

**AN ALASKAN LAW SCHOOL:  
IS IT FEASIBLE?**

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FEBRUARY 2004

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## Introduction

Responding to a request from the University of Alaska Anchorage (UAA) alumni, the UAA provost asked the Institute of Social and Economic Research (ISER) to investigate the need for a law school in Alaska.

Alaska is the only state that does not have a law school. The question of whether to establish a law school in Alaska has been discussed for more than thirty years. In 1974, the University of Alaska, in conjunction with the Alaska Legislative Council, commissioned a feasibility study for an Alaska law school.

In May 1975, John Havelock, then director of Legal Studies at the University of Alaska, issued a report, *Legal Education for A Frontier Society: A Survey of Alaskan Needs and Opportunities in Education, Research and the Delivery of Legal Services*. The report is 240 pages and is very broad in scope. The introduction to the study lists five broad tasks:

- An examination of demand for legal and law-related services in the state
- A hard look at the methods for delivering legal services, from the point of view of their cost and efficiency
- An evaluation of the present supply of lawyers and law-trained people and future prospects, including reference to national trends in legal education and the migration and admission of attorneys in Alaska
- An analysis of the need for law-related education in the general public and demand for legal or law-related education within the state
- An evaluation of a wide variety of state and university options<sup>1</sup>

The study collected primary data through two surveys—one of the general public and one of attorneys in Anchorage. The report included many recommendations, but two were directly relevant to the feasibility of a law school in Alaska. The study concluded that:

- There is no need to increase the supply of lawyers through establishing an Alaska law school.
- Many objectives served by a law school may be met by other institutional arrangements.

In this study, almost thirty years later, we revisited the question of the feasibility of establishing a law school in Alaska and came to the same conclusions. There is still no need to increase the supply of lawyers by establishing a law school in Alaska. The state can meet the legal education needs of its residents by increasing its financial support for students who go outside to law school and by establishing cooperative programs with existing ABA accredited law schools.

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<sup>1</sup> Havelock, pp. 7-8

## **Methodology**

Funds for this study were very limited, so we were not able to collect any original data. Instead, we reviewed past reports and analyzed existing data from a variety of sources. We focused on comparison data from four western states with small populations and single, publicly-funded law schools—Montana, North Dakota, South Dakota, and Wyoming. In addition, we looked at three other western states—Idaho, Hawaii and Nevada—that have larger populations but still just single law schools. Table 1 shows broad comparison data from those seven states and Alaska.

To supplement the existing data, we interviewed staff from national and local legal organizations and deans and faculty of law schools. We also informally interviewed several members of the Alaska Bar and the Alaska Court System. (See Appendix A, List of Contacts.)

To determine the feasibility of a law school in Alaska, we attempted to answer six questions:

- 1. What is the current demand for lawyers in Alaska?
- 2. Can we predict the future demand for lawyers in Alaska?
- 3. How many Alaska residents want to go to law school?
- 4. Are there policy reasons other than supply and demand that the state should consider?
- 5. What would a law school cost?
- 6. What alternatives to a traditional law school should Alaska consider?

In the sections below we report our findings about each of those questions.

**Table 1. Comparison of Publicly-Funded Law Schools in Seven Western States**

	Alaska	U Hawaii	U Montana	UNLV	U North Dakota	U South Dakota	U Wyoming	U Idaho
State Population	635,000	1,224,000	904,000	2,106,000	634,000	757,000	494,000	1,321,000
Location	Anchorage	Honolulu	Missoula	Las Vegas	Grand Forks	Vermillion	Laramie	Moscow
City Population	260,000	371,657	57,053	478,434	49,321	9,765	27,204	21,291
# Students		233	244	241	199	181	233	304
Part time students				197	3			
Res Tuition		\$9,746	\$7,347	\$7,151	\$4,682	\$5,839	\$4,891	\$5,160
Non-Resident		16,634	\$13,880	\$14,151	\$9,984	\$11,921	\$10,363	\$11,160
Part time resident				\$4,881		\$4,276		
Part time non-res				\$9,631		\$8,620		
# Applications		562	380	530	201	282	435	461
# Admits		213	201	166	133	183	249	280
#Matriculations		81	79	81	72	81	90	124
# Apps Part time				200	3			
# Admits part time				75	3			
# Matriculations part				61	2			
%employed in state		80.80%	76.80%		33.30%	62.50%	51.60%	55.90%
Full time faculty		17	15	27	13	15	13	16
Part time faculty		13	14	7	5	1	6	12
Sq.ft. law school		36,233	39,109	20,169	19,409	25,650	30,060	24,150
Sq.ft. law library		32,126	19,641	18,371	21,582	34,582	30,000	24,822
Persons Taking the Bar	95	252	119	599	34	74	91	183
Persons Passing the Bar	51	171	94	352	29	69	60	110
Percent Passing	54%	68%	79%	59%	85%	93%	66%	60%
Sources: Bar examination data for 2002 from the National Conference of Bar Examiners								
State Population Data for 2001 - Statistical Abstract of the United States: 2002								
Law School Data - Official Guide to ABA-Approved Law Schools, 2003 edition, Law School Admission Council and the American Bar Association								

## 1. What is the current demand for lawyers in Alaska?

To answer this first question, we looked at data from the Alaska Bar Association on past and current bar membership, as well as numbers of lawyers taking the Alaska Bar Exam. We also considered data gathered by the National Association for Law Placement (NALP) on types of employment for new law graduates in Alaska.

In 2003, there were 3,634 members of the Alaska Bar—2,769 active, 786 inactive, and 78 retired members.<sup>2</sup> In 1993, the Alaska Bar had 3,112 members, of whom 2,552 were active and 526 inactive; 33 were retired.<sup>3</sup> These numbers show little change in bar membership in the past decade. Total membership in the Alaska bar increased less than two percent annually since 1993, and active membership only about one percent a year.

In addition, according to the executive director of the Alaska Bar Association, 33 members of the bar applied for retirement status between 1996 and 2003. Currently, there are 78 retired members of the Alaska bar. The executive director believes that this rate of approximately five retirements per year may increase in the future, as the lawyers who came to Alaska in the late 1970s and early 1980s reach retirement age.

The Alaska Bar Association also has data on the number of lawyers taking the Alaska Bar Exam each year, as well as the number of lawyers actually admitted to the bar. The number of lawyers taking the bar exam in Alaska peaked at 275 in 1985 and has steadily declined since then. Table 2 shows the numbers from 1998 to 2003.

**Table 2. Number of Lawyers Taking the Alaska Bar Examination, 1998-2003**

	1998	1999	2000	2001	2002	2003
Total Number Taking	119	126	118	107	95	139
First-Time Takers	87	89	77	82	65	
Total Number Passing	80	73	73	74	51	
Percent Passing	67%	58%	62%	69%	54%	

The total number of people taking the bar exam is substantially higher than the number of first-time takers, since many people do not pass the bar exam the first time they take it. Consequently, the number of first-time takers more accurately represents the number of new lawyers interested in practicing in Alaska.<sup>4</sup> However, under either measure, the number of people taking the bar exam declined between 1998 and 2002.

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<sup>2</sup> This number includes judges and law clerks. In more detail, 2003 bar membership included 2,283 lawyers active in Alaska, 486 active outside the state, 786 inactive, 78 retired, and 1 honorary member.

<sup>3</sup> 1993 membership figures also include one honorary member. We don't know how many of the active members in 1993 were outside Alaska.

<sup>4</sup> The pass rate for the Alaska Bar Exam is roughly the same as the national average of 57% in 2002.



Table 3 shows the number of people admitted to the Alaska Bar from 1998 to 2002. It distinguishes between those admitted to the bar by taking the bar examination and those admitted by motion. To be admitted by motion, an applicant must have passed a bar exam in a reciprocal state and practiced law in that state for five to seven years.<sup>5</sup> If we look at averages over the five-year period, about 70 lawyers were admitted to the bar each year by exam and 24 by motion. The trend shows no growth in the number of lawyers admitted to the Alaska Bar in recent years.

**Table 3. Number of Lawyers Admitted to the Alaska Bar, 1998-2002**

Admissions	1998	1999	2000	2001	2002
By Exam	80	73	73	74	51
By Motion	20	13	45	19	24
Total	100	86	118	93	75

Our final measure—an indirect indication of current demand for lawyers—is the number of lawyers coming to Alaska. The National Association for Law Placement (NALP) surveys new law graduates every five years to determine where they go and what kind of legal jobs they take. NALP provided the following data for new lawyers coming to Alaska from its two most recent surveys, in 1997 and 2002.

**Table 4. Types of Jobs for New Law Graduates in Alaska, 1997 and 2002**

	Total	Business	Private Practice	Judicial Clerkships	Government	Public Interest
2002	77	5.2%	14.3%	59.7%	16.9%	3.9%
1997	64		20.3%	57.8%	15.6%	4.7%

Source: Jobs & J.Ds: Employment and Salaries of New Law Graduates, Class of 2002  
Class of 1997: Employment Report & Salary Survey (NALP)

From this table, we can infer that there has been little growth in jobs for new graduates in Alaska. Almost 60 percent of the jobs NALP reported in 1997 and in 2002 were judicial clerkships. There are no data to show how many lawyers who come to Alaska to clerk remain here, but many come for a one or two-year clerkship and then leave the state.

***Summary: What is the current demand for lawyers?***

Taken together, all the data indicate that demand for lawyers in Alaska in the past five to 10 years has increased little.

- The number of Alaska Bar members actively practicing law grew only about 1 percent annually over the past decade.
- Number of lawyers taking the Alaska Bar Exam declined steadily from 1985 to 2002.
- The trend in numbers of lawyers admitted to the Alaska Bar since 1998 is down.
- Numbers of jobs for new graduates in Alaska changed little between 1997 and 2002, according to NALP data.

<sup>5</sup> 29 states have reciprocity with the state of Alaska. The state of Washington became a reciprocal state in 2000, which is why the number of applicants admitted by motion spiked in 2000.

## 2. Can we estimate the future demand for lawyers in Alaska?

No one can predict with precision the future demand for lawyers in Alaska. Law school consultants suggest that the demand for legal services is driven by growth in the economy and government regulation, rather than by population growth. The Alaska economy is projected to grow only slightly during this decade—less than 1 percent annually between 2000 and 2010—which indicates little growth in the demand for lawyers in Alaska.<sup>6</sup>

In addition, the Alaska Department of Labor’s *Alaska Occupational Forecast to 2010* estimates that opportunities for lawyers in Alaska will be limited through 2010. The department reports 1,668 lawyers are currently practicing in Alaska, but that number is expected to decline to 1,631 by 2010. This is contrary to the national trend; numbers of jobs for lawyers nationwide are expected to increase 18 percent by 2010. A labor economist with the Alaska Department of Labor reports there has been no growth in legal services in Alaska for the past 15 years.<sup>7</sup> The industry peaked in the mid-1980s.

**Table 5. Employment Projections for Alaska Lawyers, 2000-2010**

	Employment 2000	Employment 2010	Percent Change
<b>Alaska</b>			
Lawyers	1,668	1,631	-2.2%
Administrative Law Judges	157	170	8.3%
Judges and Magistrates	88	88	0.0
Law Clerks	99	92	-7.1%
<b>U.S. Lawyers</b>	680,800	803,400	18%
Source: Alaska Department of Labor and Workforce Development, Research and Analysis Section; and U.S. Department of Labor, Bureau of Labor Statistics			

The department cites some valid reasons for the projected decline. It projects modest growth for the legal services and state government sectors, but expects this growth to be offset by a decline in self-employed lawyers. Current estimates are that 27 percent of lawyers are self-employed. By 2010, this figure is expected to drop to 20 percent.<sup>8</sup>

<sup>6</sup> Goldsmith, Scott. *Economic Projections for Alaska and the Southern Railbelt 2000-2025*. ISER, October 3, 2001. p. 7.

<sup>7</sup> The Department of Labor defines “legal services” as establishments headed by members engaged in offering legal advice or legal services.

<sup>8</sup> The Alaska Department of Labor calculates and projects self-employed workers based on occupation-specific multipliers from the U.S. Bureau of Labor Statistics (BLS). The BLS’s explanation for the decline in lawyers in private practice includes: the difficulty of establishing practices competitive with larger, established firms; the growing complexity of the legal field, encouraging greater specialization; and ability of larger firms to spread the cost of maintaining up-to-date legal research materials over greater numbers.

The Department of Labor figures probably underestimate number of jobs for lawyers in Alaska, since some lawyers are employed in other occupations. Also, the department currently uses a national formula rather than specific Alaska data to calculate numbers of jobs created when lawyers retire or leave the profession. That formula may underestimate the number of openings resulting from retirements in Alaska in the coming years, since 25 percent of lawyers currently practicing in Alaska are over 50.

Still, even if the department's estimates of demand are low, we know numbers of jobs for lawyers aren't increasing much, and most of the demand for new lawyers in the coming decade will likely come from replacements due to retirements and persons permanently leaving the occupation.

***Summary: Can we estimate future demand?***

It isn't possible to precisely forecast the demand for lawyers in Alaska in the next 10 years, but available data suggests:

- Jobs for lawyers increase when the economy grows, but annual economic growth in Alaska for the coming decade is projected to be less than one percent.
- The Department of Labor projects fewer jobs for lawyers by 2010.
- Most of the jobs will likely come from lawyers retiring or leaving the profession.

### 3. How many Alaska residents want to go to law school?

To determine if there is enough demand to justify a law school in Alaska, we must first establish the minimum number of students necessary to sustain a law school in Alaska.

The deans of law schools we interviewed agreed that 75 students was the minimum number of students required to establish a law school class. The American Bar Association's *ABA Standards* require students to finish law school in three years, and the curriculum in the first two years is similar for all schools. The deans estimated that it would take a school of about 250 students to support the faculty necessary to deliver all the courses required by the curriculum.

Data about enrollment at the seven western state law schools summarized in Table 1 (page 3) also support those estimates. School sizes range from a low of 181 students at the University of South Dakota to a high of 438 at the University of Nevada Las Vegas.

An obvious indicator of demand for a law school among Alaskans is the number of Alaskans who currently go to law school outside the state. Unfortunately, no such data exists—neither the University of Alaska nor the Alaska Commission on Postsecondary Education, which tracks student loans, has any data on Alaskans attending law school.

The only data available to answer the question of how many Alaskans may want to attend law school is from the Law School Admission Council (LSAC). The LSAC administers the Law School Admission Test (LSAT) four times a year. Table 6 shows the number of people who took the LSAT in Alaska from 1997 to 2003.

**Table 6. Total Number of LSATs Administered at Alaska Test Sites, 1997-2003**

1997-98	1998-99	1999-00	2000-01	2001-02	2002-03
82	91	80	95	91	113

The LSAC also keeps track of applicants to LSAC member law schools by state of residence. This is probably a better measure of resident demand than the number of people sitting for the LSAT in Alaska, since some residents take the exam while attending school in other states.

The LSAC numbers in Table 7 are a tabulation of people who identified Alaska as their permanent state of residence on their law school application form or who did not identify any state of permanent residence but provided a mailing address in Alaska. For comparison, we also included applicant numbers from other small western states, as well as applications for the entire United States.

**Table 7. Distribution of Permanent State of Residence for Law School Applicants**

	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-00	2000-01	2001-02
Alaska	136	148	140	111	105	104	112	127	111	109
Montana	207	218	221	191	220	201	170	191	197	231
North Dakota	160	156	120	121	115	116	118	116	139	135
South Dakota	168	182	178	164	167	147	145	137	161	163
Wyoming	134	148	139	123	124	120	114	84	129	151
Total U.S.	91,892	89,633	84,306	78,715	72,340	71,726	74,380	74,550	77,235	90,853

The number of applications for law school nationwide varies from year to year. It was high in the early 1990s, trended downward, and then jumped back up in 2001-2002. The LSAC believes that law school applications tend to be inversely related to the health of the economy—when jobs are plentiful, fewer people are interested in law school. Alaska, however, has not seen an increase in applications for law school in recent years. A partial explanation may be that the rising cost of attending law school outside the state is preventing Alaska residents from considering law as a career.

Table 7 indicates that in the past five years, an average of 112 Alaska residents per year applied to law school. Roughly 50 percent of law school applicants nationally qualify for admission—so if we apply that percentage to Alaska applicants, Alaska would have approximately 56 qualified applicants per year. Remember, as we discussed above, that the minimum required class size is around 75 students and the school size 250 students.

Of the estimated 56 qualified applicants a year, not all of them would want to attend law school in Alaska. We don't know exactly how many would choose an Alaska law school, if there were one. But we do know that in recent years approximately 50 percent of Alaskan college freshmen have chosen to attend college in Alaska (compared with 84 percent of freshmen who attend college in their home states nationwide). If we assume that 50 percent of Alaska law school applicants might attend school here, we are left with roughly 28 potential law school students per year from Alaska.<sup>9</sup>

There might be more applications in the first few years of a law school program, because of pent-up demand—Alaskans who wanted to go to law school but either couldn't leave the state or couldn't afford to attend a law school outside. In addition, we can assume some students would come from other states to attend law school in Alaska. That likely wouldn't be a very large number, however, when we consider that in 2002 only 10 percent of University of Alaska students came from out of state.

We also looked at how many graduate degrees were conferred between 1998 and 2002 in the largest University of Alaska graduate programs (Table 8).

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<sup>9</sup> The 1975 Havelock study supports this supposition. It stated: “[We] estimate approximately one-half of those who now attend law school outside of Alaska at considerable costs can be estimated as preferring to attend law school within the state... We have no hard data to support this figure, but it corresponds roughly with the Hawaiian experience. Havelock, p. 165

**Table 8. Master's Degrees Awarded in Top UAA/UAF Programs, 1998-2002**

Program	1998	1999	2000	2001	2002
UAA Teacher Education	60	91	85	50	51
UAA Social Work	31	28	18	16	15
UAF Natural Resources	30	18	24	11	23
UAF Business Administration	20	18	16	17	12
UAA Business Administration	16	29	18	11	16
UAA Nursing Science	9	15	14	11	12

The only program that comes anywhere near graduating 75 students per year is UAA's teacher education program. That program confers degrees from a number of different majors—counseling and guidance, education, educational leadership, master teacher, and public administration. These majors all require less than half the credits required for a law degree. And, unlike a law degree, they do not have to be completed in a full-time, three-year program.

It may also be useful to compare the number of degrees granted by institutions in Alaska with numbers granted in other western states. Table 9 shows that Alaska confers fewer degrees in all categories than any other state.

**Table 9. Numbers of Degrees Granted in Selected Western States, 2000-2001**

	Bachelor's Degrees	Master's Degrees	Doctorate	Professional
Alaska	1,338	406	27	0
Hawaii	4,896	1,704	193	133
Idaho	4,646	1,072	91	159
Montana	5,183	977	56	83
Nevada	4,358	1,517	91	139
North Dakota	4,688	842	67	168
South Dakota	4,223	983	99	160
Wyoming	1,677	414	70	118

Source: The Chronicle of Higher Education, Volume L, Number 1 (August 29, 2003), p.6

Some people argue that an Alaska law school could succeed even without the minimum number of traditional full-time students—because there would be enough part-time students in the Anchorage area. It is true that a large percentage of graduate students at UAA are part-time students—for example, 64.8 percent in the fall of 2002. However, a part-time or dual-division program at an ABA accredited law school requires an expensive increase in faculty, to provide double offerings of required classes. According to one law school dean, it is very difficult to sustain a law school that has only a part-time program, because it is hard to create the ambience, presence, and acculturation necessary for a quality law school. There are also difficulties recruiting faculty for evening programs. And—in order to maintain accreditation with the ABA—the school must show that the students' experiences are comparable in a dual-division school.

In the feasibility study for the Florida A&M University College of Law, the author stated that law schools with successful part-time law programs are located in metropolitan areas with populations far larger than 450,000. Of the seven western schools in Table 1 (page 3), only one—the University of Nevada Las Vegas—has a dual-division law school. The University of Nevada Las Vegas was established in August 1998 and received accreditation from the ABA in 2000. At the time the law school was established, the Las Vegas metropolitan statistical area (MSA) was the fastest growing metropolitan area in the country. Between April 1990 and July 1996, the Las Vegas MSA’s population increased more than 40 percent—from 852,646 to 1,201,073.

***Summary: How many residents want to go to law school?***

The available data are limited, but what we know indicates there wouldn’t be enough Alaskans (or students coming from other states) to meet the minimums needed to sustain a law school—75 new students per year and a total enrollment of 250. The data suggest:

- Somewhere around 30 qualified Alaska applicants per year might want to attend law school in Alaska. Pent-up demand might make those numbers higher at the start.
- Few students from elsewhere would be likely to attend an Alaska law school, if UA enrollment is any indication. In 2002, only 10 percent of UA students were non-residents.
- Sustaining a law school with part-time students is probably not feasible, for a number of reasons—including the fact that part-time law students are required to complete school within four years. Also, holding both day and evening classes makes operating costs considerably higher.

#### **4. Are there policy reasons other than supply and demand that the state should consider?**

As discussed above, available data on the projected demand for lawyers in Alaska and the supply of potential law students does not appear to justify establishing a law school in Alaska. However, many of the people we interviewed suggested that there were policy matters that the state and university should consider in making a decision about funding a law school.

Many Alaskans believe that Alaskans should not have to go somewhere else to get an education. This was also true in 1975, according to surveys done of Alaska residents. “Alaskans more than 2-1 want their legal education at home, even if it costs more.”<sup>10</sup>

Some people we interviewed suggested that the state had a responsibility to make it possible for Alaska residents to attend law school locally because of the expense of going outside for school. Additionally, many people are unable to leave family and job commitments even if they are not constrained by lack of money.

Others talked about the “brain drain” issue. Many people believe that Alaska’s young people are leaving the state because of lack of good employment opportunities.<sup>11</sup> For the most part, law students tend to get jobs in the state where they attend school. Some people we talked with felt that an Alaskan law school would help keep bright young people in the state. A managing partner in a local law firm mentioned the importance of hiring lawyers with a connection to Alaska so that they will stay here.

Other people mentioned the obligation of the state to provide a legal education to its Alaska Native residents, because legal education is such a powerful tool in our society. That position was also advocated in the feasibility study for Florida A&M University College of Law (FAMU), a historically black university:

The issue in the context of FAMU is access. It is not jobs. African Americans need access to the profession for more important reasons than jobs. They need the skills and knowledge provided by law schools to improve their status even if they do not practice law in the traditional sense. They need the leadership skills provided by law-trained individuals. Without access to legal education there can be no more Thurgood Marshalls.

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<sup>10</sup> Havelock, p. 174

<sup>11</sup>It is difficult to document the “brain drain” argument. Historically, Alaska had a young population, and in 2000 it still had more children and fewer people over 55 than the United States as a whole. However, between 1985 and 2000, the number of young adults between the ages of 20 and 34 actually dropped nearly 30 percent, while the number of older adults (35-54) leaped 60 percent. Two factors contributed to the drop in the number of young adults in Alaska: (1) the 1990s didn’t experience the fast job growth of the preceding 20 years, so there was no influx of young workers into the state, and (2) the number of military personnel (typically young adults) dropped in the 1990s.



Some people we talked with encouraged the university to ask: would we serve the Alaska public differently if we educated our own lawyers? Are there unmet legal needs in our communities that could best be met by Alaska-trained lawyers? The answer to these questions is outside the scope of this study. However, John Havelock did raise them in the 1975 study:

Law school feasibility is but one avenue to explore in a far ranging inquiry which touches on the character of Alaskan legal services needed in Alaska, the methods of providing that assistance, the purposes of education in law in addition to preparation for the profession, the needs for the products of legal research, and the future of Alaska.<sup>12</sup>

Deans of law schools mentioned the following contributions of local law schools to communities, the local bar, and the judicial system:

- Clinical programs that deal with local problems such as domestic violence or immigration issues
- Student interns and law clerks for local businesses and institutions
- Pro bono requirements for faculty and students
- A locally published law review that provides useful research and analysis
- Specialty courses geared to local issues, e.g. tribal law, Alaska Native corporations
- Continuing legal education support for the local bar
- Faculty and students involved in legislative process

Others mentioned the benefits of a law school to the university:

- Enhances university reputation for community service
- Develops stature and excellence
- Enhances social sciences within the university
- Produces good supporters for the university
- Provides opportunity to revitalize the library

One person suggested that Alaska was living off the taxpayer dollars from other states and should develop the capacity to tend to our own interests.

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<sup>12</sup> Havelock, p. 4.

On the other hand, some people cautioned that Alaska is already attracting good lawyers and that a local law school might not enhance the quality of the bar. This belief was echoed in the 1975 Havelock study:

The graduates of a new, unproven law school of uncertain reputation would be hard pressed in the early years to meet the competition provided by immigrating attorneys from long-established law schools...The Alaska law school the first decade or more would have to compete against the obvious sentiments of lawyers to give some preference to graduates of the schools they attended. Forty percent of lawyers polled on the questionnaire said they would not give a preference to graduates of an Alaska law school, even if the Alaska law school met American Bar Association criteria for a first-class new law school. The establishment of a conventional law school under such circumstances may offer a trap for the unwary, a career promise that cannot be fulfilled.<sup>13</sup>

Others suggested that Alaska residents benefit from being educated outside. This view was also expressed in the Havelock study:

...the argument should be noted that Alaska benefits greatly from the diversity of backgrounds of Alaska lawyers and, if he or she can overcome the cost hurdle, there is much to be said for the benefit of the diversity in education experience to any student who seeks a legal education in a good school beyond the boundaries of his home state.<sup>14</sup>

Several Alaskans we interviewed said that the most pressing needs for education in the state were in the fields of health care and education. In a time of limited funding, the state must set its priorities. A law school would consume resources that might be better spent in the fields of health and education, in the view of some Alaskans.

The legal educators we interviewed stressed that there should be a community discussion of all these issues and their impact on the feasibility of a law school in Alaska. They strongly recommended that the president or the provost of the university lead the community discussion.

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<sup>13</sup> Havelock, pp. 30-31

<sup>14</sup> Havelock, p. 32

## 5. What would a law school cost?

Even if a law school were feasible—because of increasing demand for lawyers, a supply of potential students, or other policy considerations—the cost of a law school must also be part of the equation. This section attempts to give a general picture of the cost considerations involved in establishing a law school.

The first issue in determining costs of a law school is whether the law school will seek accreditation from the American Bar Association (ABA). The advantage of ABA-accreditation is that graduates of an ABA-approved law school are able to sit for the bar in any state in the nation. The accrediting agency for law schools that the U.S. Department of Education recognizes is the Council of the ABA, Section of Legal Education and Admissions to the Bar. The council sets the *Standards for Approval of Law Schools*.<sup>15</sup>

The costs of establishing and operating a law school that complies with the ABA accreditation standards are substantial. Practically speaking, in order to be accredited the University of Alaska would have to build a law school building and a law school library. One law school dean estimated a cost of \$20 to \$30 million for a law school building and \$10 million for a law library (approximately 100,000 square feet).

It is difficult to know what the operating costs of an Alaska law school would be, but the dean of the law school at the University of Las Vegas Nevada—the most recently accredited state law school—estimated that Alaska would have operating costs of approximately \$6 million annually. He also estimated that tuition covered about one third of operating expenses in Nevada, with the legislature providing two-thirds through appropriations. The Nevada law school also receives substantial private donations.

The *Standards* also require a substantial library collection. John Sebert, a consultant on legal education to the ABA, estimates that a law library must have a collection of at least 80,000 volume-equivalents by the third year of operation. He estimates the cost of this basic collection to be between \$1.7 million and \$4.5 million. (See Appendix B. Memorandum to Persons Interested in Establishing a New Law School or Seeking Approval of an Existing School.)

In addition to capital expenditures, there are of course operating costs. The primary operating expenditures are for personnel. Funds must be available for faculty, administrative and support services, research, travel, and secretarial assistance. Additional funds should also be provided for student financial aid. According to the ABA, about 23 percent of tuition at public law schools in 2001-2001 was paid by need- and merit-based grants. (See Appendix C. Florida Agricultural and Mechanical University, *Feasibility Study to Establish a Law School*, Section VII: Developmental Plan for the Law School.)

ABA Standard 402(b) requires that a single-division law school in its first year of operation have a minimum of six full-time faculty, a full-time dean, and a law librarian.

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<sup>15</sup> The Standards can be viewed on the Section's Web site at [www.abanet.org/legaled](http://www.abanet.org/legaled).

A dual-division law school must have additional full-time faculty. In the words of one law school dean: “Law schools are relatively cheap, but faculty salaries are high and library costs are formidable.”

**Table 10. Comparison of Law School Faculty Salaries, 2002-03**

University	Assistant Professor	Associate Professor	Full Professor
Seattle University	\$87,500	\$98,000	\$125,000
U Montana	\$56,347	\$72,820	\$97,263
U North Dakota	\$58,830	\$67,630	\$84,415
U Washington	\$72,720	\$81,093	\$107,883
U Wyoming	\$71,865	\$81,732	\$107,343
Source: Society of American Law Schools Survey			

Some people will argue that the expense of ABA accreditation is not necessary. However, the deans we interviewed felt that an unaccredited school would fail and that the university would not want to be connected with such a venture. One said: “Because all states admit graduates of ABA approved schools and most states admit only ABA graduates, approval by the ABA is a practical as well as qualitative condition to establishing a quality law school.” The Havelock survey confirms this belief:

Two observations should be made against the day when the University does establish a law school: The bar will clearly oppose it with near unanimity unless there is a clear commitment to: first, the recruitment of a first-class faculty at top salary levels and, second, a capital commitment to the purchase of a first-rate library.<sup>16</sup>

***Summary: What would a law school cost?***

We don’t know what an Alaska law school would cost to build and operate, but we know it would be substantial, based on costs elsewhere—and the fact that costs of living in Alaska are higher than in other states. People we interviewed at other law schools told us:

- A law school building would cost around \$20 to \$30 million and a law library perhaps \$10 million.
- Acquiring a basic library collection could cost between \$1.7 million and \$4.5 million.
- Extra money would be needed for student financial aid.
- Salaries for law professors are higher than for university faculty.
- Operating costs might be approximately \$6 million annually.
- Tuition may cover only about a third of operating costs.

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<sup>16</sup> Havelock, p. 185

## **6. What alternatives to a traditional law school should Alaska consider?**

Our findings so far suggest no immediate need for a law school in Alaska. Demand for lawyers is not increasing, there doesn't appear to be a sufficient supply of potential students, and the costs of a traditional program would be prohibitive, given the existing state budget shortfall and conflicting needs. But there are other ways besides establishing a law school to help Alaska residents become lawyers. We discuss two alternatives — financial assistance to law students and partnerships with outside universities.

In the 1975 Havelock study, 81 percent of the surveyed lawyers opposed the establishment of an Alaskan law school, for three reasons: (1) law schools outside were sufficient for Alaskans who wanted to become lawyers; (2) the quality of an Alaska state law school would not be high enough and would lower the quality of the Alaska bar; and (3) the public expense was too great. Despite their lack of support for a law school, the lawyers surveyed were clear that the top priority should be state financial support for Alaska residents who wished to attend law school outside.

At the time of the Havelock study, Alaska was participating in the Western Interstate Commission for Higher Education (WICHE). Havelock pointed out:

WICHE is already smoothly operating after only two years and, with the state scholarship loan program, meets many of the requirements of support for Alaska legal education. Before opting for a different program, the state should consider whether this approach already meets the need or would do so with more resources, an enhanced scale of benefits, or a formula for distribution reaching a wider audience of law students.<sup>17</sup>

WICHE established a program called the Professional Student Exchange Program (PSEP). This program allowed states to appropriate funds to assist students who were going out of state to school, usually because their states did not have a particular professional program available in a public school. Twenty-four public and private law schools participated in the program.

According to WICHE records, 356 students from Alaska were supported in the field of law from 1981 to 1988— the year the Alaska Legislature stopped appropriating funds for the program. As of 2004, the PSEP law program is suspended because Alaska does not use it, and Alaska is the only state without a law school. However, PSEP is still in existence and the state of Alaska paid \$150,900 in fees for 13 students enrolled in dentistry, physical therapy, and pharmacy in 2003. Unlike other states, Alaska now treats PSEP as a 100 percent loan program—students must pay back the fee with interest.

If the state of Alaska is truly interested in offering its residents access to a legal education, it should begin with a grant or incentive program for law students attending school outside.

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<sup>17</sup> Havelock, p. 197

In addition to providing financial support to Alaskan law students, the university could also form a partnership with an outside institution to deliver a legal program within Alaska. We know of two attempts to deliver summer programs for law students in Alaska in the past ten years.

In 1998, the Institute of the North at Alaska Pacific University initiated the first program, when it established a summer internship for students from Lewis and Clark Law School in Portland, Oregon. The internship focused on the key Alaska laws governing management of Alaska's common resources. The summer internship project also prepared a curriculum for land managers and others on the Alaska National Interest Lands Conservation Act (ANILCA).

The Institute of the North and Lewis and Clark College hoped to establish an ongoing summer program in Alaska, similar to the on-campus summer program in Portland. They thought the ABA would approve the summer program as an off-campus program. The plan called for one Portland faculty member dedicated to the program on a multi-year basis, supplemented by experienced Alaska lawyers as adjunct faculty. The Institute of the North thought that start-up costs of less than \$1 million could establish the program. However, the plan has never been implemented.

In the summer of 2003, the Seattle University School of Law and UAA offered a Study Law in Alaska Program on the UAA campus. The program offered two courses that were attended by five law students from ABA accredited students and 15 undergraduates from UAA. The law students combined their course work with externships at the Municipality of Anchorage and clerkships with Anchorage judges. Seattle University is hoping to expand the program in 2004.

In addition to summer programs and extern opportunities, it is also possible that distance delivery technology will become interactive enough in the near future to persuade the ABA to adjust its standards and allow distance delivery options in degree programs.

## Conclusions

The existing data on present and future demand for lawyers indicate no appreciable growth in demand for lawyers in Alaska in the next ten years.

- The number of Alaska Bar members actively practicing law grew only about 1 percent annually over the past decade.
- The number of lawyers taking the Alaska Bar Exam declined steadily from 1985 to 2002.
- The trend in numbers of lawyers admitted to the Alaska Bar since 1998 appears to be down.
- NALP data confirms that there was very little growth in Alaska jobs for new law graduates between 1997 and 2002.
- Analysts say economic growth drives demand for lawyers—and annual economic growth in Alaska for the coming decade is projected to be less than one percent.
- The Alaska Department of Labor’s employment projections for lawyers indicate a decline of 2.2 percent in jobs between 2000 and 2010.
- Most of the job openings for lawyers in Alaska in the next few years will likely come from lawyers retiring or leaving the profession.

In addition, the potential pool of applicants doesn’t appear to be large enough to sustain a law school in Alaska.

- With data on Alaska residents who applied to law school in the past five years, we can estimate that about 30 applicants might qualify to attend an Alaskan law school each year. (Pent-up demand might make those numbers higher at the start.)
- Few students from elsewhere would be likely to attend an Alaska law school, if UA enrollment is any indication. In 2002, only 10 percent of UA students were non-residents.
- Sustaining a law school with part-time students is probably not feasible, for a number of reasons—including the fact that part-time law students are required to complete school within four years. Also, holding both day and evening classes makes faculty and other costs considerably higher.

However, many of the people we interviewed suggested that there were policy reasons other than supply and demand that would justify establishing a law school in Alaska.

- A law school would help prevent the “brain drain” of Alaska youth.
- The state has an obligation to provide a legal education to its Alaska Native residents because legal education is such a powerful tool in our society.
- There may be unmet legal needs in our communities that could best be met by Alaska-trained lawyers.
- Alaska should not live off the taxpayer dollars from other states.

But the information we gathered indicated that an ABA accredited law school could cost \$40 to \$50 million to establish and \$6 million per year to operate. In a time of budget shortfalls and conflicting state needs, it is difficult to imagine that the legislature would appropriate the money.

Although we conclude that Alaska should not establish a law school at this time, we do think the state should consider alternatives. If the state of Alaska is truly interested in offering its residents access to a legal education, it should begin with a grant or incentive program for law students attending school outside. It should also continue developing partnerships with ABA accredited law schools to deliver summer programs and externships in Alaska. These could be the first steps toward a future program allowing law students to complete part of their coursework in Alaska.



### Appendix A. List of Contacts

Name		Title	Organization
Alex	Bryner	Chief Justice	Alaska Supreme Court
Stephanie	Cole	Administrative Director	Alaska Court System
Judy	Collins	Research Director	National Association for Law Placement (NALP)
Camille	deJorna	Consultant	Section on Legal Education, American Bar Association
Dana	Fabe	Justice	Alaska Supreme Court
Neal	Fried	Labor Economist	AK Dept. of Labor and Workforce Development
Jeff	Hadland	Economist	AK Dept. of Labor and Workforce Development
Rudy	Hasl	Dean	Seattle University School of Law
Duane	Heyman	Executive Director	Commonwealth North
Sandy	Jackson	Program Coordinator	WICHE
Brynn	Keith	Economist	AK Dept. of Labor and Workforce Development
Robert	Langworthy	Director	Justice Center, UAA
Don	Leaver	Board of Directors	UAA Alumni Association
James	Linxwiler	Managing Partner	Guess & Rudd
Shawn	Lipton	Director, Continuing Legal Ed & Distance Ed	Seattle University School of Law
Percy	Luney	Dean	Florida A&M School of Law
Richard	Morgan	Dean	Boyd School of Law, University of Nevada Las Vegas
Erica	Moser	Executive Director	National Conference of Bar Examiners
Richard	Neumann	Professor	Hofstra University School of Law
Deborah	O'Regan	Executive Director	Alaska Bar Association
Deborah	Periman	Assistant Professor	Justice Center, UAA
Dean	Rasmussen	Labor Economist	AK Dept. of Labor and Workforce Development
Meade	Treadwell	Managing Director	Institute of the North
Barry	Vickery	Dean	University of South Dakota School of Law
Kirk	Wickersham	Attorney	
			American Association of Law Libraries
			American Association of Law Schools (AALS)
			Law School Admission Council(LSAC)



**Appendix B. Memorandum to Persons Interested in Establishing a New Law School  
or Seeking Approval of an Existing School**

Electronic versions of this appendix are not available. If you'd like a hard copy, call ISER at 907-786-7710.



**Appendix C. Florida Agricultural and Mechanical University – Feasibility Study to Establish a Law School – Section VII: Developmental Plan for the Law School\***

Electronic versions of this appendix are not available. If you'd like a hard copy, call ISER at 907-786-7710.

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\* We realize this document is a poor copy of the original. However, we do not have access to the original document or to an electronic version—so we decided to include this copy, because it contains some very practical information about the start-up of a law school.

