

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11130 SENATE HEALTH, EDUCATION & SOCIAL SERVICES

# SENATE COMMITTEE REPORT

DATE: 5/17/03

FURTHER:

DATE TURNED  
IN TO OFFICE: 2.5.04

Health, Education & Social Services Committee considered SENATE BILL NO. 201

SB 201 HOME & RESPITE CARE: CRIMINAL RECORDS

"An Act relating to home care and respite care; and providing for an effective date."

and recommends:

be replaced with \_\_\_\_\_ CS SB 201 (HES)

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	2/03		✓	
DPS	2/02		✓	
HSS	2/03		✓	

**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>			X	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

**SB**

**2022**

**GARY WILKEN**

SENATOR  
Fairbanks

Interim  
1851 Fox Ave.  
Fairbanks, Alaska 99701  
Tel: 451-5501 (from Fbks)  
Tel: (907) 465-3709 (outside Fbks)  
Fax: (907) 465-4714

Alaska State Legislature

Senate

During Session:  
State Capitol Building  
Juneau, Alaska 99801-1182  
Tel: 451-5501 (from Fbks)  
Tel: (907) 465-3709 (outside Fbks)  
Fax: (907) 465-4714  
Website: [www.garywilken.com](http://www.garywilken.com)  
E-Mail: [Senator.Gary.Wilken@legis.state.ak.us](mailto:Senator.Gary.Wilken@legis.state.ak.us)

## MEMORANDUM

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

FROM: Senator Gary Wilken

DATE: May 1, 2003

RE: Senate Bill 202 – *Education Funding and Pupil Transportation*

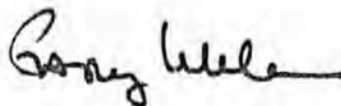
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I respectfully request that Senate Bill 202, *Education Funding and Pupil Transportation*, be scheduled for a hearing before the Senate Health, Education, and Social Services Committee.

Senate Bill 202 revises the method in which local school districts are reimbursed for pupil transportation costs. A per student transportation allocation is established for each local school district as the base for state funding. In addition, Senate Bill 202 increases the K-12 education funding base student allocation to \$4,169, an increase of \$159.

These two provisions are intertwined with the Senate operating budget and passage of Senate Bill 202 will help stabilize K-12 public education funding.

Thank you for your cooperation and assistance in scheduling a hearing.





Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### SPONSOR STATEMENT

#### Senate Bill 202 Education Funding and Pupil Transportation

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Senate Bill 202 includes two provisions relating to K-12 public education that are intertwined with the Senate operating budget.

First, Senate Bill 202 revises the method in which local school districts are reimbursed for pupil transportation costs. Over the past seven years, district transportation costs have increased 77 percent; \$32.8 million in FY97 to \$58.1 million in FY04. This legislation establishes a pupil transportation grant program as a means to control the growth of these costs.

Under the proposed grant program, local school districts will receive an allocation based on their actual per student transportation cost in FY03. In FY04 and beyond, the pupil transportation grant will be determined by multiplying the district's transportation allocation by their student enrollment. This new reimbursement program recognizes fiscal constraint while continuing to support local school districts with their transportation costs.

Secondly, Senate Bill 202 increases the K-12 education funding per student amount to \$4,169, an increase of \$159. This change distributes \$32.1 million to 53 school districts through the education foundation formula; a plan that offers stable and predictable revenue to all 53 school districts. This much-needed increase will help our school districts to continue to improve their educational programs so that all students receive the best education possible.

Please join me in endorsing and passing Senate Bill 202.

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

DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT  
 REIMBURSABLE TRANSPORTATION COSTS PER STUDENT  
 April 15, 2003

DISTRICT	FY03 UPDATED PROJECTIONS	ADM-LESS Corresp.	Estimated FY03 COST PER STUDENT	FY04 Projected ADM	Estimated Transportation Grant Proposal
ALASKA GATEWAY	628,955	429.60	1,200	445.00	534,000
ALEUTIAN REGION	0	49.25	0	46.00	0
ALEUTIANS EAST	61,000	272.75	224	272.00	60,928
ANCHORAGE	16,574,909	48,907.49	339	49,274.00	16,703,886
ANNETTE ISLAND	22,770	290.65	78	290.65	22,871
BERING STRAIT	76,500	1,733.85	44	1,814.00	79,816
BRISTOL BAY	308,916	233.60	1,200	236.00	283,200
CHATHAM	15,201	219.90	69	224.00	15,458
CHUGACH	0	83.50	0	95.00	0
COPPER RIVER	702,500	540.22	1,200	535.25	642,300
CORDOVA	74,519	464.10	161	470.00	75,670
CRAIG	96,700	389.75	248	390.50	96,844
DELTA/GREELY	858,541	635.38	1,200	845.00	1,014,000
DENALI	349,903	296.75	1,179	311.00	366,669
DILLINGHAM	420,079	520.66	807	525.06	423,723
FAIRBANKS	8,988,949	14,874.93	604	14,841.00	8,963,964
GALENA	51,275	234.00	219	243.00	53,217
HAINES	172,000	311.95	551	292.00	160,892
HOONAH	36,193	188.40	192	188.85	36,259
HYDABURG	0	92.20	0	88.00	0
IDITAROD	53,488	309.85	173	317.00	54,841
JUNEAU	2,052,033	5,462.63	377	5,221.00	1,968,317
KAKE	30,388	151.85	200	157.00	31,400
KASHUNAMIUT	4,800	350.40	14	360.00	5,040
KENAI PENINSULA	4,701,483	9,267.26	507	9,064.00	4,595,448
KEYCHIKAN	1,285,530	2,381.85	540	2,364.00	1,276,560
KLAWOCK	25,448	158.90	160	158.00	25,280
KODIAK	1,206,004	2,730.35	442	2,714.00	1,199,588
KUSPUK	228,663	426.70	538	476.00	255,138
LAKE & PENINSULA	103,546	412.55	251	402.00	100,902
LOWER KUSKOKWIM	542,000	3,704.69	146	3,768.00	550,128
LOWER YUKON	3,500	2,053.15	2	2,073.25	4,147
MAT-SU	9,995,545	13,034.52	767	13,065.00	10,020,855
NEMANA	117,280	203.50	576	202.00	116,352
NOME	270,093	736.15	367	764.00	280,388
NORTH SLOPE	762,187	1,970.25	387	1,934.00	748,458
NORTHWEST ARCTIC	50,784	2,141.90	24	2,163.00	51,912
PELICAN	1,440	18.00	80	18.00	1,440
PETERSBURG	143,503	625.85	229	601.00	137,629
PRIIBILOF	0	135.50	0	136.00	0
SITKA	605,800	1,508.80	402	1,475.00	592,950
SKAGWAY	3,800	109.67	35	104.00	3,640
SOUTHEAST ISLAND	251,140	203.50	1,200	207.00	248,400
SOUTHWEST REGION	245,103	721.25	340	723.35	245,939
ST. MARY'S	850	167.16	5	185.00	925
TANANA	44,685	61.80	723	60.00	43,380
UNALASKA	208,721	392.95	531	415.52	220,641
VALDEZ	413,613	866.70	477	888.00	423,576
WRANGELL	195,606	435.45	449	415.00	186,335
YAKUTAT	66,661	144.25	462	122.00	56,364
YUKON FLATS	62,098	301.25	206	286.00	58,916
YUKON/KOYUKUK	120,000	444.85	270	450.00	121,500
YUPIIT	3,000	424.00	7	416.00	2,912
CONTRACTS-Appro	206,000				206,000
**See Notes Below	480,098				565,000
TOTALS:	\$53,933,800	122,826.42		123,130.43	\$53,933,794

caps per student  
amount at \$1,200

Minimum per student  
amount is \$20

\*\*For unanticipated cost increases, e.g., added res, contract negotiations, etc.

Prepared 4/29/03

Base Allocation

Increase to \$4,169

School District	Increase to Basic Need	Change to Floor	Net Increase
Alaska Gateway	195,298	(78,119)	117,179
Aleutian Region	40,146	(16,058)	24,088
Aleutians East Borough	144,593	-	144,593
Anchorage	10,806,659	-	10,806,659
Annette Island	84,237	-	84,237
Bering Strait	851,286	-	851,286
Bristol Bay Borough	94,324	-	94,324
Chatham	87,838	-	87,838
Chugach	59,950	(23,820)	36,130
Copper River	213,276	-	213,276
Cordova	134,380	(4,228)	130,152
Craig	179,479	-	179,479
Delta/Greely	294,901	-	294,901
Denali Borough	131,707	-	131,707
Dillingham	167,789	(67,116)	100,673
Fairbanks N. Star Borough	3,512,420	-	3,512,420
Galena	565,007	(226,003)	339,004
Haines Borough	90,722	-	90,722
Hoonah	64,160	(25,664)	38,496
Hydaburg	29,645	-	29,645
Iditarod Area	172,283	(68,913)	103,370
Juneau Borough	1,194,834	-	1,194,834
Kake	50,543	(20,217)	30,326
Kashunamiut	135,161	-	135,161
Kenai Peninsula Borough	2,285,510	-	2,285,510
Ketchikan Gateway Borough	553,984	-	553,984
Klawock	52,414	(8,445)	43,969
Kodiak Island Borough	717,348	-	717,348
Kuspuk	223,783	(32,127)	191,656
Lake & Peninsula Borough	235,460	(20,840)	214,620
Lower Kuskokwim	1,631,553	(652,621)	978,932
Lower Yukon	870,870	-	870,870
Mat-Su Borough	3,236,571	-	3,236,571
Nenana	141,628	-	141,628
Nome	235,822	-	235,822
North Slope Borough	762,020	-	762,020
Northwest Arctic Borough	918,149	-	918,149
Pelican	10,542	(4,217)	6,325
Petersburg	162,244	-	162,244
Pribilof	63,527	(24,480)	39,047
Sitka Borough	357,264	-	357,264
Skagway	38,635	-	38,635
Southeast Island	96,599	(25,409)	71,190
Southwest Region	329,759	-	329,759
St. Mary's	75,304	-	75,304
Tanana	35,365	(14,146)	21,219
Unalaska	134,050	(53,620)	80,430
Valdez	238,109	(95,244)	142,865
Wrangell	107,719	-	107,719
Yakutat	43,094	-	43,094
Yukon Flats	175,798	9,266	185,064
Yukon/Koyukuk	312,571	(2,653)	309,908
Yup'it	185,760	(17,795)	167,965
Mt. Edgecumbe High Schc	77,026	-	77,026
<b>TOTALS:</b>	<b>33,609,116</b>	<b>(1,472,475)</b>	<b>32,136,637</b>

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 259(EDU)  
 (H) Publish Date: 4/23/2003

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Education & Early Development  
 Title: "An Act relating to public school transportation" BRU: Pupil Transportation  
 Component: Pupil Transportation  
 Sponsor: Representative Gatto  
 Requester: House Special Committee on Education Component No.: 144

**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
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	10,745.6					
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>10,745.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10,745.6					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>10,745.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 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)  
 Governor's FY04 budget request for pupil transportation is \$43,188,200  
 HB 259 cost \$53,933,800  
 Fiscal Note \$10,745,600

HB 259 will provide each school district with a per student allocation based on the per student amount reimbursed in FY03 for pupil transportation services. Beginning in FY04 school districts that offer a transportation program will be allocated a grant based on their per student amount times the number of students in the current year.

Prepared by: Eddy Jeans, School Finance Manager Phone 465-8679  
 Division: Education Support Services Date/Time 4/23/03 10:53 AM  
 Approved by: \_\_\_\_\_ Date 4/23/2003  
 Agency: Education and Early Development

CSHB 259(EDU) - FN#1

DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT  
 REIMBURSABLE TRANSPORTATION COSTS PER STUDENT  
 April 15, 2003

DISTRICT	FY03 UPDATED PROJECTIONS	ADM--LESS Corresp.	Estimated FY03 COST PER STUDENT	FY04 Projected ADM	Estimated Transportation Grant Proposal
ALASKA GATEWAY	628,955	429.60	1,200	445.00	534,000
ALEUTIAN REGION	0	49.25	0	46.00	0
ALEUTIANS EAST	61,000	272.75	224	272.00	60,928
ANCHORAGE	16,574,909	48,907.49	339	49,274.00	16,703,886
ANNETTE ISLAND	22,770	290.65	78	290.65	22,671
BERING STRAIT	76,500	1,733.85	44	1,814.00	79,816
BRISTOL BAY	308,916	233.60	1,200	236.00	283,200
CHATHAM	15,201	219.90	69	224.00	15,456
CHUGACH	0	83.50	0	95.00	0
COPPER RIVER	702,500	540.22	1,200	535.25	642,300
CORDOVA	74,519	464.10	161	470.00	75,670
CRAIG	96,700	389.75	248	390.50	96,844
DELTA/GREELY	858,541	635.38	1,200	845.00	1,014,000
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DILLINGHAM	420,079	520.66	807	525.06	423,723
FAIRBANKS	8,988,949	14,874.93	604	14,841.00	8,963,964
GALENA	51,275	234.00	219	243.00	53,217
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JUNEAU	2,062,033	5,462.63	377	5,221.00	1,958,317
KAKE	30,388	151.85	200	157.00	31,400
KASHUNAMIUT	4,800	350.40	14	360.00	5,040
KENAI PENINSULA	4,701,483	9,267.26	507	9,064.00	4,595,448
KETCHIKAN	1,285,530	2,381.85	540	2,364.00	1,276,560
KLAWOCK	25,448	158.90	160	158.00	25,280
KODIAK	1,206,004	2,730.35	442	2,714.00	1,199,588
KUSPUK	228,663	426.70	536	476.00	255,136
LAKE & PENINSULA	103,546	412.55	251	402.00	100,902
LOWER KUSKOKWIM	542,000	3,704.69	146	3,768.00	550,128
LOWER YUKON	3,500	2,053.15	2	2,073.25	4,147
MAT-SU	9,995,545	13,034.52	767	13,065.00	10,020,855
NENANA	117,280	203.50	576	202.00	116,352
NOME	270,093	736.15	367	764.00	280,388
NORTH SLOPE	762,187	1,970.25	387	1,934.00	748,458
NORTHWEST ARCTIC	50,784	2,141.90	24	2,163.00	51,912
PELICAN	1,440	18.00	80	18.00	1,440
PETERSBURG	143,503	625.85	229	601.00	137,629
PRIBILOF	0	135.50	0	136.00	0
SITKA	605,800	1,508.80	402	1,475.00	592,950
SKAGWAY	3,800	109.67	35	104.00	3,640
SOUTHEAST ISLAND	251,140	203.50	1,200	207.00	248,400
SOUTHWEST REGION	245,103	721.25	340	723.35	245,939
ST. MARY'S	850	167.16	5	185.00	925
TANANA	44,685	61.30	723	60.00	43,380
UNALASKA	208,721	392.95	531	415.52	220,641
VALDEZ	413,613	866.70	477	888.00	423,576
WRANGELL	195,606	435.45	449	415.00	186,335
YAKUTAT	66,661	144.25	462	122.00	56,364
YUKON FLATS	62,098	301.25	206	286.00	58,916
YUKON/KOYUKUK	120,000	444.85	270	450.00	121,500
YUPIIT	3,000	424.00	7	416.00	2,912
CONTRACTS--Appro	206,000				206,000
**See Notes Below	480,098				565,000
TOTALS:	\$53,933,800	122,826.42		123,130.43	\$53,933,794

caps per student amount at \$1,200

Minimum per student amount is \$20

\*\*For unanticipated cost increases, e.g., added rates, contract negotiations, etc.

DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT  
 FY04 Projections -- Pupil Transportation Program  
 Prepared 4/15/2003

CSHB 259(EDU) - FN#1

Actual proration is 73.93%  
 of projected entitlement

DISTRICT	Reimbursement Program		FY04 Transportation Grant Proposal
	FY04 PROJECTION	FY04 Prorated Gov.s Budget	
ALASKA GATEWAY	642,534	474,997	534,000
ALEUTIANS EAST	57,000	42,138	0
ALEUTIANS REGION	0	0	60,928
ANCHORAGE	18,793,314	13,893,070	16,703,800
ANNETTE ISLAND	23,000	17,003	22,671
BERING STRAIT	78,795	58,250	79,576
BRISTOL BAY	321,021	237,317	283,200
* CHATHAM	17,001	12,568	15,456
CHUGACH	0	0	0
COPPER RIVER	720,000	532,264	642,300
CORDOVA	76,286	56,395	75,670
CRAIG	96,700	71,486	96,844
DELTA/GREELY	882,572	652,447	1,014,000
DENALI	360,186	266,270	366,669
DILLINGHAM	438,958	324,502	423,723
FAIRBANKS	9,406,638	6,953,914	8,963,964
GALENA	52,650	38,922	53,217
HAINES	172,000	127,152	160,892
HOONAH	29,235	21,612	36,259
HYDABURG	0	0	0
IDITAROD	53,488	39,541	54,841
JUNEAU	2,121,821	1,568,569	1,968,317
KAKE	36,700	27,131	31,400
* KASHUNAMIUT	4,800	3,548	5,040
KENAI PENINSULA	5,018,523	3,709,974	4,595,448
KETCHIKAN	1,339,886	990,519	1,276,560
KLAWOCK	26,924	19,904	25,280
KODIAK	1,238,570	915,620	1,199,508
KUSPUK	248,669	183,830	255,136
LAKE & PENINSULA	104,917	77,561	100,902
LOWER KUSKOKWIM	642,000	474,602	550,128
* LOWER YUKON	3,500	2,587	4,147
MAT-SU	10,663,664	7,883,177	10,020,855
NENANA	119,626	88,434	116,352
NOME	298,196	220,443	280,388
NORTH SLOPE	737,611	545,283	748,458
NORTHWEST ARCTIC	51,340	37,953	51,912
* PELICAN	1,440	1,065	1,440
PETERSBURG	163,000	120,499	137,629
PRIBILOF	0	0	0
SITKA	616,500	455,751	592,950
* SKAGWAY	3,800	2,809	3,640
SOUTHEAST ISLAND	269,700	199,377	248,400
SOUTHWEST REGION	248,983	184,062	245,939
* ST. MARY'S	850	628	925
TANANA	30,250	22,362	43,380
UNALASKA	214,983	158,927	220,641
VALDEZ	425,195	314,328	423,576
WRANGELL	234,727	173,523	186,335
YAKUTAT	79,993	59,135	56,364
YUKON FLATS	67,098	49,603	58,916
YUKON/KOYUKUK	126,000	93,146	121,500
* YUPIIT	3,000	2,218	2,912
ACS	0	0	0
MT. EDGE CUMBE	0	0	0
CONTRACTS--Approx	206,000	206,000	206,000
**See Notes Below	575,757	575,784	565,000
<b>TOTALS</b>	<b>58,145,400</b>	<b>43,188,200</b>	<b>53,933,794</b>

Projections based on information provided by districts

\* No bussing--Districts' only reimbursable costs are for payments to parents in lieu of bus transportation

\*\*For unanticipated cost increases, e.g., added rates, contract negotiations.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 202  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Education & Early Development  
 Title "An Act relating to school transportation; relating BRU K-12 Support  
 to the base student allocation used in the formula for ..." Component Foundation Program  
 Sponsor Senate Finance Committee  
 Requester Health, Education & Social Services Component No. 141

**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
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	32,136.6					
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>32,136.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	32,136.6					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>32,136.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0

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 bill would increase the base student allocation of \$4,010 by \$159, resulting in a new amount of \$4,169. (see attached spreadsheet)

Prepared by: Eddy Jeans, School Finance Manager  
 Division: Education and Support Services  
 Approved by: \_\_\_\_\_  
 Agency: Education and Early Development

Phone 465-8679  
 Date/Time 5/7/03 10:11 AM  
 Date 5/7/2003

School District	Increase to Basic Need	Change to Floor	Net Increase
Alaska Gateway	195,298	(78,119)	117,179
Aleutian Region	40,146	(16,058)	24,088
Aleutians East Borough	144,593	-	144,593
Anchorage	10,806,659	-	10,806,659
Annette Island	84,237	-	84,237
Bering Strait	851,286	-	851,286
Bristol Bay Borough	94,324	-	94,324
Chatham	87,838	-	87,838
Chugach	59,950	(23,820)	36,130
Copper River	213,276	-	213,276
Cordova	134,380	(4,228)	130,152
Craig	179,479	-	179,479
Delta/Greely	294,901	-	294,901
Denali Borough	131,707	-	131,707
Dillingham	167,789	(67,116)	100,673
Fairbanks N. Star Borough	3,512,420	-	3,512,420
Galena	565,007	(226,003)	339,004
Haines Porough	90,722	-	90,722
Hoonah	64,160	(25,664)	38,496
Hydaburg	29,645	-	29,645
Iditarod Area	172,283	(68,913)	103,370
Juneau Borough	1,194,834	-	1,194,834
Kake	50,543	(20,217)	30,326
Kashunamiut	135,161	-	135,161
Kenai Peninsula Borough	2,285,510	-	2,285,510
Ketchikan Gateway Borough	553,984	-	553,984
Klawock	52,414	(8,445)	43,969
Kodiak Island Borough	717,348	-	717,348
Kuspuk	223,783	(32,127)	191,656
Lake & Peninsula Borough	235,460	(20,840)	214,620
Lower Kuskokwim	1,631,553	(652,621)	978,932
Lower Yukon	870,870	-	870,870
Mat-Su Borough	3,236,571	-	3,236,571
Nenana	141,628	-	141,628
Nome	235,822	-	235,822
North Slope Borough	762,020	-	762,020
Northwest Arctic Borough	918,149	-	918,149
Pelican	10,542	(4,217)	6,325
Petersburg	162,244	-	162,244
Pribilof	63,527	(24,480)	39,047
Sitka Borough	357,264	-	357,264
Skagway	38,635	-	38,635
Southeast Island	96,599	(25,409)	71,190
Southwest Region	329,759	-	329,759
St. Mary's	75,304	-	75,304
Tanana	35,365	(14,146)	21,219
Unalaska	134,050	(53,620)	80,430
Valdez	238,109	(95,244)	142,865
Wrangell	107,719	-	107,719
Yakutat	43,094	-	43,094
Yukon Flats	175,798	9,266	185,064
Yukon/Koyukuk	312,571	(2,663)	309,908
Yupit	185,760	(17,795)	167,965
Mt. Edgecumbe High School	77,026	-	77,026
<b>TOTALS:</b>	<b>33,609,116</b>	<b>(1,472,479)</b>	<b>32,136,637</b>

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 202  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Education & Early Development  
 Title: "An Act relating to school transportation; BRU Pupil Transportation  
relating to the base student allocation used in the formula... Component Pupil Transportation  
 Sponsor Senate Finance Committee  
 Requester Senate HESS Component No. 144

**Expenditures/Revenue** (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
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	10,745.6					
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>10,745.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10,745.6					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>10,745.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0

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)

Governor's FY04 budget request for pupil transportation is \$43,188,200  
 SB 202 cost \$53,933,800  
 Fiscal Note \$10,745,600

SB 202 will provide each school district with a per student allocation based on the per student amount reimbursed in FY03 for pupil transportation services. Beginning in FY04 school districts that offer a transportation program will be allocated a grant based on their per student amount times the number of students in the current year.

Prepared by: Eddy Jeans, School Finance Manager  
 Division: Education Support Services  
 Approved by: \_\_\_\_\_  
 Agency: Education and Early Development

Phone 465-8679  
 Date/Time 5/7/03 10:11 AM  
 Date 5/7/2003

DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT  
REIMBURSABLE TRANSPORTATION COSTS PER STUDENT

April 15, 2003

DISTRICT	FY03 UPDATED PROJECTIONS	ADM--LESS Corresp.	Estimated FY03 COST PER STUDENT	FY04 Projected ADM	Estimated Transportation Grant Proposal
ALASKA GATEWAY	628,955	429.60	1,200	445.00	534,000
ALEUTIAN REGION	0	49.25	0	46.00	0
ALEUTIANS EAST	61,000	272.75	224	272.00	60,928
ANCHORAGE	16,574,909	48,907.49	339	49,274.00	16,703,886
ANNETTE ISLAND	22,770	290.65	78	290.65	22,671
BERING STRAIT	76,500	1,733.85	44	1,814.00	79,816
BRISTOL BAY	308,916	233.60	1,200	238.00	283,200
CHATHAM	15,201	219.90	69	224.00	15,456
CHUGACH	0	83.50	0	95.00	0
COPPER RIVER	702,500	540.22	1,200	535.25	642,300
CORDOVA	74,519	464.10	161	470.00	75,670
CRAIG	96,700	389.75	248	390.50	98,844
DELTA/GREELY	858,541	635.38	1,200	845.00	1,014,000
DENALI	349,903	296.75	1,179	311.00	366,669
DILLINGHAM	420,079	520.66	807	525.06	423,723
FAIRBANKS	8,988,949	14,874.93	604	14,841.00	8,963,964
GALENA	51,275	234.00	219	243.00	53,217
HAINES	172,000	311.95	551	292.00	160,892
HOONAH	36,193	188.40	192	188.85	36,259
HYDABURG	0	92.20	0	88.00	0
IDITAROD	53,488	309.85	173	317.00	54,841
JUNEAU	2,062,033	5,462.63	377	5,221.00	1,968,317
KAKE	30,388	151.85	200	157.00	31,400
KASHUNAMIUT	4,800	350.40	14	360.00	5,040
KENAI PENINSULA	4,701,483	9,267.26	507	9,064.00	4,595,448
KETCHIKAN	1,285,530	2,381.85	540	2,364.00	1,276,560
KLAWOCK	25,448	158.90	160	158.00	25,280
KODIAK	1,206,004	2,730.35	442	2,714.00	1,199,588
KUSPUK	228,653	428.70	536	476.00	255,136
LAKE & PENINSULA	103,540	412.55	251	402.00	100,902
LOWER KUSKOKWIM	542,000	3,704.69	146	3,768.00	550,128
LOWER YUKON	3,500	2,053.15	2	2,073.25	4,147
MAT-SU	9,995,545	13,034.52	767	13,065.00	10,020,855
NENANA	117,280	203.50	576	202.00	116,352
NOME	270,093	736.15	367	764.00	280,388
NORTH SLOPE	762,187	1,970.25	387	1,934.00	748,458
NORTHWEST ARCTIC	50,784	2,141.90	24	2,163.00	51,912
PELICAN	1,440	18.00	80	18.00	1,440
PETERSBURG	143,503	625.85	229	601.00	137,629
PRIBILOF	0	135.50	0	136.00	0
SITKA	605,800	1,508.80	402	1,475.00	592,950
SKAGWAY	3,800	109.67	35	104.00	3,640
SOUTHEAST ISLAND	251,140	203.50	1,200	207.00	248,400
SOUTHWEST REGION	245,103	721.25	340	723.35	245,939
ST. MARY'S	850	167.16	5	185.00	925
TANANA	44,685	61.80	723	60.00	43,380
UNALASKA	208,721	392.95	531	415.52	220,641
VALDEZ	413,613	866.70	477	888.00	423,576
WRANGELL	195,606	435.45	449	415.00	186,335
YAKUTAT	66,661	144.25	462	122.00	56,364
YUKON FLATS	62,098	301.25	206	286.00	58,916
YUKON/KOYUKUK	120,000	444.85	270	450.00	121,500
YUPIIT	3,000	424.00	7	416.00	2,912
CONTRACTS--Approved	206,000				206,000
**See Notes Below	480,098				565,000
TOTALS:	\$53,933,800	122,826.42		123,130.43	\$53,933,794

caps per student  
amount at \$1,200

\*\*For unanticipated cost increases, e.g., added rates, contract negotiations, etc.

DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT

FY04 Projections -- Pupil Transportation Program

Prepared 4/15/2003

Actual proration is 73.93%

DISTRICT	Reimbursement Program of projected entitlement		FY04 Transportation Grant Proposal
	FY04 PROJECTION	FY04 Prorated Gov.s Budget	
ALASKA GATEWAY	642,534	474,997	534,000
ALEUTIAN REGION	0	0	0
ALEUTIANS EAST	57,000	42,138	60,928
ANCHORAGE	18,793,314	13,893,070	16,703,886
ANNETTE ISLAND	23,000	17,003	22,671
BERING STRAIT	78,795	58,250	79,816
BRISTOL BAY	321,021	237,317	283,200
* CHATHAM	17,001	12,568	15,456
CHUGACH	0	0	0
COPPER RIVER	720,000	532,264	642,300
CORDOVA	76,286	56,395	75,670
CRAIG	96,700	71,486	96,844
DELTA/GREELY	882,572	652,447	1,014,000
DENALI	360,186	266,270	366,669
DILLINGHAM	438,958	324,502	423,723
FAIRBANKS	9,406,638	6,953,914	8,963,964
GALENA	52,650	38,922	53,217
HAINES	172,000	127,152	160,892
HOONAH	29,235	21,612	36,259
HYDABURG	0	0	0
IDITAROD	53,488	39,541	54,841
JUNEAU	2,121,821	1,568,569	1,968,317
KAKE	36,700	27,131	31,400
* KASHUNAMIUT	4,800	3,548	5,040
KENAI PENINSULA	5,018,523	3,709,974	4,595,448
KETCHIKAN	1,339,886	990,519	1,276,560
KLAWOCK	26,924	19,904	25,280
KODIAK	1,238,570	915,620	1,199,588
KUSPUK	248,669	183,830	255,136
LAKE & PENINSULA	104,917	77,561	100,902
LOWER KUSKOKWIM	642,000	474,602	550,128
* LOWER YUKON	3,500	2,587	4,147
MAT-SU	10,663,664	7,883,177	10,020,855
NENANA	119,626	88,434	116,352
NOME	298,196	220,443	280,388
NORTH SLOPE	737,611	545,283	748,458
NORTHWEST ARCTIC	51,340	37,953	51,912
* PELICAN	1,440	1,065	1,440
PETERSBURG	163,000	120,499	137,629
PRIBILOF	0	0	0
SITKA	616,500	455,751	592,950
* SKAGWAY	3,800	2,809	3,640
SOUTHEAST ISLAND	269,700	199,377	248,400
SOUTHWEST REGION	248,983	184,062	245,939
* ST. MARY'S	850	628	925
TANANA	30,250	22,362	43,380
UNALASKA	214,983	158,927	220,641
VALDEZ	425,195	314,328	423,576
WRANGELL	234,727	173,523	186,335
YAKUTAT	79,993	59,135	56,364
YUKON FLATS	67,098	49,603	58,916
YUKON/KOYUKUK	126,000	93,146	121,500
* YUPIIT	3,000	2,218	2,912
ACS	0	0	0
MT. EDGE CUMBE	0	0	0
CONTRACTS--Approx	206,000	206,000	206,000
**See Notes Below	575,757	575,784	565,000
<b>TOTALS</b>	<b>58,145,400</b>	<b>43,188,200</b>	<b>53,933,794</b>

Projections based on information provided by districts

\* No bus'ng--Districts' only reimbursable costs are for payments to parents in lieu of bus transportation

\*\*For unanticipated cost increases, e.g., added rates, contract negotiations.



JASON

State Of Alaska  
Legislative Affairs Agency  
Kenai LIO  
145 Main St Lp Ste 217  
Kenai, AK 99611  
907-283-2030

Date: 5-5-03

Please accept the enclosed original(s) of written testimony for  
the SHES teleconference hearing that was  
scheduled on 5-5-03.

A copy of this testimony was transmitted to your committee via  
fax on 5-5-03.

Thank you,

Mr. Byrne



# Alaska State Legislature

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

Committee on SB 202, dated 5-5-03  
bill # / subject public hearing date

The Kenai Peninsula Borough School District does not support SB 202. In its current form, the bill does not take into account the distance our buses must travel to reach our students, the increased costs due to inflation, and our increasing special education population that we must, by federal law, transport. For the Kenai Peninsula Borough School District, this bill means fewer and fewer dollars for students in the classroom as each year passes. What the grant does not cover our district must fund.

SB 202 ties transportation funds to student enrollment. Our district is a combination of both urban and rural areas, and the number of our routes is driven not by total student population but by distance and lack of public transportation services. For example, we have two routes that travel 100 plus live miles. Our total student population is declining; however, this decline does not automatically equate to a corresponding decline in the number of bus routes or miles driven.

SB 202 does not allow for adjustments to counter the costs of inflation, a factor which affects our district-operated routes as well as our contracted routes. Bus replacement costs are rising as are fuel and labor expenses. The new state minimum wage for bus drivers is now \$14.30 an hour. Our contract with Laidlaw contains a cost of living clause, and next year our per day rates will increase by 1.9%. To counter these increases, we will lengthen our capital equipment replacement cycle for district-owned buses and eliminate routes in both district and contractor areas. However, we will soon reach a point where basic service and student safety are affected.

SB 202 does not take into account federally mandated special needs transportation. Although total KPBSD student population is decreasing, the number of KPBSD students requiring special needs transportation is increasing. Special needs transportation is very expensive. These students require specialized buses and equipment as well as individualized care during transport. In addition, some of these students live a considerable distance from the nearest program. This adds to the expense of transportation and limits the number of special needs students we can move. This year we will spend approximately 25 percent of our total transportation budget on special needs transport. Next year, we expect a greater percentage of our budget to be spent on these federally mandated services. The more KPBSD spends on special needs services, the less it has to spend on regular education transportation and possibly the classroom.

SB 202 does reduce government involvement and shift authority from the state to local districts. However, in its current form the bill will not maximize efficiencies in transportation services as intended because it shifts future transportation cost increases from the state to the districts (some of whom are facing severe budget cuts) with no provision for adjustments. SB 202 could impact education in a way not anticipated: fewer students attending school on a regular basis and less money for the classroom.

The Kenai Peninsula Borough School District does recognize a need to both contain the costs of transportation for all of our state's students as well as bring parity to the system. This proposed legislation is a step in the right direction, however, it needs further development. Our district recommends the establishment of a state-wide task force of individuals most intimately aware of the transportation system. A plan whose consequences have not been well-thought through could potentially create another one-sided venue that rewards inefficiency and punishes those attempting to be financially responsible.

Thank you for your consideration.

Signed:           Dave Spence          

Testifier

          Kenai Peninsula School District          

Representing (optional)

          148 N Binkley Soldotna, AK 99669          

Address

          262-5846          

Phone number

SB

217

Alaska State Legislature

Out of Session:  
PO Box 531  
Golovin, Alaska 99762  
(907) 443-5599

In Session:  
State Capitol, Suite 510  
Juneau, Alaska 99801-1182  
(800) 597-3707  
(907) 465-3707  
(907) 465-4821 Fax

SENATOR  
DONALD C. OLSON

DISTRICT T

Alakanuk  
Ambler  
Anaktuvuk Pass  
Atkasuk  
Barrow  
Brevig Mission  
Browerville  
Buckland  
Chevak  
Deering  
Diomede  
Elim  
Emmonak  
Gambell  
Golovin  
Hooper Bay  
Kaktovik  
Kiana  
Kivalina  
Kobuk  
Kotlik  
Kotzebue  
Koyuk  
Mountain Village  
Noatak  
Nome  
Noorvik  
Nuiqsut  
Nunam Iqua  
Pilot Station  
Pitka's Point  
Point Hope  
Point Lay  
Savoonga  
Scammon Bay  
Selawik  
Shaktolik  
Shishmaref  
Shungnak  
St. Mary's  
St. Michael  
Stebbins  
Teller  
Unalakleet  
Wainwright  
Wales  
White Mountain

January 14, 2004

MEMORANDUM

To: Senator Fred Dyson  
Senate HESS Committee

From: Senator Donald Olson 

Re: Schedule hearing for SB 217, State Genetic Privacy Laws

I respectfully request a Senate HESS Committee hearing of SB 217 at your earliest convenience. I have developed a blank CS that considerably refines the language of the bill as it was originally introduced. I have also attached my sponsor statement and a list of states that already have similar laws. A sectional analysis is forthcoming. Please contact me if you need additional information.

Thank you for your attention to this request.

# Alaska State Legislature

Out of Session:  
PO Box 531  
Golovin, Alaska 99762  
(907) 443-5599

In Session:  
State Capitol, Suite 510  
Juneau, Alaska 99801-1182  
(800) 597-3707  
(907) 465-3707  
(907) 465-4821 Fax

## SENATOR DONALD C. OLSON

### DISTRICT T

Alakanuk  
Ambler  
Anaktuvuk Pass  
Atkasuk  
Barrow  
Brevig Mission  
Browerville  
Buckland  
Chevak  
Deering  
Diomedea  
Elim  
Emmonak  
Gambell  
Golovin  
Hooper Bay  
Kaktovik  
Kiana  
Kivalina  
Kobuk  
Kotlik  
Kotzebue  
Koyuk  
Mountain Village  
Noatak  
Nome  
Noorvik  
Nuiqsut  
Nunam Iqua  
Pilot Station  
Pitka's Point  
Point Hope  
Point Lay  
Savoonga  
Scammon Bay  
Selawik  
Shaktolik  
Shishmaref  
Shungnak  
St. Mary's  
St. Michael  
Stebbins  
Teller  
Unalakleet  
Wainwright  
Wales  
White Mountain

### SPONSOR STATEMENT

#### SB 217, State Genetic Privacy Laws

We are all familiar on how useful DNA identification has been for law enforcement and paternity disputes. But there is another side to this new technology and that is the special need for a genetic privacy law in Alaska.

On June 26, 2000, The Human Genome Project, a public consortium, and Celera Genomics, a private company, jointly announced the completion of a "working draft of the human genome." Spelling out the 3 billion "letters" of the human genome—the biochemical messages encoded in our DNA for manufacturing and operating a complete human being.

This is the stepping-stone in deciphering the blueprint that makes us human. Every human cell (hair, blood, fingernail parings, and body tissue) carries a complete set of our genes. Consequently, these genetic profiles will yield

information that could be used against us. For example, insurance companies can decide whether to issue life insurance based upon our gene make-up (i.e. predisposition to cancer, alcoholism, or other health concerns).

We have state laws to restrict access to medical records; however, the State of Alaska has yet to specify any protection of genetic information. Medical information is presumed confidential, but the increasing capability to store and rapidly transfer data escalates the challenge of protecting privacy.

At the present time, there is no national statute regarding genetic privacy laws. Fifteen states have required informed consent for a third party to perform or require a genetic test or to obtain genetic information. Twenty-three states require informed consent to disclose genetic information.

I have introduced SB 217 to give special consideration to the advancing biotechnology and protect our genetic privacy rights.

**SB 217 – An Act relating to genetic privacy.**

States that require informed consent for a third party to either perform or require a genetic test or to obtain genetic information:

Arizona	New Jersey
Delaware	New Mexico
Florida	New York
Georgia	Oregon
Massachusetts	South Carolina
Michigan	South Dakota
Nebraska	Vermont
Nevada	

States that require informed consent to disclose genetic information:

Arizona	Missouri
Arkansas	Nevada
California	New Hampshire
Colorado	New Jersey
Delaware	New Mexico
Florida	New York
Georgia	Oregon
Hawaii	South Carolina
Illinois	Texas
Louisiana	Vermont
Maryland	Virginia
Massachusetts	

States that require written authorization to disclose genetic information:

Rhode Island  
Washington

23-LS1074D  
Luckhaupt  
6/26/03

**CS FOR SENATE BILL NO. 217( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR OLSON**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to genetic privacy."**

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

3 **\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
4 to read:

5 **LEGISLATIVE FINDINGS; PURPOSES.** (a) The legislature finds that

6 (1) the deoxyribonucleic acid (DNA) molecule contains information about the  
7 probable medical future of an individual and the individual's blood relatives; this information  
8 is written in a code that is rapidly being deciphered;

9 (2) genetic information is uniquely private and personal information that  
10 generally should not be collected, retained, or disclosed without the individual's authorization;

11 (3) the improper collection, retention, or disclosure of genetic information can  
12 lead to significant harm to an individual and the individual's blood relatives, including  
13 stigmatization and discrimination in areas such as employment, education, health care, and  
14 insurance;

15 (4) an analysis of an individual's DNA provides information not only about

1 the individual, but also about blood relatives of the individual, with the potential for affecting  
2 family privacy, including reproductive decisions;

3 (5) current legal protections for medical information, tissue samples, and DNA  
4 samples are inadequate to protect genetic privacy and the individual's property interest in  
5 these samples and the information derived from the samples; and

6 (6) laws for the collection, storage, and use of identifiable DNA samples and  
7 private genetic information obtained from those samples are needed both to protect individual  
8 and family privacy and to permit and encourage legitimate scientific and medical research.

9 (b) The purposes of this act are as follows:

10 (1) to define the rights of individuals whose genetic information is collected,  
11 analyzed, retained, or disclosed and the individual's property right in that information;

12 (2) to define the circumstances under which an individual may be subjected to  
13 genetic testing; and

14 (3) to define the circumstances under which an individual's genetic  
15 information may be collected, analyzed, retained, or disclosed.

16 \* **Sec. 2.** AS 18 is amended by adding a new chapter to read:

17 **Chapter 13. Genetic Privacy.**

18 **Sec. 18.13.010. Genetic testing.** (a) Except as provided in (b) of this section,

19 (1) a person may not collect a DNA sample from a person, perform a  
20 DNA analysis on a sample, retain a DNA sample or the results of a DNA analysis, or  
21 disclose the results of a DNA analysis unless the person has first obtained the  
22 informed and written consent of the person, or the person's legal guardian or  
23 authorized representative, for the collection, analysis, retention, or disclosure;

24 (2) a DNA sample and the results of a DNA analysis performed on the  
25 sample are the exclusive property of the person sampled or analyzed.

26 (b) The prohibitions of (a) of this section do not apply to DNA samples  
27 collected and analysis conducted

28 (1) under AS 44.41.035 or comparable provisions of another  
29 jurisdiction;

30 (2) for a law enforcement purpose, including the identification of  
31 perpetrators and the investigation of crimes and the identification of missing or

1 unidentified persons or deceased individuals;

2 (3) for determining paternity;

3 (4) to screen newborns as required by state or federal law;

4 (5) for the purpose of medical or scientific research and education,  
5 including retention of genetic information and samples from anonymous donors if the  
6 anonymous donor was informed at the time of collection of the sample that the sample  
7 would be used for anonymous research and education and the donor consented to the  
8 collection and use of the sample at that time;

9 (6) for the purpose of emergency medical treatment.

10 (c) A general authorization for the release of medical records or medical  
11 information may not be construed as the informed and written consent required by this  
12 section. The Department of Health and Social Services may by regulation adopt a  
13 uniform informed and written consent form to assist persons in meeting the  
14 requirements of this section. A person using that uniform informed and written  
15 consent is exempt from civil or criminal liability for actions taken under the consent  
16 form. A person may revoke or amend their informed and written consent at any time.

17 **Sec. 18.13.020. Private right of action.** A person may bring a civil action  
18 against a person who collects a DNA sample from the person, performs a DNA  
19 analysis on a sample, retains a DNA sample or the results of a DNA analysis or  
20 discloses the results of a DNA analysis, in violation of this chapter. In addition to the  
21 actual damages suffered by the person, a person violating this chapter shall be liable to  
22 the person for damages in the amount of \$5,000 or, if the violation resulted in profit or  
23 monetary gain to the violator, \$100,000.

24 **Sec. 18.13.030. Criminal penalty.** (a) A person commits the crime of  
25 unlawful DNA collection, analysis, retention, or disclosure if the person knowingly  
26 collects a DNA sample from a person, performs a DNA analysis on a sample, retains a  
27 DNA sample or the results of a DNA analysis, or discloses the results of a DNA  
28 analysis in violation of this chapter.

29 (b) In this section, "knowingly" has the meaning given in AS 11.81.900.

30 (c) Unlawful DNA collection, analysis, retention, or disclosure is a class A  
31 misdemeanor.

1                   **Sec. 18.13.100. Definitions.** In this chapter,

2                   (1) "DNA" means deoxyribonucleic acid, including mitochondrial  
3 DNA, complementary DNA and DNA derived from ribonucleic acid;

4                   (2) "DNA analysis" means DNA or genetic typing and testing or any  
5 test for determining the presence or absence of genetic characteristics in an individual,  
6 including tests of nucleic acids, chromosomes, or proteins in order to diagnose or  
7 identify a genetic characteristic;

8                   (3) "genetic characteristic" includes a gene, chromosome, or alteration  
9 of a gene or chromosome that may be tested to determine the existence or risk of a  
10 disease, disorder, trait, propensity, or syndrome, or to identify an individual or a blood  
11 relative; "genetic characteristic" does not include family history or a genetically  
12 transmitted characteristic whose existence or identity is determined other than through  
13 a genetic test.

14       \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
15 read:

16                   **APPLICABILITY.** AS 18.13, enacted by sec. 2 of this Act, applies to any collection,  
17 analysis, retention, or disclosure occurring after the effective date of this Act.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB217-ACS-TC-1-22-04  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Genetic Privacy BRU Alaska Court System  
 Component Trial Courts  
 Sponsor Senator Olson  
 Requester \_\_\_\_\_ Component No. \_\_\_\_\_

**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						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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)  
 The Alaska Court System does not anticipate any fiscal impact from the passage of SB 217.

Prepared by: Doug Wooliver Administrative Attorney Phone \_\_\_\_\_  
 Division: Alaska Court System Date/Time 1/22/04 4:27 PM  
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 1/22/2004  
 Agency: Alaska Court System

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB217-ACS-TC-1-22-04  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title Genetic Privacy BRU Alaska Court System  
Component Trial Courts  
Sponsor Senator Olson  
Requester \_\_\_\_\_ Component No. \_\_\_\_\_

**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						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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)  
The Alaska Court System does not anticipate any fiscal impact from the passage of SB 217.

Prepared by: Doug Wooliver Administrative Attorney Phone \_\_\_\_\_  
Division: Alaska Court System Date/Time 1/22/04 4:27 PM  
Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 1/22/2004  
Agency: Alaska Court System

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: SB217-LAW-LegsRegs-1  
 Bill Version: SB 217  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title "An Act relating to genetic privacy, and RDU Administration and Support  
amending Rule 82, Alaska Rule of Civil Procedure...." Component Legislation & Regulations  
 Sponsor Senator Olson  
 Requester Senate Health, Education & Social Svces Component No. \_\_\_\_\_

**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						
Miscellaneous						
<b>TOTAL OPERATING</b>	****	****	****	****	****	****

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**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)						
<b>TOTAL</b>	****	****	****	****	****	****

Estimate of any current year (FY2004) cost: 0.0

Check 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 adds Chapter 13 to AS 18 in order to define the rights of individuals whose genetic information is collected, retained, or disclosed and the rights of the individuals' blood relatives. It defines the circumstances under which an individual may be subject to genetic testing and the circumstances under which such genetic information may be collected, retained, or disclosed, and it protects against discrimination by an insurer or employer based upon an individual's genetic characteristics. It defines the circumstances under which a DNA sample or genetic information may be used for research. The bill allows the Attorney General to bring an action against a person who violates this chapter, or intervene in a civil action brought under this chapter, if in the opinion of the Attorney General, the action is of general public importance.

Prepared by: Kathryn A. Daughhete, Director  
 Division: Administrative Services  
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General  
 Agency: Department of Law

Phone 465-3673  
 Date/Time 1/23/04 11:39 AM  
 Date 1/23/2004

FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

ANALYSIS CONTINUATION

In terms of actions brought or an intervention by the Attorney General, this legislation will have no foreseeable fiscal impact on the Department of Law. There is an indeterminable fiscal impact occurring contingent on to what extent regulations related to this new chapter impact Department of Law attorneys in their development and finalization.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB217-DPS-LS-1-23-04  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title An Act relating to genetic privacy RDU Statewide Support  
 Component Laboratory Services  
 Sponsor Senator Olson  
 Requester Senate Health, Educ. & Social Svcs Component No. 527

**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						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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 requires informed consent of an individual before obtaining genetic information from the individual's DNA. The bill states that an individual's genetic information and DNA sample are private and must be protected, and requires that DNA samples from an individual be promptly destroyed upon the request of that individual. It provides for a criminal penalty for unlawfully obtaining, retaining, or disclosing genetic information (Class A Misdemeanor).

This bill does not appear to affect current DPS DNA collection and handling protocols because DNA and associated genetic information obtained in connection with AS 44.41.035 (the DNA Registration System) and criminal investigations are exempted (Sec. 18.13.020 27, Sec 18.13.030 12 and 28, Sec.18.13.040 12). It is noted that the criminal penalties for unlawful disclosure of DNA information under AS 44.41.035 are more severe.

No fiscal impact is anticipated for the Department of Public Safety.

Prepared by: Chris W. Beheim  
 Division: Statewide Services  
 Approved by: Commissioner William Tandeske  
 Agency: Department of Public Safety

Phone 269-5743  
 Date/Time 1/23/04 8:50 AM  
 Date 1/23/2004

## SECTIONAL ANALYSIS

### CS SB 217 ( ) "D" Version, Genetic Privacy

By Senator Olson's Office

**Section 1.** The legislative findings and purposes of the act are presented. In the first instance, it is acknowledged that the uniqueness of the DNA molecule contains information that is the very essence of an individual's being. Furthermore, laws to protect the privacy of this information from unwarranted or improper collection, retention, and disclosure are inadequate to protect an individual from potential stigmatization and discrimination.

The purposes of act are to define the rights of individuals to the privacy of their own genetic information, the circumstances under which they may be subject to genetic testing, and the circumstances under which DNA information may be collected, analyzed, retained, or disclosed.

**Section 2.** A new chapter is added to AS 18 entitled, **Chapter 13, Genetic Privacy**. It contains the following sections:

**Sec. 18.13.010.** Subsection (a) establishes a person's right of to genetic privacy. It prohibits the collection, analyses, retention, and disclosure of DNA information without the written consent of the individual, their legal guardian, or authorized representative.

Subsection (b) provides a list of exceptions to the prohibition above. These exceptions are for DNA collection and analysis for law enforcement purposes, determination of paternity, medical procedures required by law or for emergency medical treatment purposes. Exception is also allowed for medical or scientific research and education if anonymity of the donor is preserved.

In subsection (c), the Department of Health and Social Services may develop a uniform written consent form. A person using the form to obtain the written consent requirements of this chapter is exempt from the civil and criminal liability actions that are established. An individual may revoke or amend their informed consent at any time.

**Sec. 18.13.020.** This section specifically creates a right of civil action for violations of an individual's right to genetic privacy in 18.13.010. Minimum liability for damages is set at \$5000 or \$100,000 if the profit or monetary gain resulted from the violation.

**Sec. 18.13.030.** In this section, a criminal action may be brought against person who knowingly violates an individual's right to genetic privacy in 18.13.030. Conviction of the crime is a class A misdemeanor.

**Sec.18.18.040** is the definition section.

**Section 3** establishes the applicability of the act.

**Subject: Review of CS for Senate Bill No. 217 ( )**

**Date: Tue, 27 Jan 2004 12:08:01 -0900**

**From: "Bert Boyer" <ffbbb@uaf.edu>**

**To: "David Gray" <david\_gray@legis.state.ak.us>**

**CC: "Bert B Boyer" <bert.boyer@uaf.edu>**

Dear Senator Olson,

It was nice talking with Dave Gray about the working draft for Senate Bill No. 217 this morning.

I applaud your efforts to address the complicated issues of genetic privacy in Senate Bill 217. The submission of this bill is timely and important for Alaskans. I have been working towards development of a participatory research program involving genetic risk to chronic diseases increasingly prevalent among Alaska Natives for the last 10 years and many of the issues we have faced and discussed are addressed in the working draft of Senate Bill 217. As a medical research scientist, I believe it is important that we discuss and collaboratively develop guidelines to protect the privacy of individuals and use of their genetic samples, while affording reasonable opportunities for the medical and research community to make advances in genetic research that will benefit many people in the future.

I would be happy to work with you in the future.

Sincerely,

Bert

Bert Boyer, Ph.D.  
Associate Professor of Molecular Biology  
Institute of Arctic Biology  
Center for Alaska Native Health Research  
311 Irving I Bldg.  
Fairbanks, Alaska 99775  
Phone - 907-474-7733  
Fax - 907-474-6967 or -5700  
bert.boyer@uaf.edu  
[http://www.iab.uaf.edu/~bert\\_boyer](http://www.iab.uaf.edu/~bert_boyer)  
<http://www.alaska.edu/canhr/>

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 5/9/03

FURTHER: Judiciary

Date of 5-Day Notice: 1/22/04  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 1.29.04

Health, Education and Social Services Committee considered

SENATE BILL NO. 217

**SB 217 GENETIC PRIVACY**

"An Act relating to genetic privacy; and amending Rule 82, Alaska Rules of Civil Procedure, and Rule 508, Alaska Rules of Appellate Procedure."

and recommends:

be replaced with \_\_\_\_\_ CS SB 217 (HE S)

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	1/23	xkx		1
DPS	1/23		✓	2
ACS	1/22		✓	3

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

**SIGNATURES AND RECOMMENDATIONS:**

	DO PASS	DO NOT PASS	NO REC	AMEND
Guess			✓	
Green				✓
Wilken				✓
Dyson	✓			

CHAIR: David Dyson

**S B**

**2 2 2**



## SENATOR FRED DYSON

### SPONSOR STATEMENT

**SB 222—*“An Act requiring certain hospitals to make certain disclosures on patient billings.”***

Hospital costs to patients have undoubtedly climbed in recent years. These rising costs can be attributed to the interaction of many factors including: increasing costs for new drugs, technologies, and procedures; deregulation of hospital charges and removing previous limits; cutbacks in reimbursements from government programs, health maintenance organizations, and insurance policies; mandates upon hospital emergency rooms to treat all patients who enter; and the fact that indigent, uninsured patients frequently default on their bills.

Private insurers and government agencies can leverage large groups of patients, which enables these payers to negotiate discounts with the hospitals for the services that they fund. Generally, the larger the group, the larger the discount. Because hospitals strive to cover their expenses, charges are increased for identical services for those people too poor to afford insurance or those who pay their own bills. The patients who suffer the most are not always the poorest. The very poor can receive Medicaid, and many middle-class families have health insurance coverage that pays the bulk of their bills. It is working class families, with some assets, but no insurance coverage, who pay the most for services in our current system.

Under federal laws for Medicaid and Medicare, hospitals are required to charge the same amounts for identical services, regardless of who is paying the bill. However, hospitals may agree to accept lower payments against those charges. In other words, even though hospitals [are required to] charge everyone the same amount, everyone does not pay the same amount.

SB 222 focuses on the issues of pricing transparency and equity. This bill requires certain hospitals to disclose, on the bills that they submit to patients, information including:

- The discount rates that the hospital charges for identical services for patients in the other payer groups;
- The cost subsidy for indigent individuals that makes up a portion of the patient's bill—the cost to charge ratio;

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# INSIDE



Volume 6, Number 2

March 2004

## CONTENT

Hospital Pricing	Cover
Calendar of Events	2
Membership News	2
Outsourcing	4
Task Force News	6
New in Print	7
ALEC Staff Updates	8

**2004 National Chairman**  
**Mississippi Senator**  
 William G. Hewes, III

**Private Enterprise Board**  
**Chairman**  
 Kurt Malmgren  
 PHRMA

**Executive Director**  
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**Editor**  
 Joseph S. Rinzel

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 Washington D.C. 20036  
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## Adding Gouging to Injury

### *Hospital Pricing for the Uninsured*

*By James Frogue*

Go to any shopping mall, super market, restaurant, or gas station and the prices of various products are clearly displayed, sometimes obnoxiously so. If you or a loved one are without health insurance and must go to an emergency room, good luck finding out prices of the various services and procedures ahead of time. That is about to change whether hospitals like it or not.

There is a growing awareness that pricing transparency is sorely needed in our health care system. Any auto mechanic can tell you the price of a manifold replacement on your '98 Explorer in about 30 seconds. Tell an ER doctor that you are uninsured then ask how much for an appendectomy and three days of in-patient care and you'll get the dull stare of a dairy cow. For doctors and hospitals to claim it is somehow different for them ignores the fact that the number of parts and procedures that a mechanic and doctor must know both run into the many thousands. Yet somehow you can get reasonably accurate estimates out of garages whether it is an emergency or not, or whether you have insurance or not.

The result for uninsured patients is that they get charged far more for services than do any government program or private insurer. A recent extreme example out of Florida found a paper surgical gown that goes for 36 cents wholesale, having a "list price" to consumers of \$79. That is a mark up of

over 20,000 percent! *USA Today* ran an article in February that chronicled the efforts of an uninsured family struggling to pay a \$116,000 hospital bill. Had the family been covered, the bill to an insurer could have been as low as \$25,000.

Patients are about to start asking hospitals much harder questions regarding prices. On January 1<sup>st</sup> of this year, federally qualified Health Savings Accounts (HSAs) became available to all Americans. HSAs allow individuals to have a high deductible insurance policy for unforeseen, catastrophic events and a smaller account underneath that deductible to cover lower cost treatments. As Americans move to HSAs in droves, they will demand pricing transparency from physicians, clinics, and hospitals. After all, those patients will for the first time care about costs because they can count the dollars leaving their HSA. This kind of smart shopping will be very much a good thing for patients and the health care system in general, though it will make Enron-style accounting more difficult down at Springfield General.

Some state legislators have already run out of patience with these opaque pricing practices and their effect on uninsured constituents. This year State Senator Tom Dempster of South Dakota spearheaded an effort in his state legislature to require hospitals to post the prices of their 25 most commonly performed procedures and 25 highest

**Continued on Page 4**

*James Frogue is the Director of the Health & Human Services Task Force for the American Legislative Exchange Council.*

Continued from Page 1

revenue generators. It doesn't say anything about what those prices must be or how often they can change. A chalkboard and 15 minutes of a clerk's time would have been sufficient to meet this requirement. His bill cleared the Senate and a key House committee. Yet by the time that bill made it to the House, it faced every hired gun in Pierre and met the same fate as George Custer. But state legislators elsewhere have taken lessons from the Mount Rushmore State and this issue will now spread like wildfire. Legislators in Florida, Wisconsin, and elsewhere are considering similar legislation. Custer may have lost the battle, but the U.S. Army won the war.

In defense of hospitals, they are under constant financial assault by federal and state politicians whose only idea for saving money in health care is to cut Medicare and Medicaid reimbursement rates to providers. Often having little choice but to see these people, hospitals must make up the difference with their private pay patients. Insurance companies are wise in the ways of the pricing game so they are able to negotiate favorable rates. Uninsured patients cannot and therefore suffer the highest bills. Thus the least able to pay are the most charged.

The Ralph Naders of the world would suggest price controls on what hospitals can charge the uninsured. This vintage 1965 solution overlooks the simple fact that it is government price controls in Medicare and Medicaid that are causing the current problems leading to overcharging of the uninsured in the first place. Short of worthy, but expensive, tax credit proposals to help the uninsured afford private coverage of their choice, shining a light on hospital pricing practices would be a big step toward creating a world of informed consumers and therefore a free market.

Hospitals may, for now, be able to resist pressure from lawmakers to post their prices. But hospitals will not be able to resist questions from millions of consumers with HSAs in the near future. Hospitals would be wise to move forward with pricing transparency. Doing so would not only keep politicians off their backs, it would be smart business in the long run while simultaneously helping America's 43 million uninsured.

Continued from Page 3

destroyed them, not because they  
This type of legislation raises costs  
erects protectionist walls against  
restricts the ability of companies to  
worker for more innovative and high

In response to this anti-outsourcing  
forming a working group to address  
creating an education campaign to  
the tools to successfully debate the  
market legislation through talking p  
als, and research papers. Looking  
market solutions, such as reduced  
and tort reform, ALEC believes the  
effective ways to reduce American  
ALEC's philosophy to look to open  
regulation—to preserve the brilliant  
the American economy. ALEC's fir  
the issue will be on April 30<sup>th</sup> with a  
a luncheon session on May 1<sup>st</sup> at the  
Summit in Austin, Texas.



# THE WALL STREET JOURNAL. ONLINE

March 17, 2003

PAGE ONE

## One Critical Appendectomy Later, Young Woman Has a \$19,000 Debt

Ms. Nix Confronts Facts of Health-Care:  
The Uninsured Are Billed Sharply More

By LUCETTE LAGNADO  
Staff Reporter of THE WALL STREET JOURNAL

NEW YORK -- Dreams of a bright career in a big city lured Rebekah Nix here from the western plains of Texas two years ago. An appendectomy sent her home.

But not because she was ill. Ms. Nix, 25 years old, was fleeing the nearly \$19,200 in medical bills that had piled up on her bedroom dresser. The college graduate and former magazine fact-checker couldn't fathom how two days in a hospital could cost so much, until she learned that people like her -- who don't have health insurance -- often are expected to pay far more for their medical care than large insurers, health-maintenance organizations or even the U.S. government.

The hospital where Ms. Nix was treated, New York Methodist in Brooklyn, typically bills HMOs about \$2,500 for an appendectomy with a two-day stay, compared with the \$14,000 -- plus doctors' fees -- that Ms. Nix was billed. The hospital gets paid about \$5,000 from Medicaid, the state and federal health program for the poor, and about \$7,800 from Medicare, the federal program for the elderly, for the same procedure.

"Why does a single person get stuck with the whole bill?" Ms. Nix asks. "An uninsured person would have a lot less money than those government agencies or insurance companies."



Rebekah Nix

Ms. Nix stumbled onto a troubling fact of health-care economics: Most major U.S. hospitals are required to set official "charges" for their services, but then agree to discount or even ignore those charges when getting paid by big institutions such as insurance companies or the government. As a result, almost no one but uninsured individuals ever faces the official charges. In some ways, hospital charges are like automobile "list prices" or hotel "rack rates" -- posted prices that everybody knows nobody pays. But in the case of hospitals, the pricing disparity isn't publicly known and falls most heavily on the vulnerable. America's 41 million people without health insurance tend to be young, working-class and unaware that they are being billed more than everyone else for the same services.

At the same time, charges at virtually all hospitals have soared in recent

### INSURING YOUR HEALTH

• Greater Savings, More Risk For People Who Self-Insure<sup>2</sup>  
03/12/03

• Some Policies Quit Paying for Key Parts of Treatment<sup>3</sup>  
03/12/03

• White House Proposes Giving States Power to Shape Health-Care Plans<sup>4</sup>  
02/01/03

• For more health coverage, visit the Online Journal's Health Industry Edition at [wsj.com/health](http://wsj.com/health)<sup>5</sup> and receive daily health e-mails<sup>6</sup>.

years. That's partly due to the rising costs of new procedures and drugs. Also, deregulation of the hospital industry removed limits on charges in almost all states. But some hospitals say they are raising charges to offset what they view as overly harsh reductions in their reimbursements by HMOs, insurers and the government. That would mean hospitals are effectively subsidizing their lower income from patients who are insured or have a government safety-net by boosting fees paid by the uninsured.

"It is a reflection of the insanity of the system," says Bruce Vladeck, a hospital-policy expert who ran Medicare in the 1990s. "The most vulnerable members of society" are being asked to "pay cash at list."

**BEHIND THE BILL**

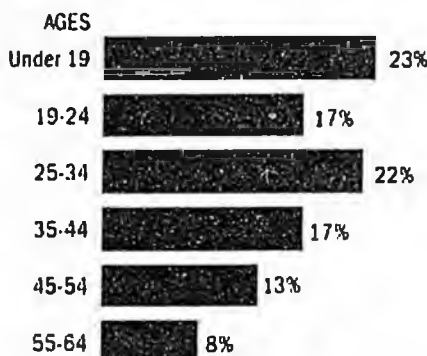
See a list of charges<sup>0</sup> and discounts in hospitals across the country for a relatively common procedure.

In many areas, hospitals have cranked up their charges far beyond the cost of providing treatment. Before deregulation in 1997, hospital charges in New York state couldn't be more than 30% above costs. They now are an average of 87% above costs, says the Greater New York Hospital Association, an industry trade group, citing federal data. In California, charges have ballooned to 178% above costs. By contrast, in Maryland, where hospital charges are still strictly regulated, charges average only 28% above costs, says Hal Cohen, a Maryland health consultant.

At many hospitals, the practice of cutting prices for big insurers, HMOs and the government has become so routine that the discount is calculated automatically and appears on bills alongside the original charge. The amount of the discount usually depends on how aggressively a particular insurer bargained with the hospital, or on terms struck with a government program, or how much other hospitals in the area are discounting. But uninsured patients aren't told that big institutions get these reduced rates. Some hospitals then retain collection agencies to pursue the uninsured with hard-nosed tactics such as suing, garnisheeing wages and slapping liens on homes.

**YOUNG AND EXPOSED**

U.S. uninsured population by age in 2001



Total Uninsured: 41 million

Note: The number of uninsured older than 65 is 0.8% because they are covered by Medicare.  
 Source: Kaiser Commission on Medicaid and the Uninsured/Urban Institute analysis

"Hospitals have a choice as to who will bear the costs," says Elizabeth Warren, a Harvard Law School professor who is studying the effects of health-care costs on the uninsured. "There is someone to negotiate on behalf of the insurance companies. There is someone to negotiate on behalf of the state ... . But there is no one to negotiate on behalf of people without insurance."

Hospitals say they have no choice but to give steep discounts to powerful payers, even if that means uninsured patients end up being faced with higher bills. Mark Mundy, president and chief executive of New York Methodist, says his private, not-for-profit hospital looks to competitors in setting its charges, and must offer discounts to HMOs and insurers or they won't do business with it. As for the government, it pays whatever it wants. "Pricing makes no sense, we all know that," Mr. Mundy says.

Hospitals also point out that most uninsured patients don't pay their bills -- the rate of default varies across the country -- yet hospitals are required by law to treat all emergencies. "Anybody that shows up in my ER, the first question isn't, 'Can they pay?' The question is, 'What are we going to do,' to care for them?" Mr. Mundy says. "If I had 5,000 Ms. Nixes, how do I handle them and keep this place alive?" Mr. Mundy says many

uninsured patients, especially those who aren't indigent, could afford insurance and should bear at least some responsibility for their care. He adds that New York Methodist, unlike many hospitals, doesn't charge interest on unpaid bills.

Advocates for the uninsured say poor people without insurance should be charged the same, low rates that Medicaid pays. Instead, they are asked to pay "what the Emir of Kuwait pays," says Elisabeth Benjamin, a health attorney with the Legal Aid Society in New York. Royalty and other wealthy foreigners flock to U.S. hospitals, where they're among the few uninsured patients who can afford to pay full freight.

Ms. Nix's billing problems started on a Saturday afternoon last April when she arrived in agony at New York Methodist. The previous night, she had felt stabbing pains in her abdomen while celebrating her 25th birthday with friends at a Manhattan bar. She had left early, staggered home to Brooklyn, and went to bed figuring she had food poisoning or the flu. When she awoke to the same unrelenting pain, her boyfriend's mother, a registered nurse, insisted she go to the nearest hospital. As she sat in a hard metal chair in the emergency room, she began to worry: How much is this going to cost?

Ms. Nix had arrived in New York a little less than two years earlier, fresh from graduating Phi Beta Kappa from Southwestern University in Georgetown, Texas. Growing up in Midland, Texas, she saw her hometown as a "desolate wasteland" where social gatherings often revolved around high-school football. Her ticket out was a summer internship at Ms. Magazine in Manhattan, which she loved. "This is the greatest city to be young in," she says. "I had no intention of ever leaving."

But the internship paid just \$150 a month. Ms. Nix helped support herself by working as a waitress while sharing a basement apartment that cost her \$350 a month in rent. The magazine soon hired Ms. Nix as a full-time fact-checker with an annual salary of \$30,000 and health benefits. But it was struggling financially, and Ms. Nix was laid off after the Sept. 11 terrorist attacks. The magazine, as required by law, offered to maintain her health insurance if she paid \$330 a month, but Ms. Nix demurred. She figured she couldn't afford it on unemployment payments of \$1,122 a month, and thought she could land another job with benefits. Besides, she thought, she was young and had always been healthy.

In the months before her illness, she tried offering her fact-checking services as a free-lancer, but jobs were sporadic. She was determined to be independent, so she didn't want to tell her divorced parents that she'd lost health coverage. Her mother, who runs a small medical-supply business she founded near Midland, might have been able to help. Her father, an independent oil consultant, struggles financially. By going without coverage, Ms. Nix became one of the estimated 39% of uninsured Americans who are between the ages of 19 and 34, according to the Kaiser Commission on Medicaid and the Uninsured in Washington.



2004 Don Blackburn/FilmMagic

In the emergency room at New York Methodist, someone asked her to collect a urine sample in a paper cup. She kept it at her side for six hours, until at last she was admitted to the clinical area of

the emergency room and asked to wait on a gurney. Ms. Nix remembers telling nurses and doctors that she had no money and no insurance. No one seemed to mind, she says. Still, she'd heard horror stories about how costly a hospital could be and decided to try to leave as soon as possible.

When she woke up on Sunday morning, she was still on the emergency-room gurney, and the pain seemed to have subsided. "Maybe I am going to go home," she told a doctor. "I don't have health insurance." According to Ms. Nix, the doctor responded: "It is \$1,000 to come to the ER, and it is another \$1,000 to come in again." Ms. Nix resigned herself to staying. But while undergoing two CT-scans, she recalls telling doctors, "I don't want any extras."

Tests confirmed she had appendicitis. Her surgeon, Piotr Gorecki, removed her appendix using laparoscopy, a method that requires a shorter hospital stay than traditional invasive surgery. The one-hour surgery went smoothly. Ms. Nix was recovering in her room when an attending doctor ordered that she be given a nicotine patch. She regularly used one to control a smoking habit, but she balked at it now, worried about the cost. The doctor insisted, she says.

Ms. Nix left the hospital on Monday afternoon, 42 hours after being admitted. She had a prescription for painkillers but decided not to fill it because of the expense. She also decided to skip a follow-up visit that Dr. Gorecki had recommended. Two weeks later, she received a letter from the hospital offering advice on how she could apply for Medicaid. The letter also gave the first hint as to how much she would be billed: "Note: hospital bill is \$12,973."

In mid-June, she learned that Medicaid had turned her down because her income was too high. New York's Medicaid rules say a single person's income can't exceed \$352 a month, unless she's certified as disabled. The hospital urged Ms. Nix to appeal at a hearing before a state administrative-law judge, and she arranged to do so.

In July, Ms. Nix received her hospital bill. It showed charges for two days at \$1,550 a day, even though she spent the first night on the emergency-room gurney. It also listed operating-room charges of \$5,340, a charge of \$540 for the recovery room and a charge of \$850 for the emergency room. Every test administered in the emergency room was charged separately. Her two CT-scans together came in at \$2,120. One charge, which showed up in a more-detailed bill, brought a wan smile to her face: \$8 for the nicotine patch. Lyn Hill, a spokeswoman for New York Methodist, says Ms. Nix was admitted at 10 p.m. Saturday and remained through Monday, so it was appropriate to charge her for two nights, regardless of where she slept.

The total: \$13,110. Soon after, she received \$5,000 in separate bills from Dr. Gorecki, an anesthesiologist and other doctors who had seen her at Methodist. Much like hospitals, some doctors also routinely accept lower payments from insurers, HMOs and government programs. Dr. Gorecki, whose charge to Ms. Nix was \$2,500, says Medicare typically pays him only \$589 for a laparoscopic appendectomy, and Medicaid usually pays an even skimpier \$160. The New York Health Plan Association, an HMO trade group in Albany, N.Y., says Brooklyn surgeons get an average of \$600 for a laparoscopic appendectomy.

Ms. Nix's bank account held less than \$2,000. She tossed some of the bills on her dresser, unopened, and tried not to think about the debt. But often she could think of nothing else. "I knew that I was going to be in major trouble financially," she says.

Her last hope was the Medicaid hearing, which was held on a sweltering July morning at the city's Medicaid headquarters. The building was jammed with applicants standing in lines and sitting in

rows of plastic chairs, waiting to see case workers. Judge Michael Vass sat at a desk facing Ms. Nix. She recalls his telling her: Your case "is bad, but there are people who come in here and they have cancer and they make too much for Medicaid. Unless you are over 65 or under 18 or deaf or blind, you are not going to get Medicaid." Ms. Nix burst into tears.

She wasn't sure what to do. Her parents offered conflicting advice. Her mother, whose work has familiarized her with the medical system, told Ms. Nix to get tough with the hospital and negotiate a deal to pay a few dollars a month. Her father told her she should repay the debt she'd incurred, whatever the hardship. Without Methodist's care, he reminded her, she could have died.

In late August, a new hospital bill arrived, listing the total amount due as \$14,182. The hospital had added an additional charge of \$1,072 earmarked for the Bad Debt and Charity Care Pool, a state fund that compensates hospitals for caring for the uninsured. Ms. Nix was stunned by the irony. "Tack on another grand I can't pay, but use it to help someone else!" she says.

The inequity in health-care pricing is rooted in a policy that was designed to prevent it. Rules dating back to the establishment of Medicare in the 1960s require hospitals participating in the program to set uniform charges for all procedures. The idea was to prevent hospitals from charging some classes of patients, such as Medicare beneficiaries, more than others. Hospitals were free to set charges -- typically kept on voluminous lists called charge masters -- as they wished, depending on costs, local competition and state regulatory limits.

In the early years of the program, charges roughly correlated to hospitals' costs plus a modest profit, and reimbursements closely tracked charges. Then, in the mid-1980s, Medicare started pegging most payments to standardized diagnostic codes rather than to hospitals' charges. As HMOs became more powerful in the late 1980s and early '90s, they negotiated their own rates with hospitals.

Ms. Nix contacted the hospital and the doctors who had worked on her, seeking a break. Dr. Gorecki, the surgeon, immediately slashed his fee to \$1,000 from \$2,500 -- a break he often gives to the uninsured. Ms. Nix says she has sent him two checks for \$20 each. The hospital was somewhat less obliging. It offered to reduce her bill by 20%. Ms. Nix says the hospital demanded that she agree to pay within a month or two, but Ms. Hill, the New York Methodist spokeswoman, says the hospital gave Ms. Nix a full year to pay. Under those terms, she would have faced monthly payments greater than \$900 a month.

Ms. Hill says three or four uninsured inpatients a month, out of an average of about 90 uninsured inpatients treated, call with concerns about their bills, and they are routinely offered a 20% discount off charges before the bill is assigned to a collection agency. Even so, Ms. Hill says, uninsured patients "almost never pay." New York Methodist says that it racked up \$50 million last year in "bad debt and charity care," or about 14% of its annual budget.

However, those figures are based on the hospital's charges, not its costs. Also, the hospital is able to mitigate some of these losses by tapping into the New York Bad Debt and Charity Care pool. In 2001, the latest year for which figures are available, Methodist collected \$13 million to \$14 million from the pool. A state health-department spokesman says the pool on average reimburses hospitals for their costs at about 50 cents to 70 cents on the dollar.

On Oct. 21, Ms. Nix sent a letter to the hospital. "I understand that I am indebted to Methodist hospital," she wrote. "The staff was so kind to me during my stay." But, noting that her bills for

the surgery totaled nearly \$19,200, she wrote: "This is more money than I will make this year, almost twice as much." She added: "I do not wish to pay nothing for the life-saving services I received," but she said she couldn't pay what Methodist wanted. She had consulted bankruptcy lawyers and was considering returning to Texas.

The hospital didn't respond to the letter. Ms. Nix soon started telling shocked friends that she was leaving. On Nov. 5, she stuffed everything she could into two suitcases and flew home on a ticket her mom had given her.

After The Wall Street Journal contacted New York Methodist about Ms. Nix, the hospital told her it would reduce her bill to \$5,000 -- essentially what Medicaid would have paid, says Methodist's Ms. Hill. The hospital also said it would give Ms. Nix one year to pay, provided she pay \$3,000 up front, which she has yet to do. She says she hopes to start paying the hospital back within a year.

In Midland, she has taken over her younger brothers' old bedroom. Life is slower, and she has gone to some high-school football games. "I miss the glamour of the city," she says. For the past few months, she has been working part-time at her mother's medical-supply firm, where she earns \$7 an hour for filing and filling out forms. She also has been doing unpaid research for her father. Her mother's company couldn't offer her health benefits because they were too expensive to provide. Two weeks ago, Ms. Nix finally purchased health insurance.

Write to Lucette Lagnado at [lucette.lagnado@wsj.com](mailto:lucette.lagnado@wsj.com)<sup>1</sup>

#### Behind the Bill: Who Pays What

Hospitals are required to list official charges for all procedures. But big players such as HMOs, insurance companies and the government routinely negotiate or demand big discounts. Uninsured patients are almost always faced with full charges. Below, a sampling of charges and discounts for a relatively common procedure: a diagnostic bilateral mammogram.

Hospital (Location)	Official charge	Medicaid	Medicare	HMOs, Health plans	Policy on Uninsured
UCLA Medical Center (Los Angeles)	\$460	\$127	\$90	Up to \$242	Gives discounts based on individual's ability to pay, says CFO Sergio Melgar
Oregon Health & Science University (Portland)	\$240	\$65	\$59	Average \$128	Works with uninsured patients to help them find financial aid; offers sliding scales, payment plans
Jamaica Hospital (Queens, N.Y.)	\$351	\$50	\$96	\$40 to \$78	Has sliding fee scales for uninsured, says CEO David Rosen
Johns Hopkins Hospital & Health System (Baltimore)	\$261	\$156	\$173	\$186	State regulation of charges reduces disparity between bills to insured and uninsured
Grinnell Regional Medical Center (Grinnell, Iowa)	\$285	\$73	\$79	\$119 to \$190	Works with uninsured to set a payment schedule

Note: Charge includes hospital and physician fees.

Source: the hospitals

Back to top<sup>6</sup>

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23-LS1058\H  
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4/5/04

CS FOR SENATE BILL NO. 222( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR DYSON

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to hospital patient billings."

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

3 \* Section 1. AS 18.20 is amended by adding a new section to read:

4           Sec. 18.20.078. Patient billing requirements. A hospital licensed under  
5 AS 18.20.010 - 18.20.130 shall comply with the patient billing requirements of  
6 AS 45.45.920 if AS 45.45.920 applies to the hospital.

7 \* Sec. 2. AS 45.45 is amended by adding a new section to read:

8           Sec. 45.45.920. Patient billings. (a) A covered hospital shall disclose on  
9 each patient billing

10                   (1) the price that the covered hospital charges other patients who pay  
11 negotiated rates for the same medical service item; and

12                   (2) the cost subsidy for indigent individuals that is included in the  
13 price billed to the patient.

14           (b) When billing a patient, a covered hospital shall provide to a copaying  
15 patient the same negotiated rate that the hospital provides to the patient's insurer. In

1 this subsection, "co-paying patient" means a patient who has a medical insurance  
2 policy with an insurer and is responsible under the policy for paying part of the  
3 hospital's patient billing for medical service items provided to the patient.

4 (c) In this section,

5 (1) "cost subsidy for indigent individuals" means the cost that is  
6 included in the charge for medical service items billed by a hospital to compensate the  
7 hospital for the uncollected costs that the hospital incurs to provide medical service  
8 items to indigent individuals;

9 (2) "covered hospital" means a hospital that receives government  
10 money for the purchase, construction, repair, equipping, or operation of the hospital;

11 (3) "government money" means money from a state or municipal  
12 governmental unit or the federal government, and includes money received by a  
13 hospital under AS 18.25 or AS 18.26;

14 (4) "hospital" means a person licensed as a hospital under  
15 AS 18.20.010 - 18.20.130;

16 (5) "medical service item" includes a hospital room, medication, and  
17 medical supplies;

18 (6) "negotiated rate" means a rate negotiated for a category of patients  
19 by another person, including an insurer, but does not include a rate negotiated by a  
20 patient or the patient's relatives directly with the hospital for the patient's own medical  
21 service items;

22 (7) "patient billing" means a billing for a patient that is provided to a  
23 patient for a medical service item.

SB

233



SENATOR KIM ELTON

## MEMORANDUM

**DATE:** March 22, 2004

**TO:** Senator Fred Dyson, Chair  
Senate HESS Committee

**FROM:** Senator Kim Elton

**SUBJ:** Hearing Request for SB 243, an Act relating to immunization of postsecondary students for meningitis; and providing for an effective date.

---

I respectfully make a second request for a hearing for SB 243, requiring postsecondary educational institutions in Alaska to provide written notice to each student who intends to reside in campus housing with information about meningococcal meningitis. Further, all students who will be attending postsecondary educational institutions in Alaska would be required to sign a document provided by the institution indicating they have received an immunization or a notice that they have received the information regarding immunization.

Meningococcal meningitis is a deadly disease which commonly strikes the college-age population. Freshmen students and others living in dormitories are at a higher risk of contracting meningococcal meningitis. Immunization is reported to be between 85 to 100 percent effective in prevention.

Representatives from the University of Alaska don't feel this would be a burden to university operations and stated there would be no extra cost to implement this legislation.

Alaska would join 23 other states and the U.S. House and Senate that have either pending or enacted similar legislation.

I ask that you hear SB 243 at your earliest convenience.



SENATOR KIM ELTON

**SB 243**  
**Sponsor Statement**

*"An Act relating to immunization of postsecondary students for meningitis; and providing for an effective date."*

Meningococcal (muh-NIN-jah-kah-kul) meningitis is a rare but potentially fatal bacterial infection. It most commonly attacks the brain and spinal cord or presents as a bacteria in the blood. It can result in permanent brain damage, hearing loss, learning disability, organ failure, loss of limbs or death, often within hours of the first symptoms.

Certain college students have been found to be at risk for meningococcal meningitis. In fact, freshmen living in dormitories are found to be six times more likely to contract this disease. The Centers for Disease Control and Prevention (CDC) recommends college students, particularly freshmen living in dormitories, learn more about meningococcal meningitis and consider vaccination. They also recommend other college students who wish to reduce their risk for the disease also be vaccinated.

SB 243 would require postsecondary educational institutions in Alaska to provide written notice to each student who intends to reside in campus housing with information about meningococcal meningitis. Further, all students who will be attending postsecondary educational institutions in Alaska would be required to sign a document provided by the institution indicating they have received an immunization or a notice that they have received the information regarding immunization.

Representatives from the University of Alaska don't feel this would be a burden to university operations and stated there would be no extra cost to implement this legislation.

Alaska would join 23 other states and the U.S. House and Senate that have either pending or enacted similar legislation.

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ALASKA SENATE

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SENATOR\_KIM\_ELTON@LEGIS.STATE.AK.US



## Facts About Meningococcal Meningitis

Home
News
New Visitors
Symptoms
Treatment
Prevention
Recovery
Varieties
F.A.Q.s
Legislation
Support/Stories
Forum
Search
Links
Articles
Statistics
Recurrent
Mailing List
Survey
Newsletters
Financial
International

Meningococcal (muh-NIN-jah-kah-kul) meningitis is a rare but potentially fatal bacterial infection. The disease is most commonly expressed as meningitis, an attack of the brain and spinal cord, or meningococemia, a presence of bacteria in the blood. It can result in permanent brain damage, hearing loss, learning disability, organ failure, loss of limbs or death.

Certain college students have been found to be at increased risk for meningococcal meningitis. In fact, freshmen living in dormitories are found to have a sixfold increased risk for the disease. The Centers for Disease Control and Prevention (CDC) now recommends college students, particularly freshmen living in dormitories, learn more about meningococcal meningitis and consider vaccination. They also recommend other college students who wish to reduce their risk for the disease can also be vaccinated.

Following are some commonly asked questions and answers about meningococcal meningitis, the risk for college students and vaccination:

### What causes meningococcal meningitis?

- Meningococcal meningitis is caused by the bacterium *Neisseria meningitidis*, a leading cause of meningitis and/or blood poisoning in teenagers and young adults in the United States.

### How common is meningococcal meningitis?

- Meningococcal meningitis strikes about 3,000 Americans each year causing more than 300 deaths annually.
- It is estimated that 100 to 125 cases of meningococcal meningitis occur annually on college campuses and 5 to 15 students die as a result.

### How is meningococcal meningitis spread?

- Meningococcal meningitis is transmitted through air droplets and direct contact with infected persons.
- It occurs most often in late winter and early spring—at a time when most college students are away at school.

### What are the symptoms of meningococcal meningitis?

- Symptoms of meningococcal meningitis are often misdiagnosed as something less serious.
- Symptoms can resemble the flu and may include high fever, headache, stiff neck, confusion, nausea, vomiting, exhaustion and/or a rash.

- If not detected early, the disease can progress, often within hours of the first signs of symptoms.

**Who is at risk for meningococcal meningitis?**

- Studies show 15 to 24 year olds are at greater risk of getting meningococcal meningitis, and in recent years there has been an increase in the number of college outbreaks.
- Certain lifestyle factors common among college students appear to be linked to the disease, including communal living (such as dormitories), bar patronage, smoking and irregular sleep patterns.
- Recent data also show students living in dormitories, particularly freshmen, have a sixfold-increased risk for the disease.

**What is the CDC's vaccination recommendation for meningococcal meningitis?**

- CDC now recommends college students, particularly freshmen living in dormitories, be educated about meningococcal meningitis and the potential benefits of vaccination. The recommendation further states immunization should be provided or made easily available to those who wish to reduce their risk for the disease.
- Other undergraduate students wishing to reduce their risk for meningococcal meningitis can also choose to be vaccinated.

**How effective is the meningococcal meningitis vaccine?**

- The meningococcal meningitis vaccine is available against four types of the bacteria that cause meningococcal meningitis in the United States, serogroups A, C, Y and W-135.
- These four serogroups account for nearly two-thirds of the cases of meningococcal meningitis in the college-age population.
- The vaccine can be used in adults and children greater than two years old.
- The vaccine is 85 to 100 percent effective in preventing meningococcal meningitis in serogroups A, C, Y and W-135 in older children and adults.
- Protection lasts approximately three to five years—the length of time most students are away at college.
- The meningococcal meningitis vaccine costs between \$55 and \$75.

**Where can I get more information about meningococcal meningitis and vaccination?**

- Visit the websites of the Meningitis Foundation of America, [www.musa.org](http://www.musa.org), the American College Health Association, [www.acha.org](http://www.acha.org), and the Centers for Disease Control and Prevention, [www.cdc.gov](http://www.cdc.gov). For information about the vaccine, consult a physician, the college health services center and/or the vaccine manufacturer, Aventis Pasteur, at 1-800-VACCINE (1-800-822-2463).

**What is the Meningitis Foundation of America (MFA)?**

- MFA provides education to the public and medical professionals about meningitis so that its early diagnosis and treatment will save lives;
- Supports the development of vaccines and other means of treating and/or

- preventing meningitis;
- Provides educational and emotional support to sufferers of meningitis and their families.

Facts About Meningococcal Disease | [CDC Recommendation](#) | [MFA Statement](#)  
[CDC News Release](#) | [Colleges Conducting Vaccination Clinics](#)



SENATOR KIM ELTON

States that currently have passed or pending legislation regarding Meningococcal Meningitis

**Arkansas**

Meningitis and Vaccination Education Law passed in 1999

**California**

Vaccine and Education Law passed in Oct of 2001

Vaccination and Waiver Option Law passed in Oct of 2001

**Connecticut**

Vaccination or Signed Waiver Law passed in June of 2001

**Delaware**

Meningitis Education and Waiver Law passed in June of 2001

**Florida**

Vaccination or Signed Waiver Law that passed in May of 2002

**Georgia**

Education Bill that was introduced in 2002

**Illinois**

Vaccination and Education Law passed in July of 2001

**Indiana**

Vaccination and Education Law passed in 2002

**Maryland**

Vaccination or Signed Waiver Law passed in May of 2000

**Massachusetts**

Vaccination or Waiver Bill introduced in 2001

**Michigan**

Department of Public Health

HB 4562 "Jason's Law" (Ed Wiginton)

**Missouri**

Vaccination Bill introduced in 2001

**Nebraska**

Hearing in Nebraska to be held on March 4th, 2003 regarding Legislative Bill 513

Related story: <http://www.nmaus.org/programs/index.htm>

Passed a law on Education and signed acknowledgement of the education.

[http://www.unicam.state.ne.us/Legal/SLIP\\_LB513.pdf](http://www.unicam.state.ne.us/Legal/SLIP_LB513.pdf)

**New Jersey**

Meningitis Education Law passed in May Of 2000

**New York**

Assembly Bill for Education, Vaccination or Waiver

This has passed.

New York's Senate Bill that was introduced as a substitute to the New York Assembly Bill

**Ohio**

Bills for Vaccination and High School Education...currently in Committee Hearings

Bill dealing with Vaccination and High School Education...also in Committee Hearings

**Oklahoma**

Law instated to require vaccine or sign a waiver.

[http://www.nmaus.org/pdf/sb787\\_enr.pdf](http://www.nmaus.org/pdf/sb787_enr.pdf)

**Pennsylvania**

Vaccination or Signed Waiver Law passed in June of 2002

**South Carolina**

Vaccination and Education Law passed in 2002

**Tennessee**

Vaccination or Waiver Bill law has been instated.

<http://www.state.tn.us/sos/acts/103/pub/pc0104.pdf>

**Texas**

Meningitis Education for All Families passed in May of 2001

**Virginia**

Vaccination or Signed Waiver Law passed in March of 2001

**Wisconsin**

Introduced Vaccine or waiver bills May 2003 pending.

[http://www.unicam.state.ne.us/Legal/SLIP\\_LB513.pdf](http://www.unicam.state.ne.us/Legal/SLIP_LB513.pdf)

**United State Senate**

Senate Bill S1009 that was introduced in June of 2001.

This Bill is a Vaccination and Education Bill. It is still waiting for Senate Committee Hearings.

**United States House of Representative**

House Congressional Resolution 340

This resolution was passed by the U.S. House of Representative, and is awaiting approval from the U.S. Senate. This Resolution is for a Meningitis Awareness Month.

# MENINGOCOCCAL VACCINE

## WHAT YOU NEED TO KNOW

### 1 What is meningococcal disease?

Meningococcal disease is a serious illness, caused by a bacteria. It is the leading cause of bacterial meningitis in children 2-18 years old in the United States. Meningitis is an infection of the brain and spinal cord coverings. Meningococcal disease can also cause blood infections.

About 2,600 people get meningococcal disease each year in the U.S. 10-15% of these people die, in spite of treatment with antibiotics. Of those who live, another 10% lose their arms or legs, become deaf, have problems with their nervous systems, become mentally retarded, or suffer seizures or strokes.

Anyone can get meningococcal disease. But it is most common in infants less than one year of age, international travelers, and people with certain medical conditions.

College freshmen, particularly those who live in dormitories, have a slightly increased risk of getting meningococcal disease.

**Meningococcal vaccine can prevent 4 types of meningococcal disease.**

These include 2 of the 3 types most common in the United States and a type which is the main cause of epidemics in Africa. Meningococcal vaccine cannot prevent all types of the disease. But it does help to protect many people who might become sick if they don't get the vaccine.

Drugs such as penicillin can be used to treat meningococcal infection. Still, about 1 out of every ten people who get the disease dies from it, and many others are affected for life. This is why it is important that people with the highest risk for meningococcal disease get the vaccine.

**Meningococcal - 7/28/2003**

### 2 Who should get meningococcal vaccine and when?

Meningococcal vaccine is not routinely recommended for most people. People who *should* get the vaccine include:

- U.S. Military recruits
- People who might be affected during an outbreak of certain types of meningococcal disease.
- Anyone traveling to, or living in, a part of the world where meningococcal disease is common, such as West Africa.
- Anyone who has a damaged spleen, or whose spleen has been removed.
- Anyone who has terminal complement component deficiency (an immune system disorder).

The vaccine should also be *considered* for:

- Some laboratory workers who are routinely exposed to the meningococcal bacteria.

The vaccine may also be given to college students who choose to be vaccinated. College freshmen, especially those who live in dormitories, and their parents should discuss the risks and benefits of vaccination with their health care providers.

Meningococcal vaccine is usually not recommended for children under two years of age. But under special circumstances it may be given to infants as young as 3 months (the vaccine does not work as well in very young children). Ask your health care provider for details.

#### How many doses?

- ✓ For people 2 years of age and over: 1 dose (Sometimes an additional dose is recommended for people who continue to be at high risk. Ask your provider.)
- ✓ For children 3 months to 2 years of age who need the vaccine: 2 doses, 3 months apart



**3****Some people should not get meningococcal vaccine or should wait**

People should not get meningococcal vaccine if they have ever had a serious allergic reaction to a previous dose of the vaccine.

People who are mildly ill at the time the shot is scheduled can still get meningococcal vaccine. People with moderate or severe illnesses should usually wait until they recover. Your provider can advise you.

Meningococcal vaccine may be given to pregnant women.

**4****What are the risks from meningococcal vaccine?**

A vaccine, like any medicine, is capable of causing serious problems, such as severe allergic reactions. The risk of the meningococcal vaccine causing serious harm, or death, is extremely small.

Getting meningococcal vaccine is much safer than getting the disease.

*Mild problems*

Some people who get meningococcal vaccine have mild side effects, such as redness or pain where the shot was given. These symptoms usually last for 1-2 days.

A small percentage of people who receive the vaccine develop a fever.

**5****What if there is a serious reaction?***What should I look for?*

Look for any unusual condition, such as a severe allergic reaction, high fever, or unusual behavior. If a serious allergic reaction occurred, it would happen within a few minutes to a few hours after the shot. Signs of a serious allergic reaction can include difficulty breathing, weakness, hoarseness or wheezing, a fast heart beat, hives, dizziness, paleness, or swelling of the throat.

*What should I do?*

- Call a doctor, or get the person to a doctor right away.
- Tell your doctor what happened, the date and time it happened, and when the vaccination was given.
- Ask your health care provider to file a Vaccine Adverse Events Reporting System (VAERS) form. Or call VAERS yourself at 1-800-822-7967 or visit their website at [www.vaers.org](http://www.vaers.org).

**6****How can I learn more?**

- Ask your doctor or nurse. They can give you the vaccine package insert or suggest other sources of information.
- Call your local or state health department's immunization program.
- Contact the Centers for Disease Control and Prevention (CDC):
  - Call 1-800-232-2522 (English)
  - Call 1-800-232-0233 (Español)
  - Visit the National Immunization Program's website at [www.cdc.gov/nip](http://www.cdc.gov/nip)
  - Visit the National Center for Infectious Disease's meningococcal disease website at [www.cdc.gov/ncidod/dbmd/diseaseinfo/meningococcal\\_g.htm](http://www.cdc.gov/ncidod/dbmd/diseaseinfo/meningococcal_g.htm)
  - Visit CDC's Travelers Health website at [www.cdc.gov/travel](http://www.cdc.gov/travel)



U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Disease Control and Prevention  
National Immunization Program

Vaccine Information Statement  
Meningococcal (7/28/2003)



### **College Freshmen Living in Dormitories are at Increased Risk for Meningococcal Disease Compared with Other College Students**

Philadelphia, PA - June 1, 1999 - New data from nationwide surveillance show that while overall college students are not at increased risk for meningococcal disease, subgroups of college students seemed to be at increased risk. Freshmen living in dormitories have a 6.33 times higher risk of meningococcal disease than do college students overall, according to findings reported today by officials from the Centers for Disease Control and Prevention (CDC) at the annual meeting of the American College Health Association (ACHA). These findings are similar to those reported by Lee Harrison, MD, in last week's issue of the *Journal of the American Medical Association*, which looked at meningococcal disease in college students in Maryland.

"These data indicate the need for public health professionals to continue to educate college students of the signs and symptoms of the disease and to seek medical attention immediately if they experience these symptoms," said Nancy Rosenstein, MD, a medical epidemiologist at the CDC. "College-bound students, their parents and college administrators should know that a safe and effective vaccine against this disease is available," she said.

Meningococcal meningitis has occurred with increasing frequency in recent years among teenagers and young adults. In 1996, 621 cases among 15-24-year-olds were reported to the CDC. This is double the number reported in this age group in 1991 (310 cases). Meningococcal disease strikes about 2,800 Americans each year with the highest rates of disease in children less than one year of age.

A meningococcal vaccine available to the public is 85 percent effective against four serogroups of *Neisseria meningitidis* (A, C, Y, and W-135) which account for about 70 percent of cases in college age students. It does not offer protection against serogroup B. Recipients of the meningococcal vaccine remain protected for three to five years. The vaccine has minimal side effects, mainly mild pain and redness at the injection site.

ACHA recommends that college health care providers take a proactive role in providing information to parents and students about meningococcal disease and access to the vaccine. ACHA also recommends that college students consider vaccination to reduce the risk for meningococcal disease.

"During a campus outbreak, students experiencing symptoms that may or may not be caused by meningococcal disease are likely to panic. In addition, a case of meningococcal disease substantially disrupts 'normal life' on the campus. This is a rapidly progressive disease: One day a student will be healthy and full of promise; the next day, he can be dead," said MarJeanne Collins, MD, co-chair of ACHA's vaccine-preventable disease task force and director of student health at the University of Pennsylvania.

"Although meningococcal disease is rare, it is a high-risk event. The data presented by the CDC at the ACHA annual meeting reinforce ACHA's efforts to educate parents and students about the disease and to encourage them to make an informed choice about vaccination," said Dr. Collins.

Dr. Collins is principal investigator of a separate case-control study currently underway by ACHA in collaboration with CDC. This study is examining behavioral factors such as alcohol consumption and tobacco use (both active and passive smoking) to determine if they increase the risk of meningococcal disease among college students. Results of the study are expected later this year.

Meningitis, or inflammation of the membranes surrounding the brain and spinal cord, is the most common syndrome of infection with *N. meningitidis*. Early symptoms include fever, severe headache, nausea, vomiting, lethargy, stiffneck and rash. The disease can progress rapidly in as little as 12 hours.

Antibiotics can be effective, but treatment must begin immediately. Meningococcal disease can result in hearing loss, kidney failure, amputation of the limbs and permanent brain injury. Death occurs in approximately 10% of cases, or about 300 Americans annually. Outbreaks usually occur in late winter or early spring -- when college classes are in session.

ACHA, founded in 1920, is a national nonprofit organization that serves and represents the interests of professionals and students in health and higher education. Its mission is to be the principal advocacy and leadership organization for college and university health. The association provides advocacy, education, and services for its members to enhance their ability to improve the health of all students and the campus community. ACHA's Annual Meeting takes place this year from June 1-5 in Philadelphia. Nearly 2,000 college health professionals are in attendance from around the country.

**MEDIA CONTACTS:** Fred Lake, (212) 886-2200, Jennifer Passantino, (732) 382-5912

## UC Berkeley Press Release

### Bacterial meningitis believed to be cause of UC Berkeley women's basketball player's death

20 January 2004

**BERKELEY** – A 20-year-old University of California, Berkeley women's basketball player died Monday, January 19, apparently of bacterial meningitis. Doctors say final cause of death is pending further tests.

Alisa Marie Lewis, a junior from Spokane, Wash., died at Kaiser Medical Center, Oakland. She was taken to the emergency room early in the morning complaining of a severe headache, rash and flu-like symptoms.

"Our heart goes out to Alisa's family following this horrible, devastating news," said women's basketball head coach Caren Horstmeyer. "Alisa was one of the nicest, hardest working players I've had the opportunity to coach. We're all in a complete state of shock."

At a Tuesday, January 20 press conference on campus, Horstmeyer said Lewis, who was majoring in social welfare, was a role model posed to make important community contributions after she graduated. Already, said Horstmeyer, Lewis had touched many people's lives.

The coach said that her young player had a credo, words Lewis had posted on a wall several months ago. They said: "Dream as if you'll live forever. Live as if you'll die today."

Lewis earned a scholarship to Cal after a successful high school career at Fairfield High School in Northern California. In her senior year, her family moved to Spokane, Washington, and she joined the Cal team in 2001. She lived in an off-campus apartment.

Team members were informed of Lewis' death at a meeting at Haas Pavilion on Monday, January 19. University health officials met with the team and coaching staff, providing health information and counseling. They emphasized that bacterial meningitis is rare and not spread through casual contact.

Following established public health procedures, university officials alerted city and county public health authorities.

"Due to on-going, close contact we felt it was appropriate to offer a single-dose antibiotic to team members and some staff as a precaution," said Dr. Peter Dietrich, medical director of the University Health Service.

The University Health Services' website provides detailed information on the signs, symptoms and treatment of meningitis. Common early symptoms of bacterial (also called meningococcal) meningitis include fever, severe sudden headache accompanied by mental changes such as malaise or lethargy, and neck stiffness. It can also be accompanied by a rash, mainly on the arms and legs. Any person with those symptoms is urged to seek immediate medical attention.



Alisa Marie Lewis  
(Print-quality image available  
for download)  
(UC Berkeley photo)

• Team physician Dr. Chad Roghair discusses health risk posed by bacterial meningitis

## Health Officials Investigate Meningococcal Meningitis on Gulf Coast

December 12, 2003



### Mississippi State Department of Health **News Release**

#### Health Officials Investigate Meningococcal Meningitis on Gulf Coast — December 12, 2003

Mississippi State Department of Health officials have investigated five cases of meningococcal meningitis in the Gulf Coast area since mid-November. Public health officials do not discuss or release the identity of specific cases.

**More facts about meningococcal meningitis can be found on the web site of the Centers for Disease Control (CDC) in Atlanta.**

Health officials say that no clear evidence of a connection between the five cases has been found. "Early recognition and treatment of meningococcal meningitis can improve the outcome of this infection," said State Epidemiologist Dr. Mary Currier. "We want the public to be aware of the signs and symptoms of this disease, so patients will see their doctor or other health care provider if they think they may have this infection."

Meningococcal meningitis is caused by the bacteria *Neisseria meningitidis*, a germ that can be found in the nose of ten percent of the population at any time, and usually does not cause illness. "Transmission of this disease is through large droplets that are spread through coughing, sneezing or drinking after someone," said Dr. Currier.

The Mississippi State Department of Health investigates all suspect and reported cases of meningococcal meningitis and gives medications to immediate contacts of the sick patient. "Only people with prolonged close contact with a patient sick from this bacteria are considered contacts and need medications," said Dr. Currier.

Symptoms of meningococcal meningitis include severe headache with a stiff neck and/or nausea, vomiting and a rash.

**Press Contact:** Elizabeth Hogue or Kelly French, (601) 576-7667

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#### Links referenced

Centers for Disease Control (CDC) [http://www.cdc.gov/ncidod/dbmd/diseaseinfo/meningococcal\\_g.htm](http://www.cdc.gov/ncidod/dbmd/diseaseinfo/meningococcal_g.htm)

#### Find this page at

<http://www.msdh.state.ms.us/msdhsite/index.cfm/23,1468,58,html>

© Mississippi State Department of Health

print close

## OPINIONS

### **For our kids' sake, cut pesticide use**

**COMPASS: Points of view from the community**

By DR. ADAM GROVE

*(Published: December 27, 2003)*

Alaska Department of Environmental Conservation Commissioner Ballard's recent decision to permit aerial spraying of pesticides and herbicides in Alaska leaves me dumbfounded. As a doctor, I am acutely aware that these agents are toxic to living organisms and their aerial application necessarily increases animal and human exposure. It is naive and irresponsible to believe chemicals that will kill alder trees and carpenter ants won't have toxic effects on animals and people.

I see a lot of children in my practice -- children with learning disabilities, attention deficit disorders, autism and other developmental disorders. In each case, environmental toxicity is never far from my mind because children are so much more susceptible to toxins like pesticides. Adults tend to overlook the fact that children bear the brunt of our use of pesticides and herbicides. Children are closer to the ground where these toxins are applied, and they play in and even eat the dirt where toxic residues can remain for years. In addition, children by body weight are exposed to more toxins because they eat four times more food than adults, drink up to seven times more water and breathe two-three times more air. And their young bodies are less capable of eliminating these toxins. Also, because of children's rapid growth, they are especially susceptible to the endocrine mimicking effects of pesticides and herbicides, which can result in abnormal growth and cancers. Furthermore, exposure at a young age implies a greater chance of developing disease later in life.

I also see an even more insidious effect of environmental toxins on children -- escalating infertility, which prevents their very conception. Pesticides have been linked to increased sterility in women, decreased sperm counts in men (40 percent in the last 50 years), the doubling of male genital birth defects and increased miscarriages.

As critics point out, it is difficult to find a smoking gun when it comes to the effects of pesticides and herbicides on children. I believe this is because we are not looking very hard. Nearly all toxin studies are focused on protection of adults and fail to use exposure levels applicable to children. Pesticides are studied in isolation but are always applied with so-called "inert" adjuvants, which are not required to be disclosed and which are themselves perhaps more dangerous than the active ingredients. In laboratories little consideration is given to interactions with the elements of nature, which can actually cause a toxic substance to become more toxic, spread well beyond the intended application area or persist for many years.

However, because children have lived a relatively short life compared with adults, and as a group tend not to drink, smoke or do other things that predispose them to cancer or developmental and learning disorders, we can safely say that most of these diseases are due to environmental causes. The argument that genes are responsible for the increase in childhood disease does not exonerate pesticides and other toxins because the very genes our children inherit from us and their later expression are affected by exposure to persistent toxins.

No doubt the rationale for the use of aerial spraying in Alaska includes reducing the cost of extracting natural resources. However, monetary savings gained by use of pesticides are clearly an illusion. A 2002 Mount Sinai School of Medicine study estimated the cost of disease resulting from exposing children to environmental toxins like pesticides at nearly \$55 million per year or 2.8 percent of all U.S. annual health care costs. These numbers do not include the effects on adults or the environment itself. We must also consider the enormous emotional and social costs of the learning disabled or deformed children and infertile couples that result from pesticide use.

Pesticides are extremely dangerous to our environment, our wildlife and to ourselves. Children are particularly injured by their use. While we cannot protect our children from everything, we have the responsibility to do what we can. State and local officials must reduce, rather than increase, our exposure to toxic pesticides and chemicals.

ADN - January 31, 2004

**Special interests win over health concerns in pesticide spraying**

As a mother and a resident of Eagle River, I was alarmed to find out that Alaska's Department of Environmental Conservation (DEC) cared more for special interests such as logging than their own children and their own health when they made the decision to allow spraying of pesticides from airplanes in Alaska.

Spraying carcinogenic chemicals into the air lets the wind blow and spread them at will, contaminating drinking water and salmon streams. Whoever made that decision clearly had their priorities out of balance. Spraying in Alaska is done primarily for forestry purposes and not only endangers our air, water and salmon but places children and other humans at risk of cancer and other related sicknesses.

Fortunately, the Legislature is in position to take action to protect the public from this short-sighted administrative decision. Senate Bill 233 would ban aerial spraying of pesticides over Alaska land except for public health emergencies.

The problem is, SB 233 was introduced last session and hasn't seen the light of day. Sen. Dyson can help protect the health of Alaskans and our natural resources by scheduling a hearing for SB 233 and helping it become law for our children, our salmon and our own health.

-- Christie Stepanik

Eagle River

[Fwd: aerial pesticide spraying]

**Subject:** [Fwd: aerial pesticide spraying]  
**Date:** Mon, 24 Nov 2003 12:25:50 -0900  
**From:** Johnny Ellis.<Senator\_Johnny\_Ellis@legis.state.ak.us>  
**Organization:** Alaska State Legislature  
**To:** Geran Tarr <Geran\_Tarr@legis.state.ak.us>

--  
Senator Johnny Ellis, D-Anchorage  
Senate Minority Leader

January to May:  
State Capitol  
Juneau, AK 99801  
(907) 465-3704  
(907) 465-2529 fax  
Senator\_Johnny\_Ellis@Legis.state.ak.us  
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---

**Subject:** aerial pesticide spraying  
**Date:** Sat, 22 Nov 2003 19:05:54 -0900  
**From:** Neil McArthur <mca@xyz.net>  
**To:** Senator Gary Stevens <senator\_gary\_stevens@legis.state.ak.us>,  
Representative Paul Seaton <Representative\_Paul\_Seaton@legis.state.ak.us>  
**CC:** <senator\_johnny\_ellis@legis.state.ak.us>, <representative\_sharon\_cissna@legis.state.ak.us>

Hon. Sen Stevens & Rep. Seaton:

Many months ago I tried to comment on proposed aerial pesticide spraying regulations, and my efforts were brushed off by the agency apparently because my views are outside the range of options they were willing to consider.

I believe such pesticide use is probably ill advised in all cases, and that if any benefit results from aerial spraying its likely to be of short duration. In the long run we should never apply biocides broadly. The brush targeted by forestry companies is mostly alder, which forms root nodules with the actinomycete, *Frankia alni* to fix atmospheric nitrogen, thereby supplying major portions of long term soil fertility.

35 foot buffers along streams are a ludicrous concept -- no place is outside the watershed.

Anyway, please support Johnny Ellis's SB 233, also SB 27, and Sharon Cissna's HB 314.

Thanks, Neil McArthur

## **Anchorage Daily News** *(Published: April 23, 2003)*

### **Aerially sprayed pesticides are not precise, could contaminate water**

The state of Alaska proposes to allow aerially sprayed pesticides on federal, state and private land across the state to kill unwanted plants like alder and salmon berry.

The regulations fail to protect drinking water sources by proposing an inadequate maximum no-application zone of 200 feet. Fish streams propose a maximum no-application zone of 35 feet. Aerial spraying has been proven to be imprecise and allows for drift.

Pesticide use has resulted in water pollution and damage to fish, as well as human health risks including cancer, hormone alterations, genetic alterations and reproductive problems, such as miscarriages.

The state is taking public input until May 1 and has refused to hold public hearings.

The state of Alaska should adopt a preference for mechanical rather than chemical treatment of forested lands. If pesticide use can't be avoided in forest management, the state must at minimum:

- ban aerial spraying of pesticides;
- ban the use of pesticides in areas where subsistence activities occur;
- protect fisheries and water by requiring ground applications to strictly follow a no-application zones of at least one mile for drinking water sources and 300 feet from fish streams or other surface water bodies;
- require ground pesticide applications to use products that are least toxic; and
- require public meetings.

-- Anissa Berry, Port Alexander

## **Anchorage Daily News Letters from the People**

*(Published: April 25, 2003)*

### **Spraying pesticides from the air will endanger sales of wild salmon**

Gov. Frank Murkowski has announced that millions of dollars will be spent to promote marketing of our wild salmon. Declaring that the environment where our fish are raised is clean and pure is key in the promotion.

Consumers should feel confident that when they buy Alaska salmon, they are buying a product that is pure and free of harmful chemicals. Given that the Department of Environmental Conservation has published proposed regulations that will allow aerial spraying of pesticides as a forestry management tool, is this marketing campaign one of sheer hype? The proposed rules could make thousands of acres of state and private lands susceptible to ravages of a chemical fog sprayed from above. Research has proved that once unleashed, these chemicals drift and percolate hundreds of feet from the targeted sites, invading lakes and streams and contaminating our salmon.

If these rules are adopted, we can no longer declare our environment clean and free of harmful chemicals. If pesticides are used near salmon streams, then consumers will no longer look to Alaska as providing a pure fish product. Write to the DEC. Tell it that aerial application of pesticides is unacceptable as a forestry management tool. Tell it that anytime a pesticide is used, it must conform to the strictest of standards. The comment period on the proposed regulations ends May 1. Your comments can be e-mailed to [Kimberly\\_stryker@dec.state.ak.us](mailto:Kimberly_stryker@dec.state.ak.us).

-- Clay Frick, Port Alexander

# ALASKA STATE LEGISLATURE



Senate Rules Committee

Senate Judiciary Committee

Department of Law  
Budget Subcommittee

*While in Session*  
State Capitol, Rm. 9  
Juneau, Alaska 99801  
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Fax: (907) 465-2529

*While in Anchorage*  
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Anchorage, Alaska 99501  
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SENATE MINORITY LEADER  
JOHNNY ELLIS

**To:** Senator Fred Dyson, Senate HESS Committee Chair

**From:** Johnny Ellis, Senate Minority Leader

A handwritten signature in cursive script, appearing to read "J.E.", positioned to the right of the "From:" line.

**Date:** 2/12/2004

**Re:** Request for hearing Senate Bill 233

---

I am writing to request that Senate Bill 233 be scheduled for a committee hearing. This legislation will prohibit the aerial application of pesticides, except in cases of public health emergencies such as a West Nile Virus outbreak.

Research has shown that aerial applications of pesticides can be inaccurate and thus ineffective in eradicating the target organism while posing a threat to other organisms in the area, particularly salmon. A recent court decision in Washington regarding salmon and pesticides led to a ban of the use of pesticides near salmon bearing rivers and streams in the Northwest. The ruling, which covers Washington, Oregon, and California, will also require "retail stores in urban areas to post warnings about the most commonly used and potentially dangerous chemicals" (see attached articles).

Also, recent changes at the federal level that will allow Alaska salmon to be certified organic make it imperative that we act in a way to ensure our salmon will not be exposed to contaminants.

Thank you.

ALASKA STATE LEGISLATURE



Senate Rules Committee

Senate Judiciary Committee

Department of Military and Veterans  
Affairs Budget Subcommittee

SENATOR JOHNNY ELLIS  
MINORITY LEADER

*While in Session*  
State Capitol, Rm. 9  
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716 W. 4<sup>th</sup> Ave, Ste. 440  
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**Senate Bill 233**

*"An Act relating to the aerial application of pesticides."*

In response to concerns regarding the environmental and human health risks associated with unwanted exposure to pesticides, this legislation will prohibit the aerial application of pesticides, except in cases of public health emergencies such as a West Nile Virus outbreak.

Research has shown that aerial applications of pesticides can be inaccurate and thus ineffective in eradicating the target organism while posing a threat to other living things in the area, particularly salmon. Pesticides that are applied aeriaily drift transported by the air from the intended area into other areas nearby, including rivers and streams. The US Congress Office of Technology Assessment estimates that 40% of an aerial pesticide application leaves the target area and that only one percent actually reaches the target pest. Additionally, a 1994 report from the EPA Ecological Effects Branch states that during an aerial application, "a predictable percentage of spray will transport potentially as far as two or more miles from the treatment site."

A January 2004 court decision in Washington regarding salmon and pesticides led to a ban of the use of pesticides near salmon bearing rivers and streams in the Northwest. This decision is in response to the mounting evidence that shows that even small amounts of pesticides can cause harm. For example, certain pesticides at non-lethal levels can still disrupt basic functions in fish by deadening their ability to smell. In salmon the sense of smell is critical to many important life functions, including avoiding predators, finding their birth streams, and triggering spawning. The ruling, which covers Washington, Oregon, and California, will also require "retail stores in urban areas to post warnings about the most commonly used and potentially dangerous chemicals." The warnings will read "Salmon Hazard."

Also, recent changes at the federal level that will allow Alaska salmon to be certified organic make it imperative that we act in a way to ensure our salmon will not be exposed to harmful chemicals.



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8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29						

**Power Search**

Web posted Friday, January 30, 2004

**Group urges state to follow decision on 38 pesticides**

By **HAL SPENCE**  
*Peninsula Clarion*

Among 38 pesticides banned last week by a federal court judge in Seattle for use near salmon-bearing streams in Washington, Oregon and California are some used here in Alaska where they pose the same dangers to salmon as they do in the Lower 48, according to a spokesperson for Alaska Community Action on Toxics.

Ruling on a case brought by fishing and conservation groups, U.S. District Judge John Coughenour ordered the U.S. Environmental Protection Agency to establish temporary buffer zones along salmon-bearing streams for the common pesticides while it creates permanent environmental regulations, according to a press release from Alaska Community Action on Toxics.

"This is a landmark decision that finally gives salmon relief from pesticides after a decade of agency inaction," said Patti Goldman, the attorney representing the plaintiffs. "The court has blocked the use of the most harmful pesticides along salmon streams until the government has ensured that salmon will be protected."

Coughenour ruled that there was "reasonable scientific certainty" that buffer zones of 20 yards for ground applications and 100 yards for aerial spraying would help protect salmon from the effects of contact with pesticides.

The ruling also requires retailers in cities of more than 50,000 in the three states to post a salmon hazard warning for seven of the 38 pesticides.

They include the following: 2,4-D, Carbaryl, Diazinon, Diuron, Malathion, Triclopyr BEE, and Trifluralin. The warning would notify consumers that the pesticides "may harm salmon or steelhead" and that "use of this product in urban areas can pollute salmon streams."

"Alaska's Department of Environmental Conservation should act responsibly and follow the landmark Pacific Northwest ruling," said Michelle Wilson, program coordinator with Alaska Community Action on Toxics.

"Alaska has a reputation for pristine wilderness, along with fish and wildlife that are free from chemicals," she said.

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Regulations approved in November by DEC require only a 35-foot buffer near streams for aerial spraying for forestry practices, with no consideration of dangers to salmon.

"The Washington court order puts salmon health and clean water first," said Clay Frick, a commercial fisher from Port Alexander, in the press release. "We are spending millions of dollars to promote our ailing salmon industry. Selling our fish as coming from a clean environment is key to our promotion. Allowing thousands of acres to be sprayed with pesticides is counterproductive to the marketing of our fish."

Frick called the DEC decision "short-sighted."

In an interview Thursday, Wilson said there are 5,500 registered pesticides in use in Alaska. Among the common ones are Carbaryl, which is sold in stores in the product Sevin. It is used to control spruce bark beetles.

Others include Lindane, Wilson said, as well as 2,4-D, which is found in Ortho's Weed-B-Gon, available in many stores.

Wilson said salmon in Alaska have not been listed as endangered as they have been in some places in Washington, Oregon and California.

Nevertheless, she believes Alaskans should be educated by store warnings and other methods about the dangers of pesticide use. Alaskans, she said, consume more fish than the national average.

"We feel Alaska should have these warning signs," she said.

A bill introduced last session by Sen. Johnny Ellis, D-Anchorage, would ban aerial spraying except for public health emergencies. Senate Bill 233 has yet to receive a hearing in the Senate Health, Education and Social Services Committee.

Two other bills, SB 27, by Ellis, and House Bill 314, introduced by Rep. Sharon Cissna, D-Anchorage, would require improved notification of commercial pesticide use, a statewide tracking system and registration and licensing fees.

**Clarification:**

Clarification from the Alaska Department of Environmental Conservation. Department spokesperson Lynda Giguere said state regulations require a 35-foot pesticide-free zone in addition to any buffer that's established based on site-specific considerations. Buffers could even exceed 100 feet in some cases, and a buffer would always be required for an aerial application.

<sup>3</sup>No other state has a pesticide-free-zone requirement in addition to buffers that we know of,<sup>2</sup> she said.

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Friday, January 23, 2004

## Limits imposed on pesticides

Judge orders chemical-free buffers near streams to protect salmon

By LISA STIFFLER

SEATTLE POST-INTELLIGENCER REPORTER

The use of pesticides near salmon-bearing rivers and streams in the Northwest was banned yesterday by a federal judge, who also required retail stores in urban areas to post warnings about the most commonly used and potentially dangerous chemicals.

The ruling, which covers Washington, Oregon and California, was hailed by environmentalists, who cited research showing that pesticides are washing into streams and that even low levels can harm protected salmon runs.

"This is truly a landmark decision that is a huge step forward to getting the most dangerous pesticides out of our streams so salmon can have clean water to thrive in," said Erika Schreder, staff scientist with the Washington Toxics Coalition.

The coalition and other environmental groups said the Seattle judge's decision sets a precedent for how the Environmental Protection Agency protects endangered species from pesticides.

Pesticide makers and farmers, however, said the fallout could be dire.

"It will ... impact any farmer who has water on his property and could have a devastating economic impact on agriculture," said Dean Boyer, spokesman for the Washington Farm Bureau.

U.S. District Judge John Coughenour ordered the EPA to create pesticide-free buffers around streams and rivers that are home to any of the region's 26 species of threatened or endangered salmon and steelhead. The order will remain in place until the agency adopts permanent rules to protect fish.

In two weeks, it will be illegal to spray pesticides -- ranging from industrial products to household weed killers -- within 20 yards of the waterways, which include many major Western Washington rivers and creeks.

For aerial applications, the buffer expands to 100 yards. The ban applies to 38 pesticides. The suit addressed only these three states because less scientific data was available elsewhere.

The buffers will do little to curb the flow of pesticides in urban areas where concrete and other impervious surfaces dominate the landscape, environmentalists argued.

That's why the judge ordered pesticide producers to post notices in stores near urban salmon streams, warning consumers that the products pose a threat to fish. The warnings focus on seven pesticides commonly found in urban waterways: carbaryl, 2,4-D, diazinon, diuron, malathion, triclopyr BEE and trifluralin.

The EPA and Justice Department yesterday declined to comment on the ruling.

In Washington, the effect is expected to be greatest for growers of tree fruits, such as apples, pears and cherries, farming groups said.

"There are areas where a 300-foot buffer is going to take out orchards," said Heather Hansen, director of Washington Friends of Farms and Forests, which represents pesticide applicators and farmers. "People are going to be out of business. If you can't protect the fruit from insects, you cannot ship it."

An EPA study in December 2002 found the buffers would have "minimal economic impact to growers," because many fields are farther than that from salmon streams. The study determined that California rice growers stood to suffer the worst loss -- about \$3.5 million -- because they rely on aerial spraying.

In all, the study estimated that the buffers would trigger crop losses in the three states totaling about \$4.8 million.

Environmentalists and fishing groups sued the EPA over its pesticide regulations three years ago. In July 2002, Coughenour ordered the agency to consult with the National Marine Fisheries Service, which oversees salmon recovery, on the effects of 54 pesticides suspected of harming fish. Last summer, he ordered the creation of buffers. The ruling yesterday marks their official adoption.

Besides the toxics coalition, the groups that sued the EPA are the Northwest Coalition for Alternatives to Pesticides, Pacific Coast Federation of Fishermen's Associations and Institute for Fisheries Resources.

Salmon are struggling to survive in some Puget Sound-area waterways. In recent years, volunteers and researchers have been patrolling local creeks, finding numerous salmon dying -- while still full of eggs and sperm. Pesticides are among the pollutants scientists believe might be prematurely killing the fish.

And the concern isn't just for pesticide exposures that are lethal outright.

Internationally, scientists have found that certain pesticides at non-lethal levels can still disrupt basic functions in fish by deadening their ability to smell. In salmon, that sense is key to basic functions, such as avoiding predators, hunting prey, finding their birth streams and triggering spawning.

In the Seattle area, federal researchers have measured pesticides in suburban streams at levels that can harm aquatic life. Twenty-five different pesticides and related compounds were found in samples collected in 2000. The water was most often toxic after rainstorms, leading researchers to suspect that the chemicals were washing off yards and landscaping.



Of the 54 pesticides the EPA is reviewing, 34 compounds have been screened. Half were found to "possibly or likely harm" one or more of the listed salmon species. The research looks at any potential harm to all of the more than two dozen protected fish. It examines effects on all of the salmon's life stages, plus insects, plants and other fish.

These results are then shared with NMFS. The agencies then decide what protections are needed for the fish.

The buffers and warnings are temporary measures intended to protect salmon while the consultations are done. Screening of the remaining compounds should be completed by the end of this year, said EPA's Arty Williams, chief of the environmental field branch in Washington, D.C.

The restrictions would be dropped for pesticides deemed safe.

The agency also plans to do an even broader review, examining the effects of hundreds of pesticides on all endangered species, Williams said.

All of this could take years, said Patti Goldman, an Earthjustice attorney who represented the plaintiffs. And that's why the ruling is so significant.

"It puts protections in place now," she said, "instead of waiting for decades."

## PESTICIDE WARNINGS

Pesticide producers must provide warnings that salmon could be harmed by seven pesticides frequently detected in urban streams. Warnings will be posted in stores where they're sold.

- Carbaryl -- insecticide in products including Adios, Bugmaster, Septene and Sevin; moderately toxic to aquatic life.
- 2,4-D -- herbicide in Barrage, Lawn-Keep, Savage, Salvo and Weed & Feed, Weedone; used on broadleaf weeds; can be highly toxic to fish
- Diazinon -- insecticide in Gardentox, Knox Out and Spectracide; kills cockroaches, ants and fleas; highly toxic to fish
- Diuron -- herbicide in Direx and Karmex; used on mosses and broadleaf and grassy weeds; moderately toxic to fish, highly toxic to aquatic invertebrates
- Malathion -- insecticide in Celthion, Fyfanon and Maltox; kills mosquitoes, flies and lice; can be highly toxic to fish
- Triclopyr BEE -- herbicide in Access, Crossbow, Garlon and Redeem; used on woody and broadleaf plants; low toxicity for fish
- Trifluralin -- herbicide in Trefanocide, Treficon and Trust; kills annual grasses and broadleaf weeds; highly toxic to fish and other aquatic organisms

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Friday, January 23, 2004 - Page updated at 12:25 A.M.

LOCAL NEWS SE/

## Pesticides restricted to protect salmon; West Coast ruling is sweeping

Today Archivi

By [Craig Welch](#)  
*Seattle Times staff reporter*

[Advanced sea](#)

A federal judge yesterday banned application of 38 pesticides along Northwest salmon streams, and required retailers in major West Coast cities to post warnings that read "Salmon Hazard" where seven of the most harmful chemicals are sold.

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The sweeping order by U.S. District Judge John Coughenour affects everything from sprays used in orchards, dandelion-killers used on farms and yards, and industrial herbicides applied on forests, golf courses and roadsides.

The ruling, while not unexpected, rattled Northwest farming representatives, who said it raised many questions and punished growers for the failures of federal regulators — though they acknowledge it's too soon to know how drastically they may need to change their practices.

And the case could have implications beyond the region, as similar lawsuits over pesticides' impact on sea turtles in the Chesapeake Bay area and California red-legged frogs wind through the courts.

Yesterday's order comes after a two-year court battle over the Environmental Protection Agency's failure to adequately assess the impact pesticides may be having on threatened fish runs.

Federal scientists knew through studies that the pesticides could affect the ability of salmon to smell,

### Pesticide warnings

A federal judge ordered that in West Coast cities of 50,000 or more, retailers who sell seven particular pesticides must post a sign — "Salmon Hazard" in large letters — along with a warning about hazards to salmon streams. The pesticides are:

- 2,4-D
- carbaryl
- diazinon
- diuron
- malathion
- triclopyr BEE
- trifluralin

### Pesticides requiring protective buffers

- acephate
- azoxystrobin
- methidathion

reproduce, avoid predators, swim or detect prey.

"Delay has harmed salmon for a long time," said Patti Goldman, an attorney with Earthjustice, which fights court cases for environmental groups. "It's about time we had some protections."

The new restrictions apply to lands adjacent to any waterway home to threatened salmon or steelhead in California, Oregon or Washington.

Aerial spraying is restricted to 100 yards from salmon streams, except for mosquito prevention and other human-health applications.

"Pesticide-application buffer zones are a common, simple and effective strategy" to avoid harm to listed fish species, Coughenour said in his ruling. Last year, he found the EPA had violated the Endangered Species Act.

Environmentalists said pesticide users — in most cases — had alternative means or chemicals to protect their crops or plants, and that it's good management not to apply pesticides close to waterways anyway.

"EPA has to make sure the growers know and comply with it, and we'll need to see that they develop some sort of enforcement mechanism," said Erika Schreder, with the Washington Toxics Coalition.

Wary farm advocates, especially those representing vegetable and fruit growers, said it could be devastating to small operators.

"In the Skagit Valley, for example, you've got a lot of small farms with water bodies going around or through or near them, and for some it will be tough to treat their crops effectively," said Pat Boss, with the Washington State Potato Commission.

A U.S. Department of Agriculture study submitted to the court suggested, in the worst-case scenario, stream-side pesticide buffers could result in farmers ripping out fruit crops near streams, causing losses of \$100 million a year in Washington and Oregon alone.

An Environmental Protection Agency study found the financial impact would more likely be less than \$5 million in all three states — with most of that coming from rice farms in California.

Both conclusions were reached when it was expected that the judge's order would apply to 54 pesticides; 16 since have been determined by EPA to be unlikely to harm listed fish.

Mike Willett, with the Northwest Horticulture Council, said it's impossible to predict how growers will respond. It's a "one-size-fits-all ruling that doesn't make any sense," he said, but Washington agriculture is a "pretty resourceful group."

- bensulide
- bromoxynil
- captan
- carbaryl
- carbofuran
- chlorothalonil
- chlorpyrifos
- coumaphos
- 2,4-D
- diazinon
- 1,3-dichloropropene
- diflubenzuron
- dimethoate
- disulfoton
- diuron
- ethoprop
- fenamiphos
- fenbutatin-oxide
- lindane
- linuron
- malathion
- methamidophos
- methidathion
- methomyl
- methyl parathion
- metolachlor
- metribuzin
- naled
- oxyfluorfen
- pendimethalin
- phorate
- prometryn
- propargite
- tebuthiuron
- triclopyr BEE
- trifluralin

"Some of these pesticides are used on just one crop or on many crops, some are near water and some are not — it's very site-specific," he said.

"There are new alternative products coming on the market, but in many cases, the industry knows very little about how they're going to work. They may turn out to be great fits."

Meanwhile, the pesticide industry group CropLife America, which intervened in the lawsuit on behalf of the EPA, called the buffer zones unnecessary.

"The court's final order is devastating to agriculture and pest control in the Pacific Northwest," the group said in a written statement.

"These severe restrictions on agriculture, small-business and consumer use of pest control products hurt farmers, foresters, homeowners and retailers in Washington, Oregon and Northern California."

Most of the restrictions will be implemented in two weeks.

*Craig Welch: 206-464-2093 or [cwelch@seattletimes.com](mailto:cwelch@seattletimes.com)*

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## Pesticide warnings

A federal judge ordered that retailers in Washington, Oregon and California cities of 50,000 or more who sell seven particular pesticides must post the following sign.

### **SALMON HAZARD**

**This product contains pesticides that may harm salmon or steelhead.**

**Use of this product in urban areas can pollute salmon streams.**

- 2,4-D
- Carbaryl
- Diazinon
- Diuron
- Malathion
- Triclopyr BEE
- Trifluralin

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## Pesticides requiring protective buffers

A federal judge banned application of 38 pesticides along Northwest salmon streams. The judge found *"with reasonable scientific certainty, that the requested buffer zones - 20 yards for ground applications, 100 yards for aerial applications - will, unlike the status quo, substantially contribute to the prevention of jeopardy"* to salmon. He further found that the evidence *"demonstrate[s] that pesticide-application buffer zones are a common, simple, and effective strategy to avoid jeopardy to threatened and endangered salmonids."*

- |                       |                    |                 |
|-----------------------|--------------------|-----------------|
| • acephate            | • diflubenzuron    | • metolachlor   |
| • azinphos-methyl     | • dimethoate       | • metribuzin    |
| • bensulide           | • disulfoton       | • naled         |
| • bromoxynil          | • diuron           | • oxyflourfen   |
| • captan              | • ethoprop         | • pendimethalin |
| • carbaryl            | • fenamiphos       | • phorate       |
| • carbofuran          | • fenbutatin-oxide | • prometryn     |
| • chlorothalonil      | • lindane          | • propargite    |
| • chlorpyrifos        | • linuron          | • tebuthiuron   |
| • coumaphos           | • malathion        | • triclopyr BEE |
| • 2,4-D               | • methamidophos    | • trifluralin   |
| • diazinon            | • methidathion     |                 |
| • 1,3-dichloropropene | • methomyl         |                 |
|                       | • methyl parathion |                 |

Dow to pay \$2 million in pesticide settlement

December 16, 2003

Albany, N.Y. -- (Associated Press) -- A subsidiary of Dow Chemical Co. will pay a \$2 million court-ordered penalty to the state of New York for illegal safety claims in advertising of its pesticides.

Dow AgroSciences agreed to the \$2 million penalty, but admitted no illegal or erroneous advertising, said spokesman Garry Hamlin. He said the firm settled to avoid a costly court case.

New York Attorney General Eliot Spitzer had alleged that Dow AgroSciences violated a 1994 agreement between the company and the state that prohibited advertisements touting the safety of its pesticide products.

He said the penalty involving the popular Dursban and other pesticides is the largest in the nation's history for this type of case.

Dow AgroSciences is headquartered in Indianapolis

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New Release from the New York Office of the Attorney General

Department of Law  
120 Broadway  
New York, NY 10271

Department of Law  
The State Capitol  
Albany, NY 12224

For More Information:  
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For Immediate Release  
December 15, 2003

**DOW SUBSIDIARY TO PAY \$2 MILLION FOR MAKING FALSE SAFETY  
CLAIMS IN PESTICIDE ADS**

**Largest Pesticide Enforcement Penalty in U.S. History**

Attorney General Eliot Spitzer today announced that Dow AgroSciences, LLC, a subsidiary of the Dow Chemical Company, will pay a \$2 million penalty for illegally advertising safety claims about its pesticide products in New York between 1995 and 2003.

This is the largest enforcement penalty ever obtained in a pesticide case.

"Pesticides are toxic substances that should be used with great caution," said Attorney General Spitzer. "By misleading consumers about the potential dangers associated with the use of their products, Dow's ads may have endangered human health and the environment by encouraging people to use their products without proper care."

Consumer and public health advocates hailed the settlement.

Edward Groth III, PhD, a senior scientist with Consumers Union, publishers of Consumer Reports, said: "Chlorpyrifos (Dursban) was one of the most highly toxic active ingredients used in home pesticides. Dow's exaggerated safety claims for this very toxic chemical, cited in the Attorney General's lawsuit, were simply outrageous. Consumers should thank Eliot Spitzer for putting a stop to such gross corporate deception."

Dr. Philip Landrigan, chair of the Department of Community and Preventative Medicine at Mount Sinai Medical Center, said: "Excellent studies conducted by independent scientists have clearly shown that chlorpyrifos, the active ingredient in Dursban, is toxic to the human brain and nervous system and is especially dangerous to the developing brain of infants. I applaud the actions of Attorney General Spitzer to stop these misleading and potentially dangerous safety claims."

Spitzer sued Dow for repeatedly violating a 1994 agreement with New York State prohibiting advertising touting the safety of its pesticide products. As part of the 1994 agreement, the company agreed to stop making claims that its products were "safe." However, an investigation by Spitzer's office found that almost immediately after the company entered into the agreement it once again began to make misleading safety claims in its print, video and internet advertising.

Pursuant to a Consent Judgment signed December 12 by Judge Joan Madden in Manhattan Supreme Court, Dow is required to pay a \$2 million penalty, is barred from making safety claims about its pesticide products, and is required to implement a compliance program consisting of the following components:

A complete internal review of all advertisements being published by Dow or its agents in New York State and removal of any advertisement that makes safety claims about pesticide products;

The appointment of an attorney working under the company's Director of Ethics and Compliance who will be responsible for reviewing and approving all advertising. No advertisement will be published in New York State unless it has first been reviewed by the appointed attorney; and, A training program regarding federal and state law and the consent judgment for all employees and advertising agency personnel involved in creating or reviewing advertisements.

An investigation in the early 1990s by the Attorney General Office found that Dow engaged in false and misleading advertising that violated both state and federal laws. In exchange for not paying fines for its illegal advertising claims, Dow signed an agreement

with the state in 1994 in which it pledged to reform its advertising and marketing practices.

The Attorney General's investigation revealed that, after the 1994 agreement, Dow continued to illegally advertise the safety of chlorpyrifos and other pesticides. The investigation centered on Dow's advertising of the Dursban pesticide product line, which contains chlorpyrifos, a synthetic chemical compound that has been linked to severe health problems in humans, including poisoning, nerve damage and birth defects. The federal Environmental Protection Agency, specifically citing health risks to children, took action in 2000 to prohibit most household uses of chlorpyrifos.

As recently as March, 2003, Dow's internet site included the statement: "Consumer exposure from labeled use of chlorpyrifos products provides wide margins of safety for both adults and children." In contrast, Dow's safety data sheet for Durban TC (chlorpyrifos) states that excessive vapor concentrations are attainable and could be hazardous on single exposure."

For a more complete list of false and misleading safety claims made by Dow, see the attached tables.

The matter was handled in the Attorney General's Environmental Protection Bureau by Assistant Attorney General Philip Bein, Affirmative Litigation Chief Lemuel Srolovic, and Chief Scientist Michael Sorgan.

Related Material: Dow AgroSciences Consent Order

#### DOW SUBSIDIARY TO PAY \$2 MILLION: APPENDIX

Dow AgroSciences' advertising claims for its chlorpyrifos products are contradicted by the product labels, other Dow documents (such as Material Data Safety Sheets), and government findings.

According to the labels and Material Safety Data Sheets for Dursban (chlorpyrifos) products:

Data sheets for Dursban TC state "excessive vapor concentrations are attainable and could be hazardous on single exposure." The MSDS for Dursban Pro states "...concentrations may be attained that may be hazardous on single exposure."

Labels for Dursban TC, Dursban Pro, Dursban 50W, state that the pesticides "may be fatal if swallowed," and users should "avoid contact with skin, eyes, or clothing," and "avoid breathing vapors or spray mist."

Labels for Dursban TC, Dursban Pro, Dursban 50W, Dursban 75WG, state that the pesticides are "toxic to birds and wildlife, and extremely toxic to fish and aquatic organisms."

According to the U.S. Environmental Protection Agency (EPA):