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STATE OF ALASKA
THE LEGISLATURE

Final

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JUNEAU, ALASKA 99811
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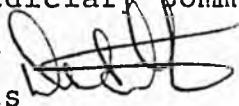
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 17, 1984

SUBJECT: House CS for CSSB 133 (Judiciary)

TO: Representative Charlie Bussell
Chairman, House Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

This bill was prepared by the revisor of statutes under AS 01.05.036 which provides, in part, that the revisor of statutes shall

". . . prepare for submission to the legislature legislation for the correction or removal of . . . deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of . . . the statute law of this state."

This memorandum discusses the House Committee Substitute for the bill.

SECTIONAL ANALYSIS

Sections 1-3, 80 and 127 amend statutory references to the Pacific time zone to reflect the change to Alaska time.

Section 4 improves the definition of "municipality" that was first enacted as a part of the Alaska Aeronautics Act of 1949, subsequently rewritten during the bulk formal revision of the Alaska Statutes and amended by the 1974 revisor's bill. The present definition excludes unified municipalities, which we do not believe was intended, and, if interpreted strictly, also excludes home rule cities or boroughs, as there are no classifications of home rule municipalities. The latter problem was the inadvertent result of an amendment made to the revisor's bill as it

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progressed through the legislature in 1974. The proposed new definition is identical to that which is contained in the revised municipal code (SB 1 and HB 272) and will be valid whether or not SB 1 or HB 272 are enacted.

Section 5 clarifies the term "director" in AS 03.10.-030(e). The term is not defined in AS 03.10 and appears only in this section.

Section 6 repeals all of AS 03.19. This chapter deals exclusively with the small grain incentive program, a program which ended with the crop year 1975. The division of agriculture has confirmed that this material is obsolete and that it is quite unlikely that a program of this type would ever be used in the future.

Sections 7 and 8 clarify responsibilities in the programs related to diseased livestock. When responsibilities in Title 3 were divided between the Departments of Natural Resources and Environmental Conservation by Executive Order in 1981, the sections immediately preceding and following the sections amended by secs. 7 and 8 of the revisor's bill were changed to place responsibility in the Department of Environmental Conservation. However, by virtue of the definitions applying to Title 3, the word "commissioner" in AS 03.45.060 and AS 03.45.070 must be read as "commissioner of natural resources". Since all sections in AS 03.45 are part of an integrated scheme, it is our opinion that the failure to change the references to commissioner in these two sections was an oversight.

Section 9 repeals references to the Board of Barbers, Board of Hairdressers, Board of Welding Examiners, and Collection Agency Board. The latter two boards were "sunsetting" and the first two were repealed by Chapter 159, SLA 1980.

Section 10 corrects an apparent oversight. When the Board of Hairdressers and Board of Barbers were repealed they were combined into the Board of Barbers and Hairdressers. However, the name of that board was not added to the list in AS 08.01.010, which sets forth the boards subject to AS 08.01.

Section 11 amends AS 08.02.010(a) to correct a reference to nurses and to make consistent the reference to other professions. The term "professional nurse" is no longer defined in AS 08.68.410 as a result of 1982 amendments. The

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section also contains two changes to remove gender indicating pronouns.

Sections 12 and 13 repeal obsolete references to the Collection Agency Board and the Board of Welding Examiners which are found in the section setting forth the schedules for the sunset of regulatory boards.

Section 14 repeals an obsolete requirement in the chapter on the licensing of public accountants. The paragraph repealed had application only for a period in the 1960's.

Section 15 corrects an error in tense which appears in AS 08.20.140.

Section 16 repeals those sections in AS 08.24 which established the Collections Agency Board and a paragraph which defined "board" for the chapter. The board was terminated by operation of the sunset statutes. The termination date was June 30, 1980.

Sections 17 - 23 amend provisions in the law licensing and regulating collection agents to delete references to the terminated Collection Agency Board.

Sections 24 and 25 correct internal references in AS 08.36. AS 08.36.310 was repealed and replaced by AS 08.36.315 in 1980.

Section 26 repeals an obsolete definition. The word defined ("resident") is not used in the chapter and has not been used since prior to the original bulk formal revision of the Alaska Statutes.

Sections 27 and 28 repeal and remove material which has become obsolete through the passage of time and is no longer necessary.

Section 29 amends AS 08.68.270(4) to reflect the changes in the drug laws which went into effect on January 1, 1983. The deleted sections of the Alaska Statutes which were referenced in this paragraph were repealed in the drug legislation passed last session.

Section 30 repeals AS 08.71.220 which is an obsolete portion of the chapter regulating dispensing opticians. The

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provisions of this section were in the nature of temporary transition provisions for licensing.

Section 31 repeals a subsection of AS 08.80.295 which is obsolete. The mandate of subsection (e) was to extend for a "period of two years following September 16, 1976".

Section 32 amends AS 08.88.201 by deleting the second sentence, which is now obsolete. AS 08.88.191(a) no longer provides for petitions for an additional examination.

Sections 33 and 34 amend provisions in AS 08.88 to reflect the 1980 repeal of AS 08.88.211 and substitute the current references.

Section 35 repeals all but one section of the chapter on the Board of Welding Examiners which was terminated under the sunset law. The retained section establishes the piping code of the state.

Section 36 corrects a reference to the federal bankruptcy act in the exemptions act passed by the last session of the legislature. Chapter "XIII" refers to the Wage Earner Plan of the old bankruptcy act of 1898. The amendment conforms the reference to the current bankruptcy law. We have also changed the citation to federal law to conform to our present style.

Section 37 makes another correction in the exemptions act. There is no consumer price index for the month of December. The Anchorage index is issued every other month. The index which would be used to establish December price relationships would, in fact, be the November consumer price index.

Section 38 corrects an internal reference by deleting a reference to statutes repealed in 1972 and inserting the proper current references.

Section 39 corrects internal references to reflect the 1982 legislative action repealing the referenced section in AS 09.35 and establishing AS 09.38, the Alaska Exemptions Act.

Section 40 repeals AS 11.71.120(d). That subsection should have been deleted from the 1982 bill when the legislature decided to make the Controlled Substances Advisory Committee a purely advisory committee and amended out of the bill its power to designate substances as controlled substances.

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Section 41 also deletes language to reflect the final form of the controlled substances legislation. In the version enacted, AS 11.71.120 does not provide for the designation of a substance as controlled.

Section 42 corrects an incorrect reference to the court rules. Rule 2(c) of the District Court Rules of Criminal Procedure has been repealed and replaced by Rule 603(b) of the Rules of Appellate Procedure.

Section 43 makes a change in AS 12.47.030(b) to reflect the fact that the assertion by a criminal defendant of evidence to establish that the defendant was guilty but mentally ill is not a defense to a criminal prosecution.

Section 44 amends AS 12.62.035(e) to more clearly reflect legislative intent. This is required by an attorney general's opinion of November 1, 1983, that stated that convictions of certain crimes under statutes repealed in 1980 were not within the definition of "sex crime." The amendment makes other minor form and style changes.

Section 45 amends AS 14.07.058(e) to clarify the meaning of the word "board". In AS 14.60, the word "board" is defined for AS 14 to mean the State Board of Education. Consequently, the use of the word with no further identification could be confusing.

Section 46 deletes a reference to a statute repealed in 1982.

Sections 47 and 48 consolidate definitions for AS 14.11.100 - 14.11.135 by repealing a subsection that contained a redundant definition and amending into the definition section the remaining definition that was in their repealed subsection.

Section 49 amends AS 14.17.080 to remove obsolete references. "Basic need" is no longer defined in AS 14.17.021 and there is no longer any matching under AS 14.17.071. As a matter of fact, AS 14.17.071 has been repealed.

Section 50 also deletes obsolete references that result from the changes in policy in the school foundation program. The second sentence of the amended section is also changed to conform the internal reference to our present style.

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Section 51 repeals AS 14.17.225(d) because the underlying statute, AS 14.17.215, was repealed in 1980 by sec. 20, Chapter 26, SLA 1980.

Section 52 repeals provisions which set forth the minimum teachers' and administrators' salary scales and definitions. The salary scales are obsolete since salaries are set by negotiation. The definitions section is also obsolete by reason of successive reapportionments. The section which contains minimum salaries for teachers (AS 14.20.220) also contains some material still useful to the Department of Education and school districts and that portion of the section is not repealed.

Sections 53, 54 and 55 delete obsolete references to the old state-operated school system and substitute the regional educational attendance area. In sec. 54, the phrase "school board" is substituted for "district" because "district" is not defined in AS 14. "School board" is.

Section 56 deletes a reference in AS 14.42.015(a)(2) to the Alaska Methodist University and substitutes the successor school, Alaska Pacific University.

Sections 57 and 58 delete references to the old tuition grant program that was declared unconstitutional by the Alaska Supreme Court some time ago and repealed by Chapter 94, SLA 1980 and Chapter 59, SLA 1982.

Section 59 repeals the definition of a phrase that is not used in the scholarship loan program. The term "part-time student" is not used in the Alaska Statutes.

Section 60 repeals a chapter that is obsolete and inoperative. When the chapter was enacted in 1972 it was based on participation in "the federal child nutrition act of 1971". However, that federal legislation was never enacted. No programs have been implemented or regulations adopted under this chapter.

Section 61 deletes from AS 14.57.020(b), relating to the state museum collections advisory committee, a sentence which was necessary only during the initial year of operation of the committee.

Sections 62 and 63 correct references to the acknowledgement statute. AS 09.65.012 has been replaced by AS 09.63.020.

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Section 64 conforms the language used AS 15.60.101(30) to that found in the rest of the election laws.

Section 65 deletes material from the law on registration tags for shellfish pots or buoys to reflect the 1977 repeal of AS 16.05.630 and 16.05.670.

Section 66 amends AS 16.05.660 to make more specific the reference to 25 cent licenses. At the time this section was enacted, there was only one type of 25 cent license available (for certain heads of households or their dependents). Subsequent legislation has provided a 25 cent sport fishing license for blind residents, leading to the need to clarify the reference in this section.

Section 67 repeals AS 16.10.530 on the basis of the decision of the Supreme Court in State v. Alex, 646 P.2d 203 (1982). The case only invalidated AS 16.10.530.

Section 68 repeals the residency requirement on certain bounties. An identical change was made in AS 16.35.130 by chapter 67, SLA 1983 (the residency bill) and it appears that this section was inadvertently overlooked when the residency bill was put together.

Section 69 repeals a provision that applied only to permits issued for 1974.

Section 70 makes changes to reflect the 1977 repeal of the underlying statutes.

Sections 71 and 72 delete references to the adoption of regulations under AS 11.71.120(a). This conforms the language of the two amended sections to the enacted version of the controlled substances bill. See also sections 40 and 41 of the proposed committee substitute.

Section 73 substitutes the substantive provisions of repealed AS 11.05.010 for the obsolete reference to the repealed provision.

Section 74 repeals a reference made obsolete by changes in the school foundation program. "Local effort" is no longer a required part of the public school foundation law.

Section 75 substitutes a date certain for language referring to the end of the United States' involvement in Vietnam.

Similar changes have been made previously in other provisions of the statutes.

Section 76 corrects an incorrect internal reference in AS 21.60.010(d). The section currently referenced contains a definition of "insurance" rather than a penalty.

Section 77 repeals and reenacts AS 22.05.020 which establishes the composition and general powers of the Supreme Court. The repeal and reenactment deletes obsolete material relating to the number of justices and organizes the section into three subsections for clarity.

Section 78 is a repeal and reenactment of AS 22.10.020, which sets forth the jurisdiction of the superior courts. The sole purpose of the rewriting is to make the section more readable. There have been no substantive changes and it is not the purpose of this section to override differences, if any, between jurisdiction of the superior court set forth by statute and that set forth by court rule.

There are three minor changes which should be noted. In new subsection (a), the words "but not limited to" have been deleted following the word "including". Since the words "include" or "including" are not exclusive words, it is unnecessary to use the term "but not limited to" following such words in the Alaska Statutes. In new (h), the internal reference to the Alaska Native Claims Settlement Act has been changed to conform to present style. The other change is the deletion of a reference to AS 23.10.192 in new subsection (i). That section was repealed in 1980 and the provisions of AS 18.80, which are still referenced, have picked up the provisions of the repealed section.

Section 79 corrects a problem of tense in AS 22.10.040(4).

Section 81 deletes a reference to the legislative board of retirement benefits. That board was repealed in 1980.

Section 82 repeals a provision in the Surface Coal Mining Control and Reclamation Act that was intended to provide regulation in the event the Alaska program was disapproved by the Secretary of Interior. The program was approved on May 2, 1983, so the repealed provision is not required.

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Section 83 repeals an obsolete provision in the motor vehicle code. AS 28.10.105(c) was applicable only during 1979.

Section 84 corrects a drafting error made during the first session by restoring to AS 28.10.201(b) certain internal references that were mistakenly deleted when the final version of SCS CSHB 184 (Rules) (chapter 99, SLA 1983) was prepared.

Section 85 amends AS 28.10.411(b) by deleting a reference to repealed AS 42.15.

Section 86 clarifies a reference to the commissioner of natural resources.

Sections 87, 88, and 89 delete references to a statute which was repealed when the new criminal code was enacted in 1978. The proper references to the provisions on unlawful evasion have been substituted.

Section 90 revises a definition in the Agreement on Detainers. The term defined, "state" was changed to "party state" through amendments to the original bill. However, the definition was not changed. "State" needs to be defined in this law, as the term is used to include the jurisdictions of the United States which are not states, e.g., Puerto Rico and the District of Columbia. "Party state" does not need to be defined, as it is clear from a reading of the Agreement on Detainers that a party state is a state (as defined) which is a party to the agreement. Without some change, some confusing results occur in reading the law to which the definitions apply.

Section 91 repeals a subsection that is redundant to the provisions of AS 09.38 referenced in the subsection. The rights and liabilities purportedly established by this subsection are more clearly established in AS 09.38. If this subsection is repealed, a cross reference note to the appropriate provisions in AS 09.38 will be added to the annotations for AS 34.15.140.

Section 92 deletes references to AS 14.08.161 which has been repealed.

Section 93 deletes a reference in AS 38.04.065(a) to a statute repealed in 1981 and substitutes a reference to the present notice provisions.

Section 94 deletes from AS 38.04.900(a) provisions which were of a temporary nature and are now obsolete.

Section 95 rewrites the paragraph in AS 38.04.910 which defines "state park" for AS 38.04. The old definition contained specific references to some of the laws designating areas which fall within the definition of state parks, but has not been kept up to date as new areas have been designated. It is our opinion that it would be better to enact a definition such as that proposed in this section and maintain a current list of laws designating the various areas in a note to the section.

Section 96 amends a reference in AS 38.05.057 to the notice provisions of AS 38.05.345. Note that there is still an AS 38.05.345(e), but that the section was substantially rewritten after AS 38.05.057(e)(3) was enacted, resulting in the repeal of the notice provisions of former AS 38.05.-345(e). The present provisions are irrelevant in the context of the reference found in AS 38.05.057(e)(3).

Section 97 deletes the last sentence of AS 38.05.057(g), as the sentence is no longer necessary. AS 38.05.055, referenced in the sentence, has been rewritten and no longer contains any requirements for contracts. AS 38.05.065 now establishes certain terms required for contracts under this section. The deletion of "or his representative" is consistent with the law requiring the deletion of gender indicating pronouns, and is not required in this provision, since other provisions authorize the director to act through designated representatives. See AS 38.05.035.

Section 98 amends AS 38.05.079(a) to reflect the repeal of two sections referenced in the subsection. In the case of AS 38.05.047, the reference is retained, but the reader will know that the section is no longer operative. In the case of AS 38.05.305, a reference to AS 38.05.345 was substituted. That section now contains all of the notice procedures.

Section 99 updates an obsolete internal reference.

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Section 100 also updates an obsolete internal reference. A review of the legislative history of AS 38.05.102 (amended by this section) indicates that the spanned reference should be to the entire article on leasing. In any event, AS 38.-05.100 has been repealed.

Section 101 substitutes a reference to AS 38.05.345 for the obsolete reference to repealed AS 38.05.305.

Section 102 makes a number of minor style changes and substitutes a reference to AS 46.15 for an obsolete reference to repealed law.

Section 103 clarifies an internal reference to reflect 1980 amendments to the referenced section.

Section 104 makes the same change to AS 38.08.020 that was made to AS 38.05.057(e)(3) by section 96 of the bill.

Section 105 deletes obsolete language relating to initial (1960) appointments to the personnel board.

Section 106 corrects an error in the internal references in AS 39.25.120(b) which were created by the repeal and re-enactment, with some renumbering, of AS 39.25.150.

Section 107 adds the Alaska Power Authority and the Alaska Resources Corporation to the list of agencies included in the definition of "state commission or board" for purposes of the conflict of interest laws. These boards are subject to AS 39.50 by the terms of the laws establishing them, but they were not added to the list in AS 39.50.200. This oversight was brought to our attention by the staff of the Alaska Public Offices Commission.

Section 108 repeals two subsections that set out duties to be performed on December 31, 1980. They are now obsolete.

Section 109 repeals obsolete material that applied only during 1980.

Section 110 harmonizes the language used in AS 42.06.280 by substituting commission for commissioner in two places.

Section 111 corrects an internal reference to reflect other legislative action and makes a minor word change to conform to proper statutory drafting.

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Section 112 repeals a provision made obsolete by the enactment of the criminal code. The material repealed is now covered by AS 11.46.210.

Section 113 makes a minor technical change to clarify the language of the statute.

Section 114 repeals a provision made partially obsolete by the repeal of AS 43.20.170 in 1980 and adequately dealt with elsewhere in AS 43.05.290.

Section 115 deletes a reference to AS 43.21, which was repealed in 1981.

Section 116 makes changes in internal references required by the enactment of the Alaska Exemptions Act in 1982.

Section 117 corrects an internal reference.

Section 118 changes a three year residency requirement that was overlooked last session to a one year requirement. The one year provision was suggested by the Department of Law.

Section 119 corrects an internal reference.

Section 120 repeals AS 43.58. The tax established by this chapter terminated in 1977 under the provisions of AS 43.58.170 and the chapter is now obsolete.

Section 121 corrects the reference to the head of the Department of Community and Regional Affairs by substituting "commissioner" for "director".

Section 122 corrects the reference in the Alaska Statutes to the United States Board on Geographic Names.

Section 123 corrects an internal reference to reflect 1982 legislation affecting the referenced section.

Section 124 changes a reference to the licensing of embalmers to reflect other legislative changes.

Section 125 supplies the words necessary to make a complete sentence out of the last sentence in AS 44.83.398(f).

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Section 126 repeals a reference made obsolete by changes in the school foundation program. See secs. 50 and 74 of this memo.

Section 128 amends the Alaska Securities Act to clarify the time that is available to take an appeal from an administrative order. The Alaska Court Rules of Appellate Procedure allow only 30 days for an appeal from an administrative decision. However, this section of the securities act currently allows 60 days. This is a direct conflict and should be resolved. The applicable appellate rule is Rule 602(a)(2). Other minor word changes are made in the subsection.

Sections 129, 130, and 131 delete obsolete material from three sections of AS 46.30. All of the deleted material is dated and no longer necessary.

Section 132 corrects an internal reference in AS 47.10.-230(f).

Section 133 repeals a definition in the child support enforcement chapter that is not used in the chapter. The term defined is "disposable earnings".

Section 134 makes changes in internal references required by the new exemptions statute.

Section 135 corrects an internal reference.

Section 136 provides for an immediate effective date.

DRD:ojb
SB133/010

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
POUCH V
JUNEAU, ALASKA 99511



Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE

MEMBER
SENATE JUDICIARY COMMITTEE

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

May 16, 1983

All Members of the
Alaska State Senate
Juneau, Alaska

Dear Senators:

At Senator Ray's request, I have attached the following hereto: (1) the most recent proposed CSSB 133; (2) the Revisor's letters of February 15, 1983, March 23, 1983 and May 4, 1983; and (3) my subcommittee letter of April 14, 1983.

Senator Faiks has indicated the bill will probably be calendared in the near future.

It is the hope of the Judiciary Committee Chairman that you will review this material prior to the date it is calendared in order that if you have any questions concerning the legislation you can contact me, my A.A. Guy Van Doren, Counsel for the Judiciary Committee, John Gabrielli, and David Dierdorff, Revisor of Statutes.

Once you start to pick a bill of this nature apart on the floor, you will encounter complex problems.

If any Senator has amendments to propose, we would appreciate your submitting them to Mr. Gabrielli.

Very truly yours,

A handwritten signature in black ink, appearing to be 'RHZ' followed by a horizontal line.

Robert H. Ziegler, Sr.

RHZ:lk

Enclosures

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
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JUNEAU, ALASKA 99811



Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE
MEMBER
SENATE JUDICIARY COMMITTEE
WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE
WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

April 14, 1983

Senator Bill Ray,
Chairman - Senate Judiciary Committee
Alaska State Legislature
Juneau, Alaska 99811

RE: CFSB 133

Dear Senator Ray:

Your man John, my guy Guy and Revisor of Statutes Dave Dierdorff have labored mightily on the captioned bill.

It would be my suggestion that you distribute copies of the committee substitute and the Revisor's letter of March 23rd to all members of the Senate at least one week before the Rules Committee Chairperson intends to calendar it.

In the committee letter of transmittal to the Senate membership, if I may offer another suggestion, you could say that if anyone has any questions about the bill to get in touch with you, me or our staff people prior to the day it is calendared.

It is obviously my intent to get the mother through the Senate without getting bogged down in floor fights or amendments.

Regards,

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Robert H. Ziegler, Sr.

RHZ:lk

Enclosure

STATE OF ALASKA
THE LEGISLATURE

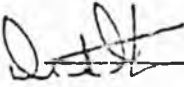
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 15, 1983

SUBJECT: "An Act making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes" (Work Order No. 13-0470)

TO: Senator Bill Ray
Chairman, Legislative Council

FROM: David R. Dierdorff 
Revisor of Statutes

This bill was prepared by the revisor of statutes under AS 01.05.036 which provides, in part, that the revisor of statutes shall

". . . prepare for submission to the legislature legislation for the correction or removal of . . . deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of . . . the statute law of this state."

It is suggested that this memorandum accompany the bill through its legislative course.

SECTIONAL ANALYSIS

Section 1 improves the definition of "municipality" that was first enacted as a part of the Alaska Aeronautics Act of 1949, subsequently rewritten during the bulk formal revision of the Alaska Statutes and amended by the 1974 revisor's bill. The present definition excludes unified municipalities, which we do not believe was intended, and, if interpreted strictly, also excludes home rule cities or boroughs, as there are no classifications of home rule municipalities. The latter problem was the inadvertent result of an amendment made to the revisor's bill as it progressed through the legislature in 1974. The proposed new definition is identical to that which is contained in

the revised municipal code (SB 1) and will be valid whether or not SB 1 passes.

It should be mentioned that this section is but one of 24 sections of the Alaska Statutes which define municipality. Those 24 sections contain ten different definitions. Only eight of the 24 sections contain definitions which are essentially identical; however, all but two or three of the definitions are fairly similar in most respects. Ten of the 24 sections would be repealed by SB 1. It is the revisor's opinion that it would be wise to consider placing a general definition of "municipality" in AS 01.10.060. That would eliminate the need for a definition of "municipality" in other parts of the Alaska Statutes except where the use of the term required some variation from the standard definition.

Section 2 deletes the definition of "domestic fur farm animal" from AS 03.05.010(c)(6). The definition is preceded by a definition of "fur farming" and is limited to the purposes of the paragraph in which it is contained. The term "domestic fur farm animal" does not occur in the paragraph nor does it occur at any other place in the Alaska Statutes.

Section 3 clarifies the term "director" in AS 03.10.-030(e). The term is not defined in AS 03.10 and appears only in this section.

Section 4 repeals all of AS 03.19. This chapter deals exclusively with the small grain incentive program, a program which ended with the crop year 1975. The division of agriculture has confirmed that this material is obsolete and that it is quite unlikely that a program of this type would ever be used in the future.

Sections 5 and 6 clarify responsibilities in the programs related to diseased livestock. When responsibilities in Title 3 were divided between the Departments of Natural Resources and Environmental Conservation by Executive Order in 1981, the sections immediately preceding and following the sections amended by Secs. 5 and 6 of the revisor's bill were changed to place responsibility in the Department of Environmental Conservation. However, by virtue of the definitions applying to Title 3, the word "commissioner" in AS 03.45.060 and AS 03.45.070 must be read as "commissioner of natural resources". Since all sections in AS 03.45 are

part of an integrated scheme, it is our opinion that the failure to change the references to commissioner in these two sections was an oversight. Both sections also make changes in the use of pronouns in accordance with Chapter 58, SLA 1982.

Section 7 repeals references to the Board of Barbers, Board of Hairdressers, Board of Welding Examiners, and Collection Agency Board. The latter two boards were "sunsetting" and the first two were repealed by Chapter 159, SLA 1980.

Section 8 corrects an apparent oversight. When the Board of Hairdressers and Board of Barbers were repealed they were combined into the Board of Barbers and Hairdressers. However, the name of that board was not added to the list in AS 08.01.010, which sets forth the boards subject to AS 08.01.

Section 9 amends AS 08.02.010(a) to correct a reference to nurses and to make consistent the reference to other professions. The term "professional nurse" is no longer defined in AS 08.68.410 as a result of 1982 amendments. The section also contains two changes to remove gender indicating pronouns.

Sections 10 and 11 repeal obsolete references to the Collection Agency Board and the Board of Welding Examiners which are found in the section setting forth the schedules for the sunset of regulatory boards.

Section 12 repeals an obsolete requirement in the chapter on the licensing of public accountants. The paragraph repealed had application only for a period in the 1960's.

Section 13 corrects an error in tense which appears in AS 08.20.140.

Section 14 repeals the chapter on the Collection Agency Board which has been rendered obsolete by operation of the sunset statute. The termination date was June 30, 1980.

Sections 15 and 16 correct internal references in AS 08.36. AS 08.36.310 was repealed and replaced by AS 08.36.315 in 1980.

Section 17 repeals an obsolete definition. The word defined is not used in the chapter and has not been used since prior to the original bulk formal revision of the Alaska Statutes.

Sections 18 and 19 repeal and remove material which has become obsolete through the passage of time and is no longer necessary.

Section 20 amends AS 08.68.270(4) to reflect the changes in the drug laws which went into effect on January 1, 1983. The deleted sections of the Alaska Statutes which were referenced in this paragraph were repealed in the drug legislation passed last session.

Section 21 repeals AS 08.71.220 which is an obsolete portion of the chapter regulating dispensing opticians. The provisions of this section were in the nature of temporary transition provisions for licensing.

Section 22 repeals a subsection of AS 08.80.295 which is obsolete. The mandate of subsection (e) was to extend for a "period of two years following September 16, 1976".

Section 23 amends AS 08.88.201 by deleting the second sentence, which is now obsolete. AS 08.88.191(a) no longer provides for petitions for an additional examination.

Sections 24 and 25 amend provisions in AS 08.88 to reflect the 1980 repeal of AS 06.88.211 and substitute the current references.

Section 26 repeals the chapter on the Board of Welding Examiners which was terminated under the sunset law.

Section 27 corrects a reference to the federal bankruptcy act in the exemptions act passed by the last session of the legislature. Chapter "XIII" refers to the Wage Earner Plan of the old bankruptcy act of 1898. The amendment conforms the reference to the current bankruptcy law. We have also changed the citation to federal law to conform to our present style.

Section 28 makes another correction in the exemptions act. There is no consumer price index for the month of December. The Anchorage index is issued every other month. The index which would be used to establish December price

relationships would, in fact, be the November consumer price index.

Section 29 corrects internal references to reflect the 1982 legislative action repealing the referenced section in AS 09.35 and establishing AS 09.38, the Alaska Exemptions Act.

Section 30 corrects an incorrect reference to the court rules. Rule 2(c) of the District Court Rules of Criminal Procedure has been repealed and replaced by Rule 603(b) of the Rules of Appellate Procedure.

Section 31 makes a change in AS 12.47.030(b) to reflect the fact that the assertion by a criminal defendant of evidence to establish that the defendant was guilty but mentally ill is not a defense to a criminal prosecution. It is, rather, a strategy which involves the presentation of mitigating factors in order to affect the disposition of the matter following a conviction.

Section 32 amends AS 14.07.058(e) to clarify the meaning of the word "board". In AS 14.60, the word "board" is defined for AS 14 to mean the State Board of Education. Consequently, the use of the word with no further identification could be confusing.

Section 33 amends AS 14.17.080 to remove obsolete references. Basic need is no longer defined in AS 14.17.021 and there is no longer any matching under AS 14.17.071. As a matter of fact, AS 14.17.071 has been repealed.

Section 34 also deletes obsolete references that result from the changes in policy in the school foundation program. The second sentence of the amended section is also changed to conform the internal reference to our present style. If appropriate changes were made in AS 29.88.020, this section could be repealed.

Section 35 amends AS 14.17.190(b) to delete a reference to money acquired from school district "local effort". "Local effort" is no longer a required part of the public school foundation act.

Section 36 repeals AS 14.17.225(d) because the underlying statute, AS 14.17.215 was repealed in 1980 by sec. 20, Chapter 26, SLA 1980.

Section 37 repeals the three sections which set forth the minimum teachers' and administrators' salary scales and definitions for the sections. The salary scales are obsolete since salaries are set by negotiation.

Sections 38, 39 and 40 delete obsolete references to the old state-operated-school system and substitute the regional educational attendance area. In Sec. 39, the phrase "school board" is substituted for "district" because "district" is not defined in AS 14. "School board" is.

Section 41 deletes a reference in AS 14.42.015(a)(2) to the Alaska Methodist University and substitutes the successor school, Alaska Pacific University.

Sections 42 and 43 delete references to the old Nutrition grant program that was declared unconstitutional by the Alaska Supreme Court some time ago and repealed by Chapter 94, SLA 1980 and Chapter 59, SLA 1982.

Section 44 repeals the definition of a phrase that is not used in the scholarship loan program. The term "part-time student" is not used in the Alaska Statutes. HB 174 would introduce the term to AS 14, but a definition is not necessary in the context it appears in HB 174.

Section 45 repeals a chapter that is obsolete and inoperative. When the chapter was enacted in 1972 it was based on participation in "the federal child nutrition act of 1971". However, that federal legislation was never enacted. No programs have been implemented or regulations adopted under this chapter.

Section 46 deletes from AS 14.57.020(b), relating to the state museum collections advisory committee, a sentence which was necessary only during the initial year of operation of the committee.

Sections 47 and 48 correct references to the acknowledgement statute. AS 09.65.012 has been replaced by AS 09.63.020.

Sections 49 and 50 correct an apparent oversight in AS 16.10. The sections presently read as if any fisherman who sells fish without an entry permit or interim use permit is in violation of the sections. However, certain fishermen are not required to have entry permits or interim use

permits, so certain types of fish could legally be sold. The suggested amendments make it clear that fishermen who are not required to hold a permit under AS 16.43 can sell fish without violating these sections.

Section 51 repeals AS 16.10.500 - 16.10.620 on the basis of the decision of the Supreme Court in State v. Alex. Technically, the case only invalidated AS 16.10.530 but the effect was to wipe out the entire program set forth in these sections. The present program is operated under AS 43.76.

Section 52 deletes an obsolete provision in AS 18.23.040 relating to punishment for misdemeanors. The effect of this amendment is to make a violation under this section a class A misdemeanor, through operation of the section relating to unclassified misdemeanors, AS 11.81.250(c). Since the penalty for a class A misdemeanor under is up to one year in jail and a fine of up to \$5,000, the penalty would be more severe than under the repealed section referred to presently in AS 18.23.040. Under the repealed section the jail sentence would be the same but the maximum fine would have been only \$500. The legislature may wish to amend this section of the bill to retain the old penalty, or consider establishing this as class B misdemeanor, with a maximum fine of \$1,000 and a term of imprisonment of not more than 90 days.

Section 53 repeals a reference made obsolete by changes in the school foundation program. See sec. 35 of this memo.

Section 54 corrects an incorrect internal reference in AS 21.60.010(d). The section currently referenced contains a definition of "insurance" rather than a penalty.

Section 55 repeals and reenacts AS 22.05.020 which establishes the composition and general powers of the Supreme Court. The repeal and reenactment deletes obsolete material relating to the number of justices and organizes the section into three subsections for clarity.

Section 56 is a repeal and reenactment of AS 22.10.020, which sets forth the jurisdiction of the superior courts. The sole purpose of the rewriting is to make the section more readable. There have been no substantive changes and it is not the purpose of this section to override any differences between jurisdiction of the superior court set forth by statute and that set forth by court rule. In other

words, in those ways that this material may differ from the rules, the repealed and reenacted statute does not necessarily override should it pass by more than a two-thirds vote.

There are three minor changes which should be noted. In new subsection (a), the words "but not limited to" have been deleted following the word "including". Since the words "include" or "including" are not exclusive words, it is unnecessary to use the term "but not limited to" following such words in the Alaska Statutes. In new (h), the internal reference to the Alaska Native Claims Settlement Act has been changed to conform to present style. The other change is the deletion of a reference to AS 23.10.192 in new subsection (i). That section was repealed in 1980 and the provisions of AS 18.80, which are still referenced, have picked up the provisions of the repealed section.

Section 57 corrects a problem of tense in AS 22.10.040(4).

Section 58 deletes a reference to the legislative board of retirement benefits. That board was repealed in 1980.

Section 59 repeals an obsolete provision in the motor vehicle code. AS 28.10.105(c) was applicable only during 1979.

Sections 60, 61, and 62 delete references to a statute which was repealed when the new criminal code was enacted in 1978. The proper references to the provisions on unlawful evasion have been substituted.

Section 63 revises a definition in the Agreement on Detainers. The term defined, "state" was changed to "party state" through amendments to the original bill. However, the definition was not changed. "State" needs to be defined in this law, as the term is used to include the jurisdictions of the United States which are not states, e.g., Puerto Rico and the District of Columbia. "Party state" does not need to be defined, as it is clear from a reading of the Agreement on Detainers that a party state is a state (as defined) which is a party to the agreement. Without some change, some confusing results occur in reading the law to which the definitions apply. Consequently, the legislature should either adopt the amendment proposed in this section, or adopt the amendment and an additional amendment as follows:

(4) "party state" means a state which is party to this agreement.

Sections 64 and 65 delete references to AS 14.08.161 which has been repealed.

Section 66 repeals AS 37.14.060 - 37.14.100, which comprised Article 2 of AS 37.14. This article was not to be effective until the Board of Regents of the University of Alaska approved certain matters. In fact, the Board of Regents disapproved all matters on August 17, 1978. Consequently, the repealed sections never took effect.

Section 67 corrects an error in the internal references in AS 39.25.120(b) which were created by the repeal and reenactment, with some renumbering, of AS 39.25.150.

Section 68 makes changes in internal references required by the enactment of the Alaska Exemptions Act in 1982.

Section 69 corrects the reference to the head of the Department of Community and Regional Affairs by substituting "commissioner" for "director".

Section 70 corrects the reference in the Alaska Statutes to the United States Board on Geographic Names.

Section 71 deletes a reference to the licensing of embalmers. The referenced provisions were repealed in 1976.

Section 72 supplies the words necessary to make a complete sentence out of the last sentence in AS 44.83.398(f).

Section 73 repeals a reference made obsolete by changes in the school foundation program. See secs. 35 and 53 of this memo.

Section 74 amends the Alaska Securities Act to clarify the time that is available to take an appeal from an administrative order. The Alaska Court Rules of Appellate Procedure allow only 30 days for an appeal from an administrative decision. However, this section of the securities act currently allows 60 days. This is a direct conflict and should be resolved. The applicable appellate rule is Rule 602(a)(2).

Senator Bill Ray
Page 10
February 15, 1983

Sections 75, 76, and 77 delete obsolete material from three sections of AS 46.30. All of the deleted material is dated and no longer necessary.

Section 78 corrects an internal reference in AS 47.-10.230(f).

Section 79 redefines a definition in the child support enforcement chapter that is not used in the chapter. The term defined is "reasonable earnings".

Section 80 makes changes in internal references required by the new exemption statute.

DRD:ljb

Enclosure

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99801
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 4, 1983

SUBJECT: Changes in CSSB 133 (Judiciary)

TO: Senator Bill Ray
Chairman, Senate Judiciary Committee

FROM: David R. Dierdorff
Revisor of Statutes

Enclosed with this memo are the revised revisor's memo, which you may wish to use as a committee report, and CSSB 133 (Judiciary) in final form. The changes made since the March 23rd draft are:

1. In Sec. 9 (page 3, line 8), "registered" was substituted for "licensed" to more accurately reflect previous legislative intent.
2. In Sec. 20 (page 5, line 10), "an" was deleted for clarity.
3. Sec. 33 (page 7, line 12), now repeals all of AS 08.99 except AS 08.99.110. That section establishes the piping code for the state and, although we are unable to determine any relationship with other laws, it was the revisor's opinion, shared by the Departments of Law and Labor, that we ought to retain the section until we were certain that it was unnecessary or obsolete. We will editorially transfer it to Title 13 later this year.
4. Sec. 42 (page 10, lines 16 - 21 of the March 23rd draft), was deleted at the request of the Department of Law, as the Department of Education desires that local districts continue the practice of making records of local effort available to the commissioner for audit.
5. In Sec. 43 (page 10, line 17), we have deleted AS 14.20.220 from the list of sections repealed, at the request of the Department of Law. The Department of Education is preparing a major revision of this and other

Senator Bill Ray
Page 2
May 4, 1983

sections which will retain the provisions of (e) and (g) of the section. Those two subsections are still used by the department and districts for certain purposes.

6. Sec. 57 (page 14, line 12), now proposes the repeal of only AS 16.10.530 rather than all of the sections from AS 16.10.500 to 16.10.620. The section to be repealed is the one held unconstitutional in State v. Alex. The other sections are still valid and being used regularly in a variety of programs.

7. On page 15, line 25 of the draft, a form and style change was made for clarity.

If you have any questions, please feel free to call. Thank you for your assistance in expediting Senate consideration of the bill this session.

DRD:ljb

Enclosures
17/024

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
707 455 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 4, 1983

SUBJECT: "An Act making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes" (CSSB 133 (Judiciary))

TO: Senator Bill Ray
Chairman, Senate Judiciary Committee

FROM: David R. Dierdorff
Revisor of Statutes

This bill was prepared by the revisor of statutes under AS 01.05.036 which provides, in part, that the revisor of statutes shall

" . . . prepare for submission to the legislature legislation for the correction or removal of . . . deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of . . . the statute law of this state."

It is suggested that this memorandum accompany the bill through its legislative course.

SECTIONAL ANALYSIS

Section 1 improves the definition of "municipality" that was first enacted as a part of the Alaska Aeronautics Act of 1949, subsequently rewritten during the bulk formal revision of the Alaska Statutes and amended by the 1974 revisor's bill. The present definition excludes unified municipalities, which we do not believe was intended, and, if interpreted strictly, also excludes home rule cities or boroughs, as there are no classifications of home rule municipalities. The latter problem was the inadvertent result of an amendment made to the revisor's bill as it progressed through the legislature in 1974. The proposed new definition is identical to that which is contained in the revised municipal code (SB 1) and will be valid whether or not SB 1 passes.

It should be mentioned that this section is but one of 24 sections of the Alaska Statutes which define municipality. Those 24 sections contain ten different definitions. Only eight of the 24 sections contain definitions which are essentially identical; however, all but two or three of the definitions are fairly similar in most respects. Ten of the 24 sections would be repealed by SB 1. It is the revisor's opinion that it would be wise to consider placing a general definition of "municipality" in AS 01.10.060. That would eliminate the need for a definition of "municipality" in other parts of the Alaska Statutes except where the use of the term required some variation from the standard definition.

*THE SERVICE
DELETED THIS
SECTION BECAUSE
OF THE PROHIBITION
OF 1975*

Section 2 deletes the definition of "domestic fur farm animal" from AS 03.05.010(c)(6). The definition is preceded by a definition of "fur farming" and is limited to the purposes of the paragraph in which it is contained. The term "domestic fur farm animal" does not occur in the paragraph nor does it occur at any other place in the Alaska Statutes.

Section 3 clarifies the term "director" in AS 03.10.-030(e). The term is not defined in AS 03.10 and appears only in this section.

Section 4 repeals all of AS 03.19. This chapter deals exclusively with the small grain incentive program, a program which ended with the crop year 1975. The division of agriculture has confirmed that this material is obsolete and that it is quite unlikely that a program of this type would ever be used in the future.

Sections 5 and 6 clarify responsibilities in the programs related to diseased livestock. When responsibilities in Title 3 were divided between the Departments of Natural Resources and Environmental Conservation by Executive Order in 1981, the sections immediately preceding and following the sections amended by Secs. 5 and 6 of the revisor's bill were changed to place responsibility in the Department of Environmental Conservation. However, by virtue of the definitions applying to Title 3, the word "commissioner" in AS 03.45.060 and AS 03.45.070 must be read as "commissioner of natural resources". Since all sections in AS 03.45 are part of an integrated scheme, it is our opinion that the failure to change the references to commissioner in these two sections was an oversight. Both sections also make

changes in the use of pronouns in accordance with Chapter 58, SLA 1982.

Section 7 repeals references to the Board of Barbers, Board of Hairdressers, Board of Welding Examiners, and Collection Agency Board. The latter two boards were "sunsetting" and the first two were repealed by Chapter 159, SLA 1980.

Section 8 corrects an apparent oversight. When the Board of Hairdressers and Board of Barbers were repealed they were combined into the Board of Barbers and Hairdressers. However, the name of that board was not added to the list in AS 08.01.010, which sets forth the boards subject to AS 08.01.

Section 9 amends AS 08.02.010(a) to correct a reference to nurses and to make consistent the reference to other professions. The term "professional nurse" is no longer defined in AS 08.68.410 as a result of 1982 amendments. The section also contains two changes to remove gender indicating pronouns.

Sections 10 and 11 repeal obsolete references to the Collection Agency Board and the Board of Welding Examiners which are found in the section setting forth the schedules for the sunset of regulatory boards.

Section 12 repeals an obsolete requirement in the chapter on the licensing of public accountants. The paragraph repealed had application only for a period in the 1960's.

Section 13 corrects an error in tense which appears in AS 08.20.140.

Section 14 repeals those sections in AS 08.24 which established the Collections Agency Board and a paragraph which defined "board" for the chapter. The board was terminated by operation of the sunset statutes. The termination date was June 30, 1980.

Sections 15 - 21 amend provisions in the law licensing and regulating collection agents to delete references to the terminated Collection Agency Board.

Sections 22 and 23 correct internal references in AS 08.36. AS 08.36.310 was repealed and replaced by AS 08.36.315 in 1980.

Section 24 repeals an obsolete definition. The word defined is not used in the chapter and has not been used since prior to the original bulk formal revision of the Alaska Statutes.

Sections 25 and 26 repeal and remove material which has become obsolete through the passage of time and is no longer necessary.

Section 27 amends AS 08.68.270(4) to reflect the changes in the drug laws which went into effect on January 1, 1983. The deleted sections of the Alaska Statutes which were referenced in this paragraph were repealed in the drug legislation passed last session.

Section 28 repeals AS 08.71.220 which is an obsolete portion of the chapter regulating dispensing opticians. The provisions of this section were in the nature of temporary transition provisions for licensing.

Section 29 repeals a subsection of AS 08.80.295 which is obsolete. The mandate of subsection (e) was to extend for a "period of two years following September 16, 1976".

Section 30 amends AS 08.88.201 by deleting the second sentence, which is now obsolete. AS 08.38.191(a) no longer provides for petitions for an additional examination.

Sections 31 and 32 amend provisions in AS 08.88 to reflect the 1930 repeal of AS 08.88.211 and substitute the current references.

Section 33 repeals all but one section of the chapter on the Board of Welding Examiners which was terminated under the sunset law. The retained section establishes the piping code of the state.

Section 34 corrects a reference to the federal bankruptcy act in the exemptions act passed by the last session of the legislature. Chapter "XIII" refers to the Wage Earner Plan of the old bankruptcy act of 1898. The amendment conforms the reference to the current bankruptcy law. We have also changed the citation to federal law to conform to our present style.

Section 35 makes another correction in the exemptions act. There is no consumer price index for the month of December. The Anchorage index is issued every other month. The index

which would be used to establish December price relationships would, in fact, be the November consumer price index.

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Section 37 corrects an incorrect reference to the court rules. Rule 2(c) of the District Court Rules of Criminal Procedure has been repealed and replaced by Rule 603(b) of the Rules of Appellate Procedure.

Section 38 makes a change in AS 12.47.030(b) to reflect the fact that the assertion by a criminal defendant of evidence to establish that the defendant was guilty but mentally ill is not a defense to a criminal prosecution.

Section 39 amends AS 14.07.058(e) to clarify the meaning of the word "board". In AS 14.60, the word "board" is defined for AS 14 to mean the State Board of Education. Consequently, the use of the word with no further identification could be confusing.

Section 40 amends AS 14.17.080 to remove obsolete references. Basic need is no longer defined in AS 14.17.021 and there is no longer any matching under AS 14.17.071. As a matter of fact, AS 14.17.071 has been repealed.

Section 41 also deletes obsolete references that result from the changes in policy in the school foundation program. The second sentence of the amended section is also changed to conform the internal reference to our present style. If appropriate changes were made in AS 29.88.020, this section could be repealed.

Section 42 repeals AS 14.17.225(d) because the underlying statute, AS 14.17.215 was repealed in 1980 by sec. 20, Chapter 26, SLA 1980.

Section 43 repeals two sections which set forth the minimum teachers' and administrators' salary scales and definitions. The salary scales are obsolete since salaries are set by negotiation. The definitions section is also obsolete by reason of successive reapportionments. The section which contains minimum salaries for teachers (AS 14.20.020) is also obsolete, but contains some material still useful to

the Department of Education and school districts. It will be the subject of a bill being prepared by the department proposing substantial revision in that and other sections.

Sections 44, 45 and 46 delete obsolete references to the old state-operated-school system and substitute the regional educational attendance area. In sec. 46, the phrase "school board" is substituted for "district" because "district" is not defined in AS 14. "School board" is.

Section 47 deletes a reference in AS 14.42.015(a)(2) to the Alaska Methodist University and substitutes the successor school, Alaska Pacific University.

Sections 48 and 49 delete references to the old tuition grant program that was declared unconstitutional by the Alaska Supreme Court some time ago and repealed by Chapter 94, SLA 1980 and Chapter 59, SLA 1982.

Section 50 repeals the definition of a phrase that is not used in the scholarship loan program. The term "part-time student" is not used in the Alaska Statutes. HB 174 would introduce the term to AS 14, but a definition is not necessary in the context it appears in HB 174.

Section 51 repeals a chapter that is obsolete and inoperative. When the chapter was enacted in 1972 it was based on participation in "the federal child nutrition act of 1971". However, that federal legislation was never enacted. No programs have been implemented or regulations adopted under this chapter.

Section 52 deletes from AS 14.57.020(b), relating to the state museum collections advisory committee, a sentence which was necessary only during the initial year of operation of the committee.

Sections 53 and 54 correct references to the acknowledgement statute. AS 09.65.012 has been replaced by AS 09.65.020.

Sections 55 and 56 correct an apparent oversight in AS 16.10. The sections presently read as if any fisherman who sells fish without an entry permit or interim use permit is in violation of the sections. However, certain fishermen are not required to have entry permits or interim use permits, so certain types of fish could legally be sold. The suggested amendments make it clear that fishermen who are

not required to hold a permit under AS 16.43 can sell fish without violating these sections.

Section 57 repeals AS 16.10.530 on the basis of the decision of the Supreme Court in State v. Alex. The case only invalidated AS 16.10.530.

Section 58 substitutes the substantive provisions of repealed AS 11.05.010 for the obsolete reference to the repealed provision.

Section 59 repeals a reference made obsolete by changes in the school foundation program. "Local effort" is no longer a required part of the public school foundation law.

Section 60 corrects an incorrect internal reference in AS 21.60.010(d). The section currently referenced contains a definition of "insurance" rather than a penalty.

Section 61 repeals and reenacts AS 22.05.020 which establishes the composition and general powers of the Supreme Court. The repeal and reenactment deletes obsolete material relating to the number of justices and organizes the section into three subsections for clarity.

Section 62 is a repeal and reenactment of AS 22.10.020, which sets forth the jurisdiction of the superior courts. The sole purpose of the rewriting is to make the section more readable. There have been no substantive changes and it is not the purpose of this section to override differences, if any, between jurisdiction of the superior court set forth by statute and that set forth by court rule.

There are three minor changes which should be noted. In new subsection (a), the words "but not limited to" have been deleted following the word "including". Since the words "include" or "including" are not exclusive words, it is unnecessary to use the term "but not limited to" following such words in the Alaska Statutes. In new (h), the internal reference to the Alaska Native Claims Settlement Act has been changed to conform to present style. The other change is the deletion of a reference to AS 23.10.192 in new subsection (i). That section was repealed in 1980 and the provisions of AS 18.80, which are still referenced, have picked up the provisions of the repealed section.

Section 63 corrects a problem of tense in AS 22.10.040(4).

Section 64 deletes a reference to the legislative board of retirement benefits. That board was repealed in 1980.

Section 65 repeals an obsolete provision in the motor vehicle code. AS 28.10.105(c) was applicable only during 1979.

Section 66 amends AS 28.10.411(b) by deleting a reference to repealed AS 42.15.

Sections 67, 68, and 69 delete references to a statute which was repealed when the new criminal code was enacted in 1978. The proper references to the provisions on unlawful evasion have been substituted.

Section 70 revises a definition in the Agreement on Detainers. The term defined, "state" was changed to "party state" through amendments to the original bill. However, the definition was not changed. "State" needs to be defined in this law, as the term is used to include the jurisdictions of the United States which are not states, e.g., Puerto Rico and the District of Columbia. "Party state" does not need to be defined, as it is clear from a reading of the Agreement on Detainers that a party state is a state (as defined) which is a party to the agreement. Without some change, some confusing results occur in reading the law to which the definitions apply. Consequently, the legislature should either adopt the amendment proposed in this section, or adopt the amendment and an additional amendment as follows:

(4) "party state" means a state which is party to this agreement.

Sections 71 and 72 delete references to AS 14.08.161 which has been repealed.

Section 73 repeals AS 37.14.060 - 37.14.100, which comprised Article 2 of AS 37.14. This article was not to be effective until the Board of Regents of the University of Alaska approved certain matters. In fact, the Board of Regents disapproved all matters on August 17, 1978. Consequently, the repealed sections never took effect.

Section 74 deletes a reference in AS 28.04.065(a) to a statute repealed in 1981 and substitutes a reference to the present notice provisions.

Section 75 deletes from AS 38.04.900(a) provisions which were of a temporary nature and are now obsolete.

Section 76 rewrites the paragraph in AS 38.04.910 which defines "state park" for AS 38.04. The old definition contained specific references to some of the laws designating areas which fall within the definition of state parks, but has not been kept up to date as new areas have been designated. It is our opinion that it would be better to enact a definition such as that proposed in this section and maintain a current list of laws designating the various areas in a note to the section.

Section 77 amends a reference in AS 38.05.057 to the notice provisions of AS 38.05.345. Note that there is still an AS 38.05.345(e), but that the section was substantially rewritten after AS 38.05.057(e)(3) was enacted, resulting in the repeal of the notice provisions of former AS 38.05.-345(e). The present provisions are irrelevant in the context of the reference found in AS 38.05.057(e)(3).

Section 78 deletes the last sentence of AS 38.05.057(g), as the sentence is no longer necessary. AS 38.05.055, referenced in the sentence, has been rewritten and no longer contains any requirements for contracts. AS 38.05.065 now establishes certain terms required for contracts under this section. The deletion of "or his representative" is consistent with the law requiring the deletion of gender indicating pronouns, and is not required in this provision, since other provisions authorize the director to act through designated representatives. See AS 38.05.035.

Section 79 amends AS 38.05.078(e) to reflect the fact that (b) of the section has been repealed. The reference is retained as "former (b)" to insure that the remedies contained in (e) will be available to the state in the event of an action involving a contract for the purchase of land authorized by the repealed subsection.

Section 80 repeals the definition of a term no longer used in the section.

Section 81 amends AS 38.05.079(a) to reflect the repeal of two sections referenced in the subsection. In the case of AS 38.05.047, the reference is retained, but the reader will know that the section is no longer operative. In the case of AS 38.05.305, a reference to AS 38.05.345 was

substituted. That section now contains all of the notice procedures.

Section 82 updates an obsolete internal reference.

Section 83 also updates an obsolete internal reference. A review of the legislative history of AS 38.05.102 (amended by this section) indicates that the spanned reference should be to the entire article on leasing. In any event, AS 38.-05.100 has been repealed.

Section 84 substitutes a reference to AS 38.05.345 for the obsolete reference to repealed AS 38.05.305.

Section 85 makes a number of minor style changes and substitutes a reference to AS 46.15 for an obsolete reference to repealed law.

Section 86 makes the same change to AS 38.08.020 that was made to AS 38.05.057(e)(3) by section 77 of the bill.

Section 87 corrects an error in the internal references in AS 39.25.120(b) which were created by the repeal and reenactment, with some renumbering, of AS 39.25.150.

Section 88 adds the Alaska Power Authority and the Alaska Resources Corporation to the list of agencies included in the definition of "state commission or board" for purposes of the conflict of interest laws. These boards are subject to AS 39.50 by the terms of the laws establishing them, but they were not added to the list in AS 39.50.200. This oversight was brought to our attention by the staff of the Alaska Public Offices Commission. Other matters brought to our attention will be handled through notes to this section in the 1983 supplement or editorial corrections.

Section 89 makes changes in internal references required by the enactment of the Alaska Exemptions Act in 1982.

Section 90 corrects the reference to the head of the Department of Community and Regional Affairs by substituting "commissioner" for "director".

Section 91 corrects the reference in the Alaska Statutes to the United States Board on Geographic Names.

Senator Bill Ray
Page 11
May 4, 1983

Section 92 deletes a reference to the licensing of embalmers. The referenced provisions were repealed in 1976.

Section 93 supplies the words necessary to make a complete sentence out of the last sentence in AS 44.83.398(f).

Section 94 repeals a reference made obsolete by changes in the school foundation program. See secs. 42 and 60 of this memo.

Section 95 amends the Alaska Securities Act to clarify the time that is available to take an appeal from an administrative order. The Alaska Court Rules of Appellate Procedure allow only 30 days for an appeal from an administrative decision. However, this section of the securities act currently allows 60 days. This is a direct conflict and should be resolved. The applicable appellate rule is Rule 602(a)(2).

Sections 96, 97, and 98 delete obsolete material from three sections of AS 46.30. All of the deleted material is dated and no longer necessary.

Section 99 corrects an internal reference in AS 47.-10.230(i).

Section 100 repeals a definition in the child support enforcement chapter that is not used in the chapter. The term defined is "disposable earnings".

Section 101 makes changes in internal references required by the new exemptions statute.

DRD:ljb

STATE OF ALASKA
THE LEGISLATURE


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 23, 1983

SUBJECT: "An Act making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes" (CSSB 133 (Judiciary))

TO: Senator Bill Ray
Chairman, Senate Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

This bill was prepared by the revisor of statutes under AS 01.05.036 which provides, in part, that the revisor of statutes shall

". . . prepare for submission to the legislature legislation for the correction or removal of . . . deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of . . . the statute law of this state."

It is suggested that this memorandum accompany the bill through its legislative course.

SECTIONAL ANALYSIS

Section 1 improves the definition of "municipality" that was first enacted as a part of the Alaska Aeronautics Act of 1949, subsequently rewritten during the bulk formal revision of the Alaska Statutes and amended by the 1974 revisor's bill. The present definition excludes unified municipalities, which we do not believe was intended, and, if interpreted strictly, also excludes home rule cities or boroughs, as there are no classifications of home rule municipalities. The latter problem was the inadvertent result of an amendment made to the revisor's bill as it progressed through the legislature in 1974. The proposed new definition is identical to that which is contained in the revised municipal code (SB 1) and will be valid whether or not SB 1 passes.

It should be mentioned that this section is but one of 24 sections of the Alaska Statutes which define municipality. Those 24 sections contain ten different definitions. Only eight of the 24 sections contain definitions which are essentially identical; however, all but two or three of the definitions are fairly similar in most respects. Ten of the 24 sections would be repealed by SB 1. It is the revisor's opinion that it would be wise to consider placing a general definition of "municipality" in AS 01.10.060. That would eliminate the need for a definition of "municipality" in other parts of the Alaska Statutes except where the use of the term required some variation from the standard definition.

Section 2 deletes the definition of "domestic fur farm animal" from AS 03.05.010(c)(6). The definition is preceded by a definition of "fur farming" and is limited to the purposes of the paragraph in which it is contained. The term "domestic fur farm animal" does not occur in the paragraph nor does it occur at any other place in the Alaska Statutes.

Section 3 clarifies the term "director" in AS 03.10.-030(e). The term is not defined in AS 03.10 and appears only in this section.

Section 4 repeals all of AS 03.19. This chapter deals exclusively with the small grain incentive program, a program which ended with the crop year 1975. The division of agriculture has confirmed that this material is obsolete and that it is quite unlikely that a program of this type would ever be used in the future.

Sections 5 and 6 clarify responsibilities in the programs related to diseased livestock. When responsibilities in Title 3 were divided between the Departments of Natural Resources and Environmental Conservation by Executive Order in 1981, the sections immediately preceding and following the sections amended by Secs. 5 and 6 of the revisor's bill were changed to place responsibility in the Department of Environmental Conservation. However, by virtue of the definitions applying to Title 3, the word "commissioner" in AS 03.45.060 and AS 03.45.070 must be read as "commissioner of natural resources". Since all sections in AS 03.45 are part of an integrated scheme, it is our opinion that the failure to change the references to commissioner in these two sections was an oversight. Both sections also make

Senator Bill Ray
Page 3
March 23, 1983

changes in the use of pronouns in accordance with Chapter 58, SLA 1982.

Section 7 repeals references to the Board of Barbers, Board of Hairdressers, Board of Welding Examiners, and Collection Agency Board. The latter two boards were "sunsetting" and the first two were repealed by Chapter 159, SLA 1980.

Section 8 corrects an apparent oversight. When the Board of Hairdressers and Board of Barbers were repealed they were combined into the Board of Barbers and Hairdressers. However, the name of that board was not added to the list in AS 08.01.010, which sets forth the boards subject to AS 08.01.

Section 9 amends AS 08.02.010(a) to correct a reference to nurses and to make consistent the reference to other professions. The term "professional nurse" is no longer defined in AS 03.68.410 as a result of 1982 amendments. The section also contains two changes to remove gender indicating pronouns.

Sections 10 and 11 repeal obsolete references to the Collection Agency Board and the Board of Welding Examiners which are found in the section setting forth the schedules for the sunset of regulatory boards.

Section 12 repeals an obsolete requirement in the chapter on the licensing of public accountants. The paragraph repealed had application only for a period in the 1960's.

Section 13 corrects an error in tense which appears in AS 08.20.140.

Section 14 repeals those sections in AS 08.24 which established the Collections Agency Board and a paragraph which defined "board" for the chapter. The board was terminated by operation of the sunset statutes. The termination date was June 30, 1980.

Sections 15 - 21 amend provisions in the law licensing and regulating collection agents to delete references to the terminated Collection Agency Board.

Sections 22 and 23 correct internal references in AS 08.36. AS 08.36.310 was repealed and replaced by AS 08.36.315 in 1980.

Section 24 repeals an obsolete definition. The word defined is not used in the chapter and has not been used since prior to the original bulk formal revision of the Alaska Statutes.

Sections 25 and 26 repeal and remove material which has become obsolete through the passage of time and is no longer necessary.

Section 27 amends AS 08.68.270(4) to reflect the changes in the drug laws which went into effect on January 1, 1983. The deleted sections of the Alaska Statutes which were referenced in this paragraph were repealed in the drug legislation passed last session.

Section 28 repeals AS 08.71.220 which is an obsolete portion of the chapter regulating dispensing opticians. The provisions of this section were in the nature of temporary transition provisions for licensing.

Section 29 repeals a subsection of AS 08.80.295 which is obsolete. The mandate of subsection (e) was to extend for a "period of two years following September 16, 1976".

Section 30 amends AS 08.88.201 by deleting the second sentence, which is now obsolete. AS 08.88.191(a) no longer provides for petitions for an additional examination.

Sections 31 and 32 amend provisions in AS 08.88 to reflect the 1980 repeal of AS 08.88.211 and substitute the current references.

Section 33 repeals the chapter on the Board of Welding Examiners which was terminated under the sunset law.

Section 34 corrects a reference to the federal bankruptcy act in the exemptions act passed by the last session of the legislature. Chapter "XIII" refers to the Wage Earner Plan of the old bankruptcy act of 1898. The amendment conforms the reference to the current bankruptcy law. We have also changed the citation to federal law to conform to our present style.

Section 35 makes another correction in the exemptions act. There is no consumer price index for the month of December. The Anchorage index is issued every other month. The index which would be used to establish December price relationships would, in fact, be the November consumer price index.

Section 36 corrects internal references to reflect the 1982 legislative action repealing the referenced section in AS 09.35 and establishing AS 09.33, the Alaska Exemptions Act.

Section 37 corrects an incorrect reference to the court rules. Rule 2(c) of the District Court Rules of Criminal Procedure has been repealed and replaced by Rule 603(b) of the Rules of Appellate Procedure.

Section 38 makes a change in AS 12.47.030(b) to reflect the fact that the assertion by a criminal defendant of evidence to establish that the defendant was guilty but mentally ill is not a defense to a criminal prosecution. It is, rather, a strategy which involves the presentation of mitigating factors in order to affect the disposition of the matter following a conviction.

Section 39 amends AS 14.07.058(e) to clarify the meaning of the word "board". In AS 14.60, the word "board" is defined for AS 14 to mean the State Board of Education. Consequently, the use of the word with no further identification could be confusing.

Section 40 amends AS 14.17.080 to remove obsolete references. Basic need is no longer defined in AS 14.17.021 and there is no longer any matching under AS 14.17.071. As a matter of fact, AS 14.17.071 has been repealed.

Section 41 also deletes obsolete references that result from the changes in policy in the school foundation program. The second sentence of the amended section is also changed to conform the internal reference to our present style. If appropriate changes were made in AS 29.88.020, this section could be repealed.

Section 42 amends AS 14.17.190(b) to delete a reference to money acquired from school district "local effort". "Local effort" is no longer a required part of the public school foundation act.

Section 43 repeals AS 14.17.225(d) because the underlying statute, AS 14.17.215 was repealed in 1980 by sec. 20, Chapter 26, SLA 1980.

Section 44 repeals the three sections which set forth the minimum teachers' and administrators' salary scales and defi-

Senator Bill Ray
Page 6
March 23, 1983

nitions for the sections. The salary scales are obsolete since salaries are set by negotiation.

Sections 45, 46 and 47 delete obsolete references to the old state-operated-school system and substitute the regional educational attendance area. In sec. 46, the phrase "school board" is substituted for "district" because "district" is not defined in AS 14. "School board" is.

Section 48 deletes a reference in AS 14.42.015(a)(2) to the Alaska Methodist University and substitutes the successor school, Alaska Pacific University.

Sections 49 and 50 delete references to the old tuition grant program that was declared unconstitutional by the Alaska Supreme Court some time ago and repealed by Chapter 94, SLA 1980 and Chapter 59, SLA 1982.

Section 51 repeals the definition of a phrase that is not used in the scholarship loan program. The term "part-time student" is not used in the Alaska Statutes. HB 174 would introduce the term to AS 14, but a definition is not necessary in the context it appears in HB 174.

Section 52 repeals a chapter that is obsolete and inoperative. When the chapter was enacted in 1972 it was based on participation in "the federal child nutrition act of 1971". However, that federal legislation was never enacted. No programs have been implemented or regulations adopted under this chapter.

Section 53 deletes from AS 14.07.020(b), relating to the state museum collections advisory committee, a sentence which was necessary only during the initial year of operation of the committee.

Sections 54 and 55 correct references to the acknowledgement statute. AS 09.65.012 has been replaced by AS 09.63.020.

Sections 56 and 57 correct an apparent oversight in AS 16.10. The sections presently read as if any fisherman who sells fish without an entry permit or interim use permit is in violation of the sections. However, certain fishermen are not required to have entry permits or interim use permits, so certain types of fish could legally be sold. The suggested amendments make it clear that fishermen who are not

required to hold a permit under AS 16.43 can sell fish without violating these sections.

Section 58 repeals AS 16.10.500 - 16.10.620 on the basis of the decision of the Supreme Court in State v. Alex. Technically, the case only invalidated AS 16.10.530 but the effect was to wipe out the entire program set forth in these sections. The present program is operated under AS 43.76.

Section 59 substitutes the substantive provisions of repealed AS 11.05.010 for the obsolete reference to the repealed provision.

Section 60 repeals a reference made obsolete by changes in the school foundation program. See sec. 42 of this memo.

Section 61 corrects an incorrect internal reference in AS 21.00.010(d). The section currently referenced contains a definition of "insurance" rather than a penalty.

Section 62 repeals and reenacts AS 22.05.020 which establishes the composition and general powers of the Supreme Court. The repeal and reenactment deletes obsolete material relating to the number of justices and organizes the section into three subsections for clarity.

Section 63 is a repeal and reenactment of AS 22.10.020, which sets forth the jurisdiction of the superior courts. The sole purpose of the rewriting is to make the section more readable. There have been no substantive changes and it is not the purpose of this section to override any differences between jurisdiction of the superior court set forth by statute and that set forth by court rule. In other words, in those ways that this material may differ from the rules, the repealed and reenacted statute does not necessarily override should it pass by more than a two-thirds vote.

There are three minor changes which should be noted. In new subsection (a), the words "but not limited to" have been deleted following the word "including". Since the words "include" or "including" are not exclusive words, it is unnecessary to use the term "but not limited to" following such words in the Alaska Statutes. In new (h), the internal reference to the Alaska Native Claims Settlement Act has been changed to conform to present style. The other change is the deletion of a reference to AS 23.10.192 in new sub-

section (i). That section was repealed in 1980 and the provisions of AS 18.30, which are still referenced, have picked up the provisions of the repealed section.

Section 64 corrects a problem of tense in AS 22.10.040(4).

Section 65 deletes a reference to the legislative board of retirement benefits. That board was repealed in 1980.

Section 66 repeals an obsolete provision in the motor vehicle code. AS 28.10.105(c) was applicable only during 1979.

Section 67 amends AS 28.10.411(b) by deleting a reference to repealed AS 42.15.

Sections 68, 69, and 70 delete references to a statute which was repealed when the new criminal code was enacted in 1978. The proper references to the provisions on unlawful evasion have been substituted.

Section 71 revises a definition in the Agreement on Detainers. The term defined, "state" was changed to "party state" through amendments to the original bill. However, the definition was not changed. "State" needs to be defined in this law, as the term is used to include the jurisdictions of the United States which are not states, e.g., Puerto Rico and the District of Columbia. "Party state" does not need to be defined, as it is clear from a reading of the Agreement on Detainers that a party state is a state (as defined) which is a party to the agreement. Without some change, some confusing results occur in reading the law to which the definitions apply. Consequently, the legislature should either adopt the amendment proposed in this section, or adopt the amendment and an additional amendment as follows:

(4) "party state" means a state which is party to this agreement.

Sections 72 and 73 delete references to AS 14.08.161 which has been repealed.

Section 74 repeals AS 37.14.060 - 37.14.100, which comprised Article 2 of AS 37.14. This article was not to be effective until the Board of Regents of the University of Alaska approved certain matters. In fact, the Board of Regents

disapproved all matters on August 17, 1978. Consequently, the repealed sections never took effect.

Section 75 deletes a reference in AS 38.04.065(a) to a statute repealed in 1981 and substitutes a reference to the present notice provisions.

Section 76 deletes from AS 38.04.900(a) provisions which were of a temporary nature and are now obsolete.

Section 77 rewrites the paragraph in AS 38.04.910 which defines "state park" for AS 38.04. The old definition contained specific references to some of the laws designating areas which fall within the definition of state parks, but has not been kept up to date as new areas have been designated. It is our opinion that it would be better to enact a definition such as that proposed in this section and maintain a current list of laws designating the various areas in a note to the section.

Section 78 deletes a reference to a repealed section and substitutes the substantive provisions of that repealed section. After consultation with the Departments of Law and Natural Resources, we felt that this substitution would more accurately reflect legislative intent and present administrative practices. Note that there is still an AS 38.05.345(e), but that the section was substantially rewritten after AS 38.05.057(e) (3) was enacted, resulting in the repeal of the provisions of former AS 38.05.345(e). The present provisions are irrelevant in the context of the reference found in AS 38.05.057(e) (3).

Section 79 deletes the last sentence of AS 38.05.057(g), as the sentence is no longer necessary. AS 38.05.055, referenced in the sentence, has been rewritten and no longer contains any requirements for contracts. AS 38.05.065 now establishes certain terms required for contracts under this section. The deletion of "or his representative" is consistent with the law requiring the deletion of gender indicating pronouns, and is not required in this provision, since other provisions authorize the director to act through designated representatives. See AS 38.05.035.

Section 30 amends AS 38.05.073(e) to reflect the fact that (b) of the section has been repealed. The reference is retained as "former (b)" to insure that the remedies contained in (e) will be available to the state in the event

Senator Bill Ray
Page 10
March 23, 1983

of an action involving a contract for the purchase of land authorized by the repealed subsection.

Section 81 repeals the definition of a term no longer used in the section.

Section 82 amends AS 33.05.079(a) to reflect the repeal of two sections referenced in the subsection. In the case of AS 38.05.047, the reference is retained, but the reader will know that the section is no longer operative. In the case of AS 38.05.305, a reference to AS 33.05.345 was substituted. That section now contains all of the notice procedures.

Section 83 updates an obsolete internal reference.

Section 84 also updates an obsolete internal reference. A review of the legislative history of AS 38.05.102 (amended by this section) indicates that the spanned reference should be to the entire article on leasing. In any event, AS 38.05.100 has been repealed.

Section 85 substitutes a reference to AS 38.05.345 for the obsolete reference to repealed AS 38.05.205.

Section 86 makes a number of minor style changes and substitutes a reference to AS 46.15 for an obsolete reference to repealed law.

Section 87 makes the same change to AS 38.08.020 that was made to AS 38.05.057(e) (3) by section 78 of the bill.

Section 88 corrects an error in the internal references in AS 39.25.120(b) which were created by the repeal and reenactment, with some renumbering, of AS 39.25.150.

Section 89 adds the Alaska Power Authority and the Alaska Resources Corporation to the list of agencies included in the definition of "state commission or board" for purposes of the conflict of interest laws. These boards are subject to AS 39.50 by the terms of the laws establishing them, but they were not added to the list in AS 39.50.200. This oversight was brought to our attention by the staff of the Alaska Public Offices Commission. Other matters brought to our attention will be handled through notes to this section in the 1983 supplement or editorial corrections.

Senator Bill Ray
Page 11
March 23, 1983

Section 90 makes changes in internal references required by the enactment of the Alaska Exemptions Act in 1982.

Section 91 corrects the reference to the head of the Department of Community and Regional Affairs by substituting "commissioner" for "director".

Section 92 corrects the reference in the Alaska Statutes to the United States Board on Geographic Names.

Section 93 deletes a reference to the licensing of embalmers. The referenced provisions were repealed in 1976.

Section 94 supplies the words necessary to make a complete sentence out of the last sentence in AS 44.83.393(f).

Section 95 repeals a reference made obsolete by changes in the school foundation program. See secs. 42 and 60 of this memo.

Section 96 amends the Alaska Securities Act to clarify the time that is available to take an appeal from an administrative order. The Alaska Court Rules of Appellate Procedure allow only 30 days for an appeal from an administrative decision. However, this section of the securities act currently allows 60 days. This is a direct conflict and should be resolved. The applicable appellate rule is Rule 602(a)(2).

Sections 97, 98, and 99 delete obsolete material from three sections of AS 46.30. All of the deleted material is dated and no longer necessary.

Section 100 corrects an internal reference in AS 47.-10.230(f).

Section 101 repeals a definition in the child support enforcement chapter that is not used in the chapter. The term defined is "disposable earnings".

Section 102 makes changes in internal references required by the new exemptions statute.

DRD:ijb

Enclosure

REVISORS BILL

TO: SENATOR ROBERT H. ZIEGLER SR.
 FROM: GUY A. VAN DOREN ADMIN. ASST.
 SUBJECT: REVISORS BILL

I have reviewed the original SB 133 and CSSB 133 (Jud) and submit the following report.

With the exception of the sections listed below, all sections are satisfactory and within the jurisdiction of the revisor's duties.

The only reason specific sections are listed below is if they have been changed from the original bill or are additions to the original bill. There are several section upon which I have made comments or observations.

- Section 3. I still question, as I did in SB133, whether the words "of the department" on line 26, pg. 1, are necessary. Since the entire section deals with the Department of Natural Resources, I feel the words are redundant.
- Section 14 In the original bill, the entire AS 08.24 was repealed. In checking with the Department of Commerce, it was found that though the Board of Collection Agencies was terminated, the statutes governing collection agency activities are still in effect.
- Section 15- These sections all amend provisions in the statutes licensing
 21: and regulating collection agencies to delete references to the Board which was terminated. They did not appear in the original bill because the entire 08.24 was deleted in error.
- Section 41. NOTE!!! Notes exemptions under 43.25 which must be honored. The more exemptions, the less taxable real and personal taxes 29.88.020.
- Section 59. This section has changed a little from the original. The revisor spelled out the punishment in this CS, rather than just providing that violations are misdemeanors.
- Section.67. This section did not appear in the original bill, but O.K.
- Section.75. This section was not in the original bill. The revisor indicated that a new book for Title 38 will be issued next year. The revisor is trying to eliminate as many obsolete sections in Title 38 as possible before the new book is printed.
- Section. 76 New section in CS..See Section 75 explanation
 In this section, the revisor deleted the obsolete material. He also deleted the pronoun to eliminate the masculine gender by substituting "believed" for "he believes". Since no other sub-section or section in the chapter authorizes the Commissioner to adopt regulations, I suggest that "believed" be deleted. The section would then read: "The Commissioner shall adopt under the Administrative Procedure Act (AS 44.62) regulations necessary to carry out the purposes of this chapter"

Sections 77-87 All new sections added to the original bill. See Sec.75
For explanation.

Section. 90. O.K. Although, the exemptions listed for livestock, food,
fuel, household goods, tools, etc., etc. were enacted
in 1949 and the amounts are unrealistically low; therefore,
in my opinion, obsolete. The committee may want to look
into this for another bill.

REMAINDER OF THE BILL, FINE.....

STATE OF ALASKA
THE LEGISLATURE

FOUCH Y STATE CAPITOL
JUNEAU ALASKA 99901
707 465 3800

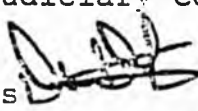
LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

May 2, 1983

SUBJECT: Revisor's bill
(CSSB 133 (Judiciary))

TO: Senator Bill Ray
Chairman, Senate Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

In light of the changed position of the Department of Natural Resources and the language of CSSB 222 (Resources), the following language should be substituted for Secs. 78 and 87 of CSSB 133 (Judiciary):

* Sec. 78. AS 38.05.057(e) (3) is amended to read:

(3) notice of the application period and the date of the lottery shall be given in accordance with AS 38.05.345 [AS 38.05.345(e)]; and

* Sec. 87. AS 38.08.020 is amended to read:

Sec. 38.08.020. PUBLIC NOTICE. The director shall publish notice of the availability of the land in the same manner as provided in AS 38.05.345 [AS 38.05.345(e)].

The revisor's memo dated March 23, 1983, would need to be modified by substituting the following text for the discussion of Sec. 78:

Section 78 amends a reference in AS 38.05.057 to the notice provisions of AS 38.05.345. Note that there is still an AS 38.05.345(e), but that the section was substantially rewritten after AS 38.05.057(e) (3) was enacted, resulting in the repeal of the notice provisions of former AS 38.05.345(e). The present provisions are irrelevant in the context of the reference found in AS 38.05.057(e) (3).

Senator Bill Ray
Page 2
May 2, 1983

The discussion of Sec. 87 in the revisor's memo does not require a change, as it merely refers back to the above text accompanying Sec. 78.

DRD:ljb
17/015

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE: 465-2400

April 27, 1983

The Honorable Bill Ray
Chairman
Senate Judiciary Committee
Pouch V
Juneau, AK 99811

Dear Senator Ray:

My staff has reviewed CSSB 133 (Jud) which will be heard in the Judiciary Committee on Monday, May 2. I submit two amendments to that proposed legislation for your consideration. In both cases we have discussed these amendments with Mr. Deardorf, the revisor, and with Tom Koester of the Attorney General's Office. They both agree that the change we are requesting is a matter of policy.

Page 21, Lines 14-20 should read:

*Sec. 78. AS 38.05.057(e)(3) is amended to read:

(3) notice of the application period and the date of the lottery shall be given in accordance with AS 38.05.345[(e)]; and

Page 23, Lines 20-27 should read:

* Sec. 87. AS 38.08.020 is amended to read:

Sec. 38.08.020. PUBLIC NOTICE. The director shall publish notice of the availability of the land in the same manner as provided in AS 38.05.345[(e)].

We are requesting this change rather than the change recommended by the revisor in order to make all public notice requirements consistent as provided in AS 38.05.345. In some cases this may require the department to do somewhat more rigorous public notice than previously required. However, we feel that the result will be less confusion for the public and for department officials implementing these programs.


The Honorable Bill Ray

-2-

April 27, 1983

If you have any questions about these recommendations, please call my office. We will be available to testify on this bill as requested.

Sincerely,


Esther C. Wunnicke
Commissioner

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
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JUNEAU, ALASKA 99811
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Senate

Committee on Resources

April 28, 1983

Memo

To: Senator Bill Ray, Chairman Senate Judiciary Committee

From: Senator Bettye Fahrenkamp

Subject: Comments on CSSB 133, Statute Revisions

The following are in response to your request for comments on the above bill scheduled for hearing on May 2, 1983:

- 1) Section 2 amends the definition of fur farming contained in AS 03.05.010(c)(6). The Resources Committee recently heard and reported out CSHB 187 which also amends this section. This bill includes the same changes but also includes additional clarifying amendments. As this bill appears to have an excellent chance of enactment, I would recommend that prior to any final action on CSSB 133 conforming changes to CSHB 187 be made. Attached is a copy of the relevant section from CSHB 187.
- 2) Section 77 of CSSB 133 amends the state park definition in AS 38.04.910. The Senate has passed and sent to the House SB 128 which establishes a marine park system within the state park system. I would recommend that the definition of state park in CSSB 133 be amended to include marine park units should SB 128 pass in advance of CSSB 133.
- 3) Section 78 of CSSB 133 amends 38.05.057(e). The Resources Committee has recently reported SB 222 making changes in Title 38 including this section. The changes in 38.05.057(e) are different than those proposed in CSSB 133 and have been agreed to be DNR and the Statute Revisor. Again, I would recommend that CSSB 133 be changed to conform with SB 222 if that legislation should be enacted prior to CSSB 133.
- 4) Section 79 of CSSB 133 amends 38.05.057(g). SB 222 makes an additional change in this section. ("director" changed to "commissioner")
- 5) Section 84 of CSSB 133 amends 38.05.102. SB 222 makes an additional change in this section.
- 6) Section 86 of CSSB 133 amends 38.05.255. SB 222 makes an additional change in this section.

- 7) Section 87 of CSSB 133 amends 38.08.020. SB 222 contains an amendment to this same section but in a different, more comprehensive manner. This amendment has been agreed to by the DNR and the Statute Revisor.

Attached are copies of the relevant sections of SB 222 indicating these changes.

Thank you for the opportunity to comment on this bill. I hope that between your committee, the Statute Revisor, and others we can watch the timing of all this legislation and ensure conformity.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill No. 133 Date on Bill: February 21, 1983
 Title: "AN Act making corrective amendments to the Alaska Statutes."
 Sponsor: Rules Committee
 Requestor: Legislative Council

1. Estimated fiscal impacts on:

a. Expenditures:

	(Thousands of Dollars)			
	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total				

b. Revenues:

Revenue	(4.1)	(2.7)	(12.9)	
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions: See attached sheet.

4. Disclaimer:

This statement has not been reviewed by the CMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Darrell Miller

Division: Occupational Licensing

Phone: 465-2535

Date: March 2, 1983

Approved by Commissioner: Richard A. Lyon

Department: Commerce & Economic Development

Date: _____

5. Distribution:

Original to Legislative Finance

Copy to OMB

Copy to Sponsor

Copy to Requestor

2/15/83

Assumptions: Senate Bill No. 133, as relates to the repeal of AS 08.24, Collection Agencies.

Section 14, AS 08.24, of this bill repeals the licensing function for Collection Agencies and Collection Agency Operators. Current licensure fees for biennial licensure of Collection Agencies is \$200.00, and \$100.00 for Collection Agency Operators.

Initial application fees are \$100.00 for Collection Agencies and \$40.00 for Collection Agency Operators.

Past history reveals a 50 to 60% turnover of licensed operators during any given calendar-year. Collection Agency licensure has remained at a fairly constant level with infrequent turnover.

For the remainder of FY '83, April-June, there are currently 8 Agency and 12 Operator applications on file. The loss of revenue for the remainder of FY '83 is projected to be \$4,080.00.

The next biennial license period is June 30, 1984, for FY '85/'86. The projected loss of revenue for FY '84 would be from the anticipated turnover of Collection Agency Operators. Including the application fee of \$40.00 and the license fee of \$100.00, the loss of revenue is projected to be \$2,660.00.

The projected loss of revenue for FY '85 would be \$12,860.00 and would cover Collection Agency renewals, Collection Agency Operator renewals, as well as the anticipated turnover of operators.

MEMORANDUM

State of Alaska

to Harry Treager, Director
Division of Occupational Licensing
Department of Commerce and Economic
Development

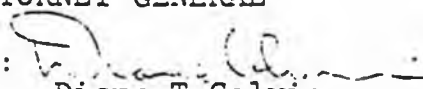
DATE: October 14, 1981

FILE NO: J-66-111-82

TELEPHONE NO: 465-3600 ex 56

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Agency responsibility
following termination of
an occupational licensing
board pursuant to AS 08.

By: 
Diane T. Colvin
Legal Assistant

You asked for our opinion on the division's responsibilities when a board is terminated pursuant to AS 08.03.010, the sunset law. Your question pertains specifically to the Collection Agency Board, the only board allowed to expire to date under sunset. We believe that basically your duties and responsibilities are not affected by termination of the board, for the reasons given below.

AS 08.03.010 provides a termination date of June 30, 1980 for the Collection Agency Board. Because the Legislature did not affirmatively act to reestablish the board, it automatically expired on the date indicated. Pursuant to AS 08.03.020 it continued in existence until June 30, 1981 for the purpose of "concluding its affairs." AS 08.03.020 further provides that:

One year after the date of termination,
a board not continued shall cease all
activities.

No other "guidance" is given by the statutes except by way of reference to AS 44.66.050, concerning legislative oversight. This statute deals generally with review procedures for boards and commissions subject to scrutiny under AS 08.03 and AS 44.66. In regard to boards terminated, AS 44.66.060 provides:

This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes.

It should be noted that the Collection Agency Board is somewhat unique in that it had effectively ceased to function before its sunset termination date. According to the performance review of the Collection Agency Board prepared by Legislative Audit

in March 1979, no meetings were held by the board between October 13, 1971 and March 14, 1977. ^{1/} During this time, the Department of Commerce and Economic Development conducted all licensing functions and handled all administrative matters relating to collection agencies and operators.

There is also a unique feature to Alaska's sunset law in that the automatic termination date under sunset applies to the respective boards or commissions only, not to the accompanying licensing laws. Most of the states that have enacted sunset laws have applied the principle of automatic expiration to all the statutes relating to a particular occupation or profession, thus terminating licensing as well as the boards if the legislature takes no action.

Because AS 08.03.010 applies only to AS 08.24.011, the statute creating the Collection Agency Board and designating board membership, the functions of the Division of Occupational Licensing are essentially unchanged with termination of the Board. This is particularly true in the case of the Collection Agency Board, since it had only minimal authority under the law when it was in existence. Under AS 08.24, the board was specifically empowered to 1) adopt rules and regulations (AS 08.24.031); 2) waive certain license requirements (AS 08.24.100), and 3) investigate applicants (AS 08.24.120). (The latter two powers were shared with the Department, and the first is an implied power of the Department.)

All of the other powers relating to regulation of collection agencies are granted to the Department of Commerce and Economic Development. ~~This differs from most licensing laws, where the board or the commission, not the department, is granted certain powers and required to carry out certain duties.~~

^{1/} According to the report, six meetings were held between August 1977 and February 1979. There appears to be a correlation here with the passage of sunset legislation (Chapter 194, SLA 1977 was approved by the Governor on June 18, 1977 and went in effect on September 16, 1977).

Harry Treager, Director

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Consequently, your division's responsibilities regarding licensing of collection agencies and enforcement of the licensing law have essentially not been affected by the termination of the board. 2/ You should continue all administrative, investigative, licensing and enforcement functions you have conducted in the past. The division was charged with administration and enforcement of the law prior to termination of the board; this has not been changed by expiration of the board.

We would recommend that the Department adopt regulations to carry out its duties under the law. No regulations were ever adopted by the Board, although some were drafted and proposed. We would be happy to work with you on development of any regulations you deem necessary.

It should be noted that the advice given here applies only to a board such as the Collection Agency Board which is limited to an advisory role. Should the Legislature allow one of the boards to terminate that is vested with specific powers and duties, the question of the Division's continuing responsibilities would be a more complicated one. We shall deal with that question when and if the issue arises.

Please contact us if you have further questions on this matter.

DTC/jb

2/ Other than to ensure that no claims or rights against the Board are affected by its termination. (See AS 44.66.060.)