

SB

107

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

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May, 1988

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Mary Van Nimwegen

*House Judiciary:*

*4-24-87*

*5-2-87*

*5-4-87*

# HOUSE COMMITTEE REPORT

Date referred: 4/8/87

FURTHER REFERRALS:

DATE: 5-4-87

CSSB 107 (Jud)

The Judiciary Committee has considered

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; providing for an effective date."

**RECOMMENDS:**

- replace with HCS CS SB107 (Jud)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**DOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

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*[Handwritten Signature]*

Chairman's signature

5-0070L  
Dierdorff  
4/30/87

Original sponsor: Rules/Legislative Council

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 107 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making corrective amendments to the Alaska  
7 Statutes as recommended by the revisor of statutes;  
8 and providing for an effective date."

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

10 \* Section 1. AS 04.16.010(c) is amended to read:

11 (c) A licensee, an agent, or employee may not permit a person to  
12 enter and a person may not enter premises licensed under this title  
13 between the hours of 5:00 a.m. and 8:00 a.m. each day. This sub-  
14 section does not apply to common carriers [, AS DEFINED IN AS 42.10.-  
15 420(2),] or to an employee of the licensee who is on the premises to  
16 prepare for the next day's business. A person may enter or remain on  
17 the premises of a bona fide restaurant or eating place licensed under  
18 this title to consume food or nonalcoholic beverages.

19 \* Sec. 2. AS 06.25.085 is amended to read:

20 Sec. 06.25.085. APPLICATION OF GENERAL BANKING LAWS. The pro-  
21 visions of AS 06.05.005 - 06.05.085, 06.05.090 06.05.270, 06.05.307,  
22 06.05.320 - 06.05.327, [06.05.405 - 06.05.425,] 06.05.440 - 06.05.445,  
23 06.05.462, 06.05.465 - 06.05.510, [06.05.465 - 06.05.515] and 06.05.-  
24 525 - 06.05.545 apply to all trust companies engaged in any phase of  
25 the business of banking as that term is defined by AS 06.05.540(3) or  
26 AS 06.25.100.

27 \* Sec. 3. AS 06.30.720 is amended to read:

28 Sec. 06.30.720. PETITION BY COMMISSIONER. The commissioner,  
29 acting through the attorney general, may apply to the superior court

1 for the appointment of a receiver, if in the [HIS] judgment of the  
2 commissioner the public interest requires it and [EITHER]

3 (1) irregularities complained of in an order of the commis-  
4 sioner under AS 06.01.030 [AS PROVIDED IN SEC. 660 OF THIS CHAPTER]  
5 are not corrected; [, OR]

6 (2) irregularities complained of in a petition for the  
7 appointment of a conservator are not corrected; [,] or

8 (3) an [IN THE CASE OF ANY] emergency exists.

9 \* Sec. 4. AS 08.03.010(a) and (b) are repealed.

10 \* Sec. 5. AS 08.04.500(a) is amended to read:

11 (a) A person may not assume or use the title or designation  
12 "certified public accountant" or the abbreviation "CPA" or any other  
13 title, designation, word, letter, abbreviation, sign, card, or device  
14 tending to indicate that person is a certified public accountant,  
15 unless the person has received a certificate, holds a live permit  
16 [ISSUED UNDER AS 08.04.390 - 08.04.440, HEREINAFTER REFERRED TO AS A  
17 "LIVE" PERMIT], and all of the person's offices in this state for the  
18 practice of public accounting are maintained and registered as re-  
19 quired by AS 08.04.350 - 08.04.380.

20 \* Sec. 6. AS 08.04.510(b) is amended to read:

21 (b) A partnership or corporation of certified public accountants  
22 in good standing in any state, not registered as a partnership or  
23 corporation of certified public accountants under AS 08.04.240 [AND  
24 08.04.250] but holding a permit under AS 08.04.420, may use the title  
25 or designation "certified public accountants."

26 \* Sec. 7. AS 08.04.680 is amended to read:

27 Sec. 08.04.680. DEFINITIONS. In this chapter [AS USED IN  
28 AS 08.04.010 - 08.04.690]

29 (1) "board" means the Board of Public Accountancy;

1 (2) "certificate" means certificate as a certified public  
2 accountant;

3 (3) "license" means license as a public accountant;

4 (4) "live permit" means a permit issued under AS 08.04.-  
5 390 - 08.04.430 [REPEALED].

6 \* Sec. 8. AS 08.62.020 is amended to read:

7 Sec. 08.62.020. APPOINTMENT AND TERM OF OFFICE. The governor  
8 shall appoint the pilot and agent or manager members of the board,  
9 subject to confirmation by a majority of the members of the legisla-  
10 ture in joint session, for terms of four years, or until their succes-  
11 sors are appointed. A [THE FIRST MEMBERS SHALL BE INITIALLY APPOINTED  
12 FOR ONE, TWO, THREE AND FOUR YEAR TERMS. NO] person, with the excep-  
13 tion of the commissioner or the commissioner's designee, may not be  
14 appointed to the board for more than two consecutive terms.

15 \* Sec. 9. AS 08.62.180 is amended to read:

16 Sec. 08.62.180. EXEMPTIONS. This chapter does not apply to

17 (1) vessels under enrollment, except as provided in AS 08.-  
18 62.185;

19 (2) fishing vessels registered in the United States or in  
20 British Columbia, Canada;

21 (3) vessels propelled by machinery and not more than 65  
22 feet in length over deck, except tugboats and towboats propelled by  
23 steam [MOTORBOATS AS DEFINED IN SEC. 1 OF THE FEDERAL MOTOR BOAT ACT  
24 OF 1940 (54 STAT. 163; 46 U.S.C., SEC. 526 ET SEQ.)];

25 (4) vessels of United States registry of less than 300  
26 gross tons and tow boats of United States registry and vessels owned  
27 by the State of Alaska, engaged exclusively

28 (A) on the rivers of Alaska, or

29 (B) in the coastwise trade on the west coast of the

1 United States including Alaska, Hawaii, and British Columbia,  
2 Canada;

3 (5) vessels of Canada, including Canadian cruise ships,  
4 engaged in frequent trade between British Columbia and Alaska, if  
5 reciprocal exemptions are granted by Canada to vessels owned by the  
6 State of Alaska and those of United States registry; and

7 (6) pleasure craft.

8 \* Sec. 10. AS 08.64.205 is amended to read:

9 Sec. 08.64.205. QUALIFICATIONS FOR OSTEOPATH APPLICANTS. Each  
10 osteopath applicant shall meet the qualifications prescribed in  
11 AS 08.64.200(4) and (5) [AS 08.64.200(1), (4) AND (5)] and shall

12 (1) submit a certificate of graduation from the legally  
13 chartered school of osteopathy approved by the board;

14 (2) submit a certificate from a hospital approved by the  
15 American Medical Association or the American Osteopathic Association  
16 which certifies that the osteopath has satisfactorily completed and  
17 performed the duties of intern or resident physician for one year;

18 (3) take the examination required by AS 08.64.210 or be  
19 certified to practice by the National Board of Examiners for Osteo-  
20 pathic Physicians and Surgeons.

21 \* Sec. 11. AS 08.64.209(a) is amended to read:

22 (a) Each applicant who desires to practice podiatry shall meet  
23 the qualification [QUALIFICATIONS] prescribed in AS 08.64.200(4)  
24 [AS 08.64.200(1) AND (4)] and shall

25 (1) submit a certificate of graduation from a legally  
26 chartered school of podiatry approved by the board;

27 (2) take the examination required by AS 08.64.210; the  
28 State Medical Board shall call to its aid a podiatrist of known abil-  
29 ity who is licensed to practice podiatry to assist in the examination

1 and licensure of applicants for a license to practice podiatry;

2 (3) meet other qualifications of experience or education  
3 which the board may require.

4 \* Sec. 12. AS 08.64.225 is amended to read:

5 Sec. 08.64.225. FOREIGN MEDICAL GRADUATES. Applicants who are  
6 graduates of medical colleges not accredited by the American Medical  
7 Association or one of its agencies shall meet the requirements of  
8 AS 08.64.200(3), (4) and (5) [AS 08.64.200(1), (3), (4) AND (3)] and  
9 must have passed an examination and be certified by the Education  
10 Council on Foreign Medical Graduates, or be licensed by examination in  
11 another state or territory of the United States or province of Canada.

12 \* Sec. 13. AS 08.64.272 is amended to read:

13 Sec. 08.64.272. RESIDENCY AND INTERNSHIP. For the limited  
14 purpose of doing residency or internship work, the board may issue a  
15 temporary permit to an applicant without examination if the applicant  
16 meets the requirement [REQUIREMENTS] of AS 08.64.200(2) [AS 08.64.-  
17 200(1) AND (2)], pays the required fee, and has been accepted by an  
18 eligible institution in the state for the purpose of doing residency  
19 or internship work.

20 \* Sec. 14. AS 08.88.500 is repealed.

21 \* Sec. 15. AS 09.17.080(a) is amended to read:

22 (a) In all actions involving fault of more than one party to the  
23 action, including third-party defendants and persons who have been  
24 released under AS 09.16.040 [AS 09.17.090], the court, unless other-  
25 wise agreed by all parties, shall instruct the jury to answer special  
26 interrogatories or, if there is no jury, shall make findings, indicat-  
27 ing

28 (1) the amount of damages each claimant would be entitled  
29 to recover if contributory fault is disregarded; and

1 (2) the percentage of the total fault of all of the parties  
2 to each claim that is allocated to each claimant, defendant, third-  
3 party defendant, and person who has been released from liability under  
4 AS 09.16.040 [AS 09.17.090].

5 \* Sec. 16. AS 09.17.080(c) is amended to read:

6 (c) The court shall determine the award of damages to each  
7 claimant in accordance with the findings, subject to a reduction under  
8 AS 09.16.040 [AS 09.17.090], and enter judgment against each party  
9 liable. The court also shall determine and state in the judgment each  
10 party's equitable share of the obligation to each claimant in accor-  
11 dance with the respective percentages of fault.

12 \* Sec. 17. AS 09.17.090 is repealed.

13 \* Sec. 18. AS 09.38.115(b) is amended to read:

14 (b) The dollar amounts change on October [JULY] 1 of each even-  
15 numbered year if the percentage of change, calculated to the nearest  
16 whole percentage point, between the index for January [NOVEMBER] of  
17 that [THE PRECEDING] year and the most recent [REFERENCE BASE] index  
18 used to change the exemption amount, is 10 percent or more, but

19 (1) the portion of the percentage change in the index in  
20 excess of a multiple of 10 percent is disregarded and the dollar  
21 amounts change only in multiples of 10 percent of the amounts appear-  
22 ing in this chapter on August 26, 1982; and

23 (2) the dollar amounts do not change if the amounts re-  
24 quired by this section are those currently in effect as a result of  
25 earlier application of this section.

26 \* Sec. 19. AS 09.38.115(d) is amended to read:

27 (d) The Department of Labor shall adopt a regulation announcing

28 (1) on or before June [APRIL] 30 of each year in which  
29 dollar amounts are to change, the changes in dollar amounts required

1 by (b) of this section; and

2 (2) promptly after the changes occur, changes in the index  
3 required by (c) of this section, including, if applicable, the numer-  
4 ical equivalent of the reference base index under a revised reference  
5 base index and the designation or title of any index superseding the  
6 index.

7 \* Sec. 20. AS 11.66.280(4) is amended to read:

8 (4) "gambling enterprise" means a gambling business that  
9 [WHICH]

10 (A) includes five or more persons who conduct, fi-  
11 nance, manage, supervise, direct, or own all or part of the  
12 business;

13 (B) has been or remains in substantially continuous  
14 operation for a period in excess of 30 days or has a gross income  
15 of \$2,000 or more in any single day; and

16 (C) is not a municipality or a qualified organization  
17 under AS 05.15.210 [AS 05.15.210(15)], except that, for purposes  
18 of this paragraph, no application for a license under AS 05.15  
19 [AS 05.15.210(15)] is required to be considered a qualified  
20 organization;

21 \* Sec. 21. AS 14.07.058(f) is repealed.

22 \* Sec. 22. AS 14.17.140(b) is amended to read:

23 (b) Motor vehicles subject to the motor vehicle registration tax  
24 under AS 28.10.431 [AS 28.10.255] shall be treated as taxable property  
25 for purposes of (a) of this section.

26 \* Sec. 23. AS 14.20.420(a) is amended to read:

27 (a) The term of office for each member of the commission is  
28 three years and until a successor is appointed [, EXCEPT THAT MEMBERS  
29 OF THE FIRST COMMISSION SHALL BE APPOINTED AS FOLLOWS: THREE MEMBERS

1 FOR ONE YEAR, THREE MEMBERS FOR TWO YEARS, AND THREE MEMBERS FOR THREE  
2 YEARS. MEMBERS OF THE FIRST COMMISSION SHALL DRAW BY LOT FOR THE  
3 INITIAL TERM OF APPOINTMENT].

4 \* Sec. 24. AS 14.42.030(b) is amended to read:

5 ( , The commission shall

6 (1) develop a comprehensive statewide plan for coordinated  
7 postsecondary education in the state and serve as the state commission  
8 on postsecondary education required under sec. 1202 of Title XII of  
9 the Higher Education Act of 1965, as amended by the Education Amend-  
10 ments of 1972 (PL 92-318, sec. 196; 86 Stat. 324);

11 (2) establish a state advisory council on community col-  
12 leges and develop a comprehensive statewide plan for the expansion and  
13 improvement of the community colleges under sec. 1001 of Title X of  
14 the Higher Education Act of 1965, as amended by the Education Amend-  
15 ments of 1972 (PL 92-318, sec. 186; 86 Stat. 312, 313);

16 (3) serve as the state agency required under secs. 105 of  
17 Title I (Community Service and Continuing Education), 603 of Title VI  
18 (Financial Assistance for Undergraduate Education), [AND] 704 of Title  
19 VII (Construction of Academic Facilities), and Part B of Title IV  
20 (Guaranteed Student Loan Program) of the Higher Education Act of 1965  
21 (PL 89-329; 79 Stat. 1220, 1262; 20 U.S.C. 1005, 1123) as authorized  
22 by sec. 1202(c) of Title XII of the Higher Education Act of 1965, as  
23 amended by the Education Amendments of 1972 (PL 92-318, sec. 196; 86  
24 Stat. 324);

25 (4) administer the provisions of AS 14.43.090 - 14.43.160  
26 (student loan program), and serve as the student financial aid commit-  
27 tee;

28 (5) administer the provisions of AS 14.48 (regulation of  
29 postsecondary educational institutions);

1 (6) resolve any disputes that exist or arise under a con-  
2 sortium or other cooperative agreement between institutions of public  
3 and private higher education in the state.

4 \* Sec. 25. AS 15.13.100 is amended to read:

5 Sec. 15.13.100. EXPENDITURES BEFORE FILING. A [NO] political  
6 campaign expenditure may not be made or incurred by a person in an  
7 election or by a person or group with the person's [HIS] knowledge and  
8 on the person's [HIS] behalf before the date upon which the person [HE  
9 OR SHE] files for nomination for the office which the person seeks,  
10 except for personal travel expenses or for opinion surveys or polls.  
11 These expenditures must [SHALL BE CHARGED AGAINST THE SPENDING LIMITA-  
12 TION THAT APPLIES TO THE OFFICE FOR WHICH HE SUBSEQUENTLY FILES, AND  
13 SHALL] be included in the first report required under this chapter  
14 after filing for office.

15 \* Sec. 26. AS 15.13.120(a)(2) is amended to read:

16 (2) making a campaign contribution that [OR EXPENDITURE  
17 WHICH] exceeds the limitations of AS 15.13.070 [AS 15.13.070(f)].

18 \* Sec. 27. AS 16.05.390(b) is amended to read:

19 (b) Each agent authorized to sell licenses or tags under AS 16.-  
20 05.380 shall, as directed by the commissioner of revenue, transmit the  
21 proceeds from the sales of licenses and tags, except the amount autho-  
22 rized to be retained, together with a report of the sales, to the  
23 commissioner for deposit in the fish and game fund or the general  
24 fund. [FEES IMPOSED UNDER AS 16.05.340(e) SHALL BE COLLECTED AND  
25 TRANSMITTED IN THE SAME MANNER.]

26 \* Sec. 28. AS 16.05.430(a) is amended to read:

27 (a) A person who violates AS 16.05.330 - 16.05.420 or a regula-  
28 tion adopted under AS 16.05.330 - 16.05.420 is guilty of a misdemeanor  
29 and upon conviction is punishable by a fine of not more than \$1,000,

1 or by imprisonment for not more than six months, or by both.

2 \* Sec. 29. AS 16.05.860 is amended to read:

3 Sec. 16.05.860. PENALTY FOR VIOLATING FISHWAY AND HATCHERY  
4 REQUIREMENTS. (a) The owner of a dam or obstruction who fails to  
5 comply with AS 16.05.840 or 16.05.850 or a regulation adopted under  
6 AS 16.05.840 or 16.05.850 within a reasonable time specified by writ-  
7 ten notice from the commissioner is guilty of a misdemeanor, and is  
8 punishable by a fine of not more than \$1,000. Each day the owner  
9 fails to comply constitutes a separate offense.

10 (b) In addition to the fine, the dam or other obstruction  
11 managed, controlled, or owned by a person violating AS 16.05.840 or  
12 16.05.850 or a regulation adopted under AS 16.05.840 or 16.05.850 is a  
13 public nuisance and is subject to abatement.

14 \* Sec. 30. AS 16.05.925 is amended to read:

15 Sec. 16.05.925. PENALTY FOR VIOLATIONS. Except as provided in  
16 AS 16.05.430, 16.05.720, 16.05.831, and 16.05.860, a [A] person who  
17 violates AS 16.05.920, or a regulation adopted under this chapter or  
18 AS 16.20, is guilty of a class A misdemeanor. [HOWEVER, A PERSON WHO  
19 VIOLATES A REGULATION ADOPTED UNDER THIS CHAPTER FOR THE REGULATION OF  
20 COMMERCIAL FISHERIES IS SUBJECT TO THE PENALTIES SET OUT IN AS 16.05.-  
21 720.]

22 \* Sec. 31. AS 16.10.470(b) is amended to read:

23 (b) A person who holds a permit for the operation of a salmon  
24 hatchery under AS 16.10.400 - 16.10.470 and each regional association  
25 levying a voluntary [ROYALTY] assessment under AS 16.10.540 [AS 16.-  
26 10.530] shall submit an annual financial report to the Department of  
27 Commerce and Economic Development on a form to be provided by the  
28 Department of Commerce and Economic Development.

29 \* Sec. 32. AS 16.10.475 is repealed.

1 \* Sec. 33. AS 16.10.540 is amended to read:

2       Sec. 16.10.540. VOLUNTARY ASSESSMENT ON SALE OF SALMON. (a) An  
3 [IN PLACE OF OR IN ADDITION TO AN ASSESSMENT LEVIED UNDER AS 16.10.-  
4 530, AN] association of persons who hold entry permits under AS 16.43,  
5 which consists of at least 51 percent of the persons holding entry  
6 permits and actively participating in a fishery to be benefited by a  
7 hatchery program, may levy and collect an assessment from among its  
8 members for the purpose of securing and repaying a loan made under  
9 AS 16.10.510.

10       (b) Upon satisfactory demonstration to the commissioner that an  
11 assessment levied under this section may reasonably be relied upon to  
12 secure and repay a loan to be made under AS 16.10.510, the commis-  
13 sioner may make the loan [WITHOUT REQUIRING AN ASSESSMENT UNDER  
14 AS 16.10.530].

15       (c) [IF AN ASSESSMENT MADE UNDER THIS SECTION FAILS TO SATISFY  
16 THE PAYMENTS REQUIRED ON THE PRINCIPAL AND INTEREST DUE ON THE LOAN  
17 THE COMMISSIONER MAY NEGOTIATE WITH THE REGIONAL ASSOCIATION TO LEVY  
18 AN ASSESSMENT UNDER AS 16.10.530.]

19 \* Sec. 34. AS 16.30.030(3) is repealed.

20 \* Sec. 35. AS 16.43.030(a) is amended to read:

21       (a) The members of the commission shall be appointed for terms  
22 of four years. [INITIAL APPOINTMENTS SHALL BE AS FOLLOWS: ONE MEMBER  
23 FOR TWO YEARS, ONE MEMBER FOR THREE YEARS, AND ONE MEMBER FOR FOUR  
24 YEARS.]

25 \* Sec. 36. AS 16.43.182 is repealed.

26 \* Sec. 37. AS 16.43.980(b) is repealed.

27 \* Sec. 38. AS 18.55.570(c) is amended to read:

28       (c) Bonds and notes of the authority issued under AS 18.55.480 -  
29 18.55.960 shall be authorized by its resolution and may be issued in

1 one or more series and shall bear the date or dates, be payable upon  
2 demand or mature at the time or times, bear interest at the rate or  
3 rates provided [FOR BONDS AND NOTES OF THE AUTHORITY UNDER AS 18.55.-  
4 190], be in the denomination or denominations, be in the form either  
5 coupon or registered, carry the conversion or registration privileges,  
6 have the rank or priority, be executed in the manner, be payable in  
7 the medium of payment, at the place or places, and be subject to the  
8 terms of redemption, with or without premium, which the resolution,  
9 its trust indenture or mortgage provides.

10 \* Sec. 39. AS 18.56.900(9) is amended to read:

11 (9) "mortgage" or "mortgage loan" means a mortgage loan for  
12 residential housing insured or guaranteed by the United States or an  
13 instrumentality of the United States or for which there is a commit-  
14 ment by the United States or an instrumentality of the United States  
15 to insure or guarantee such a mortgage, or if not so insured or guar-  
16 anteed or if there is no such commitment, that is [WHICH THE CORPO-  
17 RATION DETERMINES MEETS THE CONDITIONS DESCRIBED IN AS 18.56.100(k) OR  
18 WHICH SHALL BE] secured upon such terms and conditions as the corpo-  
19 ration considers necessary or practicable to insure all repayments;

20 \* Sec. 40. AS 18.67.101 is amended to read:

21 Sec. 18.67.101. INCIDENTS AND OFFENSES TO WHICH AS 18.67.010 -  
22 18.67.180 APPLY. The board may order the payment of compensation in  
23 accordance with the provisions of this chapter for personal injury or  
24 death that resulted from

25 (1) an attempt on the part of the applicant to prevent the  
26 commission of crime, or to apprehend a suspected criminal, or aiding  
27 or attempting to aid a police officer to do so, or aiding a victim of  
28 crime; or

29 (2) the commission or attempt on the part of one other than

1 the applicant to commit any of the following offenses: murder in any  
2 degree, manslaughter, criminally negligent homicide, assault in the  
3 first or second degree, kidnapping, sexual assault in any degree,  
4 sexual abuse of a minor, robbery in any degree, [CONTRIBUTING TO THE  
5 DELINQUENCY OF A MINOR UNDER AS 11.51.130(a)(4),] threats to do bodily  
6 harm, or driving while intoxicated or another crime resulting from the  
7 operation of a motor vehicle, boat, or airplane when the offender is  
8 intoxicated.

9 \* Sec. 41. AS 21.09.210(b) is amended to read:

10 (b) Each insurer, and each formerly authorized insurer with  
11 respect to premiums received while an authorized insurer in this  
12 state, shall pay tax on the total direct premium income received  
13 during the year ending on the preceding December 31 and paid for the  
14 insurance of property or risks resident or located in the state other  
15 than wet marine and transportation insurance, after deducting from the  
16 total direct premium income the applicable cancellations, returned  
17 premiums, the unabsorbed portion of any deposit premium, all policy  
18 dividends, unabsorbed premiums refunded to policyholders, refunds,  
19 savings, savings coupons and other similar returns paid or credited to  
20 policyholders with respect to their policies. No deductions may be  
21 made of cash surrender value of policies. Considerations received on  
22 annuity contracts are not included in the direct premium income and  
23 are not subject to tax. The tax shall be paid to the director annual-  
24 ly before April 1, and [, EXCEPT AS PROVIDED IN AS 21.69.390(c),] is  
25 computed at the rate of

26 (1) for domestic and foreign insurers, except hospital and  
27 medical service corporations, 2.7 percent;

28 (2) for hospital and medical service corporations, six  
29 percent of their gross premiums less claims paid.

1 \* Sec. 42. AS 21.69.390(c) is repealed.

2 \* Sec. 43. The revisor of statutes shall substitute "director" for  
3 "commissioner" where the latter appears in the following provisions of  
4 AS 21.80 (Alaska Guaranty Association Act): AS 21.80.050(a) and (b);  
5 21.80.060(a)(5) and (6); 21.80.070(a), (c)(7) and (8), and (d); 21.80.080;  
6 21.80.110; 21.80.120; 21.80.150; and 21.80.170(a) and (b).

7 \* Sec. 44. AS 21.80.170(c) is amended to read:

8 (c) If the operation of the Alaska Insurance Guaranty Associa-  
9 tion is terminated as to all kinds of insurance otherwise within its  
10 scope, the association, as soon as possible thereafter, shall distrib-  
11 ute the balance of money and assets remaining after discharge of the  
12 functions of the association with respect to prior insurer insol-  
13 vencies not covered by the other plan, together with related expenses,  
14 to the insurers which are then writing in this state policies of the  
15 kinds of insurance covered by this chapter and which had made payments  
16 to the association, pro rata upon the basis of the aggregate of the  
17 payments made by the respective insurers during the period of five  
18 years next preceding the date of the termination order. Upon comple-  
19 tion of this distribution with respect to all of the kinds of insur-  
20 ance covered by this chapter, the director shall certify that fact to  
21 the legislature together with the director's recommendations for the  
22 amendment or repeal of this chapter [SHALL BE CONSIDERED TO HAVE  
23 EXPIRED].

24 \* Sec. 45. AS 21.80.180(5) is amended to read:

25 (5) "insolvent insurer" means an insurer

26 (A) authorized to transact insurance in this state,  
27 except an assessable reciprocal insurer formed by and insuring  
28 only municipalities or nonprofit public utilities, a reciprocal  
29 insurer formed under AS 21.75 to provide marine insurance, a

joint insurance arrangement formed under AS 21.76, and the Medical Indemnity Corporation of Alaska, [AND THE HEALTH CARE PROVIDERS JOINT UNDERWRITING ASSOCIATION ESTABLISHED UNDER AS 21.-88,] either at the time the policy was issued or when the insured event occurred, and

(B) determined to be insolvent by a court of competent jurisdiction;

\* Sec. 46. AS 21.80.180(6) is amended to read:

(6) "member insurer" means a person, except an assessable reciprocal insurer formed by and insuring only municipalities or nonprofit public utilities, a reciprocal insurer formed under AS 21.75 to provide marine insurance, a joint insurance arrangement formed under AS 21.76, and the Medical Indemnity Corporation of Alaska, [AND THE HEALTH CARE PROVIDERS JOINT UNDERWRITING ASSOCIATION ESTABLISHED UNDER AS 21.88,] who

(A) writes insurance to which this chapter applies under AS 21.80.020 including the exchange of reciprocal or inter-insurance contracts, and

(B) is licensed to transact insurance in the state;

\* Sec. 47. AS 22.15.240(c) and 22.15.240(d) are repealed.

\* Sec. 48. AS 24.45.116 is amended to read:

Sec. 24.45.116. DISCLOSURE OF CONTRIBUTIONS. A [BEFORE A CIVIC LEAGUE OR ORGANIZATION MAY BE ELIGIBLE FOR THE BENEFITS OF AS 43.20.-031(f), IT MUST AGREE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION. THE] civic league or organization shall report the total amount of contributions received for the reporting period and for any contribution over \$100, the name of the contributor and the amount contributed. The civic league or organization may establish a separate fund to account for receipts and expenditures arising out of activities to

1 influence legislative action. Reports shall be made on a form pro-  
2 vided by the commission on February 10, April 25, and July 10 of each  
3 year, listing contributions received during the period that ended 10  
4 days earlier.

5 \* Sec. 49. AS 29.10.200(43) is amended to read:

6 (43) AS 29.45.700(d) (sales and use tax) [AS 29.45.700(a)  
7 (POWER OF LEVY)]

8 \* Sec. 50. AS 29.45.230(e) is amended to read:

9 (e) In this section "disaster" means a major disaster declared  
10 by the President of the United States under [THE PROVISIONS OF 42  
11 U.S.C. SEC. 1855 - 1855g (FEDERAL DISASTER ACT OF 1950), OR OTHER]  
12 federal law [,] or a disaster declared by the governor under AS 26.-  
13 23.010 - 26.23.110.

14 \* Sec. 51. AS 29.45.700(a) is amended to read:

15 (a) A city in a borough that levies and collects areawide sales  
16 and use taxes may levy sales and use taxes on all sources taxed by the  
17 borough in the manner provided for boroughs. Except as provided in  
18 (d) of this section, the [THE] assembly may by ordinance authorize a  
19 city to levy and collect sales and use taxes on other sources [EXCEPT  
20 PURCHASES MADE WITH FOOD COUPONS, FOOD STAMPS, OR OTHER TYPE OF CER-  
21 TIFICATE ISSUED UNDER 7 U.S.C. 2011 - 2025 (FOOD STAMP ACT). THIS  
22 SUBSECTION APPLIED TO HOME RULE AND GENERAL LAW MUNICIPALITIES].

23 \* Sec. 52. AS 29.45.700 is amended by adding a new subsection to read:

24 (d) A city that levies and collects sales and use taxes under  
25 (a) of this section may not levy and collect a sales tax on a purchase  
26 made with food coupons, food stamps, or other type of certificate  
27 issued under 7 U.S.C. 2011 - 2025 (Food Stamp Act). This subsection  
28 applies to home rule and general law municipalities.

29 \* Sec. 53. Sections 49, 51, and 52 of this Act are retroactive to

1 October 1, 1986.

2 \* Sec. 54. AS 33.30 is amended by adding a new section to read:

3 Sec. 33.30.026. CONTRACTS. Contracting for services under this  
4 chapter is governed by AS 36.30 (State Procurement Code).

5 \* Sec. 55. AS 33.30.031(c) is amended to read:

6 (c) Notwithstanding AS 36.30.300 [AS 37.05.230(1)(B)], an agree-  
7 ment with a private agency to provide necessary facilities under (a)  
8 of this section must be based on competitive bids.

9 \* Sec. 56. AS 35.15.060 is repealed.

10 \* Sec. 57. AS 35.27.030(1) and AS 35.30.040(1) are repealed.

11 \* Sec. 58. AS 36.25.020(c) is amended to read:

12 (c) A suit brought under this section shall be brought in the  
13 name of the state or the political subdivision of the state for the  
14 use of the person suing in the [SUPERIOR] court with jurisdiction. A  
15 suit under this section is subject to AS 08.18.151. A [NO] suit may  
16 not be started after the expiration of one year after the date of  
17 final settlement of the contract. The state or political subdivision  
18 of the state is not liable for costs or expenses of the suit.

19 \* Sec. 59. AS 36.30.730 is amended by adding a new subsection to read:

20 (f) The commissioner shall separately account for fees collected  
21 under (c) and (d) of this section and deposited in the general fund.  
22 The annual estimated balance in the account may be used by the legis-  
23 lature to make appropriations to the department to carry out the  
24 purposes of (c) and (d) of this section.

25 \* Sec. 60. AS 36.30.900 is amended to read:

26 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter  
27 does not modify, amend, or alter AS 36.15.010 and 36.15.020 regarding  
28 preference for Alaska forest products, or AS 36.15.050 and 36.15.060  
29 regarding preference for Alaska agricultural and fisheries products

1 [AS 36.20.010 REGARDING PREFERENCE TO PRODUCERS OR DEALERS IN ALASKA]  
2 except as provided in AS 36.30.170(b) and (c).

3 \* Sec. 61. AS 36.90.050(b) is amended to read:

4 (b) The competitive bid provisions of AS 36.30 [AS 37.05.230 AND  
5 THE COMPETITIVE BIDDING PROVISIONS OF ANY OTHER LAW] do not apply to a  
6 contract for the maintenance or repair of a marine vessel owned by the  
7 state if the contract is awarded to a facility in the state.

8 \* Sec. 62. AS 37.05.157, 37.05.158, and AS 37.07.062(c)(4) are re-  
9 pealed.

10 \* Sec. 63. AS 37.10.088(b) is amended to read:

11 (b) The [UNTIL JUNE 30, 1980, THE TOTAL OF ADVANCES IN ANY  
12 FISCAL YEAR MAY NOT EXCEED 20 PER CENT OF THE TOTAL OF GRANTS AND  
13 CONTRACTS FROM FEDERAL AND PRIVATE SOURCES APPROPRIATED TO THE UNIVER-  
14 SITY FOR THAT FISCAL YEAR. AFTER JUNE 30, 1980, THE] total of ad-  
15 vances in a [ANY] fiscal year may not exceed 10 percent of the total  
16 of grants and contracts from federal and private sources appropriated  
17 to the university for that fiscal year. The amounts advanced in a  
18 [ANY] fiscal year shall be repaid in full to the department within 120  
19 days following the close of that fiscal year. If the repayment is not  
20 made on a timely basis, the department may withhold amounts due from  
21 state fund appropriations for the university.

22 \* Sec. 64. AS 37.20.040 is repealed.

23 \* Sec. 65. AS 37.25.030 is repealed.

24 \* Sec. 66. AS 38.09.100 is amended to read:

25 Sec. 38.09.100. LESSEES OF REMOTE PARCELS. (a) A lessee of a  
26 remote parcel under former AS 38.05.077 may elect to obtain title to  
27 the remote parcel under AS 38.09.050. If a lessee of a remote parcel  
28 elects to obtain title under AS 38.09.050, July 28, 1983, shall be  
29 considered the date of the issuance of the homestead entry permit.

1 (b) Except as provided in (a) of this section, nothing in  
2 this chapter affects the rights and obligations of lessees of remote  
3 parcels under former AS 38.05.077.

4 \* Sec. 67. AS 39.05.060(a)(6) is repealed.

5 \* Sec. 68. AS 39.05.100(a) is amended to read:

6 (a) A person appointed to a board or commission of the state  
7 government [,] shall be and have been before the last general elec-  
8 tion, (1) a registered voter in the state, if the appointment is made  
9 at large or (2) a registered voter from the judicial district, if the  
10 appointment is made from a specific judicial district. The student  
11 member of the Board of Regents of the University of Alaska appointed  
12 under AS 14.40.150(b) and the student member of the Alaska Commission  
13 on Postsecondary Education appointed under AS 14.42.015(e) are exempt  
14 from the requirement of this subsection if the member was not old  
15 enough to be a registered voter in the last general election.

16 \* Sec. 69. AS 39.25.110(11)(C) and AS 39.50.200(b)(43) are repealed.

17 \* Sec. 70. AS 43.05.210 is repealed.

18 \* Sec. 71. AS 43.70.020(b) is amended to read:

19 (b) Application for a renewal of a license and payment of the  
20 annual [INITIAL] fee under AS 43.70.030 shall be made before Febru-  
21 ary 1 of each year.

22 \* Sec. 72. AS 43.70.030(d), 43.70.040, and 43.70.110(2) and (3) are  
23 repealed.

24 \* Sec. 73. AS 43.70.090 is amended to read:

25 Sec. 43.70.090. REGULATIONS. The department may adopt regula-  
26 tions necessary to determine and collect the fees imposed by this  
27 chapter [AND MAY ADOPT REGULATIONS DEFINING THE NECESSARY METHODS OF  
28 COMBINATION AND APPORTIONMENT FOR MULTISTATE FINANCIAL INSTITUTIONS  
29 REQUIRED TO FILE UNDER THIS CHAPTER].

1 \* Sec. 74. AS 43.80.015(b) is amended to read:

2 (b) The receipt of land or an interest in it under the federal  
3 Act or of cash in order to equalize the values of property exchanged  
4 under sec. 22(f) of that Act or AS 38.50 [AS 38.95.060] is not subject  
5 to any form of state or local taxation. The basis for computing gain  
6 or loss on subsequent sale or other disposition of this land or inter-  
7 est in land for purposes of a state or local tax imposed on or mea-  
8 sured by income is the fair value of the land or interest in land at  
9 the time of receipt.

10 \* Sec. 75. AS 43.80.015(c) is amended to read:

11 (c) A real property interest conveyed under the federal Act,  
12 AS 38.50, or AS 38.95.050 [OR 38.95.060], including land received in  
13 an exchange under sec. 22(f) of the federal Act or AS 38.50 [AS 38.-  
14 95.060], to a Native individual or corporation incorporated under  
15 Alaska law pursuant to the federal Act, which interest is not devel-  
16 oped or leased to third parties, is exempt from state and local real  
17 property taxes and local assessments until December 18, 1991. How-  
18 ever, municipal taxes, local real property taxes, or local assessments  
19 may, under the laws of the state, be imposed upon leased or developed  
20 real property within the jurisdiction of any governmental unit or-  
21 ganized under the laws of the state. Easements, rights-of-way, lease-  
22 holds, and similar interests in real property may be taxed in accor-  
23 dance with state or local law. All rents, royalties, profits, and  
24 other revenues or proceeds derived from property interests are taxable  
25 to the same extent as these revenues or proceeds are taxable when  
26 received by a non-native individual or corporation. In sec. 21(d) of  
27 the federal Act, the exemption of real property interests from local  
28 real property taxes includes exemption from local assessments and  
29 extends to land received in an exchange under sec. 22(f) of the

1 federal Act or AS 38.50 [AS 38.95.060].

2 \* Sec. 76. AS 44.62.175(a)(4) is amended to read:

3 (4) notices of state agency requests for proposals issued  
4 under AS 18.55.255, 18.55.320; AS 36.30.210; AS 37.05.316; AS 38.05.-  
5 120; and AS 43.40.010;

6 \* Sec. 77. AS 44.62.330(a)(46) is repealed.

7 \* Sec. 78. AS 45.55.040(b) is amended to read:

8 (b) The administrator may by regulation or order require an  
9 applicant for initial registration to publish an announcement of the  
10 application in one or more specified newspapers published in this  
11 state. If no denial order is in effect and no proceeding is pending  
12 under AS 45.55.060, registration becomes effective at noon on the 30th  
13 day after an application is filed [, EXCEPT THAT REGISTRATION BECOMES  
14 EFFECTIVE UPON FILING OF THE APPLICATION BY ANY OF THE PERSONS SUBJECT  
15 TO THIS CHAPTER WHO WERE DOING BUSINESS IN THIS STATE ON MAY 9, 1959].  
16 The administrator may by regulation or order specify an earlier effec-  
17 tive date, and the administrator may by order defer the effective date  
18 until noon of the 30th day after the filing of an amendment.

19 \* Sec. 79. AS 45.55.090(b) is amended to read:

20 (b) A registration statement under this section shall contain  
21 the following information and be accompanied by the following docu-  
22 ments in addition to the information specified in AS 45.55.110(c) and  
23 the consent to service of process required by AS 45.55.260(g):

24 (1) one copy [THREE COPIES] of the latest form of prospec-  
25 tus filed under the Securities Act of 1933;

26 (2) if the administrator requires, copies of the articles  
27 of incorporation and bylaws (or their substantial equivalent) cur-  
28 rently in effect, a copy of an agreement with or among underwriters, a  
29 copy of an indenture or other instrument governing the issuance of the

1 security to be registered, and a specimen or copy of the security;

2 (3) if the administrator requests, any other information,  
3 or copies of any other documents, filed under the Securities Act of  
4 1933; and

5 (4) an undertaking to forward all future amendments to the  
6 federal prospectus, other than an amendment which merely delays the  
7 effective date of the registration statement, promptly and in any  
8 event not later than the first business day after the day they are  
9 forwarded to or filed with the Securities and Exchange Commission,  
10 whichever first occurs.

11 \* Sec. 80. AS 45.88.030(d) is amended to read:

12 (d) All principal and interest payments on loans made under this  
13 chapter shall be paid into the alternative [TECHNOLOGY AND] energy  
14 revolving loan fund.

15 \* Sec. 81. AS 45.88.030(e) is amended to read:

16 (e) [THE RATE OF INTEREST FOR A LOAN UNDER THIS SECTION, OTHER  
17 THAN A LOAN FOR AN ALTERNATIVE ENERGY SYSTEM, MAY NOT EXCEED NINE AND  
18 ONE-HALF PERCENT A YEAR ON THE UNPAID BALANCE OF THE LOAN.] The rate  
19 of interest for a loan for an alternative energy system is five per-  
20 cent for the first \$15,000 of the loan and 15 percent for the amount  
21 of the loan that exceeds \$15,000.

22 \* Sec. 82. AS 46.15.200 is amended to read:

23 Sec. 46.15.200. TERM OF OFFICE. The term of office for members  
24 of the board is four years. [THE FIRST MEMBERS APPOINTED SERVE AS  
25 FOLLOWS: TWO MEMBERS SERVE FOR ONE YEAR, THREE FOR TWO YEARS AND TWO  
26 FOR THREE YEARS.] If a vacancy occurs, the governor shall fill it by  
27 appointment for the unexpired term. The appointment shall be submit-  
28 ted to the legislature for confirmation at the next regular or special  
29 session.

1 \* Sec. 83. Section 65, ch. 106, SLA 1986 is amended to read:

2 Sec. 65. REPORT. By December 1, 1988, the commissioner of  
3 administration and the commissioner of transportation and public  
4 facilities shall report to the legislature concerning procurements by  
5 state agencies during fiscal year 1988 [1987]. The report must in-  
6 clude

7 (1) a summary of the information required under AS 36.30.-  
8 510 [THE RECORDS PREPARED UNDER AS 36.30.510(4)];

9 (2) recommendations for changes in AS 36.30 or other laws  
10 based on implementation of AS 36.30 in those 12 months; and

11 (3) a description of any matters that involved litigation  
12 concerning AS 36.30 during those 12 months.

13 \* Sec. 84. Sections 54, 55, 59 - 61, 76, and 83 of this Act take effect  
14 on the effective date of sec. 2, ch. 106, SLA 1986.

15 \* Sec. 85. Except for secs. 54, 55, 59 - 61, 76, and 83, this Act takes  
16 effect immediately under AS 01.10.070(c).  
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STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
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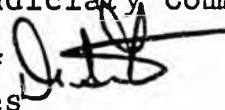
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 30, 1987

SUBJECT: HCS CSSB 107(Judiciary)

TO: Representative John Sund  
Chairman, House Judiciary Committee

FROM: David R. Dierdorff   
Revisor of Statutes

This memorandum discusses the draft committee substitute prepared for the consideration of the Judiciary Committee. The draft incorporates my additions and corrections and the amendments suggested by Representative Gruenberg and staff.

Summary of Changes

The draft contains 17 new sections. They are: 1, 2, 25, 31, 33, 38-42, 44-46, 48, 67, 74, and 75. One section that was in CSSB 107(Jud) has been deleted. That was sec. 34. Its provisions have been included in sec. 47 of the draft HCS.

In addition, six sections have been modified. Those sections are: sec. 7, which was sec. 5 in CSSB 107(Jud); sec. 26, which was sec. 23; sec. 47, which was sec. 33; sec. 58, which was sec. 44; sec. 83, which was sec. 66; and former sec. 67, which is now secs. 84 and 85.

Finally, one section was split into two sections for technical reasons. Former sec. 28 is now in secs. 32 and 34.

Summary of Effect

To assist you in understanding the draft, I have summarized the contents by grouping sections that have similar effects.

Sections that delete obsolete provisions:

The following sections delete or repeal provisions that have become obsolete either through the passage of time or other legislative action: 1, 2, 6, 8, 10-13, 21, 23, 25-27, 31,

33, 35-42, 45, 46, 48, 50, 56, 63-65, 67, 69, 72, 73, 78 and 80-82.

Sections that update obsolete provisions:

The following sections substitute new provisions for provisions that are obsolete or otherwise outdated, and make conforming changes in related provisions: 3, 5, 7, 9, 18-20, 22, 44, 55, 60, 61, 66, 71, 74, and 75.

Sections that repeal redundant provisions:

The following sections repeal provisions that are duplicated by other applicable law, and make conforming changes in related provisions: 14-17, 32, 34, and 57.

Sections that eliminate conflicts with other laws:

The following sections resolve conflicts with other statutes, the constitution, court decisions, opinions of the attorney general, or the Rules of Court: 24, 47, 58, 62, 68, 70, and 79.

Sections that correct errors or oversights in drafting:

The following sections correct errors or oversights in drafting, or make conforming amendments to harmonize laws passed during the same legislative session that could not be harmonized editorially: 28-30, 43, 49, 51-54, 59, 76, 77, and 83.

Sectional Analysis

Section 1. The section referred to, and proposed for deletion, was repealed by initiative in 1984.

Sec. 2. The statutory references proposed for deletion are to provisions repealed in 1978.

Sec. 3. Section 3 of the bill corrects a statutory reference and makes other form and style changes in AS 06.30.720. AS 06.30.660 was repealed by sec. 54, ch. 169, SLA 1978. The same 1978 Act, in sec. 42, enacted AS 06.01.030, with substantially the same provisions as former AS 06.30.660. Requested by the Division of Banking and Securities.

Sec. 4. All of the former paragraphs of the two subsections proposed for repeal (relating to sunset review of certain agencies) have been repealed, leaving only irrelevant introductory text in the subsections.

Sec. 5. See analysis of sec. 7.

Sec. 6. AS 08.04.250 was repealed in 1976, making the reference obsolete.

Sec. 7. This section and sec. 5 conform the usages to current style for defined terms. The term "live permit" is used in several sections of AS 08.04, but the only definition has been the archaic reference in AS 08.04.500(a), proposed for amendment in sec. 5. The definition proposed for enactment in sec. 7 replaces the archaic reference.

Sec. 8. The deleted material is obsolete.

Sec. 9. The federal law which defined "motorboats" for the purpose of AS 08.62.180 has been repealed. The proposed amendment substitutes the substance of the former federal law.

Secs. 10 - 13. AS 08.64.200(i) was repealed in 1983, making the references obsolete.

Sec. 14. The definition in the section proposed for repeal duplicates a definition of the same term ("commission") in AS 08.88.431.

Secs. 15 - 17. The section proposed for repeal in sec. 17, AS 09.17.090, was enacted in the "tort reform" bill last session (ch. 139, SLA 1986). It is identical to the existing provisions of AS 09.16.040, which was enacted in 1970 and is part of the Uniform Contribution among Tortfeasors Act. Because the enactment of AS 09.17.090 did not add anything to the substantive law of Alaska and because the state's courts have had several occasions to interpret and enforce the existing statute, it is recommended that the legislature repeal the new provision to avoid confusion in the future. (An earlier version of the tort reform bill would have repealed AS 09.16, making the enactment of AS 09.17.090 necessary.) Sections 15 and 16 make changes in AS 09.17.080(a) and (c) required if AS 09.17.090 is repealed.

Secs. 18 and 19. Sections 18 and 19 make changes to AS 09.38.115 to reflect changes made by the federal government in the timing of issuance of the Anchorage CPI and to clarify the mandate of AS 09.38.115(b). The change was requested by the Department of Labor. The change of date in AS 09.38.115(b) from July 1 to October 1 was requested by the Court System to ensure adequate lead time in the preparation of related forms and to allow the efficient utilization of existing form inventories.

Sec. 20. This section updates a part of the definition of "gambling enterprise" to include a reference to municipalities, which were added in 1982 to the entities that may be licensed under AS 05.15 to conduct certain gambling activities. The internal references are also updated to current style for such references.

Sec. 21. The subsection proposed for repeal is obsolete. It was operative only during 1976.

Sec. 22. AS 28.10.255 was repealed in 1978. The current provisions relating to the motor vehicle registration tax are found in AS 28.10.431, and this section proposes that the reference to those laws in AS 14.17.140(b) be updated.

Sec. 23. The material proposed for deletion is obsolete.

Sec. 24. An April 22, 1986, memo from Assistant Attorney General Gary Amendola to Assistant Attorney General Art Peterson discussed the authority of the Alaska Commission on Postsecondary Education to adopt regulations related to the Guaranteed Student Loan Program. The commission desired to adopt the regulations to implement its role as the state guaranty agency for the federal loans. The memo concluded that the commission has the implied authority to adopt the regulations, but urged that the authority be made express through an amendment to AS 14.42.030(b)(3). Section 24 of this draft would accomplish that.

Sec. 25. The proposed amendment to AS 15.13.100 deletes language related to the former expenditure limitations, which were held unconstitutional (and repealed in 1986). It also makes necessary substitutions for personal pronouns.

Sec. 26. The proposed amendment to AS 15.13.120(a)(2) deletes a reference to the former expenditure limitations and corrects an apparent error in a related statutory

reference by deleting a reference to a repealed subsection and substituting the correct reference to the provisions on contribution limitations.

Sec. 27. This section deletes a sentence that was rendered obsolete by the repeal of AS 16.05.340(e) in 1986. The repealed subsection had established additional fees for big game taken on a guided hunt.

Secs. 28 - 30. The amendments proposed by secs. 28 - 30 of the draft would correct an apparent oversight in ch. 132, SLA 1984. When enacting AS 16.05.925, the legislature intended to make uniform the penalty for violations of regulations adopted under the fish and game laws. However, the new provision failed to take into account the existence of certain specific penalties in AS 16.05.430, 16.05.831, and 16.05.860, with the result that the penalty for violating a regulation adopted under one of those sections would carry a stiffer penalty than a violation of the section itself. That result could not be legally enforced, of course, but the oversight leads to confusion and uncertainty. The proposed amendments assume that the legislature did not intend to impliedly repeal the referenced penalty provisions, but, rather, that the lesser penalties for certain sport hunting and fishing violations should remain. The problem was brought to our attention by Jim Parker, director of magistrate services for the Court System, and Karla Forsythe, staff counsel for the system.

Secs. 31 and 33. These sections update provisions to reflect the repeal of AS 16.10.530 in 1984. In sec. 32, the reference to the repealed assessment is replaced by a reference to the existing voluntary assessment. In sec. 33, the references are simply deleted.

Secs. 32 and 34. These provisions were formerly combined in sec. 28 of CSSB 107(Jud). The division into two sections is required to conform to the drafting manual. The sections repeal redundant definitions.

Sec. 35. The material proposed for deletion is obsolete, relating only to the initial appointments to the entry commission.

Sec. 36. The section proposed for repeal related to the personal income tax repealed in 1980. It provided that the

purchase of an entry permit is a deductible business expense under that tax. Should the legislature reinstate a personal income tax, the treatment of deductible expenses should be enacted within the tax laws rather than within the laws relating to state programs.

Sec. 37. The subsection proposed for repeal deals solely with a report that was to have been made to the legislature in 1975 and is now obsolete.

Sec. 38. AS 18.55.190 was repealed in 1977, making the reference to it obsolete.

Sec. 39. AS 18.56.100(k) was repealed in 1982, making the reference to it obsolete.

Sec. 40. AS 11.51.130(a)(4) was repealed in 1983. Conduct formerly prohibited by the repealed provision is presently prohibited under the sexual assault and sexual abuse of a minor statutes.

Secs. 41 and 42. Section 42 repeals a provision that was made obsolete by legislative action last year that established a uniform taxation rate for foreign and domestic insurers. Section 41 deletes a reference to the provision proposed for repeal in sec. 42.

Sec. 43. The Alaska Guaranty Association Act (AS 21.80), enacted in 1970, was based on a Model Act promulgated by the National Association of Insurance Commissioners. Because the title of the administrative official regulating insurance in almost every state is "commissioner," the Model Act used that term and Alaska enacted it without change. In Alaska, the corresponding official is the director of the division of insurance, reporting to the commissioner of commerce and economic development (see AS 21.06). Although the use of the term "commissioner" in AS 21.80 presents no substantive legal problems, because the commissioner of commerce and economic development has the authority to delegate all responsibility to the director, it does cause some confusion. The division of insurance requested that the change of name be proposed in the revisor's bill. Section 43 of the draft would accomplish the desired result.

Sec. 44. AS 21.80.170(c) contains an unusual, somewhat ambiguous provision that would cause AS 21.80 to "expire." The proposed amendment would replace that language with a

requirement that the director of the division of insurance notify the legislature upon the happening of certain events, and include with the report the director's recommendations as to the repeal or amendment of AS 21.80.

Secs. 45 and 46. AS 21.88.110 - 21.88.180, providing for the health care providers joint underwriting association, were repealed in 1978. These sections delete obsolete references to the association.

Sec. 47. Repeals two subsection that relate to appeals from district to superior courts. Subsection (c) conflicted with the Rules of Court governing the same subject, and because the Rules of Court supersede the statutes in these matters, the subcommittee recommended repealing the provision rather than amending it to refer to the Rules of Court as was done in the Senate. Subsection (d) was proposed for repeal in the Senate version because it added nothing to the law. It provided simply that "the supreme court shall prescribe further rules for the procedure for appeals from district court".

Sec. 48. AS 43.20.031(f) was repealed in 1980, making the reference to it obsolete.

Secs. 49 and 51 - 53. Chapter 38, SLA 1986, which was intended solely to exempt purchases made with food stamps from municipal sales and use taxes, amended AS 29.45.700(a) and made a related amendment to AS 29.10.200. Unfortunately, a drafting error in ch. 38 led to an unintended result. Instead of the narrow result contemplated by the legislature, and reflected in the title of CSHB 697 (HESS), the amended law could be construed to require a home rule city in a borough that levies and collects an areawide sales tax to levy and collect a sales or use tax only in a manner identical to that of the borough in which the city is located. The amendments proposed in secs. 49, 51 and 52 of this draft would correct the error. Section 53 of the draft would make the amendments retroactive to October 1, 1986, the effective date of ch. 38, SLA 1986. The amendments were requested by the Department of Community and Regional Affairs and the City of Ketchikan.

Sec. 50. The referenced federal law was repealed by P.L. 91-606, making the reference obsolete.

Sec. 54. As a part of the new procurement code, AS 33.30.050, dealing with medical services for prisoners, and AS 33.30.062,

dealing with privately operated correctional facilities, were amended to incorporate express provisions subjecting the covered activities to AS 36.30. In ch. 88, SLA 1986, the corrections code was substantially rewritten and AS 33.30.050 and 33.30.062 were repealed. The proposed addition of a section to AS 33.30 making contracting activities under AS 33.30 subject to AS 36.30 is probably not required as a matter of law (AS 36.30 governs all state contracting activities unless expressly excluded), but the section is proposed to carry out the legislature's intent in enacting the 1986 amendments to the two repealed sections.

Sec. 55. The section amends AS 33.30.031(c) to reflect the repeal of AS 37.05.230(1)(B) and the adoption of corresponding provisions (relating to sole source procurements) in AS 36.30. This would continue the requirement that contracts for confinement and care of prisoners must be competitively bid.

Sec. 56. The section proposed for repeal is obsolete, relating only to construction contracts entered into before April 1, 1957. It exempted those contracts from procedures enacted in 1957.

Sec. 57. The two provisions proposed for repeal are definitions of "department" that are redundant to a definition in AS 35.25.020 that applies to all of AS 35.

Sec. 58. In 1985, jurisdiction in actions involving contractors' bonds under AS 08.18 was transferred from the superior court to the district court (sec. 1, ch. 77, SLA 1985). The change proposed in the first sentence of AS 36.25.020 would give the district and superior courts jurisdiction, depending on the amount in controversy, over suits involving bonds posted under Alaska's "little Miller Act" by contractors on public projects. Thus, the amount sought by the plaintiff would determine whether the suit would be filed in district or superior court. The proposed amendment would also add language codifying the rule of State v. Tyonek Timber, Inc., 680 P.2d 1148 (1984), in which the supreme court held that a contractor or subcontractor suing under AS 36.25 is subject to the registration requirements of AS 08.18 and, consequently, the penalty provisions of AS 08.18.151. The amendments were suggested by the Court System.

Sec. 59. Adds a provision to the procurement code to conform to the program receipts Act (ch. 138, SLA 1986). A similar former provision had been amended by ch. 138, SLA 1986, but was repealed by ch. 106, SLA 1986.

Sec. 60. The section proposed for amendment was enacted as part of the new procurement code, but was derived from CSHB 679(SA), which was merged into the procurement bill. The proposed amendment would delete a reference to a provision repealed by the procurement Act and add a reference to similar provisions enacted by ch. 16, SLA 1986.

Sec. 61. The amendment conforms the subsection to the new procurement code, which repealed AS 37.05.230 and contains all of the relevant competitive bidding provisions of state law.

Sec. 62. The two sections in AS 37.05 that are proposed for repeal establish the reserve for capital outlay account and the reserve for energy facilities development account in the general fund. The paragraph in AS 37.07.062 proposed for repeal relates to the reserve for capital outlay account and needs to be repealed if the account is repealed. The attorney general has determined that both accounts violate the prohibition against dedicated funds contained in art. IX, sec. 7 of the state constitution. On the advice of the attorney general, no deposits have ever been made to the accounts, and neither has an outstanding balance.

Sec. 63. The material proposed for deletion is time-dated and now obsolete.

Sec. 64. The statute proposed for repeal, AS 37.20.040, is obsolete. The state's obligation to pay into the Alaska Native Fund under sec. 9 of ANCSA was extinguished when the state paid a total of \$500 million to the fund. The last payment was made under an appropriation in ch. 120, SLA 1980. The Department of Revenue requested the repeal.

Secs. 65 and 69. The provisions proposed for repeal were made obsolete by the repeal of the Alaska Energy Center last year.

Sec. 66. AS 38.05.077 was repealed when AS 38.09 was enacted. The two references to the repealed section should have been drafted to read as proposed by this amendment.

Sec. 67. The paragraph proposed for repeal was made obsolete by the repeal of the Tourism Advisory Board last year in ch. 97, SLA 1986.

Sec. 68. Without the amendment proposed by this section, it is arguable that a student member of the Board of Regents or the Commission on Postsecondary Education is not eligible to serve unless the student was old enough to have voted in the last general election. This is inconsistent with the laws creating the student positions, which have no age requirements for the student member appointees. The amendment was requested by the Department of Law.

Sec. 70. The repeal of AS 43.05.210 would eliminate an old dedication of certain federal mineral leasing revenues. The dedication was required by the federal law, which has since been amended to eliminate the required dedication. In any event, the state has never identified this dedicated revenue stream as a fund source in the budget process. The Department of Revenue requested the repeal.

Sec. 71. The amendment clarifies the language of AS 43.70.-020(b) to reflect changes made in the business license tax in 1978 and 1984.

Sec. 72. The provisions proposed for repeal were rendered obsolete by the repeal of AS 43.70.030(b) in 1984 and the change from a "gross receipts" tax to an annual license in 1978. All businesses now pay a flat \$25 per year business license fee.

Sec. 73. The material proposed for deletion was rendered obsolete by the repeal of AS 43.70.030(b) in 1984.

Secs. 74 and 75. AS 38.95.060 was repealed in 1976, when the legislature enacted AS 38.50 to cover the same subject. The two sections substitute references to AS 38.50 for the references to the repealed provision.

Sec. 76. This corrects an oversight in ch. 106, SLA 1986 (the procurement code) by listing RFP's issued under AS 36.30.210 among those actions that must be published in the Alaska Administrative Journal. Publication of the RFP's is required by AS 36.30.210(c) and 36.30.130.

Sec. 77. The Department of Commerce and Economic Development currently manages 11 different state loan programs, using identical procedures for all of the programs. The procedures include an administrative appeal process. See 3 AAC 77 - 87. When the Fisheries Enhancement Loan Program was established in 1976, the hearing provisions of the Administrative Procedure Act were made applicable to that loan program. None of the other 10 programs were included under the APA, and, in fact, DCED was not aware that the fisheries loan program was included until an assistant attorney general recently discovered the inclusion. Both DCED and the Department of Law believe that the 1976 inclusion was the result of an error rather than an intentional legislative decision. The repeal of AS 44.62.330(a)(46) as proposed in sec. 77 of the bill would remove this anomaly.

Sec. 78. The material proposed for deletion is obsolete.

Sec. 79. The amendment proposed by this section would conform the requirements of AS 45.55.090(b)(1) to those of AS 45.55.100(b)(12) (dealing with a closely related matter) and eliminate an unnecessary requirement. The amendment was requested by the division of banking, securities and corporations and the Department of Law.

Sec. 80. The deleted material is obsolete.

Sec. 81. The deleted material is obsolete.

Sec. 82. The material proposed for deletion is obsolete.

Sec. 83. The version of the procurement code that became law did not contain the paragraph (4) referenced in sec. 65(1) of ch. 106. The proposed amendment substitutes the substance of proposed AS 36.30.510(4), which was included in earlier versions of the procurement code bill, for the obsolete reference. The amendment also corrects an erroneous reference to fiscal year 1987.

Sec. 84. This section provides that the sections of the bill that either amend or reference AS 36.30 take effect when AS 36.30 takes effect. Under present law, that will be July 1, 1987, but there are at least two bills under consideration that would change that date. The balance of the bill is given an immediate effective date by sec. 85.

DRD:csh  
c8/016

cc: Art Peterson  
Department of Law

Karla Forsythe  
Court System

# STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

## LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 27, 1987

SUBJECT: Proposed Amendments to CSSB 107(Judiciary)

TO: Representative John Sund  
Chairman, House Judiciary Committee

FROM: David R. Dierdorff  
Revisor of Statutes

Following the initial hearing on CSSB 107(Judiciary) (the 1987 revisor's bill), your staff requested that I prepare an amendment that would add to the bill any "newly discovered" material. The enclosed amendment incorporates the proposed solutions for statutory problems identified after the original bill was introduced.

All but four of the 16 new sections deal with references to repealed provisions. Two of the new sections correct an oversight, one section amends an unusual provision that might lead to confusion as to whether a law had been repealed, and the last new section adds a special effective date for those sections of the bill related to the new procurement code.

### Sectional Analysis

Section 1. The section referred to, and proposed for deletion, was repealed by initiative in 1984.

Sec. 2. The statutory references proposed for deletion are to provisions repealed in 1978.

Secs. 30 and 32. These sections update provisions to reflect the repeal of AS 16.10.530 in 1984. In sec. 30, the reference to the repealed assessment is replaced by a reference to the existing voluntary assessment. In sec. 32, the references are simply deleted.

Secs. 31 and 33. These provisions were formerly combined in sec. 28 of CSSB 107(Jud). The division into two sections is

Representative Sund  
Page 2  
April 27, 1987

required to conform to the drafting manual. The sections repeal redundant definitions.

Sec. 37. AS 18.55.190 was repealed in 1977.

Sec. 38. AS 18.56.100(k) was repealed in 1982.

Sec. 39. AS 11.51.130(a)(4) was repealed in 1983. Conduct formerly prohibited by the repealed provision is presently prohibited under the sexual assault and sexual abuse of a minor statutes.

Secs. 40 and 41. Section 41 repeals a provision that was made obsolete by legislative action last year that established a uniform taxation rate for foreign and domestic insurers. Section 40 deletes a reference to the repealed provision.

Sec. 43. AS 21.80.170(c) contains an unusual, somewhat ambiguous provision that would cause AS 21.80 to "expire." The proposed amendment would replace that language with a requirement that the director of the insurance division notify the legislature upon the happening of certain events, and include with the report the director's recommendations as to the repeal or amendment of AS 21.80.

Secs. 44 and 45. AS 21.88.110 - 21.88.180, providing for the health care providers joint underwriting association, were repealed in 1978.

Sec. 48. AS 43.20.031(f) was repealed in 1980. It may be more appropriate to repeal AS 24.45.116 than to amend it.

Secs. 73 and 74. AS 38.95.060 was repealed in 1976, when the legislature enacted AS 38.50 to cover the same subject. The two sections substitute references to AS 38.50 for the references to the repealed provision.

Sec. 83. This section provides that the sections of the bill that either amend or reference AS 36.30 take effect when AS 36.30 takes effect. Under present law, that will be July 1, 1987, but there are at least two bills under consideration that would change that date. The balance of the bill is given an immediate effective date.

DRD:lmb  
M11/078  
Enclosure

A M E N D M E N T

Offered in the HOUSE JUDICIARY COMMITTEE

TO: CSSB 107(Judiciary)

Page 1, following line 9:

Insert new bill sections to read:

"\* Section 1. AS 04.16.010(c) is amended to read:

(c) A licensee, an agent, or employee may not permit a person to enter and a person may not enter premises licensed under this title between the hours of 5:00 a.m. and 8:00 a.m. each day. This subsection does not apply to common carriers [, AS DEFINED IN AS 42.10.-420(2),] or to an employee of the licensee who is on the premises, to prepare for the next day's business. A person may enter or remain on the premises of a bona fide restaurant or eating place licensed under this title to consume food or nonalcoholic beverages.

\* Sec. 2. AS 06.25.085 is amended to read:

Sec. 06.25.085. APPLICATION OF GENERAL BANKING LAWS. The provisions of AS 06.05.005 - 06.05.085, 06.05.090 06.05.270, 06.05.307, 06.05.320 - 06.05.327, [06.05.405 - 06.05.425,] 06.05.440 - 06.05.445, 06.05.462, 06.05.465 - 06.05.510, [06.05.465 - 06.05.515] and 06.05.-525 - 06.05.545 apply to all trust companies engaged in any phase of the business of banking as that term is defined by AS 06.05.540(3) or AS 06.25.100."

Page 1, line 10:

Delete "\* Section 1."

Insert "\* Sec. 3."

Renumber succeeding bill sections accordingly.

Page 9, line 21:

Delete all material and insert new bill sections to read:

"\* Sec. 30. AS 16.10.470(b) is amended to read:

(b) A person who holds a permit for the operation of a salmon hatchery under AS 16.10.400 - 16.10.470 and each regional association levying a voluntary [ROYALTY] assessment under AS 16.10.540 [AS 16.-10.530] shall submit an annual financial report to the Department of Commerce and Economic Development on a form to be provided by the Department of Commerce and Economic Development.

\* Sec. 31. AS 16.10.475 is repealed.

\* Sec. 32. AS 16.10.540 is amended to read:

Sec. 16.10.540. VOLUNTARY ASSESSMENT ON SALE OF SALMON. (a) An [IN PLACE OF OR IN ADDITION TO AN ASSESSMENT LEVIED UNDER AS 16.10.-530, AN] association of persons who hold entry permits under AS 16.43, which consists of at least 51 percent of the persons holding entry permits and actively participating in a fishery to be benefited by a hatchery program, may levy and collect an assessment from among its members for the purpose of securing and repaying a loan made under AS 16.10.510.

(b) Upon satisfactory demonstration to the commissioner that an assessment levied under this section may reasonably be relied upon to

secure and repay a loan to be made under AS 16.10.510, the commissioner may make the loan [WITHOUT REQUIRING AN ASSESSMENT UNDER AS 16.10.530].

(c) [IF AN ASSESSMENT MADE UNDER THIS SECTION FAILS TO SATISFY THE PAYMENTS REQUIRED ON THE PRINCIPAL AND INTEREST DUE ON THE LOAN THE COMMISSIONER MAY NEGOTIATE WITH THE REGIONAL ASSOCIATION TO LEVY AN ASSESSMENT UNDER AS 16.10.530.]

\* Sec. 33. AS 16.30.030(3) is repealed."

Renumber succeeding bill sections accordingly.

Page 9, following line 28:

Insert new bill sections to read:

"\* Sec. 37. AS 18.55.570(c) is amended to read:

(c) Bonds and notes of the authority issued under AS 18.55.480 - 18.55.960 shall be authorized by its resolution and may be issued in one or more series and shall bear the date or dates, be payable upon demand or mature at the time or times, bear interest at the rate or rates provided [FOR BONDS AND NOTES OF THE AUTHORITY UNDER AS 18.55.-190], be in the denomination or denominations, be in the form either coupon or registered, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption, with or without premium, which the resolution, its trust indenture or mortgage provides.

\* Sec. 38. AS 18.56.900(9) is amended to read:

(9) "mortgage" or "mortgage loan" means a mortgage loan for residential housing insured or guaranteed by the United States or an instrumentality of the United States or for which there is a commitment by the United States or an instrumentality of the United States to insure or guarantee such a mortgage, or if not so insured or guaranteed or if there is no such commitment, that is [WHICH THE CORPORATION DETERMINES MEETS THE CONDITIONS DESCRIBED IN AS 18.56.100(k) OR WHICH SHALL BE] secured upon such terms and conditions as the corporation considers necessary or practicable to insure all repayments;

\* Sec. 39. AS 18.67.101 is amended to read:

Sec. 18.67.101. INCIDENTS AND OFFENSES TO WHICH AS 18.67.010 - 18.67.180 APPLY. The board may order the payment of compensation in accordance with the provisions of this chapter for personal injury or death that resulted from

(1) an attempt on the part of the applicant to prevent the commission of crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police officer to do so, or aiding a victim of crime; or

(2) the commission or attempt on the part of one other than the applicant to commit any of the following offenses: murder in any degree, manslaughter, criminally negligent homicide, assault in the first or second degree, kidnapping, sexual assault in any degree, sexual abuse of a minor, robbery in any degree, [CONTRIBUTING TO THE DELINQUENCY OF A MINOR UNDER AS 11.51.130(a)(4),] threats to do bodily harm, or driving while intoxicated or another crime resulting from the operation of a motor vehicle, boat, or airplane when the offender

is intoxicated.

\* Sec. 40. AS 21.09.210(b) is amended to read:

(b) Each insurer, and each formerly authorized insurer with respect to premiums received while an authorized insurer in this state, shall pay tax on the total direct premium income received during the year ending on the preceding December 31 and paid for the insurance of property or risks resident or located in the state other than wet marine and transportation insurance, after deducting from the total direct premium income the applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, all policy dividends, unabsorbed premiums refunded to policyholders, refunds, savings, savings coupons and other similar returns paid or credited to policyholders with respect to their policies. No deductions may be made of cash surrender value of policies. Considerations received on annuity contracts are not included in the direct premium income and are not subject to tax. The tax shall be paid to the director annually before April 1, and [, EXCEPT AS PROVIDED IN AS 21.69.390(c),] is computed at the rate of

(1) for domestic and foreign insurers, except hospital and medical service corporations, 2.7 percent;

(2) for hospital and medical service corporations, six percent of their gross premiums less claims paid.

\* Sec. 41. AS 21.69.390(c) is repealed."

Renumber succeeding bill section accordingly.

Page 10, following line 4:

Insert new bill sections to read:

"\* Sec. 43. AS 21.80.170(c) is amended to read:

(c) If the operation of the Alaska Insurance Guaranty Association is terminated as to all kinds of insurance otherwise within its scope, the association, as soon as possible thereafter, shall distribute the balance of money and assets remaining after discharge of the functions of the association with respect to prior insurer insolvencies not covered by the other plan, together with related expenses, to the insurers which are then writing in this state policies of the kinds of insurance covered by this chapter and which had made payments to the association, pro rata upon the basis of the aggregate of the payments made by the respective insurers during the period of five years next preceding the date of the termination order. Upon completion of this distribution with respect to all of the kinds of insurance covered by this chapter, the director shall certify that fact to the legislature together with the director's recommendations for the amendment or repeal of this chapter [SHALL BE CONSIDERED TO HAVE EXPIRED].

\* Sec. 44. AS 21.80.180(5) is amended to read:

(5) "insolvent insurer" means an insurer

(A) authorized to transact insurance in this state, except an assessable reciprocal insurer formed by and insuring only municipalities or nonprofit public utilities, a reciprocal insurer formed under AS 21.75 to provide marine insurance, a joint insurance arrangement formed under AS 21.76, and the

Medical Indemnity Corporation of Alaska, [AND THE HEALTH CARE PROVIDERS JOINT UNDERWRITING ASSOCIATION ESTABLISHED UNDER AS 21.88,] either at the time the policy was issued or when the insured event occurred, and

(B) determined to be insolvent by a court of competent jurisdiction;

\* Sec. 45. AS 21.80.180(6) is amended to read:

(6) "member insurer" means a person, except an assessable reciprocal insurer formed by and insuring only municipalities or nonprofit public utilities, a reciprocal insurer formed under AS 21.75 to provide marine insurance, a joint insurance arrangement formed under AS 21.76, and the Medical Indemnity Corporation of Alaska, [AND THE HEALTH CARE PROVIDERS JOINT UNDERWRITING ASSOCIATION ESTABLISHED UNDER AS 21.88,] who

(A) writes insurance to which this chapter applies under AS 21.80.020 including the exchange of reciprocal or inter-insurance contracts, and

(B) is licensed to transact insurance in the state;"

Renumber succeeding bill sections accordingly.

Page 10, following line 9:

Insert a new bill section to read:

\*\* Sec. 48. AS 24.45.116 is amended to read:

Sec. 24.45.116. DISCLOSURE OF CONTRIBUTIONS. A [BEFORE A CIVIC LEAGUE OR ORGANIZATION MAY BE ELIGIBLE FOR THE BENEFITS OF AS 24.20.-

031(f), IT MUST AGREE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION. THE] civic league or organization shall report the total amount of contributions received for the reporting period and for any contribution over \$100, the name of the contributor and the amount contributed. The civic league or organization may establish a separate fund to account for receipts and expenditures arising out of activities to influence legislative action. Reports shall be made on a form provided by the commission on February 10, April 25, and July 10 of each year, listing contributions received during the period that ended 10 days earlier."

Renumber succeeding bill sections accordingly.

Page 11, line 5:

Delete "35, 37, and 38"

Insert "49, 51, and 52"

Page 14, following line 4:

Insert new bill sections to read:

"\* Sec. 73. AS 43.80.015(b) is amended to read:

(b) The receipt of land or an interest in it under the federal Act or of cash in order to equalize the values of property exchanged under sec. 22(f) of that Act or AS 38.50 [AS 38.95.060] is not subject to any form of state or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of this land or interest in land for purposes of a state or local tax imposed on or

measured by income is the fair value of the land or interest in land at the time of receipt.

\* Sec. 74. AS 43.80.015(c) is amended to read:

(c) A real property interest conveyed under the federal Act, AS 38.50, or AS 38.95.050 [OR 38.95.060], including land received in an exchange under sec. 22(f) of the federal Act or AS 38.50 [AS 38.-95.060], to a Native individual or corporation incorporated under Alaska law pursuant to the federal Act, which interest is not developed or leased to third parties, is exempt from state and local real property taxes and local assessments until December 18, 1991. However, municipal taxes, local real property taxes, or local assessments may, under the laws of the state, be imposed upon leased or developed real property within the jurisdiction of any governmental unit organized under the laws of the state. Easements, rights-of-way, leaseholds, and similar interests in real property may be taxed in accordance with state or local law. All rents, royalties, profits, and other revenues or proceeds derived from property interests are taxable to the same extent as these revenues or proceeds are taxable when received by a non-native individual or corporation. In sec. 21(d) of the federal Act, the exemption of real property interests from local real property taxes includes exemption from local assessments and extends to land received in an exchange under sec. 22(f) of the federal Act or AS 38.50 [AS 38.95.060]."

Renumber succeeding bill sections accordingly.

Page 16, following line 14:

Insert a new bill section to read:

"\* Sec. 83. Sections 54, 55, 59 - 61, 75, and 82 of this Act take effect on the effective date of sec. 2, ch. 106, SLA 1986."

Renumber remaining bill section accordingly.

Page 16, line 15:

Delete "This"

Insert "Except for secs. 54, 55, 59 - 61, 75, and 82, this"

Delete "July 1, 1987"

Insert "immediately under AS 01.10.070(c)"

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

• POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 2800

M E M O R A N D U M

April 6, 1987

SUBJECT: CSSB 107 (Judiciary), 1987 Revisor's Bill  
TO: Representative John Sund  
Chair, House Judiciary Committee  
FROM: David R. Dierdorff  
Revisor of Statutes

The Senate passed the revisor's bill today, and I assume that it will be referred to your committee on Wednesday.

Enclosed is a copy of the memorandum that accompanied the committee substitute. You will note that it summarizes the changes made from the bill as introduced, categorizes the provisions by effect, and contains a sectional analysis.

I would appreciate very much your cooperation in giving this bill expeditious treatment so that it does not "get lost" in the closing days of session. Last year in the House, and this year in the Senate, the revisor's bill was referred to a subcommittee of two that gave the bill very careful scrutiny. That procedure seems to work very well for a bill that is as technical as this.

I would be pleased to meet with you or your staff at your convenience to discuss this year's bill.

DRD:mkr  
m10/107

Enclosure

COPY

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
957 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 26, 1987

SUBJECT: CSSB 107(Judiciary)  
TO: Senator Jalmar Kerttula  
Chairman, Senate Judiciary Committee  
FROM: David R. Dierdorff  
Revisor of Statutes

This memorandum discusses the draft committee substitute prepared for the consideration of the Judiciary Committee. The draft incorporates my additions and corrections and the amendments suggested by Senators Sturgulewski and Josephson.

Summary of Changes

The draft contains 10 new sections. They are: 18, 24, 28, 29, 30, 34, 42, 43, 51, and 54. Three sections that were in the printed bill have been deleted. The deleted sections were numbered 36, 37, and 39.

In addition, three sections have been substantially modified. Those sections are: sec. 33, which was sec. 28 in the printed bill; sec. 41, which was sec. 35, and sec. 46, which was sec. 41.

Summary of Effect

To assist you in understanding the draft, I have summarized the contents by grouping sections that have similar effects.

Sections that delete obsolete provisions:

The following sections delete or repeal provisions that have become obsolete either through the passage of time or other legislative action: 2, 4, 6, 8 - 11, 19, 21, 23, 24, 29 - 31, 36, 42, 49, 50, 51, 54, 57, 58, 61, and 63 - 65.

Sections that update obsolete provisions:

The following sections substitute new provisions for provisions that are obsolete or otherwise outdated, and make conforming changes in related provisions: 1, 3, 5, 7, 16 - 18, 20, 41, 46, 47, 52, and 56.

Sections that repeal redundant provisions:

The following sections repeal provisions that are duplicated by other applicable law, and make conforming changes in related provisions: 12 - 15, 28, and 43.

Sections that eliminate conflicts with other laws:

The following sections resolve conflicts with other statutes, the constitution, court decisions, opinions of the attorney general, or the Rules of Court: 22, 33, 34, 44, 48, 53, 55, and 62.

Sections that correct errors or oversights in drafting:

The following sections correct errors or oversights in drafting, or make conforming amendments to harmonize laws passed during the same legislative session that could not be harmonized editorially: 25 - 27, 32, 35, 37 - 40, 45, 59, 60, and 66.

Sectional Analysis

Section 1. Section 1 of the bill corrects a statutory reference and makes other form and style changes in AS 06.30.720. AS 06.30.660 was repealed by sec. 54, ch. 169, SLA 1978. The same 1978 Act, in sec. 42, enacted AS 06.01.030, with substantially the same provisions as former AS 06.30.660. Requested by the Division of Banking and Securities.

Sec. 2. All of the former paragraphs of the two subsections proposed for repeal (relating to sunset review of certain agencies) have been repealed, leaving only irrelevant introductory text in the subsections.

Sec. 3. See analysis of sec. 5.

Sec. 4. AS 08.04.250 was repealed in 1976, making the reference obsolete.

Sec. 5. This section and sec. 3 conform the usages to current style for defined terms. The term "live permit" is used in several sections of AS 08.04, but the only definition has been the archaic reference in AS 08.04.500(a), proposed for amendment in sec. 3. The definition proposed for enactment in sec. 5 replaces the archaic reference.

Sec. 6. The deleted material is obsolete.

Sec. 7. The federal law which defined "motorboats" for the purpose of AS 08.62.180 has been repealed. The proposed amendment substitutes the substance of the former federal law.

Secs. 8 - 11. AS 08.64.200(1) was repealed in 1983, making the references obsolete.

Sec. 12. The definition in the section proposed for repeal duplicates a definition of the same term ("commission") in AS 08.88.431.

Secs. 13 - 15. The section proposed for repeal in sec. 15, AS 09.17.090, was enacted in the "tort reform" bill last session (ch. 139, SLA 1986). It is identical to the existing provisions of AS 09.16.040, which was enacted in 1970 and is part of the Uniform Contribution among Tortfeasors Act. Because the enactment of AS 09.17.090 did not add anything to the substantive law of Alaska and because the state's courts have had several occasions to interpret and enforce the existing statute, it is recommended that the legislature repeal the new provision to avoid confusion in the future. (An earlier version of the tort reform bill would have repealed AS 09.16, making the enactment of AS 09.17.090 necessary.) Sections 13 and 14 make changes in AS 09.17.080(a) and (c) required if AS 09.17.090 is repealed.

Secs. 16 and 17. Sections 16 and 17 make changes to AS 09.38.115 to reflect changes made by the federal government in the timing of issuance of the Anchorage CPI and to clarify the mandate of AS 09.38.115(b). The change was requested by the Department of Labor. The change of date in AS 09.38.115(b) from July 1 to October 1 was requested by the Court System to ensure adequate lead time in the preparation of related forms and to allow the efficient utilization of existing form inventories.

Sec. 18. This section updates a part of the definition of "gambling enterprise" to include a reference to municipalities, which were added in 1982 to the entities that may be licensed under AS 05.15 to conduct certain gambling activities. The internal references are also updated to current style for such references.

Sec. 19. The subsection proposed for repeal is obsolete. It was operative only during 1976.

Sec. 20. AS 28.10.255 was repealed in 1978. The current provisions relating to the motor vehicle registration tax are found in AS 28.10.431, and this section proposes that the reference to those laws in AS 14.17.140(b) be updated.

Sec. 21. The material proposed for deletion is obsolete.

Sec. 22. An April 22, 1986, memo from Assistant Attorney General Gary Amendola to Assistant Attorney General Art Peterson discussed the authority of the Alaska Commission on Postsecondary Education to adopt regulations related to the Guaranteed Student Loan Program. The commission desired to adopt the regulations to implement its role as the state guaranty agency for the federal loans. The memo concluded that the commission has the implied authority to adopt the regulations, but urged that the authority be made express through an amendment to AS 14.42.030(b)(3). Section 22 of this draft would accomplish that.

Sec. 23. Last year AS 15.13.070(f) was repealed. The related provision in AS 15.13.120(a)(2) providing that "making a campaign contribution or expenditure which exceeds the limitations of AS 15.13.070(f)" is a crime, was not repealed. This section of the draft bill corrects that oversight. AS 15.13.070(f) had set out the permissible total expenditures by a candidate and groups controlled by a candidate.

Sec. 24. This section deletes a sentence that was rendered obsolete by the repeal of AS 16.05.340(e) in 1986. The repealed subsection had established additional fees for big game taken on a guided hunt.

Secs. 25 - 27. The amendments proposed by secs. 25 - 27 of the draft would correct an apparent oversight in ch. 132, SLA 1984. When enacting AS 16.05.925, the legislature intended to make uniform the penalty for violations of

regulations adopted under the fish and game laws. However, the new provision failed to take into account the existence of certain specific penalties in AS 16.05.430, 16.05.831, and 16.05.860, with the result that the penalty for violating a regulation adopted under one of those sections would carry a stiffer penalty than a violation of the section itself. That result could not be legally enforced, of course, but the oversight leads to confusion and uncertainty. The proposed amendments assume that the legislature did not intend to impliedly repeal the referenced penalty provisions, but, rather, that the lesser penalties for certain sport hunting and fishing violations should remain. The problem was brought to our attention by Jim Parker, director of magistrate services for the Court System, and Karla Forsythe, staff counsel for the system.

Sec. 28. The provisions proposed for repeal are definitions that became redundant when the definitions in AS 16.05.940 were made applicable to AS 16.10 - AS 16.40 in 1984.

Sec. 29. The material proposed for deletion is obsolete, relating only to the initial appointments to the entry commission.

Sec. 30. The section proposed for repeal related to the personal income tax repealed in 1980. It provided that the purchase of an entry permit is a deductible business expense under that tax. Should the legislature reinstate a personal income tax, the treatment of deductible expenses should be enacted within the tax laws rather than within the laws relating to state programs.

Sec. 31. The subsection proposed for repeal deals solely with a report that was to have been made to the legislature in 1975 and is now obsolete.

Sec. 32. The Alaska Guaranty Association Act (AS 21.80), enacted in 1970, was based on a Model Act promulgated by the National Association of Insurance Commissioners. Because the title of the administrative official regulating insurance in almost every state is "commissioner," the Model Act used that term and Alaska enacted it without change. In Alaska, the corresponding official is the director of the division of insurance, reporting to the commissioner of commerce and economic development (see AS 21.06). Although the use of the term "commissioner" in AS 21.80 presents no substantive legal problems, because the commissioner of

commerce and economic development has the authority to delegate all responsibility to the director, it does cause some confusion. The division of insurance requested that the change of name be proposed in the revisor's bill. Section 32 of the draft would accomplish the desired result.

Sec. 33 and 34. Section 33 amends AS 22.15.240(c) to provide that the Rules of Appellate Procedure govern appeals from district to superior court. The Court System had requested that the subsection be amended so that the time of filing provided in the statute be the same as that in the rules of court in order to avoid confusion. Because the Rules of Appellate Procedure supersede the statutes, and because the legislature cannot amend rules of procedure, the subcommittee recommended that the statute be amended to simply refer to the rules. This will avoid future conflicts and confusions, or the need to continually amend the statute to reflect changes in the rules. Section 34 would repeal AS 22.15.240(d), which provides simply that "the supreme court shall prescribe further rules for the procedure for appeals from district court."

Secs. 35 and 37 - 39. Chapter 38, SLA 1986, which was intended solely to exempt purchases made with food stamps from municipal sales and use taxes, amended AS 29.45.700(a) and made a related amendment to AS 29.10.200. Unfortunately, a drafting error in ch. 38 led to an unintended result. Instead of the narrow result contemplated by the legislature, and reflected in the title of CSHB 697 (HESS), the amended law could be construed to require a home rule city in a borough that levies and collects an areawide sales tax to levy and collect a sales or use tax only in a manner identical to that of the borough in which the city is located. The amendments proposed in secs. 35, 37 and 38 of this draft would correct the error. Section 39 of the draft would make the amendments retroactive to October 1, 1986, the effective date of ch. 38, SLA 1986. The amendments were requested by the Department of Community and Regional Affairs and the City of Ketchikan.

Sec. 36. The referenced federal law was repealed by P.L. 97-606, making the reference obsolete.

Sec. 40. As a part of the new procurement code, AS 33.30.050, dealing with medical services for prisoners, and AS 33.30.062, dealing with privately operated

correctional facilities, were amended to incorporate express provisions subjecting the covered activities to AS 36.30. In ch. 88, SLA 1986, the corrections code was substantially rewritten and AS 33.30.050 and 33.30.062 were repealed. The proposed addition of a section to AS 33.30 making contracting activities under AS 33.30 subject to AS 36.30 is probably not required as a matter of law (AS 36.30 governs all state contracting activities unless expressly excluded), but the section is proposed to carry out the legislature's intent in enacting the 1986 amendments to the two repealed sections.

Sec. 41. The section amends AS 33.30.031(c) to reflect the repeal of AS 37.05.230(1)(B) and the adoption of corresponding provisions (relating to sole source procurements) in AS 36.30. This would continue the requirement that contracts for confinement and care of prisoners must be competitively bid.

Sec. 42. The section proposed for repeal is obsolete, relating only to construction contracts entered into before April 1, 1957. It exempted those contracts from procedures enacted in 1957.

Sec. 43. The two provisions proposed for repeal are definitions of "department" that are redundant to a definition in AS 35.25.020 that applies to all of AS 35.

Sec. 44. In 1985, jurisdiction in actions involving contractors' bonds under AS 08.18 was transferred from the superior court to the district court (sec. 1, ch. 17, SLA 1985). The change proposed in the first sentence of AS 36.25.020 would give the district and superior courts concurrent jurisdiction over suits involving bonds posted under Alaska's "little Miller Act" by contractors on public projects. Thus, the amount sought by the plaintiff would determine whether the suit would be filed in district or superior court. The proposed amendment would also add language codifying the rule of State v. Tyonek Timber, Inc., 680 P.2d 1148 (1984), in which the supreme court held that a contractor or subcontractor suing under AS 36.25 is subject to the registration requirements of AS 08.18 and, consequently, the penalty provisions of AS 08.18.151. The amendments were suggested by the Court System.

Sec. 45. Adds a provision to the procurement code to conform to the program receipts Act (ch. 138, SLA 1986). A

similar former provision had been amended by ch. 138, SLA 1986, but was repealed by ch. 106, SLA 1986.

Sec. 46. The section proposed for amendment was enacted as part of the new procurement code, but was derived from CSHB 679(SA), which was merged into the procurement bill. The proposed amendment would delete a reference to a provision repealed by the procurement Act and add a reference to similar provisions enacted by ch. 16, SLA 1986.

Sec. 47. The amendment conforms the subsection to the new procurement code, which repealed AS 37.05.230 and contains all of the relevant competitive bidding provisions of state law.

Sec. 48. The two sections in AS 37.05 that are proposed for repeal establish the reserve for capital outlay account and the reserve for energy facilities development account in the general fund. The paragraph in AS 37.07.062 proposed for repeal relates to the reserve for capital outlay account and needs to be repealed if the account is repealed. The attorney general has determined that both accounts violate the prohibition against dedicated funds contained in art. IX, sec. 7 of the state constitution. On the advice of the attorney general, no deposits have ever been made to the accounts, and neither has an outstanding balance.

Sec. 49. The material proposed for deletion is time-dated and now obsolete.

Sec. 50. The statute proposed for repeal, AS 37.20.040, is obsolete. The state's obligation to pay into the Alaska Native Fund under sec. 9 of ANCSA was extinguished when the state paid a total of \$500 million to the fund. The last payment was made under an appropriation in ch. 120, SLA 1980. The Department of Revenue requested the repeal.

Secs. 51 and 54. The provisions proposed for repeal were made obsolete by the repeal of the Alaska Energy Center last year.

Sec. 52. AS 38.05.077 was repealed when AS 38.09 was enacted. The two references to the repealed section should have been drafted to read as proposed by this amendment.

Sec. 53. Without the amendment proposed by this section, it is arguable that a student member of the Board of Regents or

the Commission on Postsecondary Education is not eligible to serve unless the student was old enough to have voted in the last general election. This is inconsistent with the laws creating the student positions, which have no age requirements for the student member appointees. The amendment was requested by the Department of Law.

Sec. 55. The repeal of AS 43.05.210 would eliminate an old dedication of certain federal mineral leasing revenues. The dedication was required by the federal law, which has since been amended to eliminate the required dedication. In any event, the state has never identified this dedicated revenue stream as a fund source in the budget process. The Department of Revenue requested the repeal.

Sec. 56. The amendment clarifies the language of AS 43.70.020(b) to reflect changes made in the business license tax in 1978 and 1984.

Sec. 57. The provisions proposed for repeal were rendered obsolete by the repeal of AS 43.70.030(b) in 1984 and the change from a "gross receipts" tax to an annual license in 1978. All businesses now pay a flat \$25 per year business license fee.

Sec. 58. The material proposed for deletion was rendered obsolete by the repeal of AS 43.70.030(b) in 1984.

Sec. 59. This corrects an oversight in ch. 106, SLA 1986 (the procurement code) by listing RFP's issued under AS 36.30.210 among those actions that must be published in the Alaska Administrative Journal. Publication of the RFP's is required by AS 36.30.210(c) and 36.30.130.

Sec. 60. The Department of Commerce and Economic Development currently manages 11 different state loan programs, using identical procedures for all of the programs. The procedures include an administrative appeal process. See 3 AAC 77 - 87. When the Fisheries Enhancement Loan Program was established in 1976, the hearing provisions of the Administrative Procedure Act were made applicable to that loan program. None of the other 10 programs were included under the APA, and, in fact, DCED was not aware that the fisheries loan program was included until an assistant attorney general recently discovered the inclusion. Both DCED and the Department of Law believe that the 1976 inclusion was the result of an error rather than an intentional

legislative decision. The repeal of AS 44.62.330(a)(46) as proposed in sec. 60 of the bill would remove this anomaly.

Sec. 61. The material proposed for deletion is obsolete.

Sec. 62. The amendment proposed by this section would conform the requirements of AS 45.55.090(b)(1) to those of AS 45.55.00(b)(12) (dealing with a closely related matter) and eliminate an unnecessary requirement. The amendment was requested by the division of banking, securities and corporations and the Department of Law.

Sec. 63. The deleted material is obsolete.

Sec. 64. The deleted material is obsolete.

Sec. 65. The material proposed for deletion is obsolete.

Sec. 66. The version of the procurement code that became law did not contain the paragraph (4) referenced in sec. 65(1) of ch. 106. The proposed amendment substitutes the substance of proposed AS 36.30.510(4), which was included in earlier versions of the procurement code bill, for the obsolete reference.

Sec. 67. The bill is given a specific effective date, rather than the usual immediate effective date, in order to have it take effect on the same date that the procurement code takes effect.

DRD:mkr  
m9/057

cc: Art Peterson  
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