

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672  
11142 SENATE HEALTH, EDUCATION & SOCIAL SERVICES

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB 260(JUD)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction):  
Title Immunity for Providing Free Health Care

Dept. Affected:  
RDU Occupational Licensing (117)  
Component Occupational Licensing

Sponsor House Judiciary  
Requester Senate HESS

Component No. 2360

**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>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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)

CSHB 260(JUD) provides immunity for free health care services by certain health care providers. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager  
Division: Occupational Licensing  
Approved by: Edgar Blatchford, Commissioner  
Agency: Department of Community and Economic Development

Phone (907) 465-2144  
Date/Time 1/22/04 1:57 PM  
Date 1/22/2004

AMENDMENT

OFFERED IN THE SENATE  
TO: CSHB 260(JUD)

- 1 Page 1, line 7:
- 2       Delete "2003"
- 3       Insert "2004"
- 4
- 5 Page 3, line 20:
- 6       Delete "July 1, 2003"
- 7       Insert "immediately under AS 01.10.070(c)"

# LEGAL SERVICES

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

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


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 28, 2004

**SUBJECT:** Immunity for the Provision of Free Health Care (CSHB 260(JUD))

**TO:** Representative Paul Seaton  
Attn: Cameron Yourkowski

**FROM:** Jean M. Mischel  
Legislative Counsel 

You have asked about the absence of a definition of "gross negligence" in section 3 of CS HB 260(JUD) at page 3, line 2.

I have found approximately 50 references to the term "gross negligence" in the Alaska Statutes, only one of which contains a definition (AS 18.08.086(a) (providing immunity for emergency medical service providers). In this single definition, the term "gross negligence" includes the additional concepts of wilful and reckless misconduct, both of which are explicitly included in HB 260.

In the absence of an express definition, courts will apply the common law definition of this term. The common law definition of "gross negligence," as expressed in Black's Law Dictionary, Seventh Edition is, in pertinent part,

1. A lack of slight negligence or care.
2. A conscious, voluntary act or omission in reckless disregard of a legal duty and of the consequences to another party, who may typically recover exemplary damage.--Also termed *reckless negligence; wanton negligence; hazardous negligence.*

If I may be of further assistance, please advise.

JMM:mdr  
04-027.mdr

# SENATE COMMITTEE REPORT

DATE: 5/20/03

FURTHER: Judiciary

DATE TURNED  
IN TO OFFICE: 1.29.04

Health, Education and Social Services Committee considered

CS FOR HOUSE BILL NO. 260(JUD)

## HB 260 IMMUNITY FOR PROVIDING FREE HEALTH CARE

"An Act relating to immunity for free health care services provided by certain health care providers; and providing for an effective date."

and recommends:

be replaced with S CS CS HB 260 ( 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#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DCEB	4/30		x	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Gayle</i>	✓			
<i>Greer</i>				✓
<i>Heath</i>				✓
<i> </i>				
<i> </i>				
CHAIR: <i> </i>	✓			

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB 260(JUD)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title Immunity for Providing Free Health Care RDU Occupational Licensing (117)  
Component Occupational Licensing  
Sponsor House Judiciary  
Requester Senate HESS Component No. 2360

**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						
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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>						
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**FUND SOURCE** (Thousands of Dollars)

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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)

CSHB 260(JUD) provides immunity for free health care services by certain health care providers. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
Division Occupational Licensing Date/Time 1/22/04 1:57 PM  
Approved by: Edgar Blatchford, Commissioner Date 1/22/2004  
Agency Department of Community and Economic Development

**HB**

**270**

# ALASKA STATE LEGISLATURE

*Vice Chair:*  
Joint Armed Services Committee

*Member:*  
Military and Veterans Affairs Committee  
Labor and Commerce Committee  
State Affairs Committee  
Economic Development, Trade, &  
Tourism Committee



*Session:*  
Alaska State Capitol  
Juneau, AK 99801-1182  
Phone: (907) 465-3783  
Fax: (907) 465-2293  
Toll Free (877) 460-3783

*Interim:*  
716 West 4th Avenue  
Anchorage, AK 99501-2133  
Phone: (907) 269-0174  
Fax: (907) 269-0177

## REPRESENTATIVE NANCY DAHLSTROM

ELMENDORF AFB • FORT RICHARDSON • BIRCHWOOD • FIRE LAKE • GOVERNMENT HILL • MULDOON

Representative\_Nancy\_Dahlstrom@legis.state.ak.us

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

From: Representative Nancy Dahlstrom

Date: May 12, 2003

Re: House Bill 270

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Please schedule HB 270 "An Act relating to the licensure of pharmacists; and providing for an effective date" for a hearing in Senate Health, Education and Social Services Committee as soon as possible

Included with the request is:

- 1) HB 270
- 2) Zero Fiscal Note
- 3) Sponsor Statement
- 4) Letters of Support

Thank you for your consideration.

# ALASKA STATE LEGISLATURE

**Vice Chair:**

Joint Armed Services Committee

**Member:**

Military and Veterans Affairs Committee

Labor and Commerce Committee

State Affairs Committee

Economic Development, Trade, &

Tourism Committee



**Session:**

Alaska State Capitol

Juneau, AK 99801-1182

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## REPRESENTATIVE NANCY DAHLSTROM

ELMENDORF AFB • FORT RICHARDSON • BIRCHWOOD • FIRE LAKE • GOVERNMENT HILL • MULDOON

[Representative\\_Nancy\\_Dahlstrom@legis.state.ak.us](mailto:Representative_Nancy_Dahlstrom@legis.state.ak.us)

### Sponsor Statement

#### HB 270

#### “An Act relating to the licensure of pharmacists; and providing for an effective date”

HB 270 was introduced to help the Board of Pharmacy address a problem that was unintentionally left out of the original version of the statutes.

The board of Pharmacy currently cannot deny a licensee based on actions that follow AS 08.80.261(a), however they can discipline a current licensee. This legislation gives the Board the authority to deny a license to a new applicant if they find that the applicant has committed fraud, deceit, falsely advertised, convicted of a felony, etc. as listed in AS 08.80.261(a).

The passage of this bill will provide the Board of Pharmacy the ability to ensure a greater degree of safety for Alaskan citizens.

I urge your support for HB 270.

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: HB 270  
 (H) Publish Date: 4/25/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Pharmacist Licensing BRU Occupational Licensing (117)  
 Component Occupational Licensing  
 Sponsor Representative Dahlstrom  
 Requester House Health Education & Social Services Component No. 2360

**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						
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>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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 (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 legislation authorizes the Board of Pharmacy to deny a license to an applicant who fails to meet certain criteria. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone 907-465-2144  
 Division Occupational Licensing Date/Time 4/22/03 7:43 AM  
 Approved by: Edgar Blatchford, Commissioner Date 4/22/2003  
 Agency Department of Community & Economic Development

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

**ALASKA PHARMACEUTICAL ASSOCIATION****Box 101185 Anchorage, Alaska 99510  
(907) 563-8880**

April 16, 2003

Honorable Representative Nancy Dahlstrom  
Alaska State House of Representatives  
State Capitol  
Juneau, AK 99801

RE: HB 270

Dear Representative Dahlstrom,

The Alaska Pharmacists Association, formerly the Alaska Pharmaceutical Association, represents over 200 licensed pharmacists and technicians in the State of Alaska. On behalf of our membership I would like to thank you for sponsoring HB 270 "an Act relating to the licensure of pharmacists." Our membership includes pharmacy staff members in retail, hospital, clinic, and institutional practice sites. All of these practice sites rely on the Board of Pharmacy to license professionals that are fit and competent to practice pharmacy.

As you are aware the statutory changes made by HB270 are needed in order for the Board of Pharmacy (BOP) to deny pharmacy licenses to individuals with questionable backgrounds. Currently the BOP has no specific statutory authority to deny individuals licenses to individuals who may have felony drug convictions or drug abuse problems, unless they had been previously licensed by the BOP. The current situation potentially puts both the safety of the public and the profession of pharmacy at risk.

Our association has put a high priority on getting the statutory changes included in HB270 into law. We thank you once again for sponsoring and introducing this bill. Please do not hesitate to contact our association or me directly at 907-225-6186 should you have any questions.

Sincerely,

Barry Christensen, Pharmacist  
Chair, Legislative Committee

4 of 4

PO Box 61328  
Fairbanks, AK 99706-1328  
April 17, 2003

Honorable Representative Nancy Dahlstrom  
Alaska State House of Representatives  
State Capitol, Room 108  
Juneau, AK 99801

RE: HB 270

Dear Representative Dahlstrom,

I would like to thank you for sponsoring HB 270 "an Act relating to the licensure of pharmacists." I have been a registered pharmacist in the State of Alaska for over 30 years and currently serve on the Alaska Board of Pharmacy. As the pharmacy statutes now stand, the Board does not have the authority to deny a license. Therefore, the board might be compelled to issue licenses to individuals with criminal and objectionable backgrounds (including felony drug convictions, felony weapons convictions, drug abuse, etc.). Your bill would allow the Board to refuse to license an applicant for the same reason that it may impose disciplinary sanctions. Giving the Board of Pharmacy this authority is necessary for the Board to protect the health and safety of the public.

Thank you again for your support,

Margaret D. Soden, RPh

**SENATE COMMITTEE REPORT**

DATE: 5/10/03

FURTHER: Labor and Commerce

DATE TURNED  
IN TO OFFICE: 5.16.03

Health, Education and Social Services Committee considered HOUSE BILL NO. 270

**HB 270 PHARMACIST LICENSING**

"An Act relating to the licensure of pharmacists; and providing for an effective date."

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to \_\_\_\_\_ Committee

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
LED	4/22		X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
Davis	<i>B. Davis</i>	✓			
Guess	<i>Guess</i>	✓			
Green	<i>Green</i>	✓			
Dyson	CHAIR: <i>Frank Dyson</i>	✓			

FY 2009  
0.0  
0.0  
0.0

100

**HB**

**282**

Representative  
HUGH "BUD" FATE  
Finance Committee

Energy Council- Executive Committee  
119 N. Cushman St. Suite 213  
Fairbanks, Alaska 99701  
(907) 452-6084  
Fax: (907) 452-6096

## Alaska State Legislature



While in Session  
State Capitol, Room 501  
Juneau, Alaska 99801-1182  
(907) 465-4976  
Fax: 465-3883  
Toll Free: 1 866-465-4976  
e-mail:  
Rep\_Hugh\_Fate@legis.state.ak.us  
House District 7

### House of Representatives

To: Senator Fred Dyson – Chair, Senate Health, Education and Social Services Committee  
Fm: Jim Pound, Chief of Staff  
Cc:  
Date: February 20, 2004  
Re: HB 282 "UNIVERSITY EMPLOYEE RESEARCH CONTRACTS"

Please accept this memo and attached documents as a request for the Senate Health, Education and Social Services Committee to schedule for hearing House Bill 282 "UNIVERSITY EMPLOYEE RESEARCH CONTRACTS."

The bill will allow the President of the University of Alaska to enter into contract agreements with employees involved in research and development. The results of those contracts could well bring millions of new dollars to the University and increased interest by researchers and developers in the University's programs.

Thank you for your consideration of HB 282.

Attached: Sponsor Statement, HB 282, Fiscal Notes, University of Kentucky Policy, Indiana University Policy, National Association of College and University Attorneys and NEA Policy, University of Alaska Policy, University of Alaska Faculty Survey Responses, Letter of Support from Mark Hamilton, President of UA, Excerpts from the Alaska Executive Branch Ethics Act.

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 282  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title "An Act relating to contracts.....for RDU Centralized Administrative Services  
development of intellectual property." Component Labor Relations  
 Sponsor Fale, Guttenberg  
 Requester (H) HES Component No. 58

**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>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
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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 legislation will have no effect on executive branch operations or collective bargaining.

Prepared by: Art Chance, Director Phone (907)465-3794  
 Division Division of Labor Relations Date/Time 1/20/04 3:22 PM  
 Approved by: Mike Miller, Commissioner Date 1/20/2004  
 Agency Department of Administration

# FISCAL NOTE

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

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

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: University of Alaska  
 Title University Employee Research Contra RDU Systemwide  
 Component \_\_\_\_\_  
 Sponsor REPRESENTATIVE(s) Fata, Guttenberg  
 Requester \_\_\_\_\_ Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Paul Jenny Phone 465-2382  
 Division: UA Statewide Budget and Institutional Research Date/Time 1/20/04 3:13 PM  
 Approved by: Wendy Redman Date 1/20/2004  
 Agency: University Relations

Representative  
**HUGH "BUD" FATE**  
Chair-Resources Committee  
Energy Council  
119 N. Cushman St. Suite 207  
Fairbanks, Alaska 99701  
(907) 452-6084  
Fax: (907) 452-6096

## Alaska State Legislature



While in Session  
State Capitol, Room 128  
Juneau, Alaska 99801-1182  
(907) 465-4976  
Fax: 465-3883  
Toll Free:  
1 866-465-4976

House District 7

### House of Representatives

## Sponsor Statement HB 282

**"An Act relating to contracts between the University of Alaska and its employees involving research or other development of intellectual property and to the authority of the president of the University of Alaska regarding employee contracts for development of intellectual property."**

HB 282 will give the President of the University of Alaska authority to enter into contracts with employees involved in research and development of intellectual property. These contracts would allow both the employee and the University to benefit from businesses associated with that development.

Nearly 57 percent of all research conducted in Alaska is on one of the University's campuses. HB 282 will allow the University an opportunity to realize the full potential of those efforts. The University is a leader in areas such as geophysical, arctic research and new initiatives such as the Center for Nanoscience Technology. This type of technical research is cutting edge, and the benefits could well be staggering.

As an example, if the University had been involved in the development of the operating system software you use on your office computer. It would certainly eliminate the need for them to visit each year asking for funding.

This type of technology advancement continues today, and with the passage of HB 282 our University system could be a leader in funding for, and developing the very tools we use daily. Funding that would be coming from the business side of research, not the general fund.

HB 282 allows the University of Alaska to compete on an equal footing with other major campuses already combining research and business to fund future research. It opens the door to advancements in technology that could bring new high-tech jobs to Alaska as well as millions of new dollars to the University.

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: HB 282  
 (H) Publish Date: 1/23/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to contracts.....for RDU Centralized Administrative Services  
development of intellectual property." Component: Labor Relations  
 Sponsor: Fate, Guttenberg  
 Requester: (H) HES Component No. 58

**Expenditures/Revenues** (Thousands of Dollars)

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<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation will have no effect on executive branch operations or collective bargaining.

Prepared by: Art Chance, Director  
 Division: Division of Labor Relations  
 Approved by: Mike Miller, Commissioner  
 Agency: Department of Administration

Phone: (907)465-3794  
 Date/Time: 1/20/04 3:22 PM  
 Date: 1/20/2004

# FISCAL NOTE

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

Fiscal Note Number: 2  
 Bill Version: HB 282  
 (H) Publish Date: 1/29/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: University of Alaska  
 Title University Employee Research Contra RDU Systemwide  
 Component \_\_\_\_\_  
 Sponsor REPRESENTATIVE(s) Fate, Guttenberg  
 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>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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)

Prepared by: Paul Jenny  
 Division: UA Statewide Budget and Institutional Research  
 Approved by: Wendy Redman  
 Agency: University Relations

Phone 465-2382  
 Date/Time 1/20/04 3:13 PM  
 Date 1/20/2004

## Article 01. DECLARATIONS

### Sec. 39.52.010. Declaration of policy.

(a) It is declared that

(1) high moral and ethical standards among public officers in the executive branch are essential to assure the trust, respect, and confidence of the people of this state;

(2) a code of ethics for the guidance of public officers will

(A) discourage those officers from acting upon personal or financial interests in the performance of their public responsibilities;

(B) improve standards of public service; and

(C) promote and strengthen the faith and confidence of the people of this state in their public officers;

(3) holding public office or employment is a public trust and that as one safeguard of that trust, the people require public officers to adhere to a code of ethics;

(4) a fair and open government requires that executive branch public officers conduct the public's business in a manner that preserves the integrity of the governmental process and avoids conflicts of interest;

(5) in order for the rules governing conduct to be respected both during and after leaving public service, the code of ethics must be administered fairly without bias or favoritism;

(6) no code of conduct, however comprehensive, can anticipate all situations in which violations may occur nor can it prescribe behaviors that are appropriate to every situation; in addition, laws and regulations regarding ethical responsibilities cannot legislate morality, eradicate corruption, or eliminate bad judgment; and

(7) compliance with a code of ethics is an individual responsibility; thus all who serve the state have a solemn responsibility to avoid improper conduct and prevent improper behavior by colleagues and subordinates.

(b) The legislature declares that it is the policy of the state, when a public employee is appointed to serve on a state board or commission, that the holding of such offices does not constitute the holding of incompatible offices unless expressly prohibited by the Alaska Constitution, this chapter and any opinions or decisions rendered under it, or another statute.

Sec. 39.52.170. Outside employment restricted.

(a) A public employee may not render services to benefit a personal or financial interest or engage in or accept employment outside the agency which the employee serves, if the outside employment or service is incompatible or in conflict with the proper discharge of official duties.

(b) A public employee rendering services for compensation, or engaging in employment outside the employee's agency, shall report by July 1 of each year the outside services or employment to the employee's designated supervisor. During the year, any change in an employee's outside service or employment activity must be reported to the designated supervisor as it occurs.

(c) The head of a principal executive department of the state may not accept employment for compensation outside the agency that the executive head serves.

Sec. 39.52.180. Restrictions on employment after leaving state service.

(a) A public officer who leaves state service may not, for two years after leaving state service, represent, advise, or assist a person for compensation regarding a matter that was under consideration by the administrative unit served by that public officer, and in which the officer participated personally and substantially through the exercise of official action. For the purposes of this subsection, "matter" includes a case, proceeding,

application, contract, or determination, but does not include the proposal or consideration of legislative bills, resolutions and constitutional amendments, or other legislative measures; or the proposal, consideration, or adoption of administrative regulations.

(b) This section does not prohibit an agency from contracting with a former public officer to act on a matter on behalf of the state.

(c) The head of an agency may waive application of (a) of this section after determining that representation by a former public officer is not adverse to the public interest. The waiver must be in writing and a copy of the waiver must be provided to the attorney general for approval or disapproval.

(d) A former governor, lieutenant governor, or head of a principal department in the executive branch may not engage in activity as a lobbyist under AS 24.45 for a period of one year after leaving service as the governor, lieutenant governor, or department head, as appropriate. This subsection does not prohibit service as a volunteer lobbyist described in AS 24.45.161 (a)(1) or a representational lobbyist as defined under regulations of the Alaska Public Offices Commission.

#### Sec. 39.52.960. Definitions

2) "agency" means a department, office of the governor, or entity in the executive branch, including but not limited to the University of Alaska, public or quasi-public corporations, boards or commissions, and the Alaska Railroad Corporation;

(5) "business" includes a corporation, company, firm, partnership, sole proprietorship, trust or foundation, or any other individual or entity carrying on a business, whether operated for profit or non-profit;

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**Mark R. Hamilton**  
President

## UNIVERSITY OF ALASKA STATEWIDE SYSTEM

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May 2, 2003

via fax 465 3883

Representative Hugh "Bud" Fate  
Alaska State Legislature  
State Capitol, Room 128  
Juneau, Alaska 99801 - 1182

Dear Representative Fate:

I am writing in support of HB 282. This bill recognizes the state need to facilitate development of businesses based on intellectual property created or contributed to by University of Alaska employees.

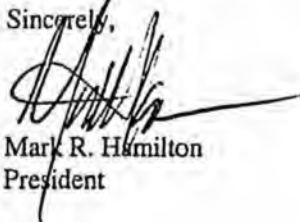
Currently, University faculty and other staff share with the university in intellectual property they produce. On the other hand, the Alaska Executive Branch Ethics Act prohibits university employees from either taking official action or using university information to benefit their own financial interest. In effect, these latter restrictions preclude university employees from nurturing their discoveries either through further research or by participation in local spin-off companies as owners, managers, or consultants.

Such constraints tend to force researchers to choose between exporting their intellectual property without continuing support, and giving up their university employment. This climate provides little incentive for researchers to focus on technologies that are subject to commercialization. It also puts the University of Alaska at a competitive disadvantage in hiring entrepreneurial faculty capable of producing valuable intellectual property.

Other states have successfully encouraged the creation and development of local industries by allowing their universities to work with their employees to continue research on, invest in, and profit from the technologies they develop. Although the shortage of industry in Alaska cannot produce similar results in the short term, enabling business/university partnerships can contribute to the long term economic development of this state.

This bill provides flexibility to negotiate contracts with employees to enhance the potential for creation and development of intellectual property. The provision for direct negotiations allows the president to strike an appropriate balance between the interests of the state and the individual involved, without interjection of interests of other employees.

Sincerely,



Mark R. Hamilton  
President

MRH:dm

## University of Alaska

### Inventions and Patents

1. The assignment of inventions and patents to the University, except for those resulting from permissible activities outside of University employment without the use of University facilities, shall be mandatory for all University personnel, for persons not employed by the University but who use University facilities in the development of intellectual property, and for those who receive grant or contract funds through the University. Exemptions from such assignments may be authorized in those circumstances where the mission of the University is better served by such action, provided that the overriding obligations to other parties are met and such exemptions are not inconsistent with other Board of Regents' policies or University regulations.

2. University personnel and all those using University facilities in the development of intellectual property shall immediately and properly disclose the conception and/or reduction to practice of potentially patentable inventions. Such disclosure shall be made to the President or President's designee. Persons making disclosures shall execute such declarations, assignments or other documents provided by the University as may be necessary in the course of invention evaluation, patent prosecution, or protection of patent rights.

3. Subject to restrictions arising from overriding obligations of the University pursuant to grants, contracts or other agreements with outside organizations, the University agrees, for and in consideration of the assignment of patent rights, to pay annually to the named inventor(s), the inventor(s)' heirs, successors or assigns, a royalty share of the net proceeds received by the University for each patent or other intellectual property right assigned to the University, as shown below.

Total Net Royalty Per Invention (\$)	Inventor's Share (%)	University Share (%)
First \$10,000	100%	0%
More than \$10,000	50%	50%

Where there are two or more inventors, each inventor shall share equally in the inventor's share of net proceeds, unless all inventors previously have agreed in writing to a differing distribution of such share. Distribution of the inventor's share shall be made no less than annually. In the event of any litigation, actual or imminent, or any other action to protect patent rights, the University may withhold distribution of all royalty proceeds until resolution of the matter. Of the remaining net proceeds, the share shall be distributed as determined by the President.

University proceeds from University inventions shall be used for the support of University research and scholarly activities; however, exceptions may be granted by the President or President's designee.

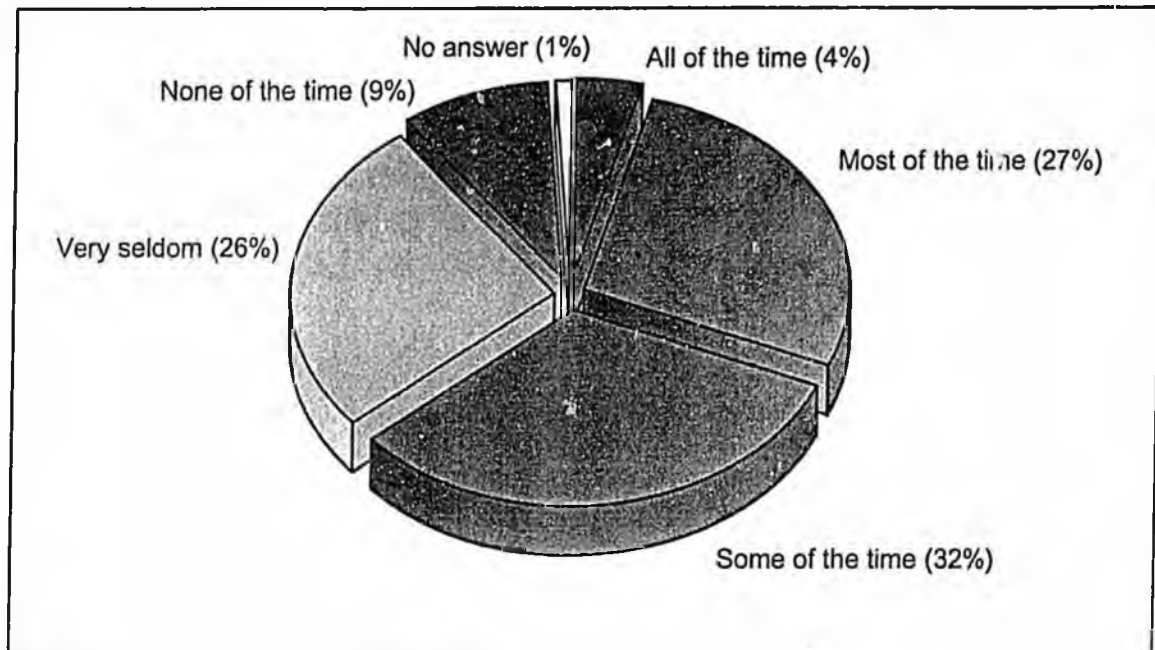
## In your department, are there enough material resources to get the job done?

- UA faculty often feel there are not enough material resources to get the job done, with 35 percent of respondents answering *very seldom* or *none of the time*.
- UAS faculty appear the best-supplied, with 44 percent saying there are enough resources *most* or *all of the time*, compared to 30 percent of UAF faculty.

Table 4.

	Total	UAA	UAF	UAS
All of the time	4%	4%	5%	6%
Most of the time	27	28	25	38
Some of the time	32	30	34	31
Very seldom	26	25	28	21
None of the time	9	13	8	4

Chart 4.



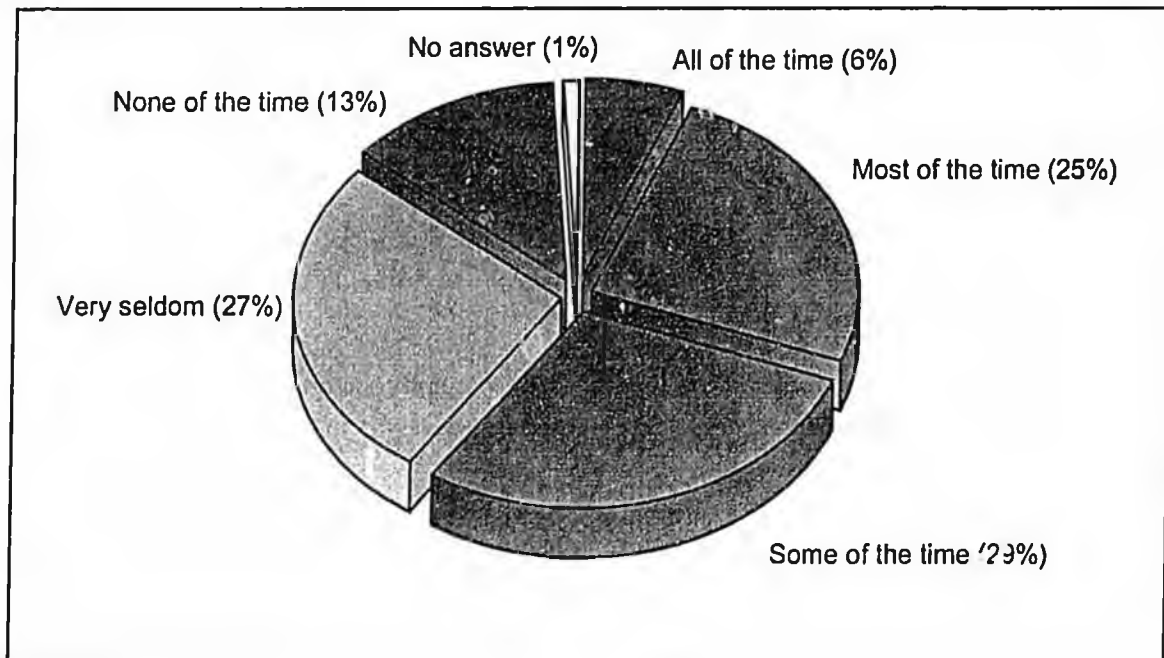
**In your department, are there enough people to get the job done?**

- Overall, UA faculty give very similar answers for "are there enough people?" to those for "are there enough material resources?"
- Whereas UAS faculty appear the best-supplied in terms of material resources, they are the least likely to answer *most* or *all of the time* when it comes to people.

**Table 5.**

	Total	UAA	UAF	UAS
All of the time	6%	6%	6%	6%
Most of the time	25	23	27	21
Some of the time	29	27	29	35
Very seldom	27	29	23	31
None of the time	13	14	14	8

**Chart 5.**



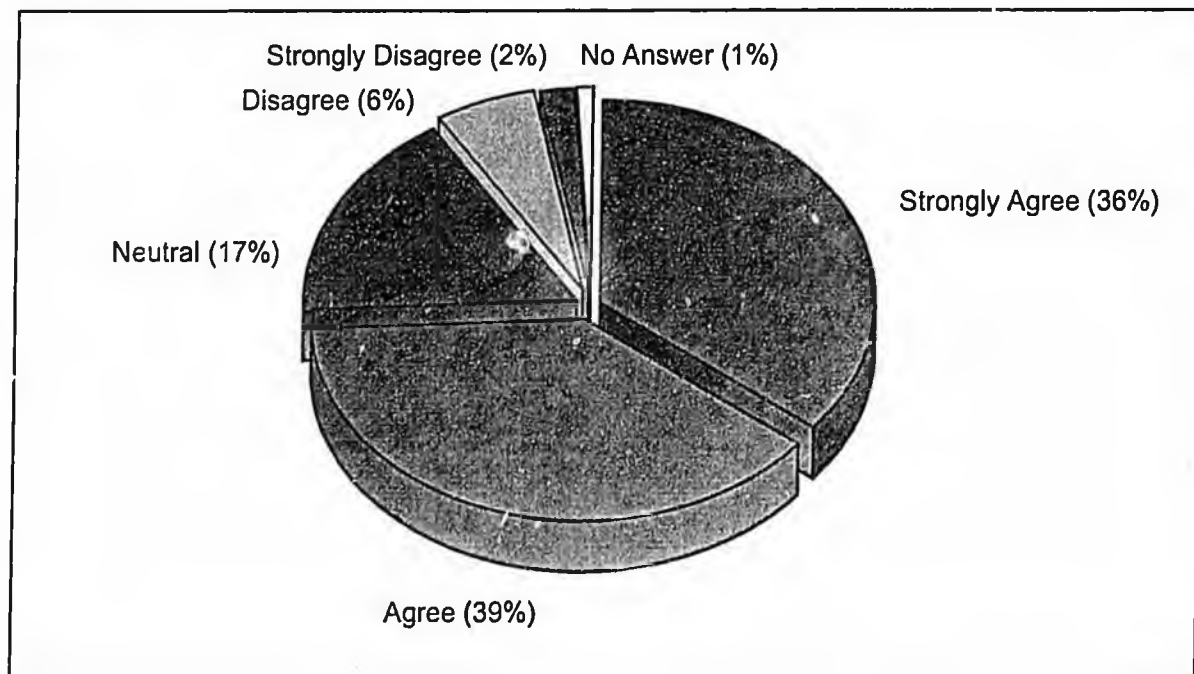
How strongly do you agree or disagree with the following statements about your campus? *It is important that we enhance the University's national image.*

- UA faculty generally feel that it is important to enhance the University's national image, with three quarters (75 percent) agreeing with the statement.
- UAF faculty feel especially strongly about this statement, with 40 percent strongly agreeing, compared to 34 percent of UAA and 27 percent of UAS faculty.
- Male faculty members are more likely to strongly agree with this statement (42 percent, versus 29 percent of female faculty).

**Table 21.**

	Total	UAA	UAF	UAS
Strongly Agree	36%	34%	40%	27%
Agree	39	34	42	48
Neutral	17	20	13	21
Disagree	6	9	3	2
Strongly Disagree	2	2	2	2

**Chart 21.**



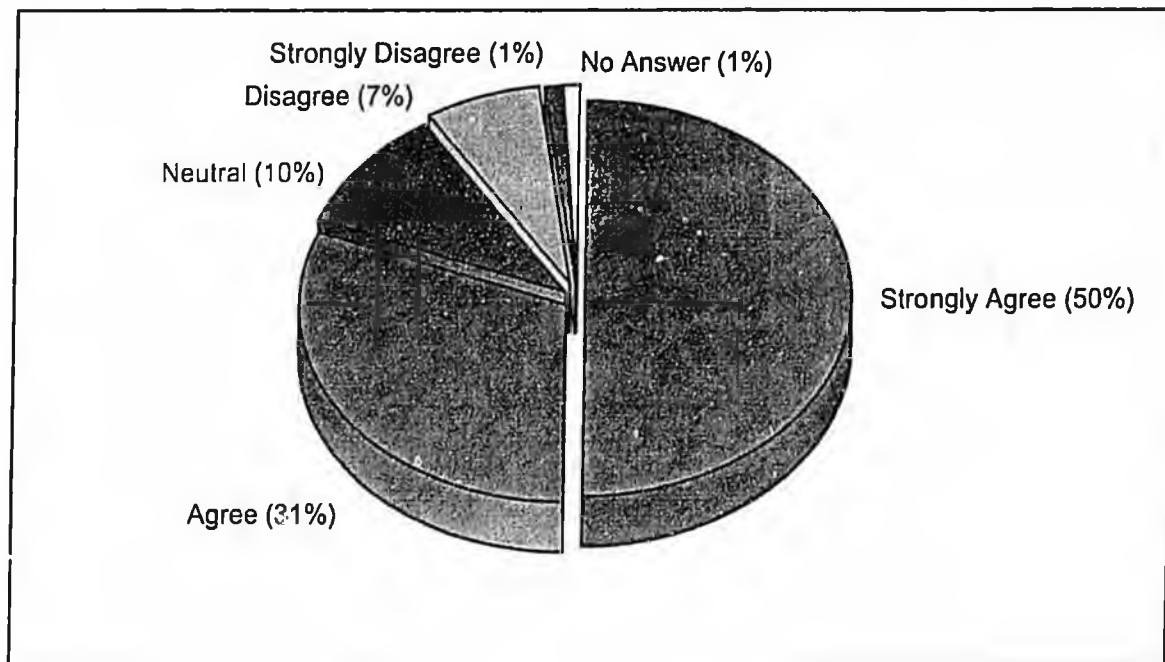
**How strongly do you agree or disagree with the following statements about your campus? *Meeting Alaska's higher education and research needs is our top priority.***

- The vast majority – 81 percent – of UA faculty agree that meeting Alaska's higher education and research needs is the University's top priority.
- Only 10 percent of faculty are neutral on this issue – the lowest neutral response on this survey.

**Table 22.**

	Total	UAA	UAF	UAS
Strongly Agree	50%	54%	47%	48%
Agree	31	28	34	35
Neutral	10	10	10	10
Disagree	7	6	7	6
Strongly Disagree	1	1	2	0

**Chart 22.**



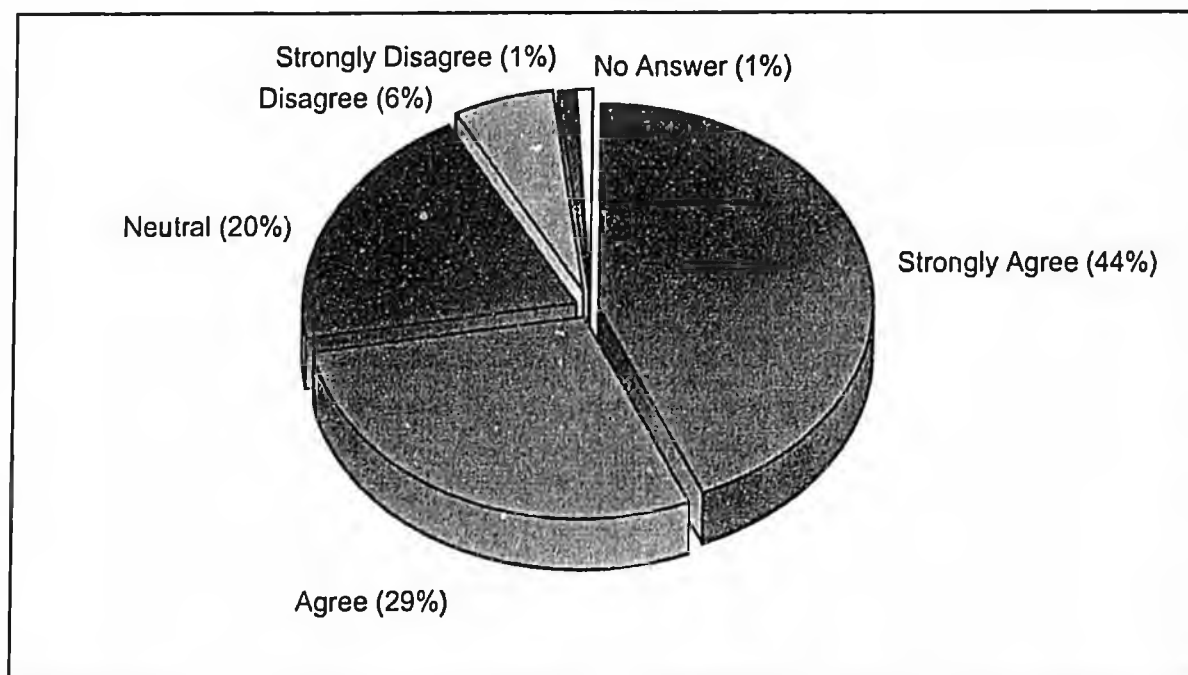
How strongly do you agree or disagree with the following statements about your campus? *The University is suffering from an out-migration of valuable faculty to better paying jobs.*

- Nearly three-quarters of faculty (73 percent) agree that the University is suffering from an out-migration of valuable faculty, with only 7 percent disagreeing.
- UAS faculty are much more likely to *strongly agree* with this statement (58 percent, compared with 43 percent of UAA faculty and 41 percent of UAF faculty).

Table 23.

	Total	UAA	UAF	UAS
Strongly Agree	44%	43%	41%	58%
Agree	29	31	29	25
Neutral	20	17	23	13
Disagree	6	7	5	4
Strongly Disagree	1	1	1	0

Chart 23.



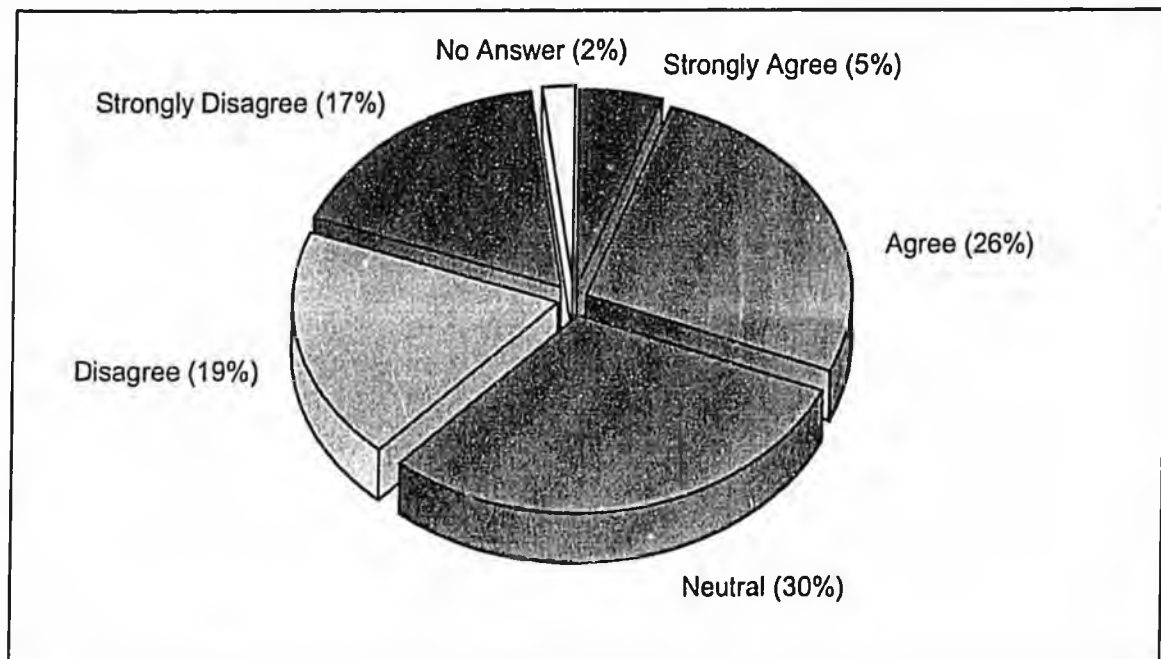
**How strongly do you agree or disagree with the following statements about your campus? *In general, faculty morale has improved over the last several years.***

- Faculty are more likely to disagree with this statement (36 percent) than to agree (31 percent).
- Interestingly, the campus which appears to have the highest morale judging from responses to other questions, was the least likely to agree with this statement – not one UAS faculty member answered *strongly agree*, while 23 percent answered *agree*.
- UAA faculty were the most likely to disagree with this statement (45 percent, compared to 29 percent of UAF faculty and 38 percent of UAS faculty).
- Male faculty members are more likely to agree with this statement (37 percent, versus 24 percent of female faculty members).

**Table 24.**

	Total	UAA	UAF	UAS
Strongly Agree	5%	5%	6%	0%
Agree	26	23	30	23
Neutral	30	27	32	37
Disagree	19	24	14	21
Strongly Disagree	17	21	15	17

**Chart 24.**



**In the last two years, have you developed a new course?**

- Nearly three-quarters of UA faculty say they have developed a new course in the last two years.
- UAS faculty are the most likely to have developed a new course (88 percent), while UAA faculty are the least likely (71 percent).
- According to CHE survey results, 72 percent of faculty members said they had developed a new course in the last two years – an almost identical percentage to UA faculty’s 73 percent.

**Table 34.**

	Total	UAA	UAF	UAS
Yes	73%	71%	73%	88%
No	19	23	19	4
Not sure	1	1	1	0
Not applicable	7	4	8	8

**In the last two years, have you served as a paid consultant?**

- Just over one-third of UA faculty members report serving as a paid consultant in the last two years.
- UAF faculty are the most likely to have served as a paid consultant in the last two years (61 percent, compared to 56 percent of UAS and 55 percent of UAA faculty).
- The CHE survey reports that 38 percent of nationwide faculty have served as a paid consultant in the last two years, comparable to UA faculty’s 36 percent.

**Table 35.**

	Total	UAA	UAF	UAS
Yes	36%	40%	32%	35%
No	58	55	61	56
Not sure	0	0	0	2
Not applicable	6	5	6	8

**In the last two years, have you published at least one paper in a peer-reviewed journal?**

- One half of faculty members say they have published a paper in a peer-reviewed journal in the last two years.
- This question produced the widest variance of responses among the different campuses of any question on the survey. Given UAF's research focus, faculty there are the most likely to have answered yes (67 percent), followed by UAA faculty (37 percent) and UAS faculty (29 percent).
- Male faculty are more likely to have published a paper (58 percent, versus 41 percent of female faculty).
- The CHE survey results state that 59 percent of nationwide faculty say they have published at least one paper in the last two years – a somewhat higher percentage than UA faculty's 51 percent. Among faculty at public universities, that percentage changes to 83 percent; at public four-year colleges, 65 percent.

**Table 36.**

	Total	UAA	UAF	UAS
Yes	51%	37%	67%	29%
No	38	50	25	58
Not sure	0	0	0	0
Not applicable	10	13	7	13

**In the last two years, have you received at least one firm job offer from another institution?**

- Three out of ten faculty members say they have received at least one firm job offer from another institution in the last ten years.
- Newer faculty members are the most likely to have received another job offer (45 percent), while those who have been with the University the longest are the least likely (15 percent).
- Men are more likely than women to say they have received a job offer (34 versus 25 percent).
- In the CHE survey, 28 percent of faculty members say they have received at least one firm job offer in the last two years, very similar to UA faculty's 30 percent.

**Table 37.**

	Total	UAA	UAF	UAS
Yes	30%	31%	30%	33%
No	52	51	53	56
Not sure	1	0	1	0
Not applicable	17	18	16	12

National Association of College and University Attorneys  
Research Universities: Evolving Intellectual Property Policy  
Advanced Workshop November 12, 1998

**Intellectual Property Policies**  
Christine Maitland, Ph.D.  
National Education Association

### **Historical Notes on Intellectual Property**

Three hundred years after the invention of the printing press, Immanuel Kant and every other writer in the German city states, had a problem. The public was suddenly inundated with printed works --- plays, poems, novels, and philosophy. Once the works were published in one city-state they were copied in others without payment to the authors. The debate raged for over 20 years and involved many of the best minds in Germany. Kant wrote in the Critique of Judgment (1790): "Every artistic work consists of a physical object and a piece of its creator's spirit. People can buy the object but not the spirit, for soul cannot be purchased. Thus readers can freely copy books, but only in ways that respect the writer's integrity." This idea grew into the current European system of copyright ("Who Will Own Your Next Good Idea?" *Atlantic Monthly*, September 1998).

There is a 300-year legal history of protection of copyright in English and American law. At its earliest conception in England it was viewed as a natural right of authors to protect their written work so they could "reap the profits of their own ingenuity and labor." ("Preserve Copyrights and Protect Us All," *Washington Post*, Outlook Section, Sunday November 1, 1998)

By the time of the writing of the U.S. Constitution copyright was recognized as a common-law right that served to both reward and author's efforts and provide an incentive to create original works for public dissemination. The founders believed that copyright was essential to democracy and included it in the constitution. Article I, Section 8 instructs Congress to "secure for limited Times to Authors and inventors the exclusive Right to their Respective Writings and Discoveries. " When George Washington asked Congress to enact copyright legislation he argued that it would increase the national stock of knowledge. And knowledge, he said, is the "surest basis of public happiness." (*Atlantic Monthly*, Sept. 1998, p. 5)

Now like eighteenth century Germans, we are experiencing powerful cultural changes. The rise of digital media and the Internet for communication is forcing us to revisit the question of intellectual property. In the fall, Congress passed the Digital Millennium Copyright Act of 1998 which has important implications for campuses. Also enacted was

the Sonny Bono Copyright Term Extension Act which extends the copyright protection from 20 years to 50 years after the death of the author (or 75 years after publication for corporate authors) and makes it a crime to circumvent copyright protections. The legislation brings the United States in compliance with the terms of the World Intellectual Property Organization Treaty on Copyrights (WIPO). There is a session on the new legislation tomorrow, so I won't go into further details here.

NEA's concern in lobbying for this legislation and for WIPO was the protection of the rights educators to own their work, and the "fair use" of materials for educators." NEA, library groups, and other education groups were successful in preventing a provision that would have established legal protections for virtually any collection of information (databases), even those currently in the public domain.

### **Intellectual Property Language in Bargaining Agreements**

Karen Hershey outlined what was necessary for a good policy on intellectual property in her remarks. In NEA's view a good policy is a well-negotiated labor agreement with binding arbitration. We assert that "faculty and staff should own the rights to their intellectual property." Unions protect faculty rights in this area through negotiations.

NEA maintains a database with over 500 higher education contracts for two and four-year campus. When language on patents, copyrights, royalties is reviewed there are several trends that become apparent (Note: Attachment 1 has examples of contract language in this area):

1. If the research is funded by another agency then the contract or grant for that research determines the distribution of income from the product.
2. If a faculty member invents, writes, or produces a product without the use of campus resources then they own full rights to the income from that product.
3. If the faculty member uses campus resources there are several options:
  - a. The proceeds are shared by the individual faculty and the campus - percentages are determined by the labor agreement.
  - b. Or the proceeds are shared until the "fair market value" of the resources has been repaid.
  - c. Sometimes there are provisions that students and other faculty on the campus may use the product for no charge. If it is marketed off the campus than the individual faculty member and the campus share the proceeds.
4. The faculty own the copyright to their classroom lecture notes and materials; and to their publications.
5. The administration cannot make signing away rights a condition of employment.

Distance education and other uses of technology are raising new questions: Who owns the products of distance learning? If a web site is created for a course who owns copyright? If a class is video taped who owns the tape? Administrators did not care about owning faculty members' lecture notes or books that sold 500 copies. But the market is hungry for courseware and now those notes suddenly have value, especially when they are in an electronic format.

## Future Trends

We may be disputing the ownership of outmoded products. Several developments will bring up new ownership issues.

1. The invention of electronic paper - a flexible, cordless computer screen that looks and acts like a piece of paper. If e-paper is widely accepted it will "turn the world of copyright upside down, and with its literary culture." Each Gyricon sheet is made of transparent silicone rubber with millions of plastic balls, smaller than a human hair, which carries an electrostatic charge. Arranging these balls creates black and white dots that can be arranged like pixels on a computer screen. Once they have been given a charge they will last a very long time, but they can also be run through the charge again to make another image. Other companies are developing versions of electronic books that will look and feel like a paper. (*Atlantic Monthly*, September 1998)
2. Musicians face new challenges in the digital age where people can download the latest music from the Internet. Companies are developing markers that will make it possible to determine who owns the product and which web sites it has been on. The same markers are being developed for printed materials ("New Electronic Tags Carry Copyright Information About On-Line Publications," *The Chronicle of Higher Education*, October 3, 1997)
3. There is growing resistance to the high cost of refereed journals in higher education. Faculty members in some disciplines are looking for ways to have research peer reviewed through publications on the Internet without the journals.
4. The NEA is releasing a multi-media, interactive CD-ROM on the future of higher education. Included are scenarios on campuses that may exist in the future. To obtain a copy send an e-mail to [HigherEd@nea.org](mailto:HigherEd@nea.org) or visit web site at <http://www.nea.org/he>

In preparing for this session, several web sites that have good information on the topic were found. The URL's are below:

<http://www.wtaccess.com/users/gummess/copr/bay/copr/bay.htm>). George Washington University graduate students developed "Copyright Bay" that uses coastal metaphors to help teachers and faculty members navigate "Fair Use Harbor" and avoid the dreaded "Infringement Reef."

<http://www.lib.uiowa.edu/proj/webbuilder/copyright.html>

Sites about copyright that are linked to the University of Iowa's Copyright and Multimedia Law for Webbuilders and Multimedia Authors.

<http://www.theatlantic.com/issues/98sep/copy.htm>

*Who will own your next good idea?* This article in the September 1998 issue of Atlantic Monthly talks about the future of copyright and impact of inventions like electronic paper.

## **Attachment 1 Intellectual Property Language in Labor Agreements**

**Article 10 of the University of Hawaii 1995-1999 on Intellectual Property, Patents and Copyrights has the following provisions:**

### General Scope

Except in the case of works written or produced for hire, and subject to any restrictions imposed by outside sponsoring or funding organizations, a Faculty Member who writes or produces any work shall have exclusive rights thereto, including the ownership of copyright.

It is recognized that there are usually three interests involved in connection with research work and invention performed with the resources of the University. These three interests are the Faculty Member researcher or inventor, the University, and the general public whose taxes support the University. If the research is financed wholly or in part by an outside agency, there exists an additional interest. Rights, royalties, and other net profits shall be shared fairly amongst the parties. In most cases, the Faculty Member will receive fifty percent (50%) of the net profits from the sale or exploitation of Patents.

#### A. Classroom lectures and the recording of presentations.

Faculty Members shall own all rights to materials prepared on their own initiative for classroom, educational or professional purposes, and shall be exclusively entitled to the benefit of any royalties derived therefrom.

For personal educational purposes, students may record classroom lectures or other presentations, using tape recorders or other electronic or mechanical devices, unless the Faculty Member denies permission for such recording. Permission shall not be denied when the student requires such devices as the result of a physical disability.

#### B. Distance Learning and Multimedia Presentations

The Employer may transmit or record for transmission any classroom instruction, lecture or other instructional or performance event produced by Faculty Members as a part of a program of distance learning, e.g., HITS and SkyBridge, where the Faculty Member has received either an equivalent reduction in other classroom assignments or overload compensation as set forth in Article XX, Salaries. The Employer, however, may not sell or re-transmit in future semesters any such recording except under the terms of a written

Agreement between the Employer and the Faculty Member providing each party with a fifty percent (50%) interest in the net profits from either the sale or rebroadcast.

#### C. Patents and Copyrights

The rights of Faculty Members relating to patents and copyrights shall be governed by the University of Hawaii Patent and Copyright Policy (effective 11/22/68), and the Executive Policy E5.500 Administration of the Patent and Copyright Policy and the Administrative Procedures A5.500, A5.501, and A5.502 (as in effect on 12/14/96), which are incorporated herein by reference. (See R-10, R-11, R12, R-13, R-14 of Reference Section.)

#### D. Review and Amendment

The parties recognize that the issue of intellectual property is complex and that there may be a need to amend or modify the current University of Hawaii Patent and Copyright Policy. Therefore, a Joint Committee shall be established to periodically review the issue of intellectual property rights and the applicable policies and procedures. The Joint Committee shall be comprised of three representatives appointed by the UH President and three representatives appointed by UHPA. The Joint Committee shall meet at least once each academic year and report its deliberations, findings, and recommendations, if any, to the Employer and the Union.

#### **Agreement for Youngstown State University 1993 – 1996 (Ohio)**

24.3: Research Proceeds: All proceeds which result from faculty research, including marketable computer software programs, belong to the faculty member unless the research is subsidized by YSU or an external agency which stipulates contrary terms in a separate and specific contract as a condition of support. Research is considered to be subsidized by YSU only if the faculty member receives a reduction in teaching load, a Research Professorship, a Sabbatical/Faculty improvement Leave, or a University Research Council grant, for the purpose of conducting the research. Under no circumstances shall YSU's share exceed 25% of the proceeds after the recovery by YSU of the cost of subsidy specified in the contract. The signing of a specific contract with YSU for subsidized research cannot be a stipulated condition of employment. This policy shall not apply to royalties, which shall go exclusively to the author.

#### **Agreement for State University System of Florida 1995-1998 (excerpts)**

##### Article 18 Inventions and Works.

18.1 University Authority and Responsibilities. Section 240.229, Florida Statutes, authorizes each university to establish rules and procedures regarding patents, copyrights,

and trademarks. Such rules and procedures shall be consistent with the terms of this Article.

18.2 Definitions. The following definitions shall apply in Article 18: (a) A "work" includes any copyrightable material, such as printed material, computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, musical or dramatic compositions, choreographic works, pictorial or graphic works, and sculptural works. Instructional technology material, as defined in Section 9.8(b), is included in this definition.

(b) An "invention" includes any discovery, invention, process, composition of matter, article of manufacture, know-how, design, model, technological development, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, and any mark used in connection with these items. Instructional technology material, as defined in Section 9.8(b), is included in this definition.

(c) "Instructional technology material" is defined in Section 9.8(b).

(d) "University support" includes the use of university funds, personnel, facilities, equipment, materials, or technological information, and includes such support provided by other public or private organizations when it is arranged, administered, or controlled by a university.

### 18.3 Works

#### (a) Independent Efforts.

A work made in the course of independent efforts is the property of the employee, who has the right to determine the disposition of such work and the revenue derived from such work. As used in this Section, the term "independent efforts" means that:

- (1) the ideas came from the employee;
- (2) the work was not made with the use of university support; and
- (3) the university is not held responsible for any opinions expressed in the work.

#### (b) University-Supported Efforts.

(1) If the work was not made in the course of independent efforts, the work is the property of the university and the employee shall share in the proceeds therefrom.

(2) Exceptions. The university shall not assert rights to the following works:

- a. Books, articles, and similar works, the intended purpose of which is to disseminate the results of academic research or scholarly study; and
- b. Works developed without the use of appreciable university support and used solely for the purpose of assisting or enhancing the employee's instructional assignment.

## Legal Definition

Intellectual Property is any product of human intellect that is unique and un-obvious with some value in the marketplace. Intellectual property laws cover ideas, inventions, literary creations, unique names, business models, industrial processes, computer program code, and more. Intellectual Property law is primarily an umbrella term for three distinct areas of the law: Copyright, Trademark and Patent. Intellectual Property also deals with publicity rights, misappropriation, and unfair competition.

## University of Kentucky

### INTELLECTUAL PROPERTY DISPOSITION AND ADMINISTRATIVE REGULATION (APPROVED BY THE BOARD OF TRUSTEES)

#### I. PREAMBLE

Research leading to new knowledge and the transfer of this new knowledge through teaching and service are two of the major responsibilities of the University of Kentucky. Traditionally, these responsibilities have been met through teaching, publication, and demonstration. As early as 1946, the University recognized that some new knowledge or technology had commercial value and warranted protection through the patent process. In 1974, a copyright policy recognized the traditional rights of faculty to the written fruits of their scholarly activity and the University's rights of ownership to other materials produced as a result of direct assignments, e.g., videotapes, films, and programmed instruction materials.

Implicit in these developments was the understanding that the University not only had a responsibility to bring new knowledge into use by the general public, but also that such knowledge or technology sometimes has commercial value and should be treated as a financial asset to be used, conserved, or applied in such a way as to generate an appropriate financial return. Transfer of such information or technology through licensing satisfied both objectives, i.e., dissemination for use and the realization of a return.

Developments in recent years have broadened the scope of information and technology that can have potential commercial value and that, therefore, should be treated as assets subject to University ownership and control. In addition to new machines, compositions of matter, and written materials which traditionally have been the subject of patents and copyrights, new life forms, bioengineered agents, plant varieties, computer software, video courses, etc., are now normal outcomes of University activities. Thus, a broad policy covering all aspects of intellectual property is provided.

**Intel. Property Legal Definition and Univ. of Kentucky Policy**

## OBJECTIVES OF THE POLICY

- A. To facilitate the transfer of knowledge and technology and the utilization of such knowledge and the technology to the general benefit of society.
- B. To encourage research, scholarship, and a spirit of inquiry, thereby generating new knowledge.
- C. To provide an administrative system to determine the commercial significance of discoveries and new developments and to assist in bringing these into public use.
- D. To provide for the equitable disposition of interests in new intellectual property among the developer, author, or inventor (the originator), the University, and, where applicable, the sponsor.
- E. To provide incentives to originators in the form of personal development, professional recognition, and financial compensation.
- F. To safeguard intellectual property so that it may receive adequate and appropriate legal protection against unauthorized use.

## ADMINISTRATIVE PROCEDURES

If the IPC determines that the University has a legal interest in the property and judges that there is a reasonable chance for successful commercialization, it shall: (1) inform the originator in writing that the University claims ownership rights to the property; (2) determine and record the rights of the originator to share in any income in accord with Section VII; and (3) refer the matter to UKRF together with its recommendations as to appropriate courses of action. The originator shall execute an assignment of ownership rights to UKRF as the designated agent of the University.

## ROYALTY INCOME SHARING POLICY

A. Net income is defined as gross royalties, license fees, or other such payments received by UKRF on behalf of the originator and the University less necessary deductible costs, e.g., mailing or courier costs, interferences, licensing costs, patent enforcement, necessary travel, auditing fees, or sponsor shares. The phrase "gross royalties, license fees, or other such payments" means agreed upon payments specified in a license or other commercialization agreement usually expressed as a percentage of sales or a fixed dollar amount per unit manufactured in return for the right to use, copy, reproduced, make, or sell an item of intellectual property or product based on such property. UKRF shall reserve the right to suspend distribution of income where there is reason to believe that substantial deductible costs will be incurred in the future. The originator shall be informed of such decisions. An annual detailed accounting of income and costs shall be made available to the originator by UKRF.

B. Except as otherwise provided through supplementation under Section VII.C., net calendar year royalty or license income as defined in Section VII.A. derived from commercialization of intellectual property covered by this policy shall be shared as follows: 40% to the originator, 20% to the originator's department or immediate administrative unit, 20% to the dean of the originator's college, and 20% to UKRF.

C. In certain University units, because of conditions of employment and the nature of work assignments, and the fact that units often assume continuing responsibilities for maintenance and periodic revision of the property, an alternate distribution of net income to employees may be appropriate. Units wherein these situations may occur should propose appropriate modifications to the distribution scale in Section VII.B. Upon approval by the President, such modifications shall be added to this policy as unit supplements. Such modifications may not increase the combined shares of the originator and the department as specified in Section VII.B., except in unusual and very specific circumstances.

D. The department's share shall be retained in a separate account in UKRF and shall be available for expenditure by the department in accord with a budget to be approved by the Vice President for Research and Graduate Studies. Such funds may be allowed to build across fiscal years to reach amounts necessary for major purchases or other nonrecurring purposes. Such funds may be invested, and the income shall be credited to the account in accord with existing policy regarding investment of restricted funds.

E. The originator's rights to share in net income as stated above (but not including the department's share) shall remain with the individual or pass to the individual's heirs and assigns for so long as net income is derived from the property.

F. Where more than one individual is considered to be the originator, such persons will determine among themselves the individual share each will receive. In the event that they cannot reach such agreement, the determination shall be made by the IPC after giving each individual an opportunity to present a personal position. Such determination by the IPC shall be final.

G. Originators are encouraged to consider making a gift of all or a part of their income shares to support University research activities. Upon request by an originator, UKRF will retain all or a part of the originator's share in a separate account within UKRF for expenditure in accord with the originator's wishes. The originator may restrict such gifts to any particular program or unit of the University including the originator's own research program. Such requests may be limited in duration to a specific time period or to some specific future event, e.g., the originator's retirement or resignation from the University, and may be cancelled or modified by the originator at any time.

H. This policy shall not change income-sharing agreements entered into prior to the adoption of this policy.

## **Revenue Distribution (Indiana University)**

Monetary Proceeds All monetary proceeds from the transfer or commercialization of applicable intellectual property shall be distributed as follows, unless legal requirements or contractual agreements require otherwise:

Of the first \$100,000 of net revenue:

The Creator(s), or Creator's heirs, successors, and assigns, shall receive one-half (50%) of the net revenue arising from applicable intellectual property.

The Campus(es) responsible for the applicable intellectual property shall receive one-quarter (25%) of the net revenue arising from the applicable intellectual property to support research activities.

The University shall receive one-quarter (25%) of the net revenue arising from the applicable intellectual property to support research and technology transfer activities.

Of the next \$300,000 of net revenue:

The Creator(s), or Creator's heirs, successors, and assigns, shall receive forty percent (40%) of the net revenue arising from applicable intellectual property.

The Campus(es) responsible for the applicable intellectual property shall receive one-quarter (25%) of the net revenue arising from the applicable intellectual property to support research activities.

The University shall receive thirty-five percent (35%) of the net revenue arising from the applicable intellectual property to support research and technology transfer activities.

Of the next \$600,000 of net revenue:

The Creator(s), or Creator's heirs, successors, and assigns, shall receive thirty percent (30%) of the net revenue arising from applicable intellectual property.

The Campus(es) responsible for the applicable intellectual property shall receive one-quarter (25%) of the net revenue arising from the applicable intellectual property to support research activities.

The University shall receive forty-five percent (45%) of the net revenue arising from the applicable intellectual property to support research and technology transfer activities.

Of net revenue in excess of \$1,000,000:

The Creator(s), or Creator's heirs, successors, and assigns, shall receive twenty-five percent (25%) of the net revenue arising from applicable intellectual property.

The Campus(es) responsible for the applicable intellectual property shall receive one-quarter (25%) of the net revenue arising from the applicable intellectual property to support research activities.

The University shall receive one-half (50%) of the net revenue arising from the applicable intellectual property to support research and technology transfer activities.

The University Research and Policy Committee shall review the dollar thresholds set forth above, and revise them as necessary in light of inflation and other economic factors, not less than once every five years after the effective date of this Policy.

In the absence of a written agreement to the contrary, multiple Creators shall receive equal portions of the Creator(s)' share of net revenue. When multiple Creators are located on different Campuses, each Campus shall receive the same percentage of the total Campus share of net revenue as the Creators located on that Campus receive of the total Creator share of net revenue.

The distribution on each Campus of the Campus(es)' share of net revenue among Schools and Departments shall be determined according to written policies to be developed on each Campus. Those policies shall ensure that such distributions equitably reflect the role of Schools and Departments in the development of applicable intellectual property.

Special facts concerning applicable intellectual property may warrant a different distribution of net revenue. Agreements with respect to alternative allocation of revenues shall be in writing and require the consent of the Creator(s), the Dean(s) of the Creator(s)' School(s), the Chancellor(s) of the Creator(s)' Campus(es), and the Vice President for Research and Dean of the Graduate School or his or her designee.

#### Equity Interests

The Technology Transfer Office may negotiate, but shall not be obligated to negotiate, for equity interests in lieu of or in addition to monetary consideration as a part of an agreement between Indiana University and an external entity relating to applicable intellectual property. Such negotiations shall comply with federal and state statutes, and conflict of interest and commitment and other University policies.

Except as provided below, each Creator shall make an irrevocable election between subparagraphs (a) and (b) below as to the distribution of his or her share of equity interests, or the proceeds from the sale therefrom, resulting from the transfer or commercialization of applicable intellectual property, unless legal requirements or contractual agreements require otherwise:

The University shall own the equity interests. If and when monetary proceeds are generated by the sale of equity interests, those proceeds shall be distributed according to the policies set forth herein for revenue distribution. The University does not act as a fiduciary for any Creator concerning equity interests or other nonmonetary consideration received under the terms of this Policy and no Creator shall have any interest in, or legal right to, such equity interests or nonmonetary consideration.

The University shall distribute to any Creator making this election that Creator's share of the equity interests resulting from the transfer or commercialization of applicable intellectual property. The Creator's share of the equity interests shall be determined according to the following formula:

The fair market value of the equity interests shall be determined as of the next business day after the day on which the Creator requests the distribution.

The University shall then set aside that portion of the equity interests which is equal in value to the direct expenses incurred by the University for obtaining intellectual property protection of the applicable intellectual property (unless those expenses have been covered as part of the distribution of monetary proceeds).

The University shall then transfer to the Creator that portion of the remaining equity interests to which the Creator would be entitled under Section 4(a) (Monetary Proceeds) above, based on the total value of the remaining equity interests.

The Creator shall not have the right to specify the distribution of equity interests under Section 4(b)(ii)(b) where such distribution is impossible or impractical.

Representative  
**HUGH "BUD" FATE**  
Finance Committee  
Energy Council-Executive Committee  
119 N. Cushman St. Suite 213  
Fairbanks, Alaska 99701  
(907) 452-6084  
Fax: (907) 452-6096

## Alaska State Legislature



While in Session  
State Capitol, Room 128  
Juneau, Alaska 99801-1182  
(907) 465-4976  
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Toll Free: 1 866-465-4976  
e-mail:  
Rep\_Hugh\_Fate@legis.state.ak.us  
House District 7

### House of Representatives

## Memorandum

To: Senator Fred Dyson  
Fm: Jim Pound  
Cc:  
Date: March 4, 2004  
Re: Question on percent of research

---

As per your request I re-researched the information on research carried out at the University of Alaska. It appears that either the number has changed or I erred on the Sponsor Statement. According to the attached summary, the University currently conducts 52 percent of the research in the state.

Also included is some additional background on the research being conducted at this time. I hope this answers your question.

### Summary: Research and Service Profile

Research at the University of Alaska is a critical component in the delivery of programs and services that are of value now and to the future of Alaska. UA research is internationally recognized in a wide array of topics that include engineering, space physics, climate change, and social and policy research. The University of Alaska carries out the bulk of research and development (R&D) activity in Alaska. It carries out 52% of the R&D for the state. (The average in other states is that industry carries out 71% of the research and development and universities contribute 13%.) As a result, there is a strong reliance in Alaska on University of Alaska research to guide economic development and opportunity. Fortunately, top scientists in many fields conduct research at UA, thus preserving and enhancing the value of research for the present and into the future.

UA has seen a steady increase in total revenue from research. In FY02, research revenue, including indirect cost recovery distributions, totaled more than \$119 million. This amount represented an increase of approximately \$10 million over the previous fiscal year. A measure of the return on state appropriated funding is shown in the ratio of non-general funding generated from research activities that were initially financed by general fund revenue appropriations. UA research from 1998-2001 generated an average of \$5.00 from non-general fund sources for each state dollar appropriated for research. In FY02 each state dollar appropriated for UA research generated an additional \$6.30 in revenue from other sources. This represents a 39% increase over the 1998-2001 average (Table 5.01).

In this edition of UA In Review, 16 of the more than 70 institutes, centers, and schools that are internationally known for their contributions to research of specific interest to Alaska are profiled. They include the Alaska Native Language Center (UAF), the Alaska Small Business Development Center (UAA), the American Russian Center (UAA), the Arctic Region Supercomputing Center (UAF), the Cooperative Extension Service (UAF), the Environmental and Natural Resources Institute (UAA), the Geophysical Institute (UAF), the Institute of Arctic Biology (UAF), the Institute for Circumpolar Health Studies (UAA), the Institute of Northern Engineering (UAF), the Institute of Social and Economic research (UAA), the International Arctic Research Center (UAF), the School of Agriculture and Land Resource Management (UAF), the School of Fisheries and Ocean Sciences (UAF), the School of Mineral Engineering (UAF), and the UA Museum (UAF). Whether one's interest is magnetic sub storms in space or optimal methods of growing cabbage, UA enhances the quality of life and provides opportunity for all Alaskans.

### **Big Plans on a Small Scale**

UAF's Center for Nanosensor Technology, in partnership with private industry and North Dakota State University, is developing science, engineering and computational capabilities to support advanced manufacturing technology for microelectronic devices. Clean rooms and necessary instrumentation are being installed on the Fairbanks campus to support research and manufacturing activities, which has the potential to advance ultra-small technology used in home electronics, medicine, national defense and other fields, as well as bring a new high-tech industry to Alaska.

### **Native Health Grant**

UAF was awarded an \$11 million grant in 2001 to establish an Alaska Native Health Research Center and Center of Biomedical Research Excellence in Alaska. The federally funded grant is intended to develop knowledge about the behavioral, genetic and nutritional factors related to obesity and its relationship to diabetes and heart disease.

### **Initiative Results**

As a result of legislative funding last year, UAF hired Loren Buck as assistant professor of fisheries. Based at the Fishery Industrial Technology Center in Kodiak, Buck is part of a team of UAF scientists that secured more than \$1 million in federal funding to study the Kodiak Island marine ecosystem with the aim of learning more about the island's endangered Steller sea lions. What they learn in this study will help resource managers work toward recovery of sea lions while lessening the impact on Kodiak's commercial fishing economy.

### **Arctic Energy**

The Arctic Energy Technology Development laboratory was established at UAF in 2001 through funding secured by Alaska's Congressional delegation. Scientists at the lab are working closely with the power generation, coal, oil and natural gas industries to design and fund research projects that will make a difference for Alaska with an emphasis on proposals that strongly encourage UAF and industry collaborations.

### **Genome Project**

Recent advances in gene sequencing technology have created an enormous amount of data and information for scientists. These facts and figures are the base units for gaining a new understanding of diseases and in developing new treatments. The large amounts of data generated require innovative uses of supercomputers and statistical methods, creating a whole new world of potential discoveries in the field of bioinformatics. Using existing expertise, from computer software developers to database management experts, coupled with the powerful capabilities of the Arctic Region Supercomputing Center, UAF is poised to become a significant player in this emerging field.

### **Research Partnerships**

UAF has joined the Inland Northwest Research Alliance to work with faculty and researchers from seven other universities to jointly address issues vital to the future of Alaska and the world. And as a member of the University of the Arctic, UAF is part of a unique virtual university made up of universities, colleges, researchers and indigenous peoples in the Far North dedicated to sharing knowledge on circumpolar studies.

# SENATE COMMITTEE REPORT

DATE: 2/20/04

FURTHER:

DATE TURNED IN TO OFFICE: 3.8.04

Health, Education and Social Services Committee considered HOUSE BILL NO. 282

## HB 282 UNIVERSITY EMPLOYEE RESEARCH CONTRACTS

"An Act relating to contracts between the University of Alaska and its employees involving research or other development of intellectual property and to the authority of the president of the University of Alaska regarding employee contracts for development of intellectual property."

and recommends:

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

**Senate Bill:**  
 Same Title  
 New Title

**House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	Indet.	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	Indet.	FN#
ADM	1/20		X		1
UAA	1/20		X		2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Lynne Green</i>			✓	
<i>Betty Davis</i>	✓			
<i>Gary Wilber</i>	✓			
CHAIR: <i>Paul Ryan</i>			✓	

HB

338

# Alaska State Legislature

Session  
State Capitol Building, Room 118  
Juneau, Alaska 99801-1182  
Phone (907) 465-2995  
Fax (907) 465-6592

Interim  
716 West Fourth Avenue, Suite 430  
Anchorage, Alaska 99501  
Phone (907) 269-0250  
Fax 9907) 269-0249

Chair, Judiciary Committee

Vice-Chair, House Committee on  
Economic Development,  
Trade and Tourism

Member  
Oil & Gas Committee

## Representative Lesil McGuire *House District 28*

### MEMORANDUM

To: Senator Fred Dyson  
Chair, Senate HESS

From: Representative Lesil McGuire

Date: May 2, 2004

Re: Request for Hearing, HB 338: An Act relating to attendance at public school; and providing for an effective date.

---

I respectfully request that "HB 338: An Act relating to attendance at public school; and providing for an effective date" be scheduled for a hearing at your earliest convenience. Please refer to the attached bill packet for background information.

If you have any questions please feel free to contact me personally, or my staff, Ryan Makinster, at 2995. Thank you for your time and consideration.

# Alaska State Legislature

Session:  
State Capitol  
Juneau, AK 99801  
Phone: (907) 465-2995  
Fax: (907) 465-6592



Interim:  
716 W 4<sup>th</sup> Avenue, Suite 430  
Anchorage, AK 99501-2133  
Phone: (907) 269-0250  
Fax: (907) 269-0249

Representative Lesil McGuire  
Chair, Judiciary Committee

## HB 338

*"An Act relating to attendance at public school; and providing for an effective date."*

### SPONSOR STATEMENT

HB 338 accomplishes two simple, but necessary, statutory changes that govern the entry age for attendance into public school and the process by which local school districts may allow early entry applicants to be accepted.

Currently, AS 14.03.080(c) stipulates that a child under school age may be admitted only if the child can demonstrate "minimum standards prescribed by the board evidencing that the child has the mental, physical, and emotional capacity. . ." Under the current statute, this language requires a full board vote in order to approve such early entry applications. The new language included in HB 338 would allow local school boards to delegate this authority to their chief school administrator, thus relieving the boards from this minor administrative burden more appropriately left to career education professionals.

Further, HB 338 adjusts the date certain, from August 15<sup>th</sup> to September 1<sup>st</sup>, by which a child must have attained the age of five for standard entry in kindergarten. Alaska is one of only three states that have an entrance cut-off date on or before August 15<sup>th</sup>. 35 states have kindergarten entrance cut-off dates between August 31 and October 16<sup>th</sup> with September 1 being shared by 19 states. Because of the large number of new residents arriving from other states with their respective cut-off dates and varying school start dates among Alaska's school districts, we believe this change will create a less confusing standard that will allow the greatest number of Alaskan students to begin school each year without having a disruptive impact on a classroom environment. It is for these reasons that this change is supported by a number of Alaska school districts and the Alaska Department of Education and Early Development.

Re: Early entry

**Subject: Re: Early entry**

**Date: Tue, 17 Feb 2004 10:18:17 -0900**

**From: "Wiget\_Larry" <Wiget\_Larry@asdk12.org>**

**To: "Ryan Makinster" <Ryan\_Makinster@Legis.state.ak.us>**

Early Entry Students - ASD Legislative Priority 2003

The Anchorage School Board urges the Alaska Legislature to amend Alaska Statute 14.03.080 to afford the governing body of a school district the discretion to delegate to, the superintendent or his/her designee the authority to approve early entry of a student on an individual basis. Approval for early entry will be based on minimum standards prescribed by the board for identifying whether the child has the mental, physical, and emotional capacity to perform satisfactorily in the educational program being offered.

Rationale. Under AS 14.03.080(c), a child under school age may be admitted to the public school in the school district of which the child is a resident at the discretion of the governing body of the school district if the child meets minimum standards prescribed by the board evidencing that the child has the mental, physical, and emotional capacity to perform satisfactorily for the educational program being offered.

Regulations established by DEED and effective July 1, 2002, have interpreted this statute to mean, "the governing body of the school district must approve early entry of a student on an individual basis."

The Anchorage School Board believes that once it has adopted appropriate policy standards, it should have the discretion to delegate this responsibility for implementation to the district administration.

AASB approved a similiar resolution....

#### 1.11 Discretion to Approve Early Entry - AASB 2004 Resolution

The AASB supports an amendment to state statutes or regulations to afford the governing body of a school district the discretion to delegate to, the superintendent or his/her designee the authority to approve early entry of a student on an individual basis. Approval for early entry will be based on minimum standards prescribed by the board for identifying whether the child has the mental, physical, and emotional capacity to perform satisfactorily in the educational program being offered.

Rationale. Under AS 14.03.080(c), a child under school age may be admitted to the public school in the school district of which the child is a resident at the discretion of the governing body of the school district if the child meets minimum standards prescribed by the board evidencing that the child has the mental, physical, and emotional capacity to perform satisfactorily for the educational program being offered.

Regulations established by DEED and effective July 1, 2002, have interpreted this statute to mean, "the governing body of the school district must approve early entry of a student on an individual basis."

AASB believes that once it has adopted appropriate policy standards, it should have the discretion to delegate this responsibility for implementation to the district administration.

From: McRae\_Patricia  
Sent: Monday, February 16, 2004 12:45 PM  
To: 'ryan\_macinster@legis.state.ak.us'  
Cc: Ginder\_Julie; Long\_Eunice  
Subject: change of entry date for kindergarten students

I am writing to support the proposed change of entry date for Alaskan children into kindergarten from August 15th to September 1st. This change will allow children who turn 5 years of age by September 1st to begin kindergarten in that school year.

As the Executive Director for Elementary Education, I have worked with many, many families whose child turns 5 years of age between August 15th and the first day of school (the day after Labor Day in Anchorage). These parents want their child to begin school with their like-age peers. Because of the August 15th deadline, we must turn these families away, when their children would have turned 5 years of age by the first day of school. This is difficult for many families to understand. It is also my understanding that the entry date for kindergarten in most states across the U.S. is September 1st, and because of the large military populations we deal with in Alaska, the consistency provided in such a change will additionally benefit the children of military families.

My colleagues, Elementary Supervisors Julie Ginder and Eunice Long, concur with the proposed change to September 1st as well. We believe this will allow us to better serve these children and that coming in line with the majority of other states across the union will provide consistency for families who are moving to Alaska.

Thank you,  
Patricia McRae

Patricia McRae, Executive Director  
Elementary Education  
742-4254

"Prosperity is a great teacher; adversity a greater."  
-William Hazlitt

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: HB 338  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Education & Early Development  
 Title "An Act relating to attendance at public school; and providing for an effective date." RDU K-12 Support  
 Component Foundation Program  
 Sponsor Representative McGuire  
 Requester \_\_\_\_\_ Component No. 141

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	*	*	*	*	*	*
Miscellaneous						
<b>TOTAL OPERATING</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>	*	*	*	*	*	*

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)

\*Section 2 of the bill will have some cost due to the proposed change to the cut off date for enrolling 5-year-olds.

The department is unable to estimate these costs.

Prepared by: Eddy Jeans, School Finance Manager Phone 465-8679  
 Division Education and Support Services Date/Time 2/17/04 9:19 AM  
 Approved by: \_\_\_\_\_ Date 2/17/2004  
 Agency Education & Early Development

# Social Policy Report

*Giving Child and Youth Development Knowledge Away*

Volume XVI Number 2

2002

## At What Age Should Children Enter Kindergarten? A Question for Policy Makers and Parents

Deborah Stipek

### *Summary*

Research that bears on the issue of school entry policies is summarized in this report. The focus is on the age children should be to enter kindergarten and the potential benefits of delaying school entry for all or some children. The research reviewed uses three methodologies:

- (1) comparing outcomes for children who have delayed entry by a year with children who entered school when they were eligible;
- (2) comparing children in the same grade who have different birth dates; and
- (3) comparing children who are the same age but in different grades, as well as children who are a year apart in age but in the same grade.

Findings suggest that studies using the first method are inconclusive because accommodations are not made for the selection factors associated with the decision to hold a child out of school. Findings from the other two methods suggest that relatively older children have a modest academic advantage over younger children in the first few grades of school, but that advantage typically disappears. There was no evidence suggesting that younger children gained less than older children from early school experience, and some evidence suggested that school experience produced greater gains on most cognitive dimensions. Generally, the findings reviewed provide more support for early educational experience to promote academic competencies than for waiting for children to be older when they enter school. The author suggests that the focus should be more on making schools ready for children than on making children ready for school.

# Social Policy Report

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# From the Editor

One purpose of *SPR* is to promote developmental approaches to policy issues. Too frequently policies ignore the developmental needs of the child. This has been especially true for the growth of mass public schooling in this country. The development of our educational system for children has been based on the agrarian calendar (which, e.g., is why we have a nine month schedule), on increases in the size of the population, and on labor needs, not on the developmental nature and needs of children. The Carnegie Corporation report *Turning Points* published in 1989, for example, documents how middle schools, which arose mainly due to growth in absolute school size, conflict with the developmental nature of the child. The child has to change school at a time when he/she is experiencing the biological, social, and emotional changes of puberty. The cumulative number of changes associated with a school transition at the same time can overwhelm the child. This is a singular example of the type of problem that can arise when the development of the child is not considered when we implement policies or change institutions involving children and youth.

The current issue of *SPR* addresses children's age of entry into school. Increasing numbers of children are entering school at younger ages. Many parents become concerned that their child is disadvantaged if he/she does not enter school as early as possible. The current article, however, finds that age of school entry does not much matter for children's later development. This finding must be partially qualified by the difficulties of such research. Because children are not randomly assigned to age of entry, experiments cannot be done, so causal arguments are challenging. Samples in some studies are small. Nonetheless, this article brings empirical research and careful scholarly thought to an issue much on the minds of parents, philanthropy, and educators. It shows how the developmental needs of young child should be the main factor driving changes in the early education of children.

Lonnie Sherrod, Ph.D., Editor  
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## At What Age Should Children Enter Kindergarten? A Question for Policy Makers and Parents

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At what age should children begin school? Just a few decades ago the question was relevant to debates about compulsory education laws. But over time, compulsory education laws for school entry have become more symbolic than coercive. Today, even though school is not usually compulsory until the age of six (20 states) or seven (22 states), most children enter school when they are five years old.

Now the common question for policy makers concerns the specific age at which children should be *allowed* to enter kindergarten. Since compulsory education laws do not apply until at least a year after the age of eligibility, the dilemma for parents is whether to send their children to kindergarten as soon as they are eligible. The focus for both policy makers and parents is on determining when children are ready for school. Not discussed in this report, although perhaps a better question, is how do we make schools ready for children.

### Current School Entry Policies & Practices

#### State Policies

The cutoff birth date for kindergarten entry is typically set by the state, although a few states give school districts discretion. Currently, the modal cutoff date is the beginning of September, about the time school begins (see Table 1).

The trend, however, has been to move the cutoff date up, so that children enter kindergarten older on average. Between 1975 and 2000, 22 states moved the birth date required for school entry to an earlier point in the year. Nine of those changes were made since 1990. One state (Indiana) changed its law from allowing districts to set their own age cutoff to a state requirement of June 1. Only one state (Idaho) changed in the opposite direction (from August 16 to September 1).

The reasons articulated in a 1999 California bill (AB 25: Article 1.5, 48005.10) for moving the birth date cutoff to earlier in the school year illustrate the rationale that is typically found in legislative summaries:

(A) By changing the age at which children generally enter kindergarten, California's children will be better prepared to enter into the academic environment that is required by the kindergarten curriculum.

(C) Comparisons between California pupils and pupils in other states on national achievement tests in the later

grades are likely to be more equitable if the entry age of California pupils is more closely aligned to that of most other states.

#### Parental Practice

An increasingly common practice, which also raises the average age of kindergartners, is for parents to voluntarily delay their child's entry a year beyond the time he or she is eligible to begin school (sometimes referred to as academic "redshirting"). Brent, May, and Kundert's (1996) analysis of data for one school district over a 12-year period found steady increases in the use of delayed school entry from about 6% in the first block of three years to about 12% in the most recent block of three years. Recent surveys suggest that about 9 or 10 percent of parents nationally delay their children's entry into kindergarten (Brent et al., 1996; Cosden, Zimmer & Tuss, 1993; May, Kundert, & Brent, 1995; National Center for Education Statistics [NCES], 1997; Byrd, Weitzman & Auinger, 1997). Boys are more likely than girls to be held out, by a factor of nearly 2 to 1 (Brent et al., 1996; Cosden et al., 1993; May et al., 1995). And the closer children's birthdays are to the cutoff date (and thus the younger they would have been if they had entered when the law allowed), the more likely they are to be held out (Cosden et al., 1993; Graue & DiPerna, 2000; May et al., 1995; Mayer & Knutson, 1999; NCES, 1997).

The evidence on race and socio-economic status (SES) differences in delaying school entry is mixed. Studies have reported that Caucasians were more likely to be held out than African-Americans (NCES, 1997) and Latinos (Cosden et al., 1993). Some studies report that middle-class parents

Table 1 Date by Which Child Must Turn Five Years to Enter Kindergarten

Date	Number of States
June 1	1
July 1	1
August 1	1
August 15	1
August 31/September 1	22
September 10-15	4
September 30/October 1	6
December 1-2	3
December 31/January 1	6
LEA Option	5

Source: Education Commission of the States, March 2000; Denver, CO (www.ecs.org).

are more likely to hold their children out than low-income parents (see Meisels, 1992). Other studies that have assessed SES effects report no differences (Graue & DiPerna, 2000; NCES, 1997; Morrison, Griffith, & Alberts, 1997)

### Likely Directions in Policies and Practices

The current emphasis on school accountability based primarily on students' performance on achievement tests is likely to encourage more states and districts to consider increasing the age of school entry. The reasoning, seen in the excerpt from the California bill mentioned above, is that if older children benefit more from instruction than younger children, achievement gains could be realized by requiring children to be older when they entered kindergarten. This is a politically attractive strategy for raising test scores because it is simple and economical.

Another current policy trend, eliminating social promotion, puts additional pressure on educators to ensure students' academic success, especially in the early elementary grades, when retention rates are the highest. If older children are better able to master the curriculum, fewer would need to be retained.

School-level practices are also likely to be affected by current accountability pressures and the elimination of social promotion, especially in states in which school resources are based on students' achievement test scores. Studies of kindergarten teachers show that the majority endorse later school entry for children who appear not to be ready for kindergarten (NCES, 1997). The pressure to increase test scores may encourage teachers to advise more parents to hold out relatively young children, especially boys, who they consider to be at risk of poor achievement. Parents' concerns about the increased likelihood of their child being retained may also result in an increased number of children being held out for a year. In brief, the current educational policy climate suggests that the trend toward raising the school entry age is likely to continue both formally, in state legislation or school district policies, and informally, in parent decisions.

### The Substance of the Debate

The argument for moving the birth date cutoff earlier, so that children enter kindergarten at an older age, is based on the assumption that with age come competencies that will improve children's chances for success in school.

Although intellectual competencies are often the focus, other dimensions of development are often included. The National Goals Panel 2000, for example, considers physical well-being; motor, social, and language development; and dispositions for learning as relevant to school readiness, in addition to cognition and knowledge (Kagan, Moore, & Bredekamp, 1995). Older children are assumed to be more *ready* and better able to profit from formal schooling (see Frick, 1986; Uphoff & Gilmore, 1986). The claim that older is better is based on a theory of development which privileges the contributions of biological maturation (see Kagan, 1990; Meisels, 1999; Smith & Shepard, 1988). Thus, voluntary delayed entry is more common among boys, because they are believed to mature more slowly than girls.

In some discussions of school readiness there is an implicit notion of a threshold of cognitive and social development. It is not assumed simply that "older is better,"

but rather, older is better until children achieve that prerequisite level of development that is required for them to succeed in school. That threshold is associated with a particular age.

Also implicit in the theory underlying policies and practices that delay school entry is the notion that the "gift of time" and general (out-of-school) experience outweigh the benefits of a school setting for a child deemed unready for kindergarten. This assumption

has particularly important implications for low-income and minority children, who begin school on average with substantially lower academic skills than children from middle- and upper-income families (Adams, 1990; Stipek & Ryan, 1997; Whitehurst et al., 1994). An important policy question is under what conditions are these children at risk for school failure most likely to catch up with their more affluent peers? Are they better served by having more time out of school or by having more time in an instructional environment?

Early childhood education experts who oppose the trend toward later school entry stress the role of experience in learning and development. Their argument is based on the assumption that time in an instructional context is more valuable and will promote academic success better than additional biological maturation or than general experience out of school. The two positions on the issue of school entry age thus mirror rather well the age-old nature-nurture debate.

Experts who privilege experience over maturation also point out that development is uneven and multidimensional. A threshold for development cannot be established because

*The current emphasis on school accountability based primarily on students' performance on achievement tests is likely to encourage more states and districts to consider increasing the age of school entry.*

a child's level of development varies across different dimensions. Thus, children are not likely to achieve the level considered important for school success in all domains at the same time.

The two positions also differ on where the responsibility for children's success resides. Proponents of delayed school entry for some if not all children focus on the preparation of the child for the program. Opponents argue that the policy is based on a Procrustean notion that the curriculum is set and children must be fit into it as it is. A more appropriate strategy is to adapt the curriculum to the developmental levels of the children who enter kindergarten, whatever their cognitive and social skills. They take the position that if children are faring poorly in kindergarten programs, the solution needs to be found in the school program not in the child.

Critics of voluntary delayed school entry are also concerned that the practice will exacerbate socioeconomic differences in academic skill levels. They reason that middle-class families are more likely to have financial resources for an extra year of preschool or high-quality childcare, and thus are more likely to hold out their children. This would effectively make middle- and upper-income kindergartners older, on average, than kindergartners from low-income families. The increased age of the middle-income children raises expectations and puts pressure on kindergarten teachers to increase the demands of the kindergarten curriculum, which puts low-income children at an even greater disadvantage.

Finally, experts who argue against holding children out point out that being "over-age" for grade is a strong predictor of later dropping out, even when achievement is held constant (Meisels, 1992). The practice of holding children out a year thus puts some children at risk of not completing high school.

Fortunately, this is a debate that can be informed by empirical evidence. There is a fair amount of research that directly addresses the assumptions on both sides. To that data we now turn.

### Effects of Entry Age

Three strategies have been used to assess the effects of the age of school entry on children's academic achievement, and occasionally on social-emotional or motivational outcomes. First, studies have compared children who have delayed entry by a year with children who entered school when they were eligible. These studies are relevant to policy decisions about formal cutoff dates only inasmuch as they allow comparisons of children who are relatively old versus relatively young at school entry.

A second methodological strategy is to simply compare children in the same grade with different birth dates. In any

one grade there is at least a 12-month spread in ages. Assuming that children's birth dates are randomly distributed, associations between this natural variation in age of entry and child outcomes suggest an age effect. Few of the studies using this methodology assess change in achievement over the school year; they therefore cannot be used to determine whether older children benefit relatively more from schooling than do younger children. They do, however, provide information on whether older children perform better on average than younger children.

The third and most powerful strategy compares children who are the same age but in different grades as well as children who are a year apart in age but in the same grade. This strategy provides information on the relative effects of an additional year of time (maturation and general, out-of-school experience) versus an additional year of schooling.

Tables 2, 3 and 4 summarize all studies after 1980 that were performed using these three methodologies. A cutoff of 1980 was used because there is some question about the relevance of data collected earlier when relatively few young children attended preschool or had day care. The review of research in this report is thorough, but not exhaustive. (Note: equal signs in the tables reflect a finding of no significant differences between the groups compared.)

### Delayed versus On-Time Entry

Does delaying relatively young children's entry into kindergarten a year past the time they are eligible to enter increase their chances for success? Researchers have reasoned that if delayed school entry is beneficial, children who are held out a year should have lower retention rates and special education placement and higher achievement than children with similar characteristics who entered school when they were eligible (see Table 2).

The findings of such studies need to be interpreted very cautiously. Children who are held out of school do not represent a random sample, and it is very likely that qualities that led parents to decide to delay their child's entry into school contribute to differences found later between these children and children who began school "on time." Moreover, a finding of no difference is difficult to interpret because children who had been held out might have looked worse if they had not been held out. Retention is especially suspect as a dependent variable because it is possible that teachers are more reluctant to retain children who are already relatively older than their age-mates.

In addition to these methodological problems, findings from research are neither substantial nor consistent. One study found that children who delayed school entry by a year were less likely to be retained than children who entered school when they were eligible (May et al., 1995). Two

**Table 2 Studies Comparing Delayed and Non-Delayed Entry Students**

Reference	Sample	Comparison	Consequences of Delayed Entry
Byrd, Weitzman, & Auinger (1997)	National representative sample in National Health Interview Survey; ages 7-17; N=9079	<i>Delayed-entry</i> (old for age in grade, but never retained); <i>Control</i> (modal age for grade and not retained)	<i>Behavior Problem Index (BPI)</i> : Delayed entry group > non-delayed (difference especially large in adolescence)
Graue & DiPerna (2000)	Representative stratified random sample of Wisconsin school districts; 3 <sup>rd</sup> graders; N=8595	<i>Redshirts</i> (entered kindergarten $\geq$ 72 months); <i>Control</i> (entered 60-71 months)	<i>Early exceptional needs services</i> : Redshirts 2.24 times > control group <i>3<sup>rd</sup> grade reading achievement</i> : Redshirts (including summer birthdays) = control group
May, Kundert, & Brent (1995)	Caucasian 1 <sup>st</sup> - 12 <sup>th</sup> graders in suburban NY school district; N=3238	<i>Delayed entry</i> (entered K one year later than eligible for Dec. 1 cutoff); <i>Control</i> (entered when eligible)	<i>Retention</i> : delayed entry < control <i>Placement in special education</i> : delayed entry > control
Kundert, May, & Brent (1995)	Caucasian 3 <sup>rd</sup> - 12 <sup>th</sup> graders in suburban NY school district; N=314	<i>Delayed entry</i> (entered K one year later than eligible for Dec. 1 cutoff); <i>Retained</i> (in grades K-5)	<i>Cognitive Abilities Test (CAT) at 2<sup>nd</sup> grade</i> : delayed > retained; <i>CTBS Tests at 2<sup>nd</sup>, 5<sup>th</sup>, &amp; 7<sup>th</sup> grade</i> (with CAT covaried): delayed = retained

studies, however, reported that children who delayed school entry by a year were more, not less, likely to receive special education services (Graue & DiPerna, 2000; May et al., 1995). The two studies that examined academic achievement did not find significant differences between delayed- and non-delayed entry children (Graue & DiPerna, 2000), or delayed and retained children (Kundert, May, & Brent, 1995). But, as mentioned above, it cannot be determined whether the delayed children would have performed less well if they had not been delayed.

The findings of the Byrd et al. (1997) study are noteworthy because it is one of the few studies that examined possible long-term effects of delaying school entry. In their nationally representative and large sample there were increasing disparities in behavior problems between children who were older than their age-mates and children who were the modal age for their grade. Adolescents who were older because of retention had particularly high scores on the Behavior Problem Index, but children who had not been retained (and were thus presumably older because they had delayed school entry) also showed relatively high levels of behavioral problems. Mayer and Knutson (1999) did not look specifically at students who were over-age, but they too found that in a large nationally representative sample of 8-11 year olds, children with earlier birth dates (who were

relatively old) showed more behavior problems than children who were relatively young for their grade (see Table 3). Again, the selection problem of the children who delay school entry makes interpretation of these findings difficult. But they suggest the importance of studying the experiences of older children that might contribute to behavioral problems. It is also possible that the relatively high levels of behavioral problems, and accompanying negative experiences and alienation among children who are over the modal age of their grade, is related to the high levels of over-age students dropping out of high school (House, 1989; Nason, 1991).

#### Age Differences

Interpretation of findings of studies examining naturally occurring age variations are less problematic than for the delayed-entry studies because birth dates are presumably randomly distributed. Although there is some variation across states and districts, most studies are done within a limited geographical area, in which case variation in children's ages would depend on their birth date, not the state or district policy. In large-scale or national studies, it is unlikely that district policies bias the findings in any systematic direction.

**Table 3 Studies Assessing Child Outcomes Associated with Age of Kindergarten Entry**

Reference	Sample	Comparison	Consequences of Age of Entry
Bickel, Zigmond, & Strayhorn (1991)	Pittsburgh 5 <sup>th</sup> graders; N=222	Age as continuous variable over 12 months	<i>Math achievement: 1<sup>st</sup> grade entry: older &gt; younger; 5<sup>th</sup> grade: no sign. age effect</i> <i>Reading achievement &amp; conduct: no sign. age effect at any grade</i>
Breznitz & Teltsch (1989)	Israeli 4 <sup>th</sup> graders; N=137	<i>Older</i> (birth date, Jan. - March), <i>younger</i> (Oct. - Dec.)	<i>Reading &amp; arithmetic achievement: older &gt; younger; trait anxiety: younger &gt; older; self-esteem &amp; socio-metric scores: older = younger</i>
Cameron & Wilson (1990)	N=315	(1) <i>Redshirts</i> (2) Sept. - Jan. birth dates; (3) Jan. - May; (4) May - Sept.	<i>Second-grade ITBS: Sept-Jan &gt; other three groups; Fourth grade: Sept-Jan &gt; May-Sept.</i>
Crosser (1991)	7 <sup>th</sup> , 8 <sup>th</sup> , & 9 <sup>th</sup> graders in Ohio school districts; N=90	All summer birth dates (June 1-Sept. 30): (1) <i>young</i> (entered K at age 5); <i>old</i> (entered K at age 6)	<i>5<sup>th</sup> &amp; 6<sup>th</sup> grade CTBS; reading: older &gt; younger (boys only); math: older = younger</i>
Dietz & Wilson (1985)	Second graders in a Delaware school district; N=117	Three groups based on age at school entry: mean ages of 62, 66, & 71 months	<i>K readiness scores &amp; ITBS achievement scores: no significant age effects</i>
Jones & Mandeville (1990)	South Carolina, grades 1, 2, 3, & 6; N=190,292	<i>Younger</i> (birth dates in Aug., Sept., or Oct.), <i>Older</i> (all other)	<i>South Carolina Basic Skills Assessment Program (BSAP): older &gt; younger; age effect declines from grade 1-6</i>
Kinard & Reinherz (1986)	White, working-class 4 <sup>th</sup> graders; N=488	Divided into 6, 2-month intervals, based on birth dates at school entry	<i>Information processing skills: at school entry: older &gt; younger; K, 3<sup>rd</sup>, &amp; 4<sup>th</sup>: no significant age effects. Grade, attention, anxiety &amp; other socio-emotional measures, academic achievement &amp; special needs services: no significant age effects</i>
Langer, Kalk, & Searls (1984)	9-, 13-, and 17-year olds; N=97,000 Caucasian and 17,000 Black students assessed in 1974-78	Age as continuous variable over 12-months	<i>National Assessment of Educational Progress: 9-year olds: older &gt; younger; Retention: younger &gt; older; 13-year olds: age effect significant, but much weaker; 17-year olds: no age effect</i>
McClelland, Morrison, & Holmes (2000)	White & Black children, K & 2 <sup>nd</sup> ; N=164	Age of K entry used as continuous variable	<i>IQ, PIAT, PPVT: predicted by school entry age at K, but not at 2<sup>nd</sup> grade</i>
May & Welch (1986)	Grades 3-6 in suburban school district; N=152	Birth dates divided into 4, 3-month intervals	<i>Gesell at K: oldest &gt; youngest; Stanford Achievement Test at 2<sup>nd</sup> or 4<sup>th</sup> grade: no significant age effects</i>

Table 3 continued on next page

Table 3 continued Studies Assessing Child Outcomes Associated with Age of Kindergarten Entry

Reference	Sample	Comparison	Consequences of Age of Entry
Mayer & Knutson, (1999)	(a) 1980 census data on wages of men between 28-34 (b) CNLSY <sup>1</sup> 8-11 year olds	Birth dates: (1) Jan-March, (2) April-June, (3) July-Sept.	(a) <i>Adult earning</i> : Youngest (July-Sept.) had highest earnings. (b) <i>Behavior problems in 8-11-year olds</i> : older > younger <i>Reading and math achievement (PIAT)</i> : younger > older
Spitzer, Cupp, & Parke (1995)	(a) Kindergartners; N=512 (b) Kindergartners; N=116	Age of entry as continuous variable	(a) <i>Teacher and peer ratings of social skills and popularity</i> : low but significant correlations with age of entry (b) <i>Teacher ratings of dependence</i> : significantly correlated with age of entry; <i>Peer rejection, loneliness, perceived competence and acceptance, and classroom behavior (CBI)</i> ; not significantly correlated to age
Stipek & Byler (2001)	predominantly poor children in rural and two urban communities, K-3 <sup>rd</sup> grade (longitudinal); N=237	(a) <i>Old</i> (age 6 by Dec. 31 year entered K); <i>Intermediate</i> (age 5 by May 31 before K entry); <i>Young</i> (age 5 after May 31) (b) 54 pairs of children matched in age but one grade apart (K or 1), all children retested in their 3 <sup>rd</sup> grade	(a) <i>Math &amp; literacy tests, K/1</i> : oldest > youngest; 3 <sup>rd</sup> grade: no differences <i>Teacher achievement and social-behavioral ratings</i> : no age differences at K/1 or 3 <sup>rd</sup> grade <i>Child self-ratings</i> : no differences at K/1 or 3 <sup>rd</sup> grade (b) <i>math achievement</i> : 1 <sup>st</sup> > K (matched on age); 3 <sup>rd</sup> : older (late school entry) = younger (early school entry) <i>literacy achievement</i> : 1 <sup>st</sup> = K; 3 <sup>rd</sup> grade: younger = older <i>child self-ratings in math &amp; literacy</i> : 1 <sup>st</sup> > K; 3 <sup>rd</sup> : younger = older
Sweetland & De Simone (1987)	6 <sup>th</sup> grade, upper-middle-class suburban school district: N=152	Birth dates divided into 4, 3-month intervals	<i>CTBS, grades 2-6</i> : older > younger (degree of difference declined after 3 <sup>rd</sup> grade)

<sup>1</sup> National Longitudinal Survey of Youth, mother-child files

The findings related to the effect of age-of-school-entry on achievement vary, but looking across studies, the pattern is clear. Most studies report differences in the beginning grades of school which favor older children (Cameron & Wilson, 1990; Crosser, 1991 [boys only]), and some studies report differences in the later elementary grades (Brenznitz & Teltsch, 1989; Cameron & Wilson, 1990; Crosser, 1991). But a few studies found no difference in some or all achievement tests, even in kindergarten (Dietz & Wilson, 1985; Kinard & Reinherz, 1986). And in most of the studies that found significant age differences in the early grades, the differences were weaker (Jones & Mandeville, 1990; Langer, Kalk, & Searls, 1984; Sweetland & De Simone,

1987) or disappeared altogether by the upper elementary grades (Bickel, Zigmond, & Strayhorn, 1991; Kinard & Reinherz, 1986; McClelland, Morrison, & Holmes, 2000; May & Welch, 1986; Stipek & Byler, 2001).

In summary, the empirical evidence suggests some small advantage of being relatively older than classmates which diminishes with age. This does not mean that "older is better" in some absolute sense. All of these studies used relative age as the independent variable. Depending on the birth-date cutoff in the state or community, a relatively old child in one study could have been an average-aged child in another study. The findings also do not suggest that older children learn more in school than younger children. The age

**Table 4 Studies Comparing Age and Schooling as Predictors of Cognitive Outcomes**

Reference	Sample	Comparison	Age and Grade Effects
Bisanz, Morrison, & Dunn (1995)	N=56	<i>Old K</i> (turned 6 just after cutoff date); <i>Young 1<sup>st</sup> graders</i> (turned 6 just before cutoff date); <i>Old 1<sup>st</sup> graders</i> (turned 6 before cutoff date, but a year older than old K)	<i>Arithmetic accuracy</i> : schooling effect significant; <i>Conservation</i> : age effect significant
Cahan & Davis (1987)	Israeli 1 <sup>st</sup> & 2 <sup>nd</sup> graders; N=6269	Compared age effects within grade to grade (schooling) effects (between grade, holding age constant)	<i>Math &amp; reading comprehension</i> : effect of one year of school twice the effect of one year of age
Cahan & Cohen (1989)	4 <sup>th</sup> , 5 <sup>th</sup> , & 6 <sup>th</sup> graders; N=12,090	Compared age effects within grade to grade (schooling) effects (between grade, holding age constant)	<i>12 cognitive tasks (CAT)</i> : school effects larger on all verbal and numerical tests and 2 of 5 figural tests; age effects modestly larger on 2 figural tests
Crone & Whitehurst (1999)	Children originally enrolled in New York Head Start Centers; N=337	Within-grade comparison: <i>Youngest</i> (Oct. - Nov. birth dates); <i>middle</i> (Feb. - Sept.); <i>Oldest</i> (Dec. - Jan.) Between-grade comparison: approx. same age (e.g., youngest in one grade, oldest in previous grade)	<i>Emergent literacy skills</i> : <i>within grade comparison: preschool &amp; K</i> : older > younger (difference smaller in K); <i>1<sup>st</sup> &amp; 2<sup>nd</sup></i> : no significant age differences <i>Between-grade comparison</i> : youngest K > oldest preschool; youngest 2 <sup>nd</sup> > oldest 1 <sup>st</sup>
Ferreira & Morrison (1994)	Middle-class Canadians, identified by teachers as "average"; N=48	<i>Less schooled</i> (started K at 5 yrs 7 mos); <i>more schooled</i> (started 1 <sup>st</sup> at 5 yrs. 9 mos.); retested one year later (in K or 1 <sup>st</sup> ) and two years later (in 1 <sup>st</sup> or 2 <sup>nd</sup> )	<i>Grammar tasks involving multiword subjects</i> : 1 <sup>st</sup> >K, 2 <sup>nd</sup> >1 <sup>st</sup> (schooling effect); <i>pronouns</i> : age 7>6=5 (age effect)
Morrison, Griffith, & Alberts (1997)	Diverse SES; N=539	<i>Old K</i> (turned 6 just after cutoff date); <i>Young 1<sup>st</sup> graders</i> (turned 6 just before cutoff date); <i>old 1<sup>st</sup> graders</i> (turned 6 before cutoff date, but a year older than old K)	<i>Math &amp; reading achievement, end of K or 1<sup>st</sup></i> : young first>old K; old and young 1 <sup>st</sup> graders made same gains, both greater than old K (schooling effect--greater for reading than math); <i>end of 1<sup>st</sup> grade</i> : old 1 <sup>st</sup> >young first (age effect)
Morrison, Smith, & Dow-Ehrensberger (1995)	Middle- to lower-middle class; N=20	<i>Young 1<sup>st</sup> graders</i> (turned 6 just before cutoff date); <i>old K</i> (turned 6 just after cutoff date)	<i>Memory tasks, phonemic segmentation, reading achievement</i> : pretest: no group differences; end of year: 1 <sup>st</sup> >K (old Ks made little progress in K, & no more improvement during 1 <sup>st</sup> than young 1 <sup>st</sup> graders)
Varnhagen, Morrison, & Everall (1994)	N=79	<i>Young 1<sup>st</sup> graders</i> (turned 6 just before cutoff date); <i>old K</i> (turned 6 just after cutoff date)	<i>Story recall and story production skills</i> : associated with age, not schooling; <i>Causal relations recall, and complexity of stories produced</i> : associated with schooling

differences, when found, were usually stronger at the beginning of school than in the later grades, indicating that the younger children actually tended to learn more, often catching up with their older peers after a few years in school.

*The proportion of risk attributed to race and socioemotional factors was 13 times larger than that contributed by age.*

Even in the early elementary grades the magnitude of the effect of age appears to be small. Most studies do not compare age to other factors influencing student achievement, but in one that did, the proportion of risk attributed to race and socioeconomic factors was 13 times larger than that contributed by age (Jones & Mandeville, 1990).

Only a few studies have examined associations between age of entry and social-motivational variables. One study of a small sample of Israeli fourth graders found that younger children scored higher on a measure of trait anxiety; there were no age effects on self-esteem or socio-metric scores (Breznitz & Teltsch, 1989). Teacher ratings of children's social skills and popularity were associated with age of entry in one study, with older children receiving higher scores (Spitzer, Cupp, & Parke, 1995). Peer rejection, loneliness, perceived competence, and classroom behavior were not associated with age. Two studies found no age effects on attention, anxiety, and a variety of social-emotional measures for children from kindergarten through third (Stipek & Byler, 2001) and fourth grade (Kinard & Reinherz, 1986). Taken together, the research provides little support for concerns about the social-emotional or motivational development of children who enter school at a relatively young age.

### Schooling versus Age

The studies that are most relevant to the age-of-entry debate compare the effects of a year of maturation and general experience (out of school) to a year of schooling. As mentioned above, this analysis is done by comparing children who are the same age but in different grades and children who are in the same grade but approximately a year apart in age. The first comparison provides information on the effect of a year of schooling, holding age constant. The second comparison provides information on the effect of

chronological age, holding the number of years of schooling constant.

Findings from studies using these methods suggest that schooling is the more potent variable in most of the cognitive skills measured. In math and most aspects of reading and literacy in most studies, children who were in school gained more in a year than children the same age who were not in school (Bisanz, Morrison, & Dunn, 1995; Cahan & Davis, 1987; Crone & Whitehurst, 1999; Ferreira & Morrison, 1994; Morrison et al., 1997; Morrison, Smith, & Dow-Ehrensberger, 1995; Varnhagen, Morrison, & Everall, 1994). Literacy assessments in these studies included basic reading skills as well as grammar, phonemic segmentation, causal relationships recall, and complexity of stories produced. The findings of two additional studies suggest, furthermore, that age was not a factor in how much children benefited from a year of schooling (Morrison et al., 1997; Morrison et al., 1995).

Age was a better predictor than amount of schooling for children's performance on conservation tasks in one study (Bisanz et al., 1995), two of five figural tests given in another study (Cahan & Cohen, 1989), use of pronouns (Ferreira & Morrison, 1994), and story recall and production skills (Varnhagen et al., 1994) in two other studies, respectively. Thus, biological maturation and general, out-of-school experience appear to be more important contributors to some cognitive competencies.

Although chronological age was more strongly associated with a few cognitive outcomes, the studies comparing age and school effects suggest that educational intervention found in schools contributes more to children's cognitive competencies overall than does maturation, and that relatively young children benefit from school as much as relatively older children. The school effect is strong in an absolute as well as a relative sense. In the Crone and Whitehurst (1999) study, for example, a year in school explained 62% of the literacy skill improvements at the kindergarten level, and 81% at second grade. Cahan and Davis (1987) report that the effect of a year in school was twice the effect of a year of age.

### An Illustrative Study

Most studies conducted on entry age into kindergarten include predominantly middle-class children. But as mentioned above, policy decisions related to age of entry are particularly critical for low-income children because they are at greatest risk for school failure. As an example of research on age of school entry I describe next one of my own studies, which focuses on very low-income children (see Stipek & Byler, 2001).<sup>1</sup>

The study involved 237 children in three different geographical locations: a northeastern, predominantly white rural community, a northeastern, predominantly African-American urban community, and a western, predominantly Latino urban area. The children were distributed among more than 80 schools and 150 classrooms.

In addition to examining academic achievement, we assessed age differences in children's perceptions of themselves and of school. We reasoned that if younger children perform less well academically than older children, they might also have relatively low perceptions of their academic competencies, develop a less positive relationship with their teacher, and enjoy school less.

The study's longitudinal design provided data on children from kindergarten through the third grade. We were therefore able to determine whether any differences evident in kindergarten persisted into the middle elementary grades. Because concerns about maturity are often greater for boys than for girls, gender differences were also examined. We had also planned to examine redshirting practices, but in the sample of over 200 low-income children, only five children (four boys and one girl) delayed kindergarten entry.

For all of the children in the sample we had Peabody Picture Vocabulary Test (PPVT) scores from the time children were 60 months old. At the end of kindergarten or first grade and again in third grade we gave both math and literacy assessments, using a combination of traditional and more reform-minded (e.g., strategies for solving word problems, verbal comprehension and writing) achievement tests. Teachers also rated children's math and reading performance in class.

Using the Feelings about School measure (Valeski & Stipek, 2001), children rated their academic competencies and their feelings about school and their teacher. Teachers rated children's social competence and academic engagement on tasks, and the level of closeness and conflict in their relationships with each study child.

We used two strategies to assess age of entry effects. First, children were divided into three age groups: (1) *old* ( $n = 77$ ; turned six by December 31 of the year they entered kindergarten); (2) *intermediate* ( $n = 98$ ; turned five by May 31, before they entered kindergarten); and (3) *young* ( $n = 62$ ; turned five after May 31 and before they entered kindergarten or in the fall after entering kindergarten).<sup>2</sup> Second, we compared two groups of children matched in age but a year apart in grade.

The first set of analyses of children in kindergarten revealed that the oldest children scored significantly higher than the youngest children on both the reading and math achievement tests, but no differences were found for teacher ratings of academic performance. The three age-groups were not significantly different from each other on all of the teacher ratings of children's social competence, academic engagement, and their relationships with children. Only one child rating was significantly associated with age; the oldest children reported more positive feelings about their teacher than the intermediate-age and youngest children. When the same age comparisons were computed for children when they were in the third grade, the early achievement advantage of the older group on the math and literacy achievement tests disappeared, although older children's more positive ratings of their teacher remained.

The second analytic strategy was to create a matched sample of 54 pairs of children who were the same age, gender and race, but in different grades (kindergarten versus first grade). This allowed us to assess the effects of a year of schooling holding age constant. The children who entered school very young (who were in first grade at the first time of testing) were achieving at a significantly higher level in math, but not in literacy, than children who entered school a year older (who were in kindergarten at the time of testing, but the same age as the first graders). The first graders also had significantly higher perceptions of their skills in both math and literacy. No other child outcomes showed significant differences.

Identical analyses were repeated for these children's third-grade outcomes. For these analyses the children were all in the same grade, but the two groups differed in age by a year. The achievement advantage in math shown by the first graders over same-aged peers in kindergarten was not apparent when all of the children were in the third grade. Combined, these two findings suggest that the earlier advantage of the children who had entered school at a relatively younger age was a consequence of having an additional year of schooling. Likewise, the two groups were not significantly different on any of the child self-ratings or teacher ratings. Thus, by third grade, children who entered kindergarten an entire year apart in age did not differ significantly on the variables we measured.

In brief, the findings of this study are consistent with the pattern of findings in previous studies. Comparing the contributions of time (chronological age) and academic skills, school was more potent. Furthermore, children who

*The studies comparing age and school effects suggest that educational intervention found in schools contributes more to children's cognitive competencies overall than does maturation.*

entered school relatively young did not appear to be disadvantaged academically in the long run.

### Returning to the Policy Question

What are the implications of the findings reviewed above for the original question: at what age should children enter school? Briefly, the data indicate that moving back the birth date for school entry by one to three months—the most common change seen over the last decade—will not address policy makers' concerns about student readiness for kindergarten or their academic performance later on.

Studies comparing the academic achievement of children who differed by as much as a year in their school entry age have found no differences or very modest and diminishing differences. There is also no evidence suggesting some kind of threshold—a particular age at which most children are prepared for formal schooling.

Possible negative effects of raising the school entry age must also be considered. Requiring children to be older when they enter kindergarten increases teachers' expectations for their ability to handle structured academic work. Combined with the current stress on children's standardized achievement test performance, there is a risk that kindergarten will begin to resemble first grade and be less and less developmentally appropriate.

What about delaying school entry for some children? Only a few studies have examined the effects of voluntarily delaying children's entry into kindergarten. The evidence that exists does not support this practice as a general rule. But the evidence is too meager and open to interpretation to be used as a guide for individual decision making. Although evidence on age differences suggests that younger children are not necessarily disadvantaged, little is known about the consequences of delaying entry for the selective sample of children who have done so.

Delaying school entry for children, whether by changing the law or through parents' voluntary decisions, may, however, be disadvantageous for low-income children, who already begin school with relatively poor cognitive skills. First, the evidence is very clear that out-of-school time contributes to the racial and social class achievement-gap more than does in-school time. It is during the summer, for example, that low- and middle-income children's achievement diverges the most (Entwisle & Alexander, 1992). Second, middle-income children are also more likely to attend high-quality preschool or day care programs, which have been shown to contribute to children's language and other cognitive skills (Bowman, Donovan, & Burns, 2001). There is, therefore, reason to expect children from middle-class and affluent families to progress more in their academic

skills than low-income children while they "wait" to become eligible to begin kindergarten, thus making the gap in skills wider than it already is at school entry. Children with special needs are especially disadvantaged by delaying entry into a formal educational setting because they are less likely to be identified and receive early intervention.

### Are Readiness Tests a Good Alternative to Age as a Criterion for School Entry?

If age, at least within the range of about 12 months, is not a good predictor of how much children benefit from school, should we consider alternative strategies to determine when children should begin kindergarten? What about a test that directly assesses children's readiness for school?

School readiness tests are used in many districts and schools for a variety of productive purposes, such as to identify special problems that might require early intervention. Early assessments can also be used by teachers to guide instructional and program planning. The research evidence does not, however, support readiness tests as an alternative to age for determining school entry.

Extant readiness tests assess social interaction skills, general cognitive skills (e.g., perceptual skills, auditory memory, visual matching, language, and listening), and specific academic knowledge (e.g., alphabet, color naming, counting, identification of body parts). Social knowledge tests have been criticized for being culturally biased (Meisels, 1996), and many other tests have been criticized for having poor validity (Shepard & Smith, 1986; Meisels, 1996). When

*The research evidence does not support readiness tests as an alternative to age for determining school entry.*

the widely used Metropolitan Readiness Test is used for individual placement, it is estimated that about one-third of all children tested would be misidentified (Gredler, 1992; see also Carlton & Winsler, 1999). Researchers have also pointed out that development is episodic and uneven (Bowman et al., 2001; Cronbach, 1990), rendering assessment at any single point in time a poor predictor of a child's skills, even a short time later. Another problem is that readiness tests that include items which require teaching (e.g., color and shape names, letter identification, factual knowledge) unfairly disadvantage children who have not

been taught them. Ironically, these are the children who most need the instruction kindergarten programs can provide.

Furthermore, readiness tests do not assess the qualities kindergarten teachers view as important for school success. In a national study that asked kindergarten teachers how important each of 15 qualities was for a child to be ready for kindergarten, teachers rated highest: (1) "is physically healthy, rested, and well-nourished;" (2) "can communicate needs, wants, and thoughts verbally in child's primary language." and (3) "is enthusiastic and curious in approaching new activities, respectively (NCES, 1993). The qualities most often found on readiness tests were rated the lowest of the 15 mentioned: (1) ability to identify primary colors and basic shapes; (2) ability to use pencils and paint brushes; (3) knowledge of the alphabet; and (4) ability to count to 20. (See also Piotrkowski, Botsko, & Matthews, 2000.)

A more fundamental problem with "readiness" tests concerns the concept of readiness itself. Their use as a criterion for school entry is implicitly based on the premise that children are not able to take advantage of school until they are "ready," and that biological maturation (time) and experience outside of school prepares them better than experience in a school context. The evidence reviewed above supports neither of these assumptions.

### Rethinking "Readiness"

Many early childhood experts have called into question the very notion of "readiness." Clearly all children at all ages are "ready to learn." The meaningful question is not *whether* a child is ready to learn, but rather *what* a child is ready to learn. Even "reading readiness" – a concept with a long history in early childhood development – has little meaning in the context of current conceptualizations of emerging literacy, which includes general knowledge, language and vocabulary skills, and even early scribbling. Literacy, according to current experts, begins to develop long before children enter school (Bowman et al., 2001; National Research Council, 1998). Current conceptions of mathematics also embrace the notion of gradual development beginning early in life. Recent work on the development of mathematical understanding shows that an understanding of basic number concepts is seen and can be promoted in toddlers (Griffin & Case, 1998).

The concept of readiness for school is also losing significance as increasing numbers of children attend preschool or day care programs. Research on early childhood

interventions and especially on programs designed to promote cognitive skills provides compelling evidence that preschool-aged children learn in a variety of school-like settings and from a variety of instructional approaches (see Barnett & Boocock, 1998; Bowman et al., 2001). Ideally, the transition from preschool programs to kindergarten and formal schooling should be seamless and continuous, not the abrupt shift to a completely different social context and set of academic demands that the notion of readiness brings to mind.

Many early childhood experts have turned the issue of readiness on its head to focus on schools rather than children (see, for example, Graue, 1993; Kagan, 1990). To be sure,

some children are not "ready" to sit at desks and do paper-and-pencil activities for long periods of time when they turn five or even six years old. But that doesn't mean that they cannot benefit from any kind of instruction. The appropriate policy question, then, is not what children need to know or be able to do when they get to school, but what schools

need to do to meet the social and educational needs of the children who walk through their doors.

### Policy Implications

In summary, the research reviewed in this report does not support a policy of moving the birth date for school entry to increase the average age of children entering school. Even if the goal is to improve children's performance on achievement tests, policies that result in a slightly older school population will have short-term and modest effects, if any.

A policy issue that is related to school entry age concerns the advisability of making kindergarten compulsory. The research summarized in this report provides good evidence for the value of an educational program for five-year-olds. The value of making kindergarten compulsory depends on whether it would actually impact kindergarten enrollment. Enrollment is already very high, and many parents who currently do not enroll their children in kindergarten use other educational options (preschools or home schooling), which would most likely continue through a waiver process even if kindergarten was made compulsory. Nevertheless, although compulsory kindergarten laws may be largely symbolic, evidence for the value of schooling for children who are kindergarten age is consistent with such a policy.

Despite the limitations of age as a predictor of children's cognitive and social competencies, from a policy perspective

*The meaningful question is not whether a child is ready to learn, but rather what a child is ready to learn.*

it is preferable to using tests as a criterion for school entry. Age is equitable and less vulnerable to cultural or social class biases. Within the range of options currently used, the particular birth date that is used as a cutoff is somewhat arbitrary.

If anything, the evidence suggests reducing the age of school entry to below the current range. Some of the studies reviewed show that the youngest children who currently enter school, young five-year-olds and some four-year-olds, do benefit from their experience in school and in fact learn at the same rate as children who are older when they enter school. Studies comparing "time" versus "school" on children's cognitive skills provide substantial evidence for the advantage of an educational setting. Combined with findings not reviewed in this report, which demonstrate the benefits of quality day care and preschool programs (Bowman et al., 2001), an argument is easy to make for providing educational experiences for four-year-olds—either in schools or in other settings. Because low-income children are the least likely to be able to pay for high quality programs, and because they enter school on average with lower academic skills, limited public funding should be focused initially on this group.

Whether children would benefit more from beginning school earlier or attending a preschool program is debatable. I suspect that young children's needs would be better served in preschool programs, at least while schools are under current extreme pressures to produce high scores on achievement tests. But the important issue is not where young children's educational needs are met, but whether the programs they are offered are of high quality and appropriate for their developmental level.

Fortunately, a great deal is known about the characteristics of high quality, developmentally appropriate programs which address the needs of children, whatever their entering skill levels (see Bowman et al., 2001). Quality programs, however, require quality teachers. Changing the

school entry age, in either direction, will not reduce the variability in children's academic and social skills. Whatever the age of entry, there will be at least 12 months between the oldest and the youngest children, and teachers will need to address a wide range of social and learning needs.

Assessing children's diverse skills related to the school curriculum, and tailoring teaching and learning opportunities to the variety of understandings, learning styles, and social skills the children in any given class will exhibit requires well-trained teachers. Anything less than this will not serve the educational needs of children who, regardless of the cutoff

age for school entry, will vary considerably in their social, emotional, and intellectual skills. We would do much greater service to children if we focused more on making school ready for children than on making children ready for school.

*We would do a much greater service to children if we focused more on making school ready for children than on making children ready for school.*

#### Notes

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<sup>2</sup>Although the age-of-entry varied somewhat among the study's different sites, children's category of young, intermediate, or old would have changed very little if we had grouped based on relative age within each locality.

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## *About the Author*

Deborah Stipek is currently the I. James Quillen Dean of the School of Education at Stanford University. She was previously a professor at UCLA for 23 years, and for 10 years, the director of the UCLA laboratory elementary school and the Urban Education Studies Center. Her doctorate is in developmental psychology from Yale University. Research interests and scholarship concern early childhood education, effects of instruction and classroom climate on student motivation, and issues related to child, family and educational policy. She worked for Senator Bill Bradley for one year as a Congressional Science Fellow, served for five years on the National Academy of Science Board on Children, Youth, and Families, and is currently a member of the MacArthur Foundation Network on Successful Pathways through Middle Childhood. She is a member of the National Academy of Education. Recent books are: *Motivation to Learn: From Theory to Practice* (2002), *Motivated Minds: Raising Children to Love Learning* (2001), and *Constructive and Destructive Behavior: Implications for Family, School and Society* (co-edited, 2001).

## *Purpose*

*Social Policy Report* (ISSN 1075-7031) is published four times a year by the Society for Research in Child Development. Its purpose is twofold (1) to provide policymakers with objective reviews of research findings on topics of current national interest, and (2) to inform the SRCD membership about current policy issues relating to children and about the state of relevant research.

### **Content**

The *Report* provides a forum for scholarly reviews and discussions of developmental research and its implications for policies affecting children. The Society recognizes that few policy issues are noncontroversial, that authors may well have a "point of view," but the *Report* is not intended to be a vehicle for authors to advocate particular positions on issues. Presentations should be balanced, accurate, and inclusive. The publication nonetheless includes the disclaimer that the views expressed do not necessarily reflect those of the Society or the editors.

### **Procedures for Submission and Manuscript Preparation**

Articles originate from a variety of sources. Some are solicited, but authors interested in submitting a manuscript are urged to propose timely topics to the editors. Manuscripts vary in length ranging from 20 to 30 pages of double-spaced text (approximately 8,000 to 14,000 words) plus references. Authors are asked to submit manuscripts electronically, if possible, but hard copy may be submitted with disk. Manuscripts should adhere to APA style and include text, references, and a brief biographical statement limited to the author's current position and special activities related to the topic. (See page 2, this issue, for the editors' e-mail addresses.)

Three or four reviews are obtained from academic or policy specialists with relevant expertise and different perspectives. Authors then make revisions based on these reviews and the editors' queries, working closely with the editors to arrive at the final form for publication.

The Committee on Policy and Communications, which founded the *Report*, serves as an advisory body to all activities related to its publication.

## *Past Issues*

### Volume XIII (1999)

- No. 1      *Beyond "giving science away"; How university-community partnerships inform youth programs, research, and policy.*  
Jill Denner, Catherine R. Cooper, Edward M. Lopez, & Nora Dunbar
- No. 2      *Perspectives on father involvement: Research and policy.*  
Catherine S. Tamis-LeMonda & Natasha Cabrera
- No. 3      *Evaluating the effectiveness of school-based violence prevention: Developmental approaches.*  
Christopher C. Henrich, Joshua L. Brown, & J. Lawrence Aber
- No. 4      *Service learning: Who benefits and why.*  
Arthur A. Stukas, Jr., E. Gil Clary, & Mark Snyder

### Volume XIV (2000)

- No. 1      *What do adolescents need for healthy development? Implications for youth policy.*  
Jodie Roth & Jeanne Brooks-Gunn
- No. 2      *Parental leave policies: An essential ingredient in early childhood education and care policies.*  
Sheila B. Kamerman

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- No. 1      *Youth civic development: Implications of research for social policy and programs.*  
Constance A. Flanagan & Nakesha Faison
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Nancy E. Reichman & Sara S. McLanahan
- No. 3      *Strategic frame analysis: Reframing America's youth.*  
Franklin D. Gilliam, Jr. & Susan Nall Bales
- No. 4      *Adolescents as adults in court: A developmental perspective on the transfer of juveniles to criminal court.*  
Laurence Steinberg and Elizabeth Cauffman

### Volume XVI (2002)

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Pamela A. Morris

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*Social Policy Report*

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May 6, 2004



W) 907-742-4322 (F) 907-742-4175

**TO: Representative Lesil McGuire**  
**FROM: Larry Wiget, Executive Director, Public Affairs**  
**Subject: HB 338 fiscal Note**

It is my understanding that there is an indeterminate fiscal note attached to HB 338, An Act relating to attendance at public schools.

From our perspective, there is no increased cost associated with the passage of this bill:

1. The ability of a governing body to delegate the authority granted under AS 14/03.080(c) to the chief school administrator of the school will not result in additional administrative costs to the school district. (In fact, it may decrease some costs, as school boards will not be required to meet to act on the exemption requests as they do under existing law.)
2. Regardless of whether the date a child is considered of school age is August 15 or September 1, the child is still eligible for a full K-12 education under Alaska State law.

The only increased costs we have identified are associated with a parent of a child who under current law turns six between August 16 and September 1. They must pay several hundred dollars to have their child tested for consideration by the Anchorage School District for early entry.

# SENATE COMMITTEE REPORT

DATE: 5/1/04

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 5.7.04

Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 338(HES)

## HB 338 ENTRY INTO SCHOOL

"An Act relating to attendance at public school; and providing for an effective date."

and recommends:

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

**Senate Bill:**  
 Same Title  
 New Title

**House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
EED	2/17		✓		1

APPROPRIATION - no fiscal note

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

HB

353

# Representative Mary Kapsner

State Capitol • Juneau, Alaska 99801-1182

Phone: (907) 465-4942 • Fax: (907) 465-4589

E-Mail: Representative\_Mary\_Kapsner@legis.state.ak.us

House District 38

Yukon Kuskokwim Delta

Akiachak

Aktak

Atmauthuk

Bethel

Chefornak

Eek

Goodnews Bay

Kasigluk

Kipmuk

Kongiganak

Kwethluk

Kwigillingok

Lower Kalskag

Mekoryuk

Napakialak

Napaskiak

Newtok

Nightmute

Nunapitchuk

Oscarville

Platinum

Quinhagak

Toksok Bay

Tuluksak

Tununak

Tuntutuliak

Upper Kalskag

## MEMORANDUM

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

FROM: Representative Mary Kapsner *Mary Kapsner*

DATE: April 29, 2004

RE: House Bill 353 – Jury Duty Exemption for Certain Teachers  
Scheduling Request

I would appreciate your scheduling of HB 353.

This has been an issue of particular importance for my home school district, which is greatly impacted when teachers are called to jury duty. As schools and students work to raise educational achievement levels as required under state and federal laws, the importance of keeping the teacher at the head of the class has taken on new importance. In addition to the benchmark tests, this year graduating students will be facing the high stakes exit exam. No Child Left Behind has requirements that teachers be “highly qualified.”

Bethel maintains a Superior court in the Fourth Judicial District. It is a court with a heavy caseload, and because the jury pool includes Bethel and a 50 mile radius, teachers from 11 villages are subject to jury duty. In these communities the chance of finding a certified teacher as a substitute is highly unlikely. Students are still required to come to school, but their education is impacted.

Everyone who has reviewed and worked on this issue recognizes service on a jury is an important civic responsibility. That’s the reason this bill was crafted to apply only to those teachers who teach in a school that is designated as failing to meet “adequate yearly progress.” If we believe in the ability of our schools and our students to rise to the challenges before them, in the future more of our students will be prepared to pass the tests and schools will meet “adequate yearly progress” and the exemption will no longer be necessary.

Thank you.

## *Representative Mary Kapsner*

State Capitol • Juneau, Alaska 99801-1182

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E-Mail: [Representative\\_Mary\\_Kapsner@legis.state.ak.us](mailto:Representative_Mary_Kapsner@legis.state.ak.us)

House District 38

Yukon Kuskokwim Delta

*Akiachak*

*Akiak*

*Atmaautluak*

*Bethel*

*Chefornak*

*EEK*

*Goodnews Bay*

*Kasigluk*

*Kipnuk*

*Kongiganak*

*Kwethluk*

*Kwigillingok*

*Lower Kalskag*

*Mekoryuk*

*Napaklak*

*Napaskiak*

*Newton*

*Niginute*

*Nunapitchuk*

*Oscarville*

*Platinum*

*Quinhagak*

*Toksook Bay*

*Tuluksaq*

*Tununak*

*Tuntuliak*

*Upper Kalskag*

### SPONSOR STATEMENT

HB 353 provides an exemption from jury duty for teachers in schools that have failed to meet adequate yearly progress under state and federal law.

The role of the classroom teacher has taken on new importance in recent years with the passage of state and federal laws aimed at accountability in education. The ultimate winners or losers of these mandates will be our children. This year high school seniors will be required to pass the high school graduation qualifying exam to receive their diploma. We have added "No Child Left Behind" to our personal vocabulary when we talk about education. NCLB imposes requirements for highly qualified teachers and sanctions on districts that fail to meet "adequate yearly progress."

Jury duty can be lengthy, resulting in a significant impact on classroom learning. When a teacher is absent from the classroom the flow of learning is affected. In many small communities in Alaska, qualified substitute teachers are simply not available, and the person placed in charge of the classroom may be an aide pulled from other responsibilities or an individual who holds a high school diploma. Moreover, ratio of scale in small communities creates an additional burden on the school. For example, five of the eleven certified teachers in one of the schools in my district were called to Bethel for jury duty this year before this school year was half over.

Although jury duty is an important civic responsibility and part of the foundation of our legal system exemptions are appropriate under certain circumstances. HB 353 limits its impact by exempting only those teachers whose school has failed to meet AYP. In a time of so many educational mandates and with a lack of available educational resources in some areas of the state this is a reasonable solution to the problem.

Thank you for your consideration.