No.5
HB

HB 680

The Legislature of the State of Alaska
FISCAL NOTE
Second 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 Fair Hearings HB 680 SB
requested by
referred to date of request
completion date requested date received

EXPENDITURE DETAIL	FY 70-71	FY 71-72	FY 72-73
100 PERSONAL SERVICES	$ 45,000	$ 50,400	$ 56,400
200 TRAVEL	52,600	58,900	66,000
300 CONTRACTUAL SERVICES	30,000	33,600	37,600
400 COMMODITIES			
500 EQUIPMENT	8,400	9,400	10,500
600 LAND AND STRUCTURES			
700 GRANTS, CLAIMS & SHARED REVENUE			
TOTAL	$ 136,000	$ 152,300	$ 170,500
FUNDING DETAIL			
FEDERAL RECEIPTS	$ 78,000	$ 87,400	$ 97,900
SPECIAL FUNDS			
UNRESTRICTED GENERAL FUND RECEIPTS	58,000	64,900	72,600
Man Months			
Permanent Positions			
Temporary Positions			

FISCAL ANALYSIS

1 Attorney	$25,000	
1 Reporter/secretary	20,000	
Travel-attorney 100 trips @ $150 average	15,000	
Travel-reporter 100 trips @ $150 average	15,000	
Per diem-attorney 300 days @ $21 per day	6,300	
Per diem-reporter 300 days @ $21 per day	6,300	
Salaries- 100 client attorneys, 3 days @ $100 per day	30,000	
Travel- 100 client attorneys @ $100 average	10,000	
Equipment, office space, etc.	8,400	
Total		$136,000

The above is based on 100 fair hearings throughout the State considering the fair hearing officer based in Juneau.

Federal matching claimed at 50% for hearing officer. Federal matching at 75% for client attorney costs per SRS Regulation 10-2. A fee schedule must be developed to claim federal matching and payment through the Department of Health and Welfare.

DATE February 23, 1970 SIGNATURE

NAME & TITLE Stanley P. Harris, Director
Division of Public Welfare

HB 702

O'NEILL INVESTIGATIONS

FOURTH AVENUE BUILDING
272-2431
ANCHORAGE, ALASKA 99501

COLLECTION & AUDIT DIVISION

R. MICHAEL O'NEILL, OWNER

March 10, 1970

To: House Commerce & Judiciary Committees

Re: H.B. 702 - Regulating collection activities of collection agencies and loan companies

Gentlemen:

As a member of the Governor's Collection Agency Board and as a owner of one of the biggest collection agencies in Alaska I can see no need for additional legislation to regulate our agencies as is indicated in H.B. 702. We have in Alaska a model collection agency act that was passed two years ago which already covers many of the proposals in 702.

I question why collection agencies are grouped with finance companies. There is a wide divurgance in the collection procedures of a collection agency and those of a finance company. Alaska Court records will reflect judgments against finance companies for damages based on their collection tactics yet I do not know of any cases against collection agencies. The Better Business Bureau Division of the Anchorage Chamber of Commerce reports they have had a minimum number of complaints on collectors as compared to other service agencies.

Alaska is experiencing a great influx of transients at this time which will ultimately put a maximum burden on our various welfare agencies. If you take away the credit grantors final remedy of collection by curtailing our activities you will be creating a haven for the nations deadbeats as I know of no other state that restricts the collector such as is proposed in 702.

For the betterment of Alaska I feel this Bill should not pass and request to be heard at a Committee Hearing on this matter.

Very truly yours,

O'NEILL INVESTIGATIONS

R. Michael O'Neill

R. Michael O'Neill

File

LOIS J. INGALLS
OWNER, MANAGER
PHONE 277-3037

LICENSED & BONDED
NOTARY PUBLIC

DOCTORS' COLLECTION SERVICE

213 - 6TH AVENUE, ROOM 3
ANCHORAGE, ALASKA

March 5, 1970

In Re: House Bill 702

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

Dear Sir:

I an very concerned about House Bill 702 as it could very probably put me and several other collection agencys out of business. We are already regulated by federal and state laws and most of us are under the American Collectors code of Ethics.. If I could stay in business at all it would mean higher collectiong fees which in turn would evidiently mean the Doctors would have to raise their fees to conpensate for the loss.

I am very much against this Bill and sincerly hope that you will consider my concern and future, which depends on if this bill passes or not.

Thank you.

Very truly yours,

Lois J. Ingalls

HB-702

AMES CREDIT and ADJUSTMENT BUREAU
514 Second Avenue, Lathrop Building Room 102
P.O. Box 522, Fairbanks, Alaska 99701
Phone 452-4481 or 452-4482

Member of:
Alaska Collectors Association
American Collectors Association
Washington State Collectors Association
American Repossession Association
Allied Finance Adjusters

March 3rd, 1970

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

Re: House Bill 702

Dear Barry:

On behalf of the Alaska Collector's Association of which I am Sect. and Treasurer we urge it's defeat. Benefits from passage we do not see. The people in Alaska engaged in collection activity are all bonded, finger printed and yes, even mugged. The integrity of no other "profession" (if I may so call it) has been attacked as has collections. The owners and employees of these agencies are law abiding citizens, property owners and voters in the State of Alaska. Believe at this time we have enough legislation governing collections.

It is our firm belief that we have the most qualified men down in Juneau IF only they would concentrate and apply their knowledge to vital issues. The future of Alaska is in the hands of the men in Juneau, certainly this vast knowledge combined will work toward the most important items, thus benefiting all Alaskans.

Hope to see you during convention, with kindest regards,

Mary Barnes

Protect Your Credit That It May Serve You Well

HB-702

PERSONAL COLLECTIONS

P.O. BOX 988
ANCHORAGE, ALASKA 99501

D. M. LEACH, OWNER

March 3, 1970

Re: House Bill 702

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

Dear Chairman Jackson:

As a new Owner of this Collection Agency, but a three and one half year manager of O'Neill Investigations, after Mel Personett came to Juneau, I would like to urge you to VETO the above bill. As anyone can see, it would hamstring an agency and for all practical purposes put one out of business. With the write-offs to business being what they are now for unpaid bills, we cannot afford to further restrict RESPONSIBLE agencies.

I am highly in favor of being very restrictive as to whom is granted a license to operate a Collection agency, however. I wish to go on record as being in favor of a higher Collection agency bond than is now required, and further, to not license anyone as owner or operator of a Collection agency in Alaska who personally has a past record of not paying their own bills, and this would have to be established by a Credit report.

I have been a resident of Alaska since January, 1963, have three children in school here, the ldest, Linda, who graduates from Dimond this year with a straight A average. My wife is a GS 6-8 with the FAA, and 13 years Government service.

Very truly yours,

PERSONAL COLLECTIONS

Donald M. Leach

Donald M. Leach

440 W. 5th Ave. Suite 5
272-8525

File

Professional Business Bureau

519 W. 8TH AVENUE ANCHORAGE, ALASKA 99501 272-8214

March 2,1970

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

Dear Sir: Re: House Bill 702

I would like to voice opposition to the above named bill, relating to Collection activities.

As manager of a collection service for the members of the Alaska State Medical Association, I find the bill to be very stringent and restrictive for the Creditor and Agency and allows more leniency for the debtor !! There would be such detailed paper work involved as to cause additional charges and personnel , in order to process claims.

Please, see what you can do to influence the vetoing of this bill.

Thank you.

Sincerely,
Lois W. Rone
Lois W. Rone
Manager

lwr

(P.S.) If you have any questions in regard to our stand on the bill , please contact us.

File
HB 702

CREDIT BUREAU OF KETCHIKAN

PHONE CAnal 5-5131 - 327 MISSION STREET - P. O. BOX 2207

KETCHIKAN, ALASKA 99901

March 3, 1970

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

Dear Sir:

HB # 702 restricting collection agency activities has come to my attention and I feel that it is very unfair and discriminatory to my business. The reasons I am opposed are:

1. The State of Alaska has just passed a collection agency law (which the Alaska Collectors helped work out with our representatives) setting up bonding requirements and qualifications for collectors. There has been a board appointed to handle any complaints against collection agencies.

2. My business is already regulated, not only by the State of Alaska, but also by the Code of Ethics of the National American Collectors Assn and my membership in the Associated Credit Bureaus of America. There are strict requirements that I had to meet as manager of a Credit Bureau before I could be admitted to membership in the Associated Credit Bureaus. I have been a member since 1962 and have had no complaints filed against me.

3. This law is discriminatory against collection agencies. Lawyers and credit managers of local business houses also do a great deal of collecting in our state. What restrictions have been set up against their collection methods?

4. We do serve a need in our area by returning money to the economy. Last year our agency returned $ 85,535.72 to our community that had been written off in bad debts. I pay a four person payroll, city, state, borough and federal taxes.

5. I conduct an ethical and honest business and I feel that HB # 702 could possibly increase my costs and certainly my worries so that I could not continue to operate.

Your consideration of this matter will be appreciated and I would like to have the opportunity to appear before your committee. Please advise when this will be possible.

Yours very truly,

Virginia Briant

(Mrs.) Virginia Briant

CC: Rep. Bill Boardman
Senator Bob Ziegler
G. L. Gucker, Legislative Chairman
Ketchikan Chamber of Commerce
Governor Keith Miller

HB 703

LAW OFFICES OF
FAULKNER, BANFIELD, BOOCHEVER & DOOGAN
ROOM 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801

TEL. 586-2210
AREA CODE 907

HERBERT L. FAULKNER
NORMAN C. BANFIELD
ROBERT BOOCHEVER
FRANK M. DOOGAN
DONALD L. CRADDICK
AVRUM M. GROSS
MICHAEL M. HOLMES

February 20, 1970

COPY

The Honorable Lester Bronson, Chairman
Commerce Committee
House of Representatives
Juneau, AK 99801

re: HB - 703 -
Alaska Small Loan Act

Dear Mr. Chairman:

Enclosed is a copy of HB-703 which has been referred to your committee.

I represent Household Finance Corporation which is interested in this type of legislation and if this bill is considered by your committee, I would like to have notice of the time of the meeting and be allowed to present the views of my client.

This bill states that if a small loan company has an outstanding loan which is in default, it cannot make a new loan for a larger amount.

The branch managers of Household Finance Corporation are instructed that they are not to make a larger loan than the balance of the prior loan then in default, unless they will be doing some service which will permit the borrower to repay a larger loan.

A typical illustration is where a borrower has missed a payment and comes into the office to explain that an emergency has arisen which has taken his available cash, such as a member of his family being in the hospital and he has to use his money to give money to the hospital in order to release his wife or child. Very often they need more money and are capable of repaying a large loan. Under such circumstances, Household permits a larger loan to be made because the company then rescues the customer from an unfortunate situation he could not avoid and it permits him to continue making regular payments to the company.

In my own personal dealings with my regular bank, I have often borrowed more money than I owed at the time I originally took out the loan and I think people dealing with small loan companies

should be allowed the same privilege.

We know of no logical reason for such a restriction and we believe this bill, if enacted, would do a disservice to many people who have good credit, make their payments regularly but find themselves in a position where they have to have an additional amount of credit.

I intend to be in Anchorage all of next week and will not be available then to appear before your committee.

Yours very truly,

N. C. Banfield

Barry:
I think Lee will come to your Committee after Commerce -
Norman

NCB:rp
cc: F. O. Ketaugh
D. R. Buckey
Wendall Kay
Barry W. Jackson

FORM SA-2
ADM 6-68

STATE OF ALASKA
Inter-Department Route Slip

TO: Alaska State House
DEPT.: of Representatives
ATTN.: Barry W. Jackson!

☐ Approval	☐ Note & Return
☐ Signature	☐ Initial & Return
☐ Comment	☐ Return As Requested
☐ Contact Me	☐ Return For Approval
☐ Prepare Reply	☐ Necessary Action
☐ For Your File	☒ Your Information

Remarks:

Xerox 10 copies
of bill 2 pages only
for Tues.

From: Sig Strandberg
Dept.: Local Affairs **Date** 4/16
By: SS

FORM SA-1B

HB 740

MEMORANDUM

State of Alaska

OFFICE OF THE GOVERNOR

TO: The Honorable Barry W. Jackson, Chairman
House Judiciary Committee
Alaska State House of Representatives

DATE : April 7, 1970

FROM: Sigvald J. Strandberg
Acting Director
Local Affairs Agency

SUBJECT: House Bill No. 740

Mrs. Mason, Secretary to your committee, recently advised the agency of your interest in the agency's analysis of House Bill No. 740. It is my understanding that this bill has been moved out of your committee with a majority signing "No Recommendation."

House Bill No. 740 amends AS 40.15.190(2) to allow a limited amount of land subdivision to be accomplished without subjection to the control of a local government platting authority. This proposed amendment would enable a land owner to divide a piece of property into four or fewer parcels, each of which is required to be five or more acres in size, without the approval of the platting authority The bill provides that such parcels must be amenable to aliquot parts description.

Apparently the primary purpose of House Bill No. 740 is to relax local subdivision control in order to permit property owners of a municipality to perform a limited amount of subdivision without having to comply with that municipality's subdivision regulations. In addition, exemption from compliance with local subdivision regulations to the extent afforded in House Bill No. 740 would afford the land owner with the opportunity to avoid engineering and surveying expenses through the use of aliquot parts method of property description.

It is the opinion of the agency, after having reviewed House Bill No. 740 and a similar measure in the Senate (Senate Bill No. 164), that the current definition of subdivision as expressed in AS 40.15.190(2) should be retained in the statutes. Control of subdivision by city and borough platting authorities is an extremely important tool in regulating the land usages and general patterns of community development. Exemption from compliance from local subdivision ordinances, even to the extent proposed in House Bill No. 740, introduces a potential for disorderly patterns of land use and attendent future problems in the location of roads and public utilities. Even though House Bill No. 740 provides that the land which is to be divided into four or fewer tracts must have access to a public highway or street, this is not adequate assurance that such land division will harmonize with established land use patterns. Aliquot parts division tends to minimize rights-of-way difficulties as does restriction of the size of the divided parcels to units of five acres or more. However, the salient objections would still exist: establishment of land use patterns not in concert with the overall principles set forth in a Comprehensive Community Development Plan, loss of control of population densities, future difficulties in integrating road networks and utility extensions and future engineering problems with respect to varying topographies.

In light of the above potential difficulties, it is our opinion that local planning, platting, and zoning authorities should continue to have the same subdivision authority as they now are accorded under the definition of subdivision contained in AS 40.15.190.

I am attaching the comments of the Greater Anchorage Area Borough Planning and Zoning Commission relative to their opposition to House Bill No. 740.

SJS:lk

Attachments

PLANNING DEPARTMENT
GREATER ANCHORAGE AREA BOROUGH
104 NORTHERN LIGHTS BLVD.
ANCHORAGE, ALASKA 99503

Joe Local Affairs

March 11, 1970

TO: Senate and House Resources & Local Government Committees

FROM: Planning and Zoning Commission

SUBJ: Opposition to House Bill 740

HB 740 purports to change the definition of "subdivision".

Since subdivision control is a legal and proper device for fostering better community development, it becomes an important facet in comprehensive community planning. The orderly and planned growth of undeveloped areas within a municipality is best promoted through statutes regulating land subdivision. It would appear that the developer of a subdivision is to some extent an architect of the future growth of a municipality. The developer establishes a land use pattern that will endure for years through the creation and installation of new streets, utilities, parks and other open spaces, and through the changes that his development occasions in the pattern of population density. Such development may necessarily and properly be guided by an exercise of police power.[1]

From the standpoint of actual subdivision practice, enactment of the proposed legislation would mean that literally thousands of acres could be subdivided without reference to the Platting Board. The benefits to the individual buyer in a properly platted subdivision are clear; guarantee of access via a dedicated street, proper provision of utility easements, clear, legal, recorded and surveyable description of his land, careful planning of lot sizes, road grades and drainage, detailed knowledge of available public facilities and many others. The great advantage to the general public in having equitable, logical and strictly enforced subdivision regulations is not always so clear, but when one considers the real shortage of available land for urban expansion, the over-riding necessity of land subdivision regulations can be readily seen.

Planning is for the people; and the priorities for schools, roads, water and sewer services, police and fire protection, libraries and cultural facilities, parks and recreation and open spaces can best be determined in accordance with a basic land use plan. The meaningful development of such a plan, and the implementation thereof is dependent, to a large degree, on the ability to regulate and guide the subdivision of land.

---

[1] Yokley: The Law of Subdivisions, the Michie Company, 1963.

It is not felt necessary at this time, to research and document the many factors of a planning program that could become virtually meangless if this act were to pass. We think, however, that the dangers of changing the very meaning of subdivision and excluding tracts of 5 acres or more, and aliquot parts divisions, should be abundantly clear to all those who have, as their prime goal, the protection of the public interest.

The Greater Anchorage Area Borough Planning Commission last year adopted a resolution in firm opposition to the passage of a similar bill (SB 164), and enclose herewith a resolution opposed to the passage of HB 740. The Planning Association of Alaska has also expressed opposition to this bill, as has the City of Anchorage Public Works Department. If this bill is going to be substantively discussed by the Committees, we would be most appreciative of an opportunity to testify, and to submit resolutions from a large number of concerned agencies.

Respectfully submitted,

R. W. Pavitt, AIP
Planning Director

RWP:rvd

GREATER ANCHORAGE AREA BOROUGH

PLANNING AND ZONING COMMISSION RESOLUTION NO. 527

RESOLUTION OPPOSING PASSAGE OF HOUSE BILL NO. 740

WHEREAS, subdivision control is a reasonable, effective and proper device for bettering and fostering community development, and

WHEREAS, the orderly growth of undeveloped areas within a municipality is best guided through statutes regulating land subdivision, and

WHEREAS, the development of subdivisions has a profound effect on the growth of a community through the installation of streets, utilities, parks and other open spaces, and through the changes that the said development occasions in the pattern of population density, and

WHEREAS, AS 40.15.190 (2) adequately and properly describes the meaning of subdivision, and the resultant regulation of platting activity constitutes a measure of protection to the individual purchaser, assuring him of a proper, legal and surveyable parcel of land, and

WHEREAS, the Greater Anchorage Area Borough, and other rapidly developing areas throughout the State of Alaska would be grievously damaged if the responsibility and duty of providing public protection through duly enacted subdivision regulations was to be removed from public review.

NOW, THEREFORE, BE IT RESOLVED by the Greater Anchorage Area Borough Planning and Zoning Commission, sitting as the Greater Anchorage Area Platting Board, that this body go on record as being inalterably opposed to the passage of House Bill No. 740, currently before the Sixth Legislature, Second Session, in the Legislature of the State of Alaska.

BE IT FURTHER RESOLVED that true and correct copies of this resolution be forthwith addressed to the Borough Assembly of the Greater Anchorage Area Borough, the Borough Chairman, the Borough Attorney, the Chairman of the Local Government Committees and Resource Committees of the Alaska House and Alaska Senate, and other interested parties.

PASSED AND ADOPTED this 4th day of March, 1970, by the Greater Anchorage Area Borough Planning and Zoning Commission.

R. W. Pavitt, Secretary

Arliss Sturgulewski, Chairman

File

LAW OFFICES
WANAMAKER & DICKSON
ROOM 301 - AUSTRALASKA BUILDING
360 "K" STREET
ANCHORAGE, ALASKA 99501

JAMES N. WANAMAKER
GEORGE A. DICKSON

TELEPHONE
272-0519

April 2, 1970

Dear Representative Jackson:

It has come to my attention that HB 740 (Land Subdivision) may come to a floor vote.

Presently, the pertinent statute (AS 40.15.190 (2)) requires a subdivision of land to be approved by a platting board before it can become legal. This requirement of subdivision approval is the most basic and important tool available to land planners. It insures that land is developed in an orderly manner. The control of these divisions of land is as old as written records. The Egyptians and Greeks both maintained systems for the division of land.

To gut Title 40 by passing HB 740 would be to retreat almost beyond the dawn of recorded history. The social and economic cost to the community and to present and future generations which would be incurred by the passage of HB 740 are almost incalculable. HB 740 would allow land to be subdivided into as many as four lots with no more control than that all lots have access to a public highway. This ignores whether or not all lots have practical access to the public highway (there could very well be a cliff at the point of access), it takes no account of land lying behind the subdivided acreage which could be left without access if no dedicated road was required, the bill makes no provision for utility easements, no survey would be required so that a future buyer would know where his land actually was, dedication could not be required for the needed widening of existing public highways, the lots created could be of any shape, i.e., 100 feet wide and 1,000 feet long. The above are only a few items that occur to me as I write this.

I spent three years as a land planner and my law practice now is primarily concerned with real estate. For the public welfare, I ask you to please vote against HB 740.

Very truly yours,

George A. Dickson

GAD/kdr

Matanuska-Susitna Borough, Inc.
BOX B, PALMER, ALASKA 99645 • PHONE 745-3246
PLANNING-ZONING COMMISSION

April 6, 1970

Harold M. Eby
819 E. Fourth Avenue
Anchorage, Alaska 99501

Dear Mr. Eby: FIRST NOTICE

Under the provisions of Title 8 of the Borough Code of the Matanuska-Susitna Borough and the provisions of state law, the Matanuska-Susitna Borough Planning Commission is the duly constituted platting authority with jurisdiction over all lands in the Matanuska-Susitna Borough.

A copy of Ordinance number 65-4 which spells out the powers and duties of the Platting Board and the penalties against property owners who do not comply with the law concerning subdivision plats will be furnished you upon request.

Information has been received that you, or someone acting for you, as the case may be, may have sold or entered into a contract to sell land in a subdivision created by you before a plat of the subdivision has been prepared, approved and recorded as required by law. If such is the case, you are in violation of state law and the purpose of this letter is to call the matter to your attention. If, after reading the statute quoted hereinbelow you find that you are in violation, you are requested to get in touch with the undersigned promptly with the object of filing your plat, or request to waive the platting regulations, without undue delay and securing the required approval of the Platting Authority before recording it. Failure to comply with the law after notice will subject anyone in violation ultimately to prosecution under the strict terms of the law.

The penal statute referred to above is to be found in Alaska Statutes, Section 40.15.130, and reads as follows:

> "PENALTIES. A.S. 40.15.130. (a) The owner or agent of land located within a subdivision who transfers, sells, or agrees, or enters into a contract to sell land in the subdivision before a plat of the subdivision has been prepared, approved, and recorded in compliance with this chapter and the subdivision regulations adopted under this chapter, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $500 for each lot or parcel transferred or sold or agreed or included in a contract to be sold. The platting authority may enjoin a transfer or sales or agreement to sell, and may recover the penalty by appropriate legal action.

(b) No person may file or record a plat of subdivision in any public office unless the plat bears the approval of the platting authority. Any person who files or records a plat in violation of this requirement upon conviction is punishable by a fine of not more than $500 or by imprisonment for not more than six months, or by both."

If there is any question as to whether you are in violation of the above quoted ordinance it is advised that you notify the Borough Office, Planning and Zoning Department, as soon as possible.

Yours truly,

Verlyn J. Smith

Verlyn J. Smith
Planning Commission Secretary
Matanuska-Susitna Borough

vjs

Enclosure: Evidence of violation

1 17N 2W S14

FILED
19-980

BOOK 75 PAGE 248
Palmer Recording District

*STATUTORY WARRANTY DEED
(Tenancy by the Entirety)

The Grantor, HAROLD M. EBY, a single man, pursuant to *Section 34.15.030, Alaska Statutes 1962, for and in consideration of the sum of One Dollar ($1.00), and other valuable considerations in hand paid, conveys and warrants to ROGER L. MUSGROVE and JUDITH A. MUSGROVE, husband and wife, as TENANTS BY THE ENTIRETY with the right of survivorship, Grantees, the following described real estate situate in the Palmer Recording District, Third District, State of Alaska, to-wit:

> The South one-half of the Northeast one-quarter and the Northeast one-quarter of the Southeast one-quarter, Section 14, Township 17 North, Range 2 West, Seward Meridian, in the Palmer Recording District, Third District, State of Alaska, containing approximately 120 acres, more or less; subject to existing easements, restrictions and reservations of record, if any.

DATED this 9th day of May, 1969.

Harold M. Eby
Harold M. Eby

STATE OF ALASKA)
) SS.
THIRD DISTRICT)

THIS IS TO CERTIFY that on this 9th day of May, 1969, before me, the undersigned Notary Public, personally appeared HAROLD M. EBY, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same.

WITNESS my hand and official seal.

[signature]
Notary Public in and for Alaska
My commission expires: [illegible]

PLANNING DEPARTMENT
GREATER ANCHORAGE AREA BOROUGH
104 NORTHERN LIGHTS BLVD.
ANCHORAGE, ALASKA 99503

March 11, 1970

TO: Senate and House Resources & Local Government Committees

FROM: Planning and Zoning Commission

SUBJ: Opposition to House Bill 740

HB 740 purports to change the definition of "subdivision".

Since subdivision control is a legal and proper device for fostering better community development, it becomes an important facet in comprehensive community planning. The orderly and planned growth of undeveloped areas within a municipality is best promoted through statutes regulating land subdivision. It would appear that the developer of a subdivision is to some extent an architect of the future growth of a municipality. The developer establishes a land use pattern that will endure for years through the creation and installation of new streets, utilities, parks and other open spaces, and through the changes that his development occasions in the pattern of population density. Such development may necessarily and properly be guided by an exercise of police power.[1]

From the standpoint of actual subdivision practice, enactment of the proposed legislation would mean that literally thousands of acres could be subdivided without reference to the Platting Board. The benefits to the individual buyer in a properly platted subdivision are clear; guarantee of access via a dedicated street, proper provision of utility easements, clear, legal, recorded and surveyable description of his land, careful planning of lot sizes, road grades and drainage, detailed knowledge of available public facilities and many others. The great advantage to the general public in having equitable, logical and strictly enforced subdivision regulations is not always so clear, but when one considers the real shortage of available land for urban expansion, the over-riding necessity of land subdivision regulations can be readily seen.

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[1] Yokley: The Law of Subdivisions, the Michie Company, 1963.

It is not felt necessary at this time, to research and document the many factors of a planning program that could become virtually meangless if this act were to pass. We think, however, that the dangers of changing the very meaning of subdivision and excluding tracts of 5 acres or more, and aliquot parts divisions, should be abundantly clear to all those who have, as their prime goal, the protection of the public interest.

The Greater Anchorage Area Borough Planning Commission last year adopted a resolution in firm opposition to the passage of a similar bill (SB 164), and enclose herewith a resolution opposed to the passage of HB 740. The Planning Association of Alaska has also expressed opposition to this bill, as has the City of Anchorage Public Works Department. If this bill is going to be substantively discussed by the Committees, we would be most appreciative of an opportunity to testify, and to submit resolutions from a large number of concerned agencies.

Respectfully submitted,

R. W. Pavitt, AIP
Planning Director

RWP:rvd

GREATER ANCHORAGE AREA BOROUGH

PLANNING AND ZONING COMMISSION RESOLUTION NO. 527

RESOLUTION OPPOSING PASSAGE OF HOUSE BILL NO. 740

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WHEREAS, the development of subdivisions has a profound effect on the growth of a community through the installation of streets, utilities, parks and other open spaces, and through the changes that the said development occasions in the pattern of population density, and

WHEREAS, AS 40.15.190 (2) adequately and properly describes the meaning of subdivision, and the resultant regulation of platting activity constitutes a measure of protection to the individual purchaser, assuring him of a proper, legal and surveyable parcel of land, and

WHEREAS, the Greater Anchorage Area Borough, and other rapidly developing areas throughout the State of Alaska would be grievously damaged if the responsibility and duty of providing public protection through duly enacted subdivision regulations was to be removed from public review.

NOW, THEREFORE, BE IT RESOLVED by the Greater Anchorage Area Borough Planning and Zoning Commission, sitting as the Greater Anchorage Area Platting Board, that this body go on record as being inalterably opposed to the passage of House Bill No. 740, currently before the Sixth Legislature, Second Session, in the Legislature of the State of Alaska.

BE IT FURTHER RESOLVED that true and correct copies of this resolution be forthwith addressed to the Borough Assembly of the Greater Anchorage Area Borough, the Borough Chairman, the Borough Attorney, the Chairman of the Local Government Committees and Resource Committees of the Alaska House and Alaska Senate, and other interested parties.

PASSED AND ADOPTED this 4th day of March, 1970, by the Greater Anchorage Area Borough Planning and Zoning Commission.

R. W. Pavitt, Secretary

Arliss Sturgulewski, Chairman

HB- 741

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
111 FOURTH STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-6145

DICKERSON REGAN
SUPERVISING ATTORNEY

ANCHORAGE OFFICE
WILLIAM H. JACOBS
EXECUTIVE DIRECTOR
425 "G" STREET, SUITE 630

January 27, 1970

TO: Barry Jackson, Chairman
House Judiciary Committee

FROM: Philip B. Byrne, Deputy Director PBB

Dick Regan and I will appear before your Committee to seek Committee support for three bills we are advocating.

(a) A bill to prohibit harrassment and abusive practices by collection agencies.

(b) A bill to abolish the remedy of common law distraint.

(c) A bill to provide certain tenant remedies to assure habitable rental housing.

I am enclosing a copy of each proposed bill, together with an explanation of its provisions.

Should you have any questions, I am available at 6-6145, and can meet with you at any time.

cc: All House Judiciary Committee members.

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
111 FOURTH STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-6145

DICKERSON REGAN
SUPERVISING ATTORNEY

ANCHORAGE OFFICE
WILLIAM H. JACOBS
EXECUTIVE DIRECTOR
425 "G" STREET, SUITE 630

February 13, 1970

Representative Barry W. Jackson
Chairman
House Judiciary Committee

Dear Mr. Chairman:

In response to your request for further information regarding our proposed legislation concerning the right of a tenant to use rent payments for the repair of leased dwellings I have prepared a revised version that reflects some of the concerns of the Committee.

We have not been able to satisfy your request for case histories since our inability to offer any satisfactory legal approach to these problems inhibits the number of clients that seek us out and ask for help in this area. We do know that there is a serious lack of adequate and safe housing for indigent people in both urban and rural settings, but have no experience in attempting to use rent payments for the repair of defects.

The revised bill would tie the existence of housing defects to a local housing or building code or ordinance, as determined by the local official responsible for enforcement of that code.

A section-by-section analysis and a copy of the revision is attached. I am most interested in exploring with you the prospects for legislation of this type, and am available at 6-6145 at any time.

Very truly yours,

Philip B. Byrne

Philip B. Byrne

PBB:fm

SECTION BY SECTION ANALYSIS OF

REVISED

SAFE HOUSING BILL

Section 34.05.050.

(a) Provides for termination of a residential lease after one week's notice where there is a violation of the local housing code (hereafter, "code violation").

No notice is required where the code violation is a danger to health or safety of the occupants.

Inapplicable where the code violation was caused by an occupant.

(b) Code violations are to be determined only by the local code enforcement official (Hereafter, "official").

If the official does not make the inspection within 10 days, or where there is no official, then the tenant may terminate if the code violation is a threat to the health or safety of the occupants.

(c) Code violations caused wilfully or negligently by the landlord subject him to an action for damages.

Section 34.05.060.

(a) Provides for the use of up to two weeks' rent to repair code violations where the violation has been determined by the local official, and where the tenant has given the landlord two weeks' notice. The tenant must also give the landlord copies of the receipts for the work done.

(b) Provides for the use of up to four weeks' rent, where, in addition to the determination of a code violation by the local official, the tenant submits a written estimate four weeks before having the work done and supplies receipts to the landlord.

(c) Where there is no official, or the official does not inspect within 10 days after a request, then the tenant may proceed according to the other requirements of this section if the code violation renders the dwelling unsafe, unsanitary, untenantable, or poses an imminent threat to the health or safety of any occupant.

Section 34.05.070.

Prohibits retaliatory evictions of tenants using the provisions of this Act.

Section 34.05.050. Tenant's Remedy of Termination at Any Time.

(a) If there exists any violation of any local statute, code, regulation, or ordinance governing the maintenance, construction, use or appearance of the swelling unit and the property of which it is a part, the tenant may notify the landlord in writing of the fact; and, if the landlord does not remedy the violation whithin one week, the tenant may terminate the rental agreement. Such notice need not be given when the condition or violation involved renders a dwelling unit uninhabitable or poses an imminent threat to the health or safety of any occupant. The tenant may not terminate for a violation or condition caused by the want of due care of the tenant, a member of his family, or other person on the premises with his consent.

(b) Such violations shall be determined by the official charged with enforcement of or inspections under the local statute, code, regulation, or ordinance referred to under subsection (a) above. If such official or his duly authorized agent does not inspect or examine the condition alleged in writing by the tenant to be a violation within ten days after receipt of notification in writing, or if there is no such official the tenant may proceed as required in subsection (a) where the condition or violation involved renders the dwelling unit unsafe, unsanitary, untenantable, or poses an imminent threat to the health or safety of any occupant.

(c) If the condition or violation under this section was caused willfully or negligently by the landlord, the tenant may recover any damages sustained as a result of the condition

or violation including, but not limited to, reasonable expenditures necessary to obtain adequate substitute housing.

Section 34.05.060. Tenant's Remedy of Repair.

(a) If the landlord of an apartment or single family dwelling fails to repair remedy violations of any local statute, code, regulation, or ordinance governing the maintenance, construction, use or appearance of the dwelling unit and the property of which it is a part within two weeks after being notified by the tenant of such violation, the tenant may further notify the landlord of his intention to correct the violation at the landlord's expense and immediately do or have done the necessary work in a workmanlike manner. The tenant may deduct from his rent a reasonable sum, not exceeding two weeks' rent for his expenditures by a submitting to the landlord copies of his receipts covering at least the sum deducted.

(b) If the tenant submits a written estimate by a qualified workman at least four weeks before having the work done, and substitutes workmen and materials as the landlord may reasonably request in writing, the tenant may deduct from his rent a reasonable sum not exceeding one month's rent by submitting to the landlord copies of his receipts covering at least the sum deducted.

(c) Where there exists no official or agent charged with enforcement or inspections under such statute, code, regulation or ordinance, or where such or agent does not inspect or examine the condition alleged in writing by the

tenant to be a violation within ten days after receipt of notification in writing, the tenant may proceed under this section where the condition or violation involved renders the dwelling unit unsafe, unsanitary, untenantable, or poses an imminent threat to the health or safety of any occupant.

Section 34.05.070. Retaliatory Eviction Prohibited.

(a) In order to insure that dwelling units conform to applicable law in regard to habitability, health, safety, and fitness for use, it is the declared policy of this state to encourage tenants to enforce such applicable law in regard to the dwelling they inhabit.

(b) Any eviction, attempted eviction, increase in rent, or change in conditions or requirements to the detriment or a tenant or tenants, which is caused by, related to, or proximate to any such efforts of a tenant or tenants to correct violations of any applicable local statute, code, regulation or ordinance governing the maintenance,construction, use or appearance of the dwelling unit and the property of which it is a part, is in violation of public policy and is hereby prohibited.

February 2, 1970

Alaska Legal Services
Corporation
111 Fourth Street
Juneau, Alaska 99801

Dear Sir:

The committee has briefly reviewed the proposed bill of tenant rights. The committee sees serious difficulty in applying this bill in the rural areas of the state and the committee is aware that many, if not most, cities have housing codes covering these problems. There may, however, be a need for legislation and the committee would therefore appreciate a memorandum on your experience in this area, including case histories. We would appreciate having this information by February 13, 1970. Further delay beyond this date will make it difficult to enact appropriate legislation in this session.

Very truly yours,

Barry W. Jackson, Chairman

BWJ/mm

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
111 FOURTH STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-6145

DICKERSON REGAN
SUPERVISING ATTORNEY

ANCHORAGE OFFICE
WILLIAM H. JACOBS
EXECUTIVE DIRECTOR
425 "G" STREET, SUITE 630

February 12, 1970

Representative Barry W. Jackson
Chairman
House Judiciary Committee
Capitol Building
Juneau, Alaska 99801

Dear Mr. Chairman:

I appreciate this opportunity to submit further information on our proposal for legislation abolishing common law distraint.

I have researched the laws in selected states, but the sampling was limited to about nine or ten states. The best overall comment on the state of existing law follows:

> "The courts of this country have never looked with favor upon this form of self-help because of the opportunity afforded for injustice and oppression, and also because it discriminates in favor of one particular class of creditors. For this reason, in a number of states the remedy of distress was held not to be a part of the common law of that jurisdiction. (Cites cases from Alabama, Colorado, Missouri, Montana, North Carolina, Oklahoma). In other states it has been abolished by statute. (Cites 2 Tiffany, Landlord and Tenant, § 325, n. 20 (1912). In those states where it still exists, it has to a large extent been modified by statute. The general tendency of the statutes is to take away the self-help feature that existed at common law and to vest control over the proceedings in a public official. . . . Furthermore, the list of exempt chattels has been extended in many states to include specific chattels of the tenant himself, which at common law were not exempt. II American Law of Property, A. James Casner, § 9.47 (1952). See also 32 Am. Jur., Landlord and Tenant, § 613.

The State of Washington has provided for a statutory landlord's lien, but with a specific exemption as to the property of a tenant in residential dwellings. Wash. Rev. Code § 60.72.010.

The State of Oregon provides a statutory landlord's lien upon all personal property, except wearing apparel, but retains the self-help feature of the common law remedy. Ore. Rev. Stat. §§ 87.535-87.551.

I was unable to find a statutory landlord's lien in either New York or California, but Am. Jur. and A.L.P. indicate the common law remedy has been abolished by court decision. Interesting enough, California law provides, in a stature dating back several decades, a much broader statute permitting use of rent payments for the repair of dwellings. Calif. Civil Code § 1942.

Other states provide as follows:

Minnesota -- Complete abolition of distraint, with no statutory replacement. Minn. Stat. § 504.01.

Colorado --- Statutory lien, but inapplicable to a rented house. Colo. Rev. Stat. Ann. § 86-1-1.

Illinois --- Statutory distraint provided, but inapplicable to any property exempt from execution. Ill. Rev. Stat. Tit. 80, s 16-35.

Arizona ---- Statutory lien on all tenants property which is not exempt, but permits seizure of all property. Ariz. Rev. Stat. § 33-362.

Alabama ---- Statutory lien broader than common law remedy, primarily for sharecropper of situations. Ala. Code Ann. tit. 31, §§ 29-34.

The Committee has, at this point two choices if it is unwilling to abolish distraint completely. It can provide for a statutory lien, with appropriate judicial enforcement procedures to remove the self-help feature -- or it can provide for abolition of distraint only as to property exempt from execution.

The objective of our clients is attained by either approach, but I would prefer for reasons of legislative economy to follow the latter approach.

Therefore, I have drafted a new proposal which provides that landlords, in the use of common law distraint, may not take or seize exempt property. That bill is attached.

I am available at any time to meet with you or the Committee to discuss this measure, and reiterate my hope that you will see fit to introduce it as a Judiciary Committee bill.

Respectfully submitted,

Philip B. Byrne
Deputy Director, Alaska Legal Services Corp.

PBB/fm

Enclosure

Proposed Amendment to A.S. § 34.05.010

Subsection "c" of A.S. 34.05.010 shall hereafter be subsection "d."

A new subsection "c" is added to A.S. 34.05.010 which reads:

"(c) In the use or exercise of the common law remedy for distress of rent, no landlord or lessor of residential property or dwellings may seize, sequester, attach, or keep a tenant from the use or possession of any property exempt from execution or attachment under state or federal law."

COMMENTS OF
ALASKA LEGAL SERVICES CORPORATION
IN SUPPORT OF PROPOSED AMENDMENT TO A.S. 34.05.010

The common law right of the landlord for distress of rent is an ancient doctrine conferring an extra-judicial remedy upon the landlord. Many states and common law countries have recognized this doctrine as giving the landlord the power to hold his tenant's personal belongings as security for unpaid rent. This ancient self-help remedy is now the subject of regulation in many states, and has been abolished in some. The abolition of the common law right for distress of rent has been strongly recommended due to the gross inequities created by its exercise. See Model Residential Landlord-Tenant Code, Tentative Draft Sections 3-403(b) (American Bar Foundation, 1969).

The proposed amendment would abolish this extra-judicial remedy with respect to residential dwellings only. It is in this area that the abuses are most blatant and oppressive. Although the common law doctrine gives the landlord the right to retain his tenant's personal belongings, it does not give the landlord the right to seize the personal belongings or to sell them. Most frequently, a seizure is accomplished by an eviction. The landlord will commonly put a padlock on the door of the house or apartment and refuse to release the tenant's food, clothing, and furniture until the tenant pays the overdue rent. This activity on the part of the landlord would place the burden on the tenant to go into court to

recover his personal belongings. Thus, the person least likely to be familiar with judicial process is forced to initiate the action that would be necessary to determine justice. The Alaska Statutes provide that all or most of an individual's food, clothing, and home furnishings are exempt from levy of attachment or exeuction. A.S. 9.35.080. Thus, in most instances, the landlord is seizing property to which he has absolutely no right. Furthermore, such an action constitutes an eviction which is not sanctioned by the Alaska Statutes. A.S. 9.45.060-160 and A.S. 9.45.690 provide remedies for the landlord and do not sanction summary evictions.

The proposed amendment in no way limits the landlord's remedies at law. The action of forceable entry and detainer is still available for the purposes of eviction and reduction of accrued rent to judgment. The landlord retains his right at law to attach non-exempt assets.

The Alaska Legal Services Corporation Board of Directors has endorsed this proposal.

3/25/70

HOUSE JOURNAL

Judiciary Committee Report

on

HOUSE BILL NO. 751

This bill seeks to make financing easier for electric and telephone cooperatives. The limited funds available for loans from the federal Rural Electrification Administration require the electric cooperatives to seek supplemental financing in order to provide facilities to meet consumer demands for service. The National Rural Utilities Cooperative Finance Corporation, formed by the electric cooperatives to help solve this problem, is still not adequate to meet the needs of Alaska where present growth is so rapid and demands for electric power so great. It is essential that the cooperatives be able to seek conventional financing when alternate sources are inadequate. The first section of the bill removes the language restricting the board of directors from mortgaging the cooperative's property to secure the cooperative's indebtedness to entities other than the United States and its agencies without the authorization of the members of the cooperative.

The second section of the bill would allow a cooperative to mortgage or encumber "all or a substantial portion of its property" without having the "affirmative vote of not less than a majority" of all of its members. It is believed that the inertia and apathy of most members of cooperatives make it extremely difficult if not impossible to get a majority of the members to respond to a mail vote let alone attend a meeting, especially when considering the number of people involved (over 18,000 are members of the Chugach Electric Association, Inc., for example). Thus, under present law, the flexibility of the board of directors to secure needed funds is severely and unnecessarily restricted. Electric cooperatives with REA loans and mortgages will have to get REA approval of subsequent loans and mortgages, and all electric cooperatives with an annual gross income over $25,000 are by definition "public utilities" and subject to regulation by the Alaska Public Service Commission; it is believed that these safeguards against unwise borrowing and indiscriminate pledging of credit are adequate to protect the interests of members of the cooperative.

Barry W. Jackson
Chairman
House Judiciary Committee

#6751

PHONE 272-4461
AREA CODE 907

WILLIAM J. MORAN
ATTORNEY AT LAW
P. O. BOX 1891
ANCHORAGE, ALASKA 99501

March 13, 1970

Hon. Barry W. Jackson
Chairman, Judiciary Committee
House of Representatives
Pouch V
Juneau, Alaska 99801

Re: House Bill 751

Dear Mr. Chairman:

This letter is written in explanation and support of the subject bill, which was introduced by the House Rules Committee at my request on behalf of the Alaska Rural Electric Cooperative Association. The latter organization is composed of the eleven non-profit electric cooperative membership corporations which are organized and operate subject to the Electric and Telephone Cooperative Act, as amended, AS 10.25. I am the registered legislative counsel and legislative agent, pursuant to AS 24.45.010, of the Alaska Rural Electric Cooperative Association.

The several electric cooperatives in Alaska were organized to participate in the rural electrification programs sponsored by the Federal Government pursuant to the Rural Electrification Act of 1936, as amended. (7 U.S.C.A. §§ 901, et seq.) These programs, administered by the Rural Electrification Administration, commonly known as "REA," consist essentially of loans on favorable terms to finance the purchase and installation of electric generation, transmission, and distribution facilities, and related facilities, in order to furnish central station electric utility service. During the period since 1936, over 1,000 such cooperatives have been organized throughout the several states and their combined facilities serve several million consumers on a non-profit basis. The cooperatives, no less than investor-owned utilities, have been hard pressed to meet the ever increasing demands for electric power and energy. Unfortunately, the appropriations to REA have been static for some years and the applications for loans far exceed the funds available to REA to meet these critical needs. The electric cooperatives must seek supplemental financing.

In recognition of this need for supplementing financing, the electric cooperatives, acting through their National Rural Electric Cooperative Association, established

the National Rural Utilities Cooperative Finance Corporation (known as "CFC") in which the electric cooperatives may hold membership. This corporation will sell its securities in public offerings and has the full support of REA. By subscribing to the corporation's Capital Term Certificates according to a financing formula, the subscribing member is eligible for loans to meet at least a portion of its supplemental financing requirements. For some cooperatives operating in areas of relatively static economic growth and access to adequate power supplies, this supplemental financing may suffice. In Alaska, however, where the need is so very great for additional facilities, and where, in communities dependent upon the electric cooperatives for this vital service, growth is rapid and demand for electric power and energy even greater, it is essential that the cooperatives be likewise able to seek conventional financing when alternate sources are inadequate.

Under the present statute (AS 10.25.390 and 10.25.400), the board of directors of an electric cooperative may execute and deliver a mortgage or other encumbrance on the cooperative's property to secure its indebtedness to REA, but a similar mortgage or encumbrance on a "substantial portion of its property" to secure indebtedness to other than the "United States of America or an agency or instrumentality of it" requires the authorization of an affirmative vote of not less than a majority of all the members of the cooperative. Frankly, the inertia that one encounters in such matters - even apathy - would make it extremely difficult (impossible?) to obtain the approval of a majority of the members of the cooperative, particularly of those cooperatives having a large membership or a substantial membership distributed over a wide area. To quote the most recent statistics immediately available to me - those from the April, 1969, issue of the Northwest Public Power Bulletin, Golden Valley Electric Association, Inc. had 5,422 consumers, Homer Electric Association, Inc. had 3,168, Kodiak Electric Association, Inc. had 1,945 consumers, Matanuska Electric Association, Inc. had 3,610 consumers, and Chugach Electric Association, Inc. had 21,073 consumers. Since I know that Chugach now has 24,000 consumers, i.e. meters in service, serving over 18,000 members, I must assume (1) that the statistics quoted above are probably substantially below current numbers, and (2) that the number of members is probably not much lower than the number of meters served. (I believe that Chugach and Golden Valley have a larger percentage of members being served at multiple locations than the other cooperatives because of the nature of their service areas.) A very special case is the Alaska Village Electric Cooperative, Inc., which was organized to furnish central station electric utility service in the villages of Alaska. Its consumer-members are distributed over wide areas of Alaska; there will be even wider distribution as additional villages are added to the program. In any case, I think you will readily understand that the necessity for having the authorization of a majority of the members - or even having to convene the membership for such purpose - poses a peculiarly difficult problem - if not an insurmountable one - for the cooperative requiring financing

from a source other than the Federal government. (I do not see authority of AS 10.25.120 to vote by mail a solution for reasons already mentioned above. There isn't a meeting facility in Anchorage which could house a majority of Chugach's membership for a meeting, assuming that one had the charm to induce their attendance.)

I know of no good reason for not amending the statute to permit the cooperative's board of directors to contract debt and to execute and deliver such instruments as may be required to secure the payment of such debt, particularly when each such transaction will require the approval of REA in the form of a release of its mortgage interest in the property to be encumbered, inasmuch as the several cooperatives' loan agreements with REA provide that the latter's security interest attaches immediately to after-acquired property upon acquisition - and AS 10.25.420 gives clear effect to such contractual provision.

On occasion, it has been suggested that the similarities - public or quasi-public ownership, for example - between the municipally owned utility and the cooperatively owned utility justify treating the encumbrancing of the latter's property the same as the former's, that is, that since municipal utility revenue bonds must be authorized by a vote of the electorate, indebtedness of cooperatives should similarly require the authorization of their members. But the justification for comparable requirements fails for several reasons, among which one need only cite the fact that the cooperatives are in fact private business corporations and, with respect to their right to effective management authority, entitled to the same consideration as the business corporation organized for profit. Of course, the theory is that municipal revenue bonds are secured only by the revenue of the facility for which authorized, but in effect these bonds are a pledge of the credit of the municipality - and that credit is secured by the property located within the municipal boundaries. Members of the cooperative and their property, on the other hand, are specifically relieved of liability for the debts of the cooperative. (AS 10.25.410) And no municipality is required to obtain a majority of its qualified voters to authorize the issuance of bonds, revenue or otherwise. The regulatory effect of requiring REA approval, and the fact that each of the electric cooperatives is a public utility by definition and subject to regulation by the Alaska Public Service Commission, are further restrictions on unwise borrowing and indiscriminate pledging of cooperative credit.

The Electric and Telephone Cooperative Act (AS 10.25) is substantially a melding of what is contained in two so-called model acts for REA-financed cooperatives offering electric and telephone services, respectively. There was a time when the cooperatives may have needed the statutory requirement of the majority vote of the members in such matters to protect them

from the efforts of investor-owned to acquire their facilities and customers via whatever route was available, including the acquisition, by assignment or otherwise, of security rights of a cooperative's creditors in and to its properties. If such threat was ever real elsewhere, it poses no danger in Alaska.

For the foregoing reasons, I urge the Committee's favorable action on House Bill 751 and early attention on the floor of the House, where I hope that I will likewise have your generous and effective support. If circumstances here permit, I will be in Juneau for your Committee meeting on March 18.

What I have said above concerning electric cooperatives applies in general to Alaska's one telephone cooperative, the Matanuska Telephone Association, Inc., except that the prospects of the Congress creating a supplemental financing agency for the telephone cooperatives similar to the Federal Land Bank are promising. Competitive and other considerations in the electric utility industry defeated similar arrangements for the electric cooperatives. However, the Matanuska Telephone Association, Inc. will likewise benefit from a more flexible and realistic statute controlling its management. In these days of limited capital sources and high interest rates - in the face of ever-growing demands for additional investment, we cannot afford to maintain artificial barriers between these vital public services and their access to investment capital. Considering the needs of Alaska, I think that you will agree that our efforts should be directed toward attracting investment rather than discouraging it.

Thank you kindly for your consideration.

Sincerely,

William J. Moran
Legislative Counsel/Agent
Alaska Rural Electric Cooperative
Association

cc: Members, House Judiciary Committee
Hon. Mike Bradner, Chairman, Rules Committee (sponsor)

3/20/70

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 756

In creating a division of recruitment and retention within the Department of Military Affairs, this bill seeks to establish a system of assisting members of the Alaska National Guard in gaining employment for which their training while in military service has qualified them. A pilot program in the field of smokejumping and firefighting has proved the need for the people and the success of such a system. Since most members of the Alaska National Guard live in the more remote areas of the state where there is a high rate of unemployment, this system would provide employment for many people and a regular, meaningful activity for the National Guard.

Barry W. Jackson, Chairman

HB 756

ALASKA NATIONAL GUARD RECRUITMENT AND RETENTION PROGRAM

HB 756 - Division of Recruitment and Retention: This bill is a part of a comprehensive program of the Alaska National Guard Officers Association to follow through with the Recruitment and Retention program. One of the basic concepts is that many of our rural Guardsmen can receive military training which will assist them in gaining employment which fits their background. We need a full-time staff putting these men next to the job opportunities which we know from a pilot program do exist.

This pilot program was to capture approximately 100 smokejumping and fire-fighting aid jobs which are of the semipermanent nature with BLM. The wages would be from $6,000 to $9,000. A permanent division is necessary to expand upon this program and add to the same, as well as to ensure that the other portions of our Recruitment and Retention programs are enacted administratively.

ALASKA NATIONAL GUARD OFFICERS ASSOCIATION
ESTIMATED COST OF RECRUITMENT AND RETENTION PROGRAM

INCREASES IN FEDERAL RECEIPTS

Part Timers - Increases:			
10% increase in actual number of personnel			
Basic pay x $1,370,000			$ 137,000
10% increase in longevity because of longer term guardsmen			137,000
	Total		$ 274,000
Multiplier Effect of 1	Total	$548,000	
Multiplier Effect of 2	Total		$ 852,000

Job Program: Just using the possibility of gaining the semi-permanent smokejumper and firefighting aid jobs heretofore going to lower 48 State personnel:

100 jobs with average wage of $6,000	$600,000	
Multiplier Effect of 1	600,000	$1,200,000
Total in these two areas alone		$2,052,000

Summary of Cost of Bills Not Through Administration	Peak Cost
Education Program	$ 10,000
Re-enlistment Program	30,000
Retirement Program	60,000
Uniform Allowance & Initial Allowance & Maintenance	130,000
Total Estimated	$ 230,000
Administration Bills - Recruitment & Retirement Program	30,000
Total Direct Cost	$ 260,000

DISTRIBUTION OF ADDITIONAL FEDERAL DOLLARS

	Rural	Urban
Part Timers - Increases:		
10% increase in number of personnel & longevity		
50% of authorized strength 2,500 to 2,600	$ 426,000	$ 426,000
Job Program using only 100 BLM jobs plus multiplier effect of 1	1,200,000	
Total	$1,626,000	$ 426,000

Not added are the additional Scout villages which can be programmed into the seasonal firefighting. In addition, providing to the Scouts the BLM firefighting training program would result in a step increase in pay.

Not included are other Federal agency jobs that are not now utilizing villagers for seasonal, semi-permanent and permanent jobs, much of which goes to lower 48 people. These jobs can be captured with the full time staff of the Recruitment and Retention Branch.

DISTRIBUTION OF ADDITIONAL STATE DOLLARS

	Rural	Urban *
Education Program	$ 2,000	$ 8,000
Re-Enlistment Program	18,000	12,000
Retirement Program	36,000	24,000
Uniform Allowance	65,000	65,000
Total	$ 121,000	$ 109,000
Recruitment & Retirement Branch		30,000
Total	$ 121,000	$ 139,000

* Majority of jobs in Anchorage

The Honorable Mildred Banfield
House of Representatives
State of Alaska

COMMENTS ON HOUSE BILL 756

The largest number of National Guardsmen live in remote areas outside of normal communications relating to employment. Also many recruitment bulletins require a minimum of high school education for any employment consideration.

Many guardsmen lack education but have skill in mechanics, electronics and other less technical positions and are still unemployed simply because they are not aware of vacancies.

The National Guard has several capabilitiesthat can be used to assist these guardsmen in obtaining employment such as, personnel records showing abilities of each individual, a radio network to 63 villages for reporting when employees are needed, and the Air Guard (100% federally funded) to provide transportation to employment areas.

This bill would place a full time in the office of the Adjutant General to evaluate the potential of unemployed guardsmen and match them with state and federal recruitment bulletins then notify the guardsmen that such vacancies exist and provide transportation.

A pilot program in firefighting shows that we could expect a minimum of 100 guardsmen to obtain employment thereby reducing the cost of welfare in villages but mainly giving prestige and dignity to the members affected.

James J. Brunette

JAMES J. BRUNETTE

Recruitment and Retention Activities
January 1970 - June 30, 1970
Preliminary Steps Prior to Launching Expanded Program

ACTIONS NEEDED WHILE SCOUTS IN CAMP:

Six month's or semi-permanent BLM jobs, smokejumpers, firefighting aids.

1. Coordinate with Len Nelson to complete coverage of smokejumpers for those that may be qualified for jobs in 1970.

2. Prepare Federal application forms on others who may be qualified for the 1971 season in rough. Explain the program to the EM or officers concerned. Do not fill in the type of position. This form may also be used for other applications or other positions.

3. Fill out applications for State employment.

4. Prepare seasonal firefighting callup plan. Start dialogue with firefighting personnel of BLM (Messrs. Richardson and Tank) concerning getting all Scout villages on the seasonal callup on a priority basis.

a. Utilize officer in 38th Detachment now working in BLM communications.

b. Determine transportation capacity of Air Guard and Army Guard to assist BLM.

c. Arrange that when a Scout village is picked up that not only the Scouts but unemployed civilians in that village can be employed. Pay to start when they depart on Army or Air Guard planes. Procedure for signing people up in the villages for BLM should be worked out.

d. Orientation program for all village NCOs and members concerning the seasonal callup plan. Determine whether or not firefighting training course is being extended to these village Scouts -- make sure they get the course.

STATEWIDE GUARD -- RECRUITMENT AND RETENTION

1. Send an order down to all Unit Commanders for an inventory by name of unemployed Guardsmen. Get State and Federal application forms on same completed in order to evaluate possibilities for employment.

2. Get on Division of Personnel's mailing list for bulletins for openings.

3. Obtain information on all seasonal jobs from State Departments.

4. Work with hiring personnel of the various State Departments.

5. Get on list for Civil Service Bulletins.

6. Coordinate with hiring personnel of the military bases throughout State.

7. Get information on seasonal jobs, field jobs (Example: BLM cadastral eng.)

8. FAA. Isolated assignment type of work. Determine how we can input our Scouts or Guardsmen into the FAA program. Note that much of the work should fall into the Air Guard type of qualifications. A list of FAA stations, turnover information and qualifications helpful.

1003 B Street
Juneau, Alaska 99801
March 16, 1970
(Telephone: 586-3334)

MEMORANDUM

To: Representative Mildred Banfield

From: Rev. Dr. Walter A. Soboleff W.A.S.

Subject: Alaska National Guard Recruitment, Retention and Retirement Program

Figuratively speaking, for an orderly development of this State to be brought about, an awareness of its many facets must be expressed by those with concern and foresight. Where there develops an awareness of the need for natural conservation and economic use of resources, we are obliged to survey and recommend measures reflecting the best interests of our State's greatest resource, its people.

Not since the development of air travel in Alaska has there been an impact so profound as the coming of the Alaska National Guard to approximately seventy communities throughout Alaska. Under capable leadership, the influence upon these areas continues to have a lasting value in terms of health, recreation, morale, and adult education. In the past, under professional guidance and adequate funding, qualified youth have varied opportunities to attend military schools and return home for positions of leadership in the community.

But, the Alaska National Guard has not reached its greatest potential for development of human resources. It is not at present satisfactorily involving the lower income segment of our society since many of these people cannot afford to engage in activities which fail to provide adequate pay for services and expenses involved. The youth that the National Guard can help most are not joining. This is true in both rural and urban Alaska. For those who do enlist to meet their mandatory military obligations, the pay and other benefits are such that further sacrifice of time on the part of the individual and his family is necessary. Consequently, re-enlistments are few. This is a waste of human resources.

The Alaska National Guard Officers' Association's Recruitment, Retention and Retirement Program is designed to boost the morale, pay and benefits and provide recognition to this citizen soldier who also provides a standby public safety and emergency force for the State.

I have participated in the inventory of the enlisted men's opinions and recommendations for building a more effective Alaska National Guard. These bills before you are reflections of what these men feel are necessary to keep them in the Guard and attract others. Thus the organization will accrue the greater gains of education and training of the individuals who re-enlist.

I urge you to favorably consider and vote for the following bills which make up the comprehensive program:

House Bills

83	Qualifications of Assistant Adjutant Generals (In Senate)
649	Appropriation for the Recruitment, Retention and Retirement Program
753	State Pay - Emergencies
754	Retirement and Death Benefits
755	Educational Assistance - Alaska Guardsmen
756	Recruitment and Retention Division, Department of Military Affairs
757	Re-enlistment Bonus
758	Uniform and Maintenance Allowances

Senate Bills

380	Retirement and Death Benefits
472	Military Leave State Employees
514	Suspension of Civil Liabilities
515	National Guard Registration Plates
516	Free Ferry Trip - Space Available Basis
517	National Guard Preference State Hire
518	National Guardsmen Qualifying for Veterans Loan Program
519	Alaska National Guardsmen Qualifying for Veterans Public Loan Preference

Rep Jackson

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 762

This bill allows for the establishment of the position of coroner/public administrator in each judicial district. With the approval of the supreme court, the presiding judge of the superior court in a district may appoint the public administrator. The primary duty of this person will be to administer the estates of deceased persons when administration is required by law and when no other person entitled to administer a particular deceased person's estate has been issued letters testamentary or letters of administration within 30 days after the death. He will also perform the duties of coroner set out in AS 22.15.110.

Presently the law requires district judges to perform these non-judicial duties, and a great amount of time is spent on them. This bill will free these judges for their appropriate judicial functions. The bill is strongly supported by the Alaska Supreme Court and the Alaska Judicial Council.

Barry W. Jackson, Chairman

Coroner

HB-762

File
Misc Judiciary
Correspondence

February 24, 1969

Mr. Thomas Schulz, President
Juneau Bar Association
319 Seward Street
Juneau, Alaska

Dear Mr. Schulz:

I am enclosing herewith the Fifth Report, namely the report for 1967-68, of the Alaska Judicial Council.

I also am enclosing suggested language prepared by the Council and submitted to the legislature which would provide for appellate review of sentences.

Also enclosed is a copy of a bill prepared by the Legislative Affairs Agency, although not yet introduced, relating to the duties of coroner and conservator of decedent's effects. For quite some time the Council considered the desirability of transferring the functions of the district and deputy magistrates when investigating the death of a deceased person, and inventorying and conserving the assets of a decedent's estate, out of the jurisdiction of the district judges to the Department of Public Safety. Within the Department of Public Safety would be created the office with a position of coroner to perform these duties. I alone among the Council members dissented to this proposed legislation, not on the grounds that I was opposed to the transfer of functions but on the grounds that I felt that there should be some safeguards built into the statutes protecting the rights and privacies of individuals.

Under the proposed legislation the Commissioner of Public Safety names the coroners in each judicial district and, in addition, has the authority to designate a state trooper or any other personnel of his department as deputy coroner. In my opinion the sleeper in the bill

as proposed is Section 6, which without restriction would authorize a policeman to take custody and control and preserve the property and the estate of deceased persons until a legal custodian is appointed. Under the way the proposed bill is worded a policeman being appointed deputy coroner could search the premises of the deceased under the guise of inventorying, taking custody and control, and preserving the deceased's property. This means, for example, that if a child in the City of Juneau or the City of Anchorage, or any other populated area, died in a hospital surrounded by his parents, brothers, sisters, aunts and uncles, etc., the police would still have the authority to enter the family home and search the home for the purpose of taking custody and control of the deceased child's estate. The same would apply to the death of a spouse living in Alaska but dying in the south forty-eight. The Alaska dwelling of the deceased person could be searched by the police, notwithstanding the fact that it was occupied by the family of the deceased.

While I can understand the rationale behind the proposition that someone has to conserve and preserve the estates of decedents who die out in unpopulated areas such as a trapper in his cabin, fifty miles from nowhere, or in a village or small community having no administrative or law enforcement agency, I don't believe that such reasoning applies to populated areas.

I submit the foregoing for consideration of the Juneau Bar Association. While the proposed bill has not yet been introduced, I anticipate that it will be introduced this session.

Very truly yours,

F. M. Doogan, Member
Alaska Judicial Council

Enclosures
FMD:pdc

cc: The Honorable Buell A. Nesbett
Senators Rader, Josephson, Engstrom, Merdes and Ziegler
Representatives Cornelius, Croft, Guess, Kay, McVeigh, Jackson and E. Miller

HB 767

File

LAW OFFICES OF
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FRANK M. DOOGAN
DONALD L. CRADDICK
AVRUM M. GROSS
MICHAEL M. HOLMES

March 4, 1970

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

Re: H.B. No. 767 - Destruction of Records of Motor Vehicle Violations

Dear Mr. Chairman:

As a representative of American Mutual Insurance Alliance I am concerned with House Bill No. 767 which states that all records held by state and local officials disclosing a violation of Sections 28.15.170 and 28.15.280 shall be destroyed three years after the violation.

This legislation is poorly drafted because the Sections referred to cannot be violated by a motor vehicle driver. These sections confer authority on the Department to cancel or suspend licenses if the license was improperly obtained or a court orders such suspension or cancellation. The only persons who can violate these sections are the employees of the Department who are required to administer them.

I do not think any serious harm would be done if the records of the Department of Revenue which are more than three years old are the only records which are to be destroyed but I cannot imagine the legislature requiring that either the records of the courts or the records of the Department of Public Safety or any municipality be destroyed. The records of the Department of Public Safety are particularly valuable in connection with police investigations.

I do not know who requested the bill to be introduced or what reasons there are for introducing it but I suspect the author wants to make it impossible for the courts and other public officials to be influenced by driving violations more than three years old. I do not think this is advisable. If a person gets drunk and is convicted of manslaughter as a result of drunken driving, I do not think the records should be destroyed after a period of three years and the same is

true of any other criminal violation. My principal concern is with respect to the proper rating of insured drivers. Generally speaking, companies want to consider records for a period of at least five years and sometimes longer in order that they can rate each person justly for premium purposes.

I am sending a carbon copy of this letter to the Alliance which will constitute a request for its opinion and policy in this matter, and I will write to you again as soon as I receive an answer. In the meantime I would like to be informed in advance of the time of any consideration of this bill and be permitted to appear in opposition to it.

Yours very truly,

N. C. Banfield

NCB:db

cc: Chas. A. Brown
James S. Stickles
F. O. Eastaugh

HB-767

ROBERTSON, MONAGLE, EASTAUGH, ANNIS & BRADLEY
ATTORNEYS AT LAW
P. O. BOX 1211
JUNEAU, ALASKA 99801

R. E. ROBERTSON (1888-1961)
M. E. MONAGLE
F. O. EASTAUGH
R. J. ANNIS
J. B. BRADLEY
W. G. RUDDY
T. P. BLANTON
L. B. JACOBSON

200 NATIONAL BANK OF ALASKA BLDG.
PHONE 586-3340
CABLE ADDRESS: ROMEA

March 16, 1970

The Honorable Barry W. Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Capitol Building
Juneau

Re: House Bill No. 767

Dear Chairman Jackson:

Thank you for your notice that the House Judiciary Committee will hear representations regarding the subject bill this afternoon at its regular 4:00 P. M. meeting. I am writing this memo on the subject as suggested and submit it in lieu of an appearance because of a conflicting meeting at that time.

The bill itself would result in the destruction of motor vehicle violation records kept in the Department of Public Safety under the provisions of Article 2, Chapter 15, Title 28, Alaska Statutes, after three years.

It is my understanding that Alaska by virtue of certain interstate compacts reciprocates with other states with respect to driving records of individuals who seek to be licensed to operate motor vehicles. Such records would have a bearing on insurance matters such as rating drivers according to experience. More important is their relation to criminal violations, or the absence of criminal violations, associated with motor vehicle operation. With the prospect of many new residents in Alaska, I suggest the importance of our State officials being advised of their previous driving records.

Insofar as insurance matters are concerned, there have very infrequently been reports of unfair rating of insurance applicants because of a stale violation of perhaps 3 to 5 years past and perhaps even 10 years. Such sanctions are not favored by the American Insurance Association and do not have its approval.

From time to time insurers and insurance associations

have encouraged and entered into such group efforts as safe driver plans and have encouraged and paid for analyses of driver accidents in the attempt to obtain meaningful statistics with respect to the more important general subject of better highway safety in the interests of the motoring public. The results of the California study show that the driver with a previous history of moving violations is more apt to be involved in a subsequent accident than the driver with a clear record. This bill would in effect destroy "good records" as well as bad ones.

Aside from the value of these records from an insurance standpoint I suggest that there is a greater public interest in the existence and maintenance of such records from the possible connection of criminal violations involved with motor vehicle violations. The importance of a record of a vehicle failing to stop at a stopsign is not essentially important by itself, but the fact that the driver may have been under the influence of drugs or under the influence of liquor at that time is a matter of legitimate public concern.

I have talked with judges involved in sentencing, and think it fair that they have the whole record before them, so the first offender may be treated more leniently than the habitual offdener.

In view of the above considerations, I am authorized to state the opposition of the American Insurance Association to the enactment of the subject bill.

Very truly yours,

FOE:bh

F. O. Eastaugh

FORM SA-18

MEMORANDUM State of Alaska

TO: Representative Irwin L. Metcalf
House of Representatives

File
Xerox 10 copies

DATE : March 16, 1970

FROM: Commissioner Mel J. Personett
Department of Public Safety

SUBJECT: HB 767

In addition to the obvious mistaken section references contained in this bill as outlined in my earlier memorandum, I submit the following comments concerning the possible intent of this bill.

If the bill is intended to prevent cancellation of insurance or higher premiums based upon an insurance company's request for a driver's record, you should be aware of the present procedure.

We currently disregard any conviction of OMVI, reckless driving, negligent driving or other serious violations which occurred five years or more prior to the request. All other driving convictions are disregarded if they occurred three years or more prior to the request.

Also, if the intent is based upon use by the insurance company, I question the need to "destroy" the records since they do have a great deal of bearing on the individual's demonstrated driving habits and under AS 28.15.220(b)(3) and (4) may be considered by the courts when imposing license restrictions at the time of conviction.

One must also consider what will occur when you have a situation wherein a person is convicted for a third offense of OMVI or reckless driving and his license is revoked for three years. He would be starting out with a clear record at the end of his revocation and would be able to be convicted several more times before any serious remedial action could be taken.

It would also be possible for a person to be convicted many, many times for OMVI and never show any past convictions, depending upon the time lapse between offenses.

I seriously question whether this bill will provide any great benefit to the vast majority of citizens, but it will unquestionably be quite beneficial to that 9% to 10% of drivers who cause the greatest concern for the traffic safety of the majority of drivers.

3/31/70

HOUSE JOURNAL

Judiciary Committee Report

on

CS for HOUSE BILL NO. 776

Taking into account the fact that Alaskan courts have interpreted the prohibition of AS 11.15.060 against criminal abortions as not applying to the artificial interruption of a pregnancy before the quickening of the fetus, this bill prohibits all abortions by persons other than physicians licensed in this state and it treats abortions by these licensed physicians as a matter of the practice of medicine.

The committee substitute adds a section to the physician's licensure chapter and makes clear that this is a matter of medical practice. This new section sets out certain requirements: the physician must be licensed; the woman's consent must be knowledgeable; she must be a domiciliary of the state or physically present in the state for at least 60 days immediately before the abortion, as evidenced by her affidavit; the abortion must be performed in a facility which conforms to acceptable standards of organized medicine and hospitals; and, if the woman is an unmarried minor, the consent of her parent or guardian or the Department of Health and Welfare is required. The inclusion of guardian and the department is intended to cover those cases in which the department or a guardian has legal custody of the minor, or in which the parents are dead or have abandoned her, or in which she is an emancipated minor.

The committee notes with approval and attaches to this report a memorandum by Legislative Counsel Hayden Kaden, dealing with current abortion law in Alaska and other states.

Barry W. Jackson
Chairman
House Judiciary Committee

HB776

JOHN A. PENNINGTON, M.D.
Anesthesiologist

5003 Cambridge Way
ANCHORAGE, ALASKA 99502
Phone: 279-2612

American Board of Anesthesiology
American College of Anesthesiologists

February 16, 1970

Representative William L. Hensley
Chairman, House Health, Welfare &
Education Committee
Pouch V
Juneau, Alaska 99801

Dear Representative Hensley:

Enclosed you will find a possible substitute bill I suggest to replace measures for abortion law reform presently before committees of both houses of the Legislature. This is a possible compromise measure which incorporates many of the safeguards indicated as desirable during a recent hearing by the Senate Judiciarry Sub-Committe in Anchorage, while minimizing unnecessary interference with the practice of medicine.

I also enclose a copy of a statement recently drafted for possible publication, for whatever value you and your committee might obtain therefrom.

These enclosures represent my personal convictions and are not issued on behalf of the Alaska State Medical Association.

Respectfully yours,

John A. Pennington, MD

John A. Pennington, MD

February 16, 1970

Dear Editor:

This letter is addressed to the abortions law reform question. The recent Senate Judiciary Sub-Committee hearing was educational for me, for it indicated several areas of legitimate concern by both lay public and other physicians. The following are my personal views as a physician who encounters this problem in my own practice; I do not speak here as a representative of the Alaska State Medical Association, although I believe our opinions are frequently parallel.

These considerations seem relevent to me:

1. Abortion presently is commonplace in our society. Few knowledgable proponents of reform expect a liberalized statute to entirely eliminate illicit abortion with its burden of venality, guilt, morbidity, and death. Elimination of any of this scourge, however, would at least be a step forward.
2. A woman has the constitutionally protected rights of person and private conscience to determine whether to continue a pregnancy. This doctrine, like it or not, has been affirmed by judicial decisions. In the near future most present state abortion laws, including Alaska's, will probably be struck down by the courts for unjustified limitation of these rights. Still to be defined in Alaska by legislative act and/or judicial decree are those areas where personal liberty and the legitimate interests of the state intersect. The state indisputably has the duty to suppress illicit abortion with its attendant hazards to both Society and the individual woman; ethical physicians urge this regulation. The state also might properly and wisely require that abortion be performed only in an adequate hospital by a qualified practitioner of medicine after appropriate consultation and appropriate delay to allow reconsideration by the woman. Individuals may differ on the stringency of these safeguards, but the[illegible] differences are open to compromise.
3. Abortion is repugnant to most physicians; we are dedicated to the preservation of meaningful life. The need for artificial termination of a pregnancy usually results from failure to either prevent or protect that pregnancy. There are definate medical indications for therapeutic abortion--diseases of mother or fetus--which could not be anticipated prior to conception, but these are uncommon. More frequently, abortion is thought to be the only remaining solution for unwanted pregnancies arising from potentially avoidable defects in society, the mother-to-be, or the fetus. To prevent a need for this solution, physicians actively support family planning programs, adolescent sex education, marital counselling, suppression of sex crime, child aid measures, eradication of intrauterine deseases, facilities for unwed mothers, and supportive care for women with undesired pregnancies who might be so aided as to eschew abortions. Unfortunately, until such measures are more generally available and effective, "...abortion is often the best (though an unhappy) solution."
4. In my opinion legal abortion whould be unacceptable for the primary purpose of population control, urgent though that may be. Abortion is successfully promoted for this purpose in some countries, but the concept is alien to most Americans. I am unacquainted with any Alaskan physicians who would abort a woman on a casual repetitive basis as a consequence of her repeated unconcern with avoidance of conception or for the sole purpose of limiting population. We do not seek a situation where legal abortion is available "by demand".

5. Whether abortion is or is not morally acceptable is entirely subjective depending on one's ethical and religious beliefs. The crux of this argument is the stage in fetal development at which the conceptus is considered a human being with the soul, inherent rights, and protections thereof. This time has been variously held to be from the instant of conception onward to parturition when the fetus assumes independent existence as an infant, with various points in between. Obviously this basically is a theological, not medical, question; consequently, consensus will never be achieved. All shades of personal belief can exist on this question without clear-cut adverse effect to the public welfare so long as mutual toleration prevails. By recognizing the existence of non-illicit abortion and formulating reasonable regulations for its safe practice, the state takes no more of a partisan moral position than it does regarding the use of alcohol, for example, by licensing the sale of liquor. I believe it inappropriate and unconstitutional for the state to impose by law an essentially religious doctrine in an area where there is no consensus of belief, no clearly overriding public interest, and where private conscience should prevail. Scrupulous non-interference by the state offers the only ultimate protection to <u>all</u> that cherished, though conflicting, religious and ethical doctrines will remain inviolable for each to follow as his faith and conscience dictates.

The battle is joined; this issue will not just fade away. Those minorities holding opposing extreme positions have clearly and vociferously stated their respective cases, and they are irreconcilable. Hopefully, a large, if "silent" majority of our electorate exists which may promote measures not simply to legalize appropriately regulated abortion, but also measures to minimize the necessity for resort to abortion as a solution. I would urge such people to communicate with our state legislators---they need your views and support now as never before.

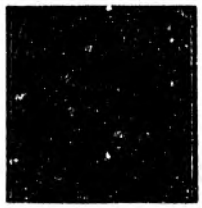
Sincerely,

John A. Pennington, MD

IN THE LEGISLATURE OF THE STATE OF ALASKA
SIXTH LEGISLATURE - SECOND SESSION
A BILL

For an Act entitled: "An Act relating to abortion."
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
"Section 1. AS11.15.060 is repealed and re-enacted to read:
Sec. 11.15.060. ABORTION. (a) A person, not a physician, who provides to a woman, or procures a woman to take, a drug, medicine, or substance, or uses any instrument or other means whatever upon a woman with intent to induce an abortion of a woman is punishable by imprisonment for not less than one year nor more than five years. For purposes of this section it shall not be necessary to prove that the woman was in fact pregnant, nor that an artificial interruption of pregnancy occurred.
(b) The artificial interruption of pregnancy by a qualified and licensed practitioner of medicine is a matter of the practice of medicine and not prohibited by criminal law if the pregnant woman has been consulted and consents, if the abortion is performed in a licensed hospital which conforms to standards of hospital accreditation approved by the Joint Commission on Accreditation of Hospitals, if at least two other licensed and qualified physicians consult with the woman and concur with the decision to abort, and if, in a non-emergency case, a period of at least 72 hours will transpire between the time of the request for the operation and the time of the operation.
(c) Nothing in this section shall be construed as requiring a pregnant woman to consent to abortion, a hospital to permit an abortion on its premises, or a physician to perform or consult on the performance of an abortion.

file HB776



ALASKA STATE MEDICAL ASSOCIATION

519 WEST EIGHTH AVENUE ANCHORAGE, ALASKA 99501 TELEPHONE 277-6891

March 27, 1970

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

Dear Representative Jackson:

As you know, the Alaska State Medical Association is still hopeful for enactment of a liberal abortion law or repeal of the present statute.

H. B. 776 would be satisfactory but we recommend deletion of the wording "after consultation with her husband if married". This phrase would drive certain women to criminal abortionists. For example, the illicitly pregnant wife of a military man overseas, or for that matter the adulterously pregnant wife of a man not overseas, only added marital discord might be produced if the husband has to be consulted. In any event, the phrase is out of order because a woman is not required to consult her husband about other surgery, such as hysterectomy or appendectomy (though fortunately she usually does). A woman should have sole right as to decision about abortion if the doctor concurs that it is the best solution to her problem.

You may be interested in the editorial support for liberalized abortion laws by the Wall Street Journal.

Thank you for your continued attention to this matter.

Sincerely yours,

J. Rodman Wilson, Jr., M.D.
Chairman
Legislative Committee

JRW:ch
Attachment

REVIEW and OUTLOOK

Repealing Abortion Laws

A growing number of Americans are coming to the conclusion that the best reform of abortion laws is outright repeal, and the state of Hawaii has already acted on that promise.

It is a rather remarkable turnaround. Only a couple of years ago no one would think that anything so "radical" as a repeal proposal would have any chance at all. Yet today several states have liberalized their laws and one house of the New York State legisture this week approved what would amount to Hawaii-like repeal.

The changing attitude is not, in our opinion, just one more manifestation of the new permissiveness of the times. On the contrary, it attests to a greater awareness of the anguish suffered by the victims of the harsh laws that remain on the books.

The objections to repealing abortion laws have by no means, of course, been completely stilled.

Abortion is anathema to certain religions, and while they have every right in their views, they have no right to impose their views on the society at large. Legalizing abortion obviously does not require Roman Catholics or anyone else to practice it; they are as free as ever to shun it and indeed to denounce it.

Some contend that legal abortion would aggravate the sexual latitude of the age. We doubt it. Presumably no one wants an abortion if there is a better choice, and as it is the number of illegal abortions is appallingly high. Taking abortion out of the legal realm altogether might therefore not mean any significant increase in the total number of the operations.

Then there is the objection on the ground of moral philosophy: That abortion is the taking of human life. One answer to it is that no consensus, let alone proof, exists among medical practitioners or moralists. The fact is that many doctors would long since have been performing abortions had it been legal to do so.

For our layman's part, we find it particularly hard to accept that the embryo (first three months of pregnancy) is a human being in any real sense; we incline to the thesis that it is still part of the mother, manifestly incapable of independent existence.

Against these objections, the arguments for repeal seem far more persuasive.

First is that it is simply humanitarian. We have mentioned the suffering of the victims. It involves the degradation, humiliation and mental strain imposed by unwanted pregnancy and the effort to remedy it. A civilized society should not have such draconian laws, although it certainly can and should require that abortions be performed by licensed physicians under sanitary conditions.

Probably legalizing abortion would not be a significant population-control measure in this country (it has been highly effective in Japan). However, it fits in with the new concern—even apprehension—that unless population is controlled, the nation will in the not too distant future be so inundated that decent living conditions will be impossible.

In addition, the question of how many children should be up to the discretion of the woman or the husband and wife as the case may be. Generally speaking they have that right now—they do not have to have any children if they do not want to—and the right, it seems to us, should include the possibility of terminating an unwanted pregnancy.

To put it another way, this is an area where government has no necessary or appropriate function. These severe laws go back to a time and a mentality in which the State assumed it should closely regulate people's private lives; the statutes are, or are analogous to, sumptuary laws. We do not think they accord well with the concept of individual liberty.

Needless to say, there are still other areas where the State's intrusion is questionable. As a broad criterion in such matters, we believe that where the situation is truly private—that is, where the conduct of the individual or couple or family does not impinge on society or hurt anyone—government should refrain from intervention.

For whatever it is worth, it seems to us that abortion, unhappy though it be at best, belongs in that category.

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY
Pouch AE, Juneau, Alaska

March 3, 1970

HB 781

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

Re: Proposed bill to amend work release program

Dear Representative Jackson:

This letter is to set forth the distinctions between the Department of Health and Welfare's suggested amendments to the work furlough program and the amendments I have suggested. The department would not permit persons who have been convicted of a violent crime or who have a history of violent or assaultive behavior to be eligible for work release until one-third of their sentence is served.

From observation many convictions involving violent crimes relate directly to the consumption of alcohol. A person with a history of assaultive behavior relating to the use of alcohol profits greatly from the work release program, he can begin to develop good work habits without the interference of alcohol. Further, the alcohol related offender in many instances has a family and the work release program permits him to contribute to the support of his family and himself.

A further problem faced by the correctional system and the state is providing a secure institutional setting with its great costs for persons who, when not under the influence of alcohol, are capable of living in an unguarded manner. Presently, the jail in Anchorage may be filled to over capacity with prisoners, many of whom could be living as successfully in a half-way house enviroment, where the only contact with the prison would be daily or less frequent meetings with the institutional probation officer. The proposed rehabilitation furlough bill would authorize the Commissioner of Health and Welfare to permit prisoners to reside outside of the prison, e.g., in the Salvation Army dormitory or other non-state contracted institutions.

The department's proposed amendments do not grant as much authority to the Commissioner of Health and Welfare to develop programs for the rehabilitation of prisoners as the suggested amendments of the undersigned. A large measure of flexibility to provide individualized programs appears to be needed. The department only goes part way in seeking this flexibility.

Very truly yours,

Victor D. Carlson

VICTOR D. CARLSON
Public Defender

VDC:rj

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY
Pouch AE, Juneau, Alaska
99801

February 27, 1970

HB 781

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

Re: Proposed amendment to AS 33.30.250,
Rehabilitation Furlough

Dear Representative Jackson:

This letter relates to the memorandum from Charles G. Adams, Jr., Director, Division of Corrections, dated February 17, 1970 proposing amendments to the work furlough program. Attached is a proposed bill to accomplish the amendments requested by Mr. Adams and, in addition, to make the furlough program a better tool to aid the prisoner's rehabilitation.

From the undersigned's experience it is apparent many of the prisoners in state correctional institutions are involved with alcohol related offenses. In certain instances these alcohol related offenses are violent crimes, e.g., cutting with intent to wound, assault with a dangerous weapon, assault and battery, the law presently prohibits work furlough for these prisoners. It is the alcohol related offender who profits greatly from work releases.

A further problem faced by the correctional system and the state is providing a secure institutional setting with its great costs for persons who, when not under the influence of alcohol, are capable of living in an unguarded manner. Presently, the jail in Anchorage may be filled to over capacity with prisoners, many of whom could be living as successfully in a half-way house enviroment, where the only contact with the prison would be daily or less frequent meetings with the institutional probation officer. The proposed rehabilitation furlough bill would authorize the Commissioner of Health and Welfare to permit prisoners to reside outside of the prison, e.g., in the Salvation Army dormitory or other non-state contracted institution.

In summary, the proposed bill is submitted as a step in the direction of giving the Commissioner of Health and

Welfare the latitude he needs to implement the provision of Section 12, Article 1, Constitution of Alaska:

> "Penal administration shall be based on the principle of reformation and upon the need for protecting the public."

If you or the members of your committee have questions concerning the proposed-bill, I am prepared to furnish additional information.

Very truly yours,

VICTOR D. CARLSON
Public Defender

VDC:rj

Enc.

cc: Arthur H. Peterson
Revisor of Statutes
Legislative Affairs Agency

Charles G. Adams, Jr.
Director
Division of Corrections

IN THE

BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to rehabilitation furloughs."

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

* Section 1. AS 33.30.250 is repealed and re-enacted to read:

Sec. 33.30.250. REHABILITATION FURLOUGH. (a) When a person is awaiting trial or is convicted of a crime and is sentenced to a prison facility, or is imprisoned in the prison facility for nonpayment of a fine, for contempt, or as a condition of probation for a criminal offense, the commissioner may, if he concludes that the person is a fit subject for a rehabilitation furlough direct that the person be allowed to continue in his regular employment, may authorize the person to secure employment for himself, participate in educational, training, medical, psychiatric, or other rehabilitation programs approved by the commissioner.

(b) If the commissioner directs that the prisoner be permitted to continue in his regular employment, the commissioner shall arrange for a continuation of the employment so far as possible without interruption. If the prisoner does not have regular employment, and the commissioner has authorized the prisoner to secure employment for himself, the prisoner may do so, and the commissioner may assist him in doing so. Any employment secured must be suitable for the prisoner. The employment must be in accordance with the

prevailing working conditions and wages in the area. No employment may be permitted where there is a labor dispute in the establishment in which the prisoner is, or is to be, employed.

(c) Whenever the prisoner is not involved in the rehabilitation program, he shall be confined in the jail unless the commissioner directs otherwise.

(d) The earnings of the prisoner shall be collected by the commissioner and the prisoner's employer shall transmit the wages to the commissioner at the commissioner's request. Earnings levied upon under a writ of attachment or execution or in other lawful manner may not be transmitted to the commissioner. If the commissioner has requested transmittal of earnings before the levy, the request shall have priority for those earnings due and payable at that time. When an employer transmits the earnings to the commissioner, he has no liability to the prisoner for the earnings. From the earnings, the commissioner shall pay the prisoner's board and personal expenses, both inside and outside the prison facility, and shall deduct so much of the costs of administration of this section as is allocable to the prisoner, and, in an amount determined by the commissioner, shall pay the support of the prisoner's dependents, if any. If sufficient funds are available after making the foregoing payments, the commissioner may, with the consent of the prisoner, pay, in whole or in part, the pre-existing debts of the prisoner. Any balance shall be retained by the commissioner and paid to the prisoner at the time of his discharge.

(e) If the prisoner violates the conditions established

for his conduct, custody, or employment, the commissioner may order the balance of the prisoner's sentence to be spent in actual confinement.

(f) The wilful failure of a prisoner to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement under this section, is an escape from the place of confinement and is punishable under the laws relating to escape.

(g) A rehabilitation furlough for employment may not be authorized for a prisoner identified with large-scale, organized criminal activity.

HB 784
file

Supreme Court
State of Alaska
941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501

April 14, 1970

Honorable Barry W. Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Pouch V, State Capitol Building
Juneau, Alaska 99801

Subject: House Bill No. 784 - Magistrates' jurisdiction over misdemeanor cases

Dear Mr. Jackson:

Thank you for your letter of April 8.

Mr. Carlson has suggested that the supreme court, in the exercise of its rule-making power, permit appeals from sentences imposed by magistrates which exceed thirty days. I think this might have to be done by legislative act. See AS 22.15.240(b) [SLA 1969 ch. 117].

Sincerely yours,

John H Dimond
John H. Dimond
Acting Chief Justice

cc: Victor D. Carlson
Public Defender

HB 784

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY

Pouch AE, Juneau, Alaska
99801

April 6, 1970

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

Re: House Bill No. 784 relating to magistrates' jurisdiction over misdemeanor cases

Dear Representative Jackson:

Your committee has submitted the subject bill which would remove from the jurisdiction of magistrates the power to be the judge in trials of misdemeanors alleging violations of state law. The bill does not affect the jurisdiction of magistrates to sentence upon a plea of guilty to a misdemeanor in violation of state law or to be the judge in trials of misdemeanors alleging violations of municipal ordinances.

An alternative to the subject bill is suggested, a resolution urging the Supreme Court to permit appeals from sentences imposed by magistrates which exceed 30 days. Presently, Supreme Court Order No. 101, which amended Rule 7, Alaska District Court Criminal Rules, permits appeals from sentences of 180 days or more.

Further, the appropriation of funds to supplement the training of magistrates and other court personnel would help to eliminate mistakes which may now be occurring.

If you have any questions concerning this letter, I shall be happy to answer them.

Very truly yours,

Victor D. Carlson

VICTOR D. CARLSON
Public Defender

VDC:rj

HB 784

April 8, 1970

The Honorable John H. Dimond
Acting Chief Justice
Supreme Court
State of Alaska
Pouch "U", Capitol Building
Juneau, Alaska 99801

Subject: House Bill No. 784 - Magistrates' jurisdiction over misdemeanor cases

Dear Justice Dimond:

Our committee has reviewed your letter on HB-784 and has decided to place this bill in "Hold" status. I anticipate the committee will take no further action on this bill.

Enclosed is a copy of a letter from the Public Defender suggesting as an alternative that appeals be permitted from sentences imposed by magistrates which exceed 30 days. I feel this suggestion is worthy of consideration. I would request that the court consider this during its current review of the rules.

Very truly yours,

Barry W. Jackson, Chairman
House Judiciary Committee

Enclosure - Copy of letter from Public Defender

BWJ/mm

file - HB 784

Supreme Court
State of Alaska
POUCH U. CAPITOL BUILDING
JUNEAU, ALASKA
99801

April 3, 1970

Honorable Barry W. Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska 99801

re: House Bill No. 784

Dear Representative Jackson:

You have asked for my comments on House Bill No. 784 which would take away from magistrates jurisdiction over misdemeanor cases, except those involving violations of ordinances of political subdivisions.

There are 54 magistrate locations in Alaska. House Bill No. 605, which would assign magistrates to each city of the fourth class, would increase the number of magistrates by 50 - for a total of 104. There are about 16 district judges. All misdemeanor cases, except those involving violations of ordinances of political subdivisions, would have to be handled by the district judges if House Bill No. 784 becomes law. This would create great delays in disposing of misdemeanor cases in remote areas, and would also result in considerable increased costs in travel.

I do not understand the basic reason for this piece of legislation. A defendant must waive jurisdiction of the district court in order to be tried by the magistrate.

This seems to be ample protection of his rights. If there is concern about protection of the public interest, which might arise by reason of a magistrate being too lenient, then recourse can be had to the presiding judge of the superior court who has the authority to terminate a magistrate's employment and appoint a new one.

I think it is unwise to enact such legislation without a complete and thorough study of the impact it will have on the administration of justice outside the major populated areas of Alaska. Certainly it would result in delays and in increased costs and administrative burdens. Whether this would be justified by the need to limit a magistrate's jurisdiction, I do not know.

You wondered whether some kind of a certification procedure could be set up, whereby the presiding judge of a district court could certify certain misdemeanor cases for trial by the magistrate. I do not know on what basis such decisions would be made, whether based on the kind of case involved or the quality of the magistrate. I am certain, however, that this would result in a considerable increase in administrative work and delays in disposing of cases.

We are trying our best to improve the quality of the magistrate courts. This year marks the second year of a concerted effort by the court system to bring comprehensive training programs to all of the magistrates in Alaska. During the period April 6 to 10, 1970, every magistrate will be in Anchorage for a seminar designed to better equip them to handle matters currently within their jurisdiction. We have noted from last year's seminar, that this type of training has had a good effect, in producing better decisions, procedures and records. We are hopeful and expect that there will be continued improvement.

Sincerely yours,

John H. Dimond

John H. Dimond
Acting Chief Justice

HB-784

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

February 20, 1970

M E M O R A N D U M

TO: Barry W. Jackson, Chairman
House Judiciary Committee

FROM: Arthur H. Peterson
Revisor of Statutes

SUBJECT: Qualifications of magistrates

You requested information on this subject. In AS 22.15.160, "Qualifications of district judges and magistrates", subsection (b) provides:

> "(b) A magistrate shall be a citizen of the United States and of the state, at least 21 years of age, and a resident of the state for at least six months immediately preceding his appointment. The supreme court may prescribe additional qualifications."

In AS 22.15.170, "Selection of district judges and magistrates", subsection (c) provides:

> "(c) The presiding judge of the superior court in each judicial district shall appoint the magistrates for the district court for the judicial district. Each magistrate serves at the pleasure of the presiding judge of the superior court in the judicial district for which appointed."

Rule 36(b), Rules of Administration, provides:

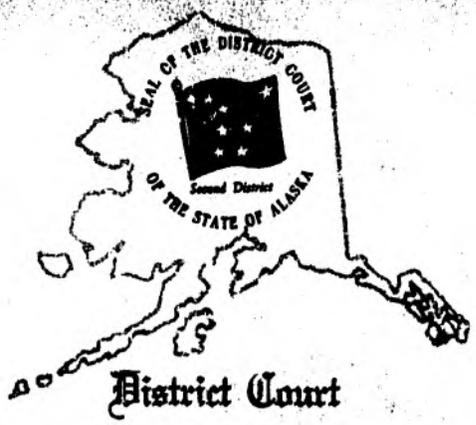
> "(b) Magistrates. To be eligible for appointment as a magistrate, a person must meet the qualifications prescribed in AS 22.15.160."

Today I talked with Judge Thomas Stewart, the Presiding Superior Court Judge of the First Judicial District, about the appointment of magistrates. He said that, so far as he knows, the judicial council

has not recommended and the supreme court has neither proposed nor adopted qualifications for magistrates beyond those specified in the statute. He stated that he follows a very rigid screening process which involves soliciting applications in the community, personally interviewing applicants (for example, before the relatively recent appointment in Yakutat he interviewed at least seven persons in addition to the one finally appointed), and personally going to the community to interview leaders of the community to learn more about the applicants. Factors he considers are age, experience, education, residence in the community, and standing in the community. The judge expressed his willingness to discuss with the committee these procedures and the qualifications of magistrates.

AHP:ic

magistrates -
HB-784



District Court
State of Alaska
FEDERAL BUILDING
BOX 431
NOME, ALASKA 99762

March 17, 1969

Mr. Barry Jackson
Alaska House of Representatives
Juneau, Alaska 99801

Dear Mr. Jackson:

I concur with Judge Mary Alice Miller's letter to you of February 24 regarding the amending of AS 22.15.140. It gives me no inconvenience here as my clerk (only one) is also a magistrate, but I can see it could be quite annoying in a big office.

I also agree with Judge Miller's recommended amendment of AS 22.15.070.

Yours very truly,

Maurice Kelliher
District Judge

MK:jw

cc: Judge Mary Alice Miller

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

April 2, 1970

M E M O R A N D U M

TO: Barry W. Jackson, Chairman
House Judiciary Committee

FROM: Arthur H. Peterson AHP
Revisor of Statutes

SUBJECT: HB 786 (notice requirements for regulation-adopting under the APA)

Two objectives must be borne in mind when dealing with a notice requirement for administrative regulations: (1) the need to give the public actual notice of agency action; and (2) the need to allow some administrative flexibility. The present language in AS 44.62.200 would seem to do this, but in light of certain judicial interpretations and the reaction to certain attorney general opinions perhaps some clarification would be helpful. (It should be noted that Judge Occhipinti's September 19, 1969 order in Botner v. Reetz, No. 69-697D, is not in the least bit helpful without reading the memoranda of counsel in that case. He simply says "In reviewing the memoranda of counsel, the Court finds that notice as given after 1961 did not comply with the statutory requirements of setting forth 'either the express terms or an informative summary of the proposed action'." No reasoning is given in the order.)

There are various possible approaches:

(1) HB 786 suggests one aimed at action of the Department of Fish and Game. However, it poses some problems: first, the reference to "(a) of this section" and to "times, dates, numbers and similar items" is slightly confusing because (a)(1) refers to the time, place, etc., for the regulation-adopting proceedings; secondly, "similar items" is extremely vague; thirdly, the list of certain matters that may vary from the notice raises a strong implication that no others may do so, which is not desirable because this part of the APA applies to all state agencies (with limited exceptions); fourthly, the possibility of variation is wide open, the restriction to the same "subject matter" not being an adequate guide to the agency in giving proper public notice (e.g., is the subject matter "fishing regulations", or "fishing regulations on season dates", or "fishing regulations on season dates for Southeastern Alaska", or "fishing regulations on season dates for Southeastern Alaska, District 14"?).

(2) Somewhat similar to HB 786, a new section or subsection could be added expressly allowing variation from the notice; e.g., add (b) to AS 44.62.200 to read something like "A regulation which is adopted, amended or repealed may vary in content from the terms or summary specified in (a)(3) of this section if the subject matter of the regulation remains the same and the original notice was written so as to assure that members of the public are reasonably knowledgeable of the proposed agency action in order for them to determine whether their interests will be affected by it and whether there is cause for them to make their opinions on the matter known to the agency."

(3) It has been suggested that approach no. (2), above, be modified by omitting the last part, so that it would read: "A regulation which is adopted, amended or repealed may vary in content from the terms or summary specified in (a)(3) of this section if the subject matter of regulation remains the same." As indicated in approach no. (1), above, this would require a determination of what the "subject matter" is in each case, without giving any further guidance to the agency or protection to the public.

(4) The "informative summary" could be explained; e.g., amend AS 44.-62.200(3) to read: "either the express terms or an informative, subject-matter summary of the proposed action, which summary shall be written so as to assure that members of the public are reasonably knowledgeable of the proposed action in order for them to determine whether their interests will be affected by it and whether there is cause for them to make their opinions on the matter known to the agency;".

(5) Since the Department of Fish and Game and the problems regarding its regulations are somewhat unique, a special provision dealing with variation in its regulations could be added. However, correspondence with the Alaska Bar Association's Administrative Law Committee indicates that this approach would not be favored since the members of that committee are interested in bringing all state agencies under the APA, presumably with uniform notice requirements, etc.

(6) Perhaps an explanatory intent clause, added to any of the above approaches, would be helpful.

The committee may wish to consider whether the language in approaches no. (2) and (4), above, could be used to invalidate a regulation on the ground that an individual who belatedly discovers that his interests were affected by an agency regulation was not given sufficient information to make his decision before the regulation was adopted. If such an interpretation does not seem likely or reasonable, it is suggested that (2) and (4) are the best approaches of those listed above. Suggestions for different language are invited.

It should be noted that almost any language, short of a provision that omits a notice requirement altogether or one that requires the notice to contain

the regulation verbatim, will necessitate an administrative decision as to what is "an informative summary" or what is the "subject matter" or what is a "minor" variation or what is "reasonable notice", etc. It should also be noted that the Department of Fish and Game's "double meeting" problem seems to be a matter of policy rather than of law. The department uses the first meeting as an information gathering session. It is not apparent how even the original HB 786 deals with that matter.

AHP:ic

WORK DRAFT COPY

JUDICIARY COMMITTEE REPORT

ON

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 786

The original HB 786 was directed at solving certain problems the Board of Fish and Game has been having in its regulation-adopting procedures. The main problem has been the interpretation of "informative summary" in AS 44.62.200(3); notice of proposed regulations is required to contain either the express terms or an informative summary of them. Apparently as a result of certain opinions and advice from the Office of the Attorney General and certain rulings of the superior court in the Third Judicial District, the board feels that a regulation it adopts may not vary at all from the notice given for that regulation, especially when dealing with such things as the bag limits on game animals and the starting times and dates for fishing seasons; it also seems to feel that two meetings are required for the adoption of regulations, the first one being an information-gathering session.

The Judiciary Committee believes that the intent of the existing law does not require this, but that since such administrative difficulty has arisen there should be some clarification of the law. Two objectives must be borne in mind when dealing with a notice requirement for administrative regulations: (1) the need to give the public reasonable notice of agency action; and (2) the need to allow some administrative flexibility. The committee substitute attempts to meet these objectives, providing some guidance for the agencies and protection for the public. It removes two items of uncertainty in the original bill, and removes the possibility of a negative inference arising from the listing of specific matters ("times, dates, numbers and similar items") that may vary from the notice; the committee substitute applies to all types of regulations.

The committee recognizes the difficulty in maintaining the balance between generality and specificity in writing notices which give members of the public sufficient information to decide whether their interests could be affected by the agency action and thus whether to make their opinions known to the agency. It would appear that almost any statutory language, short of a provision that omits a notice requirement altogether or one that requires the notice to contain the regulation verbatim, will necessitate an administrative decision on an issue such as the content of "reasonable notice".

Barry W. Jackson, Chairman

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99801

April 16, 1970

Barry:

You will find attached a new proposed CS for HB 786. This resulted from the discussion between Av Gross, Tom Wardell and Keith Goltz, yesterday, and it looks o.k. to me. The only difference between this one and the one I prepared a week or so ago is that it deletes the reference to "express terms", which they believe has led the court to require that the "informative summary" be something approaching the express terms.

There is also attached a new committee report, based on my earlier one, but including two examples written by Av Gross and a new paragraph on the board's two-meeting procedure (written by me, and concurred in, I believe, by the attorney general's office). Keith Goltz suggests deleting the reference to the attorney general's office in the first paragraph (but I think the reference is accurate and should be left in, as further evidence of the nature of the problem the committee was dealing with in preparing the committee substitute).

A.

Art

HOUSE JOURNAL

Judiciary Committee Report

on

CS for HOUSE BILL NO. 786

The original HB-786 was directed at solving certain problems the Board of Fish and Game has been having in its regulation-adopting procedures. The main problem has been the interpretation of "informative summary" in AS 44.62.200(3); notice of proposed regulations is required to contain either the express terms or an informative summary of them. As a result of certain rulings of the superior court in the Third Judicial District, and, apparently, certain opinions and advice from the Department of Law, under the present language of the statute, the board feels that its notice of proposed regulations must be very detailed and specific and that a regulation it adopts may not vary at all from the notice given for that regulation, especially when dealing with such things as the bag limits on game animals and the starting times and dates for fishing seasons.

The Judiciary Committee believes that such a restrictive approach is not desirable, and since this administrative difficulty has arisen there should be some clarification of the law. Two objectives must be borne in mind when dealing with a notice requirement for administrative regulations: (1) the need to give the public reasonable notice of agency action; and (2) the need to allow some administrative flexibility. The committee substitute attempts to meet these objectives, providing some guidance for the agencies and protection for the public.

By way of example, the committee believes that notice by an agency that it is going to consider regulations setting a limit on bear in a particular area of the state should be sufficient to support agency action setting any limit, or no limits, in that area. Similarly, notice that the agency will consider a regulation opening the fishing season on a particular date is sufficient notice to support any date, since the subject matter of the regulation (opening the season) remains the same. The committee substitute is directed toward clarification of any confusion that may exist on this point. Moreover, the CS removes two items of uncertainty in the original bill, and removes the possibility of a negative inference arising from the listing of specific matters ("times, dates, numbers, and similar items") that may vary from the notice; the committee substitute applies to all types of regulations.

The committee recognizes the difficulty in maintaining the balance between generality and specificity in writing notices which give members of the public sufficient information to decide whether their interests could be affected by the agency action and thus whether to make their opinions known to the agency. It would appear that almost any statutory language, short of a provision that omits a notice requirement altogether or one that requires the notice to contain the regulation

verbatim, will necessitate an administrative decision on an issue such as the content of "reasonable notice."

The committee notes that the Board of Fish and Game seems to feel that two meetings are required for the adoption of its regulations, the first one being an information-gathering session. This does not appear to be required by law, but is, rather, a matter of policy of the board. Neither the original bill nor the committee substitute deals with this matter, except to the extent that the board should be able to write a notice that would be adequate to permit information-gathering and regulation-adopting at a single meeting. It is the committee's intent that this matter of the number of meetings be left to the discretion of the board. It would appear that the board could adopt meeting procedures, consistent with the law, which would facilitate achieving the objectives stated above.

Barry W. Jackson
Chairman
House Judiciary Committee

HB 787

RESOLUTION NO. 679

A RESOLUTION TO SUPPORT AND ENCOURAGE THE PASSAGE OF HOUSE BILL NO. 787 IN THE LEGISLATURE OF THE STATE OF ALASKA, SIXTH LEGISLATURE - SECOND SESSION.

WHEREAS, the Local Government and Judiciary has prepared and introduced House Bill No. 787 relating to the authority of certain classes of cities and organized boroughs with respect to urban renewal; and

WHEREAS, Legislature of the State of Alaska, Sixth Legislature - Second Session has now before it this House Bill No. 787 under consideration; and

WHEREAS, it is the opinion of the City Council of the City of Fairbanks, Alaska, that such legislation would be favorable to certain classes of cities and organized boroughs to have the power with respect to the planning or undertaking of an urban renewal project in the area which the municipality or public body is authorized to act;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, AS FOLLOWS:

SECTION 1. That the City Council supports House Bill No 787 and encourages the Legislature of the State of Alaska, Sixth Legislature - Second Session to favorably consider the passage of this legislation.

SECTION 2. That a copy of this resolution be sent to each member of the Legislature of the State of Alaska, Sixth Legislature - Second Session.

PASSED and *APPROVED* this 20th day of April, 1970.

H. A. BOUCHER, Mayor

ATTEST:

WALLIS C. DROZ, City Clerk

HB-801

HUGHES, THORSNESS, LOWE, GANTZ & CLARK
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
807 G STREET
ANCHORAGE, ALASKA 99501

JOHN C. HUGHES
DAVID H. THORSNESS
ROBERT C. LOWE
RICHARD O. GANTZ
MURPHY L. CLARK
ROBERT C. ERWIN

JAMES M. POWELL
BRIAN J. BRUNDIN
GARY W. GANTZ
MARCUS R. CLAPP
KENNETH P. JACOBUS

AREA CODE 907
TELEPHONE 279-4522

April 16, 1970

Representative William L. Hensley
Chairman, Health, Welfare & Education
Committee
House of Representatives
Juneau, Alaska 99801

RE: House Bill No. 801

Dear Willie:

The provisions of House Bill No. 801 have caused some discussion within the University and among the Regents. In particular, we are concerned, not in the aim expressed, but the method of implementing it.

I think we are all in agreement that higher education can be helped and strengthened by the State contracting with private institutions for educational or other services. But I think the sole authority for such contracting, on behalf of the State, should rest in the Board of Regents, and not with the Commissioner of Education. The Regents are now charged with post-secondary education throughout the State and the fragmentation of that responsibility would I think be violative of the constitutional scheme, and it most certainly would lay a basis for problems to develop.

This is not to say that the Regents are the only ones who have any "smarts" regarding post-secondary education. But the scheme is presently to centralize the effort in that area and I believe fragmenting it could only cause duplication, waste, and lead to controversy. And the present set up has shown it is workable and it does not lead necessarily to centralization of effort.

As example, we have recently met with the Board of Education for the State, and we continually coordinate with local boards of education regarding the community college programs throughout the State. This partnership of effort, which finds central direction through the Regents, is working exceedingly well. It would certainly be a mistake to set up separate boards for each community college, for example.

Similarly, we are now engaged in a very progressive and rewarding effort with Alaska Methodist University to provide a consortium of universities in the Anchorage area. To be successful, we will have to make substantial contractual arrangements with AMU for joint use of facilities, sharing of faculty, movement of students between programs and the like. I look for this effort to be equally as or more successful than the joint effort regarding community colleges. Again, however, it would cause nothing but problems if the right to make such contracts was decentralized from the Regents in any way.

You know of the recent efforts between the Regents and Commissioner Hartman and the State Board of Education regarding the programming and management of funds for vocational education through the Commissioner's office and to the community colleges. With such splendid cooperation in this and other areas, there seems no reason to me why similar cooperative efforts could not be continued in the contracting with private institutions. That is if the Commissioner had such a program, it should be no problem to get contracts as needed through the Regents of the University. In doing so, the essential centralization of planning and coordination would be maintained.

I would hope, therefore, that your Committee would not favor enacting House Bill 801. I think no legislation is required, as the Regents already have such authority to enter into such contractual arrangements.

Very truly yours,

Brian J. Brundin, Regent

BJB:kf

HB 803
File 803

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
111 FOURTH STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-6145

DICKERSON REGAN
SUPERVISING ATTORNEY

ANCHORAGE OFFICE
WILLIAM H. JACOBS
EXECUTIVE DIRECTOR
425 "G" STREET, SUITE 630

April 23, 1970

Representative Barry W. Jackson
Chairman, House Judiciary Committee

Dear Mr. Jackson:

I was shocked to hear from you this morning that the House Judiciary Committee has indicated an unwillingness to consider H.B. 803, relating to the jurisdiction of superior courts.

My dismay is best seen in the light of some past history. Since March 31, 1970, when this bill was first introduced by the Committee, I have been scheduled to appear at least seven times to testify in support of the bill. On several of those occasions I waited for the duration of the committee session, only to be told that there would be no time for consideration of the bill, even though other public witnesses had been heard. On two occasions I extended my stay in Juneau to find that at the eleventh hour that the meeting had been postponed, or that H.B. 803 would not be taken up.

The House Judiciary Committee has been as generous as any other legislative committee in considering bills we have proposed on behalf of indigent clients in Alaska. You have always evidenced an open mind to those proposals, and for that the Committee is to be commended.

It is not too late for action on H.B. 803. The Senate has already passed a substantially similar bill, S.B. 297, and would, I am certain, be willing to concur in a House version which closely parallel it. The Senate bill passed last year, in April, by a vote of 19-1.

Although this legislation does not provide new substantive rights, it is extremely important in terms of the procedures by which violations of the state anti-discrimination statutes can be corrected and enforced. It would provide that individuals complaining of violations be permitted to file an action in state superior court.

The State Human Rights Commission has specifically endorsed this legislation on two separate occasions, December 10, 1969, and March 6, 1970.

HB 803

I urge the Committee to take this bill up at the earliest possible date. Unfortunately I will not be able to remain in Juneau for the remainder of the legislative session. However, should the Committee reconsider, Dick Regan of our Juneau office is available to appear before you at any time on this bill.

Respectfully,

Philip B. Byrne

Philip B. Byrne
Deputy Director

cc: All Members, House Judiciary Committee

HB-803

Comments Of
Alaska Legal Services Corporation
In Support of S.B. 297

This proposal was originally drafted by Alaska Legal Services attorneys and jointly introduced by Senators Josephson, Begich, Miller, Brad Phillips, and Rader. (S.B. 297) It passed the Senate April 7, 1969, with one dissenting vote, and has been referred to the State Affairs and Judiciary Committees of the House.

The State Commission for Human Rights exercises jurisdiction over all violations of existing State anti-discrimination laws. Specifically, its jurisdiction relates to discrimination in employment, whether by an employer, labor organization or employment agency; places of public accomodation; housing; financial practices; and state operations. (A.S. 18.80.210-255). Primary enforcement responsibility is vested in the State Commission for Human Rights. (A.S. 18.80.010 et seq.) The Commission, upon the receipt of a complaint from an aggrieved individual or upon its own motion (A.S. 18.80.100) may initiate informal proceedings to achieve conciliation (A.S. 18.80.110) and, if appropriate, issue a cease and desist order against the action and individual or firm as to whose action the hearing was conducted. (A.S. 18.80.120-130). In such proceedings

the Commission, and not the complainant, would exercise control of the presentation. The complainant or the respondent may seek judicial review of the Commission's action (A.S. 18.80.135(a)). Enforcement of the cease and desist order may be judicially obtained, but only at the instance of the Commission (A.S. 18.80.135(b)). In addition to the above, enforcement may be had through criminal prosecution of a person who engages in action prohibited by the substantive provisions of the anti-discrimination laws. (A.S. 18.80.270).

As provisions are now written, it is unclear whether an individual is required to resort to the Commission for Human Rights for relief from discriminatory conduct, or if he is free to seek redress directly through the courts. A second problem is that the terms of the present act do not indicate that relief may be sought as a member of a class, or that the Commission may act against a pattern of discrimination within an industry, labor union, etc., rather than merely dealing with individual instances of discrimination.

The proposed addition specifically states that the Superior Courts of Alaska shall have jurisdiction over causes of action arising under the Alaska discrimination laws, including any collateral issues which are a part of the discriminatory conduct complained of. This would include a pattern of discrimination which might otherwise not be cured if the issues were limited to specific discriminatory acts. For example, an individual who instituted an action against a company to redress racial discrimination would be able to maintain a class action and obtain relief as to all members

of his class, including those who work in a different department.

It further provides for notification to the Commission whenever such a suit is filed, and that the Commission may either intervene in the suit as a party, or inform the Court that it is already acting on the discriminatory act giving rise to the lawsuit. In case of the latter, the court will defer action on the suit until the Commission has determined the issues before it. A limitation of forty-five days in this case is included to ensure the prompt settlement of these issues. The act empowers the Court to enter a preliminary injunction pending Commission action.

If the plaintiff's lawsuit is deferred to Commission action, the plaintiff is given the status of an "aggrieved" party in the event of an adverse decision so as to authorize his participation in or prosecution of an appeal from the Commission's order.

These amendments will serve three basic functions:

(1) an individual will be free to pursue his own remedies rather than rely upon Commission action in cases where the Commission is unable to give his problem prompt attention;

(2) class actions directed at patterns or practices will be permitted, rather than requiring enforcement to focus on individual or isolated acts; and

(3) the Commission's enforcement powers will be strengthened by the power to intervene in broad scale attacks upon discrimination.

We believe these amendments to be doubly important because of the limited staff and budget with which the Commission is currently required to operate.

This proposal was unanimously endorsed by the Board of Directors of Alaska Legal Services Corporation with the stipulation that a provision be added setting a nominal damage figure at $250. This could be accomplished by adding a sentence at the end of Section 18.80.340 as follows:

> Upon a judgment for the plaintiff in a case brought under this chapter, the court shall award nominal damages of $250.00 unless actual damages exceeding that amount have been established.

File HB 809 (this bill 809 is coming to us. DW

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S—JUNEAU 99801

April 20, 1970

The Honorable Lester Bronson
Chairman, House Commerce Committee
Alaska State Legislature
Juneau, Alaska 99801

Re: HB 809 and SB 565 - An Act Relating to Personal Property Protection Motor Vehicle Insurance

Dear Representative Bronson:

Reference is made to House Bill 809 which is now pending before your committee.

The Department of Revenue opposes HB 809 as it presently reads for several reasons. A brief summary of some of these reasons follows:

1. Line 23 on page 26 of HB 809 defines department as being the Department of Public Safety. While that department administers the drivers license statutes, the Department of Revenue administers the Motor Vehicle Registration statutes. As such the Department of Revenue would be deeply involved in handling registration of vehicles and insurance under the act. It is not believed that the bill as presently worded distinguishes this sufficiently in the administration of the act.

2. Line 8 of page 27 modifies AS 28.10.050(a) by adding a new paragraph (6) which requires the Department of Revenue obtain from each application for registration proof that the security required by the bill has been obtained. Line 10 on page 27 of the bill amends AS 28.10.100 by stating that the Department of Revenue shall refuse to register the vehicle if the security is not in effect on the vehicle. The present registration procedure does not require any supporting documentation such as this required for financial responsibility. The necessity of handling and to some degree auditing these insurance policies as a prerequisite to licensing would virtually double the cost of administration, and in the instance of the mail-out renewal program would prove even more costly as the Department of Revenue would have to write the taxpayer and request insurance proof whenever it was not received with the mailed-in application. (Because certain sized forms are used at present in filing and insurance policies are generally not printed on that size paper, the bill would require a virtual duplication of files in the Motor Vehicle Division. This will greatly increase the costs of administration.)

Since few insurance policies cover the calendar year and the 5-month grace period we will have many insurance policies expiring and being renewed. Shifts of policies from one company to another and cancellation will increase the cost of labor and material considerably.

3. Because insurance policies vary in their wording and their coverage it would appear necessary to design a standard insurance policy which everyone must follow. To do this the Attorney General's office would be given the power under the statute to design such a policy. Otherwise it would be virtually impossible for our present staff and licensing agents, who are untrained in the interpretation of insurance policies, to ascertain whether a vehicle is properly insured at the time of registration.

4. Lines 6 through 8 on page 26 of HB 809 provide that if a person fails to make payment within 30 days because of an injury or damage shall be grounds for suspension or revocation of the motor vehicle registration and operators license. Revocation of the motor vehicle registration should theoretically be revoked in the Division of Motor Vehicles, but locating the registered owner, cancelling his registration certificate and obtaining the plates back is a far more difficult thing to accomplish. The person and/or vehicle may be out of the state or their whereabouts may not be known.

It is requested that the Department of Revenue be given the opportunity to appear before your committee anc clarify these and other factors involved in the administration of HB 809.

Very truly yours,

Vernon L. Snow
Deputy Commissioner

VLS/ge
cc: John Beard
Representative Barry Jackson
Paul Goodrich
Phil Wall
R. D. Stevenson

HB 856

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K, STATE CAPITOL — JUNEAU 99801

May 8, 1970

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

Dear Representative Jackson:

This note accompanies a draft of HB 856 which takes into consideration the amendments proposed by you and members of your committee. They are as follows.

(1) In subsection (a) it will be noted that amendment has been made which would allow the ABC Board to require accommodations greater than 10 rooms for issuance or transfer of a license if in its discretion it felt that 10 rooms would not be a sufficient facility. This provision has the advantage of keeping the size requirements low enough to encourage smaller facilities while providing certain control over possible abuse under the section.

(2) Members of the committee expressed concern that tourist accommodations might be constructed but not used under a sec. 260 license, thus effectively circumventing the quota requirements. It was also noted that a facility should not have the tourist accommodations open on a part year basis but keep the dispensary open all year. Subsection (b) represents a relatively straight forward approach to these problems by requiring the tourist accommodations to be open and suitable for occupation whenever the bar is open. AS 04.10.320(b) (Duration of Licenses) provides for a one-half year license for seasonal operations which would be available to facilities desiring it.

(3) Subsection (c) makes sec. 270 applicable where a license would operate within an organized borough or city and would require assembly or council approval for issuance. This, of course, gives the localities affected some control over what "extra" licenses might be issued within their boundaries.

I hope these amendments meet with your approval.

Sincerely,

G. KENT EDWARDS
ATTORNEY GENERAL

By: William Edward Spear
Assistant Attorney General

GKE:WES:em

CS for

DRAFT OF HOUSE BILL NO. 856

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to alcoholic beverage licensing to encourage tourist trade."

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

* Section 1. AS 04.10.260 is amended to read:

Sec. 04.10.260. LICENSING TO ENCOURAGE TOURIST TRADE. (a) The board may, in its discretion, approve the issuance or transfer of a license [INTO AN AREA OUTSIDE AN INCORPORATED MUNICIPALITY] without regard to the quota provisions [of secs. 210 - 290] of this chapter where it appears that the issuance or transfer will encourage the construction or improvement of a hotel, motel, resort or similar business related to the tourist trade having a minimum accomodation of 10 rooms. However, the board may in its discretion require a minimum accomodation of more than 10 rooms as a requirement for a license issuance or transfer under this section.

(b) The accommodations required in (a) shall be available and suitable for commercial occupation at all times during which alcoholic beverages are dispensed in accordance with a license under this section.

(c) An application for the issuance or transfer of a license under (a) of this section is subject to the provisions of sec. 270 of this chapter if the license applied for would be issued within an incorporated municipality.

FORM SA-18

File
HB-857

MEMORANDUM State of Alaska

TO: The Honorable Barry Jackson
Chairman
House Judiciary Committee
Alaska State Capital Building

DATE : April 28, 1970

FROM: John K. Robertson, Director
Division of Banking, Securities,
Small Loans & Corporations
Department of Commerce

SUBJECT: Summary of Trust Company Bill

In less than a year, the Department has chartered one trust company and is currently considering two other applications. In addition, several application forms have been furnished to interested persons. Prior to this period, the Trust Act (AS 06.25) had never been used. We believe, in some instances at least, the sudden interest in the Act is due largely to the general banking privileges provided under Sec. 06.25.100, low capital requirements and the absence of supervisory and regulatory provisions.

As mentioned, the Department is now considering the "applications" of two trust companies. These "applications" consist of Articles of Incorporation filed under Title 10, List of Stockholders, Affidavit showing $25,000 in paid capital, Directors Oaths and the receipts showing a deposit of securities with the Department of Revenue. According to the statutes, after the trust company has furnished this information, the Department "shall" issue a Certificate authorizing the trust company to engage in business. In other words, in reality, there is no application or "consideration" of the application by the Department. Therefore, the purpose of the proposed trust company bill is to protect the public by preventing weak and unqualified entries into the state's financial system as well as establishing a legal framework within which the Department may provide continuing regulation and supervision.

The following is a brief explanation of the bill by section:

Sec. 1. Beginning capital requirements are increased from $25,000 to $100,000 and the par value is reduced from $100 to $1 per share. This would bring minimum capital requirements into conformance with those established for commercial banks (tends to eliminate weak applicants). Reducing the par value to $1 will allow broader distribution of the capital stock.

Sec. 2. Under the existing statute, a trust company may engage in the general banking business without having demonstrated its ability to do so. The amendments contained in this section would result in a qualification procedure for trust companies, essentially the same as for commercial banks. In other words, standards, i.e., public need and convenience, economic justification, and management capability would be applied. Membership in the Federal Deposit Insurance Corporation would be required of all trust companies engaging in the general banking business. Deposit insurance would not be required of trust companies involved solely in the trust business since the FDIC does not insure a trust company unless it receives deposits not connected with its trust accounts.

Sec. 3. Sec. 06.25.085 is a new section applying certain provisions of

the banking code (AS 06.05) to the regulation, operation, and supervision of trust companies. Specifically, those provisions are:

Article I - Banking Code

Powers of the Department over State Banks
Examination by the Department
Bank Reports to the Department

Article II - Banking Code

Handling Deposit Accounts
Reserves against Deposits
Legal Limits and other Limitations on Loans
Liability of Directors
Authorized Investments
Limitation on Borrowing
Investment in Banking Premises and Equipment

Article III - Banking Code

Issue of Capital Notes and Debentures
Application and Approval for Change of Location
Limitation on Payment of Dividends and Restoration of Surplus
Approval of Conversion, Merger, or Consolidations
Prohibited Practices
Department May Seek Injunction

The Trust Company Act is completely void of these operating and supervisory criteria. Such guide lines are essential to trust company management as well as the Department.

Sec. 4. Sec. 06.25.105 is new and provides branching privileges to those trust companies qualifying for deposit insurance.

Sec. 5. AS 06.25.230 is amended, providing that a trust company which is a member of the Federal Deposit Insurance Corporation is not required to maintain the 20% capital reserve. However, it should be noted, that insured trust companies are required to maintain deposit reserves as required under Sec. 200 of the Banking Code.

Sec. 6. AS 06.25.250, covering deposit reserves is repealed as being superfluous since insured trust companies are required to maintain deposit reserves under Sec. 200 of the Banking Code and non-insured trust companies are required to maintain capital reserves under AS 06.25.230.

Sec. 7. Sec. 06.25.255 is new and provides that the Department may restrict or prohibit a trust company from offering a service which it is not qualified to offer.

Sec. 8. Sec. 06.25.315 is new and establishes standards for regulation and supervision of trust companies similar to those set out in the Banking Code.

AB660

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S—JUNEAU 99801

March 18, 1970

HB 860

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

Re: Juror's List - AS 09.20.050

Dear Representative Jackson:

Pursuant to your verbal request that the Departments of Revenue, Fish and Game, and Administration present you with their views respecting possible legislation to clarify problems that have arisen in the administration of Chapter 67 SLA 1969 (AS 09.20.050), I have contacted those other departments. It is our and their recommendation that the legislature consider taking the following action to solve the problems involved in administering Chapter 67 SLA 1969.

1. Since the voters list is made up according to precinct and the precincts have geographical limits within court districts, use of the voters list alone would solve most of the problems. We suggest you consider repealing Chapter 67 SLA 1969 and re-enactment of the prior statute as the simplest course.

2. If the list of voters is not broad enough, we recommend use of the voters registration list since it would increase the number of names available for jurors. Chapter 67 SLA 1969 could be amended to refer only to that list.

3. We question the apparent court system's interpretation of Chapter 67 that a single composite list with no duplications in names is to be furnished. The difficulty in furnishing such a list is finding a common denominator. Voters do not give their social security numbers and that number is not always present in the case of fishing licenses or income tax returns. Unless a common number can be assigned to an individual the only way that a single list could be prepared without duplication of names is to list persons by the sound of their names. Since individuals use their names and initials differently on different documents and many people have the same name or initials duplication occurs.

It is also difficult to present to the courts a list of names which will not contain duplication because of addresses. For example, voters may list their home address whereas the same person may use his mailing address on his income tax return or fishing license.

If Chapter 67 SLA 1969 is to be implemented, three separate lists will be submitted.

4. It is recommended that Chapter 67 be amended to require that the list of residents filing income tax returns and residents purchasing hunting and fishing licenses cover the even numbered years and be submitted by July 1 of the following odd numbered year. The voters list comes from general elections which fall in even numbered years. This would permit the court system and the departments involved to handle the problem of setting up jury lists only once every two years rather than once every year and would reduce the expense of preparing such lists.

If Chapter 67 is to remain in its basic format it is recommended that the statute be amended to provide that the list of persons purchasing resident fishing or hunting licenses cover those purchasing licenses during the previous year. At present it is not clear whether the statute speaks of the current year or the previous year. The Department of Fish and Game advises that the list it is currently preparing is of persons purchasing resident fishing licenses during 1970. A list for 1969 is not prepared. Administratively it would be more practical to furnish the list for the prior year rather than to furnish periodic lists during the year covering new licenses sold during the current year.

5. If Chapter 67 remains, it is recommended that it be amended to read that the income tax return list includes those persons filing returns having an Alaska address with no reference to residency. If this change is not made it is suggested that the term "resident" be defined for the purpose of determining whose income tax returns should be included because the definition of "resident" varies.

AS 09.20.010 states the qualifications of a juror to include that of being a resident of the state. No definition of resident is found in that chapter. However, AS 09.20.050 does refer to voters. AS 15.05.010(3) states that in order to vote the person must have been a resident of the state for at least one year before the election.

AS 16.05.940(14) of the fish and game statute gives an expanded definition of a resident. It reads:

> "(14) "resident" means a person who for 12 consecutive months has maintained a permanent place of abode in the state and who has continually maintained his voting residence in the state; and in the case of a partnership, association, joint stock company, trust, or corporation, "resident" means one that has its main office or headquarters in the state; however, a member of the military service who has been stationed in the state for the preceding 12 consecutive months is a resident for the purposes of this chapter, and the dependent of a resident member of the military service, who has been living in the state for the preceding year is a resident for the purposes of this chapter, and a person who is an alien but who for three years has maintained a permanent place of abode in the state is a resident for the purposes of this chapter;"

Although the income tax chapter (AS 43.20.010) refers to residents and

nonresidents, those terms are not defined in the act. The California definition of a resident for income tax purposes is the general rule followed by most states. It reads as follows:

> "Section 17014. "Resident" includes:
>
> (a) Every individual who is in this State for other than a temporary or transitory purpose.
>
> (b) Every individual domiciled in this State who is outside the State for a temporary or transitory purpose.
>
> Any individual who is a resident of this State continues to be a resident even though temporarily absent from the State."

Some persons file resident tax returns who are sometimes temporarily out of the State and have non-Alaska mailing addresses. Others may file resident returns after they have left the State, covering periods in which they were residents in the State. Chapter 67 SLA 1969 would require the Department of Revenue to include all of those individuals on the list furnished to the court system.

Many persons move into the State during the year and make Alaska their permanent residence. When they file their income tax returns they are considered residents for that part of the year they are in Alaska (part time residents.) Their returns list Alaska addresses. Was it the intent of the legislature that the returns filed by part year residents be included in the list furnished to the court if (1) the return shows an Alaska address, or (2) the person claims to be a part year resident with or without an Alaska address?

Not all income tax returns are filed by April 15 following the year of the taxable period. If a complete list is to be furnished by the Department of Revenue the time for this to be submitted should probably be the close of the year following the tax year.

6. The Supreme Court in Green v. State of Alaska File No. 1177 states on page 19 and 20 of its Opinion as follows:

> "In the Third Judicial District selection of juries under the 1969 law will not have to be made before April 30, 1971. But in the First Judicial District, where the last list of jurors was prepared under the original act in January, 1969, the new law will have to be followed by January, 1971. We refer to this matter of implementing the 1969 law in order to advise the executive and legislative branches of our government that if the necessary lists cannot be obtained prior to January, 1971 at the latest, properly constituted juries cannot be selected, with resulting judicial chaos and a severe impairment of the administration of justice."

Since the final date for filing income tax returns is April 15 and in many instances extensions are granted, it will not be possible for the Department of Revenue to furnish a 1970 income tax list to the Third Judicial District by April 30, 1971. The earliest date covering most 1970 returns would be July 1, 1971. It is also questionable whether a list of holders of 1970 fishing and hunting licenses for the year 1970 can be furnished by January, 1971 to the First Judicial District. The Supreme Court did not specify when lists will be required for the Second and Fourth Districts.

If Chapter 67 is not repealed and the previous section re-enacted, it is recommended that the aforesaid changes be made to the act and the date to provide the first lists not be set before July 1, 1971.

Very truly yours,

Vernon L. Snow

Vernon L. Snow
Deputy Commissioner

VLS/ge
cc: Members House Judiciary Committee
Commissioner Downes
Commissioner Noerenberg
John Beard
Vern Roberts
Keith Angier
Phil Wall

Introduced: 5/5/70
Referred: Rules

IN THE HOUSE BY THE JUDICIARY COMMITTEE

HOUSE BILL NO. 860

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the preparation of jury lists."

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

* Section 1. AS 09.20.050 is amended to read:

Sec. 09.20.050. JURY LIST. (a) At such times as the presiding judge of the superior court in each judicial district may designate, but not later than September 1 of each odd-numbered year [LESS THAN ONCE EVERY TWO YEARS], the clerk of the superior court in each judicial district shall prepare a list of the names of residents of the district who are qualified by law for jury service. The list shall contain the names of all persons who purchased a resident hunting or fishing license during the preceding year, all persons [RESIDENTS] who filed a state income tax return for the preceding year which showed an Alaskan address, and all persons who have registered to vote in this state [AS WELL AS THOSE PERSONS WHO VOTED IN THE PRECEDING GENERAL ELECTION]. If the superior court is located in different cities in the same judicial district, the clerk of the court located in each city shall prepare, at the times designated by the judge but no later than September 1 of each odd-numbered year [AT LEAST EVERY TWO YEARS], a list of names of persons qualified for jury service [. THE LIST SHALL CONTAIN THE NAMES OF ALL PERSONS WHO PURCHASED A RESIDENT HUNTING OR FISHING LICENSE, ALL RESIDENTS WHO FILED A STATE INCOME TAX RETURN FOR THE PRECEDING YEAR, AS WELL AS THOSE PERSONS WHO VOTED IN THE PRECEDING GENERAL ELECTION] and who are residents of that portion of the judicial district designated by the presiding judge.

(b) The jury list shall be based on the list of persons [, PREPARED BY THE DEPARTMENT OF REVENUE OR THE DEPARTMENT OF FISH AND GAME,] who purchased a resident hunting or fishing license during the preceding year, as prepared by the Department of Fish and Game, the list of persons who filed a resident state income tax return for the preceding year, as prepared by the Department of Revenue, and the [VOTING] list of registered voters, as prepared by the secretary of state. The departments and the secretary of state shall prepare their respective lists by judicial district, and shall submit them to the presiding judge of the superior court in each district no later than July 1 of each odd-numbered year [FROM THE PRECEDING GENERAL ELECTION. A QUESTIONNAIRE FOR PROSPECTIVE JURORS MAY BE ADOPTED AND SUBMITTED TO THEM BY THE ADMINISTRATIVE DIRECTOR OF COURTS].

(c) A copy of the jury list shall be transmitted only to each district judge and each superior court judge within the judicial district and shall be used to summon jurors residing within the immediate area of the court and for no other purpose.

(d) A questionnaire for prospective jurors may be adopted and submitted to them by the administrative director of the court system.

* Sec. 2. Jury lists in existence on the effective date of this Act may be used until September 1, 1971; however, these should be corrected and supplemented before September 1, 1971 to the extent reasonably possible in accordance with this Act, as determined by the presiding judge of the superior court in each judicial district.