

HB

50

ALASKA STATE HOUSE OF REPRESENTATIVES



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Room 204

REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: September 14, 2007
To: Representative John Coghill
From: Rynnieva Moss, Legislative Aide *R. Moss*
Re: Interstate Compact for the Placement of Children

Everyone agrees the existing compact doesn't work. However, sixteen states have expressed concerns about the power of the Interstate Commission being given the authority to promulgate rules and regulations that would supersede state law.

The areas of the compact that are being questioned are as follows:

1. **Article VI (B)** – a state has **no due process** when it disagrees with the placement authority of the Interstate Commission.
2. **Article IX (A), (C), & (D)** – allows the Interstate Commission to promulgate, interpret, and enforce rules that **supersede** "state law, rules or regulation".
3. **Article XI (A), (D), & (H)** – Gives the Interstate Commission authority to promulgate rules that have the "force and effect of statutory law and shall supersede any state law, rule or regulation to the extent of any conflict". If adopted by a state, this provision relinquishes the sovereignty of state law.
4. **Article XII (A)(2)** – Gives the compact sovereignty over the states adopted the compact.
5. **Article XII (C)(c)** – Gives the Interstate Commission authority to bring legal action against any state adopting the compact.

6. **Article XIII (B)** – Gives the Interstate Commission authority to assess fees on states and allows the commission to promulgate rules to bind the states to the fees. The Alaska State Legislature has appropriation powers and this clause would, in effect, waive that authority.

It should be noted that the Attorney General's Office has advised OCS Director Tammy Sandoval and Health & Social Services Commissioner Karleen Jackson not to agree to the Compact in its current form.

I have attached HB 50 and highlighted the sections with concerns. Also attached is the legal opinion I received from Jean Mischel yesterday.

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MEMORANDUM

September 11, 2007

SUBJECT: Issues Regarding the Proposed Interstate Compact for the Placement of Children (HB 50; Work Order No. 25-LS0265A)

TO: Representative John Coghill
Attn: Rynniva Moss

FROM: Jean M. Mischel
Legislative Counsel

You have asked for an opinion regarding any state sovereignty and unlawful delegation issues raised in HB 50 that proposes to adopt an Interstate Compact for the Placement of Children. I am uncertain about the meaning of this question as it relates to state sovereignty since the proposed compact does not enact federal law but instead aims to unify state laws if all states adopt the proposed compact as state law.

With regard to any unlawful delegation issues raised in this bill, there are two areas that may be generally said to delegate or waive legislative powers: (1) the "provisional placement" provisions that call for a temporary waiver of state "standards or requirements" pending parent training; and (2) the delegation of fee, enforcement, and rulemaking authority to an Interstate Commission.

The legislature may delegate its law making function only to the extent that the parameters and standards are clearly described by the legislature. What I have in the past advised during meetings on this bill, in order to avoid inconsistencies that are undesirable to an interstate agreement, is to amend other sections of state law that provide for the Department of Health and Social Services to waive, in specified circumstances, training requirements and other standards for foster and adoptive parents, and to review and adopt rules adopted by the Interstate Commission that are otherwise consistent with state laws. I am unable to say with any certainty whether the proposed fee structure to support the Interstate Commission will work since such fees will likely become part of the department's annual budget, subject to legislative appropriation.

If I may be of further assistance, please advise.

JMM:ljw
07-331.ljw

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House of Representatives

March 6, 2007

Steve Dale, Commissioner
Department for Child and Family Services
103 S Main Street
Waterbury VT 05671-9800

Dear Mr. Dale:

I introduced HB 50 in the Alaska Legislature after hearing the need at a CSG meeting for a new Interstate Compact. However, we have not scheduled the bill for committee at this time due concerns we have with the current revised ICPC.

We have met with our local ICPC administrator as well as other groups concerned with the revised ICPC and have come to the conclusion that specific items need to be addressed before we can proceed with the bill. These problems include:

- Art. XII (A)(2); Art. XII (C)(c): Enforcement issues
- Art. XIII (B): Program cost
- Art. VI. (B); Art. XI (D): Potential conflicts with state sovereignty
- Art. IX. (A) (C) (D); Art. XI (A) (D) (H): Formulation of regulations

We are strongly supportive of working with the ICPC and other states to improve the process of adopting and placing foster children in order to ensure a safe and timely procedure. This requires a process that is open and responsive. To this end we would like to have the opportunity to view the feedback that the drafters received from the various states about the concerns they had with the draft as well as suggestions for improvement.


We would like to work with the commission and compact coordinators of CSG to come up with proposals to current problems that we have with the new ICPC and we look

forward to the opportunity to do this. We want an ICPC that we can fully support and will work for passage in our state legislature. However, we are just as strongly committed to block the passage of the ICPC in its current form.

The need for fixing problems that exist with the current ICPC is real and urgent and we support this effort. We look forward to hearing from you and would appreciate your comments and recommendations regarding the issues aforementioned.

Thank you for your work on the new ICPC.

Sincerely,


Representative John Coghill
Rules Chairman

cc:

Leslie McGee
Dr. Bruce Goldberg
Howard Hendrick
Carmen Hooker Odom
Chris Peterson
Lewis H. Spence
Brenda Harvey
Kevin Concannon
Jim Robertson
John Mountjoy

HB 50 Interstate Compact for the Placement of Children

Sectional Analysis for Version "C" HESS Committee Substitute

Section 1. Amendment language for title change of Compact.

Sec. 2. Repeals and reenacts Interstate Compact for the Placement of Children

Article I. PURPOSE. Provide uniform data collection; administrative rules implementing and regulating child placement in member states; provide coordination with other compacts affecting the placement of children; providing continuing jurisdiction and responsibility as if intrastate placement; promulgation of guidelines of Indian tribes; provide procedures to insure safe and suitable placement for children.

Article II. DEFINITIONS. New definitions for approved placement, assessment, child, certification, default, home study, Indian tribe, Interstate Commission for the Placement of Children, Jurisdiction, legal risk, member state, non-custodial parent, non-member state, notice of residential placement, placement, private child-placing agency, private child-placing agency, provisional placement, public child-placing agency, receiving state, relative, residential facility, rule, sending state, service member's permanent duty station, service member's state of legal residence, state, state court, and supervision.

Article III. APPLICABILITY. Interstate placement of a child in state custody as a child in need of aid or a child adjudicated delinquent or unmanageable based on the sending state; interstate placement of a child by a public child placement agency or private child placing agency as a preliminary step to a possible adoption.

Does not apply to a child in a custody proceeding in which a public child placing agency is not a party; interstate placement by one relative to another relative; placement of a non-state custody child in a residential facility by a parent; placement of a child with non-custodial parent under certain circumstances.

Article IV. JURISDICTION. The sending state retains jurisdiction over child, including power to order return of child; receiving state court shall confer with sending state court to determine forum for adjudication; sending state can terminate its jurisdiction under certain circumstances and is required to notify receiving state of that action; allows receiving state jurisdiction sufficient to deal with truancy, delinquency, crime or behavior involving a child violating receiving state laws; permits receiving state to take emergency jurisdiction for the protection of a child.

Article V. PLACEMENT EVALUATION. Sets out in the compact a process for the sending state requesting an assessment from the receiving state on placement,

provide evidence the placement is legal, certification that consent or relinquishment is in compliance, and obtain approval of public child placement agency in the receiving state. Allows the Commission to develop uniform standards for the assessment of the safety and suitability of interstates placements. A final decree of adoption cannot happen until the placement is authorized as an "approved placement" by the public child placing agency in the receiving state.

Article VI. PLACEMENT AUTHORITY. Placement cannot be made until approval is obtained from receiving state or until administrative reversal of a denial of placement.

Article VII. PLACING AGENCY RESPONSIBILITY.

- A. Sending state has financial responsibility for ongoing support and maintenance of child, including those services beyond the public services available in the receiving state. Receiving state's financial responsibility is for any assessment conducted and supervision conducted by the receiving state at the level necessary to support placement.
- B. Private child placement agencies shall be legally and financially responsible for the child as provided by law in the sending state until adoption is final and legally financial absent a contractual agreement to the contrary.
- C. Receiving state assessment shall be done in a timely manner.
- D. Public child placement agency will provide supervision and services for the child including timely reports to the sending state.
- E. Receiving state agency provides supervision and services for the child, including timely reports during the period placement.
- F. Compact does not limit receiving state from contracting for assessments, supervision or services for the child.
- G. Member states shall provide coordination among its branches of government by forming an advisory council or use of existing board.
- H. Requires each member state to have a central state compact office.
- I. Public child placement agency will oversee ICWA compliance.
- J. With consent of Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact. (Does this conflict with E?)

Article VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN.

Establishes the commission to be a joint commission of member states that shall have responsibilities, powers and duties set forth in HB 50 and additional powers as conferred by concurrent action of respective legislatures of the member states. Each member state will have a commissioner appointed by the HSS Commissioner and this member shall have legal authority to vote on policy related matters by the compact which binds the state. A majority constitutes a quorum and a member can delegate to another person from his or her state but cannot proxy their vote to another member of the commission.

The commission can appoint ex officio members who are from interested organizations and an executive committee shall be established to administer the day-to-day activities of the commission, which do not include rulemaking.

Article IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

- (A) Promulgate rules and take all necessary actions to effect the goals, purposes, and obligations enumerated in the compact.
- (B) Provide dispute resolution to member states.
- (C) Issue advisory opinions concerning interpretation of compact, bylaws, rules or actions.
- (D) Enforce compliance with compact.
- (E) Determine needs for collection of data and collect that data.
- (F) Establish and maintain offices.
- (G) Purchase and maintain insurance and bonds,
- (H) Hire or contract for services of personnel or contracts.
- (I) Establish and appoint committees and officers, including the executive committee.
- (J) Accept funds.
- (K) Lease, purchase, accept contributions or donations of real, personal, or mixed properties.

- (L) Sell, convey, mortgage, pledge, lease, exchange, abandon or dispose of real or personal property.
- (M) Establish budget and make expenditures.
- (N) Adopt a seal and bylaws.
- (O) Establishes annual reporting requirements to legislatures, governors, judiciary and state advisory councils.
- (P) Coordinate public awareness of the commission and its purpose.
- (Q) Maintenance of books and records.
- (R) Perform functions necessary to achieve purposes of this compact.

Article X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.

Requirement to set up by laws within one year of first commission meeting and make all records public unless records would adversely affect the personal privacy rights or proprietary interests.

The Commission must meet at least once a year and have proper public notice. A public meeting could be closed by a two-thirds vote if discussion would include personnel issues; information privileged, proprietary or confidential in nature; accusation or a crime or censuring a person; investigative records; matters exempted by federal law; civil or legal proceedings; Meetings may be held by telecommunications or other electronic communication.

The Commission may appoint, through its executive committee, a non-voting staff director as secretary to the commission. It may also elect a chairperson and vice chairperson from among the commission members.

The commission's staff director and employees are immune from suit and liability unless the liability was caused by a criminal act or intentional or willful and wanton misconduct of such person.

Article XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.

Commission shall promulgate and publish rule that substantially conform to the principles of "Model State Administrative Procedures Act", 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) or other acts commission deems appropriate. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules.

Allows for an interested person to challenge a rule in the U.S District Court for the District of Columbia within 60 days of the rule being enacted. A majority of members may reject a rule. The new rules shall be enacted and the existing rules voided. Emergency rules can be adopted by a majority vote of the commission.

Article XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT.

The commission shall oversee the administration and operation of the compact and make sure the three branches of state government enforce the compact. The compact and its rules will be binding on compact states as administrative rules.

Requires state courts to take judicial notice of the compact and rules in any judicial or administrative proceedings. If there is a judicial challenge of a rule as provided for in Article XI, the Commission is entitled to receive service of process.

The commission shall adopt rules providing for mediation and binding dispute resolution and the cost of such actions will be the responsibility of the parties to the dispute. This would apply to disputing member states and member non-member disputes.

If the Commission determines a member has defaulted it may provide remedial training and specific TA or provide written notice of default and the means of curing the default. By a majority vote, the Commission can initiate legal action against the member state in the U.S. District Court for the District of Columbia or a federal district court where the Commission has its principal office. The relief sought may be both injunctive relief and damages.

Rule 24, Alaska Rules of Civil Procedure is amended by entitling the Commission to have standing to intervene in a judicial proceeding in a state pertains to the Compact and in which the validity of a compact provision or rule is an issue for which judicial determination has been sought.

Article XIII. FINANCING OF THE COMMISSION.

The Commission can levy on and collect an annual assessment from each member state to cover cost of operations. The Commission shall determine what formula to use and shall promulgate a rule binding upon all member states.

The Commission cannot incur any obligations prior to securing funding and shall not pledge credit of any member state without prior to being given authority to do so by that member state.

The Commission shall keep accurate books and have an annual audit by a certified or licensed public accountant.

Article XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT.

Any state is eligible to become a member of the Commission and Compact will become effective upon legislative enactment by thirty-five (35) states. Non-member states can participate on a non-voting basis.

No proposed amendments to the Compact may be enacted without unanimous consent of the member states.

Article XV. WITHDRAWAL AND DISSOLUTION.

Member states may withdraw from the compact by repealing the statute that adopted the compact and the effective date of the repeal will be the effective date of withdrawal. The withdrawing state shall be responsible for all assessments, obligations, and liabilities incurred through the effective date of the withdrawal. Reinstatement is accomplished by readopting the compact.

Dissolution of the compact occurs when only one state remains in the compact.

Article XVI. SEVERABILITY AND CONSTRUCTION.

The provision of the Compact are severable. If one or more provisions in the compact are found to be unenforceable, the remaining provisions are enforceable.

Article XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS.

A. Other Laws

Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

(B) Binding Effect of the Compact

All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

If any provision of the compact exceeds constitutional limits of a member state, that provision will be ineffective to the extent of the constitutional conflict.

Article XVIII. INDIAN TRIBES.

The Commission may promulgate guidelines to permit Indian Tribes to utilize the compact and make reasonable effort to consult with Indian tribes in promulgating guidelines.

Sec. 3. Conforming language for financial responsibility section of the Compact.

Sec. 4. Conforming language for entering into agreements with appropriate officers or agencies.

Sec. 5. Conforming language for delegation by agreement for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state.

Sec. 6. Redefines executive head from the governor to the commissioner of health and social services and provides for establishing a central compact office.

Sec. 7. Language conformance on short title of Compact.

Sec. 8. The following statutes are repealed:

AS 47.70.030. Designation of authority. The term appropriate public authority is no longer used in this title as the compact is now administered by the member states' member of the commission.

AS 47.70.070. Violations of the compact. The Commission will now determine the violations and the enforcement of the compact, so this section is no longer needed.

Sec. 9. Court Rule change to provide the Commission with notice when a judicial proceeding has been filed relating to the validity of a compact rule or provision is an amendment to Rule 4, Alaska Rules of Civil Procedure.

Rule 24, Alaska Rules of Civil Procedure is amended by entitling the Commission to have standing to intervene in a judicial proceeding in a state pertains to the Compact and in which the validity of a compact provision or rule is an issue for which judicial determination has been sought.

Sec. 10. Those sections of Art. XII(4) become effective only if Section 9 amending court rules is approved by a two-thirds majority vote of each house.

Sec. 11. Effect of Act occurs when 34 other states have ratified the Compact. The Department shall notify the lieutenant governor and the revisor of statutes when this occurs.

Sec. 12. The effective date of sections 1 through 10 is one day after the Health and Social Services notifies the revisor of statutes that 34 other states have ratified the Compact.



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Adoption Attorneys

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January 14, 2008

VIA EMAIL ATTACHMENT

Carla Fults, Project Manager
American Public Human Services Association (APHSA)
810 First Street, N.E., Suite 500
Washington, DC 20002

Dear Ms. Fults:

On behalf of the American Academy of Adoption Attorneys (AAAA), it is my pleasure to inform you that the January 7, 2008, draft of the new Interstate Compact for the Placement of Children (ICPC) that you provided to us has been approved by AAAA Board of Trustees.

In a message to all the Fellows of the Academy sent today, I announced the official position of the Academy to recommend passage of this version by the states.

Please let me know if you need anything further at this time regarding AAAA's support of The New Compact.

Very truly yours,

Herbert A. Brail, President

HAB/cr

APHSA

American Public Human Services Association

TO: Commissioners, Child Welfare Directors, Compact Administrators,
Deputy Compact Administrators and ICPC Staff

FROM: Carla Fults,
Project Manager

DATE: January 25, 2008

SUBJECT: Endorsement and Revisions of the New ICPC of the New Interstate
Compact *for* Placement of Children. (ICPC)

It is with great pleasure that I inform you that the **American Academy of Adoption Attorneys (AAAA or Quad A)** has agreed to full approval and support of the attached version of the **New Interstate Compact *for* the Placement of Children (ICPC or New ICPC)**. After careful negotiation with the American Academy of Adoption Attorneys, we have successfully negotiated new provisions which address the concerns raised by various private and independent adoption groups throughout the country. The attached document is a result of contributions from state compact administrators, state legal counsels, stakeholders and child and family welfare judges. **The Executive Committee of the National Council of State Human Services (APHSA Policy Council)** has endorsed the attached revised version of the **New Interstate Compact *for* the Placement of Children (ICPC)** for introduction to state legislatures. In addition, the executive committees of the **National Association of Public Child Welfare Administrators (NAPCWA)** and the **Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC)** have endorsed the attached version of the **New ICPC**.

You may recall, between June, 2006 and July, 2007, approximately fifteen (15) states introduced the Proposed New Compact. However, only Ohio, Missouri and Maine were successful in passing the legislation. Private and independent adoption agencies launched an effective campaign to oppose the Proposed New ICPC, asserting that the draft did not adequately address many of the problems and barriers existing under the current ICPC. Such barriers included excessive wait times for ICPC processing before prospective adoptive parents could travel or return to their home state with a child; arbitrary requests and requirements which were not an important or necessary part of the ICPC process; and conflict of laws and unclear processes where two or more states were involved in an interstate adoption. In addition, the group argued that the Proposed New Compact needed to clarify the definition and application of an assessment compared to a home study and whether these terms would represent and require a separate and

additional review when placing a child; to include language that would provide for a choice of law in the state where an adoption is finalized; and lastly, to amend language which indicated that the rules promulgated by the interstate commission would "supersede state law". State legislatures also expressed opposition to language which stipulated that the rules would "supersede state law".

The New Compact now provides for a choice of law (**Article IV**) in the state where the adoption will be finalized; clarifies the definition of assessment and home study and the application of each term (**Article II**); provides for provisional travel for prospective adoptive parents, contingent upon submission, receipt and review of required documents to verify and ensure safety (**Article V**); and clarifies that rules promulgated by the interstate commission shall have the force and effect of administrative rules (**Article XI**). A list of the revised articles is included below. In addition, please find attached the New Compact with revisions in red, the endorsement letter from the American Academy of Adoption Attorneys, a clean copy of the New Compact which does not highlight changes and may be used as enabling legislation when introducing the New ICPC in your state legislature, and the email cover memo in Word format (document).

APHSa will hold an all-state call for questions and answers (Q&A) on Thursday, January 31, 2008 at 3 p.m. E.T. For those states that are planning to introduce the New ICPC before the all-state call and have questions and (or) need assistance, please feel free to contact Carla Fults at (202) 682-0100, ext. 242. APHSa will continue to provide the states with the following services to support enactment of the New ICPC.

- Develop boiler-plate legislative testimony to be used during legislative committee hearings and/or other public events where the primary goal is education on the ICPC. The model testimony will be developed in such a manner as to be customizable for a variety of uses and for a variety of champions and staff.
- Respond to specific questions from the states.
- Convene meetings via teleconference with your attorney general or other state/agency officials to provide clarification of provisions contained within the Compact.
- If necessary, convene an on site briefing with key legislators, legislative staff, executive branch and agency officials and relevant stakeholder groups.
- Provide tailored assistance to individual states at your request.
- Provide expert(s) to testify with you.
- Work with your attorney general or your ICPC staff to include necessary state legislative language which does not alter or change the intent or foundation of the Compact.

On behalf of APHSA, I would like to extend a special thank you to the AAICPC, NAPCWA, and to the many state legal counsels, judicial and interstate administrators and staff who participated in producing this revised version of the New ICPC. If you have questions, please feel free to contact me by email at cfults@aphsa.org or at (202) 682-0100, ext. 242. Thank you in advance for your continued support of the New ICPC.

List of Articles Amended

- Article II. Definitions (Assessment, Home Study; other definitions were added to support overall changes)
- Article IV. Jurisdiction (Choice of Law)
- Article V. Placement Evaluation (Provisional Travel/Placement)
- Article XI. Rulemaking Functions of the Interstate Commission (Interstate Commission)

Attachments:

- The revised copy of the New ICPC with changes in red – Entitled “ The New Compact with revisions shown 010708”
- Endorsement letter from the American Academy of Adoption Attorneys
- Clean version of the New ICPC to be used for state introduction/enactment - Entitled “The New ICPC 2008”
- Word version of the email cover memo – Cover memo for Endorsement of the New ICPC

HARTIG RHODES HOGE & LEKISCH, P.C.

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January 24, 2007

JAN 26 2007

Representative Peggy Wilson
Alaska House of Representatives
State Capitol, Room 108
Juneau, AK 99801-1182

Re: HB 50 Interstate Compact on the Placement of Children ("ICPC")

Dear Representative Wilson:

I am the Alaska member of the American Academy of Adoption Attorneys, the national professional association of adoption attorneys. The Academy is strongly opposed to the ICPC amendments proposed in HB 50. Enclosed is a summary of the bill prepared by the Academy and a statement of opposition.

In my experience, the Alaska ICPC has functioned very well performing its role of protecting children placed for interstate adoption without creating excessive delays for adoptive parents and children. Amendments to the Compact must take great care not to inflict more harm than the cure proposed. The Academy does not believe HB 50 possesses this critical test.

We request the opportunity to testify on HB 50 at any hearing that may be scheduled.

Sincerely,


Robert B. Flint

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June 7, 2006

Re: Opposition to proposed new Interstate Compact for the Placement of Children

The American Academy of Adoption Attorneys opposes state enactment of the proposed new Interstate Compact for the Placement of Children (ICPC). Interstate adoptions of children, whether from foster care or from private individuals, have been governed for 46 years by a legal compact between the states known as the Interstate Compact on the Placement of Children, which is administered by the American Public Health Services Association (APHSA). Two years ago, in an attempt to address the changing nature of adoption in America, APHSA invited stakeholders (including the Academy) to be part of a process to rewrite and update the compact. Unfortunately, the resulting document, which must be enacted by 35 states in order to go into effect, betrays the interests of the very children, birth parents, and prospective adoptive parents it is supposed to protect and support.

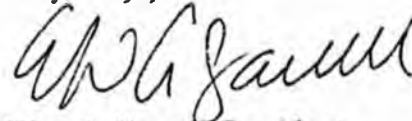
The American Academy of Adoption Attorneys is a non-profit association of attorneys, judges, and law school professors who practice, or have otherwise distinguished themselves, in the field of adoption law. The Academy's mission is to support the rights of children to live in safe, permanent homes with loving families, to ensure appropriate consideration of the interests of all parties to adoptions, and to assist in the orderly and legal process of adoption. Members of the Academy represent adoptive parents, birth parents, adoption agencies and others involved in adoptions and they must maintain their practice according to the highest standards of professionalism, competence, and ethics. And, they must be exceptionally well qualified and experienced in interstate adoptions in order to become members of the Academy.

The members of the Academy strongly believe that the proposed new ICPC would add uncertainty, bureaucracy, delay, and cost to interstate adoptions rather than correct these barriers to cross jurisdictional placements. Principle among the reasons it would do so are:

1. It creates an interstate adoption commission of unelected bureaucrats with the power to make interstate adoption law, overriding state law, and leaves for the latter deliberations of the commission many critical policy decisions.
2. The funds to operate the commission would come from mandatory levies upon the member states and from prospective adoptive parents.
3. It inserts state child welfare agencies into the assessment of the suitability of private, independent adoptions, in addition to foster care adoptions. Private adoptions now are highly regulated by statutes to minimize the need for government involvement.
4. It establishes a chaotic interstate legal environment by leaving unclear which state laws will apply in particular kinds of cross jurisdictional placements or adoptions.

The Academy urges all governors and state legislatures to reject the proposed new compact and to send it back to APHSA for revisions. Any new compact must clearly, concisely, and unambiguously insure that the best interests of children are its first priority and mission. Members of the Academy are anxious to work within the framework of such a compact. For more information contact me or any Academy member by going to our online directory at www.adoptionattorneys.org.

Very truly yours,



Ellen A. Yarrell, President

American Academy of Adoption Attorneys

Interstate Compact for the Placement of Children ("ICPC")

Existing ICPC

- drafted in 1960 and adopted in all 50 states, DC, and US Virgin Islands
- establishes supposedly uniform legal and administrative procedures governing the interstate placement of children
- intended to ensure protection and services to children who are placed across state lines for foster care or adoption and addresses legal and financial responsibility for those involved in interstate placements

Proposed New ICPC

- The American Public Health Services Association ("APHSA") has drafted a new proposed ICPC and has begun to present it to state legislatures.
- While there are good things in the proposed new ICPC, it will have a greater negative impact on children and adoptions than the existing ICPC because of increased delays, bureaucracy, and financial burdens on both states and adoptive families.
- Some of the major problems with the proposed new ICPC are as follows:
 - It creates a national adoption super-legislature called the "Interstate Commission" made up of appointed commissioners that will have power to override state law. Unlike laws passed by Congress or state legislatures, "rules" adopted by the Interstate Commission are not subject to any checks and balances, such as a veto power. Yet, these "rules" have the "force and effect" of statutory law. The Interstate Commission is required to pay its expenses and would have the authority to levy on and collect an annual assessment from each member state to cover the cost of its operations and activities. The proposed new ICPC leaves far too many unanswered questions to be decided by the Interstate Commission.
 - A "rule" made by the Interstate Commission can only be challenged by "judicial review." The proposed new ICPC is most probably unconstitutional. Lengthy and expensive litigation seems certain.
 - It creates an "assessment" process that is mostly undefined and that likely will make interstate placements slower, more burdensome, and more costly than the current interstate placements. Approval under the proposed new ICPC would require the completion of this undefined, individualized "assessment" by the public child placing agency in the receiving state.
 - Under the existing ICPC, approval usually only requires compliance with the laws of the sending or receiving state. Under the proposed new ICPC, approval would require compliance with the laws of the sending state, the receiving state, the birth mother's state of residence, and the laws of the birth father's state of residence. This creates a great potential for conflict of laws problems and, again, more litigation.

Recommendation

The proposed new ICPC would add uncertainty, bureaucracy, delay, and cost to interstate placements, which are already burdened by too much bureaucracy, delay, and cost. The enactment of the proposed new ICPC would result in placements that are less secure and more uncertain, which would not be in the best interest of the children. Therefore, the American Academy of Adoption Attorneys opposes the proposed new ICPC.



**AMERICAN ACADEMY OF
Adoption Attorneys**

**Proposed New Interstate Compact
for the Placement of Children**

MEMORANDUM IN OPPOSITION

- This document raises key concerns about the proposed Interstate Compact for the Placement of Children ("ICPC") which the American Public Health Services Association ("APHS") has begun to present to all state legislatures in 2006.
- Members of the American Academy of Adoption Attorneys ("AAA")-a non-for-profit organization of about 320 expert adoption lawyers from every state- have voted unanimously to oppose the proposed ICPC.
- While there are good things in the proposed ICPC, it will have a greater negative impact on children and adoptions than the existing ICPC because of increased delays, bureaucracy, and financial burdens on both states and adoptive families.

What is the existing ICPC?

- The existing ICPC was drafted in 1960 and has been adopted in all 50 states, DC, and US Virgin Islands.
- It establishes supposedly uniform legal and administrative procedures governing the interstate placement of children
- It is intended to ensure protection and services to children who are placed across state lines for foster care or adoption
- It also addresses legal and financial responsibility for those involved in placements

Why a replacement ICPC?

The existing ICPC has come under criticism for various reasons

- It is sometimes applied inconsistently and arbitrarily by the various states' compact administrators
- Placements are not always timely and adoptive parents are sometimes left hanging, possibly for weeks and occasionally a month or more
- Best interests of the child sometimes takes a backseat to other issues

APHSA Task Force

- Because of growing dissatisfaction with the existing ICPC, APHSA convened a task force to rewrite the ICPC
- The APHSA administers the existing ICPC and billed the efforts to rewrite the ICPC as a cooperative effort by the states and other "stakeholders"
- This process has been underway for about three years and has gone through several drafts, resulting in the proposal now being presented to the states
- ///A agreed that something needed to be done to fix the existing ICPC, but ///A cannot support the proposed ICPC for reasons set forth here

Private adoptions.

- This summary focuses on placements by "*private child placing agencies*" as defined in the proposed ICPC
- Much of the criticism about the existing ICPC that spawned the rewriting efforts was directed at how it deals with private agency and independent adoptive placements, and most ///A members deal primarily with these kinds of placements
- Thus, this summary does not discuss residential placements or adoptive placements of children in state custody

Proposed ICPC and Private Adoptions

The proposed ICPC applies to the "interstate placement of any child by a ... private child placing agency ... as a *preliminary step to a possible adoption.*" Article III.A.3.

"Private child placing agency"

This term is broadly defined as "any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another . . ." Article II.M.

"Public child placing agency"

This is opposed to a "public child placing agency" which is "any governmental child welfare agency or child protection agency or private entity under contract with such an agency, . . . and which facilitates, causes, or is involved in the placement of a child from one state to another." Article II.O.

Exceptions to ICPC applicability:

- Placements with a non-relative not intended to effectuate an adoption. Article III.B.1.
- Placements by one relative directly with another relative. Article III.B.2.
- Inter-country adoptions. Article III.B.5.
- Sending by a private child placing agency for a "visit" as yet to be defined. Article III.B.7.
- U.S. citizen child living overseas with family, where a parent is a member of the U.S. Armed Services stationed overseas, and the child is "removed and placed in a state." Article III.B.6.

Problems that make the proposed ICPC worse than the existing ICPC

- Creates a national adoption super-legislature called the "Interstate Commission" made up of appointed commissioners that will have power to override state law.
- Leaves far too many unanswered questions to be decided by the "Interstate Commission."
- Creates an "assessment" process that is mostly undefined and that likely will make interstate placements slower, more burdensome, and more costly than they currently are, something that is not good for adoptions or for kids.

Interstate Commission

- Comprised of one "commissioner" from each member state appointed by the head of the state human services administration over child welfare. Article VIII.B.
- No statement of qualifications for commissioners, and no guarantee they will be individuals who have ever had any real adoption experience.

Why is this bad?

These people will have power to set national adoption policy and fund their own operations through "rules" that will be binding on all member states, yet they don't have to be adoption experts or have any special attachment to adoption.

"Rule"

A "rule" is "a written directive, mandate, standard or principle issued by the Interstate Commission . . . that is of general applicability and that implements, interprets or prescribes a policy or provision of the compact. 'Rule' has the force and effect of statutory law in a member state, and

includes the amendment, repeal, or suspension of an existing rule." Article II.S.

Rules supersede state law

But, even worse, "[r]ules promulgated by the Interstate Commission . . . shall supersede any state law, rule or regulation to the extent of any conflict." Article XI.D.

What are some policies and provisions of the compact?

- Indian Child Welfare Act ("ICWA") compliance in interstate adoptions
- Definition and determination of "safe" and "suitable" interstate placements
- Standards, procedures, and formats for conducting "assessments" in interstate adoptions
- Compliance with sending state laws and receiving state laws
- Determining which laws must be complied with when taking birth parent consents
- Timeframes for completing "assessments" for interstate adoptions
- Legal and financial responsibility in interstate adoptions

Example: The Indian Child Welfare Act

- The Indian Child Welfare Act ("ICWA") is a federal law governing the placement of Indian children, and is very complex and difficult for even lawyers and judges to understand.
- The proposed ICPC delegates to the "public child placing agency in the sending state" the responsibility to "oversee compliance with the provisions of the [ICWA] for placements subject to the provisions of this compact, prior to placement." Article VII.I.
- As a "policy" or "provision" of the compact, the Interstate Commission would be empowered to fill in the gaps with "rules."
- As a federal law, ICWA should not be a target of this rule-making process.

Another example: financing

- The Interstate Commission is required to pay its expenses, and it "may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff" Article XIII.A. and B.
- A budget is required to be approved each year, and assessments from member states are to be collected based on an allocation that is required to be set by "rule," meaning the allocation will be binding as statutory law in each member state. *Id.*

Is this rule-making power constitutional? Probably not.

As a trusted Legal Treatise states:

“... it is a cardinal principle of representative government ... that ... the legislature cannot delegate its power to make laws to any other authority or body.... The legislature may not in any degree abdicate its power; . . . and certainly it may not delegate to another the power to enact a law, whether in form or effect.”

Volume 16A, American Jurisprudence Second, Constitutional Law § 293

In another section, that Treatise states also:

“... the legislature may not delegate its power to enact, suspend, or repeal laws... The legislature may not delegate such essential elements of its lawmaking power as its power to declare principles and standards, or general public policy.”

Volume 16A, American Jurisprudence Second, Constitutional Law § 295

Litigation is certain.

- While provisions of the proposed ICPC that are held unconstitutional in a state are severable and ineffective in that specific state, see Article XVII.B.3., it will take litigation to determine constitutionality in each state.
- Litigation is virtually certain in many member states to have the rule-making power of the Interstate Commission found unconstitutional.
- This is an added cost legislatures and the Interstate Commission must be prepared for.

No veto power

- Unlike laws passed by Congress or state legislatures, “rules” adopted by the Interstate Commission are not subject to any checks and balances, such as a veto power.
- Yet, these “rules” have the “force and effect” of statutory law.
- The only ways a “rule” can be thrown out are by “judicial review,” meaning litigation, in federal court or if the states “reject” a rule, a lengthy process that is likely not feasible.

Rejecting rules will not be feasible

- States may only reject a rule outright if a majority of member states adopt a law to reject the rule. Article XI.F.
- In other words, it could take years to “reject” a rule that is not liked.
- The only real alternatives may be having the rule-making power declared unconstitutional, challenging specific rules in court, **or not adopting the new ICPC at all**

The “assessment” process will be lengthy, burdensome, and costly

- Prior to a child being placed in another state, a private child placing agency must do four things:

First, show that the “applicable laws of the sending state have been complied with” Article V.B.1.

But, an “approved placement” is one where the laws of the “receiving state” must be complied with, which is also what the existing ICPC requires. See Article II.A. and Current ICPC Art. III(1).

Another new layer of cost . . .

Second, the agency must certify that the “consent or relinquishment is in compliance with applicable law of the birth parent’s state of residence or, where permitted, the laws of the state where the finalization of the adoption will occur” Article V.B.2.

Consents now are typically done according to the laws of the sending or receiving state.

This will add new costs to adoptions.

Suppose the birth mother at her choosing or out of necessity delivers in a state other than her state of residence?

Suppose the birth father lives in yet another state and his consent or relinquishment is required by his state.

Suppose the adoptive family lives in one state, the birth mother from a second state, the birth father in a third state, and the agency the birth mother contacted is in a fourth state.

The baby is born in the agency’s state at the birth mother’s choosing, but you may need to comply with the laws of all four states!

What if the laws of these states are in conflict?

Under the existing ICPC, while there can be confusion, you don’t have to comply with the laws of four states.

Finally, you can request an assessment.

Third, an agency must request “through the public child placing agency in the sending state an assessment to be conducted in the receiving state.” Article V.B.3.

Under the existing ICPC, no “assessment” is requested or done. Notice of a proposed placement is sent, along with a home study and other documents about the placement. The compact administrator evaluates the placement as to whether it is contrary to the interests of the child based on the submissions. Current ICPC Art. III(2).

What is an “assessment”?

An “assessment” is “an evaluation . . . to determine whether the placement meets the individualized needs of the child, including but not limited to the child’s safety and stability, health and well-being, and mental, emotional and physical development.” Article II.B.

This appears more subjective and open to interpretation and abuse than the “notice” and submission of other documents required under the existing ICPC. See Current ICPC, Article III(2).

Rules still have to be issued setting:

- Standards for conducting “assessments”
- Procedures and forms for making requests for assessments
- Information that will be required to be submitted
- Timeframes for conducting “assessments” Article V.C. and F.
- In other words, we don’t know anything about what these “assessments” will involve. We don’t even know what constitutes a “safe” and “suitable” placement.

Public adoptions?

- The receiving state’s public child placing agency does the “assessment” for a placement by a private child placing agency “to determine its safety and suitability.” Article V.D.
- This is similar to ICPC assessments done currently for the placement of children in public custody, and these currently can take months.
- Adoptive families doing private agency and independent adoptions cannot afford months for an assessment to be done.

Complexity coupled with uncertainty counsel against the proposed ICPC

- The “assessment” process in the proposed ICPC is more complicated than the current notice process under the existing ICPC
- No one knows how the “assessments” will be conducted, what will be required, or how timely they can be done
- While the existing ICPC process is frustrating, the proposed process appears to be much worse and likely will be more lengthy, and place greater burdens and costs on adoptive families

We finally get around to “approval”!

Fourth, “[u]pon completion of the assessment, [the agency may] obtain the approval of the public child placing agency in the receiving state.” Article V.B.4.

What is an “approved placement”?

A placement can be approved if “the receiving state has determined after an assessment that the placement is both safe and suitable for the child and is in **compliance** with the applicable laws of the receiving state governing the placement of children therein.” Article II.A.

You can’t go home until approved.

- No child can be placed into a “receiving state” “until approval for such placement is obtained.” Article VI.A.
- Adoptive parents usually take custody of the child in the sending state before submission of ICPC paperwork so that bonding and attachment can begin immediately.
- It is detrimental to the child if the child must be placed in interim foster care for any length of time.
- The adoptive parents will either have to wait through the unknown assessment and approval process in the sending state, or place the child in foster care until approval is received.

To get approval you must have:

- complied with the laws of the sending state
- complied with the laws of the receiving state
- complied with the laws of the birth mother's state of residence for her consent or relinquishment if her state is different
- complied with the laws of the birth father's state of residence for his consent or relinquishment if one is needed from him
- requested through the sending state that the receiving state conduct an assessment
- had that assessment conducted pursuant to currently unknown standards and procedures

This is no small task and could take enormous amounts of money and time away from home. Most of this is new to the proposed ICPC.

This is worse than current law.

- The existing ICPC usually only requires compliance with the laws of the sending or receiving state.
- The lengthy "assessment" process, coupled with what is **not** known about it, is worse than the current "notice" process because we simply don't know what's involved, and we won't know until the Interstate Commission issues its rules.
- Add to this the bureaucracy of the Interstate Commission and its veto-proof power to make "rules" that have the effect of statutory law in all member states, including the power to "levy" and "assess" a fee to fund its operations, and it is easy to see the proposed ICPC is not good for children, families, or the states.

What if placement is denied?

- A person may seek "administrative review" and "any further judicial review" of the decision "in the receiving state pursuant to its applicable administrative procedures." Article VI.C.
- All this while the adoptive parents, who are from the receiving state, wait out the appeals in a hotel room in the sending state, bathing their newborn in a sink.

Other issues:
Legal and financial responsibility

- A “private child placing agency,” remains “legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption,” and “[f]inancially responsible for the child absent a contractual agreement to the contrary.” Article VII.B.
- This includes birth mothers and attorneys who do independent placements not involving an actual agency. See the definition of “private child placing agency.” See Article II.M.

Children and Families Deserve Better

- *The proposed ICPC will make delays and burdens families face in interstate adoptions worse, not better*
- *The proposed ICPC will make the already high costs of adoptions even higher, further straining the budgets of our families*
- *The proposed ICPC creates an unprecedented powerful bureaucracy—paid for by the states—that will be able to set binding national adoption policy with the force of law in the member states*
- *The APHSA can do better than this and the States need to send that message by rejecting the proposed new ICPC*

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HB 50
Office of Children Services
Brief Talking Points (2/21/08 House HESS)

HB 50
from HESS

Marcia Pickering
Deputy Compact Administrator
456-2105

The current compact was written in 1959/60 and enacted by the first state in 1960. Alaska joined in 1976. The compact was written before the US created an interstate highway system, before the concept of Administrative Law, and before the home use of computer technology.

The proposed legislation before you offers an opportunity for states to renew their commitment to the safe and timely interstate placements of children in foster care and more expedient interstate placements for private adoptions.

The new compact is intended to bring:

- Uniformity to the process
- Accountability
- Continued Reciprocity
- and insure Safe and Timely placements

And it has been endorsed by the Executive Committees of the
Nat. Council of State Human Services
Nat. Association of Public Child Welfare Administrators
Nat. Association of Administers of the ICPC
American Academy of Adoption Attorneys

HIGHLIGHTED CHANGES

PROVIDES FOR:

Administrative Rule making and enforcement

Supervision services and Accountability
Option of Purchasing Services / HS and Supervision
Uniform Data Collection and Info Sharing
Guidelines involving Tribal Governments
Now 2 Type of Placement Evaluations, uniformity
Home Study
Assessment
Provides for Provisional Approvals, (assessments)
Specifies Choice of Law regarding interstate issues
Rule Making /applicability of ICPC to US armed Service

Members

DELETED:

Applicability to private parent placements, with relatives and non-relatives, when the placement will not result in an adoption.

Applicability to private parent placements to a residential program.

Applicability to Foreign Adoptions

HB

55

Alaska State Legislature

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Member

House Finance Committee
Legislative Budget & Audit

Representative Mike Kelly

House District 7

HB 55

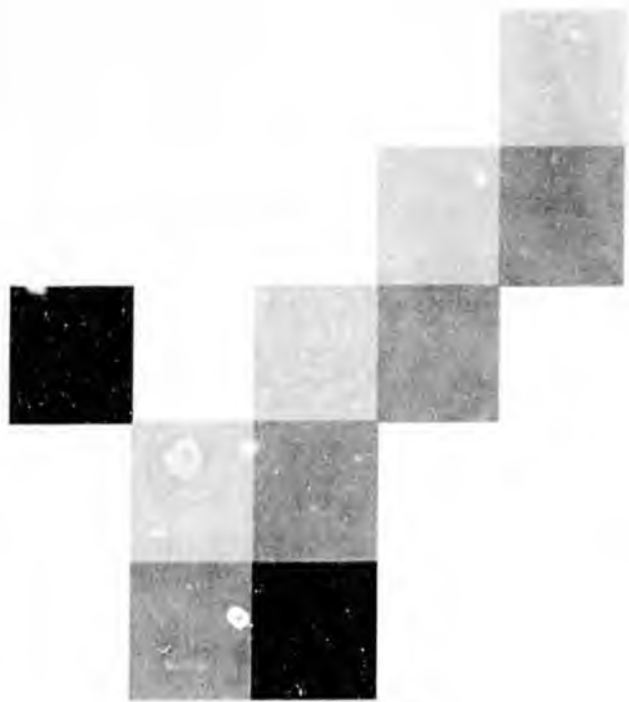
*"An Act relating to postsecondary educational services
and programs for Alaska residents."*

The purpose of HB 55 is to address the severe doctor shortage in Alaska. According to the Alaska Physician Supply Task Force, Alaska would need an increase of 28% (375 doctors) to catch up with the lower 48. Increasing the in-state production of physicians by increasing the number of medical school and residency positions in Alaska is the No. 1 goal according to the Task Force.

The shortage is affecting access to care throughout the state and increasing costs to hospitals and health care organizations. HB 55 is a small, but important first step in addressing the recruitment and retention of a qualified physician workforce.

The Alaska WWAMI Biomedical Program, which began in 1971, is one component of a collaborative medical school, established through an agreement among the University of Washington and the states of Wyoming, Alaska, Montana and Idaho. An intent to return to Alaska upon completion of the WWAMI program is absolutely required before entrance. Each year, support from the State allows 10 certified Alaskans to begin their medical education in this cooperative. This number (10 seats) represents fewer seats per capita than all but 5 of the 50 states. This bill aims to double the program from 10 to 20 students.

The WWAMI program partnership is No. 1 among Primary Care medical schools in the country according to the U.S. News and World Report. Teaching programs in family medicine and rural health also received the No. 1 ranking.



Securing an Adequate Number of Physicians for Alaska's Needs

**Alaska Physician Supply Task Force
Alaska Health Summit
December, 2006**

**Legislative
Health Caucus**

Task Force Members

Co-Chairs:

- Richard Mandsager, MD, Previously Director, State of Alaska Director of Public Health. Currently Director of Children's Hospital at Providence
- Harold Johnston, MD, Director, Alaska Family Medicine Residency

Members:

- Rod Betit, President, Alaska State Hospital and Nursing Home Association
- David Head, MD, Medical Director, Norton Sound Health Corporation, and Chair, Alaska State Medical Board, representing Alaska Native Tribal Health Consortium
- Jan Gehler, Ph. D., Interim Provost, University of Alaska Anchorage
- Jim Jordan, Executive Director, Alaska State Medical Association
- Karen Perdue, Associate Vice President for Health Affairs, University of Alaska
- Dennis Valenzano, Ph. D., Director, Alaska WWAMI Biomedical Program



Staff to the Task Force

Health Planning and Systems Development Unit
in the Commissioner's Office, Alaska Department of Health
and Social Services

- Patricia Carr
- Alice Rarig
- Joyce Hughes
- Stephanie Zidek-Chandler
- Jean Findley




Alaska Physician Supply Task Force

- Commissioned January 2006 by UA President Hamilton and the Commissioner of DHSS Karleen Jackson
- Addressed two questions:
 - What is the current and future need for physicians in Alaska?
 - What strategies have been used and could be used in meeting the need?
- Variety of sources of information, including physicians, other experts, and public participation

The consensus of the Task Force is that this report represents the best answer possible to these questions, within the constraints of time and budget, and the inherent uncertainties of available data and predictions.

Assessment of Need

- The ratio of physicians to population in Alaska is below the national average (2.05 MDs per 1000 population in Alaska vs. 2.38 U.S.)
- Alaska should have 10% more physicians per population than the national average because of Alaska's rural nature, great distances, severe weather, and resulting structural inefficiencies of the health care system
- Alaska needs a higher ratio of mid-level providers (advanced nurse practitioners and physician assistants) to physicians than the national average
- Shortages: most apparent in internal medicine, medical subspecialties and psychiatry
- Alaska currently gains about 78 physicians per year, loses about 40 per year



Strategies that Have Been Used to Enhance Physician Supply in Alaska

- **Residency programs** are one of the most effective ways to produce physicians for a state or community. (Alaska Family Medicine Residency places 70% of its graduates in Alaska.)
- In 2005, 29 of 73 Alaskan applicants were admitted into medical school. Ten per year attend **WWAMI** (first year in Alaska), others attend medical schools without state support from Alaska.
- Recruitment for physicians is facilitated by the availability of **loan repayment programs** such as the Indian Health Service and National Health Service Corps loan repayment programs.
- Alaska has a number of **initiatives to increase interest in medical careers** among Alaskans include but these generate too few applicants to replenish Alaska's shortage, and diversity is inadequate.

Figure A. Gain in Alaskan Physicians— Static Doctor to Population Ratio vs. Desired Growth Scenario

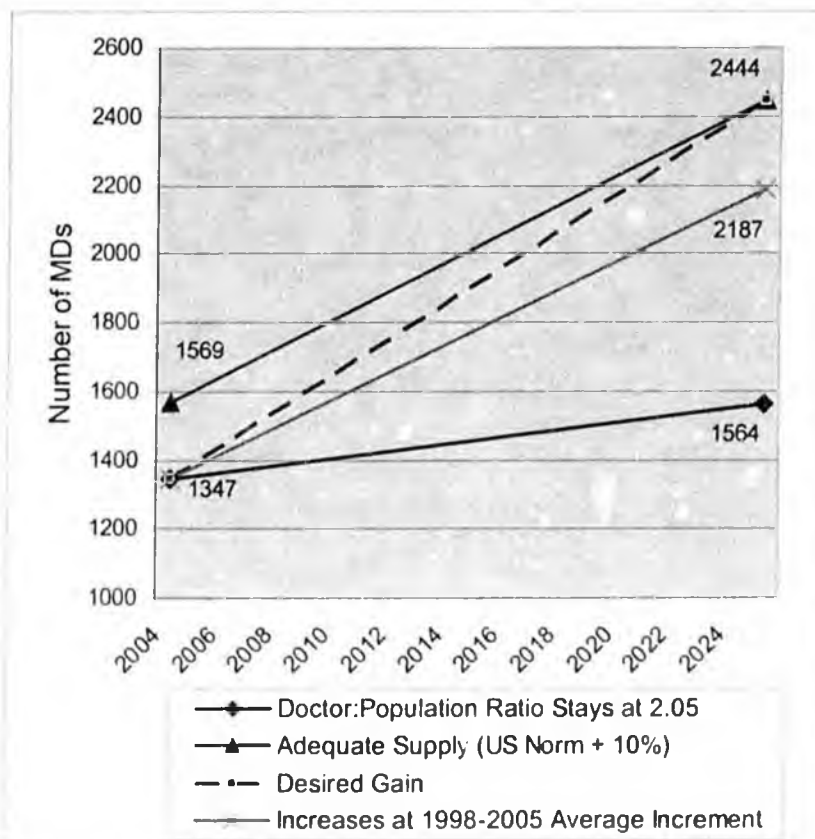


Figure B. A First Look at Physician Count in Alaska

Measure:	MD Count (Alaska)	MDs Per 1000 Population
2004 actual physicians in patient care (per AMA Master File)	1347	2.05
2004 "expected" at national average	1565	2.38
"Deficit" from national norm	218	---
Percent "deficit"	14%	---
Outside Anchorage Vacancy Rate (AFMR survey 2004)	16%	---




Recommended Strategies

- The Task Force recommends improved monitoring of physician workforce issues and specific strategies and action steps to achieve four goals related to assuring an adequate supply of physicians to meet Alaska's need. These are detailed in the report: *Securing an Adequate Number of Physicians for Alaska's Needs.*



Goals:

1. Increase the in-state production of physicians by increasing the number and viability of medical school and residency positions in Alaska and for Alaskans
2. Increase the recruitment of physicians to Alaska by assessing needs and coordinating recruitment efforts
3. Expand and support programs that prepare Alaskans for medical careers
4. Increase retention of physicians by improving the practice environment in Alaska



Goals and Strategies for Securing an Adequate Physician Supply for Alaska's Needs

Major Goal 1.

Increase the in-state production of physicians by increasing the number and viability of medical school and residency positions in Alaska and for Alaskans.

Goal 1. Increase production of physicians...

- | | | |
|---|--------|---|
| A. Increase the number of state-subsidized medical school positions (WWAMI) from 10 to 30 per year | Medium | \$250,000 per practicing physician |
| B. Ensure financial viability of the AFMR through state support including Medicaid support | Short | \$60,000 per practicing physician |
| C. Increase the number of residency positions in Alaska, both in family medicine and appropriate additional specialties | Short | \$100,000 per year plus \$30,000 for planning in year 1 & 2 |
| D. Assist Alaskan students to attend medical school by: i) reactivating and funding the use of the WICHE Professional Student Exchange Program with a service obligation attached, and ii) evaluating the possibility of seats for Alaskans in the planned osteopathic school at the Pacific Northwest University of the Health Science | Medium | i) \$550,000 per practicing physician for WICHE;
ii) cost unknown at time of PSTF report |

Goal 1. Increase production of physicians... continued...

E. Investigate mechanisms for increasing Alaska-based experiences and education for WWAMI Students	Medium	Unknown at time of PSTF Report
F. Maximize Medicare payments to teaching hospitals in Alaska	Short	Zero cost to the state
G. Empanel a group to assess medical education in Alaska, including the viability of establishing an Alaska-based medical school	Long	Undetermined at time of PSTF Report

Goal 2. Increase the recruitment of physicians to Alaska by assessing needs and coordinating recruitment efforts.

- | | | |
|---|------------|--|
| A. Create a Medical Provider Workforce Assessment Office to monitor physician supply and facilitate physician recruitment efforts | Short Term | \$250,000 per year |
| B. Research and test a physician re-location incentive payment program | Short | \$65,000 per physician |
| C. Expand loan repayment assistance programs and funding for physicians practicing in Alaska | Short | Undetermined – need to consult with other states |




Goal 3. Expand and support programs that prepare Alaskans for medical careers

- | | | |
|---|-------------|----------------------------|
| A. Expand and coordinate programs that prepare Alaskans for careers in medicine | Medium Term | Up to \$1,000,000 per year |
|---|-------------|----------------------------|

Goal 4. Increase retention of physicians by improving the practice environment in Alaska

- | | | |
|--|------------|---|
| A. Develop a physician practice environment index for Alaska | Short Term | \$100,000 to develop index; \$20,000 annually to update |
| B. Develop tools that promote community-based approaches to physician recruitment and retention | Short Term | \$50,000 per year |
| C. Support federal tax credit legislation Initiative for physicians that meet frontier practice requirements | Short Term | Zero cost to the state |



Implementation Strategy – Next Steps for Legislature and Other Key Policy Makers

The shortage of physicians and other health care providers creates one of Alaska's most challenging *public health and higher education* issues.

Recommended actions include:

- programmatic activities (educational programs, research and development of recruitment and retention methods and marketing),
- obtaining targeted funding (for support of medical school preparatory programs, and medical school and residency slots), and
- collaborative planning with key education, government and provider partners (including University of Washington regarding medical school planning).

Funding the action steps to accomplish the goals will be very important. The Task Force recommends creation of permanent structures for implementation including a Medical Provider Workforce Assessment Office.



Next Steps

- Discussion and consensus needed
- Legislative Initiatives
- Budget Proposals
- Potential Physician Survey
- Programmatic Development
 - Department of Health and Social Services
 - University (including Area Health Education Center)
 - Organizations (ASHNHA, ASMA, Others)

statewide

Needs and costs for recruitment and retention of physicians across the state

Significant lack of primary care physicians throughout the state

SORRAS study by the State and UA showed that 16 million dollars are spent annually to recruit physicians and other health care professionals

The cost per hire was 28,000

With the need for temporary or locums physicians this drove the cost to 38,000 per hire

Issues

- High cost of medical education—huge debt for each physician
- Poor payment by public programs—medicare and medicaid especially for primary care
- Competition for physicians across the country

Some ideas for relief

- Increase WWAMI positions (Dr. Johnston)
- A combined recruiting and retention initiative (ASHPIN) or others
- Use of technology/telemedicine
- Cooperation between segments of the health care system—
private/clinics/hospitals/Native health system/VA and military

Educating a Physician

Undergraduate degree

- can be in a variety of disciplines

4-year medical school program

- confers M.D. degree

3 to 7 years residency training

- qualifies for independent practice
- specific for specialty

Medical Education in Alaska

WWAMI is Alaska's Medical School

Admit 10 Alaskans per year

Year 1 in Anchorage at UAA

Year 2 in Seattle

Years 3-4 in any WWAMI state

- Alaska Track – nearly all in Alaska

★ Three of four years can be completed in Alaska

How Are We Doing?

1. Quality of WWAMI Medical Education

#1 ranked Primary Care medical education – 13 consecutive years

#1 ranked Rural Health medical education – 15 consecutive years

#1 ranked Family Medicine medical education – 15 consecutive years

US News & World Report, America's Best Graduate Schools, 2007 edition

How Are We Doing?

2. Graduates Practicing in Alaska

Each year 7 to 8 WWAMI graduates begin practice in Alaska

Return on investment: 7.5 new physicians for 10 funded positions – 75%

Alaska WWAMI Database

National average: <40%

American Association of Medical Colleges, Key Phys Data by State, Jan 2006

How Are We Doing?

3. Alaska WWAMI applicants

Alaska WWAMI:

7 to 8 applicants per position

most competitive WWAMI site last year

excellent qualifications

top group of 10 = 2nd group = 3rd group for:

MCAT (Medical Coll. Aptitude Test)

undergrad GPA (grade point average)

Alaska WWAMI Database

**Legislative
Health & Caucus**

How Are We Doing?

4. Alaskan Applicant Success - nationwide

All US Med Schools:

38% of Alaskan applicants accepted

2nd lowest of all US states

AK applicant quality at or above nat'l avg

MCAT

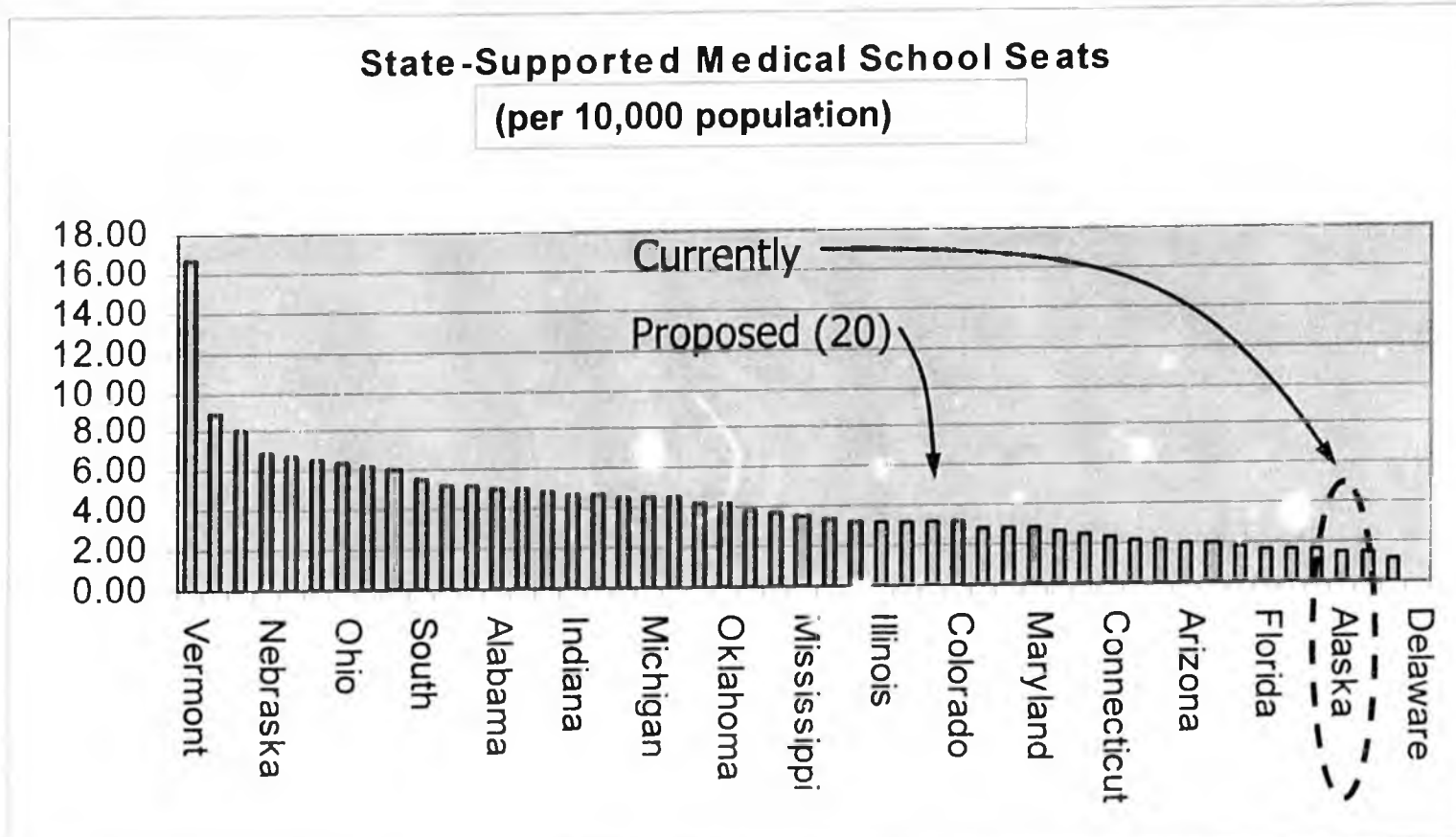
undergrad GPA

American Association of Medical Colleges database 2004

Legislative
Health  Caretakers

How Are We Doing?

5. Public Support for Medical Education



American Association of Medical Colleges database 2004

A Growing Changing Need

- In the 1950's, 60's and 70's most physicians came to Alaska for their rotations in the Military or The Public Health Service
 - This changed with the end of the Berry Plan (or physician draft)
 - It also changed with the change to Native Self Determination and fewer Service Corps Physicians in Alaska
- WWAMI was begun in the 1970 to BEGIN to address the "homegrown " needs



January 29, 2007

The Honorable Peggy Wilson, Chair
House Health, Education and Social Services Committee
Alaska State Capitol, Room 403
Juneau, AK 99801-1182

RE: HB 55 (Kelly)--Support

Dear Chair Wilson:

On behalf of the members of AARP in Alaska, we strongly encourage you and your colleagues on the House Health, Education and Social Services Committee to support HB 55, introduced by Representative Mike Kelly.

It is no secret that Alaska has a shortage of physicians which is expected to get worse over the next few years. AARP members in many Alaska communities already tell us that they are unable to find a physician who will accept them as Medicare beneficiaries. The current situation is so bad that United States Senator Lisa Murkowski is scheduling a Senate hearing on the issue in Anchorage on February 29.

The one bright spot in this shortage is the WWAMI program which has provided ten slots for family practice physicians to spend their residency in Alaska. Upon completion of their medical education, most of these physicians have chosen to stay here and practice in our cities as well as in our remote communities.

You and your House Committee colleagues have seen the Alaska Physician Supply Task Force report produced jointly by the University of Alaska and the Department of Health and Social Services. This excellent report should serve us as a roadmap for our future directions in physician training.

The former exodus of Alaska retirees has been reversed over the past few years. Because of our improved health services and provider community, older Alaskans have determined that they can remain here after retirement, close to their friends and families.

If older Alaskans are unable to find a physician willing to see them, we will be back with the situation of retirees leaving the state so they can be assured of access to health professionals.

HB 55 offers us the first real meaningful opportunity to begin to meet this need. Doubling the number of family practice residents from ten to twenty won't solve our problem but it is an excellent first step.

Our AARP members, your constituents, want to stay here after retirement. An affirmative vote on HB 55 will help accomplish that.

We urge an "AYE" vote on HB 55.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

Marie Darlin

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Vice-Chair Bob Roses
Representative Anna Fairclough
Representative Mark Neuman
Representative Paul Seaton
Representative Berta Gardner
Representative Sharon Cissna
Representative Mike Kelly

ALASKA STATE LEGISLATURE



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REPRESENTATIVE MIKE KELLY
HOUSE DISTRICT 7

Member

House Finance Committee
Legislative Budget & Audit

MEMORANDUM

To: Rep. Peggy Wilson, Chair -- House HESS Committee
From: Rep. Mike Kelly, Member -- House Finance Committee
Date: January 24, 2007
Re: Scheduling request HB 55

.....

Attached you will find a complete committee packet as a request for hearing for HB 55 –
*"An Act relating to postsecondary educational services
and programs for Alaska residents"*

I have included a sponsor statement, the bill and other items of evidentiary support including selected excerpts from the Alaska Physician Supply Task Force.

If you have any questions or comments, or require additional material please feel free to contact me at extension 4976 or my staff, Derek Miller at extension 6879.

HB

72

Alaska State Legislature

State Capitol, Room 505
Juneau, AK 99801-1182
Phone: 465-3779
Fax: 465-2833
Toll Free (800) 469-3779



145 Main Street Loop
Second Floor
Kenai, Alaska 99611
Phone: 907-283-7223
Fax: 907-283-7184

Representative Mike Chenault

District 34

Representative_Mike_Chenault@legis.state.ak.us

Sponsor Statement

HB 72

Title: "An Act relating to the district cost factors for state funding of public education; providing for an effective date by repealing the delayed effective date of sec. 6, ch. 41, SLA 2006; and providing for an effective date."

As a long time advocate for education and support of our schools, I have introduced this bill to add a sense of fairness to the distribution funds in Alaska. HB 72 also implements recommendations by the ISER Study and changes the district cost factors for funding for Alaska education to assist our school districts in meeting their needs.

I would appreciate your support of this bill.

Alaska State Legislature

SENATOR
GENE THERRIAULT
Chair

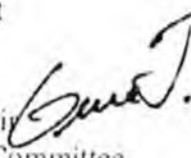


SESSION ADDRESS
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4797
Fax: (907) 465-3884

Legislative Budget and Audit Committee

DATE: February 23, 2005

TO: Legislative Budget and Audit
Committee Members

FROM: Senator Gene Therriault, Chair 
Legislative Budget & Audit Committee

RE: Alaska School District Cost Update by ISER

Attached for your review is the *School District Cost Study Update* recently completed by the Institute of Social and Economic Research (ISER), of the University of Alaska. Additional copies of this report, as well as the other reports cited in this memorandum, can be downloaded under the "publications" link at www.lba.legis.state.ak.us. A limited number of copies of the District Cost Update are also available in my office.

It is important to understand that the information contained in this report recommends modification to the distribution of K-12 funds, but does not suggest a level of funds that should be appropriated to the foundation formula.

BACKGROUND

The passage of Senate Bill 36, Ch. 38, SLA 1998 required the Department of Education and Early Development (DEED) to submit updated district cost factors to the Legislature by Jan. 15, 2001. Additionally, the DEED was required to monitor district cost factors and submit a report to the Legislature every other year beginning Jan. 2001.

The DEED attempted to use the existing cost factor methodology to update the cost factors, but the results were not supported by the underlying data. The McDowell Group reviewed the DEED's work and determined that the 1998 methodology was not usable. Subsequently, the DEED recommended to the Legislature that cost factors remain unchanged as adopted in AS 14.17.460 in 1998 and that a new cost model be developed.

INTERIM ADDRESS

119 N. Cushman Suite 101, Fairbanks, Alaska 99701 • (907) 488-0857 • Fax: (907) 488-4271

Funding was added to the FY 02 capital budget for the Legislative Budget and Audit Committee (LB&A) to contract for a new cost study, and the American Institutes for Research (AIR) was selected to develop new district cost factors. In January 2003 the AIR report was released and a joint hearing was held by the HESS Committees. With AIR principals in attendance at the hearing, Legislators and interested parties expressed concerns about the accuracy of the data and the appropriateness of the methodology used in the AIR report. Following the hearing, AIR continued to respond to the many questions and criticisms of their report, but offered no revisions

In the Fall of 2003, the LB&A contracted with ISER to perform a peer review of the AIR study to determine: 1) if the methodology used by AIR was generally acceptable, 2) if there was anything unique to Alaska that would make the methodology inappropriate, and 3) what alternative methodologies would they suggest. In their January 29, 2004 report, ISER concluded that while the general methodology used was appropriate, it did not adequately address the issue of teacher turnover. Further, they questioned the estimation of energy costs, and in some areas, felt the documentation did not support AIR's findings.

In July of 2004, the LB&A contracted with ISER to update and modify the AIR School District Cost Study by updating certain data, revising the teacher compensation component, using actual rather than estimated energy costs, reviewing the travel cost index, and determining if the budget categories accurately reflect full costs of providing educational services. A working group made up of the Directors of the Finance and Audit Divisions, staff to the Chair and Vice-Chair of the LB&A, and Eddy Jeans with the DEED reviewed the draft report and suggested a number of format changes that have been incorporated in to the final report that was received on February 4.

AIR VS. ISER'S OBJECTIVES FOR THE TEACHER COMPONENT

The new cost differential for each school district, as proposed by ISER, is displayed on page 18 of the report. Using Anchorage as the base, ISER proposes all other district cost differentials be adjusted upward. It appears that ISER's change in the methodology for the teacher compensation component is the most significant contributor to these increases.

In the original AIR report the stated objective was to use "econometric models of school personnel labor markets to provide a basis for simulations of the compensation levels that would be required if all districts employed comparable teachers, school administrators, and classified personnel." They defined comparable as levels of experience, education and other demographic characteristics. The ISER report states that its objective is "to estimate the amount of funds that a district needs, relative to Anchorage, to recruit and retain certificated personnel of equivalent quality to Anchorage."

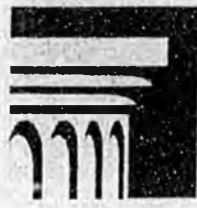
Whether or not any additional funding provided by the increase in the geographic cost factors will actually result in all school districts having equivalent personnel was not part of either study. As we consider and debate the new recommended geographic cost factors we may also want to consider a reporting or measurement mechanism to determine how successful the school districts are at consistently recruiting and retaining qualified personnel. Further discussion of ISER's revisions to the teacher compensation index is contained on pages 5-8 of the report.

ADDITIONAL ATTACHMENTS *upon request*

Also attached are two schedules prepared by the DEED on 2/11. The first schedule depicts the impact of implementing the ISER recommended District Cost Factors with no additional state funding, which necessitates reducing the base student allocation (BSA) from \$4576 to \$4210. The second schedule shows what it would cost to keep the current BSA in place, thereby holding Anchorage "harmless" as the base.

attachments

School District	FY08 1/4 ISER Entitlement	FY08 full ISER Entitlement	Difference
Alaska Gateway	5,659,381	6,581,664	922,283
Aleutian Region	1,299,795	1,396,865	97,070
Aleutians East Borough	3,832,013	5,084,209	1,252,196
Anchorage	265,515,050	265,515,050	-
Annette Island	2,088,940	2,820,799	731,859
Bering Strait	22,189,532	28,499,291	6,309,759
Bristol Bay Borough	1,716,346	2,011,345	294,999
Chatham	2,665,376	3,434,628	769,252
Chugach	2,067,393	2,175,658	94,265
Copper River	6,737,186	7,301,447	564,261
Cordova	3,543,295	3,913,083	369,788
Craig	4,896,666	5,360,776	464,110
Delta/Greely	10,387,781	11,123,040	735,259
Denali Borough	4,002,110	4,036,860	34,750
Dillingham	4,944,089	5,253,441	309,352
Fairbanks N. Star Borough	86,568,886	88,948,252	2,379,366
Galena	17,624,069	17,694,757	70,688
Haines Borough	2,319,942	2,737,540	417,598
Hoonah	1,624,006	2,013,436	389,430
Hydaburg	870,787	1,111,555	240,768
Iditarod Area	4,971,215	5,863,398	892,183
Juneau Borough	27,555,198	31,263,760	3,708,562
Kake	1,058,362	1,378,345	319,983
Kashunamiut	3,208,071	3,754,039	545,968
Kenai Peninsula Borough	57,739,055	66,372,871	8,633,816
Ketchikan Gateway Borough	14,711,562	16,965,903	2,254,341
Klawock	1,369,953	1,679,467	309,514
Kodiak Island Borough	19,358,352	22,325,072	2,966,720
Kuspuk	5,789,889	6,849,070	1,059,181
Lake & Peninsula Borough	7,980,169	9,615,481	1,635,312
Lower Kuskokwim	49,288,301	54,174,433	4,886,132
Lower Yukon	23,220,202	29,572,374	6,352,172
Mat-Su Borough	97,054,596	101,857,738	4,803,142
Nenana	4,399,158	4,506,754	107,596
Nome	7,657,321	8,269,713	612,392
North Slope Borough	11,523,688	14,659,682	3,135,994
Northwest Arctic Borough	27,392,767	31,201,857	3,809,090
Pelican	413,335	434,907	21,572
Petersburg	4,665,092	5,599,409	934,317
Pribilof	1,593,709	1,888,492	294,783
Saint Mary's	2,506,923	2,867,970	361,047
Sitka Borough	9,633,588	11,259,025	1,625,437
Skagway	685,572	707,642	22,070
Southeast Island	3,350,413	3,864,917	514,504
Southwest Region	8,442,325	9,868,595	1,426,270
Tanana	787,959	901,976	114,017
Unalaska	3,136,124	3,674,645	538,521
Valdez	3,960,125	4,307,682	347,557
Wrangell	2,826,995	3,213,025	386,030
Yakutat	1,077,752	1,370,513	292,761
Yukon Flats	5,494,335	6,325,576	831,241
Yukon/Koyukuk	10,596,230	11,642,299	1,046,069
Yupit	5,723,285	6,633,159	909,874
Mt. Edgecumbe High School	2,776,946	3,240,193	463,247
Total	882,515,210	955,123,678	72,608,468



AMERICAN INSTITUTES FOR RESEARCH

Alaska School District Cost Study:

Volume I – Summary of Results

Submitted to:

Ms. Heather Brakes
Legislative Budget & Audit Committee
State Capitol, Room 121
Juneau, AK 99801-1182

Submitted by:

Dr. Jay Chambers
Dr. Lori Taylor
Joe Robinson
Phil Esra, Editor

With contributions by

Marc Schuldt, SBW Consulting, Inc.

January 2003

Executive Summary

The purpose of this study is to develop an improved methodology for measuring differences in the cost of school resources across geographic locations within Alaska. State policy makers in Alaska have long recognized the importance of adjusting state education aid for geographic cost differences and, for the past five years, have utilized a cost adjustment index derived from a study conducted by the McDowell Group (1998). The present study is intended to develop a geographic cost of education index (GCEI) that will replace the existing cost adjustment and provide a more sophisticated approach to measuring cost differences. The application of such geographic cost adjustments in state aid is intended to equalize the purchasing power of the educational dollar across local school districts.

The costs of four major categories of school inputs are analyzed as part of this study:

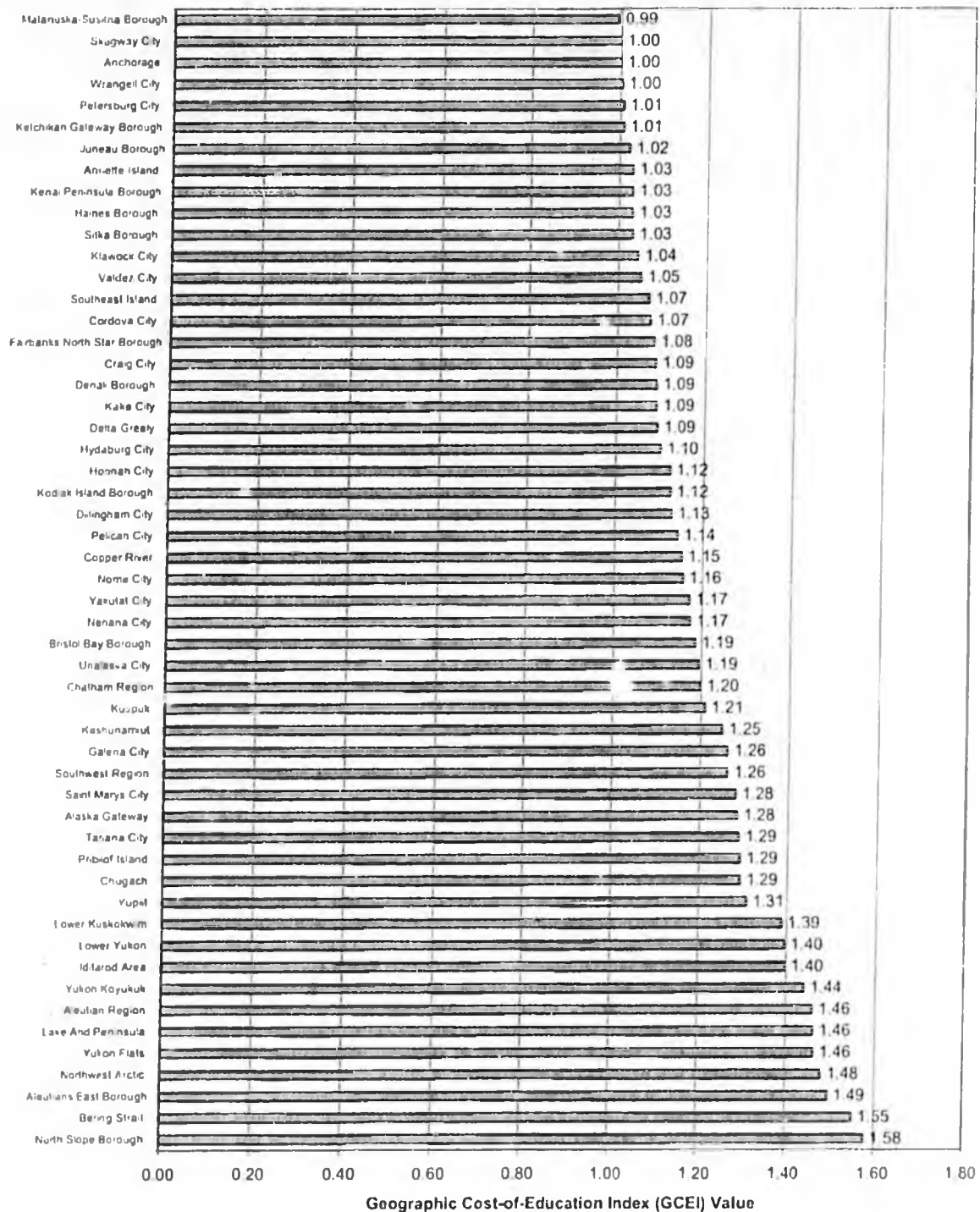
- personnel services
- energy services
- supplies, materials, and small capital items
- travel

The AIR research team collaborated closely with a group of eight school business officers representing a diverse sample of districts from across Alaska. These eight school business officers formed a Technical Working Group (subsequently referred to as the TWG) that provided feedback on components of the methodology for this analysis, assistance in the design of data collection instruments, and support in data collection efforts.

Overall Variations in Costs

Based on the study's analysis, the purchasing power of the educational dollar varies tremendously in the State of Alaska. The highest-cost district needs to spend about 1.6 times what the lowest cost district spends in order to provide comparable educational services. Using Anchorage School District as the benchmark (i.e., with a GCEI of 1.00), the analysis of costs reveals that the North Slope Borough School District exhibits the highest cost of education, with an index value of 1.58 (see exhibit). This means that this district needs to spend about 58 percent more than the Anchorage School District to provide comparable educational services to the students it serves. On the other end of the spectrum is the Matanuska-Susitna Borough School District, with an index value of 0.99. This means that this district needs to spend about 1 percent less than the Anchorage School District to provide comparable educational services.

A GCEI for Alaska School Districts



NOTES TO EXHIBIT: The districts listed on the vertical axis in this diagram are sorted in ascending order according to the value of the geographic cost-of-education index (GCEI), with the lowest on top.

Organizing the school districts by region reveals that the highest-cost districts in Alaska are located in the Far North (with average GCEIs of 1.38) and the Southwest (with average GCEIs of 1.31). The lowest-cost districts in the state are located in the Southeast (with an average GCEI of 1.07).

Differences between the values of the AIR GCEI and the current Alaska cost index for education may reflect a combination of methodology differences and changes in the costs of educational services since the last cost index was calculated. The largest differences are most likely attributable to methodological differences underlying the two studies' calculations.¹ The range, standard deviation, and mean values of the GCEI and the current Alaska cost index are quite similar. The AIR GCEI ranges from a low of 0.99 to a high of 1.58, while the range of the current Alaska cost adjustment is from 1.00 to 1.74. The standard deviation of the AIR GCEI is 0.17, and the standard deviation of the current adjustment is 0.21. Moreover, the correlation between the AIR GCEI and the Alaska cost index is 0.91, suggesting that the general patterns of variation in costs are quite similar between the AIR GCEI and the current Alaska cost index. More than 70 percent (38) of the districts exhibit a GCEI with less than a 0.10 difference from the current Alaska cost index. Forty-four percent (24) of the school districts in Alaska exhibit less than a 0.05 difference from the current Alaska cost index.

Personnel Cost Differences

Looking at the four major component indices reveals what one would expect. School personnel costs play a major role in explaining the variations in the overall costs of education across local school districts. The school personnel category accounts for a major portion of school district budgets, ranging in Alaska from 45 to 90 percent of total expenditures, with a median of 78 percent. AIR used econometric models of the school personnel labor market to provide a basis for simulations of the compensation levels that would be required if all districts employed *comparable* teachers, school administrators, and classified personnel. The key is comparability: what are the costs in different parts of the State of Alaska for school personnel with *comparable* levels of experience, education, and other demographic characteristics?

Using Anchorage as the basis for calculation of the index values (i.e., setting the Anchorage index to a value of 1.00), personnel costs range from a low of 0.93 in Southeast Island School District to a high of 1.28 in North Slope Borough School District. In other words, the highest-cost district pays, on average, about 28 percent more than Anchorage for comparable personnel, while the lowest-cost district pays about 7

¹ The actual values of the two indices are presented for purposes of comparison in Exhibit I-6 In Appendix I of the report entitled "Alaska School District Cost Study: Volume II-The Technical Report."