

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 HSTA 12391

1 **WHEREAS** there are approximately 60,000 remaining Filipino World War II
2 veterans currently residing in the United States and the Philippines out of the 120,000 Filipino
3 soldiers who served under United States command during World War II; and

4 **WHEREAS** the United States Department of Veterans Affairs reports that the Filipino
5 World War II veteran population is expected to decrease to approximately 20,000 by 2010;
6 and

7 **WHEREAS** there are approximately 5,000 Filipino World War II veterans living in
8 poverty in the United States and 15,000 living in poverty in the Philippines; and

9 **WHEREAS**, in 2000, the surviving Filipino World War II veterans were provided
10 with burial benefits in United States national cemeteries, and, in 2003, they were provided
11 long overdue medical and nursing home care from the United States Department of Veterans
12 Affairs; and

13 **WHEREAS** the United States Department of Veterans Affairs does not provide
14 nonservice disability pension benefits to low-income Filipino World War II veterans, but
15 these benefits are available to 200,000 of their American comrades; and

16 **WHEREAS** Representative Bob Filner has sponsored H.R. 760, and Senator Daniel
17 K. Inouye has sponsored S. 57, which are both called the Filipino Veterans Equity Act of
18 2007, to remedy the inequity experienced by Filipino World War II veterans and to provide
19 that certain service in the organized military forces of the Philippines and the Philippine
20 Scouts will be considered active service in order to qualify for benefits under programs
21 administered by the United States Secretary of Veterans Affairs; and

22 **WHEREAS** Senator Daniel K. Akaka has sponsored S. 671, and Representative
23 Mazie Hirono has sponsored H.R. 1287, which are both called the Filipino Veterans
24 Family Reunification Act, to provide immediate relief to the children of Filipino World War
25 II veterans whose immigration petitions have been pending for more than a decade;

26 **BE IT RESOLVED** that the Alaska State Legislature respectfully requests that the
27 United States Congress pass

28 (1) a Filipino Veterans Equity Act of 2007 proposed by H.R. 760 or S. 57 in
29 order to allow Filipino World War II veterans to receive the United States veterans' benefits to
30 which they are entitled under the programs administered by the United States Secretary of
31 Veterans Affairs; and

1 (2) a Filipino Veterans Family Reunification Act proposed by S. 671 or H.R.
2 1237 to exempt children of certain Filipino World War II veterans from the numerical
3 limitations on immigrant visas.

4 **COPIES** of this resolution shall be sent to the Honorable George W. Bush, President
5 of the United States; the Honorable Richard B. Cheney, Vice-President of the United States
6 and President of the U.S. Senate; the Honorable Harry Reid, Majority Leader of the U.S.
7 Senate; the Honorable Mitch McConnell, Minority Leader of the U.S. Senate; the Honorable
8 Nancy Pelosi, Speaker of the U.S. House of Representatives; the Honorable Steny H. Hoyer,
9 Majority Leader of the U.S. House of Representatives; the Honorable John Boehner, Minority
10 Leader of the U.S. House of Representatives; the Honorable Daniel K. Akaka, Chair of the
11 U.S. Senate Committee on Veterans' Affairs; the Honorable Bob Filner, Chair of the U.S.
12 House Representatives Committee on Veterans' Affairs; the Honorable Ted Stevens and the
13 Honorable Lisa Murkowski. U.S. Senators, and the Honorable Don Young, U.S.
14 Representative, members of the Alaska delegation in Congress; and all members of the 110th
15 United States Congress by electronic transmission.



National Office:
810 18th Avenue, RM 100
Seattle, WA 98122

Alaska Chapter:
2607 Kona Lane
Anchorage, AK 99517

TO: Members of the Alaska Legislature

The approval of HJR 15 by the members of the Alaska Legislature would be a very helpful addition to the increasing support for the passage of the Filipino Veterans' Equity Act and the Filipino Veterans Family Reunification Act.

Filipinos have been part of Alaska's labor force for over 100 years. In 1903, as divers and crewmembers of the Cableship Burnside, Filipinos began laying the communications cables between Alaska and Washington state. The work was completed a year later. This effort improved Alaska's ability to communicate with Seattle and the rest of the world.

From the early 1900s to the present, Filipinos have been working in the seafood canneries in Alaska. Prior to 1920 to the 1940s, they worked as ore sorters in the gold mines in Juneau and Douglas Island.

The 2000 U.S. Census enumerated over 16,000 Alaskans of Filipino heritage in Anchorage, Juneau, Kodiak, Fairbanks, Ketchikan, Sitka, Barrow, and other Alaskan communities. Generally, most Filipinos residing in Alaska work in the hospitals, the school districts, the post office, and other service-oriented industries. Few are self-employed. I'm one of the few. I am an attorney in Anchorage.

The history of Filipinos in Alaska dates as far back as 1788 when the first Filipino arrived here as a crewmember of the British fur trading ship, *Iphigenia Nubiana*. Various Filipinos arrived as crewmembers of a few other fur trading ships, as crewmembers of the Spanish ships exploring the Alaskan waters for the Northwest Passage under Alejandro Malaspina, and as crewmembers of whaling ships hunting for bowhead whales.

The background that led President Franklin Delano Roosevelt to conscript Filipinos to serve in the United States armed forces could be traced to Commodore George Dewey and the crew of his flagship, *USS Olympia*, and seven U.S. Navy cruisers and gunboats in a surprise attack of the Philippines in the Battle of Manila Bay on May 1, 1898.

At that time, the Philippines was the weak link in the Spanish dominion and having exploited the Philippines for over 300 years and beset by Filipino patriots who aimed at overthrowing the Spanish regime, Spain was poorly equipped to repel any foreign invasion of the Philippines.

The transfer of foreign domination from Spain to a new foreign master, the United States of America, was resisted by Filipino patriots who had declared Philippine Independence on June 12, 1898, an event that was neither recognized by Spain nor the incoming U.S. colonial government. The short-lived bitter war between the Filipino patriots and the U.S. armed forces was nearly lost in history because it was overshadowed by America's victory that concluded the Spanish American War.

As early as the 1900s, the U.S. sent governors to run the Philippines. The U.S. Army had a major role in subduing the resistance and providing educational opportunities to Filipinos. Immigration to the U.S. was encouraged.

In 1934, the United States established the Philippine Commonwealth and promised the country's independence. On July 4, 1946, the Philippines was granted its independence and became a republic like the United States.

At the outbreak of World War II, the Philippines was invaded by Japan. Some historians believe that, but for the fact that the Philippines was then an American possession, it would not have been a major military target.

HJR 15 accurately narrates the action taken by President Roosevelt and the U.S. government with regards to conscripting Filipinos and later withholding from them veteran's benefits. The passage of the Filipino Veterans' Equity Act and the Filipino Veterans Family Reunification Act would help to recognize the sacrifices made by these veterans and their families and provide for their well-deserved veteran's entitlements at a time when these valiant Filipino veterans are becoming fewer and fewer in number.

Alaska should be proud to support the effort of the sponsors of these two pending bills in Congress. I urge you to vote for HJR15. Thank you.

Thelma Buchholdt
President, Filipino American National Historical Society;
Member, Alaska State House: 1974-1982;
Author, *Filipinos in Alaska: 1788-1958*.

FISCAL NOTE

Library

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HJR 15
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title WW II Filipino Vets: Benefits/Immigrations RDU _____
Component _____
Sponsor Representative Ledoux _____
Requester House State Affairs Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nancy Manly, Committee Aide Phone 465-2794
Division House State Affairs Committee Date/Time _____
Approved by: Representative Bob Lynn Date 4/5/2007
Agency Chair

ALASKA STATE LEGISLATURE



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Representative Gabrielle LeDoux

SPONSOR STATEMENT FOR HOUSE JOINT RESOLUTION 15 Supporting the Filipino Veterans Equity Act and Filipino Veterans Reunification Act

This resolution from the Alaska State Legislature respectfully urges the United States Congress to pass the Filipino Veterans Equity Act and the Filipino Veterans Family Reunification Act.

From 1898 until 1946, the Philippine Islands were considered a territory of the United States. During World War II the military forces of the Philippines were drafted into service under the command of American officers in the United States armed forces in the Far East to fight against the Japanese invasion. Filipino and American soldiers fought side by side in such battles as Corregidor. Many died during the 65-mile Bataan Death March, and those who survived were imprisoned under inhumane conditions.

Filipino World War II veterans were promised military benefits, but after the War the United States Congress passed the Supplemental Surplus Appropriation Rescission Act of 1946. The act considered the services of Filipino World War II veterans not to be active service. This status change had the effect of denying Filipino World War II veterans the rights, privileges and benefits that American World War II veterans received.

There have been several attempts to reverse this injustice. In 1990, Filipino World War II Veterans were allowed to immigrate to the U.S. Many of them did and petitioned for their immediate families. In 2000, they were provided with military burial benefits and in 2003 they were provided long overdue medical and nursing home care from the U.S. Dept. of Veterans Affairs.

The Filipino Veterans Equity Act and the Filipino Veterans Family Reunification Act would correct a terrible injustice by: 1) providing veterans the full benefits they were denied; and 2) providing immediate relief for those veterans and their families who have waited for more than a decade with approved immigration petitions.

washingtonpost.com

Hope for Amends to Filipino Immigrants

Bills to Speed Children's Moves to U.S., Give Military Pensioners Show Political Assertion

By N.C. Aizenman
Washington Post Staff Writer
Sunday, March 4, 2007; A06

Amid the wrangling over immigration reform, virtually everyone in Congress appears to agree on one point: Filipino-born veterans who fought alongside U.S. troops during World War II deserve a break.

Denied the right to immigrate to the United States until 1990, they came hoping that their children could follow them here later, just as other groups have done. But the adult children have been required to wait twice as long -- up to 16 years -- as anyone else. With the veterans often too old and sick to travel home, many have died while waiting to be reunited with their families.

Now, after several longtime backers have risen to key positions in Congress, Filipino American advocates are hopeful that legislation will be pushed through to exempt the veterans' children from the immigration delay. They also are optimistic about a potentially more controversial bill that would grant Filipino veterans military pensions.

About 5,000 veterans in the United States would stand to benefit from a change in immigration provisions, and an additional 10,000 in the Philippines could be eligible for pensions.

To many in the 2-million-strong Filipino American community, the issue represents a chance to cement their political identity in a nation where they have long felt invisible, even though Filipinos rank second, behind Mexicans, in the number of immigrants living in the United States.

"Historically, we Filipinos have always been looked down on as your little brown brothers -- as these acquiescent people who would just accept anything Uncle Sam would do to them," said Jon Melegrito, communications director of the National Federation of Filipino American Associations. "This is about asserting who we are as a people and how we served this country. . . . It's a call to action to stop acting like colonial slaves and to start acting like first-class citizens."

The effort builds on an association with the United States that dates to 1898, when the United States acquired the Philippines from Spain after winning the Spanish-American War.

Laws and discriminatory practices against all Asian immigrants kept Filipino numbers in the United States low through the first half of the 1900s. But in the Philippines, many residents were taught English and raised to think of themselves as something akin to Americans.

Celestino Almeda, 90, a veteran who lives in Alexandria, remembered that the director of his elementary school in Manila led students in a pledge of allegiance to the American flag every morning.

"We also celebrated all the holidays: Washington's birthday, Armistice Day," Almeda said. "In our mind, it was like America was our mother country."

When Japan invaded the Philippines in 1941, more than 200,000 Filipinos joined Americans in waging a fierce resistance, enduring such horrors as the Bataan death march and the grueling guerrilla campaign

that followed. Technically, the Filipino fighters were under overall U.S. command. But within months of the Allied victory, Congress stripped most of them of their rights as foreign veterans of U.S. forces -- including the opportunity to become U.S. citizens -- on the grounds that the Philippines was about to be granted independence.

Even so, the Philippines continued its close affiliation with the United States. Thousands of Filipinos joined the U.S. Navy, which until recently had major bases there. By 1970, there were more Filipinos in the U.S. Navy than in the Philippine Navy.

And, after 1965, when Congress repealed the nationality quota system that had practically prohibited Asians from immigrating, hundreds of thousands of Filipinos streamed in.

Ranging from unskilled workers and nannies to nurses and professionals who came in on occupational preference visas, the new arrivals immediately formed social, cultural and professional organizations. Before long, they were rising to prominent positions in government, unions and the military. Several won elected office, including in Prince George's County, where a sizable community settled.

Yet when it came to turning their clout into political activism on behalf of Filipino American causes, many of the immigrants hesitated, said Bing Cardenas Branigin, 50, a former regional chairman of the Filipino American federation.

"There was this sense that you shouldn't make trouble, that you shouldn't contradict the government," she said. "You should just pay your taxes and send your kids to school and keep quiet."

That began to change in the mid-1970s when anger spread over the repressive policies of the Filipino president, Ferdinand Marcos. As much as their opposition to Marcos galvanized the Filipino American community, it also caused rifts with those who supported Marcos.

After Marcos was ousted, community leaders looked to refocus their newfound energy on a more unifying issue. The fight for veterans' equity was a natural choice.

Since then, the veterans have won some of the benefits they lost after the war. Most notably, in 1990, Congress granted Filipino World War II veterans the same opportunity to naturalize offered to all other foreign nationals who served in the U.S. armed forces.

But the Filipino veterans remain ineligible for a military pension, forcing many of the more than 24,000 elderly veterans who became U.S. citizens after 1990 to live off food stamps and Supplemental Security Income payments.

Joaquin Tejada, 84, a former guerrilla fighter who survived two years resisting the Japanese from jungle hideouts, said he now struggles to get by with his \$545 monthly SSI check. The rent for the two-bedroom apartment he shares with another Filipino World War II veteran in Columbia Heights takes \$275.

"By the end of the month, it's hard to buy even basic food," said Tejada, who proudly sported an American flag tie during an interview.

Then there is the 16-year wait veterans face if they wish to bring over their adult children, an unintended consequence of the 1965 law lifting the quotas that had prevented most Asians from immigrating.

In their place, Congress introduced a complicated system meant to offer every country the same number of family reunification visas. But because Filipino applicants far outnumber the yearly slots allotted to them, they face the longest delays -- 22 years to sponsor an adult brother or sister, for instance, compared with 11 years for applicants of most other nationalities.

Candida Romulo, 72, said she and her husband, Bayani, a veteran who became a lawyer in Manila, would not have naturalized and moved to Oxon Hill had they known that the wait to sponsor their grown children would be so long.

"We did it because we wanted to give them the opportunities of living in this country. It was going to be our gift to them," Romulo said during an interview in a living room crammed with photographs of her four children.

Soon after the couple's arrival, Bayani developed a medical condition requiring frequent dialysis, making visits to the Philippines impossible. Because of their pending residency applications, his children were unable to get visas to visit him.

When Bayani suffered a severe stroke in September, his eldest son wasn't able to relay his final words to his father over the phone before he died.

"The receiver couldn't reach his bed in the ICU," Candida Romulo said. "So I told my husband, 'Your son says that he loves you very much and that he's so proud that you are his father.' My husband couldn't speak, but I could tell that he understood, because there were tears in his eyes."

Now Romulo worries that her son may never gain entry to the United States, because if a sponsor dies while the visa application is pending, there is a chance that the application will be annulled.

But she said she is still praying that Congress will pass the legislation for the sake of those veterans who remain alive

"If that happens, I know my husband will be very happy about it, even if he is already in heaven," she said.

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people who don't have the disease and
helps people with the disease control it
better.

Boudreau also plans a fundraising
event led by the group. The KCHC
diabetes support group will raise pledges
from the community and walk or run
together during Kodiak's Chad Ogden
Ultra-Marathon on May 27 during the
Kodiak Crab Festival.

Boudreau calls it an "ultra-marathon

controlled diabetes occurs more often
among the uninsured. This is happening
nationally, she said, because there is a
tendency among people without much
money to test themselves less often.

"The test strips are expensive, and a lot
of patients should be testing themselves
three or four times a day," she said.

More information on the support is
available by calling Boudreau at Kodiak
Community Health Center, 481-2481.

Mirror writer Scott Christiansen can
be reached via e-mail at schristiansen@kodiakdailymirror.com.

come up with a large catch of unharmed
and sometimes protected species.

The Fisherman's Marketing Association
says about 100 trawlers are tied up in Or-
egon, Washington and California, includ-
ing 23 in the Astoria-Warrenton area.

"The situation began in February when
some of the fish companies unilaterally
decided to lower the price they were pay-
ing to U.S. boats," said Pete Leipzig,
executive director of the association.

"In some cases this occurred while they
were out fishing," he said. "They'd go to
the dock and find they weren't going to

Officials at Astoria facility of Donsbach
Seafoods, a major Pacific Coast ground-
fish processor, did not immediately return
phone calls seeking comment.

Kevin Dunn of Astoria, who operates
the Iron Lady, joined the association
when the price for petrale sole, the most
valuable sole, went from more than \$1 per
pound to 65 cents.

"You can see the position we end up
being in if we don't use our limit — we
lose it — and if we don't sell it, we don't
get anything, so the processors get the fish

➤ See **TRAWLERS**, Page 8

Aging Filipino WWII vets forced to live apart from families

By **AUDREY McAVOY**
Associated Press Writer

WAIANAË, Hawaii (AP) —
Manuel S. Pablo crouched in
foxholes to defend the Philip-
pines against invading Japanese
soldiers in World War II. He
watched a Japanese guard stab
one of his comrades to death
with a bayonet during the Bataan
Death March when the starving
prisoner of war dared to ask for
another bowl of rice.

Even though Pablo risked his
life for the United States, which
controlled the Philippines as a
commonwealth at the time, his
children cannot win approval to
live with him in America during
his retirement.

Scholars and veteran advocates
say the policy reflects decades
of neglect, dating to 1946 when

Washington broke wartime prom-
ises that Filipino soldiers could
become U.S. citizens and enjoy
the same pension and medical
benefits as American troops.

It took Washington 45 years
after the war to offer veterans a
proper chance to obtain citizen-
ship. And the Immigration Act of
1990 only allowed each veteran
to bring one immediate family
member to the United States with
them, so many leave their chil-
dren behind.

The shortcomings of that law
have left the sons and daughters
of the veterans with no choice but
to get in line for immigration vi-
sas along with everyone else. On
average, they must wait about 20
years because so many Filipinos
hope to emigrate and the limits
are set by nationality.

Pablo's three sons and four
daughters have been on the wait-
ing list since 1994, two years
after he immigrated to Hawaii
and became a U.S. citizen.

Today, thousands of elderly
veterans — including those
wounded in battle and awarded
the Bronze Star and other medals
— live their last years far from
their children and grandchildren.

➤ See **FILIPINO VETS**, Page 8

Right: World War II Filipino
veteran Manuel Pablo, 88,
holds a Bronze Star and POW
medal, March 6, at his home
in Waianae, Hawaii. He was
awarded the medals while
serving the U.S. military in the
Philippines during World War
II. (AP Photo)



erica's Last Frontier"

Today is:

Wednesday, March 21, the 80th day
of 2007. There are 285 days left in the
year.

Today in history:

In 1965, more than 3,000 civil rights
demonstrators led by the Rev. Martin
Luther King Jr. began their march from
Selma to Montgomery, Ala.

Thought for today:

"Never lose your temper with the
press or the public is a major rule of
political life."

— Dame Christabel Pankhurst,
English suffragist (1880-1958)

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KODIAK DAILY MIRROR
MARCH 21, 2007

corporation. Olsen is also active

While there was little dissent at

are set by nationality. state secrets privilege, which ar

Filipino vets

Continued from Page 1

Sen. Daniel K. Akaka, a Hawaii Democrat, this year reintroduced a bill to remedy the situation, allowing children of Filipino World War II veterans to sidestep the immigration waiting list.

"The promise back then was, 'Hey, you're going to become American citizens and you'll get full benefits.' After the war ended, for some reason, the U.S. canceled on that promise," said Jon Yoshimura, an Akaka spokesman.

The measure died last year when it was included in a large omnibus immigration bill that was derailed by disagreements over a border fence and making English the national language.

Akaka is optimistic the U.S. Senate will pass the reunification legislation this year, Yoshimura said. The Veterans Affairs Committee, which Akaka chairs, plans to hold hearings on the issue next month coinciding with the 65th anniversary of the Bataan Death March on April 9.

Pablo enlisted in the Philippine Scouts, a U.S. Army unit, after a recruiting truck drove through his hometown in the province of Ilocos Norte.

When the Imperial Japanese Army invaded on Dec. 8, 1941, he and his fellow soldiers dug trenches to fight against troops shooting at them from the jungle. He recalls hunkering down between the corpses of fallen comrades, using their bodies to shield himself from bullets.

sistance against Japanese troops after U.S. forces surrendered at Bataan and Gen. Douglas MacArthur withdrew to Australia uttering the famous phrase "I shall return."

Belinda Aquino, a University of Hawaii political science professor, said the U.S. "dumped" Filipino veterans after World War II. Their cause then struggled in the postwar years as the U.S. focused on fighting communism.

"The Philippines was just not an important priority for the U.S.," she said.

Pablo could live in the Philippines near his children. But he prefers to live in the United States where he can access the medical care he needs at veterans' hospitals.

He still takes medicine and receives therapy for post-traumatic stress disorder. The war memories from six decades ago still haunt him today.

"When he gets nightmares, he's shaking. He's saying 'Can you cover my face? They are coming,'" said his wife Fely Pablo. "He says 'The Japanese are coming!'"

Veterans and their backers say the need to reunite divided families only grows more urgent given the advancing age of the veterans.

There are as many as over 50,000 Filipino veterans of World War II alive today. Some 10,000 are said to live in the United States, including 2,000 in Hawaii.



RELIC — This photo provided by the family shows Manuel Pablo, center row right, in a U.S. Army platoon photograph dated October 1945. Pablo, who was in his mid 20s in this photo, served the U.S. military during World War II in the Philippines.

(AP Photo)

Abelina Madrid Shaw, a Honolulu attorney and an advocate for Filipino veterans, said lawmakers and the media seem to be paying more attention to the issue lately, perhaps because the U.S. is again

"One cannot help but think, if they're treating our Filipino veterans this way, are they going to be treating those who go to war today like that?" Shaw said. "That's pretty shabby."

Notice of Work

Kodiak Electric Association Inc. will be working on system improvements in the Spruce area between Benny Benson : Sewer Treatment Plant through of March. There will be interruptions in this area as we continue to improve the system. We apologize for any inconvenience this may cause and appreciate your keeping our crews safe.

For further information, please contact
Mike Williams, 480



Wal-Mart manager Carolyn a generous check for \$1,000 Daquilinea, the shelter manager third year that the Animal Shelter recipient of a Wal-Mart Foundation Humane Society of appreciates their ongoing

ALASKA STATE LEGISLATURE



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Representative Gabrielle LeDoux

MEMO

TO: HOUSE MILITARY & VETERANS AFFAIRS COMMITTEE
REPRESENTATIVE BOB LYNN, CHAIR

FROM: REPRESENTATIVE GABRIELLE LEDOUX *Gabrielle LeDoux*

SUBJECT: HEARING REQUEST FOR HJR 15 *Gabrielle*
SUPPORTING THE PASSAGE OF A FILIPINO VETERANS EQUITY ACT AND A
FILIPINO VETERANS FAMILY REUNIFICATION ACT

DATE: 4/3/07

I respectfully request that HJR 15 be scheduled for a hearing in the House State Affairs Committee pending referral on April 10th or 12th. April 9th marks the 65th Anniversary of the Bataan Death March.

Attached you will find:

- HJR 15
- Sponsor statement
- News Articles
 - Washington Post, "Hope for Amends to Filipino Immigrants"
 - Kodiak Daily Mirror, "Aging Filipino WWII Vets Forced to Live Apart From Families"

My staff member assigned to this legislation is Christine R. Marasigan at 465-8872.

HJR

19

25-LS0844E
Luckhaupt
2/21/08

CS FOR HOUSE JOINT RESOLUTION NO. 19()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES COGHILL, Kawasaki, Gruenberg, Gardner, Seaton, Meyer, Holmes,
Guttenberg, Doll

A RESOLUTION

1 Encouraging repeal of the Real ID Act of 2005.

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

3 **WHEREAS** the federal government has failed to show any measurable evidence that
4 the implementation of the Real ID Act of 2005 will make our borders more secure and better
5 protect our citizens from terrorism; and

6 **WHEREAS** the state, under the Tenth Amendment to the Constitution of the United
7 States, has always exercised its exclusive power to establish standards and regulations for the
8 issuance of Alaska state driver's licenses and Alaska state identification cards; and

9 **WHEREAS** the federal government imposes a huge fiscal burden on the Division of
10 Motor Vehicles to implement the Real ID Act of 2005; and

11 **WHEREAS** noncompliance with the Real ID Act of 2005 will result in the federal
12 government punishing individual Alaskans for the actions of the state by placing limitations
13 on Alaska residents' freedom of travel and access to federal facilities;

14 **BE IT RESOLVED** that the Alaska State Legislature does not believe government
15 should wage the war on terrorism at the expense of states' rights and liberties of citizens
16 protected by the United States Constitution and the Bill of Rights; and be it

1 **FURTHER RESOLVED** that the Alaska State Legislature does not believe the Real
2 ID Act of 2005 will make the United States measurably safer and encourages the United
3 States Congress to repeal the Real ID Act of 2005.

4 **COPIES** of this resolution shall be sent to the Honorable George W. Bush, President
5 of the United States; the Honorable Richard B. Cheney, Vice-President of the United States
6 and President of the U.S. Senate; the Honorable Nancy Pelosi, Speaker of the U.S. House of
7 Representatives; the Honorable Ted Stevens and the Honorable Lisa Murkowski, U.S.
8 Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska
9 delegation in Congress; and all other members of the 110th United States Congress.

ALASKA STATE HOUSE OF REPRESENTATIVES



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Session

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State Capitol
Room 214

REPRESENTATIVE JOHN COGHILL

SPONSOR STATEMENT

HJR 19 Opposing REAL ID Act

Real ID is an attempt to protect our country from terrorism that is full of unintended consequences. First of all, this federal law is in direct conflict with the Tenth Amendment to the U.S. Constitution. Secondly, the federal government is holding individual Alaskans accountable for the actions of state government. Thirdly, the Real ID Act threatens personal liberties without any evidence of making our citizens and our borders any more protected from terrorism.

The State of Alaska is one of 45 states that obtained the first extension of implementation, but this is only a temporary reprieve from the problem. Without the repeal of the REAL ID Act or a further extension, federal agencies will not accept Alaskan driver's licenses or identification cards for official purposes as of December 31, 2009.

The Department of Administration recently estimated front end costs for interfacing the REAL ID database with DMV would cost at least \$2 million. Additional funds would be required to interface with the Bureau of Vital Statistics and the Department of Public Safety. Annual operating costs would also have to be funded and the Administration has no estimate of that cost.

HJR 19 is a message to Congress that the Alaska Legislature objects to the federal government taking away states rights and individual rights as a method of imposing a system that will ultimately not make the United States any safer. The resolution asks Congress to repeal the Real ID Act of 2005.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HJR 19
 () Publish Date: _____

Identifier (file name): HJR 19 Dept. Affected: _____
 Title: Oppose Federal ID Requirements RDU: _____
 Component: _____
 Sponsor: Representative Coghill
 Requester: House State Affairs Committee Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nancy Manly, Committee Aide Phone: 465-2794
 Division: House State Affairs Committee Date/Time: 3/11/08 12:00 AM
 Approved by: Representative Bob Lynn Date: 3/11/2008
 Chair: _____

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF MOTOR VEHICLES

SARAH PALIN, GOVERNOR
Annette Kreitzer, Commissioner

Whitney Brewster, Director
1300 W. Benson Blvd.
Anchorage, AK 99503
(907) 269-5559

February 12, 2008

Darrell Williams, Director
REAL ID
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Mr. Williams:

Pursuant to Section 205(b) of the REAL ID Act of 2005, states may request an extension of time to comply with the requirements of this Act.

Considering the number of unknown variables surrounding the REAL ID Act and presently facing states nationwide, Alaska requests an extension to the May 11, 2008 implementation date. Based on the final rules recently issued by the Department of Homeland Security, it is understood that this extension will allow Alaska to use its current system for issuing identification and driver licenses through December 31, 2009. This extension will provide Alaska additional time to review and project the impact of the final REAL ID Act regulations.

Alaska continues to strive to improve its processes and is committed to implementing best practices.

Thank you for consideration of this extension request. Please do not hesitate to contact me if you have any questions concerning this matter.

Sincerely,



Whitney Brewster
Director

cc: Sarah Palin, Governor
Annette Kreitzer, Commissioner of Administration
Karleen Jackson, Commissioner of Health and Social Services
Craig Campbell, Commissioner of Military and Veterans Affairs
John Katz, Director of Federal and State Relations, Office of Governor Sarah Palin

Rynniva Moss

From: Kreitzer, Annette E (DOA) [annette.kreitzer@alaska.gov]
Sent: Tuesday, February 12, 2008 12:18 PM
To: Rynniva Moss
Subject: FW: REAL ID Extension Request - Alaska
Attachments: REAL ID Extension Alaska.pdf

FYI.
ak

From: Brewster, Whitney H (DOA)
Sent: Tuesday, February 12, 2008 10:20 AM
To: darrell.williams1@dhs.gov
Cc: Katz, John W (GOV); Persily, Larry A (GOV); Tibbles, Michael A (GOV); Jackson, Karleen K (HSS); Campbell, Craig (MVA); Brooks, Kevin A (DOA); Kreitzer, Annette E (DOA)
Subject: REAL ID Extension Request - Alaska

Dear Mr. Williams:

Attached you will find a letter requesting that Alaska be granted an extension of time to comply with the requirements of the REAL ID Act of 2005. It is my understanding that submissions sent via email are preferred by the U.S. Department of Homeland Security.

If you have any questions concerning this matter, please feel free to contact me either by email or phone at (907) 269-5574.

Sincerely,

Whitney Brewster, Director
Division of Motor Vehicles
State of Alaska

2/12/2008



Print Page

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REAL ID, real problem

(Published: March 8, 2007)

The federal Department of Homeland Security wants states to adopt a uniform driver's license and identification card that would require stricter documentation, cost billions of dollars, take us a long way to a national ID card, and do little to make the homeland more secure.

It's called REAL ID.

Alaska's Division of Motor Vehicles already has adopted new regulations requiring stricter documentation for newly arrived residents applying for driver's licenses. No longer does another state's license stand for proof of identification and legal status. New Alaskans must have documents proving their legal name, birth date, address and Social Security number, and a secondary proof of identification.

Privacy advocates have sued the state, arguing it has no authority to implement the regulations without legislative approval. Lawmakers could get that chance with House Bill 3, working its way through the process.

We hope the suit succeeds. Even better, we hope the Legislature makes the suit moot by turning down REAL ID and its stricter license requirements, a bad idea that caught a ride into law on a 2005 appropriations bill for the war in Iraq and tsunami relief. Rejected by Congress in 2004, REAL ID passed in the budget bill without a single hearing. That's probably the only way it could have passed.

What's wrong with the legislation? Where do we start?

- Americans are leery of a national ID card. You don't have to suffer paranoia about unmarked helicopters to oppose a national ID or its like, especially one that could carry vital information about any of us without privacy protections, a card that could subject us to increasing government control of travel, business and freedom. REAL ID provisions allow Homeland Security to add more elements to the card later -- such as fingerprints and retinal scans.
 - Estimates for program costs -- an unfunded federal mandate -- begin at about \$10.7 billion and range to \$22.4 billion, according to the American Civil Liberties Union and Department of Homeland Security. The states would pick up the tab. That means Alaskans would pick up their share.
 - States would be required to verify the authenticity of documents presented as proof of identification, adding to delays and costs.
 - No privacy provisions are included. For example, one of the requirements that Homeland Security could add to new driver's licenses is a radio frequency identification chip embedded in the license. The State Department already has these in passports, but has adopted privacy protections -- the chip can't be scanned when the passport is closed. REAL ID requires no such safeguards, nor reimbursement for states that try to provide them.
- It is not clear how much safer from terrorism REAL ID would make us. It is clear that it would be expensive, add to bureaucracy, increase the danger of identify theft from an easily accessible database and invite government abuse.

Maine's legislature voted overwhelmingly in January to reject REAL ID, and there's a lively debate under way in other states. Even the Department of Homeland Security has admitted the measure is flawed and has delayed implementation from May 2008 to the end of 2009.

That should be time enough to either fix it or kill it.

Meanwhile, there's no need for Alaska to take any steps toward compliance with REAL ID. Increased need for documentation will put a burden on thousands of law-abiding citizens, while giving no guarantee of catching either terrorists or illegal immigrants.

BOTTOM LINE: Until REAL ID enhances security and privacy and liberty, Alaska should say no.

Long interim

Two years to select permanent UAA chancellor is too much

University of Alaska President Mark Hamilton made a smart choice last week when he picked Fran Ulmer as interim chancellor for the Anchorage campus. Not so smart was his decision to let her interim appointment drag on for two years. There's plenty of time before the start of the 2008 school year to pick a permanent chancellor for UAA -- and good reason to move more quickly than President Hamilton intends.

President Hamilton's timeline leaves a critically important post unsettled for too long. The prolonged uncertainty is not healthy for Chancellor Ulmer, the university she is supposed to lead, or the community.

It will be difficult for her to build the relationships and alliances UAA needs, both inside the university and in the outside world, when no one is sure how long she'll be around. Those inclined to resist her initiatives can wait for a permanent chancellor.

Two years is simply too long to leave the state's largest campus in caretaker status.

In addition, Chancellor Ulmer's two-year appointment will end within a few months of when President Hamilton's current contract expires. If he were to leave then, the University of Alaska would be picking a president and a chancellor for its largest campus at the same time. That much turnover in leadership at the same time isn't a good thing.

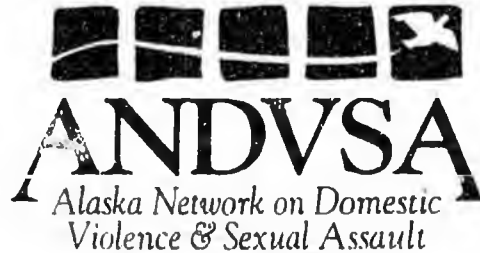
We expect Chancellor Ulmer will do an excellent job and be a front-runner for permanent appointment. One full academic year is enough time to see how well she does, and enough time to see if there are others who might do better.

BOTTOM LINE: One year should be plenty to pick a permanent UAA chancellor.

Print Page

Close Window

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Sitka Office
PO Box 6631
Sitka, Alaska 99835
Phone: (907) 747-7545
Fax: (907) 747-7547

April 25, 2007

The Honorable Representative Coghill
Alaska State Capitol Room 214
Alaska House of Representatives

RE: Relating to opposition to the Real ID Act of 2005, Support of **HJR 19 Repeal of REAL ID Act**

The Alaska Network on Domestic Violence & Sexual Assault (ANDVSA) strongly supports the repeal of REAL ID. The proposed REAL ID regulations will severely impact thousands of women and children facing threats from domestic violence and stalking. On behalf of the thousands of women and children in our state who flee violent homes each year, ANDVSA supports the Alaska Legislature and HJR 19 urging Congress to repeal REAL ID.

Victims of Domestic Violence encounter a whole range of barriers and obstacles when fleeing for their lives. A nationally standardized drivers licensing system will create a vast national database linking all of the ID records together. Many victims are trying desperately to remain safe, therefore their confidentiality is paramount. Any possible breach or cross-referencing capability in a database allows a perpetrator to find the victims' address. If a victim of domestic abuse or stalking is forced to disclose her residence in order to get a federally approved driver's license, she risks the possibility that she and her children will be tracked down by their abuser. However, if she decides not to disclose her residential address, she will be denied a REAL ID. Without government issued identification, she will not be able to board an airplane, obtain a U.S. passport, or use a post office box. For domestic violence victims and their children, who may be forced to flee an abusive situation with short notice, such restrictions can be the difference between the freedom to start a new life and continued danger in a violent home.

REAL ID poses a danger for victims of violence in the following ways:

1. Requires that a residential address appear on the REAL ID
2. Exposes confidential victim addresses in easily accessible Department of Motor Vehicles (DMV) databases
3. Gives away confidential addresses in each card's unencrypted barcode
4. Discloses a person's full name history (including all name changes) in both the DMV database and each card's barcode
5. Forces victims with sealed court documents to violate that confidentiality to receive a REAL ID

Member Programs

Anchorage AWAIC, AWRC, STAR Barrow AWIC Bethel TWC Cordova CFRC Dillingham SAFE
Fairbanks IAC Homer SPHH Juneau AWARE Kenai LeeShore Center Ketchikan WISH Kodiak KWRCC
Kotzebue MFCC Nome BSWG Seward SCS Sitka SAFV Unalaska USAFV Valdez AVV

Instead, the regulations say that states *must* add the changed name to the database and *cannot* delete previous names.

This means that a woman who legally changes her name to escape an abuser can be traced across the country by her previous name through any state's Department of Motor Vehicles database or by anyone who has access to the barcode on the physical card. This exposure of confidential information will allow abusers to get around all court ordered and government protections for victims of domestic violence and stalking.

Domestic violence victims change their names for their safety and the safety of their children. A court seals records when it decides that this protection is essential to a victim's security. Doing so completely separates their previous names from their new legal names, making it more difficult for their abusers to hunt them down.

6. Document standards do not take into account the destruction or confiscation of documents by abusers.

Abusers will often destroy or withhold access to their victims' important documents such as birth certificates, driver's licenses, and immigration papers in order to force victims to stay with them or to prevent victims from taking action regarding the abuse.

The limited list of documents in the Proposed Rule will reduce many victims' abilities to obtain REAL ID because their abusers have withheld or destroyed the documents. As a result, victims will be denied the chance to travel, get a driver's license, or even enter federal buildings to seek aid or prosecute their abusers. Without alternatives for victims fleeing domestic violence, these regulations force victims to remain in abusive environments and reinforce the ability of abusers to control their victims through possession of vital documents.

7. The Proposed Rule places an additional burden on abused immigrant women and children who must renew their REAL ID every year, increasing abuser control.

In the Proposed Rule for the implementation of REAL ID, many abused immigrant women and children would be required to renew their REAL ID every year. In addition to all of the difficulties encountered in producing documents from this narrow list to acquire a REAL ID the first time, abusers will have additional leverage to use against their victims if they must produce these documents every year to keep their REAL ID valid. The documents become even more valuable and abusers then hold even more power over their victims by threatening to destroy or withhold documents each year.

8. REAL ID will be denied to immigrant women who are here legally on their spouses' or parents' visas.

The narrow list of documents permitted to verify identity in applying for a REAL ID card would deny spouses and children, here legally on the main workers' visas, the ability to drive a car, travel, or enter federal buildings. Family members granted derivative visas are included under the main visa holder's documents, but do not hold any documents of their own appearing on the REAL ID document list.

This requirement would make spouses and children virtual prisoners in their own homes, unable to do anything requiring federal identification. This problem is compounded if a derivative family member tries

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

ANNETTE KREITZER, COMMISSIONER

SARAH PALIN, GOVERNOR

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200

PHONE: (907) 465-2200
FAX: (907) 465-2135

REAL ID White Paper 2/21/2008

History/Background

Congress passed REAL ID in 2005, requiring people boarding airplanes and entering federal buildings to use an ID that meets specific security and authentication standards. For states, that means issuing REAL ID-compliant drivers' licenses and ID cards -- or residents will need a passport to board planes. Homeland Security last month released its final regulations.

Current Situation

Federal agencies cannot accept non-REAL ID drivers' licenses or ID cards for official purposes as of May 11, 2008, unless a state has obtained an extension. Alaska is one of 45 states that have obtained the extension; there were no prerequisites to receiving this first extension. That first extension will expire Dec. 31, 2009, unless a state, by Oct. 11, 2009, asks Homeland Security for a second extension, certifying it has achieved 18 specific benchmarks. This extension would give the state until May 10, 2011, to comply with all of REAL ID. Allowing for a phase-in of REAL ID, states have until Dec. 1, 2014, to issue new licenses for everyone 50 years old and younger, and until Dec. 1, 2017, for residents over 50 years old.

Challenges

Before issuing or renewing a license or ID card, DMV will be required to electronically verify each applicant's documents. The law requires verification of Social Security numbers with the Social Security Administration, birth certificates through the Electronic Verification of Vital Events system, immigration documents through another system, and so on. Applicants for new licenses and ID cards will need to provide the same proof of identity and legal residency as is currently required at DMV, such as a U.S. passport or certified copy of a birth certificate. The change under REAL ID -- in addition to the electronic verification -- is that the verification requirement also will be imposed on Alaskans renewing their licenses for the first time under REAL ID. In addition to the paperwork hassles and expense, opponents of REAL ID say it is an invasion of privacy and the start of a national identity card with the linking of so many databases.

What are the estimated costs and effects in Alaska?

The Department of Administration estimates upfront costs for REAL ID database interfaces at DMV could total at least \$2 million, with additional costs at other agencies such as the Bureau of Vital Statistics and Department of Public Safety. Annual operating costs are unknown at this time.

Is there any federal funding?

There is \$80 million available for REAL ID grants nationwide. Homeland Security estimates it will cost states \$3.9 billion over the next 10 years to comply with REAL ID. North Carolina is submitting a grant application to operate a data hub for other states; Alaska is still considering whether to join the North Carolina effort.



Coming Soon: National ID Cards?

Recently passed Real ID Act undermines civil rights, critics charge.

Erik Larkin, Medill News Service

Tuesday, May 31, 2005 11:00 AM GMT-08:00

WASHINGTON -- Driver's licenses will become national ID cards-- and Americans will be at greater risk of identity theft--under a new federal law that passed without significant congressional debate, critics charge.

The Real ID Act will require that states verify every license applicant's identity and residency status, and that they store addresses, names, and driving records in a database that every other state can access. It also mandates anticounterfeiting features for the licenses and a "common machine readable technology." In three years, licenses that don't meet the standards won't be accepted as identification for boarding an airplane, opening a bank account, or satisfying any other federally regulated use.

The law's sponsor, Rep. James Sensenbrenner (R-Wisconsin) said that the law "seeks to prevent another 9/11-type terrorist attack by disrupting terrorist travel." Opponents contend that the act is primarily meant to prevent people who illegally immigrate to the United States from getting licenses.

When he introduced the bill at a press conference earlier this year, Sensenbrenner referred to a part of the report from the September Commission that read, "Members of al-Qaida clearly valued freedom of movement as critical to their ability to plan and carry out the attacks prior to September 11th."

He said that his proposed legislation would curtail such movement and would tighten the rules for political asylum. In response to questions from reporters, he also suggested that the law was intended to "get a handle on illegal aliens in the United States."

How It Passed

The controversy surrounding the new law relates to the way it was passed as much as to what it does. Because it passed as an amendment to an emergency spending bill providing funding for American troops in Afghanistan and Iraq, the Real ID Act did not come up for a vote on its own--or for full debate--in Congress.

"This really is a national identification card for the United States of America for the first time in our history," said Sen. Lamar Alexander (R-Tennessee) in the Senate the day before the spending bill passed. "We have never done this before, and we should not be doing it without a full debate."

According to critics, what makes this a national ID--as opposed to another form of classification such as a Social Security card--is the fact that driver's licenses already serve as standard forms of identification for everything from entering a bar to boarding an airplane. Though the Real ID Act doesn't obligate states to follow the new national standards, their licenses and state IDs won't satisfy ID requirements for any purpose under federal jurisdiction unless the states comply.

Alexander and 11 other senators, evenly split between Democrats and Republicans, sent a letter to Senate Majority Leader Bill Frist (R-Tennessee) last month asking him to block the amendment.

Though Alexander strongly opposed passing the Real ID Act without debate, he said he was "reluctantly" in favor of a national ID in the

wake of September 11. Other observers remain deeply concerned by the prospect.

Risk of ID Theft

"This is serious business," says Bill Scannell, a privacy advocate. If you want to board a plane, "you have to show your papers."

Scannell's Web site, UnrealID.com, gathered more than 10,000 comments in 28 hours from people asking their senators to block the amendment the day before the Senate vote. Scannell faxed all those comments to the appropriate senators, but he says that his failed last-minute attempt was "like the charge of the light brigade."

The new law, which takes effect in three years, establishes general requirements, but the Department of Homeland Security will decide how to implement the broad-brush mandates. Anyone with a license from a state that doesn't meet Real ID's standards will have to get a new license before then.

One mandate provides that every state must have a database accessible by all other states and including all of the information printed on a license as well as the person's driving record. The original proposal would have created a single national database, but this provision was changed before the Senate vote.

Nevertheless, "if you link all the databases and you mandate the sharing of the information, you have created one network," says Tim Sparapani, legislative counsel for the American Civil Liberties Union.

Sparapani says that having 51 different databases (one for each state plus Washington, D.C.) could actually be worse than having a single big one. Any computer or network is only as secure as its weakest point—the weakest link in the chain. So if 51 databases are tied together, and 50 of them have great security but one is easy to break into, the entire conglomeration is vulnerable.

"We know that any kind of sophisticated hacker, ID thief, organized criminal, or terrorist will be able to hack into this system," Sparapani says. "There are so many points of entry."

Lack of Privacy Protections

Sparapani says that the network of databases may also eventually hold electronic copies of sensitive personal documents. The law requires that states verify and store electronic copies of a driver's photo ID, birth certificate, and Social Security card, along with documents showing name and address.

The ACLU wants those documents to be stored separately from the network of driver's license databases, Sparapani says, but "it's not administratively efficient."

"States will do whatever is easiest and cheapest," he says.

The new law neither requires nor forbids that the documents be part of the same database.

"There were ample opportunities for the sponsors of the bill to build in privacy protections, and they chose not to," Sparapani says.

Machine Readable = RFID?

The requirement that licenses incorporate a "machine-readable technology" is similarly vague. Already, 47 states—all but Alaska, Montana, and Wyoming—have a bar code or a magnetic stripe. Either one would satisfy the law's mandate, as would radio frequency (RFID), a broadcast technology planned for upcoming electronic U.S. passports.

The broad language of the new law "really allows for many possibilities," says Neville Pattinson, director of technology and government

affairs at the U.S. headquarters in Austin, Texas, of the European company Axalto, which makes smart cards. A small computer chip in a card stores information and may include features such as encryption. Axalto makes both contactless chips, which use RFID, and contact chips, which must be touched to be read. The company is bidding to supply the contactless chips for the new passports.

Many privacy and travel groups have strongly protested against using chips with RFID in passports because they can be read from a distance. Broadcasting such passport data could make targets of American travelers, they say.

The Smart Card Alliance, an industry group that includes Axalto, is pushing to use smart-card technology in driver's licenses. Pattinson says contact chips would be more appropriate, but contactless chips with RFID would also satisfy the law's requirements.

A Department of Homeland Security spokesperson, Jared Eagan, says he is not aware of any discussions regarding the technology that might be used.

Privacy Concerns Overblown?

The American Association of Motor Vehicle Administrators is "eager to work with DHS to fashion those provisions," says spokesperson Jason King. The 72-year-old organization represents state and provincial officials in the United States and Canada who administer and enforce motor vehicle laws, according to its Web site. King says that the department has not yet contacted the association.

"The driver's license framework is broken and in dire need of repair," King says. The Real ID Act "represents the first time in the history of driver's licenses that we will have consistency from state to state in how the driver's license is administered." The AAMVA favors that standardization, according to King.

"State motor vehicle administrators are very concerned about privacy," King says, but he sees the privacy concerns of the ACLU and other critics as overblown. For instance, he points out that driving records are already available online. In King's view, a provision in the law requiring security clearance for anyone who produces driver's licenses will help protect privacy.

Fear of government abuse or misuse of privacy under the new laws is misplaced, King believes. "Quite frankly, today, corporate America knows much more than [the] DMV does or ever will," he says. "We have no idea where you shop, nor do we care."

The States Weigh In

Deciding whether and how privacy concerns should be addressed is now up to DHS, with consultation from the Department of Transportation. The task of implementing those decisions, though, will fall squarely on the states.

"States are going to make their best effort with this," says Cheye Calvo, transportation committee director for the National Conference of State Legislatures. "They're not happy about it, but they're going to try to do it."

Calvo says that the new law could cost the states as much as \$1 billion. In addition to purchasing new machines and technology, state DMVs will have to hire new people to scan and verify documents, he says. Virginia alone estimates that it will have to spend \$237 million, according to Calvo.

The additional time required for verification could mean the end of being able to go to a DMV and get a license in the same day, Calvo says. States must verify the "issuance, validity, and completeness of each document" under the new law. Even if states streamline contacts with utility companies, hospitals, and other organizations that might supply documents, adding even 10 minutes to the time required for each of the millions of licenses involved would translate into a huge new time and manpower burden.

State Protections Removed

Calvo sees the privacy and civil liberty concerns about the new law as serious. Aside from issues involving linked databases and stored

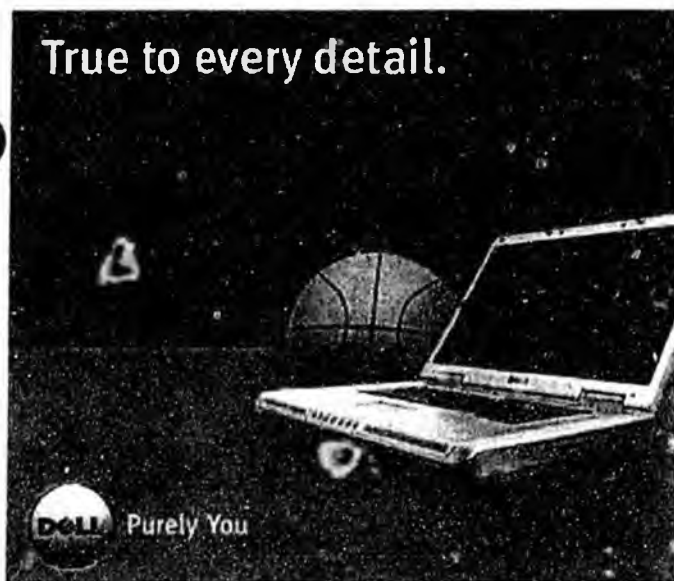
documents, he notes that the new federal law will invalidate existing state laws meant to protect judges, police, and victims of domestic violence.

For instance, some states currently allow battered women to use the address of the state attorney general's office instead of their real address on their license. But there are no exceptions to the Real ID Act's requirement that people's home address appear on their licenses.

There is a legitimate need to revise driver's license laws to prevent situations such as having licenses in two states at the same time, Calvo says. But he thinks that the issue of securing driver's licenses was taken care of in December when Congress passed the Intelligence Reform Act, which called for the Department of Transportation to revise laws in consultation with the states. Now, however, those provisions have been superseded by the Real ID Act, which was written without input from the states.

Calvo says that the flaws in the new law stem largely from its having skipped the normal process of debate in Congress. "This is why you have a deliberative process; this is why you have hearings," he says.

Adding a controversial bill like the Real ID Act to a "must-pass" bill like the emergency military spending authorization doesn't happen very often, Calvo says. "In this case it was passed for political reasons."



ALASKA STATE HOUSE OF REPRESENTATIVES



Contact:

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North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271**

Session

**(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204**

REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: March 3, 2009

To: Representative Bob Lynn, Chairman
House State Affairs Committee

From: Representative John Coghill

Resmons for JBL

Re: HJR 19

I am requesting a hearing for HJR 19, "Relating to opposition to the Real ID Act of 2005" at your earliest convenience. Attached is the resolution and backup for committee members.

Thank you for your consideration.

Alaska State Legislature



Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol
Juneau, AK 99801-1182

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716 W 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services/Luckhaupt

Fax #: 2029

From: Nancy Manly x2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

of Pages (including cover): 1

Phone: 907-465-4931

Fax: 907-465-4316

Re: HJR 19 Oppose Federal ID Requirements

3-13-08

CS for HJR 19 Version E passed out of the House State Affairs Committee this morning with no changes. Please draft a final CS. Is this possible to get done before Session this morning?
Thanks.

Version 25-LS0844E

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Court case
HJR 19

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

SARAH HUNTLEY,)
)
 Plaintiff,)
)
 v.)
)
 STATE OF ALASKA, DEPARTMENT OF)
 ADMINISTRATION, DUANE BANNOCK,)
 DIRECTOR OF DIVISION OF MOTOR)
 VEHICLES,)
)
 Defendants.)

Filed in Chambers
 STATE OF ALASKA
 FIRST JUDICIAL DISTRICT
 AT JUNEAU
 By 1-29-08 KJK

Case No. 1JU-07-481 CI

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

At issue in this case is the validity of a regulation setting forth the documents an applicant must present in order to receive an Alaska driver's license.¹ Specifically, plaintiff Sarah Huntley challenges 2 AAC 90.420(d), which requires an applicant for an original license to present a valid social security card to verify the applicant's social security number or, if the applicant has no social security number, an approved waiver from the Social Security Administration or Internal Revenue Service.²

Plaintiff claims that 2 AAC 90.420(d) is, in effect, a requirement that applicants prove they are legally present in the United States.³ Plaintiff claims this regulation was adopted by the Division of Motor Vehicles ("DMV") and the Department of Administration

¹ 2 AAC 90.420.

² "An applicant must present the applicant's valid social security card for verification of the applicant's social security number or an approved waiver from the United States Social Security Administration or the United States Department of Treasury, Internal Revenue Service."

³ Plaintiff's Motion for Partial Summary Judgment 7.

("Department") in an effort to comply with the federal "REAL ID Act of 2005."⁴ Plaintiff asserts that the Department has no statutory authority to impose such a requirement.⁵ Plaintiff also asserts that the Department promulgated 2 AAC 90.420 without proper notice in violation of the Alaska Administrative Procedures Act ("APA").⁶ Plaintiff therefore seeks a declaratory judgment that 2 AAC 90.420 is invalid, and an injunction against enforcement of the regulation.⁷

Defendants move for summary judgment on the ground that plaintiff lacks standing or in the alternative that the Department acted properly in adopting the regulation.⁸ Plaintiff, in turn, moves for partial summary judgment. She asks the court to find that the regulation exceeds the Department's statutory authority.⁹ Having reviewed the parties' arguments, as set out both in their briefs and at oral argument, the court finds that plaintiff lacks standing and therefore grants the defendants' motion for summary judgment.

II. SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate where there is no genuine issue as to any material fact and a party is entitled to judgment as a matter of law.¹⁰ Once the movant has established a prima facie case for summary judgment, the non-movant must set forth specific facts showing that it could produce admissible evidence reasonably tending to dispute or contradict the

⁴ *Id.* at 14-15.

⁵ *Id.* at 6-12.

⁶ Complaint at p. 5, ¶ 18 (alleging violation of AS 44.62.030, AS 44.62.190(d), and AS 44.62.195).

⁷ *Id.* at p. 5, ¶ 3.

⁸ See, Defendants' Motion for Summary Judgment.

⁹ See, Plaintiff's Motion for Partial Summary Judgment.

¹⁰ Alaska Rule of Civil Procedure 56.

movant's evidence, and thus demonstrate that a material issue of fact exists.¹¹ In considering a motion for summary judgment, the court construes all facts in a light most favorable to the nonmoving party.¹²

III. DISCUSSION

Alaska Statute 44.62.300 grants an "interested person" standing to obtain judicial review of administrative regulations.¹³ Alaska Statute 22.10.020(g) provides that the superior court may, in the case of "an actual controversy," declare the rights of "an interested party."¹⁴

Defendants assert that plaintiff lacks standing to challenge 2 AAC 90.420 under the above-mentioned statutes and under general principles of judicial restraint. Plaintiff, on the other hand, contends that she has standing under either of two theories: "interest-injury" standing, and "taxpayer-citizen" standing.

A. Interest-Injury Standing

"Under the interest injury approach, a party asserting standing [must demonstrate] a sufficient personal stake in the outcome of the controversy to ensure the requisite adversity."¹⁵

Generally, a plaintiff can meet this requirement by showing an "injury-in-fact" (i.e., that he or she has an interest adversely affected by the conduct complained of).¹⁶ The personal

¹¹ *McGlothlin v. Mun. of Anchorage*, 991 P.2d 1273, 1277 (Alaska 1999).

¹² *Beilgard v. State*, 896 P.2d 230, 233 (Alaska 1995).

¹³ *See, Rutter v. State*, 668 P.2d 1343, 1346 (Alaska 1983).

¹⁴ *See, Ruckle v. Anchorage School District*, 85 P.3d 1030, 1034 (Alaska 2004) (holding that "the 'actual case or controversy' language encompasses a number of more specific reasons for not deciding cases, including lack of standing, mootness, and lack of ripeness"); *see also, Bowers Office Prods., Inc. v. Univ. of Alaska*, 755 P.2d 1095, 1096 (Alaska 1988).

¹⁵ *Kleven v. Yukon-Koyukuk School Dist.*, 853 P.2d 518, 525 (Alaska 1993) (quoting *Hoblit v. Commissioner of Natural Resources*, 678 P.2d 1337, 1340 (Alaska 1984)).

¹⁶ *See, Bowers Office Prods., Inc.*, 755 P.2d at 1097 (citing *Wagstaff v. Superior Court, Family Div.*, 535 P.2d 1220, 1225 (Alaska 1975)); *see also, Trustees for Alaska*, 736 P.2d at 327

Cont'd

stake/injury-in-fact requirement "serves to distinguish a person with a direct stake in the outcome of litigation—even though small—from a person with a mere interest in the problem."¹⁷

To have interest-injury standing, plaintiff need not prove that the regulation has caused her injury, or even that it necessarily will do so in the future.¹⁸ Plaintiff need not show that her interest is economic—she may rely on an intangible, aesthetic, or even environmental interest. Finally, the degree of injury to plaintiff need not be great—an "identifiable trifle" is sufficient.¹⁹ However, while the injury-in-fact requirement has been relaxed in Alaska, it has not been abandoned.²⁰ Plaintiff must point the court to some personally suffered injury in order to have standing.

~~Plaintiff alleges in her complaint only that she is a resident of Alaska and that she~~ maintains an Alaska driver's license.²¹ The complaint provides no further information about plaintiff or any injury to her caused by the challenged regulation. Because she already has a license, the requirement to present a social security card when one applies for a license does not apply to her.²²

("Under the interest-injury approach, a plaintiff must have an interest adversely affected by the conduct complained of").

¹⁷ *Wagstaff*, 535 P.2d at 1225 (quoting *United States v. SCRAP*, 412 U.S. 669, 689 n.14 (1973)).

¹⁸ See *City of St. Mary's v. St. Mary's Native Corp.*, 9 P.3d 1002, 1009 (Alaska 2000); see also, *Johns v. Commercial Fisheries Entry Comm'n*, 699 P.2d 334, 338 (Alaska 1985).

¹⁹ *Trustees for Alaska*, 736 P.2d at 327.

²⁰ *Wagstaff*, 535 P.2d at 1225.

²¹ Complaint, p. 4 ¶ 12.

²² There is no requirement to present a social security card when one renews an existing license.

Plaintiff argues that the regulation would apply to her if, at some time in the future, her license were revoked and she had to apply for a new license.²³ But the court is aware of no case in which a court has found that this sort of remote possibility of a hypothetical future injury constitutes an injury-in-fact sufficient to give a plaintiff standing.

As noted above, threatened harm may be the basis of standing.²⁴ In other words, a party need not wait for an anticipated harm to materialize before bringing suit to protect his or her rights.²⁵ Furthermore, a plaintiff need not show that the future harm with which he or she is threatened is inevitable. It is sufficient if the threatened harm is merely possible.

While the Alaska Supreme Court has found standing on the basis of threatened harm, this has never involved a remote and speculative threat of future harm. In *Johns v. CFEC*, plaintiffs were seine fishermen who were challenging a proposed herring roe limited entry system. Their permit applications were pending, and it was not yet certain whether the new regulation would exclude them from the fishery. The court held that the plaintiffs had an interest in the issue because even if they received permits, their interests were directly affected by the number of fishermen allowed to participate in the fishery.²⁶

A similar conclusion was reached in *Sisters of Providence v. Dept. of Health and Soc. Serv.*²⁷ In that case, Providence Hospital challenged the issuance of a certificate of need allowing construction of a rival hospital in Anchorage. Although it was possible that the competing hospital might never be built, or its certificate might be revoked in other

²³ Plaintiff's Opposition to Defendants' Motion for Summary Judgment 6.

²⁴ *Johns*, 699 P.2d at 337.

²⁵ *Id.* at 338.

²⁶ *Id.*; see also *Rutter v. CFEC*, 668 P.2d 1343 (Alaska 1983).

²⁷ 648 P.2d 970 (Alaska 1982).

proceedings, the court found that the threat of harm to Providence was sufficiently clear that Providence had a "personal stake" in the proceedings.²⁸

In each of these cases, the threat of harm to the plaintiff was substantial and immediate, such that the plaintiff had a personal stake in the outcome of the case.

Here, by contrast, plaintiff's alleged injury is that 2 AAC 90.420 may require her to present a social security card if, at some future time, she has her driver's license revoked and then later seeks to have it reinstated.²⁹ When the Supreme Court in *Johns* referred to the possibility of future harm, this court believes it intended to require more than ^a remote theoretical possibility of future harm. PMP

To be sure, it is possible that 2 AAC 90.420 will apply to plaintiff in the future. But there are at least three levels of uncertainty involved in this theory of injury. First, it is uncertain whether plaintiff will, at some point in the future, engage in some act of misconduct which will result in the revocation of her license. Second, if this occurs, it is uncertain whether the plaintiff will elect to apply for another license. And third, if she reaches this point, there are no facts either established or alleged showing that, if she is required to present a social security card upon reapplication, plaintiff will suffer any injury from having to do so.

Nowhere in the record does plaintiff allege or establish that she would suffer any injury by having to present a social security card or approved waiver ^{at} ~~of~~ some future date. For example, plaintiff does not allege that she is an undocumented alien or for some other reason that she does not have a social security card. If she does not have a social security card, she does not claim that she would be unable to obtain a waiver from the appropriate agencies. Nor PMP

²⁸ 648 P.2d at 975.

²⁹ *Id.*

does not allege any moral, religious, or other objection to presenting a social security card. She does not claim that, if she is ever in the future required to present a social security card, it would be objectionable, burdensome or even inconvenient for her to so. She simply asks the court to assume that, if this set of uncertain contingencies comes to pass, she would suffer an injury as a result. But the court is not convinced that the set of assumptions and uncertain future contingencies posited by the plaintiff constitutes an injury-in-fact sufficient to give her standing under an interest-injury theory.

The court does not mean to say that a plaintiff could not show that he or she would be harmed by this requirement. But there has been no showing that this plaintiff has been harmed by or faces any reasonable threat of being harmed by this requirement in the future.

It is well established that the burden of establishing standing is on the plaintiff.³⁰ Because plaintiff has not made any factual showing that she has suffered or will suffer some injury-in-fact from the challenged regulation, the court must find that plaintiff lacks interest-injury standing.

B. Taxpayer-Citizen Standing

For citizen-taxpayer standing to exist, the case must be one of "public importance" and the plaintiff must be "appropriate in several respects."³¹ The term "appropriate" here has three main facets. First, the plaintiff must not be a "sham plaintiff" with no true adversity of interest. Second, the plaintiff must be capable of competently advocating his or her position. Finally, even if the plaintiff is "appropriate" in the first two respects, he or she may still be denied

³⁰ See, e.g., *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992).

³¹ *Trustees for Alaska*, 736 P.2d at 327.

standing if there is a plaintiff more directly affected by the challenged conduct who has or is likely to bring suit.³²

i. **Issue of Public Importance**

The Alaska Supreme Court has recognized that issues concerning specific constitutional limitations should generally be considered sufficiently important to satisfy this requirement.³³ However, the Court has held that statutory and common law questions may also be important.³⁴ Thus, while plaintiff has asserted no constitutionally-based objection to the promulgation of 2 AAC 90.420, this is not determinative. The court must still inquire as to whether plaintiff's claim raises some non-constitutional issue of public importance.

There is little in the record on the issue of whether requiring a driver's license applicant to present a valid social security card or approved waiver is one of "public importance."³⁵ Nevertheless, plaintiff has alleged that 2 AAC 90.420 is essentially a legal presence requirement. Plaintiff has also alleged that the regulation brings the State of Alaska one step closer to full participation with the REAL ID Act of 2005. The court finds that these issues, which are implicit in plaintiff's cause of action, are ones of "public importance."

ii. **Proper Plaintiff**

Defendants argue that, even if plaintiff raises a question of public importance, she is not a "proper plaintiff" and therefore lacks taxpayer-citizen standing to pursue this suit.

³² *Id.*

³³ *Id.* at 329 (citing *Carpenter v. Hammond*, 667 P.2d 1204, 1210 (Alaska 1983); *Gilman v. Martin*, 662 P.2d 120, 123 (Alaska 1983); *State v. Lewis*, 559 P.2d 630, 635 (Alaska 1977))

³⁴ *Id.* (citing *Coghill v. Boucher*, 511 P.2d 1297 (Alaska 1973)).

³⁵ Plaintiff notes the fact that no one appeared at the public hearing on these regulations. Plaintiff's Opposition to Motion for Summary Judgment at 4, n.7. Though plaintiff argues that this shows the state's notice was inadequate, it may also indicate a lack of public interest in the issue. The court can reach no conclusion on this question.

Defendants note that, in order to be affected by the regulation, plaintiff would first have to have her current license revoked and then apply for a new license. Of course, as noted earlier, this is possible. However, as discussed above, plaintiff has failed to show that, in the event the regulation does apply to her in the future, it would do her any harm to have to present a social security card.

The requirement of adversity applies not only to interest-injury standing, but to taxpayer-citizen standing as well.³⁶ Indeed, when standing is predicated on issues of general public importance, the adversity requirement is crucial to insuring "that the issues are well presented" to the court.³⁷ A plaintiff has the burden of proving that he or she meets the requirements for citizen-taxpayer standing, including adversity. This burden is not a high one.

The plaintiff in this case alleges two facts personal to herself in her complaint: she is a resident of Alaska, and she is a licensed driver.³⁸ Nowhere in her complaint or in any of her pleadings on the summary judgment motions are any other facts personal to the defendant alleged or established. While one may speculate, from the tenor of her counsel's arguments, that she has personal feelings about the regulation or about the REAL-ID Act, the court is not enlightened about the nature of those feelings. In deciding a motion for summary judgment, the question is whether the plaintiff has established facts sufficient to meet her burden of showing standing. That question cannot be resolved based on speculation derived from the

³⁶ See, *Trustees for Alaska*, 736 P.2d at 330 n.9.

³⁷ *Id.* (quoting *Jenkins v. Swan*, 675 P.2d 1145, 1150-51 (Utah 1983)) ("When standing is predicated on the assertion that the issues involve 'great public interest and societal impact,' we will retain our practical concern that the parties involved have the interest necessary to effectively assist the court in developing and reviewing all relevant legal and factual questions").

³⁸ Complaint at ¶12.

tenor of counsel's arguments. Rather, it must be assessed based on the facts. And, as noted, the only facts the court has about the plaintiff are that she is an Alaskan with a driver's license.³⁹

One might ask whether there are classes of individuals more directly affected by this regulation than a generic Alaskan with a driver's license. Undocumented aliens who do not have social security card, people without licenses (or with revoked licenses), people who have lost their social security cards, people who have chosen not to obtain social security cards and who would be burdened by the process of obtaining the required waivers, and people with religious, moral, or personal objections to having to produce their social security cards, would all be affected more directly by this regulation than a generic Alaskan with a driver's license. The court simply has no facts before it indicating that the plaintiff has a dog in this fight.

One can speculate that the plaintiff may fall within one of these classes -- perhaps the last. But she has not established this or even alleged it. Indeed, she has told the court nothing whatsoever about herself which would enable the court to determine that she has the requisite adversity, or whether she is a sham plaintiff. Again, the court cannot base a finding that the plaintiff has met her burden of showing standing on speculation.

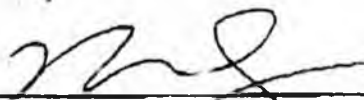
Any of the classes of individuals referred to above would be a more appropriate plaintiff. And there is no reason to believe any such person would not be likely to file suit if such a person objected to this regulation. Accordingly, this court cannot conclude that this plaintiff has taxpayer-citizen standing.

³⁹ Actually the court does not even know that, since there are only allegations in the complaint not established by affidavit.

IV. CONCLUSION

For the reasons stated above, defendants' Motion for Summary Judgment is granted.⁴⁰

Entered at Juneau, Alaska this 29 day of January, 2008.

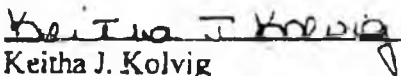

Philip M. Pallenberg
Superior Court Judge

CERTIFICATION OF SERVICE

I certify that I served the following parties on the 29th day of January, 2008.

Mark Choate

Krista Stearns


Keitha J. Kolvig
Professional Assistant to
Judge Pallenberg

⁴⁰ This conclusion makes it unnecessary for the court to reach any of the remaining points raised in the Defendants' Motion for Summary Judgment or in the Plaintiff's Motion for Partial Summary Judgment.

Alaska State Legislature

Chairman

State Affairs Committee

Member

Judiciary Committee
Economic Development, Trade & Tourism
Committee
Education Committee
Joint Armed Services Committee

Finance Subcommittees

Labor & Workforce Development
Community & Economic Development
Military & Veterans' Affairs



A Communication From

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March 13, 2008

To: State Affairs Committee Members

Fr: Representative Bob Lynn

Re: HJR 19 Oppose Federal Real ID Requirements

Rynniva brought in the attached Court Case that was mentioned by Representative Gruenberg in the committee hearing on HJR 19 today.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

SARAH HUNTLEY,)

Plaintiff,)

v.)

STATE OF ALASKA, DEPARTMENT OF)
ADMINISTRATION, DUANE BANNOCK,)
DIRECTOR OF DIVISION OF MOTOR)
VEHICLES,)

Defendants.)

Filed in Chambers
STATE OF ALASKA
FIRST JUDICIAL DISTRICT
AT JUNEAU
By 1-29-08 KJK

Case No. 1JU-07-481 CI

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

At issue in this case is the validity of a regulation setting forth the documents an applicant must present in order to receive an Alaska driver's license.¹ Specifically, plaintiff Sarah Huntley challenges 2 AAC 90.420(d), which requires an applicant for an original license to present a valid social security card to verify the applicant's social security number or, if the applicant has no social security number, an approved waiver from the Social Security Administration or Internal Revenue Service.²

Plaintiff claims that 2 AAC 90.420(d) is, in effect, a requirement that applicants prove they are legally present in the United States.³ Plaintiff claims this regulation was adopted by the Division of Motor Vehicles ("DMV") and the Department of Administration

¹ 2 AAC 90.420.

² "An applicant must present the applicant's valid social security card for verification of the applicant's social security number or an approved waiver from the United States Social Security Administration or the United States Department of Treasury, Internal Revenue Service."

³ Plaintiff's Motion for Partial Summary Judgment 7.

("Department") in an effort to comply with the federal "REAL ID Act of 2005."⁴ Plaintiff asserts that the Department has no statutory authority to impose such a requirement.⁵ Plaintiff also asserts that the Department promulgated 2 AAC 90.420 without proper notice in violation of the Alaska Administrative Procedures Act ("APA").⁶ Plaintiff therefore seeks a declaratory judgment that 2 AAC 90.420 is invalid, and an injunction against enforcement of the regulation.⁷

Defendants move for summary judgment on the ground that plaintiff lacks standing or in the alternative that the Department acted properly in adopting the regulation.⁸ Plaintiff, in turn, moves for partial summary judgment. She asks the court to find that the regulation exceeds the Department's statutory authority.⁹ Having reviewed the parties' arguments, as set out both in their briefs and at oral argument, the court finds that plaintiff lacks standing and therefore grants the defendants' motion for summary judgment.

II. SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate where there is no genuine issue as to any material fact and a party is entitled to judgment as a matter of law.¹⁰ Once the movant has established a *prima facie* case for summary judgment, the non-movant must set forth specific facts showing that it could produce admissible evidence reasonably tending to dispute or contradict the

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¹⁰ Alaska Rule of Civil Procedure 56.

movant's evidence, and thus demonstrate that a material issue of fact exists.¹¹ In considering a motion for summary judgment, the court construes all facts in a light most favorable to the nonmoving party.¹²

III. DISCUSSION

Alaska Statute 44.62.300 grants an "interested person" standing to obtain judicial review of administrative regulations.¹³ Alaska Statute 22.10.020(g) provides that the superior court may, in the case of "an actual controversy," declare the rights of "an interested party."¹⁴ Defendants assert that plaintiff lacks standing to challenge 2 AAC 90.420 under the above-mentioned statutes and under general principles of judicial restraint. Plaintiff, on the other hand, contends that she has standing under either of two theories: "interest-injury" standing, and "taxpayer-citizen" standing.

A. Interest-Injury Standing

"Under the interest injury approach, a party asserting standing [must demonstrate] a sufficient personal stake in the outcome of the controversy to ensure the requisite adversity."¹⁵ Generally, a plaintiff can meet this requirement by showing an "injury-in-fact" (i.e., that he or she has an interest adversely affected by the conduct complained of).¹⁶ The personal

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Cont'd

stake/injury-in-fact requirement "serves to distinguish a person with a direct stake in the outcome of litigation—even though small—from a person with a mere interest in the problem."¹⁷

To have interest-injury standing, plaintiff need not prove that the regulation has caused her injury, or even that it necessarily will do so in the future.¹⁸ Plaintiff need not show that her interest is economic—she may rely on an intangible, aesthetic, or even environmental interest. Finally, the degree of injury to plaintiff need not be great—an "identifiable trifle" is sufficient.¹⁹ However, while the injury-in-fact requirement has been relaxed in Alaska, it has not been abandoned.²⁰ Plaintiff must point the court to some personally suffered injury in order to have standing.

~~Plaintiff alleges in her complaint only that she is a resident of Alaska and that she~~ maintains an Alaska driver's license.²¹ The complaint provides no further information about plaintiff or any injury to her caused by the challenged regulation. Because she already has a license, the requirement to present a social security card when one applies for a license does not apply to her.²²

("Under the interest-injury approach, a plaintiff must have an interest adversely affected by the conduct complained of").

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¹⁸ See *City of St. Mary's v. St. Mary's Native Corp.*, 9 P3d 1002, 1009 (Alaska 2000); see also *Johns v. Commercial Fisheries Entry Comm'n.*, 699 P.2d 334, 338 (Alaska 1985).

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²¹ Complaint, p. 4 ¶ 12.

²² There is no requirement to present a social security card when one renews an existing license.

Plaintiff argues that the regulation would apply to her if, at some time in the future, her license were revoked and she had to apply for a new license.²³ But the court is aware of no case in which a court has found that this sort of remote possibility of a hypothetical future injury constitutes an injury-in-fact sufficient to give a plaintiff standing.

As noted above, threatened harm may be the basis of standing.²⁴ In other words, a party need not wait for an anticipated harm to materialize before bringing suit to protect his or her rights.²⁵ Furthermore, a plaintiff need not show that the future harm with which he or she is threatened is inevitable. It is sufficient if the threatened harm is merely possible.

While the Alaska Supreme Court has found standing on the basis of threatened harm, this has never involved a remote and speculative threat of future harm. In *Johns v. CFEC*, plaintiffs were seine fishermen who were challenging a proposed herring roe limited entry system. Their permit applications were pending, and it was not yet certain whether the new regulation would exclude them from the fishery. The court held that the plaintiffs had an interest in the issue because even if they received permits, their interests were directly affected by the number of fishermen allowed to participate in the fishery.²⁶

A similar conclusion was reached in *Sisters of Providence v. Dept. of Health and Soc. Serv.*²⁷ In that case, Providence Hospital challenged the issuance of a certificate of need allowing construction of a rival hospital in Anchorage. Although it was possible that the competing hospital might never be built, or its certificate might be revoked in other

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In each of these cases, the threat of harm to the plaintiff was substantial and immediate, such that the plaintiff had a personal stake in the outcome of the case.

Here, by contrast, plaintiff's alleged injury is that 2 AAC 90.420 may require her to present a social security card if, at some future time, she has her driver's license revoked and then later seeks to have it reinstated.²⁹ When the Supreme Court in *Johns* referred to the possibility of future harm, this court believes it intended to require more than ^a remote theoretical possibility of future harm. PMP

To be sure, it is possible that 2 AAC 90.420 will apply to plaintiff in the future. But there are at least three levels of uncertainty involved in this theory of injury. First, it is uncertain whether plaintiff will, at some point in the future, engage in some act of misconduct which will result in the revocation of her license. Second, if this occurs, it is uncertain whether the plaintiff will elect to apply for another license. And third, if she reaches this point, there are no facts either established or alleged showing that, if she is required to present a social security card upon reapplication, plaintiff will suffer any injury from having to do so.

Nowhere in the record does plaintiff allege or establish that she would suffer any injury by having to present a social security card or approved waiver ^{at} ~~of~~ some future date. For example, plaintiff does not allege that she is an undocumented alien or for some other reason that she does not have a social security card. If she does not have a social security card, she does not claim that she would be unable to obtain a waiver from the appropriate agencies. Nor PMP

²⁸ 648 P.2d at 975.

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does she allege any moral, religious, or other objection to presenting a social security card. She does not claim that, if she is ever in the future required to present a social security card, it would be objectionable, burdensome or even inconvenient for her to so. She simply asks the court to assume that, if this set of uncertain contingencies comes to pass, she would suffer an injury as a result. But the court is not convinced that the set of assumptions and uncertain future contingencies posited by the plaintiff constitutes an injury-in-fact sufficient to give her standing under an interest-injury theory.

The court does not mean to say that a plaintiff could not show that he or she would be harmed by this requirement. But there has been no showing that this plaintiff has been harmed by or faces any reasonable threat of being harmed by this requirement in the future.

It is well established that the burden of establishing standing is on the plaintiff.³⁰ Because plaintiff has not made any factual showing that she has suffered or will suffer some injury-in-fact from the challenged regulation, the court must find that plaintiff lacks interest-injury standing.

B. Taxpayer-Citizen Standing

For citizen-taxpayer standing to exist, the case must be one of "public importance" and the plaintiff must be "appropriate in several respects."³¹ The term "appropriate" here has three main facets. First, the plaintiff must not be a "sham plaintiff" with no true adversity of interest. Second, the plaintiff must be capable of competently advocating his or her position. Finally, even if the plaintiff is "appropriate" in the first two respects, he or she may still be denied

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standing if there is a plaintiff more directly affected by the challenged conduct who has or is likely to bring suit.³²

i. Issue of Public Importance

The Alaska Supreme Court has recognized that issues concerning specific constitutional limitations should generally be considered sufficiently important to satisfy this requirement.³³ However, the Court has held that statutory and common law questions may also be important.³⁴ Thus, while plaintiff has asserted no constitutionally-based objection to the promulgation of 2 AAC 90.420, this is not determinative. The court must still inquire as to whether plaintiff's claim raises some non-constitutional issue of public importance.

There is little in the record on the issue of whether requiring a driver's license applicant to present a valid social security card or approved waiver is one of "public importance."³⁵ Nevertheless, plaintiff has alleged that 2 AAC 90.420 is essentially a legal presence requirement. Plaintiff has also alleged that the regulation brings the State of Alaska one step closer to full participation with the REAL ID Act of 2005. The court finds that these issues, which are implicit in plaintiff's cause of action, are ones of "public importance."

ii. Proper Plaintiff

Defendants argue that, even if plaintiff raises a question of public importance, she is not a "proper plaintiff" and therefore lacks taxpayer-citizen standing to pursue this suit.

³² *Id.*

³³ *Id.* at 329 (citing *Carpenter v. Hammond*, 667 P.2d 1204, 1210 (Alaska 1983), *Gilman v. Marim*, 662 P.2d 120, 123 (Alaska 1983); *State v. Lewis*, 559 P.2d 630, 635 (Alaska 1977)).

³⁴ *Id.* (citing *Coghill v. Boucher*, 511 P.2d 1297 (Alaska 1973)).

³⁵ Plaintiff notes the fact that no one appeared at the public hearing on these regulations. Plaintiff's Opposition to Motion for Summary Judgment at 4, n.7. Though plaintiff argues that this shows the state's notice was inadequate, it may also indicate a lack of public interest in the issue. The court can reach no conclusion on this question.

Defendants note that, in order to be affected by the regulation, plaintiff would first have to have her current license revoked and then apply for a new license. Of course, as noted earlier, this is possible. However, as discussed above, plaintiff has failed to show that, in the event the regulation does apply to her in the future, it would do her any harm to have to present a social security card.

The requirement of adversity applies not only to interest-injury standing, but to taxpayer-citizen standing as well.³⁶ Indeed, when standing is predicated on issues of general public importance, the adversity requirement is crucial to insuring "that the issues are well presented" to the court.³⁷ A plaintiff has the burden of proving that he or she meets the requirements for citizen-taxpayer standing, including adversity. This burden is not a high one.

The plaintiff in this case alleges two facts personal to herself in her complaint: she is a resident of Alaska, and she is a licensed driver.³⁸ Nowhere in her complaint or in any of her pleadings on the summary judgment motions are any other facts personal to the defendant alleged or established. While one may speculate, from the tenor of her counsel's arguments, that she has personal feelings about the regulation or about the REAL-ID Act, the court is not enlightened about the nature of those feelings. In deciding a motion for summary judgment, the question is whether the plaintiff has established facts sufficient to meet her burden of showing standing. That question cannot be resolved based on speculation derived from the

³⁶ See, *Trustees for Alaska*, 736 P.2d at 330 n.9.

³⁷ *Id.* (quoting *Jenkins v. Swan*, 675 P.2d 1145, 1150-51 (Utah 1983) ("When standing is predicated on the assertion that the issues involve 'great public interest and societal impact,' we will retain our practical concern that the parties involved have the interest necessary to effectively assist the court in developing and reviewing all relevant legal and factual questions").

³⁸ Complaint at ¶12.

tenor of counsel's arguments. Rather, it must be assessed based on the facts. And, as noted, the only facts the court has about the plaintiff are that she is an Alaskan with a driver's license.³⁹

One might ask whether there are classes of individuals more directly affected by this regulation than a generic Alaskan with a driver's license. Undocumented aliens who do not have a social security card, people without licenses (or with revoked licenses), people who have lost their social security cards, people who have chosen not to obtain social security cards and who would be burdened by the process of obtaining the required waivers, and people with religious, moral, or personal objections to having to produce their social security cards, would all be affected more directly by this regulation than a generic Alaskan with a driver's license. The court simply has no facts before it indicating that the plaintiff has a dog in this fight.

One can speculate that the plaintiff may fall within one of these classes – perhaps the last. But she has not established this or even alleged it. Indeed, she has told the court nothing whatsoever about herself which would enable the court to determine that she has the requisite adversity, or whether she is a sham plaintiff. Again, the court cannot base a finding that the plaintiff has met her burden of showing standing on speculation.


Any of the classes of individuals referred to above would be a more appropriate plaintiff. And there is no reason to believe any such person would not be likely to file suit if such a person objected to this regulation. Accordingly, this court cannot conclude that this plaintiff has taxpayer-citizen standing.

³⁹ Actually the court does not even know that, since there are only allegations in the complaint not established by affidavit.

IV. CONCLUSION

For the reasons stated above, defendants' Motion for Summary Judgment is granted.⁴⁰

Entered at Juneau, Alaska this 29 day of January, 2008.



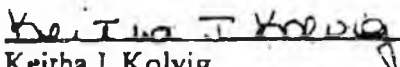
Philip M. Pallenberg
Superior Court Judge

CERTIFICATION OF SERVICE

I certify that I served the following parties on the 29th day of January, 2008.

Mark Choate

Krista Stearns



Keitha J. Kolvig
Professional Assistant to
Judge Pallenberg

⁴⁰ This conclusion makes it unnecessary for the court to reach any of the remaining points raised in the Defendants' Motion for Summary Judgment or in the Plaintiff's Motion for Partial Summary Judgment.

HJR

22

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HJR 22
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Denounce Sale of "Rapist" Doll RDU _____
 Component _____
 Sponsor Representative Fairclough Component No. _____
 Requester House State Affairs Committee

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY 2007) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nancy Manly, Committee Aide
 Division: House State Affairs Committee
 Approved by: Representative Bob Lynn
 Agency: Chair

Phone 465-2794
 Date/Time _____
 Date 4/27/2007

HJR 22

Anchorage LHO:

Shannon Bell / STAR / HJR 22 - Y

desertize

FRIDAY, APRIL 27, 2007

THIS MONTH'S "THAT INCREDIBLE AWARD"

There's a new toy on the market. It's the Grindhouse Series 1 Rapist #1 Action Figure." I kid thee not (I wish I were). The doll maker states the recommended age for having this rapist doll is "3 years and up." Oh. The rapist doll carries a pistol, and is dressed in military attire. I have a photo of the doll, but I will not post it. The rapist doll glorifies rapists, and connects rapists to the military. That wins my "That's Incredible Award." Shame on the doll manufacturer. Shame on any pervert who would buy this doli.

Congratulations to Rep. Anna Fairelough for introducing House Joint Resolution 22, a resolution "Denouncing the National Entertainment Collectibles Association's production of the Rapist No. 1 collectible doll." I'm a co-signer on the resolution. As Chair of the House State Affairs Committee, I've put the resolution at the head of the line for a hearing in my committee on May 1st 2007.



Alaska State Legislature

Representative Anna Fairclough – House District 17

Sponsor Statement for HJR 22 "Denounce the Sale of Rapist Doll"

The release of a recent movie, *Grindhouse*, has spurred the creation of a collectible doll, tastelessly named Rapist #1. With Alaska's rate of sexual assault the highest per capita in the nation, the creation of a doll with a name like Rapist #1 should be extremely concerning to the Legislature.

HJR 22 was written to express extreme opposition, not only to the manufacturing and marketing of the Rapist #1 doll, but also to urge all Alaskans, in recognition of the pain and trauma caused by rape, to boycott the sale and purchase of this doll.

In a state where we have the dishonorable distinction of such high incidents of sexual assault, we should be doing everything we can as a state to educate our children about healthy relationships. Collectible dolls like Rapist #1, whether they are being marketed to our children or not, create the false impression that rape is acceptable to our society.

Please join me in sending a clear and definitive message that the State of Alaska will not help promote violence. I urge your support of HJR 22

My Rapist #1 could beat up your GI Joe!

Published by Jim Squires April 15th, 2007 in movies and toys.



Grindhouse may have bombed at the box office (despite this blogger's glowing review) but that hasn't stopped NECA from releasing a slew of kick ass merchandise for hardcore fans such as myself. The coolest of their releases have to be these action figures. The first series (pictured above) feature three great characters from Planet Terror - Cherry, Dr. Dakota Block, and Quentin Tarantino as "Rapist #1."

There's a ton of other merchandise available as well - from lunchboxes and keychains to Death Proof bling and sneakers. Check it all out on NECA's Amazon store.

Bookmark to:



0 Responses to "My Rapist #1 could beat up your GI Joe!"

No Comments

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HJR 22
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Denounce Sale of "Rapist" Doll RDU _____
 Component _____
 Sponsor Representative Fairclough Component No. _____
 Requester House State Affairs Committee

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nancy Manly, Committee Aide Phone 465-2794
 Division House State Affairs Committee Date/Time _____
 Approved by: Representative Bob Lynn Date 4/27/2007
 Agency Chair



Alaska State Legislature

Representative Anna Fairclough – House District 17

MEMORANDUM

To: Representative Bob Lynn, Chair
House State Affairs Committee

From: Representative Anna Fairclough (B)

Re: HJR 22

Date: April 26, 2007

Dear Representative Lynn,

I respectfully request a hearing in House State Affairs on HJR 22, a resolution denouncing the sale of a collectible doll called "Rapist #1."

For your information I have attached a sponsor statement, a copy of the resolution and backup material. If you need anything further, please contact my staff member, Renee Limoge, at 465-3777.

Thank you in advance for your time.

HJR

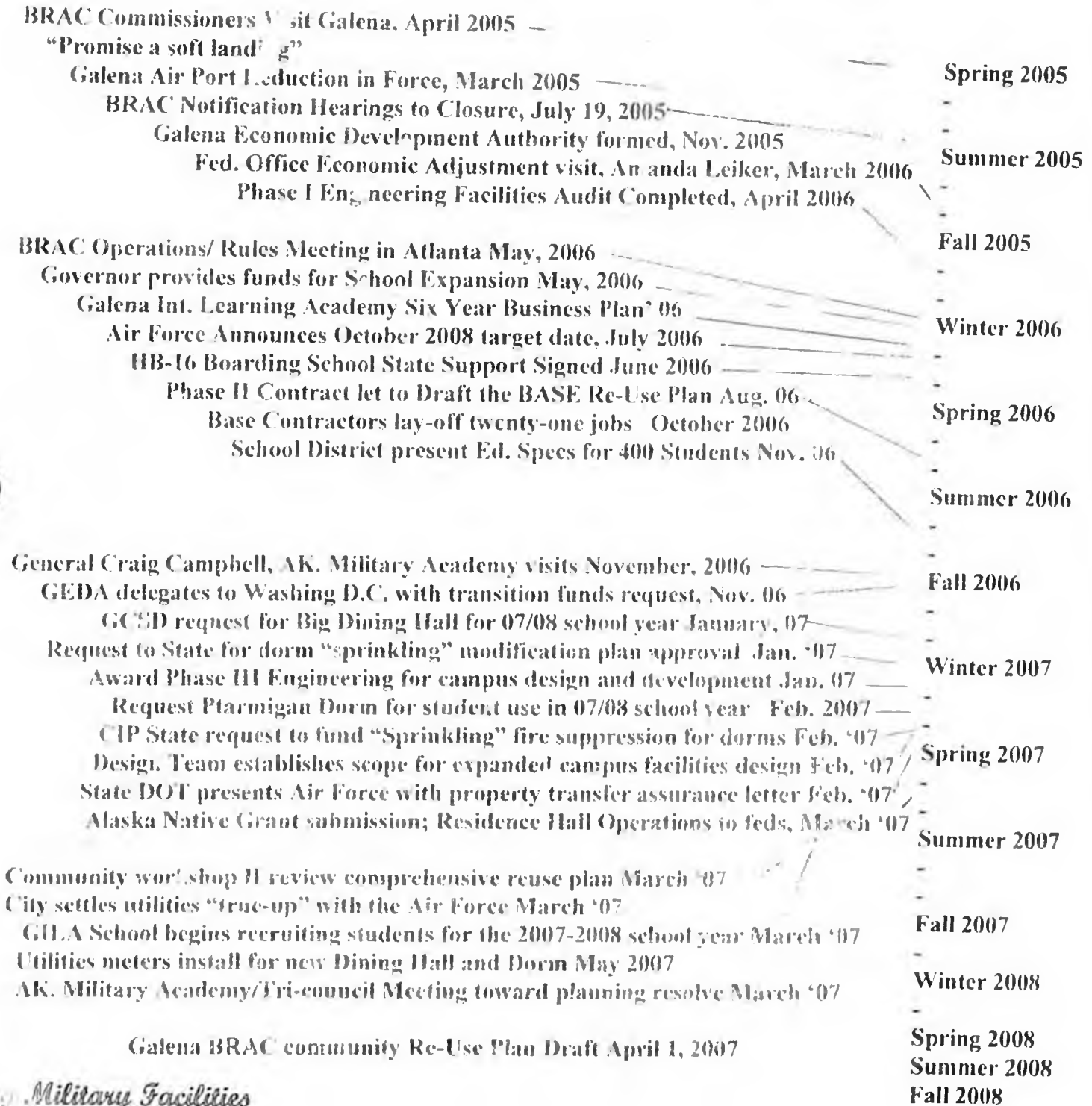
23

**Galena Learning Academy
Enrollment Growth Projections
grades seven through twelve
for the Six Year Business Plan**

2006.....	125
2007.....	155
2008.....	175-200
2009.....	200-275
2010.....	300
2011.....	350

Galena

In Transition



Galena Learning Academy Military Facilities

Into an Alaska Educational

Resource

GALENA INTERIOR LEARNING ACADEMY

GALENA, ALASKA

School Campus

Adult
Residential
Hall

High
School

Cosmetology

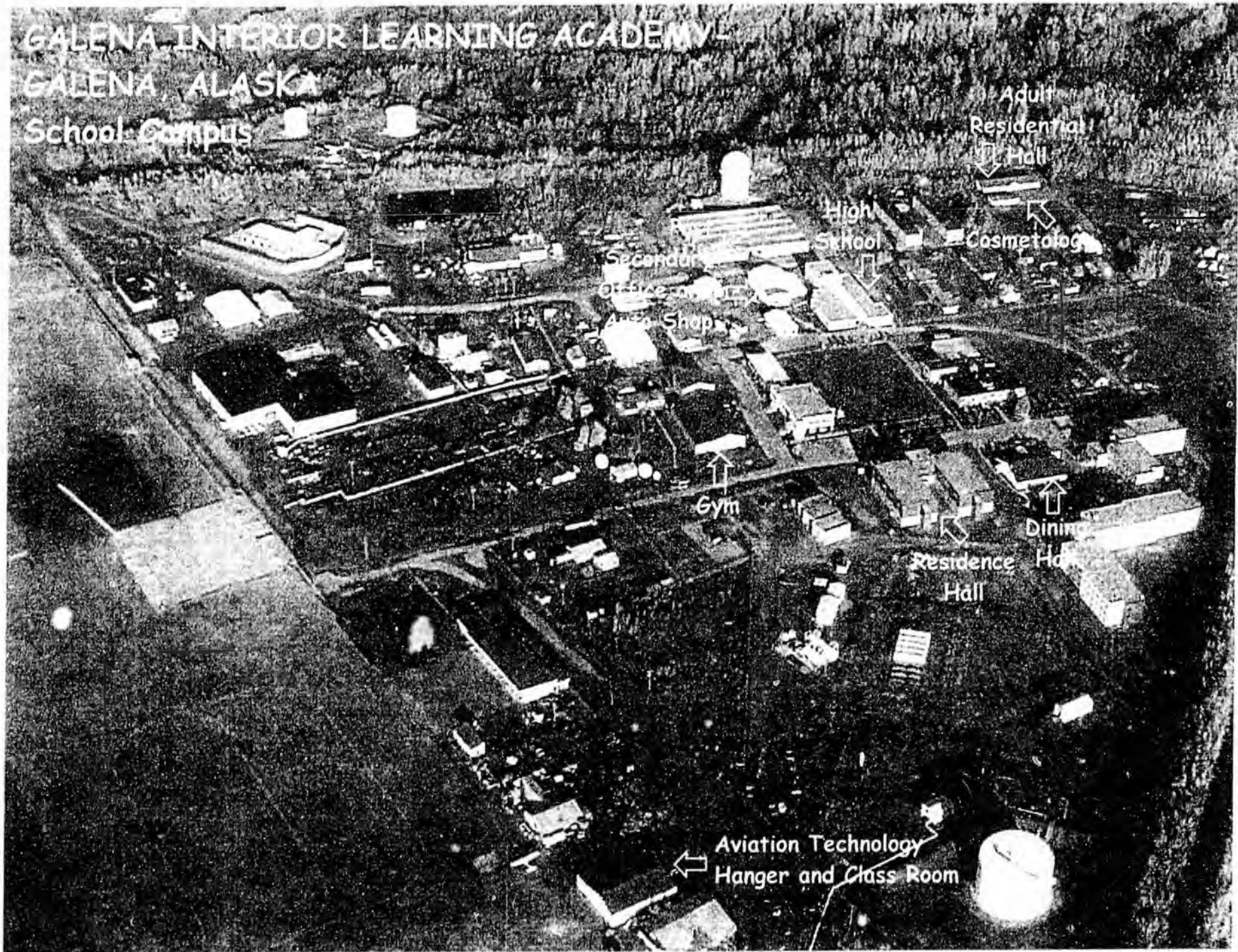
Secondary
Office
Area Shop

Gym

Residence
Hall

Dining

Aviation Technology
Hanger and Class Room



Galena City School District Report to the Public 2006

Galena City School
Galena Interior Learning Academy [GILA]
Interior Distance Education of Alaska [IDEA]



Galena City School District
P.O. Box 299
Galena, Alaska, 99741
(907) 656-1205 tel
(907) 656-1368 fax

Superintendent: Mr. Jim Smith
School Board President: Mr. John Billings
www.galenaalaska.org

Galena City Schools

Unique Program Features

The Galena staff, school board, and parents are proud of their school/community partnership. The GCS programs bring state-of-the-art technology, recreational facilities, recognized academic excellence, and industry standard vocational programs to a rural Alaskan community.

Recreational facilities feature a full size gymnasium, weight room and swimming pool. Since 1998, every Galena family has had access to a home computer and internet connection.

The school has been fully accredited since 1980 and its most recent review yielded 100% accolades and 0% recommendations. Every teacher in GCS teaches in his/her field of endorsement.



Enrollment

Enrollment 2006	K-2	3-6	7-8	High School	Total
Galena City School	35	35	19	38	127

Galena City School's enrollment during the 2005-06 school year increased by nine students from the previous year.



Graduates

Eight out of nine seniors graduated from Galena High School on May 19, 2006. All eight graduates received diplomas. 87.5% of the class of 2006 seniors passed all three sections of the HSGQE.

This incredible percentage marks the highest percentage of seniors at Galena City School passing all three sections of the HSGQE since its inception. Furthermore, 87.5% of the seniors passed the reading, writing, and math sections of the HSGQE.

The graduation featured Bernice Joseph as the commencement speaker. Bernice Joseph is the executive dean of the University of Alaska Fairbanks' College of Rural Alaska. Superintendent Smith is pleased with the seniors strong showing in the HSGQE. 100% of the graduates received diplomas. 89% of the seniors were Alaskan Native, which exceeds the rates for Alaskan Natives students in many urban schools.

GHS: Alaska High School Graduation Qualifying Exam

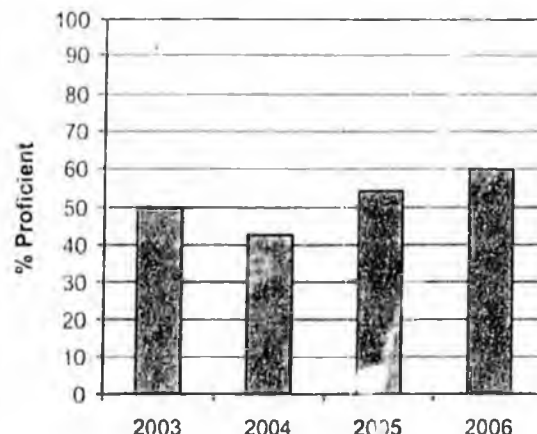
Galena student academic achievement as measured on the state mandated HSGQE are considerably higher than the average rural student and are at or above state averages in Alaska.

To date, 91.67% of Galena City School juniors have passed both the writing and math sections of the HSGQE and 75% of the juniors have already passed all three sections of the HSGQE.

The sophomore scores are also encouraging. 70% of the sophomores were proficient in writing, 70% proficient in math, and 60% proficient in reading.

Sophomore Classes	Percent of Students Passing all 3 Sections of AHSGQE
2003	50.00%
2004	42.85%
2005	53.85%
2006	60.00%

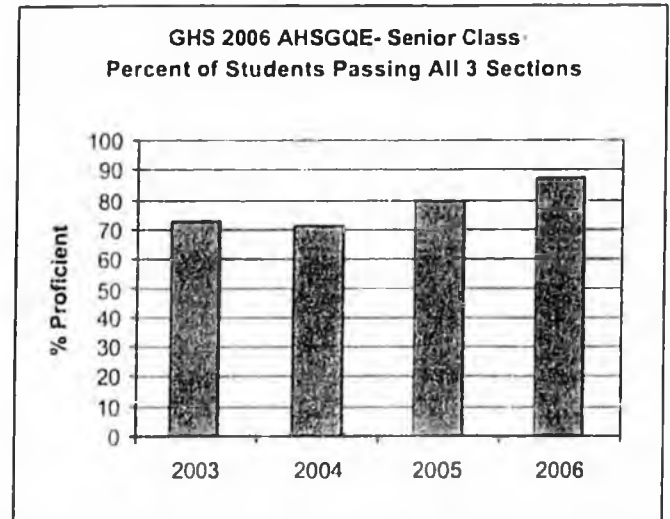
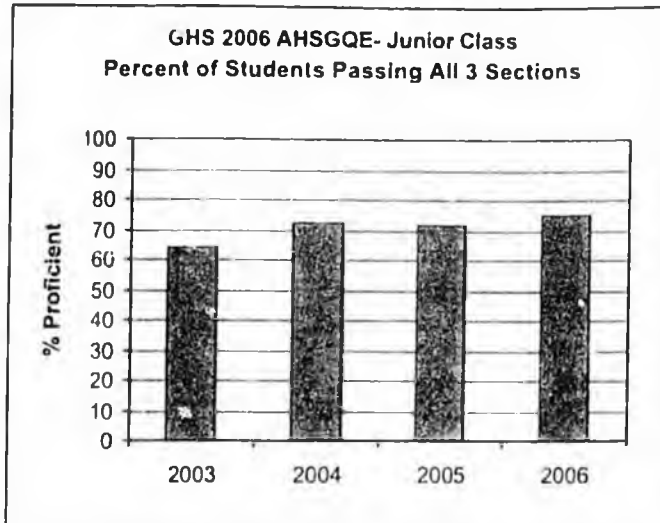
GHS 2006 AHSGQE- Sophomore Class
Percent of Students Passing All 3 Sections



Galena City School District: Report Card to the Public: 2006

Junior Classes	Percent Students Passing all 3 Sections of AHSGQE
2003	64.29%
2004	72.73%
2005	71.43%
2006	75.00%

Senior Classes	Percent of Students Passing all 3 Sections of AHSGQE
2003	72.73%
2004	71.43%
2005	80.00%
2006	87.50%



GCS Grades 3-9 Standards Based Assessments

Galena City School's results on the Standards Based Assessments are very strong. GCS elementary school students (grades 3-6) performed exceptionally well on the Standards Based Assessments. 88% of the elementary students were proficient or advanced in reading, 86% were proficient or advanced in writing, and 88% were proficient or advanced in math. Galena City School secondary school (grades 7-9) also performed at high levels. 72% of the secondary were proficient in reading, 72% were proficient in writing, and 60% were proficient in math.

As a community Galena has a ton to celebrate in regards to student learning and achievement. GCS students are consistently scoring at or above state averages on state system assessments (Standards Based Assessments and HSGQE). The scores signify that Galena City School students are especially strong in the areas of math and writing, and have made substantial improvement in the area of reading. Galena City School took huge strides during the 2005-06 school year with reading instruction, especially in the areas of reading comprehension and vocabulary development. Principal Chris Reitan stated, "We continually increase our student achievement and learning by focusing on making a difference one student at a time."

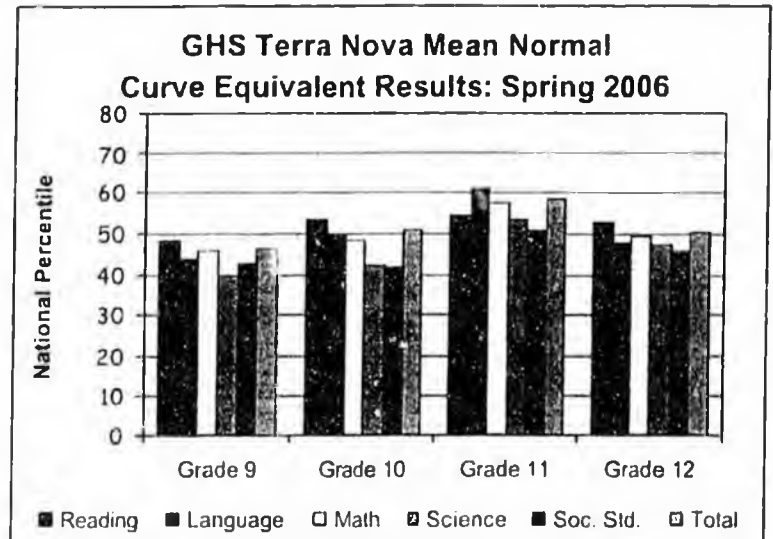


Terra Nova Tests

The Terra Nova is a norm-referenced test which means that the scores presented are comparative. The Mean Normal Curve Equivalent is computed by adding the Normal Curve Equivalent scores of all students in a group, then dividing by the number of students in that group. The Mean Normal Curve Equivalent scores show how well Galena students at each grade and in each subject area compare to their grade level peers around the country.

Most of the grades scored at or above the national average on most of the Terra Nova tests. Math continues to be an area of strength for Galena City School students. Significant gains were also made in reading.

To help gauge improvement in GCS student achievement since spring 2002, the Terra Nova MNCE test scores were analyzed. MNCE scores are available for all grades, irrespective of class size. Superintendent Smith is pleased with its continued student growth and academic achievement.



Total Score MNCE by Grade Level	Reading	Language	Math	Science	Soc. Std.	Total
Grade 9	48.3	43.7	45.8	40.0	42.7	46.5
Grade 10	53.7	49.9	48.2	42.4	41.9	51.0
Grade 11	54.5	61.3	57.6	53.3	51.1	58.4
Grade 12	52.8	47.8	49.2	47.3	45.7	50.4



Survey Summary

Surveys were sent to parents in October 2005. Thirty-seven replies were received from GCS parents for a return rate of 40%. Galena parents rated the importance of Galena City School teaching essential skills and knowledge in two different categories:

1. academic content areas, and
2. work habits and responsibility.

Parents rated the importance of essential knowledge and skills on a scale of 1-5 with 1=not important and 5= extremely important in eight different academic areas: mathematics, reading, science, social studies, the arts, computer technology, vocational education, and health. Parents rated reading important information as the most significant skill and knowledge for Galena City School students to learn. Being able to use mathematics effectively was a close second. Parents also rated the importance of teaching work habits and responsibility on a scale of 1-5 with 1=not important and 5= extremely important in six different areas: having a strong work ethic, working together politely and cooperatively, being honest, being good citizens in our community, accepting consequences for our choices, and being punctual. Parents rated working together politely and cooperatively as the most important work habit. Being honest was the second most important work habit according to Galena City School parents.

Galena City School parents commented extensively and offered many suggestions. Parents would like to see more homework provided for our students, the Athabaskan language taught within the school, more prompt communication with parents, and music classes available for all students.

Surveys were also provided for all Galena City School students from 3rd grade through 12th grade. Students rated the quality of their school experience in seven different areas: the school, dissemination of information, curriculum, after school program, teachers, career planning, and the students' learning. Elementary students (grades 3-6) rated their learning experience the highest with an average of 4.41 and dissemination of learning with the lowest average of 2.96. Secondary students (grades 7-12) also rated the

quality of their learning experience the highest with an average of 4.10 and dissemination of learning with the lowest average of 3.63.

Staff

GCS has 27 certified teachers: 10 in the elementary and 14 in the secondary school and counselors, administrators and librarian. Every single one, 100% of the teachers at Galena City School is teaching in their specific area of endorsement.

Galena City School's teacher-body is incredibly stable, especially when compared to other rural schools. Teacher and administrator continuity is a major contributor to Galena's increased student achievement.

No Child Left Behind Requirements

"No Child Left Behind" is federal legislation initiated by the Bush administration. These landmark educational guidelines were designed to guide schools into raising student achievement. NCLB requires each state to "grade" every public school within that state based on Adequate Yearly Progress (AYP). AYP is calculated when each individual school's test results are analyzed on the basis of the following subgroups;

- ? Testing attendance rate
- ? Race
- ? Gender
- ? Math Proficiency %
- ? Language Arts (Writing + Reading) Proficiency %
- ? Bilingual Student's Proficiency %
- ? Economically Disadvantaged Students Proficiency %
- ? Students with Disabilities Proficiency %
- ? Graduation Rate



These subgroups are organized into various indicators. If a school does not meet the cut-off percentages in any of these indicators then that school is placed on a list of schools that did not meet AYP. These lists were published August 11th, 2006 and included results of the various schools districts in Alaska. The consequences of being on this list are described on the state website <http://www.educ.state.ak.us/news/presskit2006ayp/Consequences.pdf>

Galena Elementary School – For the 5th year in a row, Galena Elementary School met AYP in all thirty four areas of interest, making the Galena Elementary School a “School of Choice”.

- ? Over 90% of all students were at or above proficiency on the benchmark exams in the area of Language Arts
 - ? 88% of all students were at or above proficiency on the benchmark exams in the area of Math
- This is well above the state average. Another shining area of achievement was the Alaska Native test results.*

- ? Over 90% of Alaska Natives scored at or above proficiency on the benchmark exams in the area of Language Arts
- ? 88% of Alaska Natives scored at or above proficiency on the benchmark exams in the area of Language Arts

This is well above state averages for Alaska Native students.

Galena Jr/Sr High – For the 5th year in a row, Galena Jr/Sr High School met AYP in all areas of interest, making the Galena Junior and Senior High School a “School of Choice”.

- ? 65% of all students were at or above proficiency on the benchmark exams in the area of Language Arts
- ? 56 % of all students were at or above proficiency on the benchmark exams in the area of Math
- ? 57% of Alaska Native students were at or above proficiency on the benchmark exams in the area of Language Arts
- ? 54% of Alaskan Native students were at or above proficiency on the benchmark exams in the area of Math





These figures show good proficiency levels. Refer to the state website for further testing data: http://www.educ.state.ak.us/DOE_Rolodex/AYF/2006/search.cfm

Highly Qualified Staff

According to "No Child Left Behind" each parent has the right to know whether their students are being taught by a federally defined "highly qualified" teacher. Any parent who wishes to inquire about the qualifications of their child's teacher is encouraged to contact Chris Reitan, Principal, of Galena City Schools.

For further information regarding what defines a "highly qualified" teacher please refer to the federal definition http://www.ed.state.ak.us/nclb/pdf/teacher_and_paraprofessional_requirements.pdf

2006 Goals & Accomplishments

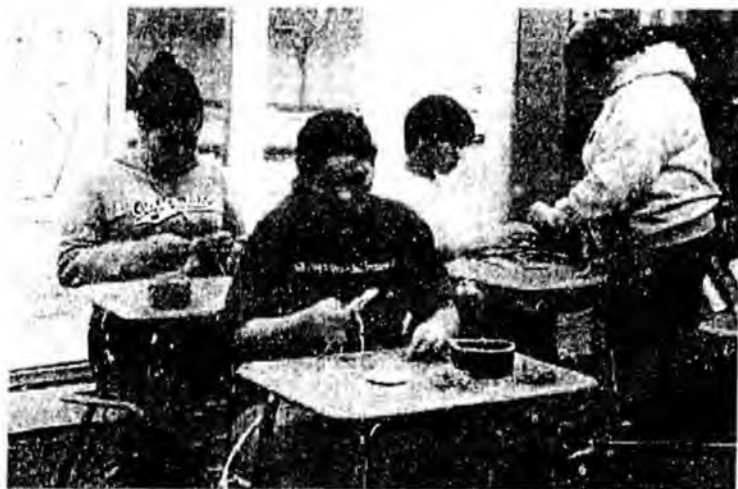
Building on the successes from the previous school years, Galena City School has adopted the goal, "Doing it Better," with the primary focus being improving student achievement and learning. To meet that goal, all staff development and curriculum development workshops focused on significant aspects related to increasing teacher quality that would directly impact student achievement and learning. Eleven GCS teachers attended PEAK Learning Systems summer institutes in Beaver Creek, Colorado. Furthermore, all staff participated in on-site individual and small group PEAK Learning workshops that focused on the development and implementation of researched based teaching and assessment strategies that have proven to improve student learning and achievement.

In addition, three staff members collaborated with researchers associated with the Drama For Schools research from the University of Texas. These teachers participated in on-site trainings and audio conference meetings that focused on improving teacher instructional strategies and aligning instructional strategies with classroom based assessment following the Drama for Schools model.

All staff curriculum workshops focused on more tightly aligning the GCS K-12 curriculum with national standards as well as state and national criterion and norm referenced assessments. All staff development encompassed building stronger classroom environments, increasing the school's instructional and assessment capacity to implement research based teaching and assessment strategies, and more closely aligning the K-12 curriculum with national standards and state and national assessments.



2006 Highlights



Galena City School continues to focus all staff meetings on increasing teacher quality through the continual refinement of our instruction and assessment strategies. Every two weeks teams of teachers met and shared their stories regarding the educational processes that were taking place in their classrooms. The discussion focused on the curriculum as well as the instructional and assessment strategies that were being implemented in the classroom. Furthermore, the conversations included constant reflection on how we can continually refine and modify our current practices to increase student performance.

Another equally serious challenge in Galena and throughout rural Alaska is the very high suicide rate. Rural Alaskan youth

commit suicide at a rate 3 times the national average. In response to this concern, GCS and Galena Interior Learning Academy sponsored the 5th annual Wellness Week prior to Christmas vacation. Community members, teachers, and Odyssey Performance Enhancement Network teamed-up and designed team building activities and workshops centered on improving the quality of life in Galena.

Additionally, all Galena City School staff attended a one-day training in March that focused on increasing the staff's awareness of the warning signs that are typically associated with suicidal behavior.



Galena Health Center Behavioral Health Program personnel Violet Burnham (Behavioral Health Clinician) and Jessica Goff (Behavioral Health Clinician) collaborated to increase the staff's awareness and knowledge of the early warning signs of suicide and how best to intervene and refer people who are in need of assistance.



2006 Student Highlights

Galena City School students shined in both academic and athletic activities. The GCS high school Academic Decathlon team continues to shine at state competitions taking 3rd place in the small school's division. Furthermore, GCS students continue to make a strong showing at the Alaska State Science Fair and Battle of the Books competitions.

Galena City School also shined in their athletic endeavors. Three wrestlers qualified for the state tournament and the wrestling team was recognized for having the highest team G.P.A. at the regional tournament.

Both the girl's and boy's varsity basketball teams swept the competition at the regional tournament and earned berths to the state competition. The girl's basketball team took 3rd place at the state tournament and the boy's finished 7th, and both teams were recognized at the state basketball tournament for having the highest team G.P.A. The Galena varsity girl's, junior high girl's, and junior high boy's cross country skiing teams took first place at the Western Interior Ski Association meet held in Tanana in April.

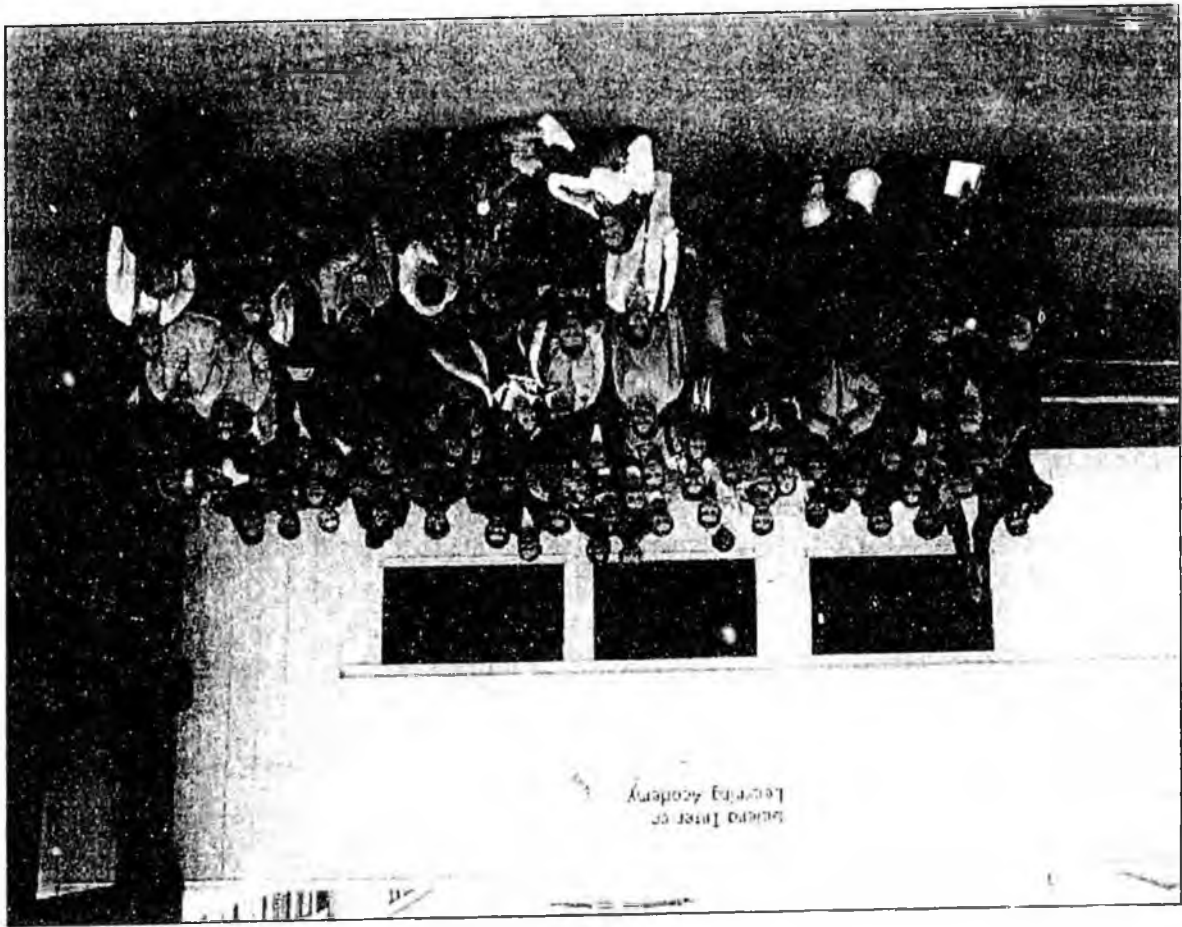
Goals for 2006

Next year's goals include building on the strong academic trends that were set in 2005.

GCS will ensure that improving our instruction and assessment practices through professional development that is aligned to research-based teaching and assessment strategies remains a priority of all that we do at GCS.

GCS will improve Terra Nova, HSGQE and Standards Based Assessment results. Galena City School is pleased with all of our students' academic and extra-curricular successes from the 2005-06 school year, and recognizes that if we are truly going to do it better that it starts one child at a time.





Galena Interior Learning Academy [GILTA]

Galena Interior Learning Academy

Unique Program Features

GILA, a statewide boarding school for grade 9-12 students that are seeking another choice, is Alaska's longest operating residential secondary vocational school. It is accredited by the "Northwest Association of Accredited Schools". GILA also offers post secondary-vocational programs authorized by the Alaska Commission on Postsecondary Education.



GILA offers students the opportunity to gain industry standard vocational-certification in aviation, automotive technology, cosmetology and culinary arts while achieving the academic skills necessary to pass the Alaska High School Graduation Qualifying Exam. Allowing students to continue their post secondary education in a venue they choose increases our completion rates. Vocational and technical teachers are hired from industry for upper level career pathways, validating the programs meeting the standards required by industry.

GILA is located in Galena, a village in Interior Alaska. It attracts students from all over the state. It appeals to the lifestyle of the rural students but it is also accessible to students from urban communities who desire to pursue an education more focused to their individual needs. The GILA campus is located on the U.S. Air Force Base and offers modern residential and educational facilities. The strong partnership with the Air Force, City of Galena, Louden Tribal Council, University of Alaska Fairbanks, local organizations and businesses contributes to a first class education for students.

Enrollment



GILA started FY 2006 with 74 students and ended with 68, a 92 % retention rate. Homesickness and family needs are the main reasons why students leave during the school year. As these departing students enroll in other education programs elsewhere they are not considered "drop-outs"

Enrollment interest remains strong with more applicants than classroom space available. In the spring of 2005, the Air Force Base officially presented BRAC (Base Realignment and Closure) notice for the Galena site. This action provided both opportunity and challenge. The Air Force's departure provides space for more programs and students while adding costs to the physical operations. In 2006-07, enrollment increased to 110 students, with applicants exceeding this capacity. Depending on the space that becomes available annually, the anticipated enrollment is shown in the following table.

Anticipated GILA enrollment				
FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
110 students	150 students	200 students	250 students	300 students

The 2006 Alaska State Legislature provided an additional boost for GILA in the form of financial board and room state funded assistance. This act supported by the Governor, State Board of Education, and the Alaska Association of School Boards, brought recognition of the public support for "boarding schools of choice" in today's Alaskan economy. A strong emphasis is placed on student resiliency and the "assets" program shared with Alaska Association of School Boards.

GILA students this year come from 46 rural and urban communities in Alaska, from as far away as St. George's Island in the Bering Straits, Barrow on the Arctic Ocean, Northway near the Canadian border and Hydaburg in the southeast pan handle. About one-third comes from interior neighboring villages. As Alaska Native families are forced to relocate because of the high cost of living in the villages, boarding schools will become more important than ever as an educational option.

GILA staff works hard to maintain a cohesive relationship with the diversity of its students. A majority of underclassmen returned this school year. Word of mouth and recommendations among friends and family are the best forms of recruitment. State-wide publicity via newspaper, radio and TV also helped recruitment. These efforts resulted in more applicants that GILA could

accommodate. The 2007-08 school year will see the students moving into newer and larger dormitory facilities and using the larger Air Force dining hall.

Graduates

Fourteen seniors graduated on May 19, 2006, twelve had passed all portions of the Alaska High School Graduation Qualifying Examination- [excluding Special Education] a 96% success rate. This class was 86% Alaska Native, exceeding the graduation rate of this group in most rural and urban schools in Alaska.

The graduation featured distinguished speaker Bernice Joseph, Dean of the College of Rural Development at University of Alaska Fairbanks, who gave an inspiring message to the graduates on the need for them to become involved in local and state affairs.



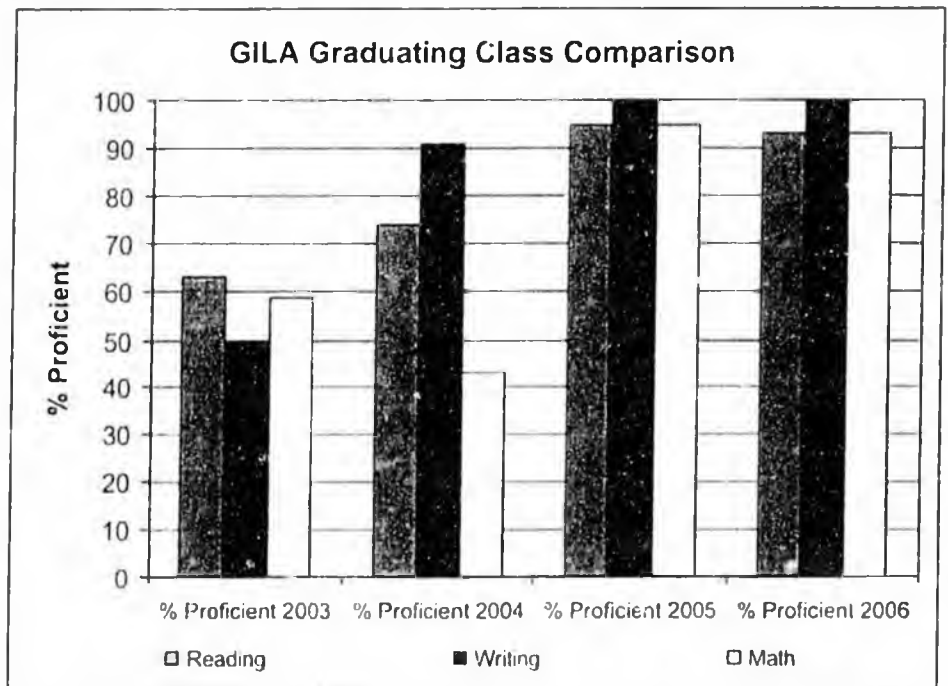
Achievements

All GILA students grades 9 through 12 were administered the Terra Nova test, with grades 10 through 12 also taking the AHSGQE. The Standards Based Assessments was administered to the freshman as well as being imbedded in the sophomore AHSGQE for the first time.

GILA: Alaska High School Graduation Qualifying Exam

For the past two years over 90% of Galena Interior Learning Academy graduates have passed all three portions of the Alaska High School Graduation Qualifying Exam. All GILA graduates in 2006 passed the writing portion of the state assessment, with 93% percent (12 of 13) passing both the reading and the math portions. Staff remains very excited about the 96% graduation rate.

The Galena Interior Learning Academy achieves AYP. Although we have been successful in 30 of the 31 categories each of the past 3 years, we achieved all 31 categories for 2005-06 school year- a great milestone in the history of our school.



GILA Graduating Class Comparison				
	% Proficient 2003	% Proficient 2004	% Proficient 2005	% Proficient 2006
Seniors				
Reading	63	74	95	93
Writing	50	91	100	100
Math	59	43	95	93

The success rate on school-wide was the blue-print for the calculation for AYP. Seventy percent (16 of 23) of all juniors passed all portions of the assessment and sixty percent (10 of 23) of all sophomores achieved success on their first attempt.

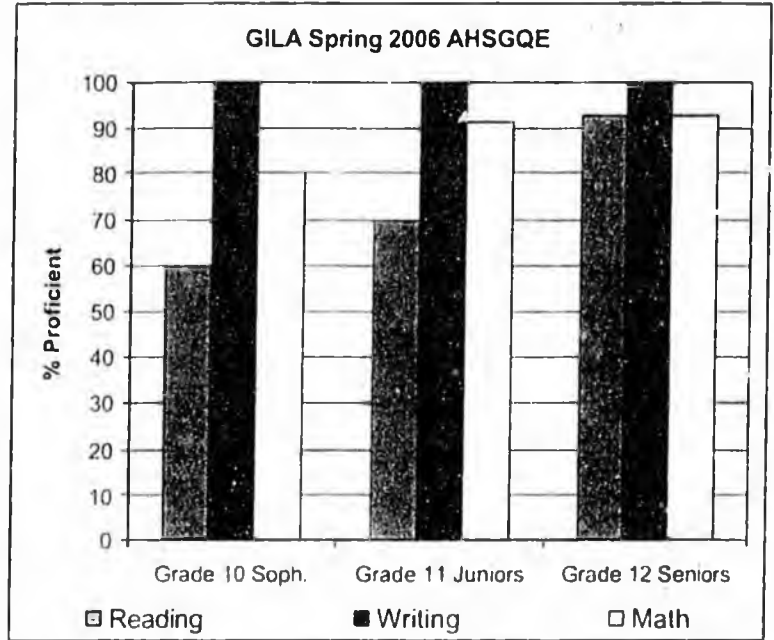
As seen, GILA students are showing great improvement directly proportional to the number of years in the GILA educational system.

This information is especially important with data showing 74% of GILA seniors, 87% of the juniors and 96% of the sophomores are Alaska Natives.

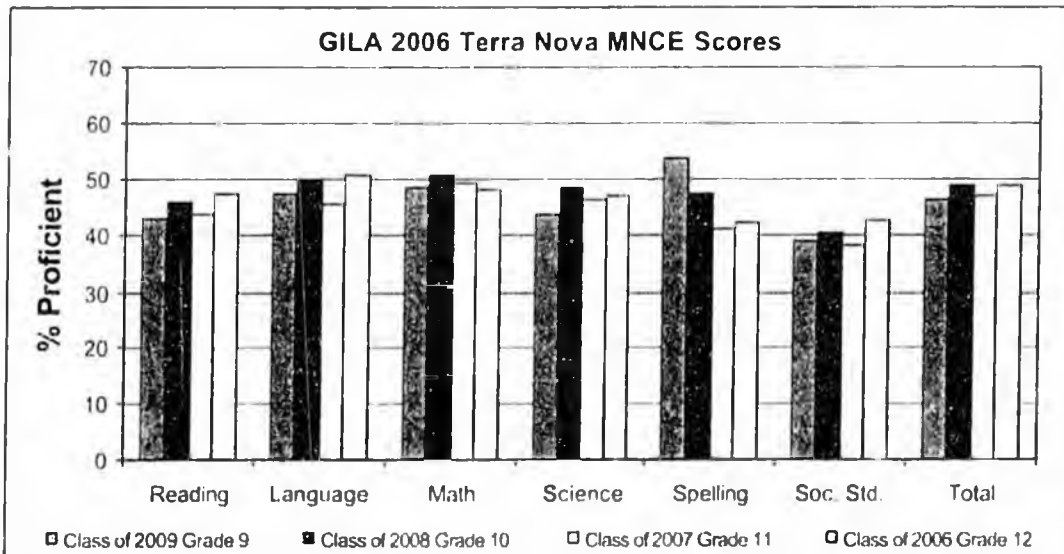


GILA: Terra Nova Assessments

AHSGQE Spring 06	Grade 10 Sophomores	Grade 11 Juniors	Grade 12 Seniors
Reading	60.0	69.6	93.0
Writing	100.0	100.0	100.0
Math	80.0	91.3	93.0



The Terra Nova Mean Normal Curve Equivalent Scores in the spring of 2006 are shown in the table and graph below. The Terra Nova results show improvement closely associated with the number of years the student is enrolled. Our students show improvement all of the following years in attendance, with their highest scores being their senior year in most content areas. The Terra Nova assessments are grade appropriate nationally, thus are a proficient measure of annual improvement. To help gauge improvement in student achievement, the Terra Nova MNCE test scores were analyzed. MNCE scores were available for all grades, irrespective of class size [unlike the Terra Nova MDNP scores which do not have data for small classes].



MNCE	Reading	Language	Math	Science	Spelling	Soc. Std.	Total
Class of 2009 Grade 9	43.2	47.6	48.7	43.8	53.9	39.1	46.6
Class of 2008 Grade 10	46.1	49.7	50.9	48.5	47.5	40.7	49.1
Class of 2007 Grade 11	43.7	45.8	49.5	46.5	41.3	38.3	47.2
Class of 2006 Grade 12	47.5	50.9	48.1	47.1	42.5	42.6	49.1



GILA Standards Based Assessments

The Alaska Standards Based Assessments are scored based on the percentage of student's proficient on each test. The Alaska Standards Based Assessments measure how well students have mastered the Alaska academic standards in reading, writing, and mathematics, each of which has their own subcategory. These tests are designed specifically to assess the Alaska standards with Alaska students. Test results are reported in terms of level of mastery, that is, the percentage of correct answers.

A primary goal of GILA is to provide an academic and vocational education opportunity where the students can take advantage of their abilities. The longer the students stay at GILA, the greater their academic progress. This is documented in the data below.

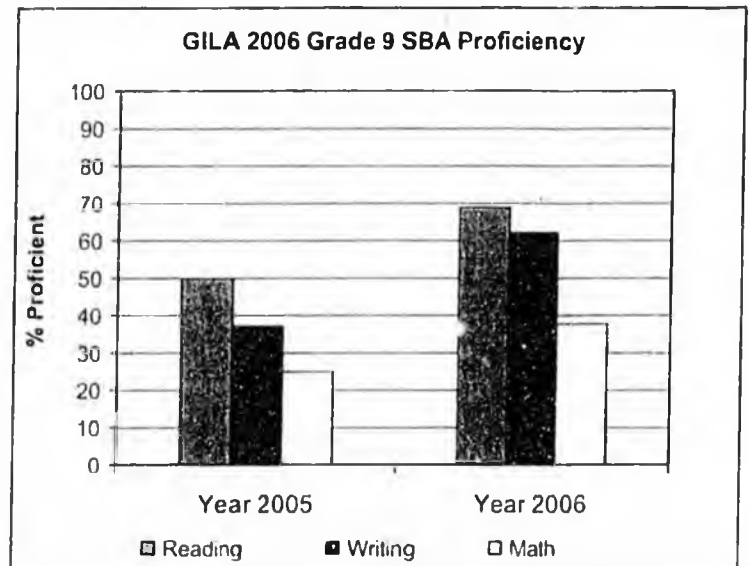
Grade 9

There was a dynamic improvement between 2005 Grade 9 and the 2006 Grade 9, as shown in the adjacent chart.

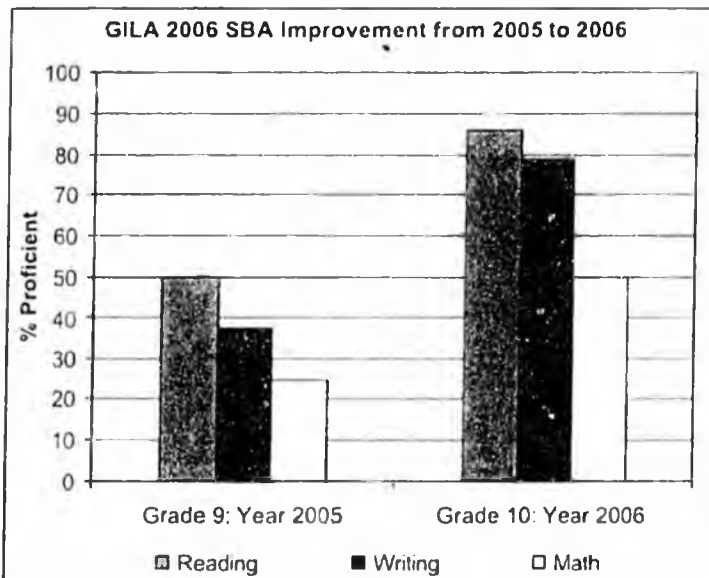
This success is reflected in the AYP scores for GILA with AYP being achieved for the first time in the history of the school. The status of a 'school of choice' is a title held proudly.

Grade 10

The Alaska Standard Based Assessments questions were imbedded in the AKHSQGE. The scores show remarkable improvement from Grade 9 to Grade 10. This data is of great advantage in developing and improving our course work.



Grade 9: SBA Proficiency	2005	2006	% Change
Reading	50.0%	68.8%	18.8%
Writing	37.5%	62.5%	25.0%
Math	25.0%	37.6%	12.6%



Grade 10: SBA Proficiency	Grade 9: Year 2005	Grade 10: Year 2006	% Change
Reading	50.0%	85.7%	35.7%
Writing	37.5%	78.6%	41.1%
Math	25.0%	50.0%	25.0%



Staff

All certified staff at GILA presents "Highly Qualified" status. The vocational staff is certified professionals who have had additional training in educational techniques. GILA enjoyed an 83% teacher retention rate for the year. The instructional team consists of six core academic teachers, five industry-certified vocational instructors, a counselor and a native culture instructor.

Certified staff development is through 'Performance Excellence for All Kids' (PEAK) methodology. New staff attends a two week workshop in the summer. The district offers up to 18 days of additional training for all teachers, which includes ten days of Assessment Writing Workshops.

The teaching staff is very dedicated. They work with those students who make a grade "C" or less in the after-school and Saturday tutoring sessions. All students attend a one hour home work session before dinner. Principal Harry White feels that the twenty minutes of daily "Silent Sustained Reading" for students and staff and the cross curriculum teaching of Reading, Writing and Math attributed to the achievement of AYP.



The residential hall staff is responsible to supervise students all hours outside the school day and reside in the same building with them. They build a unique bond with the students, assist them in their homework, provide activities and regulate their schedules in off school hours supporting a successful learning environment. Resiliency and "assets building" training are provided for all residential hall staff.

The residential staff members are predominately graduates of university programs in residential living. Others are hired for their understanding and expertise in cultural needs, medical experience and activity organizational training.

No Child Left Behind Requirements

"No Child Left Behind" is federal legislation invoked by the federal government. These landmark educational guidelines were designed to guide schools into raising student achievement. NCLB requires each state to "grade" every public school within that state based on Adequate Yearly Progress (AYP). AYP is calculated when each individual school's test results are analyzed on the basis of the following subgroups:

- ? Testing attendance rate
- ? Race
- ? Gender
- ? Math Proficiency %
- ? Language Arts (Writing + Reading) Proficiency %
- ? Bilingual Student's Proficiency %
- ? Economically Disadvantaged Students Proficiency %
- ? Students with Disabilities Proficiency %
- ? Graduation Rate



These subgroups are organized into various indicators. If a school does not meet the cut-off percentages in any of these indicators then that school is placed on a list of schools that did not meet AYP. This list was published August 11th, 2006 and included results of the all school districts in Alaska. *GILA achieved AYP in 2005-06.* The consequences of being on this list are described on the state website.

Please refer to the state website for further testing data

<http://www.eed.state.ak.us/DOE/Rolodex/AYP/2006/districts/Galena%20City%20Schools.pdf>