9800.63	239.04	68%
Petersburg	3	699.1	233.03	69%
Klawock	1	205	205.00	65%
North Slope	10	2008.9	200.89	63%
Kodiak Island	14	2732.3	195.16	70%
Northwest Arctic	12	2141.6	178.47	58%
Lower Yukon	11	1936.15	176.01	66%
Wrangell	3	505.05	168.35	70%
Nome	5	764.1	152.82	64%
St. Mary's	1	144.15	144.15	65%
Craig	3	412.35	137.45	72%
Bristol Bay	2	274.6	137.30	65%
Nenana	1	135	135.00	74%
Yupit	3	398	132.67	59%
Lower Kuskokwim	28	3614	129.07	66%
Skagway	1	128.8	128.80	60%
Delta/Greely	6	749.8	124.97	70%
Annette Islands	3	368	122.67	57%
Hoonah	2	236.75	118.38	59%
Bering Strait	15	1775.45	118.36	65%
Unalaska	3	351.91	117.30	61%
Denali	3	326.5	108.83	67%
Haines	4	401.7	100.43	63%
Tanana	1	89.75	89.75	46%
Southwest Region	9	758.25	84.25	66%
Kake	2	166.7	83.35	60%
Yakutat	2	159.75	79.88	62%
Pribilof	2	158.25	79.13	61%
Galena	3	225	75.00	69%
Copper River	8	546.05	68.26	66%
Alaska Gateway	7	436.25	62.32	68%
Hydaburg	2	107.85	53.93	61%
Aleutians East	6	299.55	49.93	62%
Yukon/Koyukuk	11	535.85	48.71	64%
Kuspuk	11	493.85	44.90	65%
Yukon Flats	8	341.1	42.64	54%
Chatham	7	257	36.71	64%
Iditarod	10	359.9	35.99	67%
Pelican	1	33.65	33.65	68%
Lake & Peninsula	15	480.95	32.06	70%
Southeast Island	10	279.55	27.96	68%
Aleutian Region	3	75.15	25.05	62%
Chugach	3	69.35	23.12	76%

School District	School Facilities	ADM 2002	ADM/School	2002 % of S.O.E.
Anchorage	98	48723.79	497.18	78%
Fairbanks	31	15061.46	485.85	77%
Juneau	13	5465.3	420.41	78%
Mat-Su	31	12633.35	407.53	77%
Kashunamiut	1	319	319.00	74%
Sitka	5	1528.71	305.74	81%
Ketchikan	8	2375.11	296.89	76%
Valdez	3	883.65	294.55	74%
Dillingham	2	550.45	275.23	74%
Cordova	2	462.95	231.48	70%
Kenai Peninsula	41	9433.09	230.08	73%
Petersburg	3	652.83	217.61	75%
North Slope	10	2028.13	202.81	65%
Kodiak Island	14	2785.39	198.96	74%
Nenana	1	195	195.00	76%
Lower Yukon	11	1986.1	180.55	68%
Northwest Arctic	12	2164.05	180.34	65%
Klawock	1	173.9	173.90	70%
Wrangell	3	465.95	155.32	74%
St. Mary's	1	151.3	151.30	68%
Yupit	3	448.95	149.65	63%
Nome	5	734.65	146.93	68%
Craig	3	407.4	135.80	75%
Lower Kuskokwim	28	3658.6	130.66	73%
Unalaska	3	369.9	123.30	72%
Skagway	1	120.7	120.70	66%
Bristol Bay	2	237.45	118.73	69%
Bering Strait	15	1733.95	115.60	70%
Hoonah	2	219	109.50	67%
Annette Islands	3	311.05	103.68	61%
Denali	3	288.25	96.08	68%
Haines	4	370.45	92.61	73%
Delta/Greely	6	537.05	89.51	73%
Yakutat	2	172	86.00	69%
Kake	2	171.62	85.81	62%
Southwest Region	9	760.9	84.54	69%
Galena	3	249.8	83.27	75%
Copper River	8	549.23	68.65	69%
Pribilof	2	136.7	68.35	61%
Alaska Gateway	7	449.7	64.24	65%
Tanana	1	55.4	55.40	47%
Hydaburg	2	99	49.50	64%
Aleutians East	6	291.5	48.58	67%
Yukon/Koyukuk	11	498.85	45.35	68%
Kuspuk	11	433.1	39.37	68%
Yukon Flats	8	312.55	39.07	61%
Iditarod	10	336.69	33.67	69%
Chatham	7	230	32.86	69%
Lake & Peninsula	15	430.5	28.70	67%
Chugach	3	72.26	24.09	74%
Southeast Island	10	224.6	22.46	69%

Aleutian Region	3	59	19.67	67%
Pelican	1	18.65	18.65	58%



School District	# ADM	# Schools	ADM/schools	FY 2003 % Classroom	
Anchorage	48886	91	537	77	
Fairbanks	14875	30	496	76	
Juneau	5463	12	455	77	This group would go up to 85 percent
Mat-Su	13019	33	395	76	
Kashunamiut	350	1	350	73	
Sitka	1509	5	302	79	This group would go up to 80 percent
Ketchikan	2371	8	296	76	
Valdez	867	3	289	75	
Dillingham	521	2	260	69	
Cordova	464	2	232	70	
Kenai Peninsula	9258	42	220	73	
Petersburg	626	3	209	71	
Nenana	204	1	204	72	This group would go up 75 percent
North Slope	1970	10	197	64	
Unalaska	393	2	196	71	
Kodiak Island	2730	14	195	74	
Lower Yukon	2053	11	187	66	
Nome	736	4	184	66	
Northwest Arctic	2142	12	178	65	
Klawock	159	1	159	65	
Delta/Greely	635	4	159	74	
Wrangell	435	3	145	75	
Yupit	424	3	141	72	
Lower Kuskokwim	3705	27	137	70	
Bristol Bay	234	2	117	68	
Bering Strait	1734	15	116	70	
Skagway	110	1	110	67	
Denali	297	3	99	68	
Craig	390	4	97	78	
Annette Islands	291	3	97	66	
Hoonah	188	2	94	59	
St. Mary's	167	2	84	70	
Southwest Region	721	9	80	68	
Galena	234	3	78	70	
Haines	312	4	78	72	
Copper River	540	7	77	69	
Kake	152	2	76	64	

Yakutat	144	2	72	67
Tanana	62	1	62	50
Alaska Gateway	430	7	61	65
Hydaburg	92	2	46	66
Aleutian East	273	6	45	65
Pribilof	136	3	45	65
Yukon/Koyukuk	445	10	44	68
Chatham	220	5	44	69
Kuspuk	427	11	39	69
Iditarod	310	8	39	68
Yukon Flats	301	8	38	62
Lake & Peninsula	413	14	29	66
Chugach	84	3	28	76
Southeast Island	204	8	25	70
Pelican	18	1	18	59
Aleutian Region	49	3	16	70

Department of Education & Early Development
70% Minimum Expenditure for Instruction

File:
Education/
% to classroom

Summary

In 1998 the legislature passed the new public school funding formula. Included in this legislation is the requirement for school districts to spend 70% of the school operating fund on instruction. The 70% requirement is in law at AS 14.17.520 and was phased in over a three-year period beginning with FY99. The minimum expenditure for instruction requirement was 60% in FY99, 65% in FY2000, and 70% in FY2001 and thereafter. Concurrently, the districts and department were required to improve statewide comparability and consistency in data reporting.

- The financial information in the FY2002 budgets, including the instructional percentages, will provide a baseline for comparative data in future years now that the implementation period and corresponding changes to data collection have been completed.

The minimum instructional expenditure law has been implemented through the three-year phase in FY99, FY00, and FY01 to the required 70% minimum on instruction. Implementation also included an emphasis on uniform expenditure classifications in order to improve statewide comparability and consistency in data reporting. A revised statewide school district chart of accounts is effective starting FY2002. This chart of account revision reflects three years of working towards increased uniform data in statewide reporting. The emphasis on collection of uniform data also brought about two changes in regulation affecting the instructional component; in FY2001 School Administration was included in instruction and in FY2002 School Administration-Support was broken out and support staff are no longer included in instruction. The 29 waivers in FY2002 are calculated under the fully revised regulations and chart of accounts, and incorporate three years of budget review and increased accuracy in financial reporting.

- Statewide the districts have shown continued improvement towards directing revenues towards instruction. In FY99 only eight districts budgeted 70% on instruction, this year 24 districts have budgeted 70% on instruction.

The increase in the number of waivers represents the implementation period and includes changes to data collection and comparability from one year to the next.

- On an individual basis 49 of the 53 school districts have increased the instructional percentage since FY99. Of the four that have not shown an increase two were affected by data reporting requirements and two are small districts with declining enrollments.

Districts have reported progress towards the 70% for instruction by reducing non-instructional staff and cutting back on other non-instructional expenditures.

- The department has focused on the administrative categories and with the new detail now provided from the revised chart of accounts the department will also focus on operations and maintenance.

The department's internal auditors review the individual districts twice a year; one budget review and one financial statement review. The reviews encompass a wide range of items and include individual correspondence to each district regarding expenditures.

- The following three spreadsheets summarize components of the 70% minimum instructional expenditure requirement.
 - 1) Operating Fund Minimum Expenditure for Instruction and Summary by Category.
 - 2) Districts' Reasons and Causes for FY2002 Budget Waiver Requests.
 - 3) Minimum Expenditure for Instruction Calculation Overview.

Department of Education & Early Development
70% Minimum Expenditure for Instruction

Operating Fund Minimum Expenditure for Instruction and Summary

	60% Instructional Percentage FY 1999 Budget	60% Instructional Percentage FY 1999 Financial Statement	65% Instructional Percentage FY 2000 Budget	65% Instructional Percentage FY 2000 Financial Statement	70% Instructional Percentage FY 2001 Budget	70% Instructional Percentage FY 2002 Budget
Alaska Gateway	62%	63%	65%	68%	69%	65%
Aleutian Region	56	62	62	62	65	67
Aleutians East Borough	50	58	64	62	69	67
Anchorage	75	72	74	72	81	78
Annette Island	65	63	65	57	69	61
Bering Strait	61	63	65	65	70	70
Bristol Bay Borough	64	65	65	65	69	69
Chatham	75	70	67	64	68	69
Chugach	67	75	70	76	72	74
Copper River	67	65	66	66	69	69
Cordova City	65	69	66	66	75	70
Craig City	67	70	71	72	73	75
Delta Greely	66	71	72	70	77	73
Denali Borough	64	63	66	67	72	68
Dillingham City	73	67	71	67	78	74
Fairbanks North Star Borough	73	73	72	72	79	77
Galena City	67	72	73	69	82	75
Haines Borough	67	66	67	68	76	73
Hoonah City	61	55	62	59	65	67
Hydaburg City	46	47	65	61	65	64
Iditarod Area	55	59	65	67	75	69
Juneau Borough	74	73	74	74	82	78
Kake City	54	57	63	60	63	62
Kashunamiut	59	58	61	69	74	74
Kenai Peninsula Borough	68	68	68	68	76	73
Ketchikan Gateway Borough	69	69	70	69	78	76
Klawock City	63	61	69	65	74	70
Kodiak Island Borough	68	69	70	70	76	74
Kuspuk	61	62	65	65	73	68
Lake & Peninsula Borough	55	64	72	70	69	67
Lower Kuskokwim	66	64	67	66	75	73
Lower Yukon	60	61	63	62	69	68
Matanuska Susitna Borough	73	74	72	73	81	77
Nenana City	69	69	75	74	75	76
Nome City	61	63	64	64	68	68
North Slope Borough	56	57	64	63	66	65
Northwest Arctic Borough	55	56	59	58	66	65
Pelican City	62	61	69	68	68	58
Petersburg City	69	69	68	69	74	75
Pribilof Islands	57	56	58	61	62	61
Sitka Borough	76	75	76	76	84	81
Skagway City	58	58	62	60	69	66
Southeast Island	66	71	65	68	69	69
Southwest Region	62	65	68	66	74	69
St. Mary's City	65	60	66	65	69	68
Tanana City	61	52	45	46	50	47
Unalaska City	64	64	66	61	72	72
Valdez City	69	68	70	68	77	74
Wrangell City	70	69	70	70	76	74
Yakutat City	65	60	62	62	69	69
Yukon Flats	52	54	52	54	57	61
Yukon/Koyukuk	63	63	63	64	69	68
Yupit	53	51	62	59	72	63
Total Waivers	13	2	16	4	24	29

Bold = Waiver Requested and Approved

SUMMARY OF PERCENTAGES BY CATEGORY

Districts below 60%	13	13	4	6	2	2
Districts between (60% - 65%)	14	16	12	13	2	6
Districts between (65% - 70%)	18	13	21	22	20	21
Districts at 70% and above	8	11	16	12	29	24
	53	53	53	53	53	53

Department of Education & Early Development
70% Minimum Expenditure for Instruction

	70% Instructional Percentage FY 2002 Budget	District Reasons and Causes for FY2002 Budget Waiver Requests						
		Economies of Scale & Small Populations at Multiple Sites	Operations and Maintenance	Costs Related to Remote Location	Increased Costs in comparison to funding Statutory Cost Differential. SB 36 Formula.	Declining Enrollment	Necessary non-instructional duties for compliance & fixed costs.	Regional Economy or Limitations in Local Support
Alaska Gateway	* 65%	x	x	x				
Aleutian Region	* 67		x	x	x			
Aleutians East Borough	* 67		x	x				
Anchorage	78							
Annette Island	* 61					x	x	
Bering Strait	70							
Bristol Bay Borough	* 69		x	x				x
Cratham	* 69			x		x		x
Chugach	74							
Copper River	* 69	x	x					
Cordova City	70							
Craig City	75							
Delta Greely	73							
Denali Borough	* 68		x			x		
Dillingham City	74							
Fairbanks North Star Borough	77							
Galena City	75							
Haines Borough	73							
Hoonah City	* 67		x		x			
Hydaburg City	* 64		x			x		
Ictitarod Area	* 69	x	x					
Juneau Borough	78							
Kake City	* 62		x	x			x	
Kashunamiut	74							
Kenai Peninsula Borough	73							
Ketchikan Gateway Borough	76							
Klawock City	70							
Kodiak Island Borough	74							
Kuspuk	* 68		x					
Lake & Peninsula Borough	* 67	x	x	x				
Lower Kuskokwim	73							
Lower Yukon	* 68	x	x	x				
Matanuska Susitna Borough	77							
Nenana City	76							
Nome City	* 68		x					
North Slope Borough	* 65		x	x				
Northwest Arctic Borough	* 65		x					
Pelican City	* 58					x		
Petersburg City	75							
Pribilof Islands	* 61		x	x		x		
Sitka Borough	81							
Skagway City	* 66						x	
Southeast Island	* 69	x	x					
Southwest Region	* 69		x					
St. Mary's City	* 68		x	x				
Tanana City	* 47		x			x		
Umanak City	72							
Valdez City	74							
Wangell City	74							
Yakutat City	* 69		x	x				
Yukon Flats	* 61		x					
Yukon-Koyukuk	* 68		x	x		x		
Yupit	* 63		x	x				
Totals (* = FY02 Waiver)	* 29	6	25	14	2	8	3	2

Calculation Overview

School Operating Fund Only

Calculation for FY 1999 and FY 2000

Calculation for FY 2001

Calculation for FY 2002

FY99 Minimum Expenditure for Instruction is 60%
 FY00 Minimum Expenditure for Instruction is 65%

100 Instruction _____
 200 Special Education _____
 220 Special Education-Support Svc. _____
 300 Support Services – Students _____
 350 Support Services – Instruction _____

Total Instructional Expenditures 100-350(a) _____

400 School Administration _____
 510 District Administration _____
 550 District Administration-Support _____
 600 Operation & Maintenance _____
 700 Student Activities _____
 780 Community Service _____

Total Expenditures 100-780(b) _____

Total Instructional (a) divided by
 total expenditures (b) _____ %

FY01 Minimum Expenditure for Instruction is 70%

100 Instruction _____
 200 Special Education _____
 220 Special Education-Support Svc. _____
 300 Support Services – Students _____
 350 Support Services – Instruction _____
 400 School Administration _____

Total Instructional Expenditures 100-400(a) _____

510 District Administration _____
 550 District Administration-Support _____
 600 Operation & Maintenance _____
 700 Student Activities _____
 780 Community Service _____

Total Expenditures 100-780(b) _____

Total Instructional (a) divided by
 total expenditures (b) _____ %

FY02 Minimum Expenditure for Instruction is 70%

100 Instruction _____
 200 Special Education _____
 220 Special Education-Support Svc. _____
 300 Support Services – Students _____
 350 Support Services – Instruction _____
 400 School Administration _____

Total Instructional Expenditures 100-400(a) _____

450 School Administration Support _____
 510 District Administration _____
 550 District Administration-Support _____
 600 Operation & Maintenance _____
 700 Student Activities _____
 780 Community Service _____

Total Expenditures 100-780(b) _____

Total Instructional (a) divided by
 total expenditures (b) _____ %

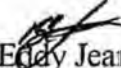
STATE OF ALASKA

Department of Education & Early Development
Education Support Services

FRANK H. MURKOWSKI, GOVERNOR

Goldbelt Place
801 West 10th Street, Suite 200
Juneau, Alaska 99801-1894
(907) 465-8679
(907) 463-5279 Fax
Eddy_Jeans@ved.state.ak.us

TO: Senator Fred Dyson
Chair
Senate HESS Committee

FROM:  Eddy Jeans, Manager
School Finance

DATE: March 25, 2003

SUBJECT: Minimum Expenditure for Instruction Requirement

During the Senate HESS meeting March 24, 2003, I offered additional information related to the minimum expenditure for instruction requirement. Following is four pages showing the history and progress of the requirement since the measure was adopted in 1999. This information is collected and evaluated annually.

Do not hesitate to contact me if I can provide further information.

Attachments

Department of Education & Early Development 70% Minimum Expenditure for Instruction – Summary

In 1998 the legislature passed the new public school funding formula. Included in this legislation is the requirement for school districts to spend 70% of the school operating fund on instruction. The 70% requirement is in law at AS 14.17.520 and was phased in over a three-year period beginning with FY99. The minimum expenditure for instruction requirement was 60% in FY99, 65% in FY2000, and 70% in FY2001 and thereafter. Concurrently, the districts and department were required to improve statewide comparability and consistency in data reporting.

FY2003 is the fifth year under the new law. In addition to the graduated instructional expenditure portion to get to the 70% mandate, the implementation also included an emphasis on uniform expenditure classifications in order to improve statewide comparability and consistency in data reporting. In FY2002 a revised statewide school district chart of accounts became effective. This chart of account revision reflects three years of working towards increased uniform data in statewide reporting. The emphasis on collection of uniform data also brought about two changes in regulation affecting the instructional component; in FY2001 School Administration was included in instruction and in FY2002 School Administration-Support was broken out and support staff are no longer included in instruction.

- Last year the department reported that the financial information in the FY2002 budgets, including the instructional percentages, would provide a baseline for comparative data in future years. The FY2002 data represents full implementation of the minimum expenditure law, substantial progress in consistent statewide data, and full reporting under the revised chart of accounts.

For the first several years of the law there was an increase in the number of waivers due to an increasing implementation percentage and other fluctuations due to changes in data collection and comparability from one year to the next.

- Statewide the districts have demonstrated improvement towards directing revenues towards instruction. In FY99 only eight districts budgeted 70% on instruction, in FY2003 26 districts have budgeted 70% on instruction. In the fifth year of the minimum expenditure for instruction law there is a consistency in those districts applying for budget waivers and patterns in the reasons and causes the districts' submit with the waiver requests. It may be that until there are further changes in revenues, or other impacts to the districts, there will be fewer changes from one year to the next in the number of districts above and below the 70% requirement.
- On an individual basis 48 of the 53 school districts have increased the instructional percentage since FY99. Of the five that have not shown an increase two were affected by data reporting requirements, two are small districts with declining enrollments and one district fell to 69% related to FY2003 insurance expense increases.

Districts have reported progress towards the 70% for instruction by reducing non-instructional staff and cutting back on other non-instructional expenditures.

- The department has focused on the administrative categories and with the new detail now provided from the revised chart of accounts the department is further reviewing operations and maintenance.

The department's internal auditors review the individual districts twice a year, one budget review that includes a waiver analysis if applicable, and one financial statement review. The reviews encompass a wide range of items and include individual correspondence to each district regarding revenues, expenditures and operations.

- The following three spreadsheets summarize components of the 70% minimum instructional expenditure requirement
 - Operating Fund Minimum Expenditure for Instruction and Summary
 - Districts' Reasons and Causes for FY2003 Budget Waiver Requests
 - Minimum Expenditure for Instruction Calculation Overview.

**Department of Education Early Development
Operating Fund Minimum Expenditure for Instruction and Summary**

	60% FY 1999 Budget	60% FY 1999 Audit	65% FY 2000 Budget	65% FY 2000 Audit	70% FY 2001 Budget	70% FY 2001 Audit	70% FY 2002 Budget	70% FY 2002 Audit	70% FY 2003 Budget
Alaska Gateway	62%	63%	65%	68%	69%	71%	65%	67%	65%
Aleutian Region	56	62	62	62	65	65	67	70	70
Aleutians East Borough	50	58	64	62	69	67	67	66	65
Anchorage	75	72	74	72	81	79	78	77	77
Annette Island	65	63	65	57	69	65	61	66	66
Bering Strait	61	63	65	65	70	70	70	* 69	70
Bristol Bay Borough	64	65	65	65	69	70	69	68	68
Chatham	75	70	67	64	68	66	69	67	69
Chugach	67	75	70	76	72	82	74	81	76
Copper River	67	65	66	66	69	73	69	72	69
Cordova City	65	69	66	66	75	75	70	71	70
Craig City	67	70	71	72	73	81	75	74	78
Delta Greely	66	71	72	70	77	76	73	74	74
Denali Borough	64	63	66	67	72	73	68	68	68
Dillingham City	73	67	71	67	78	73	74	71	69
Fairbanks North Star Borough	73	73	72	72	79	79	77	78	76
Galena City	67	72	73	69	82	80	75	70	70
Haines Borough	67	66	67	68	76	76	73	73	72
Hoonah City	61	55	62	59	65	64	67	65	59
Hydaburg City	46	47	65	61	65	63	64	63	66
Iditarod Area	55	59	65	67	75	72	69	67	68
Juneau Borough	74	73	74	74	82	81	78	79	77
ake City	54	57	63	60	63	63	62	64	64
Kashunamiut	59	58	61	69	74	73	74	76	73
Kenai Peninsula Borough	68	68	68	68	76	76	73	73	73
Ketchikan Gateway Borough	69	69	70	69	78	78	76	77	76
Klawock City	63	61	69	65	74	71	70	70	66
Kodiak Island Borough	68	69	70	70	76	76	74	73	74
Kuspuk	61	62	65	65	73	72	68	70	69
Lake & Peninsula Borough	55	64	72	70	69	70	67	65	66
Lower Kuskokwim	66	64	67	66	75	76	73	73	70
Lower Yukon	60	61	63	62	69	68	68	67	66
Matanuska Susitna Borough	73	74	72	73	81	81	77	76	76
Nenana City	69	69	75	74	75	82	76	73	72
Nome City	61	63	64	64	68	68	68	66	66
North Slope Borough	56	57	64	63	66	66	65	64	64
Northwest Arctic Borough	55	56	59	58	66	64	65	65	65
Pelican City	62	61	69	68	68	60	58	55	59
Petersburg City	69	69	68	69	74	74	75	73	71
Pribilof Islands	57	56	58	61	62	58	61	66	65
Sitka Borough	76	75	76	76	84	84	81	81	79
Skagway City	58	58	62	60	69	61	66	66	67
Southeast Island	66	71	65	68	69	68	69	69	70
Southwest Region	62	65	68	66	74	72	69	68	68
St. Mary's City	65	60	66	65	69	82	68	74	70
Tanana City	61	52	45	46	50	54	47	55	50
Unalaska City	64	64	66	61	72	70	72	74	71
Valdez City	69	68	70	68	77	78	74	76	75
Wrangell City	70	69	70	70	76	76	74	77	73
Yakutat City	65	60	62	62	69	71	69	67	67
Yukon Flats	52	54	52	54	57	55	61	59	62
Yukon/Koyukuk	63	63	63	64	69	73	68	67	68
Yupit	53	51	62	59	72	70	63	68	72
Total Waivers	13	2	16	4	24	0	29	* 1	27

Bold = Waiver Requested and Approved
* = Waiver Requested for current year

SUMMARY OF PERCENTAGES BY CATEGORY

Districts below 60%	13	13	4	6	2	3	2	3	3
Districts between (60% - 65%)	14	16	12	13	2	4	6	3	3
Districts between (65% - 70%)	18	13	21	22	20	10	21	20	21
Districts at 70% and above	8	11	16	12	29	36	24	27	26
	53	53	53	53	53	53	53	53	53

**Department of Education and Early Development
Districts' Reasons and Causes for FY2003 Budget Waiver Requests**

District Reasons and Causes for FY2003 Budget Waiver Requests								
	70% Instructional Percentage FY 2003 Budget	Economies of Scale & Small Populations at Multiple Sites	Operations and Maintenance	Costs Related to Remote Location	Declining Enrollment	Necessary non-instructional duties for compliance & fixed costs.	Regional Economy or Limitations in Local Support	FY2003 Insurance Cost Increases
Alaska Gateway	65%	x	x	x				x
Aleutian Region	70							
Atkasook East Borough	65		x	x	x			
Anchorage	77							
Arctic Village	66		x		x	x		
Bering Strait	70							
Bristol Bay Borough	68		x	x	x		x	
Chatham	69			x	x		x	
Chugach	76							
Copper River	69	x	x					x
Cordova City	70							
Craig City	78							
Delta Greely	74							
Denali Borough	61		x		x	x		x
Dillingham City	69							x
Fairbanks North Star Borough	76							
Galena City	70							
Haines Borough	72							
Hoonah City	59		x					x
Hydaburg City	66		x		x			x
Iditarod Area	68	x	x	x				
Juneau Borough	77							
Kake City	64		x	x		x		
Kashunamiut	73							
Kenai Peninsula Borough	73							
Ketchikan Gateway Borough	76							
Klawock City	65		x		x			x
Kodiak Island Borough	74							
Kuspuk	69		x					x
Lake & Peninsula Borough	66	x	x	x	x			x
Lower Kuskokwim	70							
Lower Yukon	66	x	x	x				x
Matanuska Susitna Borough	76							
Nenana City	72							
Nome City	66		x	x				x
North Slope Borough	64		x	x				x
Northwest Arctic Borough	65		x					x
Pelican City	59				x			x
Petersburg City	71							
Pribilof Islands	65		x	x	x			x
Sitka Borough	79							
Skagway City	67					x		
Southeast Island	70							
Southwest Region	68							x
St. Mary's City	70							
Tanana City	50		x		x			x
Unalaska City	71							
Valdez City	75							
Wrangell City	73							
Yakutat City	67		x	x				x
Yukon Flats	62		x					
Yukon/Koyukuk	68		x	x	x			x
Yupit	72							
Totals	27	5	22	13	12	4	2	19

**Department of Education & Early Development
Minimum Expenditure for Instruction Calculation Overview**

School Operating Fund Only

Calculation for FY 1999 and FY 2000		Calculation for FY 2001		Calculation for FY 2002/Beyond	
FY99 Minimum Expenditure for Instruction is 60%		FY01 Minimum Expenditure for Instruction is 70%		FY02 Minimum Expenditure for Instruction is 70%	
FY00 Minimum Expenditure for Instruction is 65%					
100 Instruction	_____	100 Instruction	_____	100 Instruction	_____
200 Special Education	_____	200 Special Education	_____	200 Special Education	_____
220 Special Education-Support Svc.	_____	220 Special Education-Support Svc.	_____	220 Special Education-Support Svc.	_____
300 Support Services – Students	_____	300 Support Services – Students	_____	300 Support Services – Students	_____
350 Support Services – Instruction	_____	350 Support Services – Instruction	_____	350 Support Services – Instruction	_____
		400 School Administration	_____	400 School Administration	_____
Total Instructional Expenditures 100-350(a)	_____	Total Instructional Expenditures 100-400(a)	_____	Total Instructional Expenditures 100-400(a)	_____
400 School Administration	_____	510 District Administration	_____	450 School Administration Support	_____
510 District Administration	_____	550 District Administration-Support	_____	510 District Administration	_____
550 District Administration-Support	_____	600 Operation & Maintenance	_____	550 District Administration-Support	_____
600 Operation & Maintenance	_____	700 Student Activities	_____	600 Operation & Maintenance	_____
700 Student Activities	_____	780 Community Service	_____	700 Student Activities	_____
780 Community Service	_____			780 Community Service	_____
Total Expenditures 100-780(b)	_____	Total Expenditures 100-780(b)	_____	Total Expenditures 100-780(b)	_____
Total Instructional (a) divided by total expenditures (b)	_____ %	Total Instructional (a) divided by total expenditures (b)	_____ %	Total Instructional (a) divided by total expenditures (b)	_____ %

ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

SPONSOR STATEMENT SB 10

"An act relating to a minimum expenditure for the instruction component in a public school budget; and providing for an effective date."

Purpose

SB 10 will amend Alaska State law to provide a higher minimum expenditure for the instruction component in a public school budget if the school district has greater economies of scale.

Background

Currently the minimum expenditure for the instruction component in a public school budget is 70 percent of school operating expenditures. This requirement is the same for all school districts and does not take into account the differing economies of scale between districts. For example, a school district with great economies of scale such as Anchorage has the same requirement as a disparate district as Lower Yukon.

By using the average students per school as a measure of economies of scale, it is possible to require school districts which have a greater capability to provide more funding into the classroom to do just that. If by chance, their economies of scale cannot lead to more funds to the classroom, the school district can apply for a waiver.

Solution

SB 10 will require the following minimum percentages on instructional components.

School districts with an average of 401 students per school or more spend a minimum of 85 percent.

School districts with at least an average of 301 students per school but less than 401 students per school spend a minimum of 80 percent.

School districts with at least an average of 200 students per school but less than 301 students per school spend a minimum of 75 percent

School district with less than an average of 200 students per school will stay at the minimum of 70 percent.

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ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

Memorandum

Date: February 21, 2003

To: Senator Fred Dyson
Chair Health, Education, and Social Services Committee

From: Senator Gretchen Guess

A handwritten signature in cursive script, appearing to read "Gretchen G. Guess".

Re: Hearing Request

Please consider this a formal request for a hearing of Senate Bill 11, "*An act requiring an annual inflation adjustment of the base student allocation used in the formula for state funding of public education; and providing for an effective date.*" This bill would help ease the burden of financing schools by adjusting the foundation formula to account for inflation.

If you have any questions regarding SB 11 please feel free to contact me or my aide Maridon Boario at x2435.

Thank you very much for your consideration.



ALASKA STATE LEGISLATURE
SENATOR GRETCHEN GUESS

Memorandum

Date: February 18, 2004

To: Senator Fred Dyson
Chair Health, Education, and Social Services Committee

From: Senator Gretchen Guess *G. Guess*

Re: Hearing Request: SB 11

Please consider this memo a formal request for a hearing of the Sponsor Substitute for Senate Bill 11, "*An act relating to the base student allocation used in the formula for state funding of public education; and providing for an effective date.*" This bill would adjust the foundation formula to account for inflation, increase the base student allocation for FY 2005 to adjust for uncompensated inflation since 1998 and hold schools harmless for mandatory increases in overhead costs, and would provide a two percent annual increase in the base student allocation to fund reduced class size and compliance with mandates like the Federal No Child Left Behind act.

If you have any questions regarding SB 11 please feel free to contact me or my aide Wayne Leighty at x2435.

Thank you very much for your consideration.



ALASKA STATE LEGISLATURE
SENATOR GRETCHEN GUESS

Sponsor Statement

SB 11 :

"An Act relating to the base student allocation used in the formula for state funding of public education; and providing for an effective date."

SB 11 is a comprehensive first step forward in providing adequate funding to our K-12 educational system. This first step has three integral parts: (1) Increase base student allocation to \$4600; (2) Inflation proof educational funding for the future; (3) Provide an annual increase for the next five years for class size reduction and compliance with the Federal No Child Left Behind (NCLB) act.

As we know, all our districts are having trouble paying the bills. Past funding has not kept up with inflation and the bear market has resulted in higher retirement and insurance costs. This combination is leading districts to drastic cuts to our classrooms. The base student allocation amount of \$4600 makes up for these costs, holding districts harmless from last year, and puts back the \$10M cut from last year. But, it is only the first part of a needed plan.

The second part of the plan is inflation-proofing education funding for the future; it is aimed at preventing our current situation from happening again. The Consumer Price Index (CPI) for Anchorage rose approximately 21 percent from 1992 to 2002. Over the last ten years, however, the legislature increased the base foundation formula only seven percent. SB 11 would place an inflationary adjustment in Alaska Statute 14.17.470 based on the CPI for the Anchorage area compiled by the Bureau of Labor Statistics, U.S. Department of Labor

The final part of this plan is to provide a two percent increase to the base student allocation for the next five years. These funds are focused on two critical components of our system: class size reduction and compliance with NCLB.

It is time the legislature provides a comprehensive, long-term plan for education funding. I believe this plan is a reasonable approach.

Thank you for your consideration.

ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

Sponsor Statement

SB 11

"An Act requiring an annual inflation adjustment of the base student allocation used in the formula for state funding of public education; and providing for an effective date."

SB 11 would help ease the burden of financing schools by adjusting the foundation formula to account for inflation. Currently, the foundation formula statute does not have an inflation adjustment for the base student allocation of \$4,010.

The Consumer Price Index (CPI) for Anchorage rose approximately 21 percent from 1992 to 2002. However, over the last ten years, the legislature increased the base foundation formula (\$4,010) only seven percent.

SB 11 would place an inflationary adjustment in Alaska Statute 14.17.470 based on the CPI for the Anchorage area compiled by the Bureau of Labor Statistics, U.S. Department of Labor.

Inflation has eroded many of our district's budgets for years. This bill would ensure our schools would at least keep up with inflation now and in the future.

Thank you for your consideration.

SB

12

ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

Memorandum

Date: February 21, 2003

To: Senator Fred Dyson
Chair Health, Education, and Social Services Committee

From: Senator Gretchen Guess

A handwritten signature in cursive script, reading "Gretchen G. Guess".

Re: Hearing Request

Please consider this a formal request for a hearing of Senate Bill 12, "*An act relating to the Alaska teacher recruitment loan assumption program; and providing for an effective date.*" This bill would aid in teacher recruitment and provide an incentive in acquiring educators in the state.

If you have any questions regarding SB 12 please feel free to contact me or my aide Maridon Boario at x2435.

Thank you very much for your consideration.

ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

SPONSOR STATEMENT SB 12

"An act relating to the Alaska teacher recruitment loan assumption program; and providing for an effective date."

Purpose

Senate Bill 12 would create a loan assumption program to provide financial assistance to newly hired teachers who agree to teach in the Alaska public elementary and secondary schools for up to five years.

Background

As a shortage of qualified teachers in the public elementary and secondary schools exist in this state and as competition is increasing among other states for qualified teachers, the necessity for teacher incentive and recruitment program becomes crucial.

States throughout the country already have incentive based systems in place.

Solution

In acquiring newly hired elementary and secondary teachers, individual eligible education loans may be assumed by the state up to a total of 10,000 dollars per new employee.

ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

Memorandum

Date: March 11, 2003

To: Senator Fred Dyson, Chair
Senate Health, Education and Social Services

From: Senator Gretchen Guess *G. Guess*

Re: Withdraw Hearing Request

Please consider this a formal request to withdraw my hearing request, dated February 21, 2003, for Senate Bill 12, *"An Act relating to the Alaska teacher recruitment loan assumption program; and providing for an effective date."*

Please note my support for Senate Bill 84 by Sen. Gary Stevens, *"An Act relating to the Alaska teacher recruitment loan repayment program; and providing for an effective date."*

Thank you for your consideration.

If you have any questions please feel free to contact me at x2435.

SB

14

ALASKA STATE LEGISLATURE



Official Business

SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Senate Community and Regional Affairs Committee
- Member, Legislative Council

Session: January – May
State Capitol, #427
Juneau, AK 99801
Phone: 907-465-2828 Fax: 907-465-4779

Interim: May – December
145 Main Street Loop; Suite 226
Kenai, AK 99611
Phone: 907-283-7996 Fax 907--283-3075

SPONSOR STATEMENT

SSSB 14 – EDUCATION FUNDING INCREASE

This bill increases the current student allocation from \$4,169 to \$4,500, an increase of over \$300.00 per student.

Increases in the Foundation Formula have not kept current with the eroding effects of inflation. School districts across the State of Alaska are facing drastic budget cutting measures. Cuts are proposed for popular student programs. Teachers are facing layoffs, resulting in an increase in the pupil-to-teacher ratio. An increase to \$4,500 would be the minimum amount needed for schools to meet the requirements of the Alaska Performance Standards and federal mandates.

A primary function of the State of Alaska is to provide for education. We simply must step forward and take full responsibility for that function and help our 53 school districts in turn meet their responsibility to educate our children.

KENAI PENINSULA BOROUGH BOARD OF EDUCATION

Resolution 03-04-3

**RESOLUTION SUPPORTING EARLY FUNDING AT \$4500 BASE STUDENT
ALLOCATION OF K-12 EDUCATION FOR FY 2005**

WHEREAS, the sustainability, reliability and adequacy of Alaska's funding for public education is of highest concern to the Kenai Peninsula Borough Board of Education; and

WHEREAS, the State of Alaska allocates its funding at the end of the Legislative Session; and

WHEREAS, Districts must project next fall's enrollment and on that basis set a budget before the Legislature is out of session and the state fiscal year budget is enacted; and

WHEREAS, employee collective bargaining agreements require notification of continued employment before the end of the Legislative Session which necessitates a staff reduction until financial resources are known for the next year.

NOW, THEREFORE, The Kenai Peninsula Board of Education resolves to urge the Alaska Legislature:

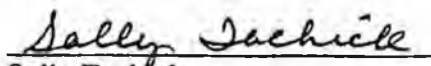
- To require early funding of K-12 education with a Base Student Allocation of \$4500. Numerous studies have shown this amount to be the minimum needed to meet today's student achievement challenges as required by the Alaska Performance Standards and federal mandates. \$4500 would provide the Kenai Peninsula with a status quo budget in 2004-2005. Appropriating and investing an adequate amount of funding for education is the responsibility of the Alaska Legislature.
- To require an annual adjustment for inflation to provide a sustainable and reliable source of funding.

Adopted by the Kenai Peninsula Borough Board of Education on this 5th day of January, 2004.



Deborah Germano, President
School Board

Attest:



Sally Tachick
Notary Public
My Commission Expires 07/25/05



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DOCUMENT(S)
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POOR
ORIGINAL
COPIES

**KENAI PENINSULA BOROUGH SCHOOL DISTRICT
2004 STATE LEGISLATIVE PRIORITIES**

*** Assure a quality educational experience for all Alaska students by assuring accountability for student achievement.**

The Kenai Peninsula Borough School District accepts and embraces the tenets of all students achieving to their highest personal potential. Evidence of success, especially in the areas of reading, writing, and math, are provided to students, parents, and schools. Accountability has been provided to the public through test scores being posted on the District's web site and available at each school. Individual student grade reports and class information is available through Edline (web-based program) and community response is outstanding. Each school's goals and plans for improvement, approved by the community site-based decision-making council are also available. The District's budget is aligned with the student achievement goals by consistently allocating over 70% to classroom instructional accounts.

*** Assure a quality, equitable educational experience for all Alaskan children by providing sustainable, reliable, and adequate funding for education.**

The Kenai Peninsula Borough School District supports raising the base allocation available per student to \$4500 from the current \$4169 level. Numerous studies have shown this amount to be the minimum needed to meet today's student achievement challenges as required by the Alaska Performance Standards and federal mandates. Appropriating and investing an adequate amount of funding for education is the responsibility of state policymakers. Adjusting annual for inflation would provide a sustainable and reliable source of funding.

*** Fully fund the contribution changes required to the Teachers Retirement System (TRS) and the Public Employees Retirement System.**

Academic achievement is tied to highly qualified and committed employees. The State mandated employer contribution increase to TRS and PERS for the Kenai Peninsula Borough School District next year is approximately \$2 million. Unless relief for this increase occurs, the District will be forced to use instructional funding to pay for this obligation.

*** Recognize, through adjustments in the education funding formula, the high cost of doing business in the Kenai Peninsula Borough School District.**

With fifteen schools of under 100 students, 43 sites with four accessible only by air or water, a cost differential of 1.004 is hardly adequate to provide equitable education for communities throughout the peninsula. Central office administrative costs are less than 5% and the amount of dollars and percentage of local funding is the maximum allowed by law. However, because the District receives the maximum funding available, KPBSD has been forced to increase the number of students in classrooms at a much higher rate than other Districts. Current pupil teacher ratios (with no funding for instructional aides) are 1:29 in grades 4-6 and 1:19 in our K-12 small schools. It is not unusual to walk into a classroom with 6+ grade levels and see one teacher attempting to meet the needs of 20 students.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 14
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
Title: "An Act relating to the base student allocation RDU: K-12 Support
used in the formula for state funding of public education:..." Component: Foundation Program
Sponsor: Senator Wagoner
Requester: Health, Education and Social Services Component no.: 141

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	66,684.3	0.0	0.0	0.0	0.0	0.0
Miscellaneous						
TOTAL OPERATING	66,684.3	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	66,684.3	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	66,684.3	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill would increase the base student allocation from \$^d 169 to \$4,500. A \$331 Increase to the Base Student Allocation.

Prepared by: Eddy Jeans, School Finance Manager Phone 465-8679
Division: Education and Support Services Date/Time 2/27/04 9:09 AM
Approved by: _____ Date 2/27/2004
Agency: Education & Early Development

School District	Increase to Basic Need	Change to Floor	Net Increase	Local Contribution Increase
Alaska Gateway	399,884	(138,486)	261,398	-
Aleutian Region	81,919	(32,768)	49,151	-
Aleutians East Borough	307,952	-	307,952	70,829
Anchorage	22,270,706	-	22,270,706	5,122,263
Annette Island	169,419	-	169,419	-
Bering Strait	1,710,118	-	1,710,118	-
Bristol Bay Borough	151,300	-	151,300	34,799
Chatham	175,900	-	175,900	-
Chugach	108,032	-	108,032	-
Copper River	446,817	-	446,817	-
Cordova	280,546	-	280,546	64,526
Craig	435,814	-	435,814	100,237
Delta/Greely	604,747	-	604,747	-
Denali Borough	367,225	-	367,225	84,461
Dillingham	353,736	-	353,736	81,359
Fairbanks N. Star Borough	7,071,520	-	7,071,520	1,626,450
Galena	1,166,917	(466,767)	700,150	268,391
Haines Borough	189,617	-	189,617	43,612
Hoonah	120,332	(4,576)	115,756	27,676
Hydaburg	58,978	(15,270)	43,708	13,565
Iditarod Area	342,684	(104,701)	237,983	-
Juneau Borough	2,550,812	-	2,550,812	586,686
Take	98,476	(24,550)	73,926	22,650
Kashunamiut	289,714	-	289,714	-
Kenai Peninsula Borough	4,674,855	-	4,674,855	1,075,217
Ketchikan Gateway Borough	1,213,386	-	1,213,386	279,079
Klawock	101,849	(11,670)	90,179	23,426
Kodiak Island Borough	1,474,142	-	1,474,142	339,053
Kuspuk	427,559	(31,163)	396,396	-
Lake & Peninsula Borough	494,967	(62,846)	432,121	113,842
Lower Kuskokwim	3,450,473	(1,380,189)	2,070,284	-
Lower Yukon	1,794,017	-	1,794,017	-
Mat-Su Borough	6,827,415	-	6,827,415	1,570,305
Nenana	389,329	-	389,329	89,546
Nome	494,070	-	494,070	113,636
North Slope Borough	1,488,639	-	1,488,639	-
Northwest Arctic Borough	1,842,498	-	1,842,498	423,774
Pelican	21,945	(8,778)	13,167	5,048
Petersburg	349,179	-	349,179	80,311
Pribilof	131,010	(7,901)	123,109	-
Saint Mary's	144,968	-	144,968	33,343
Sitka Borough	705,573	-	705,573	162,281
Skagway	79,079	(31,632)	47,447	-
Southeast Island	211,234	(84,494)	126,740	-
Southwest Region	663,943	-	663,943	-
Tanana	75,392	(38)	75,354	17,340
Unalaska	279,059	(111,624)	167,435	64,184
Valdez	474,313	(177,292)	297,021	-
Wrangell	204,452	-	204,452	47,024
Yakutat	83,723	(14,930)	68,793	19,256
Yukon Flats	380,491	(152,196)	228,295	-
Yukon/Koyukuk	722,678	-	722,678	-
Yupit	413,545	(137,564)	275,981	-
Alyeska Central School	156,232	-	156,232	-
Mt. Edgecumbe High School	160,350	-	160,350	-
Total	69,683,730	(2,999,435)	66,684,295	12,604,169

ALASKA STATE LEGISLATURE



Official Business

SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Senate Community and Regional Affairs Committee
- Member, Legislative Council


Session: January – May
State Capitol, #427
Juneau, AK 99801
Phone: 907-465-2828 Fax: 907-465-4779

Interim: May – December
145 Main Street Loop; Suite 226
Kenai, AK 99611
Phone: 907-283-7996 Fax 907-283-3075

February 26, 2004

MEMORANDUM

To: Senator Fred Dyson, Chairman
Senate Health, Education and Social Services Committee

From: Senator Thomas Wagoner 

Subject: SB 14 hearing

I would like to request that SB 14 be scheduled for a hearing in the Senate HESS committee at your earliest convenience.

I have attached a copy of the most recent version of the bill, sponsor statement, and some backup information.

If you should have any questions, please contact my aide Amy Seitz, x3421

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 14
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
Title: "An Act relating to the base student allocation
used in the formula for state funding of public education.." RDU: K-12 Support
Sponsor: Senator Wagoner Component: Foundation Program
Requester: Health, Education and Social Services Component No.: 141

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	66,684.3	0.0	0.0	0.0	0.0	0.0
Miscellaneous						
TOTAL OPERATING	66,684.3	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	66,684.3	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	66,684.3	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would increase the base student allocation from \$4,169 to \$4,500. A \$331 increase to the Base Student Allocation.

Prepared by: Eddy Jeans, School Finance Manager Phone 465-8679
Division: Education and Support Services Date/Time 2/27/04 9:09 AM
Approved by: _____ Date 2/27/2004
Agency: Education & Early Development

School District	Increase to Basic Need	Change to Floor	Net Increase	Local Contribution Increase
Alaska Gateway	399,884	(138,486)	261,398	-
Aleutian Region	81,919	(32,768)	49,151	-
Aleutians East Borough	307,952	-	307,952	70,829
Anchorage	22,270,706	-	22,270,706	5,122,263
Annette Island	169,419	-	169,419	-
Bering Strait	1,710,118	-	1,710,118	-
Bristol Bay Borough	151,300	-	151,300	34,799
Chatham	175,900	-	175,900	-
Chugach	108,032	-	108,032	-
Copper River	446,817	-	446,817	-
Cordova	280,546	-	280,546	64,526
Craig	435,814	-	435,814	100,237
Delta/Greely	604,747	-	604,747	-
Denali Borough	367,225	-	367,225	84,461
Dillingham	353,736	-	353,736	81,359
Fairbanks N. Star Borough	7,071,520	-	7,071,520	1,626,450
Galena	1,166,917	(466,767)	700,150	268,391
Haines Borough	189,617	-	189,617	43,612
Hoonah	120,332	(4,576)	115,756	27,676
Hydaburg	58,978	(15,270)	43,708	13,565
Iditarod Area	342,684	(104,701)	237,983	-
Juneau Borough	2,550,812	-	2,550,812	586,686
Kake	98,476	(24,550)	73,926	22,650
Kashunamiut	289,714	-	289,714	-
Kenai Peninsula Borough	4,674,855	-	4,674,855	1,075,217
Ketchikan Gateway Borough	1,213,386	-	1,213,386	279,079
Klawock	101,849	(11,670)	90,179	23,426
Kodiak Island Borough	1,474,142	-	1,474,142	339,053
Kuspuk	427,559	(31,163)	396,396	-
Lake & Peninsula Borough	494,967	(62,846)	432,121	113,842
Lower Kuskokwim	3,450,473	(1,380,189)	2,070,284	-
Lower Yukon	1,794,017	-	1,794,017	-
Mat-Su Borough	6,827,415	-	6,827,415	1,570,305
Nenana	389,329	-	389,329	89,546
Nome	494,070	-	494,070	113,636
North Slope Borough	1,488,639	-	1,488,639	-
Northwest Arctic Borough	1,842,498	-	1,842,498	423,774
Pelican	21,945	(8,778)	13,167	5,048
Petersburg	349,179	-	349,179	80,311
Pribilof	131,010	(7,901)	123,109	-
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Sitka Borough	705,573	-	705,573	162,281
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Southeast Island	211,234	(84,494)	126,740	-
Southwest Region	663,943	-	663,943	-
Tanana	75,392	(38)	75,354	17,340
Unalaska	279,059	(111,624)	167,435	64,184
Valdez	474,313	(177,292)	297,021	-
Wrangell	204,452	-	204,452	47,024
Yakutat	83,723	(14,930)	68,793	19,256
Yukon Flats	380,491	(152,196)	228,295	-
Yukon/Koyukuk	722,878	-	722,878	-
Yupiit	413,545	(137,564)	275,981	-
Alyeska Central School	156,232	-	156,232	-
Mt. Edgecumbe High School	160,350	-	160,350	-
Total	69,683,730	(2,999,435)	66,684,295	12,604,169

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/16/04

FURTHER: Finance

Date of 5-Day Notice _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3.1.04

Health, Education and Social Services Committee considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 14

SB 14 EDUCATION FUNDING INCREASE & CPI ADJUSTMT

"An Act relating to the base student allocation used in the formula for state funding of public education; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

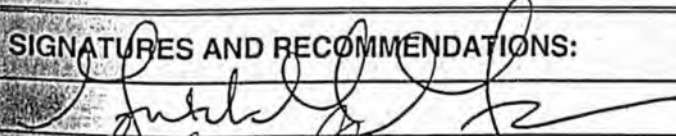
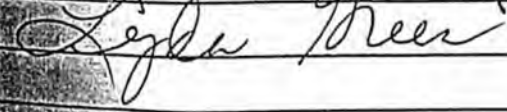

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
EED	2/27	✓			

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>			
CHAIR: 			<input checked="" type="checkbox"/>	

SB

17

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____

Bill Version: SB17

() Publish Date: _____

Revision Date/Time (Note if correction): 2/21/2003

Dept. Affected: Health & Social Services

Title MEDICAID FOR BREAST AND CERVICAL
CANCER

BRU Medical Assistance

Component Medicaid Services

Sponsor DAVIS

Requester SENATE (HES)

Component No. 2077

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	970.0	1,108.8	1,265.6	1,442.6	1,642.5	1,867.8
Miscellaneous						
TOTAL OPERATING	970.0	1,108.8	1,265.6	1,442.6	1,642.5	1,867.8

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
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FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts	687.5	785.8	896.9	1,022.4	1,164.0	1,323.7
1003 GF Match	282.5	323.0	368.7	420.2	478.5	544.1
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	970.0	1,108.8	1,265.6	1,442.6	1,642.5	1,867.8

Estimate of any current year (FY2003) cost: 847.3

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation continues the optional breast and cervical cancer Medicaid eligibility category, which is due to sunset June, 30, 2003.

In FY2002 Medicaid spent \$584,364 (\$403,032 Federal funds, \$181,332 general funds) to pay for the treatment costs of 22 women diagnosed with breast cancer, 9 diagnosed with cervical cancer, and 13 with pre-cancerous cervical conditions. In future years we expect expenditures to grow at a rate typical of general Medicaid expenditures, but only a slight increase in the number of individuals taking advantage of this eligibility category. See our assumptions on the next page.

Prepared by: Kevin Henderson, Eligibility Program Officer

Phone 465-5821

Division: Medical Assistance

Date/Time 02/02/2003

Approved by: Joel S. Gilbertson, Commissioner

Date 02/24/2003

Agency: Department of Health and Social Services

FISCAL NOTE
FN #

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. SB1

ANALYSIS CONTINUATION

Assumptions used in making this fiscal note:

1. The number of women who have taken advantage of this program is lower than the numbers projected last year by the Division of Public Health. Part of the reason for the reduced number of eligibles is that Alaska Native women screened and diagnosed by the four tribal grantees are not applying for Medicaid. The number of anticipated recipients is expected to increase slightly. We assume a 5% increase in total recipients for each fiscal year.
2. To estimate future expenditures, we began by looking at the cost of services provided to women eligible under the breast and cervical cancer category in FY2002. The average cost per recipient in FY2002 was \$24.0 for breast cancer, \$4.9 for cervical cancer, and \$.8 for precancerous cervical conditions. However, the trend for FY2003 appears to be 45% higher than FY2002. The program was new in FY2002, so we believe the FY2003 increase seen so far is due to the fact that current recipients have had time to move from needing treatment to actually being in or having received full treatment. We established a FY2003 base that is 45% higher than FY2002. Beginning with FY2004 we estimate that Medicaid expenditures in this category will grow at a rate of 10% per year, similar to the national average growth for Medicaid spending.
3. The enhanced federal match rate used is 70.87%.

Funding for this bill is in the Division's base budget, however the Governor's FY2004 Budget has not been finalized at this point.

ALASKA STATE LEGISLATURE

Senate
Health, Education &
Social Services
Committee

Senate
Labor & Commerce
Committee

Senate
State Affairs
Committee



While in Session
State Capitol
Juneau, Alaska 99801
(907) 465-3822
Fax: (907) 465-3756

While in Anchorage
716 West 4th Avenue
Anchorage, Alaska 99501
(907) 269-0144
Fax: (907) 269-0148

SENATOR BETTYE DAVIS

Senator_Bettye_Davis@legis.state.ak.us
www.akdemocrats.org

Memorandum

To: Senator Fred Dyson, Chair
Senate HESS Committee

From: Senator Bettye Davis

Date: January 31, 2003

RE: Request for Hearing, SB 17

I respectfully request a hearing for Senate Bill 17.

I have attached the following:

- Current version of the bill
- Sponsor Statement
- Sectional Analysis
- Background material

Alaska State Legislature

Interim: (May - Dec.)
716 W. 4th Ave
Anchorage, AK 99501
Phone: (907) 269-0144
Fax: (907) 269-0148



Session: (Jan. - May)
State Capitol, Suite 7
Juneau, AK 99801-1182
Phone: (907) 465-3822
Fax: (907) 465-3756
Toll free: (800) 770-3822

[Senator Bettye Davis@legis.state.ak.us](mailto:Senator_Bettye_Davis@legis.state.ak.us)
<http://www.akdemocrats.org>

Senator Bettye Davis

Senate Bill 17

" An Act relating to an optional group of persons eligible for medical assistance who require treatment for breast or cervical cancer; and providing for an effective date."

Sponsor Statement

Breast cancer is the most-diagnosed cancer in Alaska. One in seven Alaska women will be diagnosed with cancer in their lifetime.

In 1990, Congress enacted the Breast and Cervical Cancer Mortality Prevention Act. This act created the National Breast and Cervical Cancer Early Detection Program (NBCCEDP), administered by the Centers for Disease Control (CDC). The program provides grants for screening exams to 1.8 million uninsured and underinsured women, who meet eligibility guidelines throughout the country each year including Alaska. The grantees provide clinical breast exams, pelvic exams, and mammograms.

Originally, federal money did not provide for follow-up treatment to diagnosed with cancer until the 2001 Breast and Cervical Cancer Prevention and Treatment Act, which allowed states to provide Medicaid coverage for those women who were diagnosed with cancer or pre-cancerous conditions through the program. The federal government pays 70% of treatment costs. In Alaska, there are currently four CDC grantees providing clinical breast exams, pelvic exams, and mammograms to medically under-served Alaskans meeting the requisite eligibility guidelines

In fiscal year 2001, the CDC grantees diagnosed 24 cases of breast cancer and 105 cases of cervical cancer in Alaska. At present 44 women are receiving treatments in this lifesaving program.

The Alaska State Legislature passed House Bill 65 in 2001, which enacted a temporary program for two years. Senate Bill House Bill 21 would make this life saving program permanent.

Alaska State Legislature

Interim: (May - Dec.)
716 W. 4th Ave
Anchorage, AK 99501
Phone: (907) 269-0144
Fax: (907) 269-0148



Session: (Jan. - May)
State Capitol, Suite 7
Juneau, AK 99801-1182
Phone: (907) 465-3822
Fax: (907) 465-3756
Toll free: (800) 770-3822

Senator Bettve Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Senator Bettve Davis

Sectional Analysis Senate Bill 17

Section 1. Adds a new group of persons who are eligible for medical assistance under AS 47.07, known as the "Medicaid" program. The new group is confined to persons who are eligible for coverage under the specified federal law.

Section 2. Repeals the temporary law (sec.1, ch.33, SLA 2001) that added the same new group to coverage in the year 2001. The 2001 legislature put an application deadline in the 2001 law: two years after the effective date of the session law, which was June 26, 2001. That means that, after June 26, 2003, there can be no new applicants for Medicaid coverage for persons with breast or cervical cancer who are eligible under the specified federal law unless the application period is extended by amending ch. 33, SLA 2001, or by passage of a bill like SB 17, which puts the new eligible group in the permanent statutes without an expiration date for either applications or for coverage. However, the coverage even under SB 17 is not necessarily permanent. State coverage of this group would expire if the federal law, 42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII), is repealed or expires. Note the qualifying phrase at the end of section 1 of this bill ("...who are eligible for coverage under 42 U.S.C. [etc.].") If a person would no longer be covered under this federal law, they would no longer be covered under this state law.

Section 3. Provides that persons already covered under the temporary program enacted in 2001 do not have to reapply as new applicants under SB 17, but their cases would be subject to regular eligibility review on the same basis that the situations of other Medicaid recipients are subject to review.

Section 4. Keeps in place the regulations adopted for the temporary program enacted in 2001, subject to future amendment of the regulations by DHSS.

Section 5. Gives this Act an immediate effective date so that there would probably be no gap between the application deadline in ch. 33, SLA 2001 [June 26, 2003] and the effective date of SB 17.

Section 47.10.019 prohibits the courts from finding a minor to be a child in need of aid based solely on an allegation that the child's parent or guardian refuses to consent to the use of psychotropic drugs; or get a psychiatric evaluation or allow any psychiatric, behavioral or psychological treatment for the child.

Senator Bettye Davis

SENATE BILL 17

Medicaid coverage for persons diagnosed with breast or cervical cancer

Federal Law

Title 42. The Public Health and Welfare
Chapter 6a. The Public Health Service
Preventive Health Measures with Respect to Breast and Cervical Cancers
42 U.S.C. § 300k (1996)

§ 300k. Establishment of program of grants to States

(a) In general. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States on the basis of an established competitive review process for the purpose of carrying out programs--

(1) to screen women for breast and cervical cancer as a preventive health measure;
(2) to provide appropriate referrals for medical treatment of women screened pursuant to paragraph (1) and to ensure, to the extent practicable, the provision of appropriate follow-up services;

(3) to develop and disseminate public information and education programs for the detection and control of breast and cervical cancer;

(4) to improve the education, training, and skills of health professionals (including allied health professionals) in the detection and control of breast and cervical cancer;

(5) to establish mechanisms through which the States can monitor the quality of screening procedures for breast and cervical cancer, including the interpretation of such procedures; and

(6) to evaluate activities conducted under paragraphs (1) through (5) through appropriate surveillance or program-monitoring activities.

(b) Grant and contract authority of States.

(1) In general. A state receiving a grant under subsection (a) may, subject to paragraphs (2) and (3), expend the grant to carry out the purpose described in such subsection through grants to, and contracts with, public or nonprofit private entities.

(2) Limited authority regarding other entities. In addition to the authority established in paragraph (1) for a State with respect to grants and contracts, the State may provide for screenings under subsection (a)(1) through entering into contracts with private entities that are not nonprofit entities.

(3) Payments for screenings. The amount paid by a State to an entity under this subsection for a screening procedure under subsection (a)(1) may not exceed the amount that would be paid under part B of title XVIII of the Social Security Act [42 U.S.C. § 1395j et seq.] if payment were made under such part for furnishing the procedure to a woman enrolled under such part.

(c) Special consideration for certain States. In making grants under subsection (a) to States whose initial grants under such subsection are made for fiscal year 1995 or any subsequent fiscal year, the Secretary shall give special consideration to any State whose proposal for carrying out programs under such subsection--

(1) has been approved through a process of peer review; and

- (2) is made with respect to geographic areas in which there is--
- (A) a substantial rate of mortality from breast or cervical cancer; or
 - (B) a substantial incidence of either of such cancers.

[(d)](c) Coordinating committee regarding year 2000 health objectives. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a committee to coordinate the activities of the agencies of the Public Health Service (and other appropriate Federal agencies) that are carried out toward achieving the objectives established by the Secretary for reductions in the rate of mortality from breast and cervical cancer in the United States by the year 2000. Such committee shall be comprised of Federal officers or employees designated by the heads of the agencies involved to serve on the committee as representatives of the agencies, and such representatives from other public or private entities as the Secretary determines to be appropriate.

§ 300l. Requirement of matching funds

(a) In general. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such section, to make available non-Federal contributions (in cash or in kind under subsection (b)) toward such costs in an amount equal to not less than \$1 for each \$3 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities.

(b) Determination of amount of non-Federal contribution.

(1) In general. Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(2) Maintenance of effort. In making a determination of the amount of non-Federal contributions for purposes of subsection (a), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the State involved toward the purpose described in section 1501 [42 U.S.C. § 300k] for the 2-year period preceding the first fiscal year for which the State is applying to receive a grant under such section.

(3) Inclusion of relevant non-Federal contributions for Medicaid. In making a determination of the amount of non-Federal contributions for purposes of subsection (a), the Secretary shall, subject to paragraphs (1) and (2) of this subsection, include any non-Federal amounts expended pursuant to title XIX of the Social Security Act [42 U.S.C. § 1396 et seq.] by the State involved toward the purpose described in paragraphs (1) and (2) of section 1501(a) [42 U.S.C. § 300k(a)].

§ 300l-1. Requirement regarding medicaid

The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] for a program in a State unless the State plan under title XIX of the Social Security Act [42 U.S.C. § 1396 et seq.] for the State includes the screening procedures specified in subparagraphs (A) and (B) of section 1503(a)(2) [42 U.S.C. § 300m(a)(2)(A), (B)] as medical assistance provided under the plan.

§ 300m. Requirements with respect to type and quality of services

(a) Requirement of provision of all services by date certain. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees--

(1) to ensure that, initially and throughout the period during which amounts are received pursuant to the grant, not less than 60 percent of the grant is expended to provide each of the services or activities described in paragraphs (1) and (2) of section 1501(a) [42 U.S.C. § 300k(a)], including making available screening procedures for both breast and cervical cancers;

(2) subject to subsection (b), to ensure that--

(A) in the case of breast cancer, both a physical examination of the breasts and the screening procedure known as a mammography are conducted; and

(B) in the case of cervical cancer, both a pelvic examination and the screening procedure known as a pap smear are conducted;

(3) to ensure that, by the end of any second fiscal year of payments pursuant to the grant, each of the services or activities described in section 1501(a) [42 U.S.C. § 300k(a)] is provided; and

(4) to ensure that not more than 40 percent of the grant is expended to provide the services or activities described in paragraphs (3) through (6) of such section.

(b) Use of improved screening procedures. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that, if any screening procedure superior to a procedure described in subsection (a)(2) becomes commonly available and is recommended for use, any entity providing screening procedures pursuant to the grant will utilize the superior procedure rather than the procedure described in such subsection.

(c) Quality assurance regarding screening procedures. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that the State will, in accordance with applicable law, assure the quality of screening procedures conducted pursuant to such section.

§ 300n. Additional required agreements

(a) Priority for low-income women. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that low-income women will be given priority in the provision of services and activities pursuant to paragraphs (1) and (2) of section 1501(a) [42 U.S.C. § 300k(a)].

(b) Limitation on imposition of fees for services. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge--

(1) will be made according to a schedule of charges that is made available to the public;

(2) will be adjusted to reflect the income of the woman involved; and

(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 [42 U.S.C. § 9902(2)].

(c) Statewide provision of services.

(1) In general. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that services and activities under the grant will be made available throughout the State, including availability to members of any Indian tribe or tribal organization (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act [25 U.S.C. § 450b]).

(2) Waiver. The Secretary may waive the requirement established in paragraph (1) for a State if the Secretary determines that compliance by the State with the requirement would result in an inefficient allocation of resources with respect to carrying out the purpose described in section 1501(a) [42 U.S.C. § 300k(a)].

(3) Grants to tribes and tribal organizations.

(A) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to tribes and tribal organizations (as such terms are used in paragraph (1)) for the purpose of carrying out programs described in section 1501(a) [42 U.S.C. § 300k(a)]. This title applies to such a grant (in relation to the jurisdiction of the tribe or organization) to the same extent and in the same manner as such title applies to a grant to a State under section 1501 [42 U.S.C. § 300k] (in relation to the jurisdiction of the State).

(B) If a tribe or tribal organization is receiving a grant under subparagraph (A) and the State in which the tribe or organization is located is receiving a grant under section 1501[42 U.S.C. § 300k], the requirement established in paragraph (1) for the State regarding the tribe or organization is deemed to have been waived under paragraph (2).

(d) Relationship to items and services under other programs. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service--

(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(2) by an entity that provides health services on a prepaid basis.

(e) Coordination with other breast and cervical cancer programs. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that the services and activities funded through the grant shall be coordinated with other Federal, State, and local breast and cervical cancer programs.

(f) Limitation on administrative expenses. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

(g) Restrictions on use of grant. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that the grant will not be expended to provide inpatient hospital services for any individual.

(h) Records and audits. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that--

(1) the State will establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of, and accounting for, amounts received by the State under such section; and

(2) upon request, the State will provide records maintained pursuant to paragraph (1) to the Secretary or the Comptroller of the United States for purposes of auditing the expenditures by the State of the grant.

(i) Reports to Secretary. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees to submit to the Secretary such reports as the Secretary may require with respect to the grant.

§ 300n-1. Description of intended uses of grant

The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless--

(1) the State involved submits to the Secretary a description of the purposes for which the State intends to expend the grant;

(2) the description identifies the populations, areas, and localities in the State with a need for the services or activities described in section 1501(a) [42 U.S.C. § 300k(a)];

(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public and nonprofit private entities; and

(4) the description provides assurances that the grant funds will be used in the most cost-effective manner.

§ 300n-2. Requirement of submission of application

The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless an application for the grant is submitted to the Secretary, the application contains the description of intended

uses required in section 1505 [42 U.S.C. § 300n-1], and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title [42 U.S.C. § 300k et seq.].

§ 300n-3. Technical assistance and provision of supplies and services in lieu of grant funds

(a) Technical assistance. The Secretary may provide training and technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to section 1501 [42 U.S.C. § 300k]. The Secretary may provide such technical assistance directly or through grants to, or contracts with, public and private entities.

(b) Provision of supplies and services in lieu of grant funds.

(1) In general. Upon the request of a State receiving a grant under section 1501 [42 U.S.C. § 300k], the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out such section and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(2) Corresponding reduction in payments. With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the grant under section 1501 [42 U.S.C. § 300k] to the State involved by an amount equal to the costs of detailing personnel (including pay, allowances, and travel expenses) and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

§ 300n-4. Evaluations and reports

(a) Evaluations. The Secretary shall, directly or through contracts with public private entities, provide for annual evaluations of programs carried out pursuant to section 1501 [42 U.S.C. § 300k]. Such evaluations shall include evaluations of the extent to which States carrying out such programs are in compliance with section 1501(a)(2) [42 U.S.C. § 300k(a)(2)] and with section 1504(c) [42 U.S.C. § 300n(c)].

(b) Report to Congress. The Secretary shall, not later than 1 year after the date on which amounts are first appropriated pursuant to section 1509(a) [42 U.S.C. § 300n-5(a)], and annually thereafter, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing evaluations carried out pursuant to subsection (a) during the preceding fiscal year and making such recommendations for administrative and legislative initiatives with respect to this title [42 U.S.C. § 300k et seq.] as the Secretary determines to be appropriate, including recommendations regarding compliance by the States with section 1501(a)(2) [42 U.S.C. § 300k(a)(2)] and with section 1504(c) [42 U.S.C. § 300n(c)].

§ 300n-4a. Supplemental grants for additional preventive health services

(a) Demonstration projects. In the case of States receiving grants under section 1501 [42 U.S.C. § 300k], the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to not more than 3 such States to carry out demonstration projects for the purpose of--

(1) providing preventive health services in addition to the services authorized in such section, including screenings regarding blood pressure and cholesterol, and including health education;

(2) providing appropriate referrals for medical treatment of women receiving services pursuant to paragraph (1) and ensuring, to the extent practicable, the provision of appropriate follow-up services; and

(3) evaluating activities conducted under paragraphs (1) and (2) through appropriate surveillance or program-monitoring activities.

(b) Status as participant in program regarding breast and cervical cancer. The Secretary may not make a grant under subsection (a) unless the State involved agrees that services under the grant will be provided only through entities that are screening women for breast or cervical cancer pursuant to a grant under section 1501 [42 U.S.C. § 300k].

(c) Applicability of provisions of general program. This title [42 U.S.C. § 300k et seq.] applies to a grant under subsection (a) to the same extent and in the same manner as such title applies to a grant under section 1501 [42 U.S.C. § 300k].

(d) Funding.

(1) In general. Subject to paragraph (2), for the purpose of carrying out this section, there are authorized to be appropriated \$ 3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

(2) Limitation regarding funding with respect to breast and cervical cancer. The authorization of appropriations established in paragraph (1) is not effective for a fiscal year unless the amount appropriated under section 1510(a) [42 U.S.C. § 300n-5(a)] for the fiscal year is equal to or greater than \$ 100,000,000.

§ 300n-5. Funding for general program

(a) Authorization of appropriations. For the purpose of carrying out this title [42 U.S.C. § 300k et seq.], there are authorized to be appropriated \$ 50,000,000 for fiscal year 1991, such sums as may be necessary for each of the fiscal years 1992 and 1993, \$ 150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

(b) Set-aside for technical assistance and provision of supplies and services. Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall reserve not more than 20 percent for carrying out section 1507 [42 U.S.C. § 300n-3].

Public Law 106-354
106th Congress

An Act

To amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act with respect to surveillance and information concerning the relationship between cervical cancer and the human papillomavirus (HPV), and for other purposes.

Oct. 24, 2000
[H.R. 4386]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Breast and Cervical Cancer Prevention and Treatment Act of 2000".

Breast Cancer
Prevention and
Treatment Act of
2000.
42 USC 1305
note.

SEC. 2. OPTIONAL MEDICAID COVERAGE OF CERTAIN BREAST OR CERVICAL CANCER PATIENTS.

(a) **COVERAGE AS OPTIONAL CATEGORICALLY NEEDY GROUP.—**

(1) **IN GENERAL.**—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

- (A) in subclause (XVI), by striking "or" at the end;
(B) in subclause (XVII), by adding "or" at the end;

and

(C) by adding at the end the following:

"(XVIII) who are described in subsection (aa) (relating to certain breast or cervical cancer patients);".

(2) **GROUP DESCRIBED.**—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following:

"(aa) Individuals described in this subsection are individuals

who—

"(1) are not described in subsection (a)(10)(A)(i);

"(2) have not attained age 65;

"(3) have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) in accordance with the requirements of section 1504 of that Act (42 U.S.C. 300n) and need treatment for breast or cervical cancer; and

"(4) are not otherwise covered under creditable coverage, as defined in section 2701(c) of the Public Health Service Act (42 U.S.C. 300gg(c)).".

(3) **LIMITATION ON BENEFITS.**—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

(A) by striking “and (XIII)” and inserting “(XII)”; and

(B) by inserting “, and (XIV) the medical assistance made available to an individual described in subsection (aa) who is eligible for medical assistance only because of subparagraph (A)(10)(ii)(XVIII) shall be limited to medical assistance provided during the period in which such an individual requires treatment for breast or cervical cancer” before the semicolon.

(4) **CONFORMING AMENDMENTS.**—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(A) in clause (xi), by striking “or” at the end;

(B) in clause (xii), by adding “or” at the end; and

(C) by inserting after clause (xii) the following:

“(xiii) individuals described in section 1902(aa),”.

(b) **PRESUMPTIVE ELIGIBILITY.**—

(1) **IN GENERAL.**—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920A the following:

“PRESUMPTIVE ELIGIBILITY FOR CERTAIN BREAST OR CERVICAL
CANCER PATIENTS

“SEC. 1920B. (a) **STATE OPTION.**—A State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(aa) (relating to certain breast or cervical cancer patients) during a presumptive eligibility period.

“(b) **DEFINITIONS.**—For purposes of this section:

“(1) **PRESUMPTIVE ELIGIBILITY PERIOD.**—The term ‘presumptive eligibility period’ means, with respect to an individual described in subsection (a), the period that—

“(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(aa); and

“(B) ends with (and includes) the earlier of—

“(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

“(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

“(2) **QUALIFIED ENTITY.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), the term ‘qualified entity’ means any entity that—

“(i) is eligible for payments under a State plan approved under this title; and

“(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

42 USC
1396r-1b.

“(B) REGULATIONS.—The Secretary may issue regulations further limiting those entities that may become qualified entities in order to prevent fraud and abuse and for other reasons.

“(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities, consistent with any limitations imposed under subparagraph (B).

“(c) ADMINISTRATION.—

“(1) IN GENERAL.—The State agency shall provide qualified entities with—

“(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

“(B) information on how to assist such individuals in completing and filing such forms.

“(2) NOTIFICATION REQUIREMENTS.—A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall—

“(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

“(B) inform such individual at the time the determination is made that an application for medical assistance under the State plan is required to be made by not later than the last day of the month following the month during which the determination is made.

“(3) APPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance under such plan by not later than the last day of the month following the month during which the determination is made.

“(d) PAYMENT.—Notwithstanding any other provision of this title, medical assistance that—

“(1) is furnished to an individual described in subsection (a)—

“(A) during a presumptive eligibility period;

“(B) by a entity that is eligible for payments under the State plan; and

“(2) is included in the care and services covered by the State plan,

shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1905(b).”

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: “and provide for making medical assistance available to individuals described in subsection (a) of section 1920B during a presumptive eligibility period in accordance with such section”.

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

(i) by striking “or for” and inserting “, for”; and

(ii) by inserting before the period the following:
 “, or for medical assistance provided to an individual described in subsection (a) of section 1920B during a presumptive eligibility period under such section”.

(c) ENHANCED MATCH.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking “and” before “(3)”; and

(2) by inserting before the period at the end the following:
 “, and (4) the Federal medical assistance percentage shall be equal to the enhanced FMAP described in section 2105(b) with respect to medical assistance provided to individuals who are eligible for such assistance only on the basis of section 1902(a)(10)(A)(ii)(XVIII)”.

(d) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance for items and services furnished on or after October 1, 2000, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

Applicability.
 42 USC 1396a
 note.

Approved October 24, 2000.

LEGISLATIVE HISTORY—H.R. 4386 (S. 662):

SENATE REPORTS: No. 106-323 accompanying S. 662 (Comm. on Finance).
 CONGRESSIONAL RECORD, Vol. 146 (2000):

May 9, considered and passed House.

Oct. 4, considered and passed Senate, amended, in lieu of S. 662.

Oct. 12, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):

Oct. 24, Presidential statement.

PUBLIC LAW 106-417—NOV. 1, 2000

ALASKA NATIVE AND AMERICAN INDIAN
DIRECT REIMBURSEMENT ACT OF 2000

Public Law 106-417
106th Congress

An Act

Nov. 1, 2000
[S. 406]

To amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of medicare, medicaid, and other third party payors, and to expand the eligibility under such program to other tribes and tribal organizations.

Alaska Native
and American
Indian Direct
Reimbursement
Act of 2000.
25 USC 1601
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Native and American Indian Direct Reimbursement Act of 2000".

25 USC 1645
note.

SEC. 2. FINDINGS.

Congress finds the following:

(1) In 1988, Congress enacted section 405 of the Indian Health Care Improvement Act (25 U.S.C. 1645) that established a demonstration program to authorize 4 tribally-operated Indian Health Service hospitals or clinics to test methods for direct billing and receipt of payment for health services provided to patients eligible for reimbursement under the medicare or medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.), and other third party payors.

(2) The 4 participants selected by the Indian Health Service for the demonstration program began the direct billing and collection program in fiscal year 1989 and unanimously expressed success and satisfaction with the program. Benefits of the program include dramatically increased collections for services provided under the medicare and medicaid programs, a significant reduction in the turn-around time between billing and receipt of payments for services provided to eligible patients, and increased efficiency of participants being able to track their own billings and collections.

(3) The success of the demonstration program confirms that the direct involvement of tribes and tribal organizations in the direct billing of, and collection of payments from, the medicare and medicaid programs, and other third party payor reimbursements, is more beneficial to Indian tribes than the current system of Indian Health Service-managed collections.

(4) Allowing tribes and tribal organizations to directly manage their medicare and medicaid billings and collections, rather than channeling all activities through the Indian Health Service, will enable the Indian Health Service to reduce its administrative costs, is consistent with the provisions of the Indian Self-Determination Act, and furthers the commitment

of the Secretary to enable tribes and tribal organizations to manage and operate their health care programs.

(5) The demonstration program was originally to expire on September 30, 1996, but was extended by Congress, so that the current participants would not experience an interruption in the program while Congress awaited a recommendation from the Secretary of Health and Human Services on whether to make the program permanent.

(6) It would be beneficial to the Indian Health Service and to Indian tribes, tribal organizations, and Alaska Native organizations to provide permanent status to the demonstration program and to extend participation in the program to other Indian tribes, tribal organizations, and Alaska Native health organizations who operate a facility of the Indian Health Service.

SEC. 3. DIRECT BILLING OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYORS.

(a) **PERMANENT AUTHORIZATION.**—Section 405 of the Indian Health Care Improvement Act (25 U.S.C. 1645) is amended to read as follows:

“(a) **ESTABLISHMENT OF DIRECT BILLING PROGRAM.**—

“(1) **IN GENERAL.**—The Secretary shall establish a program under which Indian tribes, tribal organizations, and Alaska Native health organizations that contract or compact for the operation of a hospital or clinic of the Service under the Indian Self-Determination and Education Assistance Act may elect to directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) (in this section referred to as the ‘medicare program’), under a State plan for medical assistance approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (in this section referred to as the ‘medicaid program’), or from any other third party payor.

“(2) **APPLICATION OF 100 PERCENT FMAP.**—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) shall apply for purposes of reimbursement under the medicaid program for health care services directly billed under the program established under this section.

“(b) **DIRECT REIMBURSEMENT.**—

“(1) **USE OF FUNDS.**—Each hospital or clinic participating in the program described in subsection (a) of this section shall be reimbursed directly under the medicare and medicaid programs for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) and sections 402(a) and 813(b)(2)(A), but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under the medicare or medicaid programs. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions shall be used—

“(A) solely for improving the health resources deficiency level of the Indian tribe; and

"(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(2) AUDITS.—The amounts paid to the hospitals and clinics participating in the program established under this section shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs.

Reports.

"(3) SECRETARIAL OVERSIGHT.—The Secretary shall monitor the performance of hospitals and clinics participating in the program established under this section, and shall require such hospitals and clinics to submit reports on the program to the Secretary on an annual basis.

"(4) NO PAYMENTS FROM SPECIAL FUNDS.—Notwithstanding section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) or section 402(a), no payment may be made out of the special funds described in such sections for the benefit of any hospital or clinic during the period that the hospital or clinic participates in the program established under this section.

"(c) REQUIREMENTS FOR PARTICIPATION.—

"(1) APPLICATION.—Except as provided in paragraph (2)(B), in order to be eligible for participation in the program established under this section, an Indian tribe, tribal organization, or Alaska Native health organization shall submit an application to the Secretary that establishes to the satisfaction of the Secretary that—

"(A) the Indian tribe, tribal organization, or Alaska Native health organization contracts or compacts for the operation of a facility of the Service;

"(B) the facility is eligible to participate in the medicare or medicaid programs under section 1880 or 1911 of the Social Security Act (42 U.S.C. 1395qq; 1396j);

"(C) the facility meets the requirements that apply to programs operated directly by the Service; and

"(D) the facility—

"(i) is accredited by an accrediting body as eligible for reimbursement under the medicare or medicaid programs; or

"(ii) has submitted a plan, which has been approved by the Secretary, for achieving such accreditation.

"(2) APPROVAL.—

Deadline.

"(A) IN GENERAL.—The Secretary shall review and approve a qualified application not later than 90 days after the date the application is submitted to the Secretary unless the Secretary determines that any of the criteria set forth in paragraph (1) are not met.

"(B) GRANDFATHER OF DEMONSTRATION PROGRAM PARTICIPANTS.—Any participant in the demonstration program authorized under this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 1999 shall be deemed approved for participation in the program established under this section and shall not be required to submit an application in order to participate in the program.