

"An Act relating to the number of superior court judges; and providing for an effective date."

COMMITTEE REPORT

HOUSE

5/10/76

Mr. Speaker:

Date May 15 1976

The Committee on FINANCE has had HCS SB 670 (JUDICIARY)

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR FINANCE AND THAT

FINANCE CS FOR HCS SB 670 DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

Original sponsor: Judiciary Committee

Offered: 5/10/76
Referred: Finance

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 670

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the number of superior court
7 judges; and providing for an effective date."

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

9 * Section 1. AS 22.10.120 is amended to read:

10 Sec. 22.10.120. NUMBER OF JUDGES. The superior court consists of
11 19 [17] judges, four [THREE] of whom shall be judges in the first judi-
12 cial district, one of whom shall be judge in the second judicial dis-
13 trict, ten of whom shall be judges in the third judicial district, and
14 four [THREE] of whom shall be judges in the fourth judicial district.

15 At the time of submitting the names of nominees to the governor to fill
16 a vacancy on the superior court bench, the judicial council shall also
17 designate the district in which the appointee is to reside and serve.

18 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
19 070(c).

Introduced: 2/17/76
Referred: Judiciary and
Finance

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 SENATE BILL NO. 670

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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12 cial district, one of whom shall be judge in the second judicial dis-
13 trict, ten of whom shall be judges in the third judicial district, and
14 three of whom shall be judges in the fourth judicial district. At the
15 time of submitting the names of nominees to the governor to fill a
16 vacancy on the superior court bench, the judicial council shall also
17 designate the district in which the appointee is to reside and serve.

18 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
19 070(c).

AMENDMENT #1

OFFERED IN THE SENATE:

BY: State Affairs

To: _____ SENATE BILL No. 534

HOUSE BILL No. _____

PAGE: 1

LINE: 7

delete all material beginning with "establishing" and ending with
"Procedure" on line 9

AMENDMENT #2

OFFERED IN THE SENATE:

BY: State Affairs

TO: _____ SENATE BILL No. 534

HOUSE BILL No. _____

PAGE: 25 126

LINE: 25

delete all material beginning with "If" and ending with xxxxxxxxx
"litigation." on page 26, line 15

AMENDMENT #3

OFFERED IN THE SENATE:

By: State Affairs

To: _____ SENATE BILL No. 534

HOUSE BILL No. _____

PAGE: 31

LINE: 25 - 29

delete Sec. 11

& renumber sections accordingly

The Legislature of the State of Alaska
FISCAL NOTE

Second Session - Ninth Legislature

I. REQUEST
 Bill No. SB-524
 Title: An Act relating Natural Disasters
 Requested by: Governor's Office Date: January 16, 1976
 Return Date Requested: _____
 Agency: _____ Program: _____

II. FISCAL DETAIL
 Budget Request Unit(s) Affected: No fiscal impact. See Analysis

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

B. FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
 See Attachment

IV. ATTACHMENTS

V. DATE: January 16, 1976 PREPARED BY: Terry J. Nidiffer
 Deputy Director
 Alaska Disaster Office

III. Analysis

The Alaska Disaster Act is proposed to provide a sound legal base and a compendium of provisions which can be employed to meet the growing impact of disaster.

Current State statutes dealing with disasters were enacted during the early days of statehood. At that time, the primary motivation was to provide the basis for preparation and response to military attack, especially involving nuclear weapons. It was thought that governmental action in connection with any kind of catastrophe has common elements. Accordingly, these earlier statutes have been broadened in interpretation to make them more applicable to circumstances caused by floods, earthquakes, conflagrations, and other disruptions of a natural or man-made kind. Within limits, these statutes have proved useful in meeting disaster situations. However, it has become clear that provisions thought useful in a civil defense context are not always suited to meeting all disaster problems and responsibilities. Also, the vulnerability to disaster is steadily increasing commensurate with population and economic growth of the State.

At present, much of the Governor's authority to act in a wide variety of disaster situations is regarded as inherent in his capacity as head of the Executive branch of the State government. It is, therefore, considered appropriate that the Governor be specifically identified as the responsible official with paramount power to direct the overall disaster program and to assume command of disaster response and relief forces in time of emergency. This act makes this identification and provides procedures for the orderly administration of the disaster program.

The enactment of the Alaska Disaster Act per se will not result in an increase in expenditures above the level of funding now authorized for disaster preparedness and operations as currently administered by the Alaska Disaster Office. The Alaska Division of Emergency Services to be created by this Act shall supersede the Alaska Disaster Office and shall carry out the disaster functions of the Act within the resources, facilities, manpower, and funding now authorized and/or available to the Alaska Disaster Office.

In summary, the experience of the past decade has shown many inadequacies in State statutes and measures originally enacted to cope with disaster. In order to deal more directly with the problems of nonmilitary disasters, while not excluding civil defense, this Act is proposed for enactment to meet the rising natural disaster threat.

JAN 16 1976

The Honorable Chancy Croft
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

In accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to disaster relief. The bill is based on and is substantially similar to the "Example State Disaster Act of 1972," prepared by the Disaster Project of the Council of State Governments under contract with the Office of Emergency Preparedness, Executive Office of the President.

Whatever the need for comprehensive State disaster legislation may have been in the past, the need has been substantially increased by the passage of the federal "Disaster Relief Act Amendments of 1974," P.L. 93-288. Not only is the purpose of that Act to increase State participation and responsibility in the area of disaster relief, but various types of assistance available to states under the Act are contingent upon the adoption of a disaster program by a requesting state.

For example, section 201(c) of the new federal disaster law provides for the granting of \$250,000 to assist a state in the development of disaster preparedness and response plans and programs, but requires that an agency be selected to administer the disaster program and that a State Disaster Plan be submitted to the President in order to qualify for the grant.

AS 26.23.020, as proposed in the attached bill, would establish the responsibility of the governor in disaster situations and delineate the powers to be available to him. As a part of these powers, subsection (g)(1) of AS 26.23.020 grants to the governor the authority to suspend any regulatory statute, order, or regulation of a State agency which adversely affects the State's ability to respond to a disaster emergency. The provision recognizes that in an emergency situation, time constraints may not allow the State to comply with regulatory procedures and still respond effectively to a disaster emergency.

Proposed AS 26.23.030 would legislatively establish the Alaska Division of Emergency Services. This division would replace the present Alaska Disaster Office, an office which presently exists only by administrative order. If the attached bill is passed, that administrative order will be rescinded. Proposed AS 26.23.040 delineates the duties and powers of the Alaska Division of Emergency Services. Central to the duties of the division are the establishment of a State disaster plan and the coordination and development of local and regional disaster plans required by the federal and proposed State disaster laws.

The funding of disaster relief efforts is addressed in AS 26.23.050. This proposal establishes the sources of funds for disaster relief efforts in order of their priority. In addition to the funds appropriated to the agencies responding to a disaster and those available in the Disaster Relief Fund, the governor is granted the authority to transfer and expend money appropriated for other purposes. This provision takes precedence over AS 37.07.080(e) which presently prohibits the interagency transfer of funds. In addition, section 50 permits the governor to borrow necessary funds from any source for the purpose of "natural disasters" -- a phrase used in Article IX, Section 8 of the Alaska Constitution (which allows borrowing without ratification by the voters for natural disasters).

Proposed AS 26.23.080 to 26.23.110 are self-explanatory, are directly keyed to specific provisions of the federal Disaster Relief Act Amendments of 1974, and have been recommended by the Council of State Government's Disaster Project as supplements to the original Example State Disaster Act of 1972.

Proposed AS 26.23.130 would enact into law the Interstate Civil Defense and Disaster Compact. This compact addresses both military and non-military disasters. The compact establishes the legal basis for interstate cooperation in the area of disaster assistance, provides for the limitation of liability of, and the granting of compensation to, assisting states, and provides the foundation for the coordination of interstate disaster plans and procedures. It has been adopted by approximately 14 states so far, although some states have limited its application to bordering states only. The compact and the remainder of Section 3 of the bill are to be administered by the Department of Military Affairs.

Related to the financing of disaster efforts, are the proposed amendments to AS 44.19.171(b) and AS 44.19.171(c), found in Section 4 and Section 5 of the bill. These two

amendments would increase the amount of money which the governor may spend for disaster prevention or relief without additional legislative authorization, from \$500,000 and \$250,000 to \$1,000,000 and \$500,000, respectively.

The civil defense statute (AS 26.20) and the Disaster Relief Fund statute (AS 44.19.171, et seq.) are presently the only laws of Alaska addressing the issue of disaster prevention, preparedness, response and recovery. The former of these laws is primarily concerned with military or para-military disaster, though it could be interpreted to extend to non-military disasters. Use of the Disaster Relief Fund is presently limited to "natural" disasters, and then only to provide limited funds in certain situations. In an effort to delineate precisely to which situations the civil defense statute applies and those to which the Disaster Relief Act would apply, the term "disaster," as used in the proposed disaster Act, has been defined to include only those disasters resulting from natural or non-military, man-made causes (AS 26.23.900(1).) In addition, Section 2 of the proposed Act would make an amendment to AS 26.20.010(a) which would have the effect of limiting the coverage of the civil defense statute to military or para-military situations only.

Because of the expansive grant of authority provided for in the civil defense statute and the proposed Alaska Disaster Relief Act, it is suggested that the scope of these particular statutes be made as explicit as possible. The Interstate Civil Defense and Disaster Compact, however, is to be applicable to both military and non-military disasters.

Sections 6 through 10 of the proposed Act offer amendments to AS 44.19.171, et seq., which would delete the word "natural" wherever it appears in that statute. These amendments are suggested as a result of problems such as those encountered during the Bristol Bay Disaster of 1974. Much discussion occurred at that time as to whether the Bristol Bay disaster was a "natural" disaster or a disaster resulting from man-made causes. Because of these discussions, valuable time was lost in responding to the needs of the people of the area.

In accordance with Rule 40(e) of the Uniform Rules of the Alaska State Legislature, Section 11 states the change in the Alaska Rules of Civil Procedure which would result from the proposed Act.

Article 7 of the proposed Interstate Civil Defense and Disaster Compact (AS 26.23.130) requires that each state adopting the compact provide for injury and death compensation for its civil defense forces rendering assistance under the compact outside of their home state. Therefore, Section 1 proposes that Alaska civil defense and disaster forces, engaged in activities outside of Alaska in accordance with the compact, be considered "state employees" for purposes of Alaska's workmen's compensation law.

Sincerely,

Jay S. Hammond
Governor

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF MILITARY AFFAIRS

OFFICE OF THE ADJUTANT GENERAL

8024 510 MACKAY BUILDING
330 DENALI STREET - ANCHORAGE 99501
PHONE: 277-7651 - AUTOVON: 852-7210

AG

19 May 1975

The Honorable Bill Ray
State Senator
Pouch "V"
Juneau, Alaska 99801

PER T
#0 CS5B534

Dear Senator Ray:

Thank you for your inquiry regarding Senate Committee Substitute for HB 195. The Department of Military Affairs non-concurs in the provisions of Sections 3 thru 7, SCSHB 195 which basically adds the provisions of HB 434 and/or HB 484 to HB 195. The Department has already indicated concurrence with the original provisions of HB 195, as outlined in Sections 1 and 2 dealing with Active Duty Training.

There are a number of reasons why this Department opposes the amended provisions (Sec 3-7). These reasons are based on fundamental principles of governmental and military management. The military doctrines especially, have proven themselves to be inviolate over centuries of experience in war and peace.

It must be remembered that each State's Militia in order to be an effective and viable national reserve force must recognize and implement the same military principles found to be applicable in our nation's regular military forces. A slight degree of variance in operations among the several states may exist but you will find a common unity on the fundamentals.

SCSIB 195 violates a number of these fundamentals:

1. Sec 6 (c), SCSIB contain the provisions that the "Department of Military Affairs shall be organized along civilian lines to the maximum extent possible".

This provision slaps in the face of the reality that, by its very nature, this Department is necessarily a military organization. Such a provision reverses the evolution of our nation's military defense posture which right now places 46% of the U.S. Army Combat elements and 73% of the U.S. Air Force Aerospace Defense Command into the National Guard and Reserve structure. Even more critically, 20% of Alaska's resident military defense force is right now in the Alaska National Guard, to include the only mechanized land combat element in the Theater. Do we really want this force to be commanded in peacetime by a headquarters which is "organized along the civilian lines"? It can only follow that our assigned combat units will informally follow suit to the detriment of our readiness posture.

2. Sec 6 (a), SCSHB 195 contains the provision that appointees to the posts of Assistant Adjutant General may not be employees of the Department of Military Affairs. Simply, this provision is discriminatory. Good men and women are found in both our part-time and full-time ranks. To create a law which eliminates one category of personnel from the opportunity of eventual promotion into the highest management levels of the Department violates every proven principle of successful personnel management in the military, in government and in industry. It would be akin to stating that no legislator could ever have been an employee of the Legislature prior to election, or a Governor, a legislator, etc. It simply is not right.

3. The provision calling for the Assistant Adjutant Generals to have five (5) years of Alaska Guard service and field grade commission (Sec 6 (a), SCSHB 195) is a good and necessary one to provide continuity of organizational command and operations while allowing for replacement of Adjutants General. But this provision is already contained in AS 26.05.180 (a). The provision calling for the same standards to apply to the Adjutant General (Sec 4, AS 26.05.160) is overly restrictive to the freedom that the Commander-in-Chief, the Governor, must have to carry out his responsibilities for public protection. No other military commander nor Departmental head to the best of my knowledge, has such restrictions placed upon appointment.

4. Sec 4 (d) SCSHB 195 contains the provision that "the Adjutant General upon appointment, must have completed the Command and General Staff Course or its equivalent and one of the war colleges", which again is an overly restrictive clause even in comparison to our nation's regular forces appointment requirements. All officers in the grade of Colonel in the National Guard must already have completed the Command and General Staff Course or its equivalent and for promotion to Lieutenant Colonel and above must have received approval by Congress. Our Regular forces do not require

one of the war colleges as an additional school for promotion into the general officers ranks. As it now stands, all Colonels in the Alaska National Guard and a majority of Lieutenant Colonels and even some Majors could meet the minimum requirement for Command and General Staff completion. But only five individuals,

COL Harry Aase (retired AKANG-Juneau).....
COL Edward Payano (Colorado)
LTC Robert Dupere (Alaska Army Guard-Juneau)
Mr. Robert Steele (Formerly Brigadier General Steele,
Asst. AG-Army, now retired)
COL Clayton Moore (Alaska Air Guard-Anchorage)

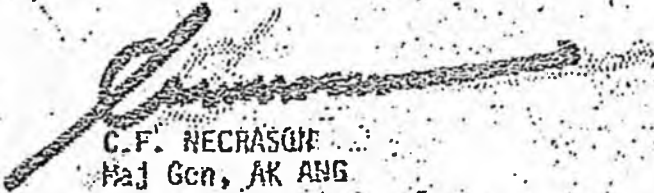
would be eligible for appointment to the ultimate position of Adjutant General should this law be passed.

5. Sec 5, SCSHB 195 contains detailed provisions regarding a National Guard Advisory Board to establish a minimum listing of three officers from which the Governor must select. Even as desirable as it may appear to certain individuals sincerely seeking new methods to provide greater checks and balances in our system, no military organization or operation can be conducted by committee, and this includes even this proposal. Not even our founding father's tampered with the direct line of command from the Commander-in-Chief to the military forces. Freedom of selection must be fully provided to the highest elected official responsible to the electorate, the Governor as Commander-in-Chief, in order not to violate one of the most fundamental principles of military operations, Unity of Command. Provisions for advice from committees to the Governor may be established without question, but this proposal calls for the mandate that "the Adjutant General shall be appointed from a list", Sec 4, (e).

6. Sec 5 (2), SCSHB 195 contains the provision that "members of the Advisory Board shall be members of the Alaska National Guard Association, Inc. (ANGA), surely a discriminatory provision if there ever was one. This organization is not to be confused with the Alaska National Guard Officer's Association (ANGOA), the traditional professional association of AKNG Officers, but is a separate splinter group formed, you might say, out of the older ANGOA body in the past year or so. Never has the older ANGOA asked for a dictating position in selection of the Adjutant General and never will it propose to do so in the realization of the proper role of a professional association in the affairs of the Alaska National Guard.

In summary, this proposal though no doubt submitted with a sincere and positive heart by the proponents will cause a definite negative impact on the Alaska National Guard and the State of Alaska. It is contradictory to many worthwhile principles of military organization and would definitely place Alaska at an extreme variance with the other states under the umbrella of the National Guard Bureau in the Pentagon. We must remember that the Alaska Guard's funding ratio is in the order of \$92 federal to \$8 state

with a \$20 million federal dollar impact throughout Alaska. We cannot jeopardize this very favorable budgetary ratio and our future expansion program which will result in future millions of federal dollars for Alaska in the years ahead. I sincerely feel that this proposed bill will place Alaska in a very unfavorable competitive position for disbursement of the federal defense dollar. I have no choice but to strongly oppose adoption of this SCSHB 195.



C.F. NEČAS
Maj Gen, AK ANG
The Adjutant General

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE

Second Session - Ninth Legislature

I. REQUEST FINANCE

Bill No. HCS for S.B. 670

Title: Number of Superior Court Judges

Requested by: Legislative Finance

Date: _____

Return Date Requested: _____

Agency: Alaska Court System

Program: _____

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Alaska Court System

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 77					
	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES		95.9	95.9	95.9	95.9	95.9
200 TRAVEL						
300 CONTRACTUAL		2.0	2.0	2.0	2.0	2.0
400 COMMODITIES		1.0	1.0	1.0	1.0	1.0
500 EQUIPMENT		8.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	112.0	106.9	98.9	98.9	98.9	98.9

B. FUNDING: (Thousands of dollars)

GENERAL FUND	112.0	106.9	98.9	98.9	98.9	98.9
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	3/	3/	3/	3/	3/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

House Committee Substitute for Senate Bill 670 increases the number of Superior Court judges in the state by two. The Superior Court judge position in Sitka will replace the existing District Court judge position there. Therefore, the additional cost of this judgeship is the difference between the salary of Superior and District Court judges, or \$7,500/year.

The Superior Court judge position in Fairbanks is a new position and will require the creation of three new permanent positions - judge, secretary, and in-court clerk. The total personnel services cost of these positions is \$98,400/year. These new positions will need furniture, including desks, chairs, typewriters, bookcases,

IV. ATTACHMENTS (see attached page)

V. DATE: _____ PREPARED BY: _____

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

*Revised
Fiscal Note
Adopted by
Committee
May 15, 1976
Ahr*

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE

Second Session - Ninth Legislature

I. REQUEST

Bill No. HCS for S.B. 670 (Finance)
 Title: Number of Superior Court Judges
 Requested by: Legislative Finance Date: _____
 Return Date Requested: _____
 Agency: Alaska Court System Program: _____

II. FISCAL DETAIL

Budget Request Unit(s) Affected: _____

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES		103.4	103.4	103.4	103.4	103.4
200 TRAVEL		(4.3)	(4.3)	(4.3)	(4.3)	(4.3)
300 CONTRACTUAL		3.0	3.0	3.0	3.0	3.0
400 COMMODITIES		1.9	1.9	1.9	1.9	1.9
500 EQUIPMENT		8.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		112.0	104.0	104.0	104.0	104.0

B. FUNDING: (Thousands of dollars)

GENERAL FUND		112.0	104.0	104.0	104.0	104.0
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

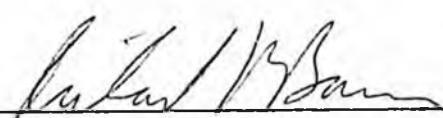
PERMANENT/TEMPORARY	/	3 /	3 /	3 /	3 /	3 /
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

House Committee Substitute for Senate Bill 670 increases the number of Superior Court judges in the state by three. The Superior Court judge position in Sitka will replace the existing District Court judge position there. Therefore, the additional cost of this judgeship is the difference between the salary of Superior and District Court judges, or \$7,500/year.

The judgeship in Bethel will replace the existing District Court Judge position there. The additional salary requirements is \$7,500/yr. By placing a Superior Court Judge in Bethel, the Court System will save approximately \$4,300 in travel previously incurred by Superior Court Judges traveling from Anchorage to Bethel to serve the Bethel Service Area. (see attached page)

IV. ATTACHMENTS

V. DATE: May 17, 1976 PREPARED BY: 
 Richard P. Barrier

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

FISCAL NOTE (continued)

HCS for S.B. 670

The Superior Court judge position in Fairbanks is a new position and will require the creation of three new permanent positions - judge, secretary, and in-court clerk. The total personnel services cost of these positions is \$88,400/year. These new positions will need furniture, including desks, chairs, typewriters, bookcases, filing cabinets, and other office equipment. The one-time cost of this equipment is \$8,000. Also, an additional \$1,900/year for commodities and \$3,000/year of contractual expenses (phone, postage, equipment rental, etc.) will be needed in support of the 3 new positions.

For the immediate future the Fairbanks Court can absorb a fourth Superior Court judge without adding a courtroom. Since Fairbanks is responsible for providing judicial coverage to Barrow and other rural locations in the fourth district, one judge is frequently on travel status. Also, vacation schedules and sick leave further reduce the number of days when all four judges would be holding court. When these days do occur, the Federal Court in Fairbanks has agreed to the use of its courtroom for the trying of state cases. In future capital planning for Fairbanks, four superior court courtrooms will be included. But for the present time, the court can manage with the three existing courtrooms.

Call PWT WITH
Booker BILL



Senator Ray

Alaska Court System

State of Alaska

303 "K" STREET

ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-5511

February 3, 1976

Honorable Robert H. Ziegler, Sr.
Chairman, Senate Judiciary Committee
Pouch V
Juneau, AK 99811

Re: Sitka Superior Court

Dear Senator Ziegler:

Recently the Alaska Court System requested the introduction of a Bill to increase the number of Superior Court Judges in the First Judicial District from three to four. The purpose of the legislation is to authorize the appointment of a Superior Court Judge to reside in Sitka in place of the District Court Judge now authorized.

As you know, the Supreme Court has asked the Judicial Council not to proceed with the nomination process for filling the present vacancy in the Sitka District Court. Rather than filling this vacancy, the Supreme Court would like to leave unfilled the Sitka District Court judgeship and instead obtain authorization from the Legislature for the appointment of a Superior Court Judge for Sitka to handle both Superior and District Court matters. After reviewing the relative Superior Court and District Court workloads in Sitka, the Supreme Court came to the conclusion that upgrading the position from a District to a Superior Court judgeship would result in much better utilization of judicial manpower not only in Sitka, but throughout the First Judicial District.

The Superior Court workload in Sitka is now three times that of the District Court, based on case filings in Sitka and the present disposition rate in the First District for both Superior and District Courts. Because of this workload, the Court System spent nearly \$4,500 in 1975 to send Superior Court Judges from Juneau and Ketchikan to Sitka. In addition to the travel costs involved, these trips to Sitka took the Juneau and Ketchikan Judges away from necessary duties in those communities. We estimate that a Superior Court Judge residing in Sitka could dispose of all Superior Court and District Court matters and still have time remaining to provide additional services throughout Southeast Alaska, as needed.

Honorable Robert H. Ziegler, Sr. - 2
February 3, 1976

Early in the tenure of Sitka's first Superior Court Judge, it became evident that Juneau's Superior Court caseload was heavy enough to require two Judges much of the time. Because Sitka then had a resident District Court Judge, the Superior Court Judge did not need to be there full time, but was able to handle Sitka's Superior Court matters by traveling there about twice a month. This arrangement resulted in an underutilization of the District Court Judge, and in some inconvenience to Sitka litigants, whose Superior Court matters could only be heard at designated times during the month.

We believe that judicial services to Sitka and the rest of Southeast Alaska can be greatly improved with little extra cost by having a single general jurisdiction Judge permanently assigned to Sitka. Although our efforts toward developing a measure for the need for additional Judges have not yet produced a method that is completely accurate or satisfactory, our rough estimates indicate that if the Superior Court in the First District is going to maintain the same rate of dispositions per year that it achieved in 1974, it now requires 3.8 Superior Court Judges. Throughout the State, the need for inter-district judicial help is overwhelmingly greater for Superior Court matters than for District Court matters. While the Court System has had to utilize one of the Juneau Superior Court Judges fairly extensively to provide necessary service in other locations in the State, it appears from our figures on First District workloads that if the number of Superior Court Judges remains at three, this practice will become less and less feasible as judicial business in the First District increases.

The difference in salary between a Superior Court Judge and a District Court Judge is about \$7,000. With Superior Court travel to Sitka costing \$4,500 per year, the cost of upgrading the position will be only about \$2,500. It is impossible, of course, to place a dollar value upon increased convenience to Sitka residents, but we believe that these benefits will more than outweigh the relatively small added cost.

I would appreciate very much your attention to this matter. If you would like additional information, please let me know.

Very truly yours,



Arthur H. Snowden, II
Administrative Director

AHS/bd

MEMO February 19, 1976
FROM SENATE JUDICIARY COMMITTEE
TO SENATE FINANCE COMMITTEE
RE SB 670 - informal fiscal note

The Senate Judiciary committee's letter of intent transmitted herewith spells out the court's game plan for the status of the bench in Sitka.

The court estimates that the difference in annual salary between a superior court judge and a district court judge amounts to just about \$7000. If we have a superior court judge stationed permanently in Sitka, approximately \$4500 a year will be saved in travel expenses.

Therefore, the total approximate cost of upgrading the position will amount to some \$2500.

It is impossible, of course, to place a dollar amount on the value of the increased convenience to Sitka residents, who quite frequently find themselves without any judge.

We believe the benefits of the legislation will more than outweigh the relatively small added cost.

RHZ/pkz

3

LETTER OF LEGISLATIVE INTENT

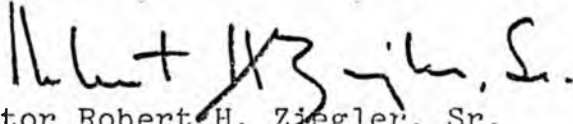
Re: Senate Bill 670--relating to the number of superior court judges

The captioned bill would increase the number of superior court judges in our state from 17 to 18. Four of those judges, rather than 3, will be assigned to the First Judicial District.

We are advised by the Supreme Court that if the legislation becomes law, the new superior court judge will be stationed permanently in Sitka. We have been assured that no new judge will be appointed to the district court bench in that city, although a vacancy now exists which is being filled as of this date on a temporary basis.

In other words, the district court judgeship will become vacant, and the superior court judge will handle the case load of both courts.

Respectfully submitted,



Senator Robert H. Ziegler, Sr.
Chairman
Senate Judiciary Committee

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST

Bill No. HCS for S.B. 670
 Title: Number of Superior Court Judges
 Requested by: Legislative Finance Date: _____
 Return Date Requested: _____
 Agency: Alaska Court System Program: _____

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Alaska Court System

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES		95.9	95.9	95.9	95.9	95.9
200 TRAVEL						
300 CONTRACTUAL		2.0	2.0	2.0	2.0	2.0
400 COMMODITIES		1.0	1.0	1.0	1.0	1.0
500 EQUIPMENT		8.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		106.9	98.9	98.9	98.9	98.9

B. FUNDING: (Thousands of dollars)

GENERAL FUND		106.9	98.9	98.9	98.9	98.9
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	3/	3/	3/	3/	3/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

House Committee Substitute for Senate Bill 670 increases the number of Superior Court judges in the state by two. The Superior Court judge position in Sitka will replace the existing District Court judge position there. Therefore, the additional cost of this judgeship is the difference between the salary of Superior and District Court judges, or \$7,500/year.

The Superior Court judge position in Fairbanks is a new position and will require the creation of three new permanent positions - judge, secretary, and in-court clerk. The total personnel services cost of these positions is \$98,400/year. These new positions will need furniture, including desks, chairs, typewriters, bookcases,

IV. ATTACHMENTS (see attached page)

V. DATE: _____ PREPARED BY: _____

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

FISCAL NOTE

HCS for S.B. 670

filing cabinets and other office equipment. The one-time cost of this equipment is \$8,000. Also, an additional \$1,000/year for commodities and \$2,000/year of contractual expenses (phone, postage, equipment rental, etc.) will be needed in support of the 3 new positions.

For the immediate future the Fairbanks Court can absorb a fourth Superior Court judge without adding a courtroom. Since Fairbanks is responsible for providing judicial coverage to Barrow and other rural locations in the fourth district, one judge is frequently on travel status. Also, vacation schedules and sick leave further reduce the number of days when all four judges would be holding court. When these days do occur, the Federal Court in Fairbanks has agreed to the use of its courtroom for the trying of state cases. In future capital planning for Fairbanks, four superior court courtrooms will be included. But for the present time, the court can manage with the three existing courtrooms.

AMENDMENT #1

OFFERED IN THE SENATE:

BY: State Affairs

To: _____ SENATE BILL No. 534

HOUSE BILL No. _____

PAGE: 1

LINE: 7

delete all material beginning with "establishing" and ending with "Procedure" on line 9

AMENDMENT #2

OFFERED IN THE SENATE:

BY: State Affairs

To: _____ SENATE BILL No. 534

HOUSE BILL No. _____

PAGE: 25 426

LINE: 25

delete all material beginning with "If" and ending with xxxxxxxxxx
"litigation." on page 26, line 15

AMENDMENT #3

OFFERED IN THE SENATE:

BY: State Affairs

TO: _____ SENATE BILL No. 534

HOUSE BILL No. _____

PAGE: 31

LINE: 25 - 29

delete Sec. 11

& renumber sections accordingly

I. REQUEST
 Bill No. SB-574
 Title: An Act relating Natural Disasters
 Requested by: Governor's Office Date: January 16, 1976
 Return Date Requested: _____
 Agency: _____ Program: _____

II. FISCAL DETAIL
 Budget Request Unit(s) Affected: No fiscal impact. See Analysis
 A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

B. FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See Attachment

IV. ATTACHMENTS

V. DATE: January 16, 1976

PREPARED BY: Terry J. Nidiffer
 Deputy Director
 Alaska Disaster Office

III. Analysis

The Alaska Disaster Act is proposed to provide a sound legal base and a compendium of provisions which can be employed to meet the growing impact of disaster.

Current State statutes dealing with disasters were enacted during the early days of statehood. At that time, the primary motivation was to provide the basis for preparation and response to military attack, especially involving nuclear weapons. It was thought that governmental action in connection with any kind of catastrophe has common elements. Accordingly, these earlier statutes have been broadened in interpretation to make them more applicable to circumstances caused by floods, earthquakes, conflagrations, and other disruptions of a natural or man-made kind. Within limits, these statutes have proved useful in meeting disaster situations. However, it has become clear that provisions thought useful in a civil defense context are not always suited to meeting all disaster problems and responsibilities. Also, the vulnerability to disaster is steadily increasing commensurate with population and economic growth of the State.

At present, much of the Governor's authority to act in a wide variety of disaster situations is regarded as inherent in his capacity as head of the Executive branch of the State government. It is, therefore, considered appropriate that the Governor be specifically identified as the responsible official with paramount power to direct the overall disaster program and to assume command of disaster response and relief forces in time of emergency. This act makes this identification and provides procedures for the orderly administration of the disaster program.

The enactment of the Alaska Disaster Act per se will not result in an increase in expenditures above the level of funding now authorized for disaster preparedness and operations as currently administered by the Alaska Disaster Office. The Alaska Division of Emergency Services to be created by this Act shall supersede the Alaska Disaster Office and shall carry out the disaster functions of the Act within the resources, facilities, manpower, and funding now authorized and/or available to the Alaska Disaster Office.

In summary, the experience of the past decade has shown many inadequacies in State statutes and measures originally enacted to cope with disaster. In order to deal more directly with the problems of nonmilitary disasters, while not excluding civil defense, this Act is proposed for enactment to meet the rising natural disaster threat.

JAN 16 1976

The Honorable Chancy Croft
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

In accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to disaster relief. The bill is based on and is substantially similar to the "Example State Disaster Act of 1972," prepared by the Disaster Project of the Council of State Governments under contract with the Office of Emergency Preparedness, Executive Office of the President.

Whatever the need for comprehensive State disaster legislation may have been in the past, the need has been substantially increased by the passage of the federal "Disaster Relief Act Amendments of 1974," P.L. 93-288. Not only is the purpose of that Act to increase State participation and responsibility in the area of disaster relief, but various types of assistance available to states under the Act are contingent upon the adoption of a disaster program by a requesting state.

For example, section 201(c) of the new federal disaster law provides for the granting of \$250,000 to assist a state in the development of disaster preparedness and response plans and programs, but requires that an agency be selected to administer the disaster program and that a State Disaster Plan be submitted to the President in order to qualify for the grant.

AS 26.23.020, as proposed in the attached bill, would establish the responsibility of the governor in disaster situations and delineate the powers to be available to him. As a part of these powers, subsection (g)(1) of AS 26.23.020 grants to the governor the authority to suspend any regulatory statute, order, or regulation of a State agency which adversely affects the State's ability to respond to a disaster emergency. The provision recognizes that in an emergency situation, time constraints may not allow the State to comply with regulatory procedures and still respond effectively to a disaster emergency.

Proposed AS 26.23.030 would legislatively establish the Alaska Division of Emergency Services. This division would replace the present Alaska Disaster Office, an office which presently exists only by administrative order. If the attached bill is passed, that administrative order will be rescinded. Proposed AS 26.23.040 delineates the duties and powers of the Alaska Division of Emergency Services. Central to the duties of the division are the establishment of a State disaster plan and the coordination and development of local and regional disaster plans required by the federal and proposed State disaster laws.

The funding of disaster relief efforts is addressed in AS 26.23.050. This proposal establishes the sources of funds for disaster relief efforts in order of their priority. In addition to the funds appropriated to the agencies responding to a disaster and those available in the Disaster Relief Fund, the governor is granted the authority to transfer and expend money appropriated for other purposes. This provision takes precedence over AS 37.07.080(c) which presently prohibits the interagency transfer of funds. In addition, section 50 permits the governor to borrow necessary funds from any source for the purpose of "natural disasters" -- a phrase used in Article IX, Section 8 of the Alaska Constitution (which allows borrowing without ratification by the voters for natural disasters).

Proposed AS 26.23.080 to 26.23.110 are self-explanatory, are directly keyed to specific provisions of the federal Disaster Relief Act Amendments of 1974, and have been recommended by the Council of State Government's Disaster Project as supplements to the original Example State Disaster Act of 1972.

Proposed AS 26.23.130 would enact into law the Interstate Civil Defense and Disaster Compact. This compact addresses both military and non-military disasters. The compact establishes the legal basis for interstate cooperation in the area of disaster assistance, provides for the limitation of liability of, and the granting of compensation to, assisting states, and provides the foundation for the coordination of interstate disaster plans and procedures. It has been adopted by approximately 14 states so far, although some states have limited its application to bordering states only. The compact and the remainder of Section 3 of the bill are to be administered by the Department of Military Affairs.

Related to the financing of disaster efforts, are the proposed amendments to AS 44.19.171(b) and AS 44.19.171(c), found in Section 4 and Section 5 of the bill. These two

amendments would increase the amount of money which the governor may spend for disaster prevention or relief without additional legislative authorization, from \$500,000 and \$250,000 to \$1,000,000 and \$500,000, respectively.

The civil defense statute (AS 26.20) and the Disaster Relief Fund statute (AS 44.19.171, et seq.) are presently the only laws of Alaska addressing the issue of disaster prevention, preparedness, response and recovery. The former of these laws is primarily concerned with military or para-military disaster, though it could be interpreted to extend to non-military disasters. Use of the Disaster Relief Fund is presently limited to "natural" disasters, and then only to provide limited funds in certain situations. In an effort to delineate precisely to which situations the civil defense statute applies and those to which the Disaster Relief Act would apply, the term "disaster," as used in the proposed disaster Act, has been defined to include only those disasters resulting from natural or non-military, man-made causes (AS 26.23.900(1).) In addition, Section 2 of the proposed Act would make an amendment to AS 26.20.010(a) which would have the effect of limiting the coverage of the civil defense statute to military or para-military situations only.

Because of the expansive grant of authority provided for in the civil defense statute and the proposed Alaska Disaster Relief Act, it is suggested that the scope of these particular statutes be made as explicit as possible. The Interstate Civil Defense and Disaster Compact, however, is to be applicable to both military and non-military disasters.

Sections 6 through 10 of the proposed Act offer amendments to AS 44.19.171, et seq., which would delete the word "natural" wherever it appears in that statute. These amendments are suggested as a result of problems such as those encountered during the Bristol Bay Disaster of 1974. Much discussion occurred at that time as to whether the Bristol Bay disaster was a "natural" disaster or a disaster resulting from man-made causes. Because of these discussions, valuable time was lost in responding to the needs of the people of the area.

In accordance with Rule 40(e) of the Uniform Rules of the Alaska State Legislature, Section 11 states the change in the Alaska Rules of Civil Procedure which would result from the proposed Act.

Article 7 of the proposed Interstate Civil Defense and Disaster Compact (AS 26.23.130) requires that each state adopting the compact provide for injury and death compensation for its civil defense forces rendering assistance under the compact outside of their home state. Therefore, Section 1 proposes that Alaska civil defense and disaster forces, engaged in activities outside of Alaska in accordance with the compact, be considered "state employees" for purposes of Alaska's workmen's compensation law.

Sincerely,

Jay S. Hammond
Governor

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF MILITARY AFFAIRS

OFFICE OF THE ASSISTANT GENERAL

8024 SID HAYKAY BUILDING
333 DENALI STREET ANCHORAGE 99501
PHONE: 277-1631 - AUTOVON: 652-7210

AG

19 May 1976

The Honorable Bill Ray
State Senator
Pouch "Y"
Juneau, Alaska 99201

PER T
#0 CS5B534

Dear Senator Ray:

Thank you for your inquiry regarding Senate Committee Substitute for HB 195. The Department of Military Affairs non-concurs in the provisions of Sections 3 thru 7, SCSHB 195 which basically adds the provisions of HB 434 and/or HB 484 to HB 195. The Department has already indicated concurrence with the original provisions of HB 195 as outlined in Sections 1 and 2 dealing with Active Duty Training.

There are a number of reasons why this Department opposes the amended provisions (Sec 3-7). These reasons are based on fundamental principles of governmental and military management. The military doctrines especially, have proven themselves to be inviolate over centuries of experience in war and peace.

It must be remembered that each State's Militia in order to be an effective and viable national reserve force must recognize and implement the same military principles found to be applicable in our nation's regular military forces. A slight degree of variance in operations among the several states may exist but you will find a common unity on the fundamentals.

SCSIB 195 violates a number of these fundamentals:

1. Sec 6 (c), SCSHB contain the provisions that the "Department of Military Affairs shall be organized along civilian lines to the maximum extent possible".

This provision slaps in the face of the reality that, by its very nature, this Department is necessarily a military organization. Such a provision reverses the evolution of our nation's military defense posture which right now places 46% of the U.S. Army Combat elements and 73% of the U.S. Air Force Aerospace Defense Command into the National Guard and Reserve structure. Even more critically, 20% of Alaska's resident military defense force is right now in the Alaska National Guard, to include the only mechanized land combat element in the Theater. Do we really want this force to be commanded in peacetime by a headquarters which is "organized along the civilian lines"? It can only follow that our assigned combat units will informally follow suit to the detriment of our readiness posture.

2. Sec 6 (a), SCSHB 195 contains the provision that appointees to the posts of Assistant Adjutant General may not be employees of the Department of Military Affairs. Simply, this provision is discriminatory. Good men and women are found in both our part-time and full-time ranks. To create a law which eliminates one category of personnel from the opportunity of eventual promotion into the highest management levels of the Department violates every proven principle of successful personnel management in the military, in government and in industry. It would be akin to stating that no legislator could ever have been an employee of the legislature prior to election, or a Governor, a legislator, etc. It simply is not right.

3. The provision calling for the Assistant Adjutant Generals to have five (5) years of Alaska Guard service and field grade commission (Sec 6 (a), SCSHB 195) is a good and necessary one to provide continuity of organizational command and operations while allowing for replacement of Adjutants General. But this provision is already contained in AS 26.05.120 (a). The provision calling for the same standards to apply to the Adjutant General (Sec 4, AS 26.05.150) is overly restrictive to the freedom that the Commander-in-Chief, the Governor, must have to carry out his responsibilities for public protection. No other military commander nor Departmental head to the best of my knowledge, has such restrictions placed upon appointment.

4. Sec 4 (d) SCSHB 195 contains the provision that "the Adjutant General upon appointment, must have completed the Command and General Staff Course or its equivalent and one of the war colleges", which again is an overly restrictive clause even in comparison to our nation's regular forces appointment requirements. All officers in the grade of Colonel in the National Guard must already have completed the Command and General Staff Course or its equivalent and for promotion to Lieutenant Colonel and above must have received approval by Congress. Our Regular forces do not require.

one of the war colleges as an additional school for promotion into the general officers ranks. As it now stands, all Colonels in the Alaska National Guard and a majority of Lieutenant Colonels and even some Majors could meet the minimum requirement for Command and General Staff completion. But only five individuals,

COL Harry Aase (retired AKARNG-Juneau)....
COL Edward Pagano (Colorado)
LTC Robert Dupere (Alaska Army Guard-Juneau)
Mr. Robert Steele (Formerly Brigadier General Steele,
Asst. AG-Army, now retired)
COL Clayton Moore (Alaska Air Guard-Anchorage)

would be eligible for appointment to the ultimate position of Adjutant General should this law be passed.

5. Sec 5, SCSHB 195 contains detailed provisions regarding a National Guard Advisory Board to establish a minimum listing of three officers from which the Governor must select. Even as desirable as it may appear to certain individuals sincerely seeking new methods to provide greater checks and balances in our system, no military organization or operation can be conducted by committee, and this includes even this proposal. Not even our founding father's tampered with the direct line of command from the Commander-in-Chief to the military forces. Freedom of selection must be fully provided to the highest elected official responsible to the electorate, the Governor as Commander-in-Chief, in order not to violate one of the most fundamental principles of military operations, Unity of Command. Provisions for advice from committees to the Governor may be established without question, but this proposal calls for the mandate that "the Adjutant General shall be appointed from a list", Sec 4, (e).

6. Sec 5 (2), SCSHB 195 contains the provision that "members of the Advisory Board shall be members of the Alaska National Guard Association, Inc. (ANGA), surely a discriminatory provision if there ever was one. This organization is not to be confused with the Alaska National Guard Officers' Association (ANGOA), the traditional professional association of AKNG Officers, but is a separate splinter group formed, you might say, out of the older ANGOA body in the past year or so. Never has the older ANGOA asked for a dictating position in selection of the Adjutant General and never will it propose to do so in the realization of the proper role of a professional association in the affairs of the Alaska National Guard.

In summary, this proposal though no doubt submitted with a sincere and positive heart by the proponents will cause a definite negative impact on the Alaska National Guard and the State of Alaska. It is contradictory to many worthwhile principles of military organization and would definitely place Alaska at an extreme variance with the other states under the umbrella of the National Guard Bureau in the Pentagon. We must remember that the Alaska Guard's funding ratio is in the order of \$92 federal to \$8 state

with a \$20 million federal dollar impact throughout Alaska. We cannot jeopardize this very favorable budgetary ratio and our future expansion program which will result in future millions of federal dollars for Alaska in the years ahead. I sincerely feel that this proposed bill will place Alaska in a very unfavorable competitive position for disbursement of the federal defense dollar. I have no choice but to strongly oppose adoption of this SCSHR 195.



C.F. NECRASON
Maj Gen, AK ANG
The Adjutant General