



# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: SB162-EED-ESS-04-19-05  
 Bill Version: SB 162  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Education & Early Development  
 Title: \*An Act relating to monitoring and reporting of RDU: TLS  
student discipline and safety of student health Component: Student and School Achievement  
 Sponsor: Sen. Dyson  
 Requester: \_\_\_\_\_ Component No.: 2796

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

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

Estimate of any current year (FY2005) cost: 00

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

This bill will require the Department of Education & Early Development to develop and implement new regulations related to student health-related information that school districts will be required to collect and report (i.e., height, weight, availability of and participation level in a program in nutrition and physical education at the school, % of students overweight or at risk of being overweight, availability of nutritionally balanced foods, body mass index calculations, etc.).

The bill will also require collecting and reporting vending machine receipts at the school building level. Additional regulations will be necessary to implement this provision. The costs related to this bill are indeterminate at this time.

Prepared by: Barbara Thompson, Director Phone: 465-8727  
 Divisor: Teaching & Learning Support Date/Time: 4/19/05 5:05 PM  
 Approved by: Karen Rehfeld, Deputy Commissioner Date: 04/19/2005  
 Agency: Education & Early Development

# A Growing Problem: Childhood Overweight in Alaska



Presentation to the  
Senate Health, Education and Social Services Committee  
April 20, 2005  
Richard Mandsager, M.D., Alaska Division of Public Health

## Today's Presentation

- The scope of the problem in Alaska
- Health impacts & economic consequences
- Ideas for prevention





# Obesity Trends\* Among U.S. Adults BRFSS, 1995

(\*BMI  $\geq 30$ , or  $\sim 30$  lbs overweight for 5' 4" woman)



# Obesity Trends\* Among U.S. Adults BRFSS, 1998

(\*BMI  $\geq 30$ , or  $\sim 30$  lbs overweight for 5' 4" person)

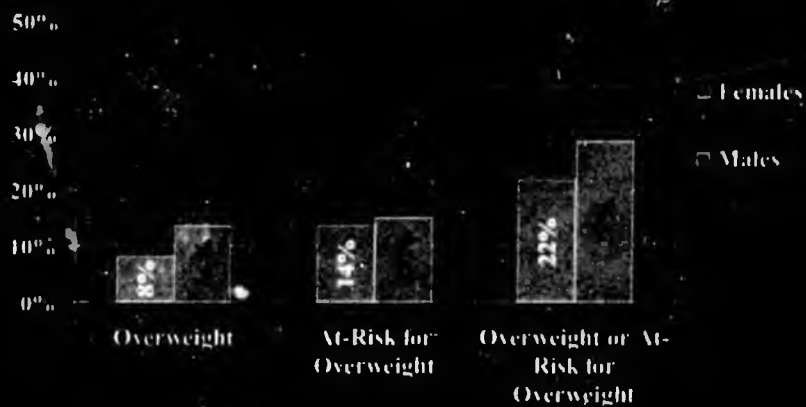


# Obesity\* Trends Among U.S. Adults YRBS, 2003

(\* BMI  $\geq 30$ , or  $\sim 30$  lbs overweight for 5'4" person)



## Alaskan High School Students Who Are Overweight or At-Risk for Becoming Overweight YRBS 2003

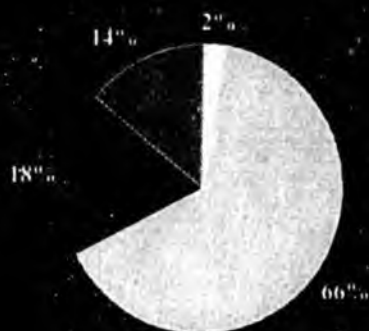


**BMI Status:  
Anchorage School District Students  
1998 - 2003**



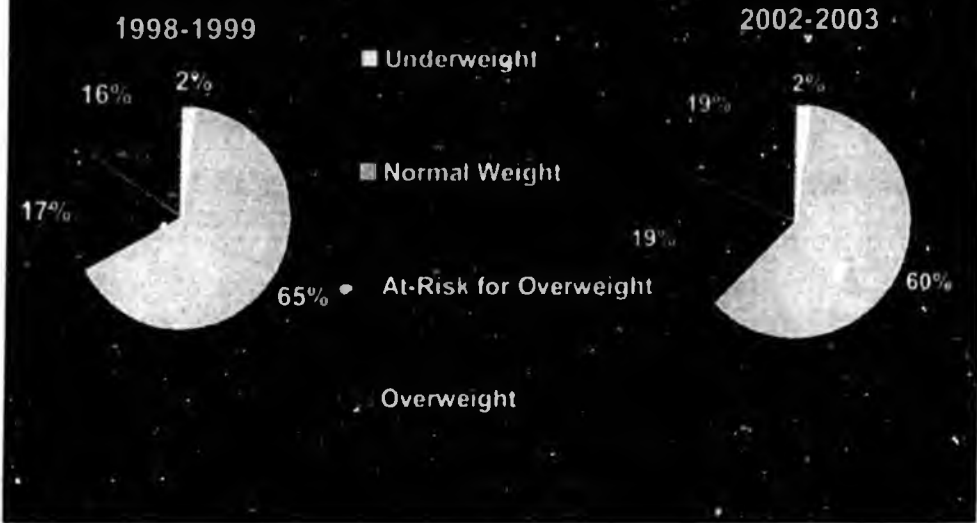
- Underweight (< 5th Percentile)
- Normal Weight (5th - 85th Percentile)
- At-Risk for Overweight (85th - 95th Percentile)
- Overweight (95th Percentile and above)

**BMI Status of Kindergarten and First Grade Students: Anchorage School District  
1998-2003**

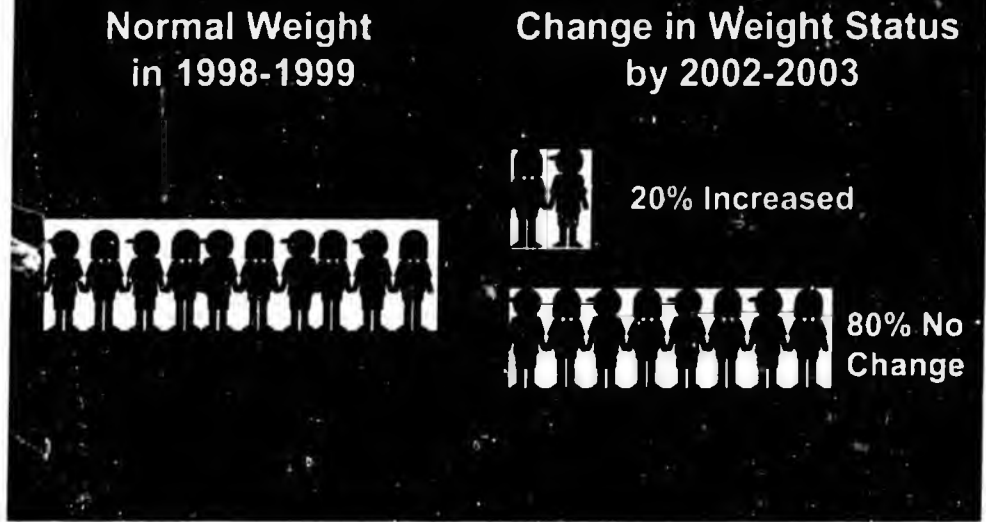


- Underweight (< 5th Percentile)
- Normal Weight (5th - 85th Percentile)
- At-Risk for Overweight (85th-95th Percentile)
- Overweight (95th Percentile and above)

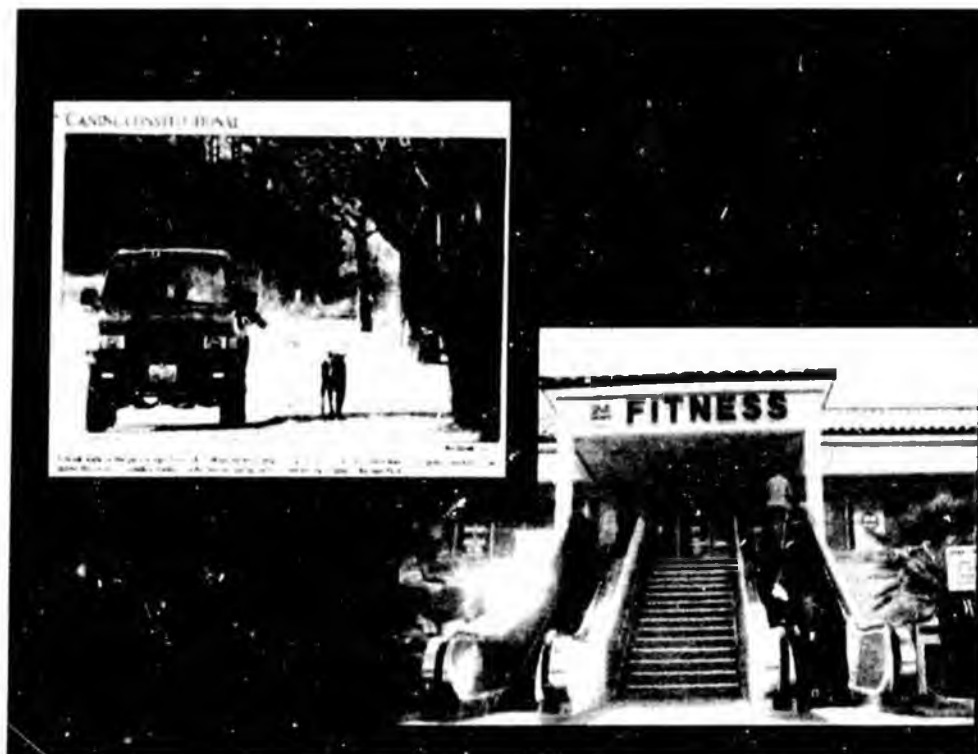
### BMI Status for Anchorage School District Students 1998-1999 and 2002-2003



### Change in Weight Status Among Normal Weight Students 1998-1999 and 2002-2003, Male and Female Students of All Ages



**Trend in Percentage of Adults Who Are  
Overweight (BMI 25-29.9), Obese (BMI 30+)  
Alaska BRFSS, 1991-2003 (3-Year Moving Averages)**



### **Nutrition and Physical Activity: *Alaskan Adults***

- 43% do not meet CDC recommendations for physical activity
- 23% consume at least 5 daily servings of fruits and vegetables

### **Nutrition and Physical Activity: *Alaskan High School Students***

- 18% participate in daily physical education
- 27% do not meet the CDC minimum recommendations for physical activity
- 28% watch 3 or more hours of television on an average school day
- 16% consume at least 5 daily servings of fruits and vegetables

Source: YRBS 2003

## Changes in Kids' Food Environments



- Larger portion sizes and more food prepared/consumed outside the home

- Nationally, 43% of elementary and 98% of high schools sell low-nutrient, high-calorie *a la carte* and vending machine foods and beverages

- Exodus of grocery stores from urban centers and influx of fast food outlets – with growing income and racial/ethnic disparities in access to healthy foods

- Half of all ads shown during kids' TV shows are for food – most promote high-sugar, -fat and -calorie products.

Source: Active Living By Design, University of North Carolina – Chapel Hill

## Alaska School Nutrition Environment

- 56% of schools make fruits and vegetables available for purchase daily
- 82% of schools make water, milk, or 100% fruit juice available for purchase daily
- 28% of schools prohibit soda during lunch
- 17% of schools with vending machines have policies regulating the content of the machines

Source: State of Alaska DHSS Physical Activity Inventory 2003

## School Wellness Policies: Child Nutrition and WIC Reauthorization

- 2004 federal law requiring schools to develop wellness policies that:
  - Include goals for nutrition education and physical activity
  - Include nutrition guidelines for foods available at school during the school day
  - Establish a plan for measuring implementation of the wellness policy
- Parents, students, school board members, school administrators, school food authorities, and the public must be involved in policy development

## WIC Reauthorization: Impact on Alaskan Schools

Affects schools and districts participating in the National School Lunch Program, including:

- 89% of Alaskan School Districts
- 87% of Alaskan Schools\*

\* Correspondence schools or correctional facilities not factored in

## Health and Economic Impacts

### Upcoming slides will show:

- Health consequences for youth and adults
- Economic costs for Alaska and U.S.
- Increasing prevalence of diabetes



## Overweight and Obesity: *Health Consequences*

### Youth

- Increased risk of obesity as an adult
- High blood pressure
- High cholesterol
- Orthopedic disorders
- Type 2 Diabetes
- Psychosocial disorders

### Adults

- Premature mortality
- Cardiovascular disease
- Type 2 Diabetes
- Musculoskeletal disorders
- Sleep apnea
- Gallbladder disease
- Certain types of cancer (endometrial, colon, kidney, gallbladder, postmenopausal breast)

## Obesity: *Economic Costs*

### United States

- \$75 billion in annual direct medical expenditures
- \$18 billion financed by Medicare
- \$21 billion financed by Medicaid

### Alaska

- \$195 million in annual direct medical expenditures
- \$17 million financed by Medicare
- \$29 million financed by Medicaid

Source: State Level Economic Impact of Annual Medical Expenditures Attributable to Obesity (Obesity Research, 2004)

## Diabetes Prevalence is Increasing

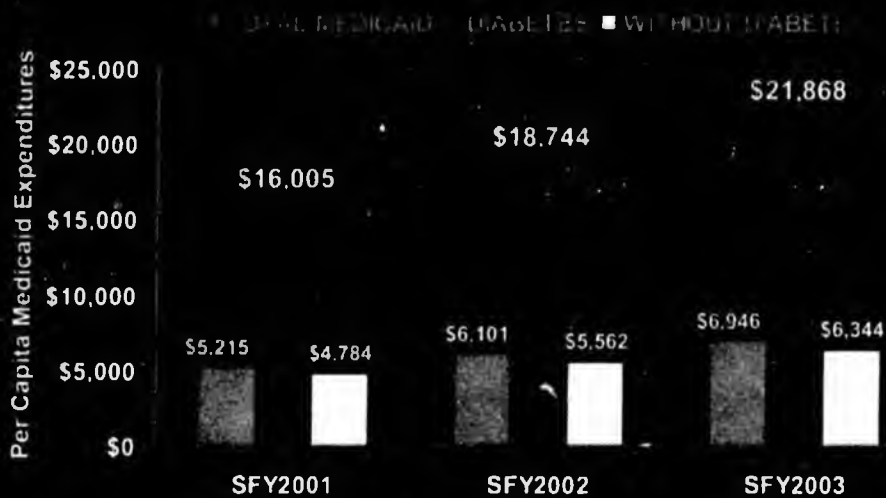
- Diabetes in Alaska has doubled in the past 10 years. Of Alaskans over 18 years of age, 5% (22,589 persons) have been told by a doctor that they have diabetes.
- Another 7,000 Alaskans have diabetes but have not had it diagnosed by a doctor
- Diabetes is one of the top five causes of death in Alaska.
- Globally, 6 people die every minute from diabetes.
- In Alaska, 1 in 8 Medicaid dollars are expended on persons with diabetes, even though they represent less than 4% of Medicaid recipients.
- It is estimated that 1 in 3 children born in the year 2000 will develop diabetes as a consequence of obesity.

**Average Annual Prevalence of Self-Reported  
Heart Attack or Stroke Among Alaskan  
Adults by Diabetes Status  
AKBRFSS 2001-2003**



\*Self-report ever been told by health care provider that I had a

**Alaska Medicaid, Per Capita Expenditures by Year,  
Total Medicaid and Recipients With and Without  
Diabetes, SFY2001-2003**



Source: Medicaid Claims data

## Prevention Ideas

### Upcoming slides will show:

- Obesity prevention and control ideas
- Diabetes prevention and control ideas
- Chronic disease prevention and management policy strategies



## Obesity Prevention and Control: Potential Policy Strategies (1)

- Require physical education in all school grades
- Regulate nutritional content of food available to students in cafeterias, vending machines, and at school events
- Restrict the advertising of foods and beverages with low nutritional value, and advertising promoting sedentary entertainment, that targets children
- Implement school policies that prohibit the use of food or physical activity as a punishment or reward
- Conduct annual height and weight screenings, and make BMI-for-age results available to parents

Source: Institute of Medicine, Centers for Disease Control and Prevention, National Association for Sport and Physical Education

## Obesity Prevention and Control: Potential Policy Strategies (2)

- Implement zoning requirements that support physical activity
- Provide tax incentives for worksites that promote physical activity and healthy eating
- Require disclosure of nutritional content of foods sold in restaurants, movie theaters, convenience stores, and other venues
- Subsidize the costs of nutritious foods
- Provide reimbursement for nutrition and weight management counseling
- Systematically implement established guidelines for addressing overweight and obesity in clinical settings

Source: Institute of Medicine, Centers for Disease Control and Prevention, Nestle, M. Jacobson. *Halting the Obesity Epidemic: A Public Health Policy Approach*. Public Health Reports 2000; 115: 12-24

## Chronic Disease Policy Strategies

National Governor's Association (NGA) Chronic Disease  
Policy Academy

- Purpose:
  - Provide Governor's health policy advisors, legislators, state health officials, and communities a forum in which they can work together to develop action plans for preventing and addressing chronic diseases
- Process:
  - Site visit by NGA staff to orient State's Policy Academy Team to process
  - 3-day workshop with team, other States' teams, NGA & CDC experts in chronic disease prevention and management
  - One year of technical assistance from NGA to facilitate putting Action Plan into effect

## **Chronic Disease Policy Strategies**

**National Governor's Association (NGA) Alaska  
Team Vision Statement**

The Last Frontier's future depends on the health of its people. We envision a state in which public and private partners work together to create an environment of healthy living, where our diverse cultures and people strive to improve the lifelong health of all Alaskans by increasing physical activity, reducing obesity rates, decreasing tobacco use and substance abuse, and institutionalizing incentives that encourage personal responsibility and government efficiency.

## **The Importance of SB162**

- **Draws attention to the issue in Alaska**
- **Student BMI data needed to chart problem, mark hoped-for progress**
- **Again focuses Legislature on issue of vending machines in schools**
- **Involves communities – schools, families, policymakers – in finding solutions**

**Christian Science Committee on Publication for Alaska**

P. O. Box 240976, Douglas, A.K 99824  
Phone: (907) 789-1544 Fax: (907) 364-2468  
Email: bevsmith@prc.net

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

From: Beverly Smith, Christian Science Committee on Publication for Alaska

Date: April 20, 2005

RE: Senate Bill No. 162

*An Act relating to monitoring and reporting of student discipline and safety, of student health pertaining to height, nutrition, and physical activity...*

Thank you, Senator Dyson and members of the committee, for allowing me the opportunity to offer comments on this bill.

In my capacity as Christian Science Committee on Publication for Alaska, one of my roles is to watch legislative proposals to ensure that Alaskans have the choice to pursue spiritual means for the prevention and cure of disease, including Christian Science treatment and care.

After reviewing SB 162, the Christian Science Committee on Publication for Alaska respectfully requests that Senate Bill 162 be amended as follows:

In amending AS 14.30.127 **ADD** a new subsection (c) to read:

**"AS 14.30.127 (c).** Notwithstanding (a) of this section, a person required to conduct a test or cause a child to receive a vision, weight, height and hearing screening examination under this section is exempt from this requirement if the parent/guardian of the child objects to the testing procedure on the grounds that the procedure conflicts with the religious tenets and practices of the parent/guardian. The parent shall sign a statement that the parent knowingly refuses the examination, and the person conducting the test or causing a child to receive an examination shall have a copy of the signed statement retained in the school records."

## **EXPLANATION**

This amendment would clarify that parents who use prayer and spiritual means for healing for their children may choose to object to a vision, weight, height, and hearing screening examination.

Christian Science is one of the religious non-medical forms of treatment that relies on spiritual means: through prayer to heal illness, injuries and other conditions. In Alaska, individuals have chosen Christian Science treatment and care for healing for about 100 years. The experience of those practicing Christian Science is that this healing method has both preventative and curative effects. The application of this religious non-medical method of healing does not involve any type of medical examination or screening.

Parents who rely on prayer or spiritual means for healing should be allowed to object to a vision, weight, height, and hearing screening examination for the benefit of their children.

House Bill 109, relating to testing of hearing on newborns, currently in the Rules Committee, contains similar language allowing parents to object, in writing, "if the procedure conflicts with the religious or other tenets and practices of the parent."

Therefore we respectfully request that this bill be amended as stated above.

# FISCAL NOTE

**STATE OF ALASKA  
2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SR162-DHSS-DPH-04-15-05  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): \_\_\_\_\_

Title MONITORING STUDENT HEALTH, NUTRITION, AND PHYSICAL ACTIVITY RDU Public Health  
 Component Epidemiology

Sponsor DYSON  
 Requester SENATE (HES)

Component No. 296

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (0)</b>						
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**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
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 (FY2005) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill requires that schools conduct height and weight screenings and report the percentage of students who are overweight or at-risk for becoming overweight. The Department is requesting that Page 3, Lines 29-30, be amended to read that DHSS shall "(2) assist DEED in training school district employees and school volunteers to conduct and report accurate hearing, weight, height, and vision screening tests." Despite language in current law, DHSS in practice does not train and certify school district employees in any of these screening tests. Public health nurses assist schools when they can and accept follow-up referrals when initial screenings indicate a potential problem. Requiring DHSS to formally certify and train school district employees would require a sizable fiscal note. With this amendment, however, the fiscal note is zero.

Prepared by: Richard Mandsager, M.D.  
 Division Public Health  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency Department of Health and Social Services

Phone 465-3090  
 Date/Time 04/15/2004  
 Date 04/15/2005

**Christian Science Committee on Publication for Alaska**

**Memo**

**TO:** Senator Fred Dyson, Chair  
Members of the Senate Health, Education and Social Services Committee

**FROM:** Beverly Smith, Christian Science Committee on Publication for Alaska

**DATE:** April 22, 2005

**RE:** Senate Bill No. 162

I have attached the laws from a number of states regarding pupil exemptions to examinations given in school for such things as vision and hearing. Most states grant exemptions based on religious beliefs.

I have also attached the laws from several states regarding exemption of students from immunization. Alaska is one of many states that grant such an exemption. Please see the first entry in this attachment.

***A sampling of state laws regarding student exemptions from examination/screening in schools***

**Illinois**

**ILLINOIS COMPILED STATUTES ANNOTATED  
CHAPTER 410. PUBLIC HEALTH  
CHILD HEALTH SERVICES  
CHILD VISION AND HEARING TEST ACT**

§ 410 ILCS 205/6. [Objections by parents or guardians].

"Sec. 6. No child shall be required to submit to any test required by this Act if a parent or a guardian of the child objects on constitutional grounds, and submits a written statement of such objection to the agency administering such vision and hearing screening services."

Cite as: 410 Ill. Comp. Stat. 205/6 (2003).

**Michigan**

**MICHIGAN COMPILED LAWS  
CHAPTER 333 HEALTH  
PUBLIC HEALTH CODE  
ARTICLE 9. SUPPORTIVE PERSONAL HEALTH SERVICES  
PART 93. HEARING AND VISION**

§ 333.9311. Exemption on religious grounds; written statement of parent, guardian, or person in loco parentis.

"Sec. 9311. A child is exempt from this part if a parent, guardian, or person in loco parentis of the child presents a written statement to the administrator of the child's school stating that the requirement violates the personal religious beliefs of the parent, guardian, or person in loco parentis."

Cite as: Mich. Comp. Laws § 333.9311 (2003).

**Georgia**

**RULES AND REGULATIONS OF THE STATE OF GEORGIA  
TITLE 290: DEPARTMENT OF HUMAN RESOURCES  
PUBLIC HEALTH  
CHAPTER 290-5-31 EYE, EAR AND DENTAL EXAMINATIONS OF CHILDREN ENTERING PUBLIC SCHOOLS**

§ 290-5-31-.07. Certificate for Child Exempt from Examinations.

"When a conflict with belief and practices exists, the Local Department of Health shall accept and place in a separate file the parent's signed affidavit and shall issue a Special Certificate of Eye or Ear or Dental Examinations to this effect."

Cite as: Ga. Comp. R. & Regs. r. 290-5-31-.07 (2004).

**Connecticut**

**GENERAL STATUTES OF CONNECTICUT  
TITLE 10. EDUCATION AND CULTURE  
CHAPTER 169. SCHOOL HEALTH AND SANITATION**

§ 10-208. Exemption from examination or treatment.

"No provision of section 10-206, or 10-214, shall be construed to require any pupil to undergo a physical or medical examination or treatment, or to be compelled to receive medical instruction, if the parent or legal guardian of such pupil, or the pupil, if such pupil is an emancipated minor or is eighteen years of age or older, in writing, notifies the teacher or principal or other person in charge of such pupil that such parent or guardian or pupil objects, on religious grounds, to such physical or medical examination or treatment or medical instruction."

Cite as: Conn. Gen. Stat. § 10-208 (2004).

**Florida**

**TITLE XXIX PUBLIC HEALTH  
CHAPTER 381 PUBLIC HEALTH: GENERAL PROVISIONS**

§ 381.0056 School health services program.

"(7) The district school board shall: . . . (d) At the beginning of each school year, inform parents or guardians in writing that their children who are students in the district schools will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing. . . . However, the laws and rules relating to contagious or communicable diseases and sanitary matters shall not be violated."

Cite as: Fla. Stat. § 381.0056(7)(d) (2003).

**Maine**

**MAINE REVISED STATUTES  
TITLE 20-A. EDUCATION  
PART 3. ELEMENTARY AND SECONDARY EDUCATION  
CHAPTER 223. HEALTH, NUTRITION AND SAFETY  
SUBCHAPTER IV. HEALTH SCREENING**

§ 6451. Health screening.

"3. EXEMPT STUDENTS. A student whose parent objects in writing to screening on religious grounds shall not be screened unless a sight or hearing defect is reasonably apparent."

Cite as: Me. Rev. Stat. tit. 20-A, § 6451(3) (2003).

**New Jersey**

**NEW JERSEY ANNOTATED STATUTES  
TITLE 18A. EDUCATION  
SUBTITLE 6. SCHOOL CONDUCT  
CHAPTER 40. HEALTH PROMOTION AND DISEASE PREVENTION**

§ 18A:40-4 Health records; examinations for physical defects, hearing.

" . . . A pupil who presents a statement signed by his parent or guardian that such required examinations interfere with the free exercise of his religious beliefs shall be examined only to the extent necessary to determine whether he is ill or infected with a communicable disease or to determine his fitness to participate in any health, safety and physical education course required by law. . . ."

Cite as: N.J. Stat. § 18A:40-4 (2004).

**New York**

**NEW YORK CONSOLIDATED LAWS SERVICES  
EDUCATION LAW  
TITLE 1. GENERAL PROVISIONS  
ARTICLE 19. MEDICAL AND HEALTH SERVICE**

§ 905. Record of examinations; eye, ear and scoliosis tests

"1. . . . Required scoliosis testing shall not apply to children whose parent, parents, or guardian are bona fide members of a recognized religious organization whose teachings are contrary to the practices herein required . . . 4. . . . No eye test shall be required of any pupil whose parent or guardian objects thereto on the grounds that such test conflicts with such parent's or guardian's sincerely held religious beliefs."

Cite as: N.Y. Educ. Law § 905(1), (4) (2003).

**Ohio**

**PAGE'S OHIO REVISED CODE ANNOTATED  
TITLE 33. EDUCATION – LIBRARIES  
CHAPTER 13. BOARDS OF EDUCATION  
PHYSICIANS AND DENTISTS**

§ 3313.71. Examinations and diagnoses by school physician.

" . . . Boards shall waive the required test where a pupil presents a written statement . . . from the pupil's parent or guardian objecting to such test because of religious convictions. . . ."

Cite as: Ohio Rev. Code Ann. § 3313.71 (2003).

**Virginia**

**CODE OF VIRGINIA  
TITLE 22.1. EDUCATION  
CHAPTER 14. PUPILS**

**ARTICLE 2. HEALTH PROVISIONS**

**§ 22.1-273. Sight and hearing of pupil to be tested.**

" . . . Within the time periods and at the grades provided in regulations promulgated by the Board of Education, the principal of each such school shall cause the sight and hearing of the relevant pupils in the school to be tested, unless . . . the parents or guardians of such students object on religious grounds and the students show no obvious evidence of any defect or disease of the eyes or ears. . . ."

Cite as: Va. Code Ann. § 22.1-273 (2003).

**Indiana**

**BURNS INDIANA STATUTES ANNOTATED  
TITLE 20. EDUCATION  
ARTICLE 8.1. PUPILS  
CHAPTER 7. HEALTH MEASURES**

**§ 20-8.1-7-2. Objections to health treatment.**

"(a) Except as otherwise provided, a school child may not be required to undergo any testing, examination, immunization or treatment required under this chapter when the child's parent objects on religious grounds. A religious objection does not exempt a child from any testing, examination, immunization, or treatment required under this chapter unless the objection is: (1) made in writing; (2) signed by the child's parent; and (3) delivered to the child's teacher or to the individual who might order a test, an exam, an immunization, or a treatment absent the objection."Cite as: Ind. Code Ann. § 20-8.1-7-2(a) (2002).

**Rhode Island**

**GENERAL LAWS OF RHODE ISLAND  
TITLE 16. EDUCATION  
CHAPTER 21. HEALTH AND SAFETY OF PUPILS**

**§ 16-21-14. Hearing, speech, and vision screenings – Records – Statewide hearing screening program**

" (g) Tests shall not be required of any student whose parent or guardian objects on the ground that the tests conflict with their religious beliefs."

Cite as: R.I. Gen. Laws § 16-21-14(g) (2003).

**Massachusetts**

**MASSACHUSETTS GENERAL LAWS ANNOTATED  
PART I. ADMINISTRATION OF THE GOVERNMENT  
TITLE XII. EDUCATION  
CHAPTER 71. PUBLIC SCHOOLS  
SCHOOL COMMITTEES**

**§ 57. Physical examination of pupils; vision screening; certification.**

" . . . Any child shall be exempt on religious grounds from these examinations upon written request of parent or guardian on condition that the laws and regulations relating to communicable diseases shall not be violated. . . ."

Cite as: Mass. Gen. Laws Ann. ch. 71, § 57 (2004).

**Colorado**

**COLORADO REVISED STATUTES  
TITLE 22. EDUCATION  
GENERAL AND ADMINISTRATIVE  
ARTICLE 1. GENERAL PROVISIONS**

**§ 22-1-116. School children—sight and hearing tests**

" . . . The provisions of this section shall not apply to any child whose parent or guardian objects on religious or personal grounds."

Cite as: Colo. Rev. Stat. § 22-1-116 (2003).

**Kansas**

**KANSAS STATUTES ANNOTATED  
CHAPTER 72. SCHOOLS  
ARTICLE 52. HEALTH PROGRAMS  
HEALTH ASSESSMENTS**

§ 72-5214 Health assessments; definitions; requirements; alternatives; duties of school boards.

"(c) As an alternative to the health assessment required under subsection (b), 1 a pupil shall present: (1) A written statement signed by one parent or guardian that the child is an adherent of a religious denomination whose religious teachings are opposed to such assessments; . . . ."

Cite as: Kan. Stat. Ann. § 72-5214(c)(1) (2003).

1 Subsection (b) reads: ". . . every pupil up to the age of nine years who has not previously enrolled in any school in this state, prior to admission to and attendance in school, shall present to the appropriate school board the results of a health assessment . . . which assessment shall have been conducted within 12 months of school entry by a nurse who has completed the department of health and environment training and certification, by a physician or by a person acting under the direction of a physician. . . ."

**Louisiana**

**LOUISIANA REVISED STATUTES  
TITLE 17. EDUCATION  
CHAPTER 1. GENERAL SCHOOL LAW  
PART VI-A. SCREENING AND INTERVENTION FOR SCHOOL SUCCESS**

§ 392.1 Screening and intervention; purpose; applicability; city and parish school system, duties.

"B. (1) Every child in public school in grades kindergarten through third shall be screened, at least once, for the existence of impediments to a successful school experience. No child shall be screened if his parent or tutor objects to such screening. . . ."

Cite as: La. Rev. Stat. Ann. 17:392.1(B)(1) (2003).

**Mississippi**

**MISSISSIPPI CODE 1972 ANNOTATED  
TITLE 41. PUBLIC HEALTH  
CHAPTER 79. HEALTH PROBLEMS OF SCHOOL CHILDREN  
SCHOOL NURSE INTERVENTION PROGRAM**

§ 41-79-5. School nurse intervention program.

"(9) . . . No child shall be required to undergo hearing and vision or scoliosis screening or any other physical examination or tests whose parent objects thereto on the grounds such screening, physical examination or tests are contrary to his sincerely held religious beliefs. . . ."

Cite as: Miss. Code Ann. § 41-79-5(9) (2003).

**Vermont**

**VERMONT STATUTES ANNOTATED  
TITLE SIXTEEN. EDUCATION  
PART 2. PUBLIC SCHOOLS  
CHAPTER 31. HEALTH  
SUBCHAPTER 2. TESTING SIGHT AND HEARING**

§ 1422. Tests.

"(e) No child shall be obliged to submit to any test referred to in this section whose parent or guardian objects to the same in writing. Said written notice shall be delivered to the child's teacher or to any person who orders or conducts such test or tests."

Cite as: Vt. Stat. Ann. tit. 16, § 1422(e) (2003).

California

DEERING'S CALIFORNIA CODES ANNOTATED  
EDUCATION CODE  
TITLE 2. ELEMENTARY AND SECONDARY EDUCATION  
DIVISION 4. INSTRUCTION AND SERVICES  
PART 27. PUPILS  
CHAPTER 9. PUPIL AND PERSONNEL HEALTH  
ARTICLE 4.5. PUPIL HEALTH ASSESSMENT

§ 49460. Standardized health assessment of children in public schools.

"(c) No child shall be required to participate in a standardized health assessment program if the parent or guardian of that child objects to that participation because the program conflicts with the religious beliefs of the parent or guardian. The objection shall be made in a written form and shall be included in a letter submitted to the coordinating center, acknowledging parental notice of the health assessment."

Cite as: Cal. Educ. Code § 49460(c) (2004).

DEERING'S CALIFORNIA CODES ANNOTATED  
EDUCATION CODE  
TITLE 2. ELEMENTARY AND SECONDARY EDUCATION  
DIVISION 4. INSTRUCTION AND SERVICES  
PART 27. PUPILS  
CHAPTER 9. PUPIL AND PERSONNEL HEALTH  
ARTICLE 4. PHYSICAL EXAMINATIONS

§ 49455. Vision appraisal

"Upon first enrollment in a California school district of a child at a California elementary school, and at least every third year thereafter until the child has completed the eighth grade, the child's vision shall be appraised by the school nurse or other authorized person under Section 49452. . . . The provisions of this section shall not apply to any child whose parents or guardian file with the principal of the school in which the child is enrolling, a statement in writing that they adhere to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depend for healing upon prayer in the practice of their religion."

Cite as: Cal. Educ. Code § 49455 (2004).

DEERING'S CALIFORNIA CODES ANNOTATED

## **A sampling of state laws regarding the exemption of children from immunization on the basis of religious beliefs.**

### **Alaska**

**ALASKA ADMINISTRATIVE CODE  
TITLE 4. EDUCATION AND EARLY DEVELOPMENT  
CHAPTER 6. GOVERNMENT OF SCHOOLS  
ARTICLE 1. GENERAL ADMINISTRATION**

**4 AAC 06.055. Immunizations required.**

" . . . (b) This section does not apply if the child . . . (3) has an affidavit signed by his parent or guardian affirming that immunization conflicts with the tenets and practices of the church or religious denomination of which the applicant is a member."

Cite as: **Alaska Admin. Code tit. 4, § 06.055(b)(3) (2004).**

This regulation is promulgated under Alaska Stat. § 14.07.020 which requires immunization of children prior to first entry in public or nonpublic schools from pre-elementary education through the 12th grade.

### **New Mexico**

**NEW MEXICO STATUTES ANNOTATED  
CHAPTER 24. HEALTH AND SAFETY  
ARTICLE 5. IMMUNIZATION**

**§ 24-5-3. Exemption from immunization.**

"A. Any minor child through his parent or guardian may file with the health authority charged with the duty of enforcing the immunization laws . . . (2) affidavits or written affirmation from an officer of a recognized religious denomination that such child's parents or guardians are bona fide members of a denomination whose religious teaching requires reliance upon prayer or spiritual means alone for healing; (3) affidavits or written affirmation from his parent or legal guardian that his religious beliefs, held either individually or jointly with others, do not permit the administration of vaccine or other immunizing agent

B. Upon filing and approval of such certificate, affidavits or affirmation, the child is exempt from the legal requirement of immunization for a period not to exceed nine months on the basis of any one certificate, affidavits or affirmation."

Cite as: **N.M. Stat. Ann. § 24-5-3(A)(2), (A)(3), (B) (2002).**

### **Illinois**

**ILLINOIS COMPILED STATUTES ANNOTATED  
CHAPTER 105. SCHOOLS  
COMMON SCHOOLS  
SCHOOL CODE  
ARTICLE 27. COURSES OF STUDY – SPECIAL INSTRUCTION**

**§ 105 ILCS 5/27-8.1. Health examinations and immunizations.**

"Sec. 27-8.1. . . . (8) Parents or legal guardians who object to health examinations or any part thereof, or to immunizations, on religious grounds shall not be required to submit their children or wards to the examinations or immunizations to which they so object if such parents or legal guardians present to the appropriate local school authority a signed statement of objection, detailing the grounds for the objection. If the physical condition of the child is such that any one or more of the immunizing agents should not be administered, the examining physician, advanced practice nurse, or physician assistant responsible for the performance of the health examination shall endorse that fact upon the health examination form. Exempting a child from the health examination does not exempt the child from participation in the program of physical education training provided in Sections 27-5 through 27-7 of this Code [105 ILCS 5/27-5 through 105 ILCS 5/27-7]."

Cite as: **105 Ill. Comp. Stat. 5/27-8.1(8) (2003).**

## Michigan

**MICHIGAN COMPILED LAWS  
CHAPTER 380 SCHOOL CODE OF 1976  
REVISED SCHOOL CODE  
ARTICLE 2.**

**PART 15. SCHOOL DISTRICTS; POWERS AND DUTIES GENERALLY**

§ 380.1177. Immunization statements; vision test; immunization status and vision report; rules.

\*Sec. 1177. (1) A child enrolling in a public or nonpublic school for the first time or, beginning in the 2002-2003 school year, enrolling in grade 6 for the first time shall submit 1 of the following: . . . (b) A statement signed by a parent or guardian to the effect that the child has not been immunized because of religious convictions or other objection to immunization. . . .\*

Cite as: Mich. Comp. Laws § 380.1177(1)(b) (2003).

## Arizona

**ARIZONA REVISED STATUTES  
TITLE 15. EDUCATION  
CHAPTER 8. SCHOOL ATTENDANCE  
ARTICLE 6. SCHOOL IMMUNIZATION**

§ 15-873. Exemptions, nor attendance during outbreak.

\*A. Documentary proof is not required for a pupil to be admitted to school if one of the following occurs: 1. The parent or guardian of the pupil submits a signed statement to the school administrator stating that the parent or guardian has received information about immunizations provided by the department of health services, understands the risks and benefits of immunizations and the potential risks of nonimmunization and that due to personal beliefs, the parent or guardian does not consent to the immunization of the pupil. . . .\*

Cite as: Ariz. Rev. Stat. § 15-873(A)(1) (2004).

## Connecticut

**GENERAL STATUTES OF CONNECTICUT  
TITLE 10. EDUCATION AND CULTURE  
CHAPTER 169. SCHOOL HEALTH AND SANITATION**

§ 10-204a. Required immunizations.

\*(a) Each local or regional board of education, or similar body governing a nonpublic school or schools, shall require each child to be protected by adequate immunization . . . Any such child who . . . (3) presents a statement from the parents or guardian of such child that such immunization would be contrary to the religious beliefs of such child . . . shall be exempt from the appropriate provisions of this section. . . .\*

cite as: Conn. Gen. Stat. § 10-204a(a)(3) (2003).

## Georgia

**OFFICIAL CODE OF GEORGIA ANNOTATED  
TITLE 20. EDUCATION  
CHAPTER 2. ELEMENTARY AND SECONDARY EDUCATION  
ARTICLE 16. STUDENTS  
PART 3. HEALTH**

§ 20-2-771. Immunization of students.

\*(a) As used in this Code section, the term: . . . (2) 'Facility' means any public or private day-care center or nursery intended for the care, supervision, or instruction of children. . . . (4) 'School' means any public or private educational program or institution instructing children at any level or levels, kindergarten through twelfth grade, or children of ages five through 19 if grade divisions are not used. (b) No child shall be admitted to or attend any school or facility in this state unless the child shall first have submitted a certificate of immunization to the responsible official of the school or facility. . . . (e) This Code section shall not apply to a child whose parent or legal guardian objects to immunization of the child on the grounds that the immunization conflicts with the religious beliefs of the parent or guardian; however, the immunization may be required in cases when such disease is in epidemic stages. For a child to be exempt from immunization on religious grounds, the parent or guardian must first furnish the responsible official of the school or facility an affidavit in which the parent or guardian swears or affirms that the immunization required conflicts with the

religious beliefs of the parent or guardian. (f) During an epidemic or a threatened epidemic of any disease preventable by an immunization required by the Department of Human Resources, children who have not been immunized may be excluded from the school or facility until (1) they are immunized against the disease, unless they present valid evidence of prior disease, or (2) the epidemic or threat no longer constitutes a significant public health danger.

Cite as: Ga. Code Ann. § 20-2-771(a)(2)(4), (b), (e), (f) (2004).

## Idaho

### IDAHO CODE

#### GENERAL LAWS

#### TITLE 39. HEALTH AND SAFETY

#### CHAPTER 48. IMMUNIZATION

#### § 39-4802. Exemptions

"(2) Any minor child whose parent or guardian has submitted a signed statement to school officials stating their objections on religious or other grounds shall be exempt from the provisions of this chapter."

Cite as: Idaho Code § 39-4802(2) (2004).

## Maine

### MAINE REVISED STATUTES

#### TITLE 20-A. EDUCATION

#### PART 3. ELEMENTARY AND SECONDARY EDUCATION

#### CHAPTER 223. HEALTH, NUTRITION AND SAFETY

#### SUBCHAPTER II. IMMUNIZATION

#### § 6355. Enrollment in school.

"A superintendent may not permit any child to be enrolled in or to attend school without a certificate of immunization . . . except as follows. . . . 3. PHILOSOPHICAL OR RELIGIOUS EXEMPTION. The parent states in writing a sincere religious belief that is contrary to the immunization requirement of this subchapter or an opposition to the immunization for philosophical reasons."

Cite as: Me. Rev. Stat. tit. 20-A, § 6355(3) (2003).

## Nebraska

### REVISED STATUTES OF NEBRASKA ANNOTATED

#### CHAPTER 79. SCHOOLS

#### ARTICLE 2. PROVISIONS RELATING TO STUDENTS

#### (C) ADMISSION REQUIREMENTS

#### § 79-221. Immunization; when not required.

"Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following: . . . (2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that immunization conflicts with the personal and sincerely followed religious beliefs of the student."

Cite as: Neb. Rev. Stat. Ann. § 79-221(2) (2003).

## Nevada

### NEVADA REVISED STATUTES

#### TITLE 34. EDUCATION

#### CHAPTER 392. PUPILS

#### HEALTH AND SAFETY; PARENTAL INVOLVEMENT; SCHOOL UNIFORMS

#### § 392.437. Immunization of pupils: Exemption if prohibited by religious belief.

"A public school shall not refuse to enroll a child as a pupil because the child has not been immunized pursuant to NRS 392.435, if the parents or guardian of the child has submitted to the board of trustees of the school district or the governing body of a charter school in which the child has been accepted for enrollment a written statement indicating that their religious belief prohibits immunization of such child or ward."

Cite as: Nev. Rev. Stat. § 392.437 (2003).

## **New Jersey**

**NEW JERSEY ANNOTATED STATUTES  
TITLE 26. HEALTH AND VITAL STATISTICS  
CHAPTER 1A. STATE DEPARTMENT OF HEALTH – REORGANIZED**

**§ 26:1A-9.1. Exemption for pupils from mandatory immunization; interference with religious rights; suspension.**

"Provisions in the State Sanitary Code in implementation of this act shall provide for exemption for pupils from mandatory immunization if the parent or guardian of the pupil objects thereto in a written statement signed by the parent or guardian upon the ground that the proposed immunization interferes with the free exercise of the pupil's religious rights. This exemption may be suspended by the State Commissioner of Health during the existence of an emergency as determined by the State Commissioner of Health."

Cite as: N.J. Stat. § 26:1A-9.1 (2004).

## **New York**

**NEW YORK CODES, RULES AND REGULATIONS  
TITLE 10. DEPARTMENT OF HEALTH  
CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS  
SUBCHAPTER G. AIDS TESTING, COMMUNICABLE DISEASES AND POISONING  
PART 66. IMMUNIZATIONS**

**SUBPART 66-1. IMMUNIZATION AGAINST POLIOMYELITIS, DIPHTHERIA, MEASLES, MUMPS AND RUBELLA**

**§ 66-1.3. Requirements for school admission.**

"A principal or person in charge of a school shall not permit a child to be admitted to such school unless a person in parental relation to the child has furnished the school with one of the following: . . . (d) a written and signed statement from the parent, parents or guardian of such child, stating that the parent, parents or guardian objects to their child's immunization due to sincere and genuine religious beliefs which prohibit the immunization of their child in which case the principal or person in charge of the school may require supporting documents."

Cite as: N.Y. Comp. Codes R. & Regs. tit. 10, § 66-1.3(d) (2004).

## **Ohio**

**PAGE'S OHIO REVISED CODE ANNOTATED  
TITLE 33. EDUCATION – LIBRARIES  
CHAPTER 13. BOARDS OF EDUCATION  
SCHOOL YEAR**

**§ 3313.671. Required immunizations; exceptions.**

"(A) . . . (4) A pupil who presents a written statement of the pupil's parent or guardian in which the parent or guardian declines to have the pupil immunized for reasons of conscience, including religious convictions, is not required to be immunized. . . ."

Cite as: Ohio Rev. Code Ann. § 3313.671(A)(4) (2005).

## **Oklahoma**

**OKLAHOMA STATUTES  
TITLE 70. SCHOOLS  
DIVISION III. OTHER SCHOOL LAWS  
CHAPTER 15. HEALTH AND SAFETY  
IMMUNIZATION**

**§ 1210.192. Exemptions.**

"Any minor child, through the parent, guardian, or legal custodian of the child, may submit to the health authority charged with the enforcement of the immunization laws of this state: . . . 2. A written statement by the parent, guardian or legal custodian of the child objecting to immunization of the child; whereupon the child shall be exempt from the immunization laws of this state."

Cite as: Okla. Stat. tit. 70, § 1210.192(2) (2002).

## Virginia

CODE OF VIRGINIA  
TITLE 22.1. EDUCATION  
CHAPTER 14. PUPILS  
ARTICLE 2. HEALTH PROVISIONS

§ 22.1-271.2. Immunization requirements.

"C. No certificate of immunization shall be required for the admission to school of any student if (i) the student or his parent or guardian submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; . . . ."

Cite as: Va. Code Ann. § 22.1-271.2(C)(i) (2003).

## Indiana

BURNS INDIANA STATUTES ANNOTATED  
TITLE 20. EDUCATION  
ARTICLE 8.1. PUPILS  
CHAPTER 7. HEALTH MEASURES

§ 20-8.1-7-2. Objections to health treatment.

"(a) Except as otherwise provided, a school child may not be required to undergo any testing, examination, immunization or treatment required under this chapter when the child's parent objects on religious grounds. A religious objection does not exempt a child from any testing, examination, immunization, or treatment required under this chapter unless the objection is: (1) made in writing; (2) signed by the child's parent; and (3) delivered to the child's teacher or to the individual who might order a test, an exam, an immunization, or a treatment absent the objection."

Cite as: Ind. Code Ann. § 20-8.1-7-2(a) (2002).

**SB**

**167**



## SENATOR FRED DYSON

### SPONSOR STATEMENT SB 167 "An Act relating to Student Credits"

The innovation and success of Alaskans in dealing with the challenges of providing quality government services in our great and wonderful frontier is something we take pride in. One of our biggest challenges and most rewarding successes is our "system of public schools open to all children of the State"<sup>1</sup>.

More specifically, a number of school districts have developed distance learning programs using computers, internet access, home multifunction office machines, subscription to premium online educational services, certified teacher support, academic accountability standards, and superb parent <math>\leftrightarrow</math> public school collaboration. These programs serve approximately 10,000 students who are performing well on our standardized tests. The parents of these children are supportive and protective of their own children and the public school support services that have been made available to them. Public school district correspondence programs represent the kind of innovation that makes Alaska a place we can be proud of.

Two years ago a process was initiated by the Alaska Department of Education and Early Development (EED) to establish standardized regulations and spending guidelines for statewide correspondence programs as a reaction to concerns over potential and alleged abuses. In 2004 the regulations were established as another example of cooperation between parents, school districts and the department.

Several statewide correspondence program were found to be deficient on several items based on an interpretation of AS 14.03.090 that is challenged by SB 167. Essentially, the EED interpretation of this statute seems to be that a school district cannot give student credit or grades for academic achievement acquired using curriculum materials that advocate partisan, sectarian or denominational doctrines--- even though the material is clearly purchased with personal family money and used by the parent to teach their children reading, writing, and mathematics. This interpretation seems to be a clear challenge to what is normal operating procedure in the United States and a stretch of legislative intent.

AS 14.03.090 prohibits public schools (not curriculum materials) from advocating "partisan, sectarian, or denominational doctrines...". SB 167 simply clarifies that the legislature does not require parents to censor curriculum they purchase with their own money and that even if they choose to advocate religion to their own children using these materials, they can get public school credit for the academic achievement that aligns with state performance standards. By giving credit and grades for aligned achievement, a correspondence program is NOT "advocating" anything but academic achievement. A professional teacher is trained to give a reading, writing, or mathematics grade or credit without advocating the perspective advocated in the curriculum material or they wouldn't be able to teach things like literature and critical thinking skills.

Updated 4/7/05

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<sup>1</sup> Section 7.1 Public Education, Alaska Constitution.

**Constitution Section 7.1 - Public Education.**

The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

**EED Regulation 4AAC 4AAC 33.421(c)**

(c) In accordance with AS 14.07.050<sup>1</sup>, AS 14.08.111<sup>2</sup>, and AS 14.14.090<sup>3</sup>, the program must use curriculum materials, including textbooks and other instructional aids, that have been reviewed and selected by the school board of the district, are of the same quality as those materials that the district offers in the district's other programs, and are in compliance with AS 14.03.090<sup>4</sup> and AS 14.18.060<sup>5</sup>.

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<sup>1</sup> **Sec. 14.07.050. Selection of textbooks.**

Textbooks for use in the public schools of the state, including a district offered statewide correspondence study program, shall be selected by district boards for district schools. Nothing in this section precludes a correspondence study student, or the parent or guardian of a correspondence study student, from privately obtaining or using textbooks or curriculum material not provided by the school district.

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<sup>2</sup> **Sec. 14.08.111. Duties.** A regional school board shall

- (1) provide, during the school term of each year, an educational program for each school age child who is enrolled in or a resident of the district;
  - (2) develop a philosophy of education, principles, and goals for its schools;
  - (3) approve the employment of the professional administrators, teachers, and noncertificated personnel necessary to operate its schools;
  - (4) establish the salaries to be paid its employees;
  - (5) designate the employees authorized to direct disbursements from the school funds of the board;
  - (6) submit the reports prescribed for all school districts;
  - (7) provide for an annual audit in accordance with AS 14.14.050;
  - (8) provide custodial services and routine maintenance of school buildings and facilities;
  - (9) establish procedures for the review and selection of all textbooks and instructional materials, including textbooks and curriculum materials for statewide correspondence programs, before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060; nothing in this paragraph precludes a correspondence study student, or the parent or guardian of a correspondence study student, from privately obtaining or using textbooks or curriculum material not provided by the school district;
  - (10) provide prospective employees with information relating to the availability and cost of housing in rural areas to which they might be assigned, and, when possible, assist them in locating housing; however, nothing in this paragraph requires a regional school board to provide teacher housing, whether owned, leased, or rented or otherwise provided by the regional educational attendance area, nor does it require the board to engage in a subsidy program of any kind with respect to teacher housing; and
  - (11) train persons required to report under AS 47.17.020, in the recognition and reporting of child abuse, neglect, and sexual abuse of a minor.
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<sup>3</sup> **Sec. 14.14.090. Duties of school boards.** In addition to other duties, a school board shall

(1) determine and disburse the total amount to be made available for compensation of all school employees and administrative officers;

(2) provide for, during the school term of each year, an educational program for each school age child who is enrolled in or a resident of the district;

(3) withhold the salary for the last month of service of a teacher or administrator until the teacher or administrator has submitted all summaries, statistics, and reports that the school board may require by bylaws;

(4) transmit, when required by the assembly or council but not more often than once a month, a summary report and statement of money expended;

(5) keep the minutes of meetings and a record of all proceedings of the school board in a pertinent form;

(6) keep the records and files of the school board open to inspection by the public at the principal administrative office of the district during reasonable business hours;

(7) establish procedures for the review and selection of all textbooks and instructional materials, including textbooks and curriculum materials for statewide correspondence programs, before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060; nothing in this paragraph precludes a correspondence study student, or the parent or guardian of a correspondence study student, from privately obtaining or using textbooks or curriculum material not provided by the school district;

(8) provide prospective employees with information relating to the availability and cost of housing in rural areas to which they might be assigned, and, when possible, assist them in locating housing; however, nothing in this paragraph requires a school district to provide teacher housing, whether district owned, leased, rented, or through other means, nor does it require a school board to engage in a subsidy program of any kind regarding teacher housing;

(9) train persons required to report under AS 47.17.020, in the recognition and reporting of child abuse, neglect, and sexual abuse of a minor;

(10) provide for the development and implementation of a preventative maintenance program for school facilities; in this paragraph, "preventative maintenance" means scheduled maintenance actions that prevent the premature failure or extend the useful life of a facility, or a facility's systems and components, and that are cost-effective on a life-cycle basis.

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<sup>4</sup> **Sec. 14.03.090. Partisan, sectarian, or denominational doctrines prohibited.**

**NOTE: UNDERLINED AND BOLD LANGUAGE SHOWS CHANGES BY SB 167--- THEY ARE NOT IN CURRENT LAW.**

**(a) Except as provided in (b) of this section, partisan, sectarian, or denominational doctrines may not be advocated in a public school during the hours the school is in session. A teacher or school board violating this section may not receive public money.**

**(b) Nothing in this section prohibits a school district that operates a correspondence study program from giving credit for the completion of curriculum using materials purchased with private funds from a religious institution if the materials are otherwise aligned with state performance standards.**

**Sec. 14.18.060. Discrimination in textbooks and instructional materials prohibited.**

(a) School boards shall have textbooks and instructional materials reviewed for evidence of sex bias in accordance with AS 14.08.111 (9) and AS 14.14.090 (7). School boards shall use educationally sound, unbiased texts and other instructional materials as they become available. Nothing in this section prohibits use of literary works.

(b) The board shall establish by regulation standards for nondiscriminatory textbooks and educational materials. Each school board shall provide training for all its certificated personnel in the identification and recognition of sex-biased materials.

(c) The Board of Regents shall establish and implement a policy under AS 14.40.170 (b) for the guidance of officers and employees of the university on the selection of nondiscriminatory textbooks and educational materials.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 167  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: EED  
 Title An Act authorizing credit in a public RDU Teaching & Learning Support  
correspondence program for curriculum materials Component Student & School Achievement  
 Sponsor Sen. Dyson  
 Requester \_\_\_\_\_ Component No. 2796

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 00  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The department had identified no costs related to this bill, because the bill does not allow for the credits being issued under Section 2 to be counted as FTE for state funding purposes, and does not change any current practice.

Prepared by: Barbara Thompson, Director Phone 465-8727  
 Division Teaching & Learning Support Date/Time 4/18/05 7:03 AM  
 Approved by: \_\_\_\_\_ Date 04/18/2005  
 Agency \_\_\_\_\_

# STATE OF ALASKA

Department of Education & Early Development

FRANK H. MURKOWSKI, GOVERNOR

**COPY**Goldbelt Place  
801 West 10<sup>th</sup> Street, Suite 200  
Juneau, Alaska 99801-1894

## Teaching & Learning Support

March 14, 2005

Dear [REDACTED]

Attached is the copy of the Statewide Correspondence Program Monitoring Template that was used for the February 7, 2005, monitoring conducted by John Tongen. Below are required *Corrective Actions* related to compliance deficiencies with state regulations, as defined in 4 AAC 33.405-490.

For any *Corrective Actions* listed, please submit a plan for how the district will implement the corrective action listed and/or any other strategy the district may employ to address the corrective action. Responses to any corrective action must be submitted to Louie Yannotti, within 45 days of receipt of this letter. Mr. Yannotti can be reached at 907-465-8720 or [Louie\\_Yannotti@eed.state.ak.us](mailto:Louie_Yannotti@eed.state.ak.us).

Failure to respond within the specified timeline may result in program closure.

### Section I Curriculum

#### **Deficiency**

1. A,B,C & 3 The [REDACTED] program is in violation of the regulation 4AAC 33.421(c) that states:  
In accordance with AS 14.07.050, AS 14.08.111, and AS 14.14.090 the program must use curriculum materials, including textbooks and other instructional aids, that have been reviewed and selected by the school board of the district, are of the same quality as those materials that the district offers in the district's other programs, and are in compliance with AS 14.03.090 and AS 14.18.060.

[REDACTED] includes in their program curriculum materials that are not in compliance with AS 14.03.090. [REDACTED] has banned religious curriculum from their district purchases, but believes that if the parent privately purchases the material then the course can be included in their program. Being included in their program means being incorporated in the Individual Learning Plan, work progress papers being reviewed quarterly by the assigned certified teacher, and grades for such coursework being assigned to [REDACTED] transcripts. [REDACTED] also uses the religious coursework to determine the 50% core coursework requirement and uses the coursework for counting FTE, as it applies to the OASIS report for funding purposes. This practice is in violation of 4 AAC 33.426 and AS 14.03.090.

Mr. Tongen reviewed 325 current student files and his findings are below:

- 52 student files with 3 or more coursework (per file) in violation of AS 14.03.090
- 18 student files with 2 coursework (per file) in violation of AS 14.03.090
- 11 student files with 1 coursework (per file) in violation of AS 14.03.090

25% of student files reviewed include coursework in the [REDACTED] program that was in violation of AS 14.03.090.

#### **Corrective Action**

- Submit a plan or assurance that curriculum material, including textbooks and other instructional aids:
  - have been reviewed and selected by the school board of the district
  - are of the same quality as those materials that the district offers in the district's other programs, and
  - are in compliance with AS 14.03.090 and AS 14.18.060
- Submit to the Department a corrected OASIS report that properly reflects correct student FTE by eliminating coursework that is in violation of AS 14.03.090. Also, make the proper corrections to the FTE as you eliminate the AS 14.03.090 coursework to the 50% minimum coursework requirement.

#### **Section II District Assessment Plan**

##### **Deficiency**

Page 18 of the [REDACTED] Parent Handbook states: "The parent or guardian is the primary teacher. Although enrolled students may participate in guided instruction in some subjects, the intent is for the parent or guardian to be primarily responsible for the students education." Page 20 of the Handbooks states: " Include grades for all subjects listed on the ILP. May use any of several grade indicators for grades K-3, but typical letter grades must be used after grade 3. Turn into your contact teacher."

Also, the High School ILP provides for the parent to elect to grade the coursework by checking a box.

In the processes described above, it appears that student grades are not being determined by a certified teacher assigned to the student (4 AAC 33.421(e)(3)) and that the certified teacher does not have the primary responsibility to plan, instruct, and evaluate the student's learning (4 AAC 33.421(l)(3)). The certified teacher approves the Individual Learning Plan (ILP), makes at least monthly contact, and reviews the student's work at least quarterly. A certified teacher may review and consider recommendations submitted by the student and parents, but student grades, or other determinations that the course standards are met, must be made by a certificated teacher.

##### **Corrective Action**

- Submit new handbook language that clearly states that student grades are determined by a certified teacher, define the role of the contact teacher, in that, the contact teacher has the primary responsibility to plan, instruct, and evaluate the student's learning.
- Submit a plan for correcting this deficiency during the 2004-2005 school year.

Section VII Miscellaneous**Deficiency**

**Enrollment** — Parent Handbook states on page 4, "the student must take at least four classes with [redacted], at least two of which must be core classes". This practice is in violation of the part-time attendance law, AS 14.03.095 Part-time school attendance: "A governing body shall, upon request, allow a child including a child who is also enrolled at a private school, is a correspondence student, or is being home schooled, to enroll as a part-time student in the district. A governing body may not discriminate between part-time and full-time students." Additionally, 4 AAC 090.040, Counting of correspondence students and part-time public school students, describes the criteria for full-time and part-time students.

Eight senior students were listed on the OASIS report as full time equivalent but were in fact less than full time equivalent. A list of those students are: [redacted] (.25 FTE), [redacted] (.50 FTE), [redacted] (.25 FTE), [redacted] (.25 FTE), [redacted] (.50 FTE), [redacted] (.25 FTE), [redacted] (.25 FTE), [redacted] (.75 FTE).

**Corrective Action**

- Remove the Parent Handbook language that requires students to take at least four classes with IDEA.
- Submit a corrected OASIS report that reflects the correct FTE of the eight senior students listed.

**Deficiency**

Because 45% of ILP's are not turned in by the programs deadline of 9-17-04, the FTE on the OASIS report is only a guess and not a fact. IDEA should emphasize to parents the importance of getting ILP's completed in a timely manner that will enable the District to have a more accurate OASIS report.

**Corrective Action**

- Submit a plan and assurance that addresses this deficiency and will result in a timely completion of student ILP's and accurate OASIS student counts.

I wish to thank you and your staff for the cooperation during the monitoring process

# MEMORANDUM

State of Alaska  
Department of Law

To: Hon. Roger Sampson, Comm'r  
Department of Education and  
Early Development

Date: April 18, 2005

File No:

Tel. No.: (907) 465-3600

Fax: (907) 465-2520

From: Kathleen Strasbaugh  
Assistant Attorney General

Subject: Sectarian materials and  
correspondence schools

## I. Introduction and Short Answer

You have asked if the Department of Education and Early Development's (EED) interpretation of AS 14.030.090 to limit the use of sectarian materials by public correspondence schools is correct and consistent with prior opinions of this office. We agree that it is, and that in any case, use of such materials likely violates the state and federal constitutions.

## II. Discussion

As we understand it, EED has found in monitoring statewide correspondence schools that sectarian religious materials have been used as course material counted by districts toward the meeting the 50% core coursework requirement of AS 4 AAC 33.426, and toward counting full time equivalents for foundation funding purposes. We agree with your conclusions that the use of the materials is prohibited by AS 14.03.090, and that such course work cannot, as delivered by the affected districts, be used toward the requirements of 4 AAC 33.426 or for the purpose of foundation funding.

EED's monitor further found that certain correspondence programs' student learning plans, while supervised by a certified teacher, did not clearly call for the teacher to determine grades, in violation of 4 AAC 33.421(e)(3) and (l)(3). There are certain other findings, but as we understand it, what is at issue is the application of AS 14.03.090 to the sectarian materials. To address this we must look not only at the statute, but contemplate whether using these materials with the supervision of public school teachers entangles the public school in religious advocacy in violation of the state and federal constitutions.

AS 14.03.090 provides:

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Re: Sectarian materials & correspondence programs

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Sec. 14.03.090. Partisan, sectarian, or denominational doctrines prohibited. Partisan, sectarian, or denominational doctrines may not be advocated in a public school during the hours the school is in session. A teacher or school board violating this section may not receive public money.

This law, which has been in effect since 1966, prohibits advocacy of sectarian or denominational doctrines. While it uses terminology more easily applied to the traditional classroom, it applies to public schooling however delivered. However, even if the law were interpreted not to apply to correspondence schools, there would still be a problem under the First Amendment to the United States Constitution, and article I, section 4 of the Alaska Constitution.

We have addressed the interpretation of AS 14.03.090, and First Amendment issues in correspondence study in our prior opinions. 1988 Inf. Op. Att'y Gen'l at 1 (663-88-0573; September 15) (AS 14.030.090 means that while teachers can discuss different religions, they may not teach any particular set of beliefs as true beliefs); 1993 Inf. Op. Att'y Gen'l at 4 (663-93-0179; March 18) (discussing what constitutes government entanglement with religions, opining that contracting with a religious institution by the centralized correspondence school would likely result in entanglement); 1993 Inf. Op. Att'y Gen'l at 2 (663-93-0394; June 24) (discussing the delivery of services to part-time students who are enrolled in private schools, citing case law holding that state-paid teachers teaching in religious school classrooms would amount to government entanglement). We have attached these opinions for your convenience.

The March 18 opinion sets out the framework for analysis:

The First Amendment to the U.S. Constitution states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . [.]" Although by its terms it applies to Congress, the amendment has been made applicable to the states by incorporation into the Due Process Clause of the Fourteenth Amendment. The Alaska Constitution, article I, section 4, contains a similar prohibition: "No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof." In *Lemon v. Kurtzman*, 403 U.S. 602, 91 S. Ct. 2105, 29 L. Ed. 2d 745 (1971), the United States Supreme Court articulated a three-part test to determine whether a statute offends the first amendment. A later case phrased the test as follows:

"In order to pass muster, a statute must have a secular legislative purpose, must have a principal or primary effect that neither advances nor inhibits religion, and must not foster an excessive

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Re: Sectarian materials & correspondence programs

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government entanglement with religion. *Wolman v. Walter*, 433 U.S. 229, 236, 97 S. Ct. 2593, 2599, 53 L. Ed. 2d 714, 725 (1977). The Alaska Supreme Court applied the same test in considering whether a statute offended the federal or state constitution. *Bonjour v. Bonjour*, 592 P.2d 1233 (Alaska 1979).

1993 Att'y Gen'l Op. at 4 (663-93-0179; March 18).

Applying this framework to the situation at hand, while the correspondence program itself is secular in purpose, the use of religious materials fails the second and third prongs of the test. As we understand it, the materials advocate particular religious teachings, even though academic, and thus fail the second prong of the test. The adoption by the correspondence school of these materials as counting toward school sponsored core curriculum funded by the state, which must be taught and graded by certified public school teachers, unduly entangles the program and the teachers in religious matters, and thus fails the third prong of the test, even though the correspondence school does not pay for them and has a policy banning the purchase of such documents.

We note that under AS 14.03.095, children may be enrolled in a public school on a part time basis. The children's parents can employ the sectarian curriculum for the courses they wish, and enroll their children in correspondence school for other courses. But the correspondence schools must deliver a course of study under 4 AAC 33 by certified teachers, with materials that are in compliance with AS 14.30.090. And foundation funding can only be applied to correctly delivered correspondence school course work.

### III. Conclusion

We concur with the application of law and regulations in the monitoring reports in question, and we believe it is in line with our past advice. Please let us know if you would like us to explore this issue in greater detail.

## Section 1:

**SSSB 167 is challenging censorship of Alaska public school instructional materials.**

Section 2: Other perspectives of the problem

Section 3: Text of SSSB 167

Section 4: Sponsor Statement

Section 5: Sectional Analysis

Section 6: Appendix

## Section 2:

Our understanding of the different perspectives of the problem.

## Section 3:

Text of SSSB 167

## Section 4:

### Sponsor Statement

## Section 5:

### Sectional Analysis

## Section A:

SB 167 challenges current EED policy and practice related to censorship.

EED regulations and policy clearly require<sup>1</sup>  **censorship**<sup>2</sup> of public school instructional materials<sup>3</sup> to exclude any use of religious materials. The censorship is aimed at only one public school program; statewide correspondence programs operated by school districts<sup>4</sup> and does not apply to other correspondence programs or any other public school.

- It is not illegal to censor. It is however, detrimental to censor instructional materials because they hold a particular world view, especially when it is the particular world view of a student's parents. It is not practical to expect a teacher to teach critical thinking skills if we allow regulations that require a broad ban on curriculum materials.
- It seems likely that it is illegal to apply censorship to only one type of public school program.
- It is clearly illegal and unconstitutional for a public school teacher to advocate for any particular party, sect, or denomination. It is unreasonable to assume that a teacher's use of materials prepared from the perspective of any given world view is therefore guilty of advocating for that world view.

<sup>1</sup> **"require"**: As demonstrated by; EED numbered memorandum, November, 1997; 4 AAC 33.421(c) & (g) (2)&(3), and; EED Audit letters to statewide correspondence programs dated March 14, 2005. These documents are attached in Appendix A

<sup>2</sup> Webster's definition of **"Censorship"**: Supervision of conduct and morals: as **a** : an official who examines materials (as publications or films) for objectionable matter **b** : an official (as in time of war) who reads communications (as letters) and deletes material considered sensitive or harmful.

The actual censorship acts of EED include: requirement for school districts to censor religious materials by regulation and policy, and declaration of denial of funding for districts that have not censored (by audit). The proof offered in the audit that districts have not effectively censored is based on coursework in student files, involvement of certified teachers doing progress reports and assigning grades for academic achievement gained using instructional materials that the district determined not to purchase because of the regulations in question. It is outrageous to justify this level of censorship with First Amendment compliance. It is counterproductive and probably impossible to hide the world view of authors and publishers of written materials used in our public schools. It would be impossible, for example, to learn anything in public school about how an Islamic Iraqi thinks.

<sup>3</sup> **"instructional materials"** Used here to mean textbooks and any material that is used by a teacher in context of meeting a measurable curricular goal. Instructional materials might include workbooks, flash cards, computer software, periodicals, or even lab materials, etc.; limited only by the imagination and energies of the teacher, available resources, and the values of the parent and teacher. Curricular goals are secular by definition of public schools and assumed to align with the state accountability standards. Public school teachers are prohibited from advocating any partisan, sectarian, or denominational doctrine by Alaska Statute 14.03.090. Instructional materials need not be secular by any law I am aware of and I cannot imagine intellectual development without an interest in understanding the partisan, sectarian, or denominational world view of an author or publisher of instructional materials used by a student.

<sup>4</sup> **"statewide correspondence programs operated by school districts"** Approximately 10,000 students in Alaska are enrolled in this type of distance education program. It is important to realize that there are **correspondence programs operated by school districts** that are NOT statewide and are therefore not subject to the censorship requirements.

### Perspective of Public Correspondence School Parents:

In spite of a law passed in 2002 <sup>Page A-3</sup> Correspondence programs have now been told their child will no longer receive credit for academic achievement attained using curriculum materials, textbooks, and learning aids that they have personally purchased. They had been told that they could use religious curriculum materials as long as they paid for them with their own money and they align with the student's personal learning plans that had been created in cooperation with the child's certified public school teacher by a procedure approved by the local school board.

### Perspective of District Operated Correspondence Programs :

1. Receipt of memo and subsequent regulations that prohibit purchase of religious materials. (Note that the memo is probably based on AG opinion, and there has never been straightforward statutory authority for the regulations.
2. Receipt of a "monitoring letter" (an audit) that cites the use of "religious curriculum\*" for the following applications "... is in violation of... AS 14.03.090" <sup>Page A-3</sup> :
  - Incorporation into Individual Learning Plans (ILPs)
  - Incorporation into work progress reports being reviewed quarterly by the assigned certified teacher.
  - Assignment of grades to work progress reports.
  - Use of religious coursework to determine 50% core coursework requirement for counting FTE (authorization for funding)

\* "Religious coursework" has been defined on the record by the EED attorney as coursework the school district has chosen to not purchase because of religious content! (In other words, compliance to directions of memo and regulations have led to elimination of credit and funding.) School districts chose to disallow purchase of any curriculum materials and learning aids that have any appearance of being religious in a good-faith response to pressure by EED directives. The districts were also subsequently advised to specifically list the source of all curriculum material in the records --- now EED is saying that any ILP that includes these materials that were disallowed for purchase have become the poison pill that cancels any reimbursement possibility. It certainly appears to be a setup because there is no evidence of testimony, verbal communication, memos, email, or anything else that cautioned or warned the correspondence programs of the pending action.

### Perspective of EED.

EED has the fiduciary responsibility for public money going to school districts. Their primary tool to ensure appropriate use of funds is drafting and establishing regulations. EED has stated repeatedly that they have difficulty ensuring that school districts are not being paid for services they are not providing. Evidently the application of AS 14.03.090 <sup>Page A-3</sup> to create the regulation 4 AAC 33.421(c), (g) (2)&(3) <sup>Page A-2</sup> was the only way they felt they could hold the districts accountable?. There may be other perspectives of the problem that have not been revealed, but that is for them to present. I have never heard anyone from EED express concern about inappropriate use of curriculum material that would suggest a violation of AS 14.03.090.

It is an interesting fact that the regulation applies only distance learning programs *that can recruit students across school district boundaries*. The regulations distinctly do not apply to school districts that operate distant learning programs but do not choose to recruit students from outside of their districts. This is interesting because the fiduciary concerns and dynamics for abuse are identical, but there has been no effort to write similar regulations for similar programs.

### Perspective of Attorney General's/ Governor's Office

The Governor and Attorney General have a dilemma. If they admit to supporting inappropriate censorship, they implicate themselves as the perpetrators. On the other hand, the unequal censorship and discrimination is so obvious that they can hardly ignore it. SB 167 annuls the regulations that the AG and Governor feel they need to defend and leaves the identical openness and local control that exists for all other public education programs.

#### My perspective.

4 AAC 33.421(c), (g) (2)&(3) <sup>Page A-2</sup> is, at best, an unwitting misapplication of AS 14.03.090 <sup>Page A-</sup>  
3. At the worst it is a bureaucracy protecting its monopoly with no thought about educational policy and consequence to Alaska parents and students. The results of EED actions have little, if any, effect on fiduciary accountability. Whether intended or not, the application of the regulation is censorship of valuable curriculum materials. The censorship is interestingly directed at only the one type of distant learning program that can recruit students across district boundaries.

The censorship is offensive and in effect, discriminates against parents who cannot, or will not, send their children to a "brick and mortar" school. It is difficult to imagine that EED or the State School Board intend censorship, so they will have to explain the intent of their actions.

If the issue is the fiduciary responsibility of EED, it would seem far more appropriate to address any documented abuse directly and to use regulations and legislation to build incentives to ensure that public school funding is directed at producing measurable reading, writing, and mathematics results.

**BILL ID: SB 167**

00 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 167

01 "An Act relating to selection of textbooks and curriculum materials by a public school  
02 district or regional attendance area and annulling a regulation relating to statewide  
03 correspondence study programs."

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

05 \* Section 1. AS 14.07.050 is amended to read:

06 **Sec. 14.07.050. Selection of textbooks and curriculum materials.**

07 Textbooks and curriculum materials for use in the public schools of the state,  
08 including a district offered statewide correspondence study program, shall be selected  
09 by district boards for district schools Selection of textbooks and curriculum  
10 materials shall be based on an evaluation of quality and alignment with statewide  
11 accountability standards unless otherwise prohibited by AS 14.18.060. An  
12 evaluation of the quality of textbooks and curriculum materials must be based on  
13 a determination by the district of how well the textbook or material serves a  
14 measurable educational goal and associated teaching method. Nothing in this  
01 section precludes a correspondence study student, or the parent or guardian of a  
02 correspondence study student, from privately obtaining or using textbooks or  
03 curriculum material not provided by the school district.

04 \* Sec. 2. AS 14.08.111 is amended to read:

05 **Sec. 14.08.111. Duties.** A regional school board shall

06 (1) provide, during the school term of each year, an educational  
07 program for each school age child who is enrolled in or a resident of the district;

08 (2) develop a philosophy of education, principles, and goals for its  
09 schools;

10 (3) approve the employment of the professional administrators,  
11 teachers, and noncertificated personnel necessary to operate its schools;

12 (4) establish the salaries to be paid its employees;

13 (5) designate the employees authorized to direct disbursements from  
14 the school funds of the board;

15 (6) submit the reports prescribed for all school districts;

16 (7) provide for an annual audit in accordance with AS 14.14.050;

17 (8) provide custodial services and routine maintenance of school  
18 buildings and facilities;

19 (9) establish procedures for the review and selection of all textbooks  
20 and instructional materials, including textbooks and curriculum materials for statewide  
21 correspondence programs, before they are introduced into the school curriculum; the  
22 review and selection of textbooks and instructional materials shall be based on an  
23 evaluation of quality and alignment with statewide accountability standards

24 unless otherwise prohibited under AS 14.18.060; evaluation of the quality of  
25 textbooks and instructional materials shall include a determination of how well  
26 the textbook or material serves a measurable educational goal and associated  
27 teaching method; [THE REVIEW INCLUDES A REVIEW FOR VIOLATIONS OF  
28 AS 14.18.060]; nothing in this paragraph precludes a correspondence study student, or  
29 the parent or guardian of a correspondence study student, from privately obtaining or  
30 using textbooks or curriculum material not provided by the school district;

31 (10) provide prospective employees with information relating to the  
01 availability and cost of housing in rural areas to which they might be assigned, and,  
02 when possible, assist them in locating housing; however, nothing in this paragraph  
03 requires a regional school board to provide teacher housing, whether owned, leased, or  
04 rented or otherwise provided by the regional educational attendance area, nor does it  
05 require the board to engage in a subsidy program of any kind with respect to teacher  
06 housing; and

07 (11) train persons required to report under AS 47.17.020, in the  
08 recognition and reporting of child abuse, neglect, and sexual abuse of a minor.

09 \* Sec. . AS 14.14.090 is amended to read:

10 § c. 14.14.090. Duties of school boards. In addition to other duties, a school  
11 board shall

12 (1) determine and disburse the total amount to be made available for  
13 compensation of all school employees and administrative officers;

14 (2) provide for, during the school term of each year, an educational  
15 program for each school age child who is enrolled in or a resident of the district;

16 (3) withhold the salary for the last month of service of a teacher or  
17 administrator until the teacher or administrator has submitted all summaries, statistics,  
18 and reports that the school board may require by bylaws;

19 (4) transmit, when required by the assembly or council but not more  
20 often than once a month, a summary report and statement of money expended;

21 (5) keep the minutes of meetings and a record of all proceedings of the  
22 school board in a pertinent form;

23 (6) keep the records and files of the school board open to inspection by  
24 the public at the principal administrative office of the district during reasonable  
25 business hours;

26 (7) establish procedures for the review and selection of all textbooks  
27 and instructional materials, including textbooks and curriculum materials for statewide  
28 correspondence programs, before they are introduced into the school curriculum; the

29 review and selection of textbooks and instructional materials shall be based on an

30 evaluation of quality and alignment with statewide accountability standards

31 unless otherwise prohibited under AS 14.18.060; evaluation of the quality of

01 textbooks and instructional materials shall include a determination of how well

02 the textbook or material serves a measurable educational goal and associated  
03 teaching method;[THE REVIEW INCLUDES A REVIEW FOR VIOLATIONS OF  
04 AS 14.18.060]; nothing in this paragraph precludes a correspondence study student, or  
05 the parent or guardian of a correspondence study student, from privately obtaining or  
06 using textbooks or curriculum material not provided by the school district;

07 (8) provide prospective employees with information relating to the  
08 availability and cost of housing in rural areas to which they might be assigned, and,  
09 when possible, assist them in locating housing; however, nothing in this paragraph  
10 requires a school district to provide teacher housing, whether district owned, leased,  
11 rented, or through other means, nor does it require a school board to engage in a  
12 subsidy program of any kind regarding teacher housing;

13 (9) train persons required to report under AS 47.17.020, in the  
14 recognition and reporting of child abuse, neglect, and sexual abuse of a minor;

15 (10) provide for the development and implementation of a preventative  
16 maintenance program for school facilities; in this paragraph, "preventative  
17 maintenance" means scheduled maintenance actions that prevent the premature failure  
18 or extend the useful life of a facility, or a facility's systems and components, and that  
19 are cost-effective on a life-cycle basis.

20 \* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 ANNULMENT OF REGULATION. 4 AAC 33.421(c) and 4 AAC33.421 (g) (2) & (3)\* is annulled.

\* this line needs to be added yet to bill language.

## Sponsor Statement

### SSSB 167 "An Act relating to Selection of Instructional Materials"

In November of 1997, EED issued a memorandum that directed all schools to NOT purchase religious materials. Because this is a weighty directive that has application related to the First amendment of the US Constitution, it is safe to presume that EED received advice from the Attorney General's office before issuing the directive. It is noteworthy that the directive went to all public schools even though the message was undoubtedly for the benefit of newly formulated home school support programs.

Two years ago a process was initiated by the Alaska Department of Education and Early Development (EED) to establish standardized regulations and spending guidelines for statewide correspondence programs as a reaction to concerns over potential and alleged abuses. In 2004 the regulations were established as another example of cooperation between parents, school districts and the department. Unfortunately, the regulations also raised the status of the 1997 memo from an EED directive to Alaska administrative code.

In March of 2005, several statewide correspondence program were found to be deficient on several items based on the 4 AAC 33.421 interpretation of AS 14.03.090 that is challenged by SB 167. Essentially, the EED interpretation of this statute seems to be that a school district cannot give student credit or grades for academic achievement acquired using curriculum materials that advocate partisan, sectarian or denominational doctrines--- even though the material is clearly purchased with personal family money and used in a parent-teacher collaboration to teach their children reading, writing, and mathematics. This interpretation seems to be a challenge to correspondence program normal operating procedures and the first amendment of the United States Constitution as well as ignoring legislative intent.

AS 14.03.090 prohibits *advocating* "partisan, sectarian, or denominational doctrines... SB 167 simply clarifies that the legislature does not require parents to censor curriculum they purchase with their own money and that even if they choose to advocate religion to their own children using these materials, they can get public school credit and assistance in the process of teaching their kids to accomplish achievement that aligns with state performance standards. By giving credit and grades for aligned achievement, a correspondence program is NOT "advocating" anything but academic achievement. A professional teacher is trained to give a reading, writing, or mathematics grade or credit without advocating the perspective advocated in any given curriculum material or they wouldn't be able to teach things like literature and critical thinking skills at all.

Updated 4/7/05

## Sectional Analysis of SSSB 167

Section 1. Adds language that clarifies how school districts must base their selection of textbooks and curriculum material on quality and alignment with state and local accountability goals. It also specifically prohibits selection of textbooks and curriculum material that is banned in AS 14.18.060 (sex bias).

It is important to realize that even though this is in a chapter defining the department, no authority or responsibility is given to the department related to school textbooks or curriculum.

Section 2: Includes same selection guidance in AS 14.08.111 defining duties of regional school boards.

Section 3: Includes same selection guidance in AS 14.14.090 defining duties school boards.

**APPENDIX :**

Page A-1

**EED Numbered Memorandum dated November 7, 1997:**



(10) provide prospective employees with information relating to the availability and cost of housing in rural areas to which they might be assigned, and, when possible, assist them in locating housing; however, nothing in this paragraph requires a regional school board to provide teacher housing, whether owned, leased, or rented or otherwise provided by the regional educational attendance area, nor does it require the board to engage in a subsidy program of any kind with respect to teacher housing; and

(11) train persons required to report under AS 47.17.020, in the recognition and reporting of child abuse, neglect, and sexual abuse of a minor.

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**3 Sec. 14.14.090. Duties of school boards.** In addition to other duties, a school board shall

(1) determine and disburse the total amount to be made available for compensation of all school employees and administrative officers;

(2) provide for, during the school term of each year, an educational program for each school age child who is enrolled in or a resident of the district;

(3) withhold the salary for the last month of service of a teacher or administrator until the teacher or administrator has submitted all summaries, statistics, and reports that the school board may require by bylaws;

(4) transmit, when required by the assembly or court, but not more often than once a month, a summary report and statement of money expended;

(5) keep the minutes of meetings and a record of all proceedings of the school board in a pertinent form;

(6) keep the records and files of the school board open to inspection by the public at the principal administrative office of the district during reasonable business hours;

Appendix (cont.)

Page A-3.

(7) establish procedures for the review and selection of all textbooks and instructional materials, including textbooks and curriculum materials for statewide correspondence programs, before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060; nothing in this paragraph precludes a correspondence study student, or the parent or guardian of a correspondence study student, from privately obtaining or using textbooks or curriculum material not provided by the school district;

(8) provide prospective employees with information relating to the availability and cost of housing in rural areas to which they might be assigned, and, when possible, assist them in locating housing; however, nothing in this paragraph requires a school district to provide teacher housing, whether district owned, leased, rented, or through other means, nor does it require a school board to engage in a subsidy program of any kind regarding teacher housing;

(9) train persons required to report under AS 47.17.020, in the recognition and reporting of child abuse, neglect, and sexual abuse of a minor;

(10) provide for the development and implementation of a preventative maintenance program for school facilities; in this paragraph, "preventative maintenance" means scheduled maintenance actions that prevent the premature failure or extend the useful life of a facility, or a facility's systems and components, and that are cost-effective on a life-cycle basis.

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<sup>4</sup> (The following statute is mis-applied in the offending regulation, 4 AAC 33.421, page A-2.)

**Sec. 14.03.090. Partisan, sectarian, or denominational doctrines prohibited.**

Partisan, sectarian, or denominational doctrines may not be advocated in a public school during the hours the school is in session. A teacher or school board violating this section may not receive public money.

<sup>5</sup> (The following statute authorizes the only legal censorship of curriculum materials.)

**Sec. 14.18.060. Discrimination in textbooks and instructional materials prohibited.**

(a) School boards shall have textbooks and instructional materials reviewed for evidence of sex bias in accordance with AS 14.08.111 (9) and AS 14.14.090 (7). School boards shall use educationally sound, unbiased texts and other instructional materials as they become available. Nothing in this section prohibits use of literary works.

(b) The board shall establish by regulation standards for nondiscriminatory textbooks and educational materials. Each school board shall provide training for all its certificated personnel in the identification and recognition of sex-biased materials.

(c) The Board of Regents shall establish and implement a policy under AS 14.40.170 (b) for the guidance of officers and employees of the university on the selection of nondiscriminatory textbooks and educational materials.

## Appendix (cont.):

Page A-4

### EED Audit:

The following is from the "Statewide Correspondence Program Monitoring..." (audit) that was mailed to offending school districts by the Department of Education and Early Development (EED) to school districts on March 14, 2005:

(NOTE: The entire audit is not included because the scope of SB 167 addresses only the inappropriate censorship by EED)

### Section I Curriculum

#### Deficiency

1. A,B,C &3 The "XYZ" program is in violation of the regulation 4 AAC 33.421(c) that states:  
[see Appendix A, page 2]

"XYZ" includes in their program curriculum materials that are not in compliance with AS 14.03.090. "XYZ" has banned religious curriculum from their district purchases, but believes that if the parent privately purchases the material then the course can be included in their program. Being included in their program means being incorporated in the Individual Learning Plan, work progress papers being reviewed quarterly by the assigned certified teacher, and grades for such coursework being assigned to "XYZ" transcripts. "XYZ" also uses the religious coursework to determine the 50% core coursework requirement and uses the coursework for counting FTE, as it applies to the OASIS report for funding purposes. This practice is in violation of 4 AAC 33.426 and AS 14.03.090.

... reviewed 325 current student files and his findings are below:

- 52 student files with 3 or more coursework (per file) in violation of AS 14.03.090
- 18 student files with 2 coursework (per file) in violation of AS 14.03.090
- 11 student files with 1 coursework (per file) in violation of AS 14.03.090

**SB**

**177**



## Health, Education, and Social Services Committee Alaska State Senate

### SPONSOR STATEMENT

**CS SB 177 (HES)—*“An Act eliminating the prohibition on the use by certain licensed professionals of titles or descriptions of services that incorporate the terms ‘psychoanalysis,’ ‘psychoanalyst,’ ‘psychotherapy,’ ‘psychotherapeutic,’ or ‘psychotherapist.’”***

AS 08.86.180 prohibits professionals—except for licensed psychologists and clinical social workers—from using certain terms to describe their services or their titles. These terms include: “psychology,” “psychological,” “psychologist,” “psychometry,” “psychotherapy,” “psychotherapeutic,” “psychotherapist,” “psychoanalysis,” and “psychoanalyst.” This statute was written prior to the licensure of professional counselors (LPC’s) and marital and family therapists (LMFT’s), who also provide these types of psychological services. LPC’s and LMFT’s constitute a large portion of Alaska’s licensed mental health professional workforce, and are an even larger percentage of professionals working in state funded community mental health centers.

SB 177 was composed with the collaboration of the Alaska Board of Licensed Professional Counselors, the Alaska Psychological Association, the Alaska Board of Psychologist and Psychological Associate Examiners, the Alaska Chapter of the National Association of Social Workers, the Alaska Board of Marital and Family Therapists, and the Alaska Board of Social Work Examiners.

SB 177 updates these statutes to reflect current practice and training as well as maintaining a degree of protection to the public. The language affects licensed clinical social workers, licensed marital and family therapists, and licensed professional counselors.

24-LS0893\G  
Mischel  
1/17/06

**CS FOR SENATE BILL NO. 177(HES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Ordered:**

**Referred:**

**Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE BY REQUEST**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act eliminating the prohibition on the use by certain licensed professionals of titles**  
2 **or descriptions of services that incorporate the terms 'psychoanalysis,' 'psychoanalyst,'**  
3 **psychotherapy,' 'psychotherapeutic,' or 'psychotherapist.'"**

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

5 **\* Section 1. AS 08.86.180(d) is amended to read:**

6 (d) Nothing in this section prohibits a licensed clinical social worker, a  
7 licensed marital and family therapist, or a licensed professional counselor from  
8 holding out to the public by a title or description of services incorporating the words  
9 "psychoanalysis," "psychoanalyst," "psychotherapy," "psychotherapist," or  
10 "psychotherapeutic."

L

Sec. 08.66.170. Use of title.

(a) Unless licensed under this chapter, a person may not use the title "psychologist" or a title, designation, or device indicating or tending to indicate that the person is a psychologist or practices psychology.

(b) Unless licensed under this chapter, a person may not use the title "psychological associate" or a title, designation, or device indicating or tending to indicate that the person is a psychological associate or practices counseling or psychometrics.

Sec. ~~08.86.180~~. Practice of psychology.

(a) Unless licensed under this chapter, a person may not practice psychology or hold out publicly as a psychologist or as practicing psychology. A person holds out as a psychologist by using a title or description of services incorporating the words "psychology," "psychological," "psychologist," "psychometry," "psychotherapy," "psychotherapeutic," "psychotherapist," "psychoanalysis," or "psychoanalyst" or when holding out publicly to be trained, experienced, or qualified to render services in the field of psychology.

(b) This section does not apply to

(1) a person employed by a governmental unit, educational institution or private agency who may be required to engage in some phase of work of a psychological nature in the course of the person's employment, if the employer maintains appropriate supervision of psychological activities and professional conduct, and if the person is performing the psychological activities as part of the duties for which the person was employed, is performing the activities solely within the facilities of the organization in which the person is employed or under the supervision of the organization in which the person is employed, and does not render or offer to render psychological services to the public for compensation in addition to the salary the person receives from the organization;

(2) a student, intern, or resident in psychology pursuing a course of study approved by the board as qualifying training and experience for a psychologist, if that person's activities constitute a part of that person's supervised course of study and that person is designated by titles such as "psychology intern" or "psychology trainee";

(3) a qualified member of another profession, in doing work of a psychological nature consistent with that person's training and consistent with the code of ethics of that person's profession, if the person does not hold out to the public by a title or description of services incorporating the words "psychology," "psychological," "psychologist," "psychometry," "psychotherapy," "psychotherapeutic," "psychotherapist," "psychoanalysis," or "psychoanalyst" or represent to be trained, experienced, or qualified to render services in the field of psychology.

(4) *[Repealed, Sec. 15 ch 65 SL-1 1973].*

(5) a physician engaged in the normal practice of medicine for which the physician is licensed under AS 08.64.

(c) Nothing in this chapter authorizes a person licensed as a psychologist to engage in the practice of medicine, as defined by the laws of the state.

(d) Nothing in this section prohibits a clinical social worker from holding out to the public by a title or description of services incorporating the words "psychotherapy," "psychotherapist," or "psychotherapeutic."

*Sec. 08.86.185. Practice of counseling and psychometrics. [Repealed, Sec. 24 ch 58 SLA 1980. For current law, see AS 08.86.180].*

Repealed or Renumbered

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 177  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction):  
 Title Practice of Psychology

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

Sponsor Health, Education & Social Services  
 Requester Senate 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 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 1156 - Receipt Supported Services						
<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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

SB177 eliminates certain titles or description of services from requiring licensure by the Board of Psychologist and Psychological Associate Examiners. New funds are not required to implement the provisions of this bill.

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

Phone (907) 465-2144  
 Date/Time 4/19/05 7:30 PM  
 Date 4/19/2005

### **Psychotherapy means:**

the treatment of mental or emotional problems by psychological means

the treatment of psychological disorders or maladjustments by a psychological technique, as psychoanalysis, group therapy, or behavioral therapy. Psychotherapy does not include physiological interventions, such as drug therapy or electroconvulsive therapy, although it may be used in combination with such methods. Behavior therapy aims to help the patient eliminate undesirable habits or irrational fears through the use of principles of conditioning

a set of techniques believed to cure or to help solve behavioral and other psychological problems in humans. The common part of these techniques is direct personal contact between therapist and patient, mainly in the form of talking. Due to the nature of these communications, there are significant issues of patient privacy and/or client confidentiality.

A generic term for the treatment of mental illness or emotional disturbances primarily by verbal or nonverbal communication.

The treatment of mental and emotional disorders through the use of psychological techniques designed to encourage communication of conflicts and insight into problems, with the goal being relief of symptoms, changes in behavior leading to improved social and vocational functioning, and personality growth.

### **(Partial) List of Psychotherapeutic Modalities**

- Analytical psychology
- Autogenic psychotherapy
- Behavior therapy
- Biodynamic psychotherapy
- Bioenergetic analysis
- Biosynthesis
- Jungian psychotherapy
- Rogersian psychotherapy
- Cognitive analytic psychotherapy
- Cognitive behavioural psychotherapy
- Concentrative movement therapy
- Core process psychotherapy
- Daseins analytic psychotherapy
- Encounter groups
- Existential analysis
- Family therapy
- Freudian psychotherapy
- Gestalt therapy
- Group therapy
- Humanistic psychology
- Logotherapy
- Neuro-Linguistic Programming
- Person centred psychotherapy
- Personal construct psychology (PCP)
- Positive psychotherapy
- Postural integration
- Primal integration
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- Psychoanalysis
- Psychodrama
- Psychodynamic psychotherapy
- Psycho-Organic analysis
- Psychosynthesis
- Pulsing
- Rational emotive behaviour psychotherapy
- Reichian psychotherapy
- Rolfing
- Sophia analysis
- Systemic therapy
- T Groups
- Transactional analysis
- Transpersonal psychotherapy

Dear Legislator:

An issue has been brought up to me again by members of the Community Mental Health Center (CMHC) providers association. They are concerned because one of the primary services that they provide is "psychotherapy". There is confusion among them and others because the statutes regarding licensed psychologists says that only they and social workers may call themselves "psychotherapists", and use the terms "psychotherapy" and "psychotherapeutic" to describe the work that they do. This statute was written prior to the licensing of professional counselors (LPC) and marital and family therapists (LMFT) who currently make up close to half of the licensed mental health professionals practicing in the state and an even larger percentage working in state funded community mental health centers (CMHC).

The problem is that "psychotherapy" is a generic term much like "physical therapy". There are many modes of therapy that fall under the umbrella of this generic term and they all have to do with working with people's minds to improve health or alter behavior. Attached are several definitions of psychotherapy easily found on the internet at medical dictionary sites. Also attached is the statutory language limiting the use of the psychotherapy terms and the definition of the practice of psychotherapy.

When billing for services at a CMHC, Medicaid recognizes "psychotherapy" as a service and Medicaid regulations allow all of the four mental health professions to bill for it. However, there is currently confusion and fear that service providers could be found to be billing fraudulently if they have LMFT or LPC staff sign and bill for those services.

It is clear that legislators in the past recognized that psychologists were not the only mental health professionals to practice psychotherapy. Before the licensing of LMFT and LPC clinicians, they amended the psychology statutes to include:

Sec. 08.86.180. (d) Nothing in this section prohibits a clinical social worker from holding out to the public by a title or description of services incorporating the words "psychotherapy," "psychotherapist," or "psychotherapeutic."

In a survey that I did two years ago, I found that there were only 8 licensed psychologists working in community mental health centers across the state. The rest of the clinical staff were mostly social workers and LPCs with a few MFTs. These numbers help to demonstrate the necessity to make changes to current law in order to recognize the reality of the current workforce, the actual practice of clinical staff, and the need to support clinical staff on whom many rely for mental health services.

Should you wish to contact me to discuss this bill, my email address is [alhenry@alaska.net](mailto:alhenry@alaska.net), and my phone numbers are: (H) 272-0816, (cell) 250-5244.

Thank you very much for considering this.

Respectfully,

Anne L. Henry

LPC Board Chair



DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

Division of Corporations, Business and Professional Licensing

JASON  
SB 177  
Frank H. Murkowski, Governor  
William Noll, Commissioner  
Rick Union, Director

January 10, 2006

The Honorable Fred Dyson  
Alaska State Senate  
10928 Eagle River Road  
Eagle River, AK 99577

Dear Senator Dyson:

This letter is in support of Senate Bill 177, which references the use of words such as "psychotherapy/psychotherapeutic" by licensed mental health professionals. As you know, currently terms such as "psychotherapy", "psychotherapeutic" and "psychotherapist" that are used by Psychologists may not be used by other mental health professionals. We would like to eliminate the requirement that only Psychologists licensed by their Board can use those terms.


The Webster's Dictionary defines "psychotherapy" as "the treatment of psychological disorders or maladjustments"... In the Statutes for Licensed Marriage and Family Therapists, (LMFT) Sec. 08.63.900, the "practice of marital and family therapy" (#5) is defined as (A) "the professional application of assessments and treatments of psychotherapeutic services to individuals, couples and families for the purpose of treating the diagnosed emotional and mental disorders". Therefore, the term "psychotherapeutic" is already being used and is in the Statutes for LMFTs.

In order that the public understand that all licensed mental health professionals are qualified to provide psychotherapeutic services, we need to ensure passage of Senate Bill 177. Currently, there is apparent contradictory information in the Statutes.

The Marriage and Family Therapy licensing Board is in support of Senate Bill 177.

Thank you for your attention to this matter.

Sincerely,

  
Vivian C. Finlay, Chair  
Marital & Family Therapists Board

April 16, 2005

Senator Fred Dyson, Chair, and  
Members of Senate HE&SS Committee  
State Capitol  
Juneau, Alaska

Dear Senator Dyson:

Senate Bill 177 serves a very important purpose to the public, by allowing mental health and related behavioral health professionals to legally provide the services they either already offer mentally ill Alaskans, or could offer them, if this bill is passed.

Many mental health professionals in community mental health centers, and other behavioral health agencies are technically not allowed to use some of the "psychology-related" language, or provide services referred to in this legislation, even though they are trained and qualified to do so. SB 177 would correct that situation.

For Alaskans, this would mean greater access to needed services, often at less cost to them than they currently might pay. They could receive mental health services, and have greater opportunity to use their own insurance to cover those services provided by agencies and providers qualified to perform them.

I strongly encourage you and the Committee to support this legislation, in the best interests of our state and communities.

Thank you,

Pamela Watts, Administrator  
Rainforest Recovery Center (formerly Juneau Recovery Hospital)

April 20, 2005

Senator Fred Dyson, Chair  
& Members of Senate H&SS Committee  
State Capitol Building  
Juneau, Alaska

Re: Senate Bill 177

Senator Dyson,

I am writing to you in support of Senate Bill 177, which seeks to remove the unintentional, discriminatory language that was inserted into state statutes prior to the licensing of LPC and LMFT clinicians in the state of Alaska.

My strong support for the bill stems in part from the shortage of mental health professionals licensed to legally provide services to Alaska's village communities and adolescent populations, given the current wording of the statute. I lend further support given the fact that many clients take comfort in being able to choose from qualified multidisciplinary mental health providers when attempting to obtain needed services; however, due to the language in the current statute, health insurance companies may choose to limit subscriber's coverage to psychologists or clinical social workers only.

Senate Bill 177 would update the statutory language necessary to include licensed professional counselors to provide mental health services that they are clearly schooled and qualified to provide and it would also promote unity among the four professions (psychology, social work, counseling and marriage and family therapy) that are vital in providing access to behavioral healthcare for all Alaskans.

As we rapidly interface with the 21<sup>st</sup> century, so do our social challenges as a community. I thank you for your support, as one of the many professionals, who is dedicated to moving Alaska forward and supporting quality mental health clinicians and understanding their inclusive scope of practice.

In appreciation of your efforts,  
Ann M. Ginn, M.Ed., LPC, LBSW



## Health, Education, and Social Services Committee Alaska State Senate

### SPONSOR STATEMENT

**SB 177—*"An Act eliminating the requirement that persons using titles or descriptions of services that incorporate the terms 'psychotherapy,' 'psychotherapeutic,' or 'psychotherapist' be licensed by the Board of Psychologist and Psychological Associate Examiners."***

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Medicaid regulations provide reimbursement for LPC's and LMFT's who provide "psychotherapy." There is confusion that the current state law is inconsistent with Federal guidelines and could lead to service providers being found as fraudulently billing for the services they provide.

SB 177 proposes to eliminate the terms "psychotherapy," "psychotherapeutic," and "psychotherapist" from AS 08.86.180(a) and (b)(3) because these terms are generic and unnecessarily limiting of the descriptions that LPC's and LMFT's can use regarding the important services they provide.

Sec. 08.86.170. Use of title.

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(b) Unless licensed under this chapter, a person may not use the title "psychological associate" or a title, designation, or device indicating or tending to indicate that the person is a psychological associate or practices counseling or psychometrics.

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