

NO. 4

H B

To Carl
1-23-70

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 414

The present penalty for simple assault and battery is a fine of not more than \$500 or imprisonment for not more than six months or both. Recognizing that in the lawful performance of their duties peace officers subject themselves, on behalf of the public, to greater dangers than other citizens, and thus need the protection of a somewhat greater statutory deterrent, this bill increases the penalty for assault and battery on a peace officer to a maximum fine of \$1,000 (with a minimum of \$100) or maximum imprisonment of one year or both fine and imprisonment. This modification of the penalty for the lesser included offense of simple assault and battery applies, however, only when the officer is acting in the line of duty and gives evidence that he is a peace officer; the bill states that a badge, identification card or uniform is sufficient evidence to identify a peace officer for the purpose of this statute.

Barry W. Jackson, Chairman

MEMORANDUM**State of Alaska**

TO: Honorable Barry Jackson, Chairman
House Judiciary Committee

THRU: Mel J. Personett, Commissioner DATE : January 21, 1970
Department of Public Safety

FROM: Captain R. L. Burton *RLB* SUBJECT: Legislation
Commander, Southeast Region House Bill 430
Alaska State Troopers Our File - 150

I have been asked to comment on House Bill 430 which would transfer the responsibility for Search and Rescue to the Department of Public Safety from the District Court System.

From a practical standpoint, I feel this is the only way to proceed.

This is more necessarily a police function due to the investigation required to determine the circumstances surrounding a disappearance and the deaths which often occur in cases of this type. Inquiry by the courts should be done as a judiciary proceeding based upon the investigation by the police. The way it is presently done requires the courts to participate in a non-judicial function and they have to take action in a matter that should be a responsibility of the executive branch.

This I feel creates a conflict of executive and judicial functions, i.e., when a case results into an inquiry by the use of a coroner's jury.

From an investigative standpoint, this present system quite often creates obstacles. As an example, a disappearance is reported to a magistrate in one of the outlying villages and the magistrate orders a local group of volunteers to conduct the search. This group may search for several days and in the end find either that there is no trace of the victim or recover the body.

At this time, it has happened that the police are required to start an investigation which has at best left a cold set of facts, or the police are never notified except when we read about the case in the newspaper.

This has happened particularly with the Coast Guard who have conducted searches, canceled the search, did not notify the police, and did not file a copy of their investigation with the court. There are actual cases of people who are missing and presumed dead of whom the court nor vital statistics have any record. What this does to the relatives and estates left by the deceased is certainly something that should not occur in today's society.

*don't know
about this*

I feel that Section 120 should be amended to require that all persons and agencies should be required to report the need for a search and the findings of their search efforts to the Commissioner even though this agency does not actively participate in the search.

} *Note*

The State Troopers do not have the equipment or manpower to physically conduct every search nor do I feel is this the intent of the law. However, I do feel that we should receive this information from agencies such as the Coast Guard. I feel that although their searches often take place in large open areas of water that this is still in the State of Alaska and the people are our citizens and we have a responsibility to take care of these matters and at least see that some record is made of a person's disappearance.

Presently we are attempting to operate along these guidelines but due to the rotation of personnel in the Coast Guard verbal agreements with one commander are quickly forgotten when he leaves.

We are presently responsible for payment of rescue funds to civilian groups but have very little control of the money expended or the equipment purchased.

I would also like to see a section added to the Bill which would give the Commissioner power to promulgate rules and regulations necessary to carry out the functions required in search and rescue (i.e. all non-expendable property purchased during a rescue mission would become the property of the state, property is to be inventoried and warehoused for use on future searches, etc.).

The rules and regulations should be under the Alaska Administrative Code and have the effect of law with appropriate penalty provisions.

cc: Honorable Bruce Monroe
Residing District Judge

Honorable Bill Ray
Representative

JUDICIARY COMMITTEE REPORT

ON

~~SS~~ HOUSE BILL NO. 430

This bill simply transfers the responsibility for relief and rescue operations from the district court to the Department of Public Safety. (Section 5 makes an additional, minor change in order to conform to this basic change.) It is believed that the existing statute unnecessarily imposes a non-judicial burden on the court, and that conflicts between administrative and judicial functions would be removed by this transfer of responsibility. The present system also poses problems for the police when a person's disappearance and death necessitate an investigation. Moreover, the Department of Public Safety has the staff and facilities to conduct these operations, which the court does not.

The Judiciary Committee amendment gives the department authority to promulgate regulations reasonably necessary to handle the relief and rescue responsibility, and declares that the violation of one of these regulations is a misdemeanor. It is anticipated that these regulations will be somewhat broader in scope than the ones promulgated under AS 18.60.130 for the guidance of the commissioner's designee in authorizing rescue parties and their expenses.

Barry Jackson, Chairman

1/28/70

Art

A M E N D M E N T

IN THE HOUSE

BY THE JUDICIARY COMMITTEE

TO: HOUSE BILL NO. 430

Page 2, between lines 23 and 24: Insert

* Sec. 5. AS 18.60.160 is amended to read:

Sec. 18.60.160. VIOLATION [FAILURE TO REPORT] A MISDEMEANOR.

A person who fails to report a disappearance under sec. 150 of this chapter, or who violates a regulation promulgated under sec. 175 of this chapter, is guilty of a misdemeanor.

Page 2, Line 24: Change "Sec. 5" to read "Sec. 6"

Page 3, Line 9: Insert

* Sec. 7. AS 18.60 is amended by adding a new subsection to read:

Sec. 18.60.175. REGULATIONS. The Department of Public Safety shall promulgate regulations necessary to carry out the duties assigned by secs. 120 - 170 of this chapter, specifically including regulations dealing with the handling of nonexpendable property purchased during a search or rescue mission. These regulations shall be promulgated in accordance with the Administrative Procedure Act (AS 44.62).



File
HB-432

Alaska Court System

State of Alaska

ROBERT H. REYNOLDS
ADMINISTRATIVE DIRECTOR
RAYMOND W. GREGORY
ASSISTANT ADMINISTRATIVE DIRECTOR
ERNEST Z. REHBOCK
LEGAL ASSISTANT

OFFICE OF ADMINISTRATIVE DIRECTOR
941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501

March 6, 1969

The Honorable Barry W. Jackson
Chairman, House Judiciary Committee
House of Representatives
Capitol Building
Juneau, Alaska 99801

Dear Representative Jackson:

When District Judge Bruce Monroe was in Anchorage last week he indicated to Chief Justice Nesbett that he had been requested to testify before the House Judiciary Committee concerning various proposals affecting the district courts, among which was that of increasing the civil jurisdiction of these courts from \$3,000 to \$10,000. The Chief Justice has requested that I state his position on the latter.

I enclose herewith a copy of a letter from Chief Justice Nesbett to Senator Ted Stevens, who was House Majority Leader last session. The various statistics and other comments made at that time are just as appropriate today.

In the closing paragraph of the Chief Justice's letter he pointed out that the present program of improving the caliber of our district judges has not been fulfilled. This is also true today, as the Judicial Council and the Governor were unable to secure sufficient qualified applicants to fill all of the vacant positions on January 1, the date when such would have otherwise been possible.

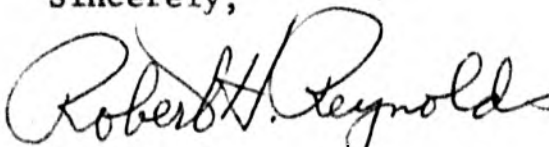
It should be pointed out that the caseloads of the presently constituted district courts are misleading as a gauge of the amount of work they do. In addition to cases filed in their courts, they serve as coroners and public administrators. They are also charged with the responsibility of supervising or actually performing the duties of recorder of public records. They are

March 6, 1969

further charged with maintaining and supervising vital statistics for the state of Alaska, and most of them from time to time hear Superior Court cases of all types in the capacities of special and standing masters of the Superior Court. The aforesaid administrative and judicial functions are not readily apparent in the statistical reports.

On the other hand, the case records of the Superior Court reflect almost all of the volume of work they perform. As the Chief Justice pointed out, it would therefore seem that if the object of raising the jurisdictional limits of the district courts was for the purpose of relieving the Superior Courts, it would be well to consider whether it is not a better policy to allot the more important jurisdictions to the more capable and experienced judges, and to increase the number of Superior Court judges where appropriate and where the caseload statistically demonstrates the need.

Sincerely,



Robert H. Reynolds
Administrative Director

RHR:pga



Supreme Court

State of Alaska

941 FOURTH AVENUE

ANCHORAGE, ALASKA

99501

BUELL A. NESBETT, CHIEF JUSTICE

JOHN H. DIMOND, ASSOCIATE JUSTICE

JAY. A. RABINOWITZ, ASSOCIATE JUSTICE

January 19, 1968

Hon. Ted Stevens
House Majority Leader
Alaska State House of Representatives
Capitol Bldg.
Juneau, Alaska 995801

Dear Representative Stevens:

This is a follow-up on our telephone conversation concerning HB 229 which would increase the jurisdiction of district judges from \$3,000 to \$10,000.

In order to determine the impact this legislation would have on district court calendars, a detailed analysis of the prayers of all complaints filed in the superior court in Anchorage for the months of January, June and November of 1967 was made. These figures were then related to the total filings in that court for 1967 to obtain approximately representative figures for that year.

The final figures obtained indicate that if HB 229 were enacted it would result in an annual increase in the case load of the district court at Anchorage of 448 cases. If the cases involving less than \$3,000 which are annually filed in the superior court, even though they might have been filed in the district court instead, are added, the above figure would be increased by 136 cases to 584 cases.

As of December 1, 1967 the total of the cases pending in the district court in Anchorage was 1490. The total of pending cases on January 31, 1967 was 1536. While it is obvious that the total of pending cases has been reduced by 46 over the period of a year, what is not obvious is the increased calendaring and trial effort made in that court throughout the year in order to cope with the backlog and keep the rate of disposition even with the rate of filing. Adding an additional 558 more important and difficult cases to the present backlog of the district court would appear to aggravate rather than alleviate the overall court calendaring problem for it would

January 19, 1968

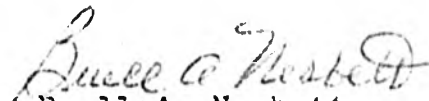
increase the number of pending cases per judge in the district court to approximately 500 per judge (there are only 4 available judges since 1 judge spends full time in city court) and at the same time decrease the number of pending cases per judge in the superior court to approximately 450. It is believed that approximately the same ratio would hold for Fairbanks.

Also to be considered is the fact that the superior courts of Ketchikan, Juneau and Nome are not in need of additional judicial assistance. The district courts in those cities are already far busier than the superior courts since they handle all minor cases for the city, borough and the state as well as arraignments, coroner duties, recording, etc. etc.

Another factor to be considered is the fact that, by and large our district court judges, outside of Anchorage and Fairbanks, are not suited because of a lack of either education or experience, or both, to handle the more important and complicated civil cases. For example, three of our district judges have had no formal legal training (Nome, Juneau and Bethel), four, including those just mentioned, are not members of the Alaska Bar. Many others are still very inexperienced (Ketchikan, Juneau, Sitka and Kodiak).

I strongly urge that HB 229 not be given serious consideration, at least until the present program of improving the calibre of our district judges has been fulfilled. Even then it would be well to consider whether it is not a better policy to allot the more important jurisdictions to the more capable and experienced judges and increase the number of superior court judges where appropriate.

Sincerely yours,


Buell A. Nesbett
Chief Justice

cc: Rep. Tom Fink
Rep. Gene Guess
Robert H. Reynolds



At-432

Alaska Judicial Council

941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501

February 4, 1970

The Honorable Barry W. Jackson
Chairman, House Judiciary Committee
Alaska House of Representatives
Pouch V, State Capitol
Juneau, Alaska 99801

RE: House Bill No. 432, An Act Relating to
Jurisdictional Amount in the District
Court (\$7,500)

Dear Representative Jackson:

Pursuant to your request of Thursday, January 29, 1970,
I am hereby outlining the Alaska Judicial Council's position on
the above numbered House bill.

At the morning meeting of the Judicial Council on
January 29, 1970, the Alaska Judicial Council passed the following
motion:

The Alaska Judicial Council hereby endorses, in
principle, the proposition of raising the mone-
tary jurisdiction of the District Court in Alaska
from \$3,000 to \$7,500, as provided in House Bill
No. 432 now pending in the Legislature of the
State of Alaska; provided, that such jurisdiction
should be concurrent with that of the Superior
Court.

It was brought to the Council's attention that there was
support in some quarters for exclusive jurisdiction of amounts up
to \$7,500 in the District Court. If an exclusive jurisdictional
feature were incorporated into the law, such would tend to diminish
the flexibility necessary for the Alaska Court System because of
the remote Court locations.

The Honorable Barry W. Jackson
February 4, 1970
Page Two

The Council considered that, with the necessary addition of Superior Court Judges now being considered by the Legislature, some such Judges might be located in areas not served by resident District Court Judges. In such situations, it is believed in the public interest that the Superior Court Judges might entertain cases involving less than \$7,500.

Furthermore, it was the Council's opinion that the Superior Court should have the authority to transfer such cases between the Courts, either up or down, whenever such might appear expeditious and in the interest of the administration of justice.

Sincerely,



Robert H. Reynolds
Secretary
Alaska Judicial Council

RHR/rgg

cc: The Honorable Terry Miller,
Chairman, Senate Judiciary Committee

The Honorable John H. Dimond,
Acting Chief Justice, Supreme Court

All Members, Alaska Judicial Council



District Court

State of Alaska

FOURTH JUDICIAL DISTRICT
604 BARNETTE STREET, ROOM 313

FAIRBANKS, ALASKA

99701

January 29, 1970

Benny Jackson
W. Kay

See Dictionary

Mr. Edmund Orbeck
House of Representatives
Alaska State Legislature
Juneau, Alaska 99801

Re: HB 432

Dear Ed:

The action proposed in HB 432 seems to be a substantial step in a positive direction. Whether the jurisdictional amount should be \$7,500.00 or \$10,000.00 (thus letting the normal whiplash auto injury case be tried in the district court), is a policy best left to the Bar Association and the Legislature.

Because of the tremendous number of cases that bounce from the district court to superior court and back again, sometimes five or six times, it occurs to me that the wording in section 22.15.030 could be cleared up quite a bit. Assuming for the moment a \$7,500.00 jurisdictional limit, might I suggest that section 22.15.030, except for subsections 5 and 7, and section 22.15.050 be eliminated and substitute in their place wording to the following effect:

"(1) All proceedings at law or in equity where the amount in controversy or value of any specific item sought to be recovered does not exceed \$7,500.00. In a forcible detainer case the total sum alleged to be due as rental and damages shall be deemed to be the amount in controversy."

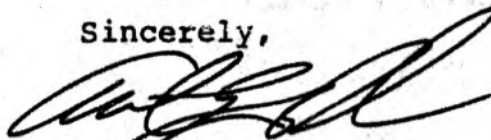
Mr. Edmund Orbeck
House of Representatives
January 29, 1970

Page Two

I would hope that a proposal such as this would greatly simplify our jurisdictional problems. In any event, I forward same in case it is of any use.

Many thanks for taking the time to consider my thoughts.

Sincerely,

A handwritten signature in dark ink, appearing to read 'A. L. Robson', written in a cursive style.

Arthur Lyle Robson
District Judge

ALR/bls

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

118 442
KEITH H. MILLER, GOVERNOR

POUCH S—JUNEAU 99801

February 2, 1970

The Honorable Barry Jackson, Chairman House Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Re: Inheritance Tax -

Dear Representative Jackson:

Pursuant to your request I am setting forth below a few of the problems involved in the existing Alaska State Inheritance Tax Act.

The existing inheritance and transfer tax statute (AS 43.30), was passed in 1919 and has had very little change since that date. At the time it was passed there were very few inheritance or estate taxes on the books of governments in the United States. This probably accounts for some of the vagueness and indefiniteness of the act. The act's vagueness makes the tax inequitable in its application and a nightmare to both the Department of Revenue and to attorney and accountants who try to understand it.

The Act as it has been administered in past years has been applied principally to property probated in court. However, the literal reading of the statute would apply to almost all types of transfers. Applying it to probate proceedings while allowing revocable trusts, insurance and joint tenancy property to escape the tax causes gross inequities. Attempts to apply it to other types of transfers causes an endless number of administrative problems and can result in harsh results since the state exemption is only a maximum of \$10,000 as compared to a \$60,000 or larger exclusion under the Federal estate tax law.

At the present time there is a case pending in the Superior Court in Anchorage which if decided adversely to the State would result in exclusion from the inheritance tax base of real property sold under contracts of sale. The effect of this would be to reduce the small amount of tax presently collected.

During the fiscal year ended June 30, 1969 only the sum of \$106,633.11 was collected from the inheritance and transfer tax.

The Department of Revenue has been under strong pressure from attorneys and accountants to change our law or set out more definite guidelines. Because of the indefiniteness of the law we do not feel that it is practicable to attempt to lay out any significant regulations which will bring stability in the area.

The Honorable Barry Jackson

-2-

February 2, 1970

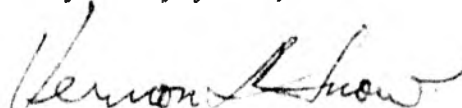
The existing law should either be completely repealed as was recommended in House Bill 442 or an entire new Act should be adopted.

If a new act is passed in lieu of the present law, it is recommended that the approach used by the State of Florida be used. The State of Florida has adopted the Federal estate tax concept with the amount of tax being equal to the Federal estate tax credit. If this act were adopted the State would have received during the fiscal year ending June 30, 1969 approximately \$6,969. This would have resulted in a decrease of State revenues of approximately \$100,000.

If the Florida approach is adopted practitioners would then file with the Department of Revenue a copy of the Federal estate tax return and pay to the estate the amount of the estate tax credit allowed under the Federal return.

By way of summary it is imperative that the present Inheritance and Transfer Tax chapter be repealed and a new Act adopted.

Very truly yours,


Vernon L. Snow
Deputy Commissioner

VLS/ge

Form SA-2
100M 7/67 ©

STATE OF ALASKA
Inter-Department Route Slip

TO: _____
DEPT: House Representatives

ATTN: Barry Jackson

<input type="checkbox"/> Approval	<input type="checkbox"/> Note & Return
<input type="checkbox"/> Signature	<input type="checkbox"/> Initial & Return
<input type="checkbox"/> Comment	<input type="checkbox"/> Return As Requested
<input type="checkbox"/> Contact Me	<input type="checkbox"/> Return For Approval
<input type="checkbox"/> Prepare Reply	<input type="checkbox"/> Necessary Action
<input type="checkbox"/> For Your File	<input type="checkbox"/> Your Information

Remarks:

From: Revenue Date 2-23-70

By: [Signature]

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S—JUNEAU 99801

February 23, 1970

The Honorable Barry Jackson
Chairman, House Judiciary Committee
Alaska State Senate
Juneau, Alaska 99801

Re: House Bill 442

Dear Mr. Jackson:

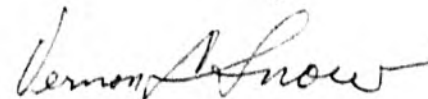
Enclosed herewith is a copy of a letter from Lewis J. Conrad, District Director, Internal Revenue Service dated February 4, 1970. It states that in 1968 and 1969 the Federal estate taxes in Alaska were \$291,000 and \$284,000, respectively. By the records of the Anchorage District Office the returns filed run from 10 to 20 per year.

Using the 1968 collections of \$291,000 in Federal estate tax and an average of 15 returns per year the average size of the taxable estate is \$95,500 with an average tax of approximately \$19,400.

The allowable estate tax credit for taxes paid to a state having an inheritance or estate tax on a taxable estate of \$95,500 is \$488. Multiplying that figure by 15 returns equals \$7,320. This figure approximates the figure of \$6,969 computed by our inheritance tax section from actual returns filed for the fiscal year ending June 30, 1969.

Based on the attached Federal estate tax schedule a taxable estate of \$1,040,000 would result in a Federal estate tax credit of \$38,800. (It should be noted that this is based upon a taxable estate of \$1,040,000 and any marital deductions or other deductions would have been taken).

Very truly yours,



Vernon L. Snow
Deputy Commissioner

VLS/ge
Enclosure as noted
cc: Representative Bill Ray
John Beard

US Treasury Department



District Director
Internal Revenue Service

P. O. Box 1500, Anchorage, Alaska 99501

February 4, 1970

Mr. Vernon Snow
Deputy Commissioner
State Department of Revenue
Pouch SA
Juneau, Alaska

RECEIVED
FEB 5 1970

DEPARTMENT OF REVENUE
STATE OF ALASKA
JUNEAU

Dear Mr. Snow:

The Commissioner's Annual Report shows that for 1968 \$231,000 was collected in Federal estate taxes in Alaska. Comparative figure for 1969 was \$284,000. By our records the number of returns filed will run from ten to twenty a year.

I hope this information is of some benefit to you.

Very truly yours,

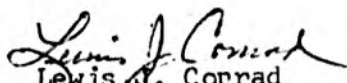

Lewis S. Corrad
District Director

TABLE A

COMPUTATION OF GROSS ESTATE TAX			
Taxable estate equal to or more than—	Taxable estate less than—	Tax on amount in column (1)	Rate of tax on excess over amount in column (1)
(1)	(2)	(3)	(4)
			(Percent)
0	\$5,000	0	3
\$5,000	10,000	\$150	7
10,000	20,000	500	11
20,000	30,000	1,600	14
30,000	40,000	3,000	18
40,000	50,000	4,800	22
50,000	60,000	7,000	25
60,000	100,000	9,500	28
100,000	250,000	20,700	30
250,000	500,000	65,700	32
500,000	750,000	145,700	35
750,000	1,000,000	233,200	37
1,000,000	1,250,000	325,700	30
1,250,000	1,500,000	423,200	42
1,500,000	2,000,000	525,200	45
2,000,000	2,500,000	753,200	49
2,500,000	3,000,000	998,200	53
3,000,000	3,500,000	1,263,200	56
3,500,000	4,000,000	1,543,200	59
4,000,000	5,000,000	1,838,200	63
5,000,000	6,000,000	2,468,200	67
6,000,000	7,000,000	3,138,200	70
7,000,000	8,000,000	3,838,200	73
8,000,000	10,000,000	4,568,200	76
10,000,000	-----	6,088,200	77

TABLE B

COMPUTATION OF MAXIMUM CREDIT FOR STATE DEATH TAXES			
Taxable estate equal to or more than—	Taxable estate less than—	Credit on amount in column (1)	Rate of credit on excess over amount in column (1)
(1)	(2)	(3)	(4)
			(Percent)
0	\$40,000	0	None
\$40,000	90,000	0	0.8
90,000	140,000	\$400	1.6
140,000	240,000	1,200	2.4
240,000	440,000	3,600	3.2
440,000	640,000	10,000	4.0
640,000	840,000	18,000	4.8
840,000	1,040,000	27,600	5.6
1,040,000	1,540,000	38,800	6.4
1,540,000	2,040,000	70,800	7.2
2,040,000	2,540,000	106,800	8.0
2,540,000	3,040,000	140,800	8.8
3,040,000	3,540,000	190,800	9.6
3,540,000	4,040,000	238,800	10.4
4,040,000	5,040,000	300,800	11.2
5,040,000	6,040,000	402,800	12.0
6,040,000	7,040,000	522,800	12.8
7,040,000	8,040,000	650,800	13.6
8,040,000	9,040,000	786,800	14.4
9,040,000	10,040,000	930,800	15.2
10,040,000	-----	1,082,800	16.0

ESTATE OF

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S—JUNEAU 99801

February 27, 1970

The Honorable Barry Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Juneau, Alaska 99801

Re: CSHB 442 - Inheritance Tax

Dear Representative Jackson:

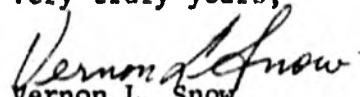
It is understood that some consideration is being given to deleting Section 2 (page 22, lines 3-9) of CSHB 442. Our views and reasons why that section is needed are set forth below.

It is important in repealing a law imposing an inheritance tax or estate tax that it is clear what the effective date is and how the estates of persons already deceased are to be taxed. For example, decedents A and B may both die on January 1, 1965. A's estate is probated and an inheritance tax of \$10,000 is paid to the state in 1965. The probate of B's estate was not started for several years and it is not yet closed and the inheritance tax has not been paid. Under CSHB 442 the Federal estate tax credit (the new tax) might be \$1,000. Is B's estate to benefit \$9,000 because of tardiness in probating and paying the estate tax? Using the date of death rather than diligence or tardiness in closing the estate is generally considered the fairest method.

Section 2 on page 22 of CSHB 442 also removes a second related question by removing any doubt whether the new act applies to estates of decedents who died before the effective date of the new act, but have not paid the inheritance tax. Are those estates completely exempt from tax? Since the point of incidence of an estate tax is the time of death, a strong argument could be made that since the old act is repealed it does apply and that the new act applies only to cases where the person dies after its effective date. Unless section 2 is included that group of cases may escape taxation completely.

The legislature may have definite reasons for using a particular effective date and may exclude certain periods from the tax. Whatever is decided in this regard it is suggested that the legislature's desire be made clear in order that the State and the taxpayer know what the law is.

Very truly yours,


Vernon L. Snow
Deputy Commissioner

VLS/ge

Enclosure: Copy of page 22 of CSHB 442

cc: John Beard

1 Sec. 43.30.430. SHORT TITLE. This chapter may be cited as the
2 Estate Tax Law of Alaska.

3 * Sec. ~~3~~. The provisions of this chapter apply to estates of decedents
4 dying after 12:01 a.m., Pacific Standard time, on the day after the effective
5 date of this Act, and estates of decedents dying before 12:01 a.m., Pacific
6 Standard time on the day after the effective date of this Act shall be taxed
7 in accordance with the statutes and laws of this state in force before that
8 date, which statutes and laws shall remain in force after the effective
9 date of this Act for this purpose.

10 * Sec. ~~3~~. This Act takes effect on the day after its passage and approval
11 or on the day it becomes law without approval.
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29

FISHER & HORNADAY

ATTORNEYS AT LAW

JAMES E. FISHER
JAMES C. HORNADAY

KENAI PROFESSIONAL BUILDING - P. O. BOX 397
KENAI, ALASKA 99611

HB-458
TELEPHONE
283-7565

13 February, 1969

~~Senator Terry Miller
Chairman, Senate Judiciary Committee
Pouch V
Juneau, Alaska 99801~~

Representative Barry W. Jackson
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99801

RE: Public Defender Legislation

Dear Senator Miller and Representative Jackson:

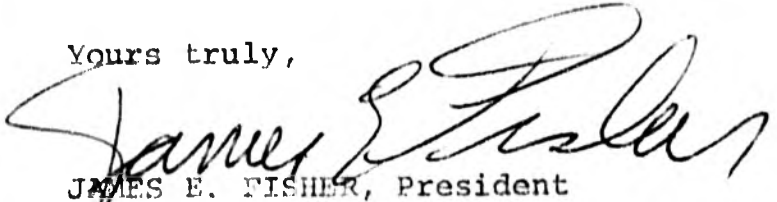
This is to advise you that the Kenai Peninsula Bar Association has designated as its official representatives the following persons who may have an opportunity to appear before your respective or joint committees on the subject of the "Public Defender" legislation:

James C. Hornaday	week commencing 17th day of February
J. D. Nordale	week commencing 24th day of February

This is to advise you that the designated members are representatives of the Kenai Peninsula Bar Association and authorized to act in our behalf as they deem appropriate at any committee hearings or other conferences held by the Alaska State Legislature.

Thank you for any consideration you may be able to extend to Mr. Hornaday and Mr. Nordale.

Yours truly,


JAMES E. FISHER, President
Kenai Peninsula Bar Association

cc: Executive Director, Alaska Bar Association
President Peter LaBate, Anchorage Bar Association

To
1-23-70

A M E N D M E N T

IN THE HOUSE

BY THE JUDICIARY COMMITTEE

TO: House Bill No. 458

Page 1, Line 10: Change "\$46,100" to read "\$51,100".

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER / POUCH M—JUNEAU 99801

March 16, 1970

The Honorable Jalmar M. Kerttula
Speaker
House of Representatives

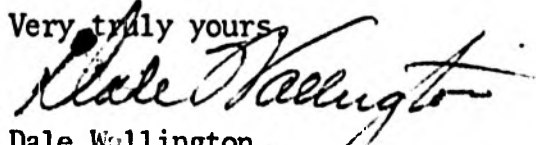
Dear Mr. Speaker:

House Bill 478, "an Act relating to mining leases", we believe is a good bill and should be strongly supported by those people interested in the State of Alaska. As the law now stands we have practically no means of preventing a mining leasee from setting on lease property forever without making a serious attempt to develop it. House Bill 478 would therefore serve to stimulate development on mining leases which is what we need to cure a rather sick industry in the State.

As background material, our present regulations require payment of \$100 per year or equivalent development work for a mining leasehold as an annual rental. A mining lease is of a maximum of 40 acres. Therefore a minimum rental or work is \$2.50 per acre. Work credits can be applied on one leasehold against a group of contiguous leases, therefore for a very small and yearly investment considerable acreage can be retained. If the period of a lease is for a ten year period, a leaseholder, if a lease were of any significance to him, would plan his exploration activity to bring it into production prior to his termination. We feel the new wording in the law would adequately protect a leasee from unreasonable termination of the lease once it was in production.

Under the present law one operator, for a minimum investment of \$1.00 per acre, can corner the market on off-shore mining leases and thus cut down the competition to a point where there would be no development unless he considered it of a benefit to himself.

Very truly yours,


Dale Wellington
Deputy Commissioner

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M—JUNEAU 99801

March 31, 1970

Representative Barry W. Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Juneau, Alaska 99801

Dear Mr. Jackson:

Prior to discussing the Department's support for House Bill 478 entitled "An Act relating to mining leasing", I would like to clarify for the benefit of the Committee several terms which may come up during the discussion of this bill. Section 38.05.205 concerns itself with the leasing of State lands on which locatable minerals are found. Locatable minerals in contrast to leasable minerals are primarily the metallic ores. Leasable minerals as spelled out in Title 38 are coal, phosphates, oil shale, sodium, sulphur, potassium and oil and gas.

Mining claims in contrast to a mining lease permits the rights to deposit of minerals on State land by discovery location and filing on State lands which, on January 3, 1959, were subject to location under the Mining Laws of the United States. A mining claim may be converted to a mining lease at any time the claimant desires by simply making an application to the Department for a mining lease. Mining leases on State lands for locatable minerals are similar to mining claims in that prior discovery, location, and filing initiates a prior right to the mineral deposits.

In contrast to claims and leases, mining permits are at the present time issued only on submerged lands of the State on the basis of the first qualified applicant. Such a permit gives the applicant the exclusive right to prospect for deposits of minerals on the tide and submerged lands of the State. Permits on submerged land may be converted to a noncompetitive mining lease following discovery.

The Department favors the amendment to Section 38.05.205 because we believe it will encourage development on State mining leases. As the statutes now

Mr. Barry Jackson

Page 2

March 31, 1970

read, we have practically no means of preventing a mining lessee from holding lease property forever without making a serious attempt to develop it. However, the Department does feel that ten years may be too short a time for the development of a mining lease because of the many intangible factors involved in producing these natural resources. In our opinion, a period of twenty years for mining leases on locatable minerals would be much more feasible.

Very truly yours,

Dale Wallington
Dale Wallington
Deputy Commissioner

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M--JUNEAU 99801

April 13, 1970

The Hon. Barry Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Juneau, Alaska 99801

Dear Mr. Jackson:

After doing additional research, I do not feel that HB-478 is worthy of your time and attention. The amount of acreage affected by the mining leasing law under the present statutes or under HB-478 is so minor that it presents no problem under the present law.

The State has selected very little land in the higher elevations where minerals normally occur and, therefore, these areas have not been classified for surface use. The mineral leasing law only affects those lands which have been classified for a surface use such as agriculture, forestry, public recreation, etc. The great majority of the State lands in the locatable mineral areas can be staked as claims and the rights, therefore, are protected without patent or lease. Only after the claim was brought into the advanced stages of production would it be feasible to go to the leasing system.

Very truly yours,

Dale Wallington
Dale Wallington
Deputy Commissioner

FORM SA-2
100M 6-66

STATE OF ALASKA
Inter-Department Route Slip

TO: _____
DEPT.: Legislative Affairs
ATTN.: House Judiciary Comm.

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information |

Remarks:

Office of the Commissioner
Health and Welfare Bldg.
From: Pouch "H"
Dept.: Juneau, Alaska 99801 Date 2/10/70
By: AMB

To file HB48
W. H. King
KEITH H. MILLER, GOVERNOR

DEPARTMENT OF HEALTH AND WELFARE

OFFICE OF THE COMMISSIONER

POUCH N - BUREAU 99001

MEMORANDUM

TO: Chairman, House Judiciary Committee
Chairman, House State Affairs Committee
Chairman, House Finance Committee

FROM: J. W. Betit, Commissioner
Department of Health and Welfare

SUBJECT: House Bill 483 - Fiscal Note

DATE: February 9, 1970

Attached is Fiscal Note relating to House Bill 483.

JWB/JFM/cyb
Attachment

cc: Chairman, Senate Finance Committee
Budget Not., Dept. of Admin.

The Legislature of the State of Alaska
 FISCAL NOTE
 First Session - Sixth State Legislature

COPIES: THE CHAIRMAN OF THE COMMITTEE MAKING THE REQUEST, POUCH V
THE LEGISLATIVE FINANCE COMMITTEES' STAFF, POUCH Y
THE DIVISION OF BUDGET & MANAGEMENT, POUCH C
RETAIN A COPY FOR YOUR FILES

subject HB 483 SB
 requested by Bronson
 referred to Judiciary date of request 1-19-70
 completion date requested _____ date received _____

EXPENDITURE DETAIL	FY	FY	FY
100 PERSONAL SERVICES	\$602,000	\$	\$
200 TRAVEL	6,800		
300 CONTRACTUAL SERVICES	101,200		
400 COMMODITIES	160,000		
500 EQUIPMENT	10,000		
600 LAND AND STRUCTURES			
700 GRANTS, CLAIMS & SHARED REVENUE	15,000		
900	5,000		
TOTAL	\$900,000	\$	\$

FUNDING DETAIL			
FEDERAL RECEIPTS	\$	\$	\$
SPECIAL FUNDS			
UNRESTRICTED GENERAL FUND RECEIPTS	900,000		
Man Months	408		
Permanent Positions	34		
Temporary Positions			

FISCAL ANALYSIS The proposed facility is envisioned as containing approximately 45,000 square feet of floor area. Such a facility should provide adequate housing for approximately 125 prisoners.

The personnel services required to staff such a facility would be based on the need to have 4.8 staff for each security post within the facility. A security post is defined as that post which requires staffing on 7 day a week 24 hour a day basis. This would require a minimum of 15 Correctional Officer I male and 7 Correctional Officer I female. These persons would be supervised by 5 Correctional Officer II's acting as shift supervisors. The administration segment of the institution would require a Superintendent and an Assistant Superintendent. The house-keeping functions would be supervised by a Cook and a Maintenance Mechanic III. A Secretary would provide necessary clerical support within the institution. Program would be handled by a Probation Officer II and an Education Specialist. Such a compliment would provide a facility similar to the regional facilities now operated by the State in Fairbanks and Juneau.

The remaining figures presented in the budget are extracted from known operating cost of the facility as envisioned and represent an approximate 10% increase over operating costs of the similar type facility in the Fairbanks area. No note is made as to the possibility of debt retirement connected with the capitalization of such a facility. Past experience indicates \$250,000 per year would be a realistic figure for debt retirement of a \$3,000,000 plant.

DATE 1-29-70

SIGNATURE *Thomas R. Branton*

NAME & TITLE Thomas R. Branton, Administrative Officer

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY

Pouch AE, Juneau, Alaska
99801

January 26, 1970

The Honorable Barry W. Jackson
Alaska House of Representatives
Juneau, Alaska 99801

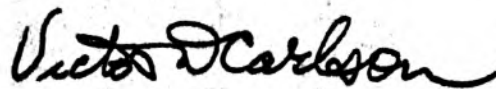
Re: House Bill No. 485

Dear Representative Jackson:

House Bill No. 485 is an act creating an Alaska Commission on Judicial, Legislative and Executive Remuneration. Proposed AS 44.19.895 states that among the duties of the commission are determining the appropriate salary levels for Legislators; Justices and Judges of all courts; and the Governor, Secretary of State, Commissioners and Deputy Commissioners of the principal administrative departments, and Directors of the major divisions of these departments. The question arises if the commission should not be empowered to determine the appropriate salary level for the Public Defender.

The Public Defender Agency is within the office of the Governor, however it is not a principal department nor is the Public Defender a director of a major division of a principal department. Your consideration of including the Public Defender as one of the state officials whose salary is determined by the commission is requested.

Very truly yours,



VICTOR D. CARLSON
Public Defender

VDC:rj

Pub. Defender

March 5, 1969

Hon. Chaney Croft, Member
House of Representatives
State Capitol Building
Juneau, Alaska 99801

Dear Representative Croft:

Your letter of March 1, 1969 was received, and in it you referred to a proposed budget for public defender legislation which I prepared at the request of Senator Terry Miller, Chairman of the Senate Judiciary Committee.

Before answering your specific questions, I must explain that the budget which I prepared for Senator Miller was a very rough estimate, prepared in haste due to immediately pending committee hearings. Since that time I have done a more detailed analysis of the various cost factors of the bill and can more adequately answer your questions and those of the respective judiciary and finance committees.

In my original program for personnel, which was not completely arbitrary, I estimated that nine attorneys would be required. They were to be located as follows: 2 in Juneau, 1 in Ketchikan, 3 in Anchorage, 2 in Fairbanks and one, the Chief Public Defender, not located in the submitted draft.

This was based upon the number of court appointed attorneys in the various locations during the calendar year 1968. They

Hon. Chancy Croft
March 5, 1969
Page two

were as follows:

Anchorage District and Superior	184 appointments
Juneau District and Superior	74 appointments
Fairbanks District and Superior	83 appointments
Nome District and Superior	19 appointments
Ketchikan District and Superior	39 appointments

The above represents a total of 418 appointments of counsel for indigent defendants. It is estimated that this will increase with the caseload at an average of 22% per annum, and should cover only those types of cases in which court now appoints counsel. By that we mean that the court appoints counsel normally in felony cases both for preliminary hearings and trials. Occasionally the court will appoint counsel in serious misdemeanor cases but this constitutes less than 5% of the total appointments.

In answer to your question as to whether the recovery factor of the bill would be important, we can only say that our experience in recovery has been almost nonexistent. The National Legal Aid and Defenders Program has also reported that this feature in public defender acts has been most ineffective.

As I intend to send a copy of this letter to both Senator Miller and Representative Barry Jackson, I might as well further clarify my estimate of rental of facilities for these agencies, inasmuch as I apparently overestimated this cost figure by a substantial amount.

Assuming that the Chief Public Defender's Office will require 700 square feet and that a maximum rental should be no more than 55¢ per square foot, his space should come to \$4,600.00 rather than the \$8,500.00 estimated. Assuming that the Anchorage office will need 1,000 square feet at 55¢ per square foot, this figure will come to \$6,600.00 as opposed to the \$16,000.00 estimate. Assuming that the Juneau office will require 750 square feet at 45¢ per square foot this facility should cost \$4,000.00 as opposed to the \$9,000.00 estimate. Assuming that the Ketchikan office will require 350 square feet at 45¢ per square foot, this item would be approximately \$2,000.00 as opposed to the estimated \$6,000.00. If the Fairbanks facility were to require 750 square feet at 55¢ per square foot, this cost would be approximately \$5,000.00 as opposed to the \$10,000.00 estimate. If it is necessary to have a facility at Nome then it should be figured roughly at the same cost rate as Ketchikan. It would, therefore, seem that I had overestimated the rental items in the proposed budget by some \$22,500.00. I would point out however, that if the office were expanded to provide representation to indigent misdemeanor defendants, then for every additional attorney and secretary there would be required an additional 250 square feet.

Hon. Chancy Croft
March 5, 1969
Page three

The aforesaid items are my own opinions gathered from my own somewhat limited research. However, I would not believe that they are very far off.

It is hoped that these additional figures will be of some benefit to you and the appropriate committees studying the public defender bills.

Sincerely,

Robert H. Reynolds
Administrative Director

RHR:np

cc: Senator Terry Miller
Representative Barry Jackson
Senator Vance Phillips
Representative Bill Ray

STATE OF ALASKA

HB 485

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY

Pouch AE, Juneau, Alaska
99801

January 23, 1970

The Honorable Barry W. Jackson
Chairman, Judiciary Committee
Alaska House of Representatives
Juneau, Alaska 99801

Re: Public Defender Agency,
Supplemental appropriation.

Dear Representative Jackson:

This letter is the report your committee requested January 22, 1970, concerning the bills for compensation of court appointed attorneys which are obligations of the agency pursuant to AS 18.85.130. The agency has requested a supplemental appropriation of \$46,100, \$15,000 of which is designated to pay court appointed counsel. The agency submitted its request for a supplemental appropriation on November 5, 1969.

On the enclosure is the list of outstanding bills, amounts, and to the best of my ability a listing of the dates the bills were received.

From the \$260,000 appropriation to the agency in the 1969-70 budget the following amounts for court appointed counsel have been paid: \$10,931.94 for appointments before July 1, 1969 and \$9,466.02 for appointments after July 1, 1969, for a total of \$20,397.96.

To date bills have been received but not paid in the amount of \$10,268.90 for appointments before July 1, 1969, and in the amount of \$5,744.50 for appointments after July 1, 1969 for a total amount owed of \$16,013.40.

The total of the bills which had been received but not paid when the request for a supplemental appropriation was submitted was \$3,343.93.

There are bills which have not been submitted, and it is impossible to estimate the exact amount which is outstanding.

If there is additional information which you or the members of your committee request, I shall try to furnish it promptly.

Very truly yours,

Victor D. Carlson

VICTOR D. CARLSON
Public Defender

VDC:rj
Enc.

UNPAID BILLS FROM COURT APPOINTED COUNSEL
AS OF JANUARY 23, 1970
Public Defender Agency

Date Rec'd	Attorney	Date Appt'd*	Client	Place**	Amount
10/30	Doogan	b	Ritter	J	\$ 250.00
10/30	Rice, et al	b	Bargas	F	312.50
10/30	Rowland	b	Seal	A	680.00
11/4	McVeigh	b	Brown	A	237.50
11/4	Benkert	b	Wedermyre	A	283.50
11/4	Wohlforth	b	Hentges	A	295.43
11/7	Buckalew	b	Kalmakoff	A	54.17
11/7	R. Erwin	b	Fields	A	1,077.58
11/7	Fenton	b	Born	F	130.00
11/20	Reasor	b	Lyon	A	55.00
11/20	Yeager	b	Malcolm	F	75.00
11/20	R. Cole	b	Youmans	F	100.50
11/20	Merdes	b	Bickers	F	95.00
11/21	Johnston	b	Mead	A	180.00
11/21	Christie	b	James	A	69.00
11/21	Christie	b	Scott	A	136.50
11/21	Burr	b	Bushey	A	20.00
11/21	Johnston	b	Balaguer #1	A	25.00
11/28	Biss	b	Lawrence	A	121.67
11/28	Hagans	b	Foster	A	21.25
12/4	Kennelly	b	Nichols	N	220.00
12/4	Walton	b	Kogler	A	970.00
12/10	Phillips	b	Grant	F	52.50
12/10	Johnston	b	Balaguer #2	A	72.50
12/13	Thorsness	b	Lokanin	A	540.75
12/23	Whiting	b	Nukapigak #1	F	100.00
12/26	Josephson	b	Andrews	A	290.00
12/29	Dickson	b	McAvoy	A	55.05
12/29	Wilson	b	Ramer	A	1,057.50
12/29	Johnston	b	Taylor	A	887.50
12/31	Houston	b	Outlaw	A	136.25
12/31	Moore	b	Roberts	A	286.75
12/31	Biss	b	Philo	A	28.75
12/31	Simpson	b	Alexander	A	30.00
1/8	Smith	b	Quick	K	18.30
1/8	Smith	b	Kahklen	K	148.33
1/8	Smith	b	Blackburn	K	101.66
1/8	Reasor	b	Lyon	A	55.00
1/8	Brundin	b	Wilson	A	450.94
1/14	Ellis	b	Bednar	K	12.91
1/14	Ellis	b	Brown	K	201.00
1/14	Ellis	b	Parrish	K	12.91
1/14	Ellis	b	Bernhard	K	164.90
1/19	Ziegler	b	Williams	K	85.00
1/19	Ziegler	b	Wiles	K	70.80
TOTAL BEFORE JULY 1					\$10,268.90

UNPAID BILLS FROM COURT APPOINTED COUNSEL
AS OF JANUARY 23, 1970
Public Defender Agency

Approx. Date Rec'd	Attorney	Date Appt'd*	Client	Place**	Amount
9/15	Stahla	a	Butler	K	\$ 1,285.00
12/4	Kennally	a	Ezukameow	N	280.00
12/7	Stahla	a	Melton	K	1,041.25
12/11	Friedman	a	Paquette	A	288.75
12/20	Bradley	a	McKee	J	280.00
12/22	Blanton	a	Martinez	J	787.50
12/23	Whiting	a	Nukapigak #2	F	320.00
1/8	Faulkneretal	a	Hollen	J	200.00
1/14	Ellis	a	Wardel	K	24.50
1/10	E. Williams	a	Kittrell	A	472.50
1/15	Gross	a	Chilton	J	472.50
1/19	Ziegler	a	DeWitt	K	292.50
TOTAL AFTER JULY 1					\$5,744.50
TOTAL UMPAID					\$16,013.40

* "a" Means appointed after July 1, 1969
"b" Means appointed before July 1, 1969

** "K" is Ketchikan
"J" is Juneau
"N" is Nome
"F" is Fairbanks
"A" is Anchorage

JUDICIARY COMMITTEE REPORT

ON

CS HOUSE BILL NO. 485

This bill establishes a nine-man commission whose members are appointed by the executive, legislative, and judicial bodies to review and recommend the salaries for the top officials in each of the three branches of government. The bill calls for the nine-man commission to be appointed within thirty days of the enactment of this bill and that said commission is to report to the Governor by November 10. The Governor may then make changes in the recommendation but the final recommendation shall be made public twenty days after receipt of the commission's report. The salary recommendations of the commission become law unless the House and Senate by a concurrent resolution turn down the commission's report within the first thirty days of the session.

This bill sets up a commission similar to and largely modeled upon the federal commission on federal pay scales.

In addition to this report, the commission shall make a report to the Governor and the Legislature as to its recommendations for pension and retirement programs for legislative, executive, and judicial officers. The pension and retirement recommendations are only advisory and would require action on the part of the Legislature and Governor to become law.

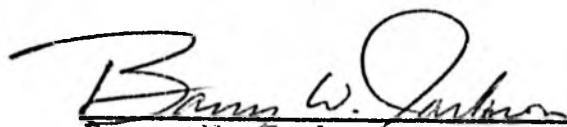
Barry W. Jackson, Chairman

Judiciary Committee Report

on

HOUSE BILL NO. 493

As required by the U. S. Supreme Court's decision in Shapiro v. Thompson, 394 US 618, 89 S Ct 1322, 22 L ed 2d 600 (1969), this bill deletes in five welfare provisions the requirement that the recipient must have resided in the state for a period of time before applying for assistance. The bill inserts in its place a requirement that the applicant intend to continue residing in the state.


Barry W. Jackson
Chairman
House Judiciary Committee

2/20/70

JUDICIARY COMMITTEE REPORT

ON

CS FOR HOUSE BILL NO. 494

This bill seeks to fill a gap in the existing law. There is presently a section dealing with simple assault and battery, and a section dealing with assault with a dangerous weapon, but no provision for the type of assault committed with extreme force but without what would usually be considered a dangerous weapon, such as shoes on a person's feet.

The original bill added the word "instrument" in the assault-with-a-dangerous-weapon section, and put the aggravated-assault provision in that section. The committee substitute leaves the word "instrument" in that section, deletes some language (distinguishing between jails and penitentiaries) which is inappropriate in the Alaska Statutes, leaves in that section the provision for a maximum penalty of 10 years imprisonment, deletes the minimum sentence, and proposes a new and separate section dealing with aggravated assault. The new section makes aggravated assault a felony, and, following traditional legal concepts, provides for a maximum penalty somewhat less than that for the more serious offense of assault with a dangerous weapon -- five years. Simple assault will still be a misdemeanor.

Barry W. Jackson, Chairman

Judiciary Committee Report

ON

CS HOUSE BILL NO. 496

The committee substitute provides that if any death, accidental or otherwise, occurs while perpetrating or attempting to perpetrate any of the crimes enumerated in Section B of the bill, any person involved in the perpetration of or in the attempt to perpetrate the crime will be guilty of first degree murder.

The original bill is more restrictive in that the death must have been caused by the person charged with first degree murder.

Harry W. Jackson
Chairman
House Judiciary Committee

Cleaning
Glazing
Repairing

Largest Resident
Raw Fur Buyers

Alaska
Parkas

File
418497

DAVID GREEN & SONS, INC.

130 FOURTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE: BR 5-4774

Furs
OF DISTINCTION

March 5th, 1970

Representative Genie Chance
Juneau,
Alaska

Dear Genie:

Enclosed is a bill and letter which are self-explanatory. What is our country coming to when people who have a conflict of interest, which is so obvious in this case, have the temerity to introduce laws of this sort? I really think it's scandalous. I think Mr. Borer, if anything, should be recalled. No wonder, the young people are creating havoc in our country today. They want a new deal and an honest deal. I know and trust that you will take this matter and consider it in a fair and judicious manner and see that this bill should not even get off the ground, let alone be even considered. Several hundred business people in this city alone, have already contracted for this credit card. Not only do they carry BankAmericard, but American Express, Standard Oil, Texaco and many others. You name them, everyone has credit cards. Who is this brilliant Statesman of the twentieth century introducing such an irresponsible bill? No wonder our country is in ferment and in some respects in rebellion, when people of Mr. Borer's character can introduce such obvious conflict of interest bills. By the tone of this letter, you can see I am really angered and in some ways saddened, that this man is permitted to legislate.

I hope that you will pass this around to several good thinking people who are fair minded as well.

Best regards and keep up the good work.

Regards,

Disse
David Green

P.S. By the way, I am disappointed that the abortion

BEAUTIFUL FUR COATS - STOLES - PARKAS - SPECIAL CUSTOM FURS
SERVING ALASKANS SINCE 1922 IF YOU DON'T KNOW FURS, KNOW YOUR FURRIER

bill did not pass. At least they should have left it up to the judgement of the people. No wonder Mr. Begich did not get elected to the Congress. Remind me not to vote for him in the future and or support him. I did not realize until now, who Mr. Begich really was (very little).

February 11, 1970



CENTER, INC.

P. O. Box 4-U, Anchorage, Alaska 99503 - Phone 279-5544

TO: All Alaska BankAmericard Merchant Members

FROM: E. O. Hansen

I am sending you a copy of House Bill # 497, introduced by Representative Richard Borer, of Cordova. Representative Borer is the Chairman of the Board and President of the First Bank of Cordova. Regrettably, the First Bank of Cordova is not on the BankAmericard plan, although they had certainly been invited to join. In any event, particular note should be made of the discriminatory bill, which, if passed, would be detrimental to every retailer in Alaska wanting to offer a charge account plan to his customers. The bill just recently left the committee after deleting the word "bank" as a facility advancing funds or discounting against merchant's accumulated receivables. This bill, while it is probably designed to reduce the competitive pressures by those offering strong charge account programs for the benefit of their own retailing establishments or member merchants, would put credit out of your business reach. Credit has become an inseparable part of our merchandising economy—the consumer needs it now more than ever, considering the credit crunch. For the number of benefactors of this special interest bill, probably fewer institutions than you can count on the fingers of one hand, they want to reduce, through such a proposal, the level of the economy down to their own low competitive level; they have struck out at any kind of credit or credit facility available to the Alaska consumer public through its local merchants.

I showed the unamended bill to several bankers and local retailers, after having received my copy. Their immediate and unanimous reaction was "ridiculous", "discriminatory", and even "ludicrous". Regardless of whatever you choose to term it, it actually got out of one committee with a "do pass", with one minor amendment designed to affect every credit grantor, be it a retailer, a national or local card plan, a bank accepting a pledge of your receivables. But most adversely effected will be the retailer, the Alaska retailer, and the Alaska consumer, both in serious need of credit. Every kind of credit has its price, be it called a discount, interest rate, a service charge, or a fee. Those rates are changed by the local, national, and world wide competitive forces of supply and demand. If the available rate is legislated against, the supply simply diminishes.

We urge that you contact your legislators in Juneau and emphasize that this bill and bills of its type are not in the interests of Alaska business or the consumer public.

K9-8

STATE OF ALASKA

KEITH W. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY

Pouch AE, Juneau, Alaska

January 26, 1970

PERSONAL

The Honorable Barry W. Jackson
Chairman, House Judiciary Committee
Alaska House of Representatives
Juneau, Alaska 99801

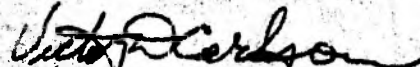
Re: House Bill No. 522

Dear Representative Jackson:

The subject bill would expand the composition of the Governor's Planning Council in the administration of Criminal Justice to include a justice of the supreme court or a judge of the superior court. Among the components of the system which administers criminal justice is defense counsel. Your consideration of amending AS 44.19.738(b) to include the Public Defender is requested.

Thanking you for your consideration of this matter, I am

Very truly yours,


VICTOR D. CARLSON
Public Defender

VDC:rj

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

February 26, 1970

MEMORANDUM

TO: House Judiciary Committee
FROM: Hayden Kaden, Legislative Counsel *HK*
SUBJECT: Constitutionality of HB 533

It is my opinion, based on a very limited amount of research, that there are possible constitutional problems which could be raised in regard to this bill. The issue here is whether the effect of this bill is to place qualifications on the holding of legislative office in addition to those qualifications provided for under Art. II of the Alaska Constitution.

"The holding of public office is a privilege which is extended upon such conditions as the people in their sovereign capacity may decide. Ordinarily, holding public office is not an inalienable right guaranteed by the United States or Alaska Constitutions. However, the state legislature may not change the qualifications for a public office where the state constitution has not specifically provided that the legislature has the power to change or add to the qualifications. In such cases eligibility for these offices is a constitutional right." (1963 Opinions of the Attorney General No. 6.) There is no authority in the Alaska Constitution for the legislature to change the qualifications for holding legislative office.

The cases researched seem to give effect to the legal maxim: "expressio unius est exclusio alterius." (The mention of one thing implies the exclusion of another thing.)

Although I came across no cases directly in point with the statutory provisions in HB 533, there is one case which dealt with a similar statutory provision. In Burroughs et al. v. Lyles, 181 SW 2d 570, the court determined that a statute providing that no person elected or appointed to an executive or administrative public office for a term of more than two years may be eligible for nomination or election to another office the term of which begins before the expiration of the term of the original office unless he first resigns was void as imposing an additional test of eligibility than is prescribed by the constitution.

The Burroughs case like all of those researched deals with the qualifications to hold office. "Qualification" seems to mean the same as and

is used interchangeably with "eligibility". The implication being that all that is spoken to is the seeking of office and not the qualification or eligibility to continue to hold office. However, it is doubtful that this implication is one which would distinguish the situation under HB 533 from that under Burroughs.

Art. II, sec. 2 of the Alaska Constitution sets out the qualifications for a legislator: "A member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office. A senator shall be at least twenty-five years of age and a representative at least twenty-one years of age." Sec. 5 of the same article sets out disqualifications for legislative office: "No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention."

Because the Constitution has set out the qualifications and disqualifications of legislators and has not provided for legislative change or addition to these qualifications and disqualifications, none may be made by the legislature. The issue then revolves around whether providing for the automatic resignation of a legislator who files for statewide office is an additional qualification or disqualification. Because I found no cases directly in point, I could not resolve this issue satisfactorily. It is my personal opinion that this is an additional qualification, i.e., in order to serve a complete term a legislator may not be a statewide candidate; or it is an additional disqualification, i.e., a legislator is disqualified from continuing to hold office by filing for statewide office.

Under the present operation of the constitution, no legislator may hold any other office or position of profit under the United States or State. Therefore if elected to a statewide office, a legislator must resign his legislative seat. Sec. 5, art. II provides further that sec. 5 does not prevent any person from seeking or holding a statewide office. The implication is that a legislator may seek statewide office while holding his legislative office without having to resign if he loses the statewide election.

Another approach to a resolution of the issue is to determine the intent of the Constitutional Convention in drafting sec. 5, art. II of the Alaska Constitution. The original language for sec. 5, relevant to the issue at hand, as proposed by the Legislative Branch Committee was as follows: "No legislator or other elective or appointive officer of this state shall file or run for election to any other state office until his services have been terminated, but a member of one house of the legislature may be nominated and elected to the other house."

February 26, 1970

(Part 6, Alaska Constitutional Convention Proceedings, Committee Proposal No. 5, p. 2.) This language clearly provides that a legislator must resign before he can run for any other state office. On the floor of the convention, the sentence was further amended to add "or the Congress of the United States" after the word "office". The discussion on the floor on the section showed clearly that the intent of the body was to prohibit a legislator from retaining his seat while running for statewide office. (pp. 1581 - 1587, Alaska Constitutional Convention Proceedings)

Unfortunately, the language quoted above, which would have disposed of the issue at hand, was left out of the final draft of the Constitution. We are left to conjecture as to the reason for this. I could find no discussion on the deletion of the wording. This could mean several things, including the following: (1) an oversight occurred on the part of the convention; (2) the language was removed by the style and drafting committee because it was felt that the language as it presently reads does the same thing as the original proposed language; or (3) it was intentionally deleted because the convention had second thoughts on the whole matter and decided to allow legislators to run for statewide office while holding their legislative seats. I believe that (2) could not have been what happened since no reasonable reading of sec. 5 could be held to prohibit a legislator from running for statewide office and retaining his seat.

Therefore, in regard to the constitutional issues raised in this memorandum, I have been unable to resolve them satisfactorily either way. Without more extensive research, I feel unable to either conjecture or speculate on a satisfactory disposition of the constitutional issues raised by HB 533.

HK:1c

Court _____, room _____,
_____, Alaska.

3. Mail or deliver copies of the form to the plaintiff or his attorney. (See above).

4. Mail or deliver a copy of the form to any person having possession of any property you claim as exempt. For instance, your employer, if you claim that your wages are exempt.

If these steps are followed within fifteen (15) days of the date you received this notice, the property you claim as exempt will not be disposed of. You will then be notified that a hearing will be held to determine whether the property is exempt.

Explanation of Exemptions:

The form is used only to claim an exemption as to property stated in the Writ of Execution.

If the property stated in the writ of execution includes any of the following items, fill out the forms and deliver or mail copies as explained above.

The first item on the form, A.1., should be checked and filled in if the writ of execution states that your wages, or other money owed to you, is to be attached. A single person may keep \$200 after taxes, in any thirty (30) day period, the head of household may keep \$350 after taxes. Therefore, add all the money you have earned, even if you haven't been paid, from all sources in the last thirty (30) days.



[Handwritten signature]
To Mar 10
Special Item

District Court

State of Alaska

FOURTH JUDICIAL DISTRICT
604 BARNETTE STREET, ROOM 313

FAIRBANKS, ALASKA
99701

March 6, 1970

Mr. Barry W. Jackson, Chairman
House Judiciary Committee
Juneau, Alaska 99801

Re: H.B. 571 - Requiring jury instruction in district court

Dear Barry:

The purpose of H.B. 571 is excellent; you've known my opinion about instructing juries for a long time.

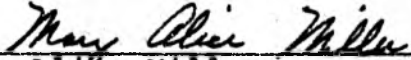
But the rules referred to have not been the "Magistrate Rules" since about 1967, they are the "District Court Rules", despite the failure of the Michie Company to show the change except spottily. See, for instance, Rule 7 of the District Court Rules regarding sentence appeals, and Order No. 101 of the Supreme Court promulgating Rule 7. "District Court" should be substituted for "Magistrate" throughout the bill.

I believe that magistrates should not be empowered to instruct. The magistrates need have no education or training for their jobs, and at best, three or four of them could instruct adequately. The rest would do incredibly bad jobs. If the defendant consents to trial before a magistrate, the magistrate may try the case, with a jury. (AS 22.15.120)

I would like to hear recordings of how the consents are obtained. One hears about the magistrate who places the defendant under oath, questions him about the charge, then enters a plea based on those answers. One hears about the magistrate who clears the courtroom of the defendant's friends before taking up the case against him--and other stories, probably not fabrications.

What I am actually proposing, I suppose, is the repeal of sub-section 6 of AS 22.15.120. I think that all misdemeanors other than local ordinance violations should be tried by a traveling district judge, and the Rules of Administration provide for just that.

Sincerely yours,


Mary Alice Miller
Mary Alice Miller
District Court Judge

cc: All members, House Judiciary Committee.

March 6, 1970

The Honorable Buell A. Nesbett
Chief Justice, Supreme Court
941 Fourth Avenue
Anchorage, Alaska 99501

Subject: HB-571 - An Act amending rule 1(j) of the
Magistrate Rules of Criminal Procedure

Dear Justice Nesbett:

The House Judiciary Committee has had HB-571 under consideration. It is the opinion of the committee that judges in district courts should instruct juries, but that this change should be accomplished by the court through amendment of the court rules rather than by legislation.

Sincerely,

Barry W. Jackson
Chairman
House Judiciary Committee

BWJ/mm

3/2/70

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 582

This bill is primarily a response to the Alaska Supreme Court's decision in Speidel v. Alaska, 460 P 2d 77 (1969), which held a portion of AS 28.35.026(b) unconstitutional. In dealing with the failure to return a rented motor vehicle, the bill changes the definition of "wilfully neglects" to require the element of conscious action, and makes one who wilfully neglects to return a vehicle guilty of a misdemeanor, while retaining the felony provisions for a person who fails to return the vehicle and "secretes, converts, sells or attempts to sell" it.

Barry W. Jackson, Chairman

HB 587

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

April 29, 1970

Barry:

Your CS for HB 587 is attached. It adds a section providing for boroughs setting closing hours for licensed premises. It does not, however, include in sec. 3 (AS 04.10.300) the exception of third class boroughs. The request to put that in appears to be based on the assumption that third class boroughs do not have authority to approve liquor licenses inasmuch as this might be considered a non-areawide power. However, AS 04.10.270 (as amended last year) authorizes organized boroughs to approve liquor licenses. Presumably this is an authorization irrespective of the non-areawide limitations on second as well as third class borough powers under AS 07.15. I discussed this with Greg who says he raised the point last year; however, the bill, as enacted, remained silent on the relationship between AS 04 and AS 07. (Perhaps AS 04.10.270 should be amended to clear this up.) At any rate, if a third class borough does have the authority to approve liquor licenses there would seem to be no reason why its residents should not have the right to protest the issuance under AS 04.10.300. And if a third class borough does not have that authority there would seem to be no need to mention its residents in AS 04.10.300.

A.
Art

6/6/70

HIS-591-

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE RESOLUTION NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 Relating to the issuance of liquor
6 licenses.

7 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES:

8 That it is the sense of the Alaska House of Representatives that when
9 a city has not prohibited the sale of alcoholic beverages under the local
10 option election provisions of AS 04.10.430 or AS 29.25.380 -- 29.25.410 and
11 has itself obtained a liquor license and has established by resolution a
12 policy of opposition to privately owned liquor establishments, it is not
13 "capricious or arbitrary" for the city council to recommend to the Alcoholic
14 Beverage Control Board, under AS 04.10.270, that the application for a
15 liquor license by a private person be denied.

WILLIAM R. WOOD
PRESIDENT



UNIVERSITY OF ALASKA
OFFICE OF THE PRESIDENT
COLLEGE, ALASKA

4B 610
May 9, 1970

Representative Barry W. Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Dear Representative Jackson:

When I appeared before the Judiciary Committee earlier this week concerning House Bill 610, you requested that I report to you any developments at the University in relation to personnel management that might be pertinent. I asked Mr. Max Hullinger, Vice President for Finance and Comptroller, under whose direction the Central Personnel Office has been established, to check into what is being undertaken on campus, and what has been established since the adoption of the Cresap, McCormick and Paget report on management, copies of which were made available to the Legislature in the Spring of 1968.

His report indicates that considerable progress has been made with further arrangements of improvement in process. Mr. Hullinger has just come to us after serving ten years at Purdue University in the capacity of Comptroller, and since he has an excellent background in personnel management matters, including fringe benefits, I am looking forward to giving him an opportunity to study the University of Alaska situation in depth, and to suggest modifications, in the next several months.

I am confident that the University's present personnel management program is a good one for our particular situation, and that it certainly can be and will be improved.

Sincerely yours,

William R. Wood
President

WRW/kb
encl.

Recognizing the need to improve the personnel policies and practices of the University, the Board of Regents contracted with the management consulting firm of Cresop, McCormick and Paget to evaluate its programs.

The report dated January, 1968, indicated the following:

- 1.) There was no personnel office for the nonacademic employees.
- 2.) Limited recruiting services were available and most operating departments on campus hired their own personnel.
- 3.) Vacation and sick leave policies were inconsistent and varied between classification of staff and period of appointment.
- 4.) The University contributed \$5.50 per month for each employee towards the premium on the health and accident insurance.
There was no life insurance program.
- 5.) Secretarial, technical and clerical positions were classified under similar State of Alaska job classification and were compensated accordingly. Manual craftsmen and NARL were compensated under a separate classification scheme. However, there were few written job descriptions, and minimal effort to relate job classifications to the requirements and responsibilities of the individual job.

The University of Alaska's unique environment makes unusual demands on personnel and has a direct effect on the personnel turnover rate. The high wage level in Alaska, particularly in Fairbanks, requires that the University make a particular effort to achieve the maximum productivity from its personnel. The following significant improvements have been either implemented or recommended:

1.) A Director of Personnel Services and a personnel office was established and assigned responsibility for the development and implementation of a complete program of personnel administration for the University and fulfill the following functions:

A. Develop and maintain a manual of uniform personnel policies and procedures.

B. Conduct a program of job evaluation to classify positions according to their duties and responsibilities.

C. Develop and present a nonacademic employee compensation plan and conduct periodic compensation surveys for use in revising the plan.

D. Conduct a central recruiting service for all vacancies in accordance with approved employment standards and job specifications.

E. Establish and maintain central personnel records.

F. Counsel employees concerning personnel policies, practices and programs.

- 2.) The Board of Regents at its meeting May 15-17, 1969, recommended "that the Assembly and the administration initiate a study in depth of the present program of 'fringe' benefits and submit a report for desirable additions and modifications for the Board's consideration. Whatever such benefits may be, they should be related to the salary program. Attention should be given to technician and classified grades, as well as to professional ranks."
- 3.) A new and improved employee health insurance was developed and implemented with an increase in the University contribution from \$5.50 to \$10.00 per month per enrolled employee.
- 4.) A life insurance program was implemented with the University contributing 50 cents per month per enrolled employee. In their October, 1969, meeting the Board of Regents increased this contribution to \$1.00. This amount purchases \$2500 of insurance with the option of the employee purchasing up to the highest thousand of his annual salary. The combination of the two cannot exceed \$20,000.
- 5.) Uniform treatment of all employees both professional and classified in respect to staff benefit.
- 6.) Establishment of a grievance committee for the physical plant.

- 7.) The Policies and Curriculum Committee of the University Assembly, chaired by Dr. K. B. Mather, has submitted their report entitled "Goal and Planning at the University of Alaska" which recommends general improvements in the various policies and procedures relative to personnel programs.
- 8.) The Fringe Benefits Subcommittee of the University Assembly is in the process of conducting a poll of all employees to determine their fringe benefit preferences. Results of this study will provide the committee with sufficient information to develop a fringe benefit proposal for consideration by the assembly, after which it will be forwarded for consideration and approval by the Board of Regents.
- 9.) The University Assembly considered and passed a recommendation to increase the period of time that an employee has to use his accrued annual leave once the maximum has been accumulated.

In addition, the Vice President for Finance and Comptroller, recently employed, has been delegated the responsibility to recommend improvements in the staff benefit and personnel procedures for the University. In the process of being implemented are:

- 1.) An affirmative action plan for the equal employment opportunity program.

2.) Formalized procedures for termination of and handling grievances of University classified personnel.

Another program being developed is a Classified Personnel Advisory Committee composed of employees from the non-professional staff, chaired by the Vice President for Finance and Comptroller and with the Coordinator of Personnel acting as Secretary. The Vice President for Finance and Comptroller will represent this group in the Assembly.

A University is a center of learning, new ideas and concepts. It strives for equal opportunity for all employees. To single out one group of employees of the University and place them under a different system of selection, promotion, training and compensation outside the control of the corporate administration would greatly reduce their flexibility, authority and operational capacity.

We have been improving our personnel policies and other than offering more days of vacation, a shorter work week and higher pay, have for the most part developed an adequate personnel program for classified employees that is equal to that being provided to similarly classified state employees and, more important, one that is compatible to the program which is being provided to other staffs of the University.

Re H0610

Report of the University Policies and Curriculum Committee,
University Assembly, University of Alaska

GOALS AND PLANNING
AT THE
UNIVERSITY OF ALASKA

Volume 1 -- DISCUSSION



University of Alaska

March, 1970

Geophysical Institute
University of Alaska
College, Alaska
March 1, 1970

Dr. Bruce Gordon
Vice Chairman, University Assembly
University of Alaska
College, Alaska 99701

Dear Dr. Gordon:

Attached herewith is the report of the University Policies and Curriculum Committee entitled 'Goals and Planning at the University of Alaska'.

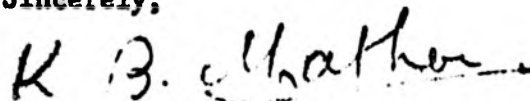
The report is in two parts, Volumes I and II. Volume I, the background discussion, has not been read or approved by other members of the committee, although several members contributed the material for substantial portions of it. In another sense, however, it represents a much more comprehensive view than any one committee could contribute, having drawn from a wide range of campus opinion as well as much that has been written about universities and their problems. Volume I does not call for any action by the Assembly. To make it part of the documentary record of the Assembly would be appropriate, however. (I will also place on record the file of all substantial comments received from members of the staff in response to the two 'working papers' of the committee which were distributed during 1969. Some of these comprise significant 'minority reports' on one aspect or another.)

Volume II lists the specific recommendations drafted by the committee as a whole. We commend these to you and trust that they will be brought before the Assembly for action in the near future.

On behalf of the committee(s), may I remark that the assignment has been an informative and challenging experience for all concerned. Needless to say, the present document is a progress report rather than making any pretensions to finality; many issues have been left unexplored and time will, of course, evolve a multitude of new issues and problems. An academic institution without problems would be dull indeed! Next year's committee will find plenty of work.

With my personal thanks to you for the inestimable worth of your encouragement throughout,

Sincerely,



Keith B. Mather, Chairman
Policies and Curriculum Committee

KBM/afs

the computer is to exert one of the profoundest effects on the civilization (comparable perhaps with the discovery of electricity and evolution of the electrical and electronic technologies), behooves the University to match the pace of developments--and to lead in Alaska.

15 Matters Relating to Non-Professional Staff

The non-professional staff tend to be the forgotten people of the campus--and the semi-professionals tend to be semi-forgotten. Yet without them the campus would be chaos. To be without one's secretary for a day is hardly to be compared with dispensing with two professors! If the senior technician is home sick the equipment is probably sick too. When the drain stops up the whole place is uninhabitable until the plumber arrives. The non-professional employees of the University of Alaska are not only an essential part of the community (besides the administration, faculty and students), they are also far more numerous than the administration and faculty combined and they constitute a large percentage of the annual salary budget. Figures for the University are as follows:*

Professionals	446	(34%)
Semi-professionals	83	(6%)
Non-professionals	393	(30%)
Part-time & hourly	395	(30%)
Total	1,317	(100%)

The faculty and administration thus account for about a third of the University employment. In terms of budget, the combined semi-professional and non-professional segment comprises about 40 percent of the total annual payroll (\$12.2 million).*

Although non-professional employees are not represented on the Assembly-- and rightly so; its Constitution provides "official representation for all professional members of the staff, students, and alumni"--some consideration of policy affecting them is permissible because (again quoting the Constitution) the Assembly is concerned with "matters which affect the general welfare of the University," and the non-professional staff certainly does. (They probably affect it much more than the alumni do, although the latter are represented on the Assembly.) At present, non-professional employees have neither spokesman nor representation in any way in the University system. *

* Figures supplied by the Comptroller's Office (A. B. Frol) as of September, 1969. Exact numbers will fluctuate somewhat month by month, especially in the (non-contract) non-professional and part-time categories. No attempt has been made to reduce the part-time to equivalent full time. The intent is merely to display the numbers of persons having involvement with the University as employees.

Beyond sensing the need for more attention to this area and suggesting a few pointers to future action, the Policies and Curriculum Committee has not considered itself competent to explore the issues in depth. A more specialized committee might well look into it, either on behalf of the Assembly or the administration--or jointly. The following points, set forth in note form, have come to mind:

(i) Non-professional employees might fare better and treatment in various sections of the campus might be more equitable if some sort of representative body existed. Essentially, they need a spokesman and a channel through which to voice their opinions.

(ii) Conditions of hire need to be more clearly defined in many areas of campus employment. Job descriptions would be helpful. (This and related aspects are referred to in the Cresap, McCormick and Papet report.)

(iii) Overtime work receives different treatment in different administrative units. To some extent this involves the source of funds, e.g. grants and contracts must contain specific clauses to the effect before overtime can be paid. A special problem involves field work and travel, when a man may be 'on the job', at least in principle, continuously.

(iv) The difference in treatment of professionals and non-professionals working side by side on the same job can cause friction. The non-professional is eligible for overtime payment or compensatory time, but the professional is not.

(v) University regulations on compensatory time are unrealistic. The requirement that a person take compensatory time during the following week is absurd; intensive programs may last several weeks (or even months) and the person cannot be spared.

(vi) In general, salary scales of non-professional employees need to follow closely the scales of non-university employees of similar skills, e.g. the State classified scale for local trades and crafts. These employees are generally among the lower-paid persons on the campus and are most vulnerable to the impact of a rising cost of living. However, across-the-board adoption of the State scale can be disadvantageous to the most skilled University employees, for which the State scale fails to make provision. Highly specialized technicians (e.g. logic circuitry) are most affected by this.

(vii) The University could apply the semi-professional contract more widely than it now does.* The employment security of the most senior non-professionals is, in fact, comparable with that of the faculty,

*Just what
HB
610
attempts
to do.*

* It is understood that an ad hoc committee has been established by the president to clarify the terms of semi-professional ('notice of appointment') contracts--such matters as eligibility criteria, salary scales, fringe benefits, etc.

and a contract would give them recognition and added status--and avoid the restrictive (and often inapplicable) State pay scale. This would also avoid overtime and compensatory time problems.

(viii) Some administrative units adopt a liberal policy towards allowing its employees (professional and non-professional) a limited amount of time off to attend classes, without loss of pay. The policy should be revised and standardized--in the direction of liberalism. That an employee sees fit to advance his education is in the interests of the University, and it can also amount to a significant fringe benefit.

(ix) The retirement program in effect for non-professionals is less advantageous than the Teachers' Retirement System for professionals (e.g. a surviving spouse does not benefit).

(x) Non-professionals have no equivalent of tenure. Should there be a non-academic freedom to match academic freedom? And does 'due process' extend to the non-professional ranks? Admittedly the cases are different, but the point warrants a little thought.

(xi) For the senior, tried and trusty servants of the University, should some sort of equivalent of the sabbatical leave scheme be contemplated? There are many walks of non-professional life for which a year or so of 'self renewal' would be beneficial to the individual and the institution. As a start, for example, sabbaticals might be extended to the semi-professional staff.

(xii) Medical costs can be extremely burdensome, and severest upon the lower-paid non-professionals. All full-time employees are, of course, eligible to participate in the University's Group Insurance Plan, but this has limitations. The eyes and the teeth are not generally treated as part of the anatomy, so dental and optometric expenses are excluded. However, some bidders on the University's plan have been willing to include dental and optometric care at a rate which adds about 80% to the monthly premiums of employees. This was one of the options rejected by employees recently, probably because of the increased premium. Yet one wonders how much the teeth and eyes are neglected among families in consequence. The problem again points to salary scales as root cause.

(xiii) As the University develops 'fringe benefit' schemes for the faculty (see Section 3.37), the non-professional staff should not be neglected. Free tuition for the children would be one of the most helpful and sympathetic gestures. We have a 'concern for all' (Gardner again), and the children of non-professionals are as important as any others.

3.37 The Outer Fringe

Grouped together here are a number of items which, conceptually, are peripheral to other issues raised in Section 3--hence the title.*

* Borrowed from the book 'The Outer Fringe: Faculty Benefits Other Than Annuities and Insurance', by M. H. Ingraham with the collaboration of F. P. King (The University of Wisconsin Press, Madison, 1966).

The items are on the fringe of matters within the province of this committee and are under study by other committees of the University Assembly. They are included in the report only because, as practicalities all too often do, they will help determine the capacity of the University to translate any plan into action:

(i) Faculty housing: A basic premise of this report is that quality counts--quality in everything that the University undertakes. Quality in action requires quality in people. Therefore the University, in competition with all other U.S. institutions of higher learning, must attract and retain a faculty of high talent. Faculty recruitment in the Fairbanks area has traditionally been hindered by Fairbanks itself, as a town, especially the availability of adequate housing. The Fairbanks community has failed in the recent past, as in the more distant past, to provide the housing in quality and quantity that befits the faculty. Therefore it is reasonable to assume that the community is unlikely to provide housing in the future. It follows that the University can legitimately and ethically make a goal of solving its own housing problem. The University has a choice between attempting a solution via on-campus or off-campus housing. The faculty prefers on-campus housing, and has long preferred it, with excellent reasons. (The decision by the University, some years ago, to forswear further on-campus housing entirely flouted faculty opinion and was regrettable, if not reprehensible. But the policy seems now to be reversing again.) The University should seek ways to provide additional on-campus housing in a quantity consistent with the present demand and the projected growth in faculty numbers. In addition, every effort should be made to find ways to provide low-interest loans to members of the faculty who wish to build their own homes, either off or on the campus. If the administration, which is now actively concerned with the matter, is able to solve this primary problem of housing, in which the issues are relatively clear, the way may be open to resolve some of the more complex dilemmas raised in this report. No recommendations are called for in the present report--the needs are too obvious and compelling--but specific suggestions as to the best courses of actions would be appreciated.

(ii) A faculty club: This may seem a minor (even frivolous) requirement of the University to follow 'faculty housing', which has aroused such intense feeling. Yet the club would serve a purpose which a mature institution will recognize. The case for a faculty club is stated succinctly in the opening paragraph of Chapter 9 of the book by Ingraham and King* concerning faculty benefits in general:

"Where there is a well-developed faculty club it is generally believed to make a real contribution to the recruitment and retention of the faculty. Yet its use should not be judged chiefly on this basis. Social and intellectual contacts within the faculty help to unify the institution, give its faculty members broader intellectual viewpoints,

* loc. cit.

emphasize the college as against a too great absorption in the department, and lead to those informal discussions of academic policy from which wisdom is derived to a much greater extent than from formal faculty meetings."

The compelling reason for a faculty club at the University of Alaska is the lack of intellectual contact between the staffs in the various departments and institutes. Though often treated as a 'fringe benefit', this is an inadequate conception of its role. The most valuable purpose it can serve is as a meeting place; it is important in a university, more so, perhaps, than in any other organization, that the disciples of the disciplines rub shoulders, learn what each is doing, share each other's problems, expose half-baked ideas to the critical scrutiny of other minds, and occasionally evolve new ideas. There are, of course, many other conveniences of having a faculty club on campus--it might be residential (a boon to visitors); it may, if the regulations so provide, become a meeting place for faculty wives (anything which makes wives happier in Alaska is not to be discounted); it can serve as a place for committee meetings, etc., banquets and dinners can be held there (i.e. functions of one kind or another which are the trappings of academe). But these lesser reasons should not confuse the primary intent--that engineers mix with psychologists, historians with chemists, geologists with linguists, and administrators with those administered to.

3.38 Continuing Self-Evaluation

The process of formulating goals and objectives is too demanding of time and concentrated effort to be repeated frequently by the University. On the other hand, self-questioning and innovation and a willingness to adapt to the changing order of things (student needs, new approaches to teaching, new fields of study opening up, research trends in older fields, shifting societal interests and pressures, etc.) are the animating flame of self-renewal. The University must find a way to mould into its very structure the potential for change, criticism, dissent, free-thinking radicalism--the potential for the constant quest, yet knowing there is no Holy Grail.

Numerous issues have been raised in the present report, some leading to positive recommendations, others merely indicating the need for continuing study, and many others again have merely been hinted at in passing. Ongoing studies by the new Policies and Curriculum Committee of the Assembly will have plenty of subject material, for the University of Alaska, and all our universities, live in stirring times. Often decisions are very difficult--the imponderables of the scale of values--but all too often they have to be made. Yet even when one draws back--procrastinates perhaps--in the face of seemingly overwhelming complexity, something revitalizing has been gained by the very process of self-scrutiny. For an institution, like a person, it is often the experience of travelling, rather than of arriving, which is the stimulus. The University must always keep facing the issues.

Report of the University Policies and Curriculum Committee,

University Assembly, University of Alaska

GOALS AND PLANNING
AT THE
UNIVERSITY OF ALASKA

Volume 2 -- RECOMMENDATIONS



University of Alaska

March, 1970

Recommendation 44 -- Non-professional staff

RECOGNIZING THAT ITS NON-PROFESSIONAL EMPLOYEES ARE ESSENTIAL TO EFFECTIVE DAY-TO-DAY FUNCTIONING, THE UNIVERSITY SHOULD ACTIVELY SEEK WAYS TO IMPROVE THEIR WORKING CONDITIONS. AMONG OTHER APPROACHES, THE UNIVERSITY SHOULD EXPLORE THE EXTENSION OF SEMI-PROFESSIONAL CONTRACTS TO A WIDER RANGE OF THE MOST SENIOR EMPLOYEES.

Comments:

(1) Non-professional employees tend to be overlooked as part of the campus community. Numerically they amount to 60 percent of the total employees of the University (including part-time and hourly personnel); in terms of the budget, they account for nearly 40 percent of the total annual payroll (statistics as of September, 1969). The technical, clerical, secretarial and other non-professional members of the staff are essential, in the sense that the University cannot function effectively without them.

(2) When considering the lot of professional employees, the University should not forget its non-professionals. Matters such as terms of hire, overtime payment, compensatory time, salary scales, time off to attend classes, the retirement program, 'due process', the possibility of sabbaticals, the equivalent of tenure, group health insurance, and free education for their children are important elements in the well-being of the non-professional staff. Some kind of representative body, and a spokesman, might assist their cause.

(3) The latter part of the recommendation suggests that the semi-professional contract ('Notice of Appointment') be extended to more of the most senior non-professional staff, with the implication that their employment is secure.

Reference: Section 3.36.

I do have some additional points I would like to present relative to the effect of HB 610 which I did not cover last week:

1. RECIPROCITY BETWEEN UNIVERSITY AND OTHER STATE AGENCIES.

A person leaving University employment and going to work for another State agency would not be able to transfer his accumulated sick or annual leave without this legislation---and the same holds true for those joining the University from other state agencies.

I understand an attempt is being made to bring City and Borough employees under such a reciprocal arrangement with State agencies so they will not lose their leave. When I came to work for the University, I left approximately 70 days' accumulated leave with the School District. If this type of reciprocity is being considered by our governments on the local level, surely it is all the more reason why we should have it between the University and State agencies — the same government level.

2. EXPANSION OF AVAILABLE MANPOWER POOL. This legislation would expand the available manpower pool for both the University and the State. It will also give the Legislature some opportunity to insure that the employees' rights are safe-guarded by bringing us back into a system that is regulated by the Legislature.

3. COMPETITION WOULD BE LESSENERED. By having two systems, such as we now have, it puts the University and other State agencies in competition, rather than having them comparable. Now they are competing rather than working from the same man-power resource.

4. ENDORSEMENT BY ASEA: I will quote the following excerpts from a letter to Bill Ray from Ernie Lahn, Executive Secretary, ASEA, dtd. March 17: "... an excellent move and improve the University of Alaska personnel program substantially. The University has attempted for several years now to develop some sort of merit system for its employees and to the best of my knowledge they have not been able to come up with a comprehensive program of this magnitude.....By bringing the State personnel plan into the University, we would be adopting a "known quantity" rather than allowing the University to develop an unknown and unmeasured program....I have had many contacts with employees of the University who have voiced the need for a comprehensive personnel program, preferably one that would have its basis in law.... As you are aware, the Division of Personnel opened an area office in Anchorage last year that has proven to be of substantial assistance to both employees and management of State government. It has been especially effective in recruitment of new state employees for the Anchorage area. In past months the Division has considered a similar operation for Fairbanks and one of the major drawbacks has been the smaller number of state employees in Fairbanks as compared with Anchorage."

I checked this out with Pat Hunt, Director of Division of Personnel, and it is true that they are contemplating hiring a personnel officer and analyst for Fairbanks, and he felt that if this legislation passes, it would be mandatory. He felt cooperative working arrangements could be made with the University with regard to testing, etc. To carry out the enforcement portion of the Personnel Act, as it would effect the University, from Juneau, he felt would be burdensome and most difficult, but with an area office and adequate personnel, he didn't foresee any unsurmountable problems. He terminated our conversation by saying, "the State agencies have Ph.D.'s, too."

5. MATHER REPORT - FRINGE BENEFIT POLL. Last week I called your attention to the Mather report and the statement that "At present, non-professional employees (60% or 788 of total U. employees) have neither spokesman nor representation in any way in the University system." A week ago, we received at our Station for distribution to all professional personnel a four-page analysis of SB 455, pertaining to Change in Teachers' Retirement Contribution. I haven't seen any such study made relative to HB 610 and how it would effect University employees. (This is Mr. Wilson's copy----Heaven only knows who or which of the Mr. Wilsons this is---he is not an employee at the Douglas Station. Maybe this is one of the reasons why we don't have a personnel system.)

We also received last week a poll regarding a proposed fringe benefit package....I will read some excerpts from it, but totally lacking is any reference to HB 610. I cry discrimination now---can you imagine what the hue and cry would be were some of these to be put in effect.

6. Lastly, may I call your attention^{to}/SECTION 6, ARTICLE XII of our STATE CONSTITUTION: "The legislature shall establish a system under which the merit principle will govern the employment of persons by the state." No matter how you slice it, the University of Alaska is a STATE UNIVERSITY, and is operated by STATE EMPLOYEES.

As I said last week, I feel quite alone in this effort, but I think you have heard enough by now to know what is morally right, legal and just---and I ask your support in giving the non-professional employees of the University equity with other State employees.

Thank you again.

Julie H. Isaac
410 "D" Street
Douglas, Alaska

Re: HOUSE BILL No. 610

Judiciary
House Finance Committee
3-12-70 -- Julie Isaac
4-29-70

My name is Julie Isaac. I reside at 410 "D" Street in Douglas, Alaska. I appear before you at my own request and represent no one but myself----I although I am a drop-out alumna of the University of Alaska, an employee of the Douglas Station, Institute of Marine Science, and a member of the local Community College Advisory Board.

The effect of House Bill 610 is to place a large number of University employees, especially those in clerical, secretarial, maintenance and general operating personnel on the same basis as other comparable State employees.

I think this is important for the following reasons: FIRST AND FOREMOST, I DO NOT BELIEVE IN DISCRIMINATION---between State and University employees or in any groups. ~~University~~ The State employees work a 7½-hour work day and get eleven holidays a year. This past year, they received two extra---when President Eisenhower died and the Astronauts' Moon Walk. University employees work an 8-hour day and receive only 6 holidays. We did get the "moon-walk" holiday, but we were unable to observe the day of mourning set aside for Gen. Eisenhower.

I feel there is gross discrimination in this area alone. Other agencies of our State, such as the Legislative Affairs, State Courts System, Department of Law, etc., are also in the exempt service ~~and do not come under the State Personnel Act~~, but it does not mean that they do not observe the same work day and holidays as those State Employees who are not exempt. ~~Just how often do you see in your papers items about the backlog of cases facing our courts today---would think they would be putting in the extra thirty minutes a day or foregoing some of the holidays.~~

great
I certainly am not aware of any ^{great} backlog of work that requires University employees to put in the longer hours or fewer holidays. Incidentally, we were notified on Christmas Eve ~~that~~ that we would have the day off on Friday after the 25th, as well as the ~~Friday~~ Friday following New Year's.

Needless to say, we took them without question-----but who wants a "hand-out" when they could have been designated as "legal holidays" at the beginning of the fiscal year. I don't want Dr. Wood or the administration "giving" me something that I feel has been earned.

I won't belabor this point further, but there are other areas in which discrimination also exists: for example, the amount of accumulated annual leave---State employees, 60; University---30; Sick leave for State---unlimited; University---90 days. As to salary increases---whatever the percentage was for last year's increase, University employees received a 6% increase, I believe----because supposedly the U. of A. budget was not adjusted to accommodate the same increase as for ~~State~~ employees.

I am aware of Dr. Wood's opposition to the bill---I had about an hour and a half session with him and the Board of Regents following their session with you. We talked of many things. While I am reluctant to say anything that would appear to discredit him, I will only say that no one is more disappointed than I at his unwillingness to accept or lend support to a measure that is designed to help the University.

As I pointed out to him and the Regents, this Bill does more than equalize hours and holidays----it makes the University competitive with private industry and government in attracting and holding capable, qualified and competent employees. It would bring the employees under the merit system, they would be hired from a personnel roster and know exactly what their duties and responsibilities are----they would also have a sense of job security. Those of us who are considered non-professional or non-contractual can be fired at will. I know of no appeals board where I would take a grievance.

Dr. Wood ^{stated} argued that every employee has a job description-----someone may have lead him to believe this, but we have none at the Douglas Marine Station.

Under the State Merit System or Personnel Act, there would be an accurate accounting of leave records-----signed by a supervisor, instead of leaving it to the integrity of the employee, who may or may not report his time off for annual or sick leave, where it is merely written in a book without any official authorization-----but subsequently reported to the University on the monthly timesheets ----- or bi-weekly timesheets. Incidentally, since the first of the year, those of us in the lower echelons are paid twice monthly without any apparent reason whatever. We were perfectly content with our monthly salaries and were geared to managing our finances on a monthly basis. When then was brought up in my talk with the Regents, Dr. Wood said all employees had been polled and the majority wished to be paid every two weeks. Maybe this was just another break-down in communications, as we WERE NOT POLLED. We merely received an announcement, telling us how it was going to be-----and about three months later, it happened.

To my knowledge, the University does not have a Personnel Manual or Personnel Rules, as such. I may be mistaken. We have a large collection of memos, directives, etc., but nothing in a concise form that spells out the general rules and regulations pertaining to personnel or the University.

Now I would like to address myself to a letter received from Chmn. William Hensley, House Health, Welfare & Education Committee, dated Feb. 26: "It is my understanding that the U. of A., particularly Dr. Wood, is very much in opposition to the measure. He indicates that there are such wide-ranging activities of the University that it is almost impossible to deal with the non-academic people under the classified system. He indicated that people up on Ice Island and very remote stations and the scattered activities of the University, would make it difficult to live on if the legislation is enacted."....

First, I'll talk about the wide-ranging activities and the classified system. What Dr. Wood probably hasn't had pointed out to him^{me} that by lifting^{it}

the University employees out of the exempt service, does not mean that he or his administration cannot draw a line somewhere (the same as all the State Departments do for Assistant Directors and above) and put the higher-ranking employees in the exempt or partially exempt service. This can be done by University regulations. They would follow a uniform salary schedule, observe same holidays and workdays as other employees, but would serve at the pleasure of the appointing authority.

Granted, the University does have wide-ranging activities, but hardly as wide as the Dept. of Public Works for example. The University does have the Research Ship operations-----which under the Personnel Act would make the operations comparable to the State Ferry System. Then there is our Marine Station here at Douglas, or you might also include in this category, the experimental station at Palmer, or the fur farm at Petersburg. I know of no students that come in for special consideration that would necessitate adhering to the academic calendar established at College. There have been two summer institutes at the Douglas Marine Station and during such time, schedules could still be worked out to accommodate the teaching staff and administrative staff.

Remoteness is not a factor. Dr. Wood speaks as though the University situation is unique. Why doesn't he talk to the Fish and Game personnel who have people, scientific and otherwise, scattered all over the State; or the State Department of Education, which operates schools in some pretty remote areas of this great land. While their teaching staff is bound to a contract, to teach so many days a year, it doesn't mean that the maintenance or clerical personnel ~~take~~ take their holidays ~~while the teacher is on duty~~ while the teacher is on duty. The holidays are worked out at the convenience of the school admin. They might pick up their holidays during the long Christmas vacation, spring holidays or at the end of the school year.

Gentlemen, what disturbs me about this proposed legislation is the knowledge that Dr. Wood and the Regents have the power ---almost--- to correct the same ills through University regulations---yet they have not been moved to do so, although they said they are working on it.

In response to a claim I submitted for overtime on the Friday worked following Thanksgiving, pointing out that Sec. 14.50.020. Definition of Public Schools for Purposes of Statehood Act defines the University as a "public school" and the school holidays included Thanksgiving and the day immediately following, I received a memorandum from the Executive Officer of the Institute of Marine Science, which reads in part: "The University Assembly has before it a request to modify the existing fringe benefits package. I am Chairman of the Committee to write the new proposal and such a proposal will certainly cover such things as more paid holidays, more annual leave, more sick leave, etc." Later, I asked a visiting scientist *for College* what progress was being made---with a shrug of his shoulders, he said: "Oh that wasn't a serious committee."

Well, I am indeed serious. I want to see our State University grow and prosper, but I also want to see it operating on a business like basis with competent, dedicated ~~State~~ State Employees.

Thank you.

art
2-26-70

JUDICIARY COMMITTEE REPORT

ON

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 623

This committee substitute provides that an attorney who meets the personal requirements of our reciprocity statute but whose home state does not reciprocate in admitting Alaska attorneys may be admitted to practice law here if he passes a one-day attorney examination given by the Alaska Bar. It is understood that this attorney examination will differ from the regular bar examination in that its primary function will be to test the out-of-state attorney's familiarity with Alaska law. The original bill would have abolished reciprocity and required this examination of all out-of-state attorneys.

Barry W. Jackson, Chairman

FAIRBANKS, ALASKA

File

JACKSON HB 626
BROWN _____
FILE _____
OTHER copy in file
Eng. Architect



Philleo
Engineering and Architectural Service

Professional Building - 529 Sixth Avenue
Telephone: 456 - 5144 - P. O. Box 464

March 30, 1970

Rep. Barry W. Jackson
P.O. Box 348
Fairbanks, Alaska

RECEIVED

MAR 31 1970

**LAW OFFICES OF
BARRY W. JACKSON**

Dear Barry:

A few years ago the State of Alaska enacted legislation allowing professional practices to incorporate under certain conditions. One of these conditions was that no corporation could practice more than one profession. The Attorney General at that time ruled that architecture and engineering were two separate professions and therefore a firm practicing architecture and engineering could not incorporate. As you are aware, many firms throughout the United States practice architecture and engineering jointly. As a matter of fact, all three of the leading firms in Fairbanks practice both professions.

You are also undoubtedly aware that licencing of architects and engineers is handled by a single State board. Since the two professions are so closely allied, and since it is very common for firms to practice them jointly, I feel that it would be wise to amend the Alaska law to allow for this. I sure would appreciate hearing from you in this regard. If you have any questions that I can answer, please let me know.

Yours truly,

PHILLEO ENGINEERING AND
ARCHITECTURAL SERVICE



Edgar S. Philleo, P.E.

ESP:smh

AA-626

ALASKA ARCHITECTURAL & ENGINEERING COMPANY

710 THIRD AVENUE • P.O. BOX 509 • FAIRBANKS, ALASKA 99701 • PHONE 452-1266

LEE S. LINCK

April 7, 1970

Representative Barry Jackson
Alaska House of Representatives
Juneau, Alaska 99801

Dear Barry,

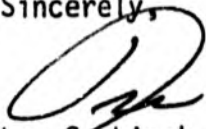
It is my understanding that a bill has been introduced which is now in your committee concerning the incorporation of two or more professions. I am particularly interested in seeing the present law revised to permit the incorporation of architects and engineers. It is essential that these two professions be permitted to practice under a single corporation inasmuch as each profession complements and supplements the other in the planning and design of buildings, structures and facilities. It is recognized throughout the lower 48 states that architecture and engineering are professions which do and must work together in planning and design. The majority of the firms throughout the United States are architectural/engineering offices and utilize consulting engineering offices for civil, structural, mechanical, electrical, acoustical and other engineering services.

Obviously, all professionals practicing in a corporation must be licensed to practice in their respective profession and this would not be changed where both architects and engineers are officers and stockholders of the corporation.

I sincerely believe that corporate practice of combined architects and engineers would in no way adversely affect the public nor change any of the accepted standards and practices that exist where complete architectural and engineering services are utilized.

I would permit those architects and engineers that are now practicing as a partnership or association, as well as those who may desire to do so, to incorporate and participate in the same benefits as other professions that are corporations.

Sincerely,



Lee S. Linck

LSL:1

JUSTIFICATION FOR AN AMENDMENT TO THE
PROFESSIONAL CORPORATION ACT WHICH WOULD CLARIFY
THE RIGHT OF OTHERWISE QUALIFIED PROFESSIONALS
TO FORM BUSINESS CORPORATIONS

The Professional Corporation Act (AS 10.45) was adopted in 1968 to clarify the right of professional persons of all kinds to form corporations for the conduct of their profession. The U.S. Internal Revenue Service had for years disputed the right of certain professions, particularly attorneys, to reap the tax benefits of marketing their services through the corporate form. The professional corporation act was adopted to provide specific state authorization for professional corporate practice.

In point of fact, the availability of corporate organization to professions and the attitude of the Internal Revenue Service varied widely from one profession to another even before 1968. In particular the architect and engineering profession had made wide use of the more convenient form of business incorporation without objection.

When the State adopted the professional corporation act, designed primarily for lawyers, it used too broad a brush, leaving the unfortunate inference that the "professional" corporation was the only form available to all classes of regulated professionals, ignoring the wide variations in practice and ethical custom among them.

By leaving the business corporation open to professionals where not prohibited by the ethics of the profession or by board regulation, this amendment cures this accidental defect in the 1968 act.

File



March 27, 1970

Representative Barry W. Jackson
House of Representatives
Pouch Y
Juneau, Alaska 99801

Dear Barry:

This is just a brief letter on the general subject of professional corporations and the provisions therefor as they relate to our firm.

A couple of days ago I was talking to Ed Philleo and he told me that he had just heard that the legislature was getting ready to do some overhauling of the regulations on professional corporations.

I am wondering whether or not this is the case and, if it is, whether or not it might be possible to explore the possibility of an appropriate modification which would permit architectural engineering firms to incorporate professionally. As we have discussed before, there is a fairly close relationship in this type of business between the architectural and the engineering professions. In fact within the scope of professional regulations and state law, a civil engineer can design a building and many of the things which the civil engineer does are legally performable by an architect. In practice the two professions in a firm such as ours work very closely together.

Accordingly the state regulations appear to be unreasonable. One of the mechanical and electrical consulting firms in Anchorage is a professional corporation and while the three partners are all engineers, they are divided between the disciplines of mechanical and electrical engineering. These are two entirely different disciplines with different educational background and requirements, different licensing examinations and different professional applications. Electrical engineers do not perform mechanical engineering and mechanical engineers do not perform electrical engineering. Yet because they are both called engineers, they can form a professional corporation.

Well, Barry, I hope you are enjoying the battle down in Juneau. If there is any overhauling under way, as I have heard, on the professional corporation act I would appreciate any available information on what is happening.

With best regards,

GRAY, ROGERS, MYERS & MORGAN

Leslie I. Rogers, Partner

STATE OF ALASKA

626
KEITH H. MILLER, GOVERNOR

DEPARTMENT OF COMMERCE

DIVISION OF BANKING, SECURITIES AND SMALL LOANS

POUCH D--JUNEAU 99801

February 23, 1970

The Honorable Barry W. Jackson
Chairman, Judiciary Committee
Alaska House of Representatives
State Capital
Juneau, Alaska 99801

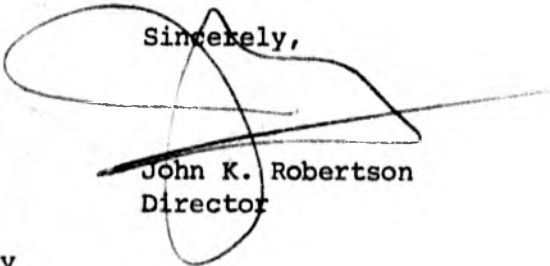
Dear Mr. Jackson:

We have been asked by Mr. Loren H. Lounsbury of Hewitt V. Lounsbury & Associates to review and comment on HB-626 and SB-477.

Our only reservation in the proposed amendment would be who has the responsibility in determining, and in what manner it is to be determined that each person actually performing the service must be licensed by the appropriate regulatory board.

It is our opinion that certain professional groups, when not contrary to their ethics, may now incorporate under AS 10.05. However, the proposed amendments in HB-626 and SB-477 would clarify the Professional Corporations Act in this regard. Filing as a business corporation would allow other than licensed professional persons to become stockholders, directors or incorporators.

Sincerely,



John K. Robertson
Director

cc: Loren H. Lounsbury
Hewitt V. Lounsbury & Associates
723 6th Avenue
Anchorage, Alaska 99501

CREWS, MAC INNES & HOFFMAN
CONSULTING ENGINEERS

File

March 6, 1970

The Honorable Bernie Jackson
State House
State Capitol
Juneau, Alaska

Subject: House Bill No. 626
Senate Bill No. 477

Dear Sir:

It is my understanding that you are a member of the Commerce Committee and are presently studying the subject proposed legislation, and I would like to present a few comments regarding its passage.

I am now, and have been for the preceding three years, a member of the Alaska Board of Architects/Engineers and Examiners. During that time I have been extremely active in the business of administering the present Architects and Engineers Registration Act. I should state at this time that the law as it now exists is, in my personal opinion, grossly inadequate in providing the proper protection to the public that is warranted with the recent tremendous impact of the oil industry on our state. Many violations are occurring every day and the Board is virtually powerless to do anything about it. I am, therefore, extremely interested in corrections to the present act, or better yet, an entirely new act that will have some teeth in it and truly protect the public health, welfare and safety of the people of the state.

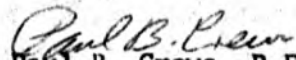
This preceding year, prior to the convening of the legislature, various architectural and engineering societies throughout the state were holding numerous meetings, hurriedly attempting to prepare recommendations for a new and more adequate engineering and architectural law. At our latest meeting it was pointed out that because of the extremely heavy load that would be on the legislature this session, and particularly with the impact of the oil industry leasing, we would have very little, if any, success in passage of such an act. We, therefore, felt it would be better to finalize on a new registration act that would be thoroughly thought out and presented for the next year's legislature.

It is my personal opinion, and that of many of my colleagues, that the present proposed change in this legislature would do a tremendous amount of harm and no good. Our present problem is that while certain penalties are listed for violation of the present law there are no teeth in the act, in that we must work through the Attorney General and have had absolutely no luck to date in controlling violations through this channel. The present proposal to permit corporate practice

would really throw the thing wide open to an overwhelming number of transients who couldn't care less about the public welfare, health and safety in the State of Alaska, but are thinking only of making a bundle and clearing out - avoiding any penalties for the obvious and deliberate violations. I am not referring to ethical firms whose expertise is invited. I personally have no feelings one way or the other regarding corporate practice of engineers as long as adequate safeguards are provided. I believe that this is essential, and I also feel quite strongly that the new change in the act as worded is absolutely useless. Along this line, I would like to point out that our sister state, Washington, has in her Corporation Act for engineers a quite detailed procedure to provide adequate safeguards. I am taking the liberty of enclosing a copy of this for your perusal.

I am strongly recommending that, for this legislature at least, the subject of Corporate Practice in Engineering and Architecture not be permitted, and that at the next legislature an adequate and all-encompassing new act be presented that will be of real benefit to the State of Alaska.

Very truly yours,


Paul B. Crews, P.E.

PBC:no

The board, for reasons it deems sufficient, may reissue a certificate of registration to any person whose certificate has been revoked, provided three or more member of the board vote in favor of such issuance. A new certificate of registration to replace any certificate revoked, lost, destroyed, or mutilated may be issued by the director of licenses, subject to the rules of the board, and a charge of one dollar shall be made for such issuance.

Any person who shall feel aggrieved by any action of the board in denying or revoking his certificate of registration may appeal therefrom to the superior court of the county in which such person resides, and after full hearing, said court shall make such decree sustaining or revoking the action of the board, as it may deem just and proper. [1947 c 283 § 14; Rem. Supp. 1947 § 8306-31. Prior: 1935 § 11; RRS § 8306-11.]

18.43.120 Violations and penalties. Any person who shall practice, or offer to practice, engineering or land surveying in this state without being registered in accordance with the provisions of the chapter, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant, or any person who shall attempt to use the expired or revoked certificate of registration, or any person who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor.

It shall be the duty of all officers of the state or any political subdivision thereof, to enforce the provisions of this chapter. The attorney general shall act as legal adviser of the board, and render such legal assistance as may be necessary in carrying out the provisions of this chapter. [1947 c 283 § 15; Rem. Supp. 1947 § 8306-32. Prior: 1935 c 167 § 14; RRS § 8306-14.]

18.43.130 Excepted services--Fees. This chapter shall not be construed to prevent or affect:

- (1) The practice of any other legally recognized profession or trade; or
- (2) The practice of a person not a resident and having no established place of business in this state, practicing or offering to practice herein the profession of engineering or land surveying, when such practice does not exceed in the aggregate more than thirty days in any calendar year: *Provided*, Such person is legally qualified by registration to practice the said profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter; or
- (3) The practice of a person not a resident and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than thirty days in any calendar year the profession of engineering or land surveying, if he shall have filed with the board an application for a certificate of registration, and shall have paid the fee required by this chapter: *Provided*, That such person is legally qualified by registration to practice engineering or land surveying in his own state or country in which the requirements and qualifications of obtaining a certificate of registration are not lower than those specified in this chapter. Such practice shall continue only for such time as the board requires for the consideration of the application for registration; or

(4) The work of an employee or a subordinate of a person holding a certificate of registration under this chapter, or an employee of a person practicing lawfully under the provisions of this section: *Provided*, Such work does not include final design or decisions and is done under the direct responsibility, checking and supervision of a person holding a certificate of registration under this chapter or a person practicing lawfully under the provisions of this section; or

(5) The work of a person rendering engineering or land surveying services to a corporation, as an employee of such corporation, when such services are rendered in carrying on the general business of the corporation and such general business does not consist, either wholly or in part, of the rendering of engineering services to the general public: *Provided*, That such corporation employs at least one person holding a certificate of registration under this chapter or practicing lawfully under the provisions of this chapter; or

(6) The practice of officers or employees of the government of the United States while engaged within the state in the practice of the profession of engineering or land surveying for said government; or

(7) Nonresident engineers employed for the purpose of making engineering examinations; or

(8) The practice of engineering in this state by a corporation or joint stock association: *Provided*, That

(a) Such corporation shall file with the board an application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether such corporation is qualified in accordance with the provisions of this chapter to practice engineering in this state;

(b) Such corporation shall file with the board a certified copy of a resolution of the board of directors of the corporation which shall designate a person holding a certificate of registration under this chapter as responsible for the practice of engineering by said corporation in this state and shall provide that full authority to make all final engineering decisions on behalf of said corporation with respect to work performed by the corporation in the state shall be granted and delegated by the board of directors to the person so designated in said resolution: *Provided*, That the filing of such resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract;

(c) Such corporation shall file with the board a designation in writing setting forth the name or names of a person or persons holding certificates of registration under this chapter who shall be in responsible charge of each project and each major branch of the engineering activities in which the corporation shall specialize in this state. In the event there shall be a change in the person or persons in responsible charge of any project or major branch of the engineering activities, such changes shall be designated in writing and filed with the board within thirty days after the effective date of such changes;

(d) Upon the filing with the board of the application for certificate for authorization, certified copy of resolution, affidavit and designation of persons specified in subparagraphs (a), (b), and (c), of this section the board shall issue to such corporation a certificate of authorization to practice engineering in this state upon a determination by the board (1) that:

(i) The by-laws of the corporation contain provisions that all engineering decisions pertaining to any project or engineering activities in this state

shall be made by the specified engineer in responsible charge, or other responsible engineers under his direction or supervision;

(ii) The application for certificate of authorization states the type, or types, of engineering practiced, or to be practiced by such corporation;

(iii) A current certified financial statement accurately reflecting the financial condition of the corporation has been filed with the board and is available for public inspection;

(iv) The applicant corporation has the ability to provide through qualified engineering personnel, professional services or creative work requiring engineering experience, and that with respect to the engineering services which the corporation undertakes or offers to undertake such personnel have the ability to apply special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects.

(v) The application for certificate of authorization states the professional records of the designated person or persons who shall be in responsible charge of each project and each major branch of engineering activities in which the corporation shall specialize;

(vi) The application for certificate of authorization states the experience of the corporation, if any, in furnishing engineering services during the preceding five year period and states the experience of the corporation, if any, in the furnishing of all feasibility and advisory studies made within the state of Washington;

(vii) The applicant corporation meets such other requirements related to professional competence in the furnishing of engineering services as may be established and promulgated by the board in furtherance of the objectives and provisions of this chapter; and

(2) upon a determination by the board based upon an evaluation of the foregoing findings and information that the applicant corporation is possessed of the ability and competence to furnish engineering services in the public interest.

The board may in the exercise of its discretion refuse to issue or may suspend and/or revoke a certificate of authorization to a corporation where the board shall find that any of the officers, directors, incorporators, or the stockholders holding a majority of stock of such corporation has committed misconduct or malpractice as defined in RCW 18.43.105 or has been found personally responsible for misconduct or malpractice under the provisions of subsections (f) and (g) hereof.

The certificate of authorization shall specify the major branches of engineering of which the corporation has designated a person or persons in responsible charge as provided in subsection (8) (c) of this section.

(e) In the event a corporation, organized solely by a group of engineers, each holding a certificate of registration under this chapter, applies for a certificate of authorization, the board may, in its discretion, grant a certificate of authorization, the board may, in its discretion, grant a certificate of authorization to such corporation based on a review of the professional records of such incorporators, in lieu of the required qualifications set forth

in this subsection. In the event the ownership of such corporation shall be altered, the corporation shall apply for a revised certificate of authorization, based upon the professional records of the owners; if exclusively engineers or, otherwise, under the qualifications required by subparagraphs (a), (b), (c) and (d) hereof.

(f) Any corporation authorized to practice engineering under this chapter, together with its directors and officers for their own individual acts, are responsible to the same degree as an individual registered engineer, and must conduct its business without misconduct or malpractice in the practice of engineering as defined in this chapter.

(g) Any corporation which has been duly certified under the provisions of this chapter and has engaged in the practice of engineering shall have its certificate of authorization either suspended or revoked by the board if, after a proper hearing, the board shall find that the corporation has committed misconduct or malpractice as defined in RCW 18.43.105. In such case any individual engineer holding a certificate or registration under this chapter, involved in such malpractice or misconduct, shall have his certificate of registration suspended or revoked also.

(h) All plans, specifications, designs and reports when issued in connection with work performed by a corporation under its certificate of authorization shall be prepared by or under the responsible charge of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

For each certificate of authorization issued under the provisions of subsection (8) of this section there shall be paid an initial fee of five dollars and an annual renewal fee of one hundred dollars.

The practice of engineering and/or land surveying in this state by partnership: *Provided, That*

(a) A majority of the members of the partnership are engineers or architects or land surveyors duly certified by the state of Washington or by a state, territory, possession, district or foreign country meeting the reciprocal provisions of RCW 18.43.100; *Provided, That* at least one of the members is a professional engineer or land surveyor holding a certificate issued by the director of licenses under the provisions of RCW 18.43.070; and

(b) Except where all members of the partnership are professional engineers or land surveyors or a combination of professional engineers and land surveyors or where all members of the partnership are either professional engineers or land surveyors in combination with an architect or architects all of which are holding certificates of qualification therefor issued under the laws of the state of Washington, the partnership shall file with the board an instrument executed by a partner on behalf of the partnership designating the persons responsible for the practice of engineering by the partnership in this state and in all other respects such person so designated and such partnership shall meet the same qualifications and shall be subject to the same requirements and the same penalties as those pertaining to corporations and to the responsible persons designated by corporations as provided in subsection (8) of this section.

For each certificate of authorization issued under the provisions of this subsection (9) of this section there shall be paid an initial fee of one hundred dollars and an annual renewal fee of twenty-five dollars.

18.43.140 Injunctive relief, proof—Board's immunity from liability—Prosecutions. The board is authorized to apply for relief by injunction without bond, to restrain a person from the commission of any act which is prohibited by this chapter. In such proceedings, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation thereof. The members of the board shall not be personally liable for their action in any such proceeding or in any other proceeding instituted by the board under the provisions of this chapter. The board in any proper case shall cause prosecution to be instituted in any county or counties where any violation of this chapter occurs, and shall aid in the prosecution of the violator. [1959 c 297 § 3.]

18.43.150 Disposition of fees. All fees collected under the provisions of RCW 18.43.050, 18.43.080 and 18.43.130 shall be divided and twenty percent paid into the State general fund and eighty percent paid into the professional engineers' account of the State general fund, which account is hereby established to be used to carry out purposes and provisions of RCW 18.43.050, 18.43.060, 18.43.080, 18.43.100, 18.43.110, 18.43.120, 18.43.130, 18.43.140 and all other duties required for operation and enforcement of this chapter. [1965 1st ex.s. c 126 § 3.]

18.43.900 Short title. This chapter shall be known and may be cited as the "Professional Engineers' Registration Act." [1947 c 283 § 19.]

18.43.910 Severability—1947 Act. If any section of this chapter shall be declared unconstitutional or invalid, such adjudication shall not invalidate any other provision or provisions thereof. [1947 c 283 § 17.]

18.43.920 Severability—1959 Act. If any section of this act or part thereof shall be declared unconstitutional or invalid, such adjudication shall not invalidate any other provision or provisions thereof. [1959 c 297 § 8.]

18.43.930 Severability—1961 Act. If any section of this act or part thereof shall be adjudged unconstitutional or invalid, such adjudication shall not invalidate any other provision or provisions thereof. [1961 c 142 § 6.]

**ADAMS • CORTHELL • LEE • WINCE
& ASSOCIATES**

CONSULTING ENGINEERS

AFFILIATED WITH
ALASKA TESTLAB

503 EAST SIXTH AVE. - ANCHORAGE, ALASKA - 99501
TEL. 272-3428

February 20, 1970

Representative Jackson
Chairman, Judiciary Committee
Alaska Legislature
Juneau, Alaska

SUBJECT: House Bill No. 626
Senate Bill No. 477

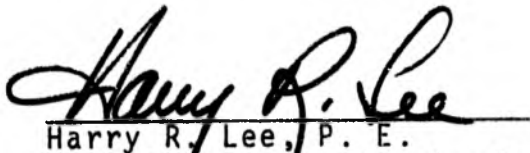
Dear Representative Jackson:

The conversion of professional corporations to business corporations will---in Alaska as elsewhere---result in the loss of control of professional activities by the professional practitioners, should the corporations become controlled by stock, or at the board of director level, or at the officer level, by non-professionals.

Therefore, please, for the good of the state, the public welfare and safety (under which the professions are regulated and the practitioners registered), and the integrity of the professions, VOTE NO on this legislation or any similar legislation---which will or could allow a "corporation" rather than an "individual" to "practice a profession."

The foregoing, while a personal opinion, is the result of twelve years review of the laws pertaining to engineering, and active participation as a partner in an engineering partnership, and as a principal in a business corporation supplying services to engineers.

Very truly yours,



Harry R. Lee, P. E.
Past President, Alaska Society of Professional Engineers

cc: Paul Robbins, Executive Secretary, NSPE
Milt Lunch, Chief Counsel, NSPE
Larry Spiller, Consulting Engineers Council
Bob Killewich, President, ASPE
Bill Hunsuck, Chairman, PEPP

HRL:ld

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March 3, 1970

Honorable Barry W. Jackson
House of Representatives
Juneau, Alaska

Dear Mr. Jackson:

Subject: House Bill 626

I strongly urge and request your support of the subject bill.

The modern full-service engineering organization is a well integrated team consisting of many professionals and others of varied training. A single design team faced with the complex problems of today's society may require not only engineers, but planners, economists, attorneys and many others.

Present Alaska law prohibits stock ownership by these latter people in a corporation providing engineering services. This destroys a powerful key incentive to those members of the team who are not engineers. House Bill 626 will correct this inequity while continuing to guarantee the overall supervision and participation in any given project of the registered practicing engineer.

Thank you for your consideration.

Respectfully yours,



Philip A. Mather
700 M Street
Anchorage, Alaska

ROBISON, MCCASKEY, STRACHAN & HOGE

ATTORNEYS AT LAW
921 SIXTH AVENUE WEST
ANCHORAGE, ALASKA 99501

TELEPHONE 272-9446
AREA CODE 907

PAUL F. ROBISON
KENNETH MCCASKEY
JOHN R. STRACHAN
ANDREW E. HOGE
MARVIN S. FRANKEL
WILLIAM G. RICHARDS

13 February 1970

Mr. Barrie Jackson
Chairman
Judiciary Committee
House of Representatives
Juneau, Alaska 99801

And

Mr. Terry Miller
Chairman
Judiciary Committee
State Senate
Juneau, Alaska 99801

Dear Barrie and Terry:

It has been reported to me several times in the last couple of years that it is difficult to obtain insurance for corporations in Alaska indemnifying Officers and Directors against lawsuits, the costs of lawsuits, judgments and penalties for acts performed by Officers and Directors of the corporation, or for acts performed by an Officer or Director or a principal person of one corporation who, at the request of that corporation, is also serving on the Board or as an Officer of another corporation.

This condition also makes it difficult for corporations such as banks to get members of their boards of directors to serve on boards of directors of other corporations. This is just one example -- there are many.

This problem has been recognized in other states which have amended their statutes. One of the most recent is the Delaware amendment which has been adopted into the Delaware corporation law. I enclose a brief explanation of the Delaware amendments and copies of the Delaware amendments as now incorporated in the Delaware statute.

If you should see fit to introduce such amendatory legislation, and I am requesting that one of you do introduce it either as your personal Bill or as a committee Bill if your committee agrees with you; the sections of the Delaware statute would replace Sub-section (15) of 10.05.009 Alaska Statutes.

Very truly yours,

Paul F. Robison
Paul F. Robison

cc: Rep. Mildred Banfield
Sen. Ed. Merdes

STATUTORY PROVISIONS FOR INDEMNIFICATION OF
OFFICERS AND DIRECTORS

It is apparent that if corporate directors or officers are forced to bear litigation costs despite the propriety of their acts on behalf of the corporation, qualified and responsible persons will refuse to serve in such capacity. This is especially true in the case of directors who do not have controlling interest in the corporation and who frequently serve without compensation. Even directors who are compensated generally are not paid enough to enable them to be self-insurers against the risk of becoming involved in a suit. Therefore, it is in the interest of the corporation to provide indemnification for loyal directors and officers. Besides protecting the directors and officers personally, the promise of indemnification encourages them to seek to vindicate the corporation and its management in the eyes of the investing public. It is probable that the indemnification of corporate directors also has the effect of reducing shareholders' strike suits. Thus, it is in the interest of the public to provide indemnification for loyal directors and officers.

Realizing the above-mentioned benefits derived from the existence of proper indemnification of directors and officers, the State of Delaware recently amended its corporation laws. The present provision is well written both from the viewpoint of the public and from the viewpoint of the corporation. The statute is intended to encourage active business participation by directors and officers and, at the same time, to protect the shareholders of the corporation and the public in general.

Delaware Corporation Law Section 145

Sub-section a grants the corporation the power to indemnify directors and officers who are threatened to be made a party to any threatened, pending or completed action, suit or proceeding. The director or officer must be threatened to be made a

party by reason of the fact that he is or was a director or officer of the corporation or was serving at the request of the corporation as a director or officer of another business entity. Indemnification includes any expenses, judgments, fines or amounts paid in settlement which the director or officer actually and reasonably incurs in such action, suit or proceeding. The director or officer must show that he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation. With respect to any criminal action or proceeding, the director or officer must show that he had no reasonable cause to believe that his conduct was unlawful. The termination of any proceeding or any pleas entered by the directors or officers shall not create a presumption that the director or officer did not act in good faith, in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation or in a manner which would have reasonably caused him to believe that his conduct was unlawful.

Sub-section b grants the corporation the power to indemnify a director or officer threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in the corporation's favor. This section deals with derivative suits. The threat to be made a party must be caused by the fact that the director or officer is or was a director or officer or is or was serving at the request of the corporation as a director or officer of another business entity. A director or officer may be indemnified against expenses actually and reasonably incurred by him in connection with the defense or settlement of such action or suit. The director or officer must show that he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation. The corporation may not indemnify the director or officer for expenses incurred in any claim, issue or matter in which the director or officer is adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation, unless a court of equity deems that the director or officer is fairly and reasonably entitled to indemnity.

Sub-section c states that to the extent that the director or officer has been successful in the defense of any action, suit, proceeding, claim, issue, or matter referred to in sub-section a or b, the director or officer must be indemnified against the expenses actually and reasonably incurred by him in connection therewith.

Sub-section d states that indemnification by the corporation is authorized only upon an affirmative determination that the director or officer is entitled to such indemnification because he has met the applicable standards of conduct set forth in Sub-sections a or b. Determination may be made (1) by the Board of Directors by a majority vote of a quorum of disinterested directors, or (2) by independent legal counsel in a written opinion, or (3) by the stockholders.

Under Sub-section e the director or officer may obtain expenses incurred in defending a civil or criminal action, suit or proceeding in advance of the final disposition of said action, suit or proceeding. The advance payment may be obtained if authorized by the Board of Directors in the specific case, upon receipt of an undertaking by or on behalf of the director or officer to repay such amount unless it is ultimately determined that the director or officer is entitled to be indemnified by the corporation.

Sub-section f states that the indemnification provided by Section 145 is not exclusive of other rights to which the directors and officers may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise. Additional indemnification may be granted to the director or officer for actions taken in the director's or officer's official capacity and for actions taken in another capacity while holding such office. Indemnification provided by Section 145 shall continue as to a person though he has ceased to be a director or officer and shall inure to the benefit of the heirs, executors and administrators of such person.

Sub-section g allows the corporation to purchase and maintain insurance on behalf of any person serving in the capacity of director or officer against liability asserted against him and incurred by him in such capacity, or arising out of his status as such.

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§ 145. Indemnification of officers, directors, employees and agents; insurance

(a) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be

liable for negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

(c) To the extent that a director, officer, employee or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(d) Any indemnification under subsections (a) and (b) (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in subsections (a) and (b). Such determination shall be made (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the stockholders.

(e) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the board of directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this section.

(f) The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another

capacity while holding office as a director, officer or agent of the corporation or as a stockholder and shall inure to the benefit of the estate, heirs, assigns and personal representatives of such a person.

(g) A corporation may maintain insurance on behalf of any director, officer, employee or agent of the corporation or of another enterprise in which it has an interest, as such, whether or not the corporation is authorized to indemnify him as provided in this section.

(As amended 1

SUBCHAPT

§ 151. Classes and

(a) Every corporation may issue one or more classes of stock or one or more classes of shares, any or all of which may have such voting power, such designations, such preferences, such restrictions thereon, such certificate of incorporation, such resolution or such other instrument adopted by the corporation expressly vested in the corporation. The amount of such capital to all or any such class shall be stated in the certificate of incorporation.

(b) Any preference, such as a right of redemption at such price, and any such preferences and rights, and qualifications, shall be stated in the certificate of incorporation.

capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section.

(As amended by Ch. 186, Laws of 1967.)

SUBCHAPTER V. STOCK AND DIVIDENDS

§ 151. Classes and series of stock; rights, etc.


(a) Every corporation may issue one or more classes of stock or one or more series of stock within any class thereof, any or all of which classes may be of stock with par value or stock without par value and which classes or series may have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in the certificate of incorporation or of any amendment thereto, or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of its certificate of incorporation. The power to increase or decrease or otherwise adjust the capital stock as provided in this chapter shall apply to all or any such classes of stock.

(b) Any preferred or special stock may be made subject to redemption at such time or times and at such price or prices and may be issued in such series, with such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof as shall be stated in the certificate of incorporation or in the resolu-

MEMORANDUM**State of Alaska**
DEPARTMENT OF COMMERCE

TO: The Honorable Barry W. Jackson (Chairman)
The Honorable Tom Fink (Vice Chairman)
House Judiciary Committee
Alaska House of Representatives
Alaska State Legislature

DATE : March 31, 1970

FROM: Willis F. Kirkpatrick 
Securities Examiner
Division of Banking, Securities,
Small Loans & Corporations
Department of Commerce

SUBJECT: HB-638

House Bill 638 - "An Act relating to the transfer or pledge of securities within a central depository system under the Uniform Commercial Code; and providing for an effective date."

The Act will enable Alaskan corporations that have their shares listed on national exchanges, to be eligible to have shares deposited in a central depository of the clearing corporation.

Exchange firms who are clearing members deposit securities with Central Certificate Service - CCS - and thereby create a balance in each stock eligible for the system, much as you do when you deposit money in your checking account at your bank.

All shares in the system are fungible. Share certificates are registered in the name of a common nominee - Cede & Co. - and held unendorsed by Stock Clearing Corporation or a custodian bank. Following a sale and upon instructions to deliver, the balance in the account of the selling broker is changed electronically to reflect the transaction. A corresponding change is simultaneously made in the account of the buying firm, and ownership is thus transferred by electronic bookkeeping entry while the certificate representing the shares transferred remains immobilized in the vault.

Banks are eligible for membership, and through their participation in CCS much can be done to simplify the troublesome COD deliveries required in institutional transactions. In time this program will be expanded to include more and more banks.

Section 1. AS 45.05.614 is amended to read

- (d) the clearing corporation; and
- (e) the custodian bank are self-explanatory.

Section 2. AS 45.05.664 is repealed and re-enacted to read

(a) (5) entries on the book of the clearing corporation can constitute delivery or ownership.

(b) the purchaser of a security may be noted as the rightful owner but that ownership may be a portion of a larger fungible bulk.

The Honorable Barry W. Jackson (Chairman)
The Honorable Tom Fink (Vice Chairman)
House Judiciary Committee

March 31, 1970

(c) the broker and the customer is entitled to "good delivery" and free from adverse claim. The purchaser is further protected to receive delivery from the broker. The transaction is between the customer and the broker and the customer is entitled to good delivery.

Section 3. AS 45.05 is amended by adding a new section to read:

Section 45.05.667. (a) The electronic bookkeeping entries of the clearing corporation constitute delivery between members when the security is

(1) in custody of the clearing corporation and subject to the corporations instructions

(2) is in bearer form (negotiable)

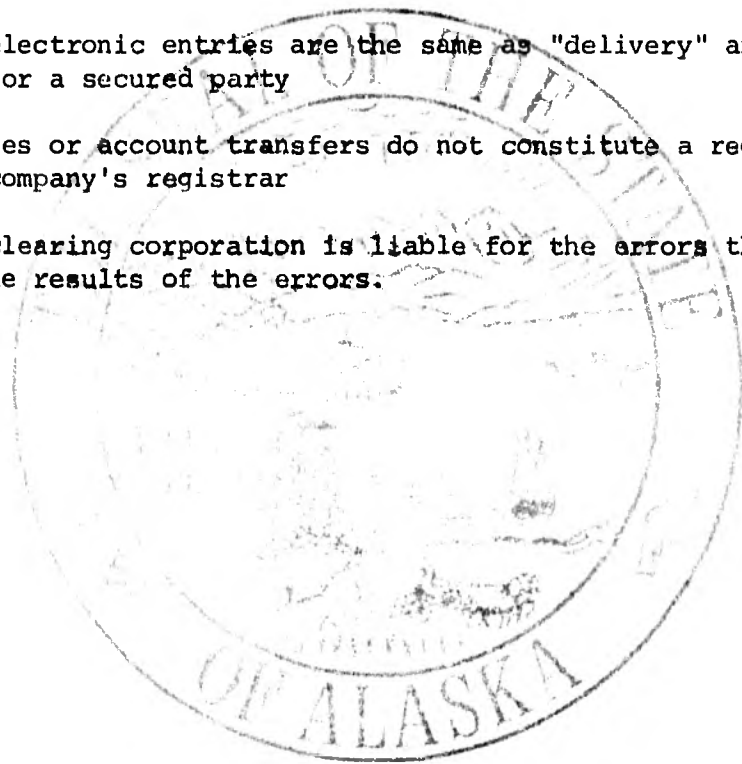
(3) is shown on the account of a transferor or pledgor on the books of the corporation

(b) transfers and pledges from one member to another are on a net basis and need not reference to name of registered owner or certificate numbers.

(c) the electronic entries are the same as "delivery" and is binding as to the pledgee or a secured party

(d) pledges or account transfers do not constitute a registration of shares by the company's registrar

(e) the clearing corporation is liable for the errors they make and also liable as to the results of the errors.



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HOUSE JOURNAL

Judiciary Committee Report

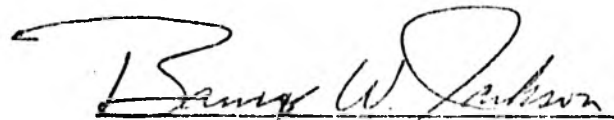
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HOUSE BILL NO. 638

This bill proposes language recommended by the National Conference of Commissioners on Uniform State Laws in its 1962 official text of the Uniform Commercial Code. Alaska's version of the U.C.C. is based on the 1958 official text.

The heart of this bill is Section 3, which adds a new AS section, the purpose of which is, according to the "official comments" accompanying the 1962 edition, to expressly authorize "a newly developing and commercially useful method of transferring or pledging securities on the organized securities markets, particularly among brokers and banks" This method allows for registration of share certificates in the name of a common nominee and then holding of them unendorsed by a stock clearing corporation or a custodian bank. As explained in part by Willis F. Kirkpatrick, Securities Examiner in the Alaska Department of Commerce, "Following a sale and upon instructions to deliver, the balance in the account of the selling broker is changed electronically to reflect the transaction. A corresponding change is simultaneously made in the account of the buying firm, and ownership is thus transferred by electronic book-keeping entry while the certificate representing the shares transferred remains immobilized in the vault." (March 31, 1970, memorandum to the House Judiciary Committee.)

Section 1 of the bill adds definitions of two essential terms in Section 3. Section 2 of the bill, adding AS 45.05.664(a)(5) and 45.05.664(c) and rewriting 45.05.664 (b), takes the new method into account when specifying when "delivery" occurs in securities transactions.



Barry W. Jackson
Chairman
House Judiciary Committee

3/14/70

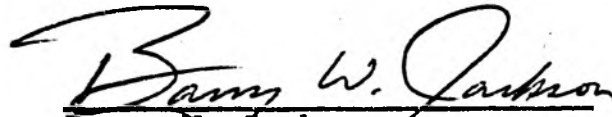
HOUSE JOURNAL

Judiciary Committee Report

on

CS for HOUSE BILL NO. 639

As stated in the governor's cover letter for this bill (see 1970 House Journal, Page 267), "It establishes the State Troopers as the depository for [lost and found] property, with specific duties relative to its receipt, holding, destruction, and disposition." The Judiciary Committee Substitute incorporates numerous relatively minor clarifications suggested by the Department of Public Safety.


Barry W. Jackson
Chairman
House Judiciary Committee

3/14/70

A M E N D M E N T

IN THE HOUSE

BY THE JUDICIARY COMMITTEE

TO: HOUSE BILL NO. 639

Page 1, line 15: Change the comma to a period and add: "or if no state trooper is available he shall deposit it with the nearest peace officer of a political subdivision of the state."

Page 1, line 21: After "shall", insert " ", by certified mail with return receipt requested,".
Ater "give", insert "written".

Page 2, lines 7, 9, and 11: Before "value", insert "fair market".

Page 4, line 24: Delete "first".

Page 4, line 25: After "property", add: "knowing it to be lost property".

Page 4, line 28: Before "which", insert: " ", except that classified as contraband,".

Page 4, line 29: Delete "or stolen".

MEMORANDUM**State of Alaska**TO:

The Honorable Barry Jackson
 Chairman, House Judiciary Committee
 State Legislature
 Juneau, Alaska

DATE : April 9, 1970

FROM:

John K. Robertson, Director
 Division of Banking, Securities,
 Small Loans & Corporations

SUBJECT: H.B. 643
 Amendments to the Alaska Banking Code

The following are brief summaries of each section of H.B. 643:

Sec. 1. AS.06.05.005 is amended by deleting certain language as it was originally adopted from the model banking code. This section is known as the "wild-card" statute and its purpose is to ensure a competitive balance between state and national banks. However, as it now stands, it is not as useful as it might be since it requires that any banking powers authorized by the department to maintain the competitive balance must be acted upon by the legislature by the close of the next session. It is suggested that time limit represented in "until the close of the next regular session of the legislature" be deleted. Of the six states having this type of statute, three have no time limit.

Sec. 2. AS.06.05.015 is amended by adding a new subsection defining bad debts. As we broaden the powers of state chartered banks, we must also concern ourselves with asset quality. Most other state banking codes, as well as the national banking law, contain statutory bad debt provisions.

Sec. 3. AS.06.05.025 is amended to clearly authorize the employment of an examination team and conduct whatever examinations are required in the discretion of the commissioner, including followup examinations for mergers or branch banks.

Sec. 4. AS.06.05.035 is amended to enable the department to charge and collect adequate examination and investigation fees.

Under the existing examination statutes (Sections .025 through .035), every examination or investigation performed results in a substantial loss to the department. Due to the increased examination responsibilities, and activities of the department, as well as the increasing number of new bank and branch applications, we feel that it is businesslike and appropriate to collect sufficient fees to offset the costs incurred.

Sec. 5. A new section covering leasehold and development loans is proposed. This section would permit banks to make loans, within certain limits, secured by first lien leaseholds. A leasehold loan is a type of real estate loan in which the borrower (lessee) is the holder, or owner of a leasehold estate, which is of sufficient quality to warrant a lender accepting it as security for a loan. In other words, the borrower holds a long term lease, which together with the improvements provide security to the lender. Leasehold

The Honorable Barry Jackson
Chairman, House Judiciary Committee
State Legislature, Juneau, Alaska

April 9, 1970

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loans normally apply to hotels, office buildings, warehouses, service stations, apartment houses, and other similar commercial development. This method of lending is now being used extensively throughout the nation and should be made available to our state chartered banks.

Sec. 6. AS.06.05.207 is rewritten to allow a bank to make second mortgage real estate loans. This will permit our banks to serve customers who have a substantial equity in real property and avoid a rewrite of the first mortgage loan. Due to the loan/value ratios and amortization rates established, we believe that the concept is sound and also believe that it will provide a definite advantage over national banks.

This section is rather lengthy due to rearranging existing language for clarification, however, nothing was deleted or added except the provision covering second mortgages.

Sec. 7. A new section is proposed, allowing state chartered banks to make loans secured by forest tracts. We believe this is particularly important to banks and their customers located in areas where there is a significant and economically marketable timber resource. National banks may make such loans and the more modern state banking codes contain such a provision.

Sec. 8. A new section permitting banks to invest in a bank service corporation is proposed. A bank service corporation normally provides computerized bookkeeping and record keeping services to other banks, businesses, and the public. Such an investment is subject to examination and regulations by the department. Bank service corporations are quite common throughout the nation.

Sec. 9. The new section proposed would permit banks to acquire and lease at the request of the customer, both real and personal property. This enables the bank to offer broader services to its customers, relieving them of capital investment and providing tax advantages. The bank's investment in real and personal property under lease arrangements combined with other investments under Sec.230 is limited to an amount not to exceed the shareholder's equity. National banks may engage in leasing and the more modern state banking codes contain such a provision.

Sec. 10. It is proposed that AS.06.05.235 be rewritten to provide clarification and a broader definition for domestic bank holding companies. The definition (AS.06.05.540(9)) as it now reads, is very confusing and limits corporate ownership of bank stock to the controlling interest in one bank. We believe this is too restrictive and should be changed.

The proposed new section would require a company to register as a domestic bank holding company, if it owns 10% or more of an Alaska bank or banks. The term "company" includes a corporation, business trust, partnership, association, or other similar organizations. The language used in the proposed new section is sufficiently broad to recognize a registered bank holding company (Bank Holding Company Act of 1956, controlling two or more banks), provided there is compliance with the domestic qualifications under this section. We believe this type of organization is desirable if not vital to the smaller banks in this state for purposes of remaining competitive with the larger banks.

Sec. 11. This is a proposed new section covering various banking prac

The Honorable Barry Jackson
Chairman, House Judiciary Committee
State Legislature, Juneau, Alaska

April 9, 1970

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including issuing letters of credit, trade acceptances, banker's acceptances, and the sale of data processing services.

Due to the increasing involvement of Alaska in foreign trade and frequency of large commercial transactions between banks and their customers in this state, our own state banks should have such authorized capability.

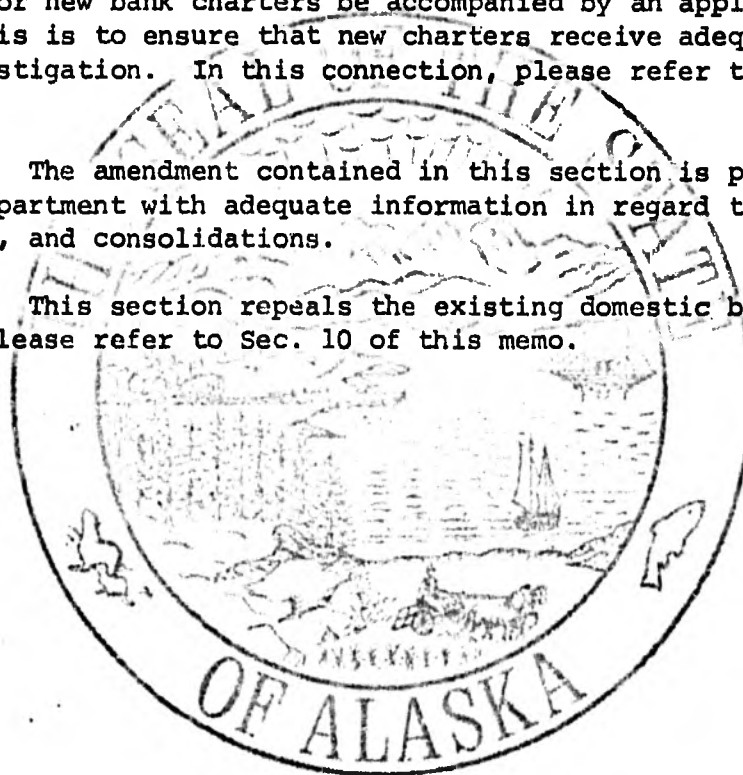
Authorizing the sale of data processing services should not be confused with the proposed bank service corporation legislation. This section permits the bank to offer the same services, but does not involve an investment in a separate corporate subsidiary.

Sec. 12. AS.06.05.345(a) is amended to reduce the par value of the capital stock from \$10 to \$1. We believe reducing the par value to \$1 will allow a broader distribution of the capital stock, thus encouraging wider ownership of Alaska financial institutions.

Sec. 13. It is proposed that AS.06.05.365 be amended to provide that applications for new bank charters be accompanied by an application fee of \$1,000. This is to ensure that new charters receive adequate feasibility study and investigation. In this connection, please refer to Sec. 3 and Sec. 4 of this memo.

Sec. 14. The amendment contained in this section is proposed in order to provide the department with adequate information in regard to bank conversions, mergers, and consolidations.

Sec. 15. This section repeals the existing domestic bank holding company definition. Please refer to Sec. 10 of this memo.



MEMORANDUM

TO: The Honorable Willie Hensley, Chairman
House H&W Committee

FROM: J. W. Elett, Commissioner
Department of Health and Welfare

SUBJECT: HB No. 667 - Fiscal Note

DATE: February 27, 1973

Attached is Fiscal Note relating to House Bill 667.

JWB/JFW/cyb
Attachment

cc: John Beard, Governor's Office
House Finance Committee
✓ House Judiciary Committee
Budget Management Div., Dept. of Admin.

Student course completion

HB 667

Form No. 1
100M 7/67 ©

STATE OF ALASKA
Inter-Department Route Slip

TO: Legislative Affairs
DEPT: _____

ATTN: House Judiciary Comm.

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information |

Remarks:

From: Health & Welfare Date: 2/27
By: cyb

SA-11
 State of Alaska
 Dept. of Administration
 Budget & Management Div.
 (Rev. 8/69)

EXPENDITURES BY OBJECT AND SOURCE OF FUNDS
 For the Fiscal Year Ending June 30, 1971

Department	Health & Welfare	Code	06
Division	General Adm.		
Program	Office of Violent Crimes		
	Compensation Board		

Exp. Code	EXPENDITURES BY OBJECT	1968-69 Actual	1969-70 Authorized	1970-1971 ESTIMATED			
				Department Request (5)	Increase (Decrease) (6)	Governor's Allowance (7)	Legislative Allowance (8)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
100	Personal Services			28,300			
200	Travel			13,800			
300	Contractual Services			6,600			
400	Commodities			800			
500	Equipment			2,200			
600	Lands & Structures						
700	Grants, Claims & Shared Revenue			22,300			
800	Miscellaneous						
900	Inter-Agency Charges			1,000			
	Total Expenditures						
	Outstanding Encumbrances (Col. 3)						
	Amount Lapsed						
	Total			75,000			
Rec. Code	SOURCE OF FUNDS						
	Federal Receipts (See SA-15)						
	Program Receipts (See SA-15)						
	Inter-Agency Receipts						
	Special Fund						
	UNRESTRICTED GENERAL FUND			75,000			
	TOTAL			75,000			

SA-13
 State of Alaska
 Dept. of Administration
 Budget & Management Div.
 (Rev. 8/69)

DETAIL OF PERSONAL SERVICES

For the Fiscal Year Ending June 30, 1971

Department	Health & Welfare	Code	06
Division	Violent Crimes		
Program	Compensation Board		

CLASSIFICATION TITLE (1)	PCN (2)	Pay Rge (3)	No. Sal. (4)	68-69		69-70 Actn.		1970-1971 ESTIMATED				Gov. Allowance			Legis. Allow.		
				Annual Amount (5)	No. Pos (6)	No. Mo. (7)	Annual Amount (8)	Dept. Request			Increase (Decrease) (12)	No. Pos. (13)	No. Mo. (14)	Annual Amount (15)	No. Pos. (16)	No. Mo. (17)	Annual Amount (18)
								No. Pos. (9)	No. Mo. (10)	Annual Amount (11)							
1 Admin istrator		32	1473					1		17,676							
2 Secretary I		10	631					1		7,572							
3																	
4																	
5																	
6																	
7 Employee Benefits @ 12%										3,030							
8																	
9										28,278							
10																	
11 Rounding										22							
12																	
13																	
14																	
15																	
16																	
17																	
18																	
19																	
20																	
21																	
22																	
23																	
24																	
25																	
26																	
Outstanding Enc. (Col. 5)																	
SUMMARY																	
Permanent-Full-time Positions								2									
Permanent-Part-time Positions																	
Temporary (Full Time Equivalent)																	
No. Man Months									24								
TOTAL ANNUAL AMOUNT										28,300							

SA-14
 State of Alaska
 Dept. of Administration
 (Rev. 8/69)

DETAIL OF EXPENDITURES-200 TRAVEL
 For the Fiscal Year Ending June 30, 1971

Department	Health & Welfare	Code 06
Division		
Program	Violent Crimes Compensation Board	

Code (1)	TRAVEL CLASSIFICATION (2)	1968-69 Actual (3)	1969-70 Authorized (4)	1970-1971 ESTIMATED			
				Department Request (5)	Increase (Decrease) (6)	Governor's Allowance (7)	Legislative Allowance (8)
210	Transportation Costs Within Alaska			6,500			
220	Per Diem & Other Costs Within Alaska			7,300			
230	Transportation Costs Outside Alaska						
240	Per Diem Costs Outside Alaska						
	Outstanding Encumbrances (Col. 3)						
	TOTAL			13,800			

ANALYSIS OF REQUESTED TRAVEL

PURPOSE	LOCATION	DATE	EMPLOYEE TRAVELLING	NO. DAYS	COST		COST ANALYSIS	
					TRANS.	PER DIEM	CURR. LEV.	PROG. INC.
Board Meetings	Variable	Variable	Board Members (Five)	30	4,500	5,250		
Hearing Officer	"	"		40	1,500	1,400		
Board Meetings	"	"	Admin Officer	30	500	630		
					6,500	7,280		

DETAIL OF EXPENDITURES--300
 CONTRACTUAL SERVICES
 For the Fiscal Year ending June 30, 1971

Department	Health & Welfare	Code	06
Division			
Program	Violent Crimes Compensation Board		

Code (1)	CONTRACTUAL SERVICES CLASSIFICATION (2)	1968-69 Actual (3)	1969-70 Authorized (4)	1970-1971 ESTIMATED			
				Dept. Request (5)	Increase (Decrease) (6)	Governor's Allowance (7)	Legislative Allowance (8)
310	Communications			1,600			
320	Printing & Advertising			500			
330	Rents & Utilities			2,500			
340	Repairs, Services & Alterations						
350	Transportation of Things						
360	Equipment Rental						
370	Insurance & Bonding						
380	Professional Fees & Services						
390	Other Contractual Services			2,000			
	Outstanding Encumbrances						
	TOTAL			6,600			

EXPENDITURE REQUEST - COST ANALYSIS

	Current Level	Program Increase	Total
310			
320			
330			
340			
350			
360			
370			
380			
390			

EXPENDITURE REQUEST - NARRATIVE ANALYSIS

- 310 Telephone, telegraph, Postage
- 320 - Printing forms
- 330 - Rent - Four Months
- 390 - Witness Fees

SA-14b
 State of Alaska
 Dept. of Administration
 Budget & Management Div.
 (Rev. 8/69)

DETAIL OF EXPENDITURES---400 COMMODITIES

For the Fiscal Year Ending June 30, 1971

Department	Health & Welfare	Code 06
Division		
Program	Violent Crimes	
	Compensation Board	

Code (1)	COMMODITY CLASSIFICATION (2)	1968-69 Actual (3)	1969-70 Authorized (4)	1970-1971 ESTIMATED			
				Department Request (5)	Increase (Decrease) (6)	Governor's Allowance (7)	Legislative Allowance (8)
310	Clothing						
430	Food for Human Consumption						
440	Fuel (Other than for Mtr. Vehicles)						
450	Maintenance & Construction Materials						
460	Mtr. Veh. Parts, Supplies & Access.						
470	Professional & Scientific Supplies						
480	Stationery & Office Supplies			800			
490	Other Supplies, Materials & Parts						
	Outstanding Encumbrances (Col. 3)						
	TOTAL			800			

EXPENDITURE REQUEST - COST ANALYSIS

	Current Level	Program Increase	Total
410			
430			
440			
450			
460			
470			
480			
490			

EXPENDITURE REQUEST - NARRATIVE ANALYSIS

DETAIL OF EXPENDITURES-500 EQUIPMENT
 For the Fiscal Year Ending June 30, 1971

Department	Health & Welfare	Code	06
Division			
Program	Violent Crimes		
	Compensation Board		

Code (1)	EQUIPMENT CLASSIFICATION (2)	1968-69 Actual (3)	1969-70 Authorized (4)	1970-1971 ESTIMATED			
				Department Request (5)	Increase (Decrease) (6)	Governor's Allowance (7)	Legislative Allowance (8)
510	Vehicles, Boats, Airplanes						
520	Office Furniture & Equipment			2,200			
530	Equipment Peculiar to the Program						
560	Shop & Maintenance Equipment						
590	Other Equipment						
	Outstanding Encumbrances (Col. 3)						
	TOTAL			2,200			

ANALYSIS OF EQUIPMENT REQUEST

ITEM NO.	DESCRIPTION OF EQUIPMENT	EQPT. CODE	NO. UNITS	UNIT COST	TOTAL COST	COST ANALYSIS	
						CURR. LEV.	PROG. INC.
1	Executive Desk	520	1	188	188		
2	Executive Chair	520	1	60	60		
3	Chair Side	520	3	25	75		
4	Dictating Unit	520	1	446	446		
5	Transcribing Unit	520	1	519	519		
6	Typist Desk	520	1	220	220		
7	Typist Chair	520	1	50	50		
8	Electric Typewriter	520	1	486	486		
9	File Cabinet	520	1	100	100		
					2,144		

SA-14d
 State of Alaska
 Dept. of Administration
 Budget & Management Div.
 (Rev. 8/69)

DETAIL OF EXPENDITURES (600, 700, 800, 900)
 For the Fiscal Year Ending June 30, 1971

Department	Health & Welfare	Code
Division		06
Program	Violent Crimes	
	Compensation Board	

Code (1)	EXPENDITURE CLASSIFICATION (2)	1968-69 Actual (3)	1969-70 Authorized (4)	1970-1971 ESTIMATED			
				Department Request (5)	Increase (Decrease) (6)	Governor's Allowance (7)	Legislative Allowance (8)
600	Land, Bldgs. Non-Structural Improvment.						
700	Grants, Claims & Shared Revenue Compensation Payments			22,300			
800	Miscellaneous						
900	Inter-Agency Charges						
	Dept. of Admin - Central Duplicating			500			
	Dept. of Highways - Car Rentals			500			
				1,000			

EXPENDITURE REQUEST - COST ANALYSIS			
	<u>Current Level</u>	<u>Program Increase</u>	<u>Total</u>

HOUSE JOURNAL

Judiciary Committee Report

on

CS for HOUSE BILL NO. 667

This bill establishes a system of compensating victims of bodily crimes for their out-of-pocket expenses incurred as a result of the crime. One of the most fundamental functions of a government is the protection of its citizens; therefore, when the various statutory deterrents, law enforcement activities and conditions of the society fail to provide this protection, it is only reasonable that the government compensate the victims of that failure. Under present law, when the person who commits the crime is not financially responsible, the innocent victim who suffers the personal injury is left to his own resources. This obviously works an especial hardship on the poor and the elderly.

The bill is limited to personal injuries and to out-of-pocket expenses in order to avoid the likelihood of collusion. The total amount payable is limited, and the bill specifies additional limitations on and factors to be considered in awarding compensation. Information presented in an August 1969 report of the Arkansas Legislative Council indicates a rather low cost for such a system. In California, with a population of approximately 19,163,000, the 1967-68 fiscal year budget for the system was \$22,411; in the 1968-69 fiscal year the budget was \$105,374; and the proposed budget for the 1969-70 fiscal year was \$127,000. The costs rise as more people become aware of the availability of compensation for their injuries. According to the Arkansas report, as of early 1969, at least five states had enacted victim compensation systems such as this one, and at least six others and Congress (for the District of Columbia) were considering similar legislation. In the preparation of this bill, the relevant provisions in the law of Hawaii, California, Massachusetts, and Maryland were reviewed.

Barry W. Jackson
Chairman
House Judiciary Committee

S U M M A R I E S

Massachusetts

The compensation system in Massachusetts is similar in substance to that contemplated in Alaska. On the whole, however, it is shorter and provides fewer guidelines. The main difference is that the judiciary has been given the authority to hear and determine cases. Jurisdiction is vested in the district courts, rather than a separate administrative agency. Some key additions that are not found in Alaska's proposed act are as follows: it specifies a minimum loss for a claim - the individual must have suffered an out-of-pocket (medical) loss of at least \$100 or lost two continuous weeks of earnings or support. Massachusetts compensates for an injury attributable to an effort by the victim to aid another victim (not specified in Alaska). The Massachusetts system was conceived of as compensating, irrespective of need, wishing to disconnect itself as much as possible with that brand of welfare legislation. For purposes of comparison the monetary limit of a claim is \$10,000 and a claim must be filed within one year after the occurrence of the crime upon which it is based.

California

This system, functioning by means of an administrative board, compensates for injury or death resulting from an attempt to rescue another from drowning or other catastrophe, as well as for injury that is the result of criminal activities. Damage to property is specified as a valid claim for compensation. The program has been criticized for its strong welfare orientation, requiring in all regard that the victim be in need of compensation, and it is broader than just compensating victims of crime. Most critics feel that compensation should not be a handout; that rather it is restitution and a program should not legitimately exclude thousands of people from its protection on purely a class basis. Under California's statute, the monetary limit of a claim is \$5,000.

Hawaii

Hawaii's provisions closely approximate those proposed in Alaska, suggesting a close following of the system outlined in Suggested State Legislation, 1967. The Hawaii body is a three-member administrative commission within the Department of Social

Hawaii - (continued)

Services. Hawaii, unlike the other states, provides for a set daily compensation for commission members, at the rate of \$50 per day for "each day's actual attendance to his duties," as well as traveling and subsistence expenses. A maximum of \$6,600 a year is allowed. (A set yearly salary is provided for under the Maryland system, but the amount is unspecified, to be provided for in the annual budget.) Attorney fees, paid out of the compensation, may be made up to 15% of the award (as in most of the other systems), but Hawaii provides that this is only if a claim exceeds \$1,000. However, in no case shall attorney fees exceed the award of compensation. The Hawaii statute sets out an express appeal provision, but limits appeal to cases where it is asserted that the order or decision was in excess of the commission's authority or jurisdiction. Under Alaska's statute, orders and decisions of the board are final, without exception. Hawaii provides that the attorney general is the legal advisor to the commission and its statute includes a survival and abatement provision. Hawaii's limit for compensation is \$10,000 and the claim must be made within one and one-half years after the date of injury, death, or property damage.

Maryland

Maryland's system (three member administrative board) is generally the same in substance as that proposed in Alaska, but the administrative procedure is more detailed. Claims are initially assigned to one member who investigates and makes a decision. A hearing may be ordered. A claimant may, within 30 days after receiving the report from the single member, make application for consideration by the full board. The action of the full board in affirming or modifying the decision is final. 30 days after receiving a copy of the report, attorney general, in his own judgment may commence judicial review. Judicial review may not be initiated by any other person. Maryland provides for an emergency award up to \$500 prior to taking action on the claim, in cases where an award is probable and undue hardship will result to a claimant if immediate payment is not made. Final awards must be specifically reduced by (1) emergency awards; (2) sums from or on behalf of the person committing the crime; (3) payments from any other public or private source, including Workmen's Compensation Commission awards. The Maryland system includes a provision making a false claim a misdemeanor.