

S

B

/

3

3

COMMITTEE REPORT

SENATE

FURTHER:

Date: 5/22/59

Mr. President:

The Committee on Education has had 17

in accordance with the report of the Senate  
Committee on Education as recommended by the President of the Senate:

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for CS 15 (1959)  same title
- new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CHAIRMAN

FILE WITH SSB 133  
Alaska State Legislature

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

While in Juneau  
POUCH V  
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

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.

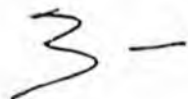
Senator Faiks has indicated the bill will probably be calendared in the near future.

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 Boren, 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,



Robert H. Ziegler, Sr.

RHZ:lk

Enclosures

# Alaska State Legislature

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

While in Juneau  
POUCH V  
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: CSSB 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,

3 -

Robert H. Ziegler, Sr.

RHZ:lk

Enclosure



Alaska State Legislature  
State Senate

Committee on Judiciary

Senator Bill Ray  
Chairman  
Senate Floor Leader

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO : All Senators

FROM : Senator Ray, Chairman of the Judiciary Committee *BR*

RE : CSSB 133--Corrective amendments to the Alaska Statutes as recommended by the revisor of statutes.

The following materials are attached hereto:

1. CSSB 133 in its entirety;
2. Revisor's letter of 3/23/83; and
3. Judiciary subcommittee chairman Ziegler's letter of 4/14/83.

This bill is presently scheduled for consideration by the Judiciary Committee on Monday, May 2, 1983, at 1:30 p.m. in the Butrovich room.

If you have any questions about the bill, please feel free to contact any of the following persons as soon as possible:

Senator Ziegler -- Ext. 3743  
Guy Van Doren -- " 3743  
John Gabrielli -- " 4451  
Dave Dierdorff -- " 2450

Your cooperation in helping to expedite the processing of this lengthy and complex piece of legislation will be sincerely appreciated.

**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,

A handwritten signature in cursive script that reads "Esther C. Wunnicke". The signature is written in dark ink and is positioned above the printed name and title.

Esther C. Wunnicke  
Commissioner

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

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

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
FIDELITY ALASKA 99501  
987-443 2800

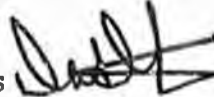
LEGISLATIVE AFFAIRS AGENCY

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

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 08.88.191(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 09.38, 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-

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 14.57.020(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 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 21.60.010(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 18.80, 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 80 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 81 repeals the definition of a term no longer used in the section.

Section 82 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 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 38.05.305.

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 44.83.398(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:ljb

Enclosure

# STATE OF ALASKA THE LEGISLATURE

FOURTH STATE CAPITOL  
SUNSHINE ALASKA 1981  
P.O. BOX 1800

## LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

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.

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 take

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 08.38.201 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 1980 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.

Section 36 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 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 29.83.020, 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 14.29.120) 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 09.63.020.

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 38.04.065(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

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 03.45.050 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 08.60.295 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 08.38.201 by deleting the second sentence, which is now obsolete. AS 08.38.191(a) no longer provides for petitions for an additional examination.

Sections 24 and 25 amend provisions in AS 08.88 to reflect the 1980 repeal of AS 08.88.211 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 09.32, 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 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 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 E 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 44.23.398(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 repeals a definition in the child support enforcement chapter that is not used in the chapter. The term defined is "disposable earnings".

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

DRD:ljb

Enclosure