

HB

88

HOUSE COMMITTEE ON STATE AFFAIRS

**RECAP OF
HB 88**

Making Possession of Marijuana Illegal

Received January 18, 1989
by The State Affairs Committee

Heard January 31, 1989 (Work Session)
Heard February 21, 1989
Heard March 16, 1989
Heard April 4, 1989
Heard April 5, 1989

Committee Substitute adopted April 5, 1989

Passed Out of Committee April 5, 1989
5 Do Pass
1 No Recommendation

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FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
Title: Making possession of marijuana BRU: Alaska State Troopers
illegal
Sponsor: House State Affairs Component: Detachments, B.D.E. and
Requestor: House Judiciary V.P.S.O.

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill makes possession of small amounts of marijuana (less than four ounces) a "violation", punishable by a fine. The "bail amount" (fine) will be set by the state supreme court by court rule.

It is anticipated that the majority of new criminal cases under this bill would arise from situations where a State Trooper contacts a person on another matter, and the use or possession of marijuana is discovered during the contact. For this reason, we believe the fiscal impact of these additional cases can be absorbed within existing resources.

Prepared by: Francis C. Allan
Division: Alaska State Troopers
Approved by Commissioner: D. H. Arthur English
Agency: Department of Public Safety

Phone: 269-5691
Date: 12/19/89
Date: 1-8-90
Page 1 of 1

12/22/89

HOUSE COMMITTEE REPORT

(5)

Date Referred: January 18, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: _____

The STATE AFFAIRS Committee recommends that:

HOUSE BILL NO. 88 [MAKING POSSESSION OF MARIJUANA ILLEGAL]
"An Act amending the definition of the offense of misconduct involving a controlled substance in the seventh degree to make possession of less than four ounces of marijuana illegal as a violation, and relating to the disposition of offenses of misconduct involving a controlled substance in the seventh degree."

be replaced with CS HB 88(SA) the same title
 a new title

have attached amendment(s)

do pass
 do not pass
 no recommendation
 individual recommendations
 additional referral to the Finance Committee

ADOPTS: House State Affairs letter of intent

ATTACHES NEW FISCAL NOTE(S):

fiscal impact w/analysis by Dept of Law
 zero fiscal note
 zero with analysis

APPROVES PREVIOUS:

fiscal note(s) published:

 zero fiscal notes(s) published:

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Dece Shalee

Jim ...

Edgar P. MacLean

D.C. ...

...

Al. Spil "PASS ONLY WITH
FUNDING FOR LAW ENFORCEMENT,
DRUG RESEARCH AND PREVENTION
+ INTERVENTION PROGRAMS FOR
FAMILIES AND YOUTH"

D.C. ...
Chairman's signature

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

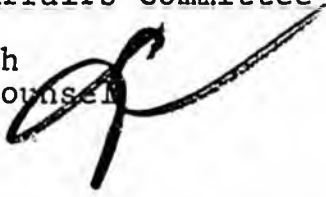
MEMORANDUM

April 6, 1989

SUBJECT: CSHB 88 (State Affairs), relating to
marijuana -- sectional analysis

TO: Representative H.A. "Red" Boucher, Chair
House State Affairs Committee

FROM: Jack Chenoweth
Legislative Counsel



CSHB 88 (State Affairs), adopted by the committee, addresses the subject of possession of marijuana in small quantities. Possession of marijuana in quantities of less than four ounces in other than a public place is not now subject to state criminal law. */ Under the principal changes proposed in this bill, possession of one ounce or more up to four ounces would be

*/ Under current law,

-- possession of eight ounces or more of marijuana anywhere is a class A misdemeanor; AS 11.71.050(a)(3);

-- possession of four ounces or more of marijuana is a class B misdemeanor; AS 11.71.060(a)(4);

-- possession in a public place of one ounce or more but less than four ounces of marijuana is also a class B misdemeanor; AS 11.71.060(a)(1).

Also, under current law, possession of less than one ounce of marijuana in a public place constitutes "misconduct involving a controlled substance in the seventh degree," a violation. AS 11.71.070. A "violation" is an offense that is not a crime. For conviction of a violation, no jail sentence may be imposed. See AS 11.81.900(a)(56). A fine may be

made a class B misdemeanor, while possession of less than one ounce would be defined as an offense and treated as a "violation."

Principal provisions of CSHB 88 (State Affairs):

The bill's title and purpose section, bill section 1, provide a summary of the principal features of the legislation.

Bill sections 2 - 5 directly relate to the disposition under state criminal law of possession of small amounts of marijuana.

Bill section 2 redefines possession and makes it an element of the offense of "misconduct involving a controlled substance in the sixth degree," a class B misdemeanor, if one "uses, displays, or possesses" one or more ounces but less than four ounces of marijuana. For a person's first offense of use, display, or possession of between one and four ounces (and for a minor's first offense of use, display, or possession of any amount less than four ounces), imposition of a term of imprisonment is not authorized. Rather, bill section 3 directs that, for these first offenses, the court may require participation in a drug abuse treatment program or performance of community service.

Bill section 4 redefines possession, adds to it the elements of "use" and "display," and makes those three the elements of the offense of "misconduct involving a controlled substance in the seventh degree," a violation, if one uses, displays, or possesses less than one ounce of marijuana. For committing that violation, bill section 5 authorizes imposition of a fine of not more than \$300 (repealing the

imposed. While, generally, the maximum fine for a violation may not exceed \$300, AS 12.55.035(b)(5), under current law applicable to possession of small amounts of marijuana, the fine may not exceed \$100. AS 11.71.-070(b).

Finally, because there is no statute that declares it illegal, possession of less than four ounces of marijuana other than in a public place is not currently defined as a criminal offense.

Representative H.A. "Red" Boucher
Page 3
April 4, 1989

current maximum fine of \$100 applicable to violations involving possession of marijuana).

Bill sections 6 and 7 authorize and direct the use of citations as the means of handling and disposing of violations under AS 11.71.070. Bill section 6 adds a new section, AS 11.71.075, to authorize the use of citations (rather than arrest warrants) for these offenses. Bill section 7 amends AS 12.25.190(c) by adding this proposed AS 11.71.075, which relates to the offenses that constitute misconduct involving controlled substances in the seventh degree, to the list of the types of complaints that may be resolved and disposed of through the use of citations. The net effect of this pair of changes is that persons who possess less than one ounce of marijuana may be cited (rather than arrested), and may dispose of their citations by payment of bail in lieu of fine in an amount determined in a bail schedule by court rule.

Finally, bill sections 8 and 9 make technical changes to two existing sections that contain references to prosecutions brought under those statutes that define crimes of misconduct involving controlled substances. The changes are necessary because of the addition of new material in proposed AS 11.71.075.

*

As this measure was developed, I thought it useful to try to summarize within the text of the bill the elements of it that relate to the change in the treatment of small amounts of marijuana proposed by this bill. To do that, I included bill section 1. That section briefly notes the significant change in the treatment accorded possession of a small amount of marijuana made by bill sections 2 and 4, the violation penalty amendment made by bill section 5, and the use of citations, authorized by bill sections 6 and 7 as a primary means of enforcement of that change in treatment.

JBC:kb
wkk3/071

Enclosure

Item 1C



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

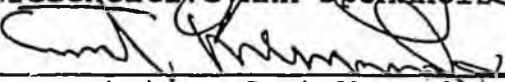
April 5, 1989

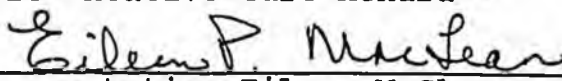
HOUSE STATE AFFAIRS COMMITTEE

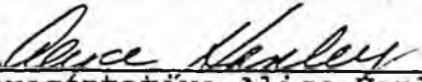
LETTER OF INTENT For CSHB 88(SA)

Compared to other states, Alaska rates high in the use of marijuana and other drugs by youth. Expert testimony and research reveals, however, that legislation alone cannot solve this drug problem. The House State Affairs Committee respectfully requests that the legislature, in considering the passage of legislation to criminalize the use and possession of marijuana, adequately fund drug enforcement agencies, drug research activities, and state programs providing drug prevention/ intervention to families and youth victimized by drug abuse.

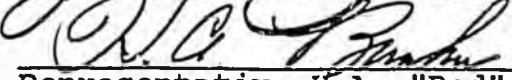

Representative Ann Spoonholz


Representative Curt Menard


Representative Eileen MacLean


Representative Alice Hanley


Representative Jim Zawacki


Representative H.A. "Red" Boucher
Chair, House State Affairs

FISCAL NOTE

REQUEST:

Revision Date: April 3, 1989
Title: "AN ACT AMENDING...OFFENSES...
involving a controlled substance..."
Sponsor: House State Affairs
Requestor: House State Affairs

Agency Affected: Department of Law
BRU: Prosecution
Components: Third District, Fourth
District, Crim. Appeals & Spl. Prosc.,
Criminal Justice Litigation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		133.6	137.6	141.7	146.0	150.4
TRAVEL		3.6	3.7	3.8	3.9	4.0
CONTRACTUAL		72.7	74.9	44.3	45.6	47.0
SUPPLIES		10.8	7.4	7.6	7.8	8.0
EQUIPMENT		12.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	233.2	233.6	197.4	203.3	209.4

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	233.2	233.6	197.4	203.3	209.4
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	2	2	2	2	2
PART-TIME	-0-	1	1	1	1	1
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues
Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: April 3, 1989
Richard I. Pegues / FORI
Approved by Commissioner: Douglas B. Bailw Attorney General Date: April 3, 1989
Agency: Department of Law

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

The committee substitute for HB 88 recriminalizes the possession and use of small amounts of marijuana. The bill would make possession of one ounce or more but less than four ounces of marijuana a class B misdemeanor, and the bill would make possession of less than one ounce of marijuana a violation. The maximum penalty for such a violation would be raised from \$100 to \$300. The legislature is also considering a joint resolution proposing a constitutional amendment at the next general election in November of 1990, which would provide that an individual's right to privacy does not extend to the possession or use of controlled substances. The bill would be effective 90 days after it becomes law, or sometime during the summer of 1989, if it is approved.

The passage of CSHB 88 will have a fiscal impact on the Department of law in three general areas: (1) the cost of processing additional new criminal cases; (2) the cost of educating the public about the new law; (3) approval of the proposed constitutional amendment will have the effect of repealing the Alaska Supreme Court's decision in Ravin. However, because the bill would be effective about 18 months before the constitutional amendment would become effective, it is anticipated that the bill will come under a vigorous constitutional challenge.

1. New Criminal Cases

Much of the behavior that the bill would classify as either a class B misdemeanor or a violation is not now an offense of any kind. In the past, some law enforcement officers who work primarily in the drug enforcement area indicated that recriminalizing marijuana could potentially result in "thousands" of new criminal cases a year. The police now doubt this but, nonetheless, a large number of the new cases would arise from situations where law enforcement officers now commonly discover small amounts of marijuana (as when an officer responds to a domestic disturbance call and sees some marijuana plants in a person's home, or when a person is arrested for a minor offense and a routine search for weapons reveals some marijuana cigarettes in the person's pocket, for example). Incidents of this sort occur frequently now, but do not generally result in any criminal prosecution for the marijuana possession. Many of these cases are likely to be referred for criminal prosecution if CSHB 88 becomes law because police officers will not ignore evidence of wrongdoing that is in plain view. Many of these defendants are middle-class people who can be expected to vigorously resist having a criminal record. Class B misdemeanors entitle a defendant to a jury trial and court-appointed counsel. Although the bill provides that possession of less than one ounce of marijuana will be handled as a violation, some unknown yet substantial number of these lesser offenses can be expected to be disputed, requiring attorney time to prosecute.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Prosecutors generally predict a substantially lesser number of new potential criminal cases under CSHB 88 than the "thousands" that were once predicted. Once the public becomes aware of the new law, some people are likely to become more careful about not allowing marijuana or smoking paraphernalia to be exposed in plain view in their homes; for example. Judging from the number of minor marijuana offenses prosecuted prior to the Ravin decision in 1975, prosecutors still expect at least a "few hundred" new criminal cases a year. Possession of small amounts of marijuana for personal use has been legal since the Ravin decision in 1975. Consequently, there is no accurate way to predict the number of new offenses that will occur when this current behavior is outlawed. Nor is there any accurate means to determine, in advance, the number of new offenses that will constitute class B misdemeanors, as opposed to violations. All of the department's prosecution offices are working at maximum capacity. Past budget cuts have left little time available to handle minor offenses, and the department has had to focus its remaining resources on major offenses, particularly crimes of violence. Prosecution of a whole new block of crime, although relatively minor, simply cannot be undertaken without some additional resources. The department's current estimate of a "few hundred" offenses is very conservative. The actual number of new cases may be significantly higher. It certainly will not be less.

Class B misdemeanor cases and disputed violations which are accepted for prosecution will require attorney time both at trial and in preparation for trial (i.e., preparation of search warrants, response to defense motions, evaluation of results of laboratory analysis, pretrial witness preparation, etc.). To handle screening of the expected case referrals, and to prosecute the additional misdemeanors and disputed violations, the criminal division will require the addition of at least one Attorney III position and one Legal Secretary I position in Anchorage. It is anticipated that a half-time attorney will also be needed in the Fairbanks District Attorney's office.

2. Public Education

In order to inform the public of the changes in the law, the Department of Law will develop and disseminate public notices explaining the new law. These notices will include newspaper ads and brochures, and will be modeled upon the public education notices which were distributed statewide in connection with the new drug law in 1982 and the new DWI and drinking age laws in 1983. Based upon experience with these earlier notices, approximately \$25,000 will be needed to cover the costs of writing, layout, typesetting, publication, and distribution.

In addition to the costs explained above, it is anticipated that the passage of this bill will result in increased costs to other components of the criminal justice system, including law enforcement, the courts, the public defender agency, the Office of Public Advocacy, and corrections.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

3. Defending the New Law

In 1975 the Alaska Supreme Court in the case of Ravin v. State, 537 P.2d 497 (Alaska 1975), ruled that under Art. I, Sec. 22 of the Alaska Constitution the state could not prohibit possession of marijuana by adults in their own homes for personal use. The court held that the state had not demonstrated the existence of a legitimate state interest which was strong enough to justify the regulation of this conduct.

Since passage of CSHB 88 would make it a crime for an adult to possess any amount of marijuana anywhere, including in his or her own home, the constitutionality of the new law is certain to be challenged. An appellate court will have to decide whether the state has proved that there is a "compelling state interest" in the prohibition of the use of marijuana which is sufficient to outweigh an individual's right to privacy under the state constitution. It is extremely important, therefore, that the legislature's consideration of this bill include extensive public hearings, debate on the social policy merits of the proposal, and the collection of the results of the most recent scientific, medical, and pharmacological studies regarding the physical, emotional, and social effects of marijuana usage.

In addition to the necessary legislative hearings, evidentiary hearings at the trial court level can be expected when a challenge to the new law is filed. Challenges to the new law will most likely arise in the context of a defendant's pretrial motion to dismiss a criminal prosecution. When responding to such a defense motion, the prosecutor would, in essence, have to convince a court to reverse the ruling in the Ravin case. In order to demonstrate that the result in Ravin is no longer correct, the prosecutor would have to present convincing, scientifically accurate, evidence that the effects of marijuana usage are so injurious to a person's mental and physical health as to justify the legislative decision to totally prohibit use of marijuana by anyone at any time (as opposed to use by minors or use by a person who is operating a motor vehicle--both of which are already prohibited under current law).

The presentation of this convincing evidence will require the prosecution to present expert testimony from authorities who have conducted recent research in this area. Out-of-state witnesses in medical and scientific fields charge a fee for their services. These fees will vary from individual to individual, but are expected to average at least \$150 per hour. This would include services for consultation, witness preparation and actual testimony. Costs will be incurred for expert witness transportation, food and lodging, and other incidental expenses. Additionally, there will be some costs for preparation of exhibits and written reports. To the extent possible, the Department of Law would attempt to present written testimony in situations where it is not feasible to fly a person to Alaska to testify

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

in person. We estimate that a minimum of six expert witnesses will be required to attempt to successfully defend the new law at the trial court level.

Hearings at the trial court level can reasonably be expected to take several days. A substantial commitment of attorney time will be required for scientific and legal research in preparation for the hearings, actual court time, legal briefing, and the preparation of proposed findings of fact. Since prosecutions under the new law will occur statewide, defense challenges may be raised at the same time in different parts of the state. The extensive hearings described above may have to be held in more than one judicial district in the state.

Regardless of which side prevails at the trial court level, the lower court ruling would almost certainly be followed by an appeal. At a minimum, such an appeal (or appeals) would require additional legal research, a thorough review of the record, the drafting of briefs, and oral argument before the appellate court and the Supreme Court.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

1. New Criminal Cases

Third Judicial District - Anchorage

<u>Total</u>	<u>Atty III (PFT)</u>	<u>Legal Sec I (PFT)</u>	<u>Total</u>
Personal Services	63.8	32.9	96.7
Travel - Witness travel subsistence, atty. travel	1.8	-0-	1.8
Contractual Services			
office commo. equip. repai	2.4	1.2	3.6
copy - postage	1.2	1.2	2.4
Office Space rent/lease	4.0	2.2	<u>6.2</u>
			12.2
Commodities - Ongoing			
office consumables	1.8	1.2	3.0
Law library	1.2	-0-	1.2
Commodities - one time			
New position materials	1.2	1.2	<u>2.4</u>
			6.6
Equipment - one time			
New position equipment	2.0	8.5	10.5
	<hr/>	<hr/>	<hr/>
	79.4	48.4	71.1

Costs beyond FY 90 include a 3% inflation factor, less one-time items.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

Fourth Judicial District - Fairbanks

	Atty. III <u>(PPT)</u>	<u>Total</u>
Personal Services	36.9	36.9
Travel - Witness travel subsistence, Atty. travel	1.8	1.8
Contractual Services		
office commo., equip. repair	2.4	2.4
copy - postage	1.2	<u>1.2</u>
		3.6
Commodities - Ongoing		
office consumables	1.8	1.8
Law library	1.2	1.2
Commodities - one time		
New position materials	1.2	<u>1.2</u>
		4.2
Equipment - one time		
New position equipment	2.0	2.0
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		48.5

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

2. Public Education

Criminal Justice Litigation Component/Prosc. BRU

<u>Object</u>	<u>Total</u>
Contractual Services - one time writing, layout, typesetting, publication and distribution of public notices and information brochures describing the changes in the law.	25.0
	25.0

3. Defending the New Law

Criminal Appeals & Special Prosecution Component/Prosc. - BRU

<u>Object</u>	<u>Total</u>
Contractual Services - Professional fees scientific experts 120 hrs. X \$150 =	\$18,000
Experts' staff support, preparation of exhibits, written testimony 50 hrs. X \$60 =	3,000
Experts' travel to attend hearings and offer testimony 6 trips X 4 days X \$80 = \$1,920 subsistence 6 trips X \$1,500 = \$9,000 travel	1,920 9,000
	\$31,920

This amount will be required for both FY 90 and FY 91, to cover both trials and appeals.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Summary of Expenses (All Components)

	<u>Defending the new Law</u>	<u>New Criminal Cases</u>	<u>Public Education</u>	<u>Total</u>
Personal Services		133.6		133.6
Travel		3.6		3.6
Contractual	31.9	15.8	25.0	72.7
Commodities		10.8		10.8
Equipment		12.5		12.5
	<u>31.9</u>	<u>176.3</u>	<u>25.0</u>	<u>233.2</u>

Position Title Attorney III		No. of Positions 1	Range/Step 22A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location EBA - Anchorage		Election District 8
Justification				
Type of Expenditure		Amount		
1	2	3		
Salary	49,140			
Benefits	14,657			
Premium Pay				
Other				
Total Personal Services		63,797		
Travel		1,800		
Contractual		7,600		
Commodities		4,200		
Equipment		2,000		
Other				
Total Cost		79,397		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	79,397		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

This full-time attorney position is required at Anchorage to handle the influx of new cases that will result when marijuana possession or use is recriminalized. Prosecutors expect that at least a few hundred such offenses will occur each year as a result of the enactment of this bill. This position will be responsible for prosecuting those new cases that are brought in the Third Judicial District and handling appellate briefs and appeals hearings. Because these new cases will be classed as misdemeanor offenses and violations, allocation of the position to the Attorney III level is appropriate.

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Third Judicial District.

Page 1 of 3
 Revised Date

FY 90

Position Title Legal Secretary I		No. of Positions 1	Range/Step 10B	Harg. Unit GGU	
Time Status PFT	Staff Months 12	Location Anchorage		Election District 8	
Type of Expenditure		Justification			
Amount		<p>This Legal Secretary I position will be needed to handle the paperwork and scheduling requirements for the influx of new trials that will occur when the possession or use of small amounts of marijuana is outlawed. At the least a "few hundred" new offenses are expected. This estimate is very conservative, and the actual number of new cases may be somewhat higher. It certainly will not be any less. The support staff in the Anchorage District Attorney's Office was cut severely in FY 87, and any additional caseload will require an increase in support staff. Allocation to the Legal Secretary I level is appropriate because of the legal and trial documentation necessary to try these cases.</p>			
1	2				3
Salary	22,716				
Benefits	10,220				
Premium Pay					
Other					
Total Personal Services					32,936
Travel					-0-
Contractual					4,600
Commodities					2,400
Equipment		3,500			
Other					
Total Cost		48,436			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	48,436			
I-A Receipts	1006				
CIP Receipts	1061				
Other					

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Third Judicial District.

Page 2 of 3
 Revised Date _____

FY 90

Position Title Attorney III		No. of Positions ;	Range/Step 22A	Bar# Unit FX
Time Status PPT	Staff Months 12	Location JBA - Fairbanks		Election District 16
Type of Expenditure		Justification		
		This permanent part-time position at Fairbanks is required to handle the influx of new cases that will result when the use or possession of small amounts of marijuana is recriminalized. Prosecutors expect that at least a few hundred offenses will occur each year as a result of the enactment of this bill. This position will be responsible for prosecuting those new cases that are brought in the Fourth Judicial District. Because these new cases will be classed as misdemeanor and violation offenses, allocation of the position to the Attorney III level is appropriate.		
Amount				
1	2	3		
Salary	28,122			
Benefits	8,826			
Premium Pay				
Other				
Total Personal Services		36,948		
Travel		1,800		
Contractual		3,600		
Commodities		4,200		
Equipment		2,000		
Other				
Total Cost		48,548		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	548		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Fourth Judicial District

Page 3 of 3
 Revised Date

FY 90



UNIVERSITY OF ALASKA, ANCHORAGE

3211 Providence Drive
Anchorage, Alaska 99508

CENTER FOR ALCOHOL
AND ADDICTION STUDIES

March 31, 1989

Rep. Red Boucher
House State Affairs Committee
PO Box V
Juneau, AK 99811

ATT: Dennis Burns

Dear Rep. Boucher:

I am writing to thank you for your efforts to combat drug abuse in the State of Alaska. The rationale viewpoint with which you have approached the problem will help to create an atmosphere in the state to eradicate the problem.

To this extent I would like to express my full support for the Letter of Intent that accompanies House Bill 88. The requests are more than reasonable, and without appropriate funds the problem will continue unabated. The direction set fourth in the letter are very appropriate, and you can count on me to assist in any way possible to help to reduce the problem of drug abuse in the state.

Very truly Yours,

A handwritten signature in cursive script, appearing to read "Bernard Segal".

Bernard Segal, Ph.D., Director
Health Sciences, and The Center for
Alcohol and Addiction Studies

RECEIVED

MAR 10 1989

Proposed Committee Substitute for HB 88: Making Possession of Marijuana Illegal

Representative H.A. "Red" Boucher

Findings

There is no Alaska law that makes possession of 4 ounces or less of marijuana (VIA controlled substance) in the home a crime. As such, the public perception is that possession of marijuana in the home is legal in Alaska. Technically, possession of marijuana anywhere is illegal by federal law. That difference in state and federal law creates confusion -it sends the wrong message to adults, youth and children in Alaska and elsewhere that we condone its use.

Sub-Committee Preliminary Report

The sub-committee on HB 88 (Item 1A) - composed of Representatives Hanley, Spohnholz, Swackhammer, Shirley Warner (APOA) and a public member Sandy Spargo - have met and discussed with Legislative Legal Services attorney Jack Chenoweth the issues outlined at the "work session" held on January 31, 1989. Our focus has centered on three questions:

- 1) Should small quantities of marijuana be illegal?
- 2) If we make small quantities illegal, what is the appropriate penalty?
- 3) Does Alaska's Constitution preclude prohibition of small quantities of marijuana?

In our discussions and review of the provisions in HB 88, we have tentatively come to the conclusion that HB 88 may not go far enough in addressing the concerns of the subcommittee and the testimony we have heard to date. Consequently we are considering a committee substitute based on the following considerations:

Small Quantities

Testimony has shown that one ounce of marijuana is roughly equal to 40 or 50 joints with a street value of between \$250 and \$300. Possession of 4 ounces of marijuana has an estimated street value of \$1400 in Juneau. Like most products, however, value is dependent upon availability.

Taking into consideration current Alaska law regarding possession of less than one ounce in a public place (treated as a 7th degree violation) and the street value of this substance, defining a "small quantity" of marijuana as less

than one ounce seems reasonable.

The subcommittee generally agreed that possession of one to four ounces of marijuana, in other than a public place, should not be viewed as a "small quantity" as defined above.

Appropriate Penalty

Item 3D compares current law with HB 88 and a proposed committee substitute (Item 3C). This comparison was prepared by Jack Chenoweth and modified for the purpose of this memorandum. As Jack Chenoweth notes, the committee substitute combines a criminal provision for possession of one to 4 ounces (a class B misdemeanor) with a non-criminal provision for possession of less than one ounce (a violation), and it eliminates the public/private distinction.

Constitutional Issues

The committee substitute (Item 3C) discussed above does not include a comprehensive set of medical findings as are found in SB 18 and HB 22 (Item 2A,B). It is my understanding that we must demonstrate a need based on proof that the public health or welfare will suffer if controls are not applied to marijuana's use. While I personally believe there are sufficient social and medical/health reasons to recriminalize marijuana, it is not clear we are yet at a point where "findings" could withstand a court test - findings such as those listed in SB 18 and HB 22.

You will also note there is a companion bill - a constitutional amendment (Item 3A) - which proposes to amend article I, section 22 of the Alaska Constitution to exclude from the right to privacy a person's possession or use of marijuana. This would allow the legislature to regulate without the concern for a violation of the constitutional right to privacy. The effective date of the proposed committee substitute (Item 3C) is tied to passage of the constitutional amendment.

Penalties For Possession Of Marijuana

Place	Amount	Classification	Penalty Up To
<u>Current Law</u>			
Anywhere	> 8 oz	A misdemeanor	\$5,000/1 yr
Anywhere	> 4 < 8 oz	B misdemeanor	\$1,000/90 days
Public	> 1 < 4 oz	B misdemeanor	\$1,000/90 days
Public	< 1 oz	7th degree violation	\$100
Private	< 4 oz		no penalty

HB 88

Anywhere	> 8 oz	A misdemeanor	\$5,000/1 yr
Anywhere	> 4 < 8 oz	B misdemeanor	\$1,000/90 days
Anywhere	up to 4 oz	7th degree violation	\$100/citation

Note: possession of up to 4 oz. of marijuana anywhere is a violation, enforceable only by a fine, using a citation system

Proposed CSHB 88

Anywhere	> 8 oz	A misdemeanor	\$5,000/1 yr
Anywhere	> 4 < 8 oz	B misdemeanor	\$1,000/90 days
Anywhere	> 1 < 4 oz	B misdemeanor	\$1,000/no jail time for first offense *
Anywhere	< 1 oz	7th degree violation	\$300/citation

Note: this approach combines a criminal provision for possession of 1 to 4 oz. - class B misdemeanor - with a non-criminal provision for possession of less than 1 oz. - a violation - and eliminating the public/private distinction

* subsequent offenses may result in jail time up to 90 days, drug treatment/community work service at the discretion of the court

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

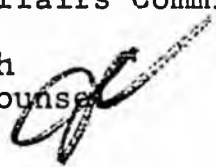
MEMORANDUM

January 12, 1989

HB 88

SUBJECT: Work order ~~6-0469A~~ -- sectional analysis

TO: Representative H.A. "Red" Boucher, Chair
House State Affairs Committee

FROM: Jack Chenoweth
Legislative Counsel 

The work draft addresses the subject of possession of marijuana in small quantities. Possession of marijuana in quantities of less than four ounces in other than a public place is not now subject to state criminal law. Under one of the changes proposed in this bill, that possession would be made an offense and treated as a "violation."

Other sections provide for the disposition of offenses involving possession of small amounts of marijuana that are classed as violations.

Background:

The following information may be useful.

Under current Alaska law, a person's possession of less than one ounce of marijuana in a public place constitutes misconduct in the seventh degree. Misconduct in the seventh degree is an offense, specifically a violation.

An offense is defined or regarded as a "violation" when it carries no jail sentence and is punishable wholly by payment of a fine. AS 11.81.900(a)(56). State law sets a maximum fine for a violation of \$300. AS 12.55.035(b)(5). However, under AS 11.71.070(b), the maximum fine for a violation involving marijuana is set at \$100.

A person's possession of less than four ounces of marijuana in a place other than a public place is not a crime.

Representative H.A. "Red" Boucher
Page 2
January 12, 1989

Principal provisions of the bill:

Bill section 2 affects the status of possession of marijuana. That section redefines possession and makes it an element of the offense of "misconduct involving a controlled substance in the seventh degree", a violation, if one possesses less than four ounces of marijuana in other than a public place.

Bill sections 3 and 4 authorize and direct the use of citations as the means of handling and disposing of violations under AS 11.71.070.

Bill section 3 adds a new section, AS 11.71.075, to authorize the use of citations (rather than arrest warrants) for these offenses. Bill section 4 amends AS 12.25.190(c) by adding this proposed AS 11.71.075, which relates to the offenses that constitute misconduct involving controlled substances in the seventh degree, to the list of the types of complaints that may be resolved and disposed of through the use citations.

The net effect of these changes is that persons who possess less than one ounce of marijuana in a public place or who possess less than four ounces of marijuana in other than a public place may be cited (rather than arrested), and may dispose of their citations by payment of bail in lieu of fine in an amount determined in a bail schedule by court rule.

Finally, bill sections 5 and 6 make technical changes to two existing sections that contain references to prosecutions brought under those statutes that define crimes of misconduct involving controlled substances. The changes are necessary because of the addition of new material in proposed AS 11.71.075.

*

As this measure was developed, I thought it useful to try to summarize within the text of the bill the elements of it that relate to the change in the treatment of small amounts of marijuana proposed by this bill. To do that, I included bill section 1. That section briefly notes the significant change in the treatment accorded possession of a small amount of marijuana made by bill section 2, and the use of citations, authorized by bill sections 3 and 4, as a primary means of enforcement of that change in treatment.

*

Representative H.A. "Red" Boucher
Page 3
January 12, 1989

If this memorandum or the bill to which it relates prompts questions, please contact me.

Enclosure

JC:gc:kb
WKG5/080

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 88
PUBLISH DATE: _____

FISCAL NOTE
REQUEST:

Revision Date: _____
Title: Making possession of marijuana
illegal
Sponsor: House State Affairs
Requestor: House State Affairs

Agency Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachments, C.I.B. and
V.P.S.O.

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill makes possession of small amounts of marijuana (less than four ounces) a "violation", punishable by a fine. The "bail amount" (fine) will be set by the state supreme court by court rule.

It is anticipated that the majority of new criminal cases under this bill would arise from situations where a State Trooper contacts a person on another matter, and the use or possession of marijuana is discovered during the contact. For this reason, we believe the fiscal impact of these additional cases can be absorbed within existing resources.

Prepared by: Francis C. Allan
Division: Alaska State Troopers

Phone: 269-5691
Date: 01/27/89

Approved by Commissioner: Arthur English
Agency: Department of Public Safety

Date: 1/30/89

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act amending the definition of the
 _____ offense of misconduct."
 Sponsor: State Affairs Committee
 Requestor: _____

Agency Affected: Department of Corrections
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This legislation will have no fiscal impact on the Department of Corrections.

Susan E. Knighton

Prepared by: Susan E. Knighton, Director Phone: 465-3376
 Division: Administrative Services Date: 2-1-89

Approved by Commissioner: Susan Humphrey - Barnett Date: 2-1-89
 Agency: Department of Corrections

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Law
 Title: "An Act ... making possession of
less than four ounces of marijuana illegal... BRU: Prosecution
 Sponsor: House State Affairs Components: All
 Requestor: House State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 30, 1989
 Approved by Commissioner: Grace Berg Schaible, Attv. Gen. Date: January 30, 1989
 Agency: Department of Law

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 88

This bill amends AS 11.71 by making the personal possession of less than four ounces of marijuana illegal as the offense of misconduct involving a controlled substance in the seventh degree. Misconduct involving a controlled substance in the seventh degree is, under current state law, a violation punishable by a fine. The bill also provides that a law enforcement officer who stops or contacts a person for possession for a small amount of marijuana may issue a citation for that offense, and the person who receives the citation may waive a court appearance and remit a payment as satisfaction of the offense. This bill will not have a fiscal impact on the Department of Law because prosecution of violations does not usually involve the department's staff resources.



Alaska State Legislature

House of Representatives
COMMITTEE ON STATE AFFAIRS

TO: Jack Chenoweth
Legal Services

FROM: Dennis J. Burns, ^{DJB} Committee Aide
House State Affairs Committee

DATE: January 26, 1989

RE: HB 88 Making Possession of Marijuana Illegal

I have been requested to ask the following questions regarding HB 88:

- 1) If possession of marijuana in the home under HB 88 is a violation, would it be subject to constitutional (court) review? If so, would it stand?
- 2) If HB 88 passed, what affect would it have on the attached proposed initiative/bill?

Marie G. Majewske, Chair
Marijuana Initiative Committee
4002 Kingston Drive
Anchorage, AK 99504
(907) 333-0717

The Honorable Stephen McAlpine
Lieutenant Governor, State of Alaska
P.O. Box AA
Juneau, AK 99811

STATE OF ALASKA
RECEIVED
DEC 16 1988

Dear Lt. Governor McAlpine:

LIEUTENANT GOVERNOR

We are enclosing an application proposing an initiative which relates to repeal of personal usage of marijuana, and a \$100.00 deposit. Under AS 15.45.30 this application must include and does include:

- 1) The proposed bill.
- 2) A statement that the sponsors are qualified voters.
- 3) The designation of an initiative committee.
- 4) The signatures and addresses of sponsors, with additional signatures to be received in the next two weeks.
- 5) A resolution requesting repeal of the existing law.

Inasmuch as there has been a tremendous amount of concern about the permissive statute that allows consumption of marijuana in the home and its potential harmful effects on individuals, and the cost to society within the family and outside the home; and inasmuch as we feel that the Legislature for over four years while having bills to correct the problem has failed to act according to the vast majority of the people of Alaska; and whereas numerous local governments and community representative groups have asked the Legislature to repeal the law that condones personal possession and usage; we now ask your approval of this initiative for the people of the State of Alaska to vote on this issue.

We are aware that you and the Governor have expressed support for affirmative action on this issue by the Legislature, and therefore we find it necessary to request your cooperation in approving this application, and expediting the issuing of the petition booklets through the Director of the Division of Election.

It is our understanding that should this not be proper form for certification you could assist us in conforming to the Constitution and proper statutes. We would most appreciate any help or advice you would offer.

Sincerely yours,

Nancy Hutcheon
Sponsor

Marie L. Majewski
Sponsor

Denise L. Williams
Sponsor

Sandra K. Spargo
Sponsor

- Edward P. Young

- Linda Douglas "Just Say No!"
Alaska Area Organizer

- David P. Reinhart

- Marsha L. Haas

- Marlene J. Cannon

- Joyce A. Hanley

- Terrence H. Martin
W. J. J. J.

-
-

1 A Bill Enacted By The People of The State of Alaska
2 Under Their Authority Granted By The Constitution Article
3 XI Section 1, 2, 3, and 4; Alaska Statute AS 15.45.010

4 A BILL

5 For an Act entitled: "An Act relating to marijuana."

6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

7 Sec. 1 AS 11.71.060(a) is amended to read:

8 (a) Except as authorized in AS 17.30, a person
9 commits the crime of misconduct involving a
10 controlled substance in the sixth degree if the
11 person

12 (1) uses or displays any amount of a
13 schedule VIA controlled substance or possesses
14 one or more preparations, compounds, mixtures,
15 or substances of a aggregate weight of less than
16 one-half pound containing a scheduled VIA controlled
17 substance; or

18 (2) refuses entry into a premises for an
19 inspection authorized under AS 17.30.

20 Sec. 2 AS 11.71.070 is repealed.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 30, 1989

SUBJECT: Questions pertaining to House Bill 88
TO: Representative H.A. "Red" Boucher, Chair
House State Affairs Committee
FROM: Jack Chenoweth
Legislative Counsel



House Bill 88 makes possession of small amounts of marijuana in other than a public place a violation.

I

You have asked if a citation and payment of the penalty imposable under HB 88 would be subject to constitutional review. The answer is "yes". Whether or not a constitutional attack would succeed is a separate, albeit significant, question.

Suffice to say that the court decision in Ravin v. State, 537 P.2d 494 (Alaska, 1975) is helpful, but not definitive. In Ravin, you may recall, the court concluded that there was

. . . no adequate justification for the state's intrusion into the citizen's right to privacy by its prohibition of possession of marijuana by an adult for personal consumption in the home. The privacy of the individual's home cannot be breached absent a persuasive showing of a close and substantial relationship of the intrusion to a legitimate governmental interest. . . . [M]ere scientific doubts will not suffice. The state must demonstrate a need based on proof that the public health or welfare will in fact suffer if the controls are not applied.

Ravin, at 511. Nothing in the intervening 13 years suggests ~~that~~ the court has modified the requirement enunciated in the last sentence.

Representative H. A. "Red" Boucher

Page 2

January 30, 1989

Unlike the other measures to "recriminalize" marijuana, this bill is not accompanied by a comprehensive set of findings. If possession of small amounts of marijuana is to be made a crime, as those bills would do, the inclusion of findings "to demonstrate a need based on proof that the public health or welfare will in fact suffer if the controls are not applied" is essential to sustain the bill. To meet the requirement of the Ravin test, the committee may want to prepare findings for inclusion in HB 88.

Review of the testimony offered to marijuana-related legislation during the last legislative session suggests a genuine division of opinion as to whether or not the public health or welfare suffers by uncontrolled possession of small amounts of marijuana for personal use. One cannot conclude as to marijuana, as the court has done with reference to cocaine in State v. Erickson, 574 P.2d. 1 (Alaska, 1978), that the substance represents a substantial threat to public welfare and safety. As to marijuana, there still seems to be no firm conclusion.

Still, in the years intervening since the Ravin decision, society's tolerance for use of certain products has diminished. Laws affecting sale of tobacco and alcohol have been amended, in part out of a greater appreciation of the debilitating effects of those products to significant numbers of people within society.

HB 88 makes possession of small amounts of marijuana in other than a public place illegal, but punishable only as a violation (i.e. by payment of a fine), not as a crime (with the possibility of a jail sentence). Arguably, the absence of findings is not necessarily fatal to a defense of this bill. Enactment of HB 88 seems predicated on an implicit legislative determination that possession of less than four ounces of marijuana "involve[s] conduct [that is] inappropriate to an orderly society, but which [does] not denote criminality in [its] commission". AS 11.81.250(a)(6). In defense of the bill, one may argue, I think, that the legislature was determining only that possession of marijuana in small quantities for personal use was inappropriate, but not so wrong that, as a matter of law, more serious legal consequences should attach. The proposal to make that possession a violation permits the legislature to reach that conclusion.

II

You have asked whether adoption of HB 88 would have an affect on a proposed initiative.

If submitted to the voters and approved, the proposed initiative would make the conviction for possession of less than one-half pound of marijuana a class B misdemeanor, a crime.

If certified for inclusion on the November, 1990, ballot, the lieutenant governor may thereafter withdraw the certified initiative (or, alternatively, not certify its inclusion on the ballot) only if, "before election, substantially the same measure has been enacted". Article XI, section 4, state constitution. The test of substantial similarity is established in Warren v. Boucher, 543 P.2d 731 (Alaska, 1975), a case involving an initiative relating to regulation of campaign contributions and related legislation:

If in the main the legislative act achieves the same general purpose as the initiative, if the legislative act accomplishes that purpose by means or systems which are fairly comparable, then substantial similarity exists.

Warren v. Boucher, at 736. The approaches used need not be exactly similar, and some allowance must be made for complexity of the subject matter of the two measures:

It is not necessary that the two measures correspond in minor particulars, or even as to all major features, if the subject matter is necessarily complex or if it requires comprehensive treatment. The broader the reach of the subject matter, the more latitude must be allowed the legislature to vary from the particular features of the initiative.

Ibid. Applying its test, you will recall, I am sure, the majority of the court determined that the initiative and the legislated measure were substantially similar, and that you were correct in withholding the initiative from the forthcoming election ballot:

Viewing the two measures as a whole we find that they accomplish the same general goals. They adopt similar, although not identical, functional techniques to

Representative H. A. "Red" Boucher

Page 4

January 30, 1989

accomplish those goals. The variances in detail between the measures are no more than the legislature might have accomplished through reasonable amendment had the initiative become law. Nothing is present here to suggest that the act was a subterfuge to frustrate the ability of the public to obtain consideration and enactment of a comprehensive system to regulate election campaign contributions and expenditures.

. . . .

Warren v. Boucher, at 739.

Procedurally, as you know, the determination is assigned by AS 15.45.210 to the lieutenant governor, who acts "with the formal concurrence of the attorney general".

I hesitate to say what those officers would conclude on the question. Chief among the factors they would consider would surely be the fact that (1) the initiative would "recriminalize" possession of small amounts of marijuana, while the proposed legislation would make that possession illegal but not criminal, (2) the penalties imposable under HE 88 and the initiative petition would lead to the imposition of penalties that were significantly different, and (3) the initiative and the bill are mutually exclusive in that adoption of the initiative, making possession of marijuana a misdemeanor, would essentially supersede or "swallow up" the bill making marijuana a violation, were it enacted.

JC:kb
wkk1/089

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

STEVE COWPER, GOVERNOR

REPLY TO

CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX KC
JUNEAU, ALASKA 99801-0310
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

April 4, 1989

Dennis Burns
Legislative Aide
House State Affairs Committee
P.O. Box V
Juneau, Alaska 99811

Dear Mr. Burns:

I would like to call your attention to a problem that we perceive with sec. 7 of HB 88. In that section, the drafter deleted the portion of the definition of "manufacture" that excluded the growing of marijuana for personal use. According to the sectional analysis, the drafter deleted the section because it "would appear to serve no useful purpose."

The manufacture of drugs is punished more seriously than mere possession. Since growing marijuana for personal use is the equivalent of possession of marijuana, and is not the equivalent of producing other controlled substances, this act was excluded from the definition of "manufacture." However, growing marijuana would fall within the definition of "possession," which is defined in AS 11.81.900(b)(42) as "having physical possession or the exercise of dominion or control over property."

The result of deleting the exclusion meant that a person who possessed 1.1 ounces of dried marijuana would be guilty of a B misdemeanor under the proposed AS 11.71.060(a)(3). However, a person who possessed one live marijuana plant that weighed 1.1 ounces when dried by the police would be guilty of a C felony under AS 11.71.040(a)(2). Since we understand that this was not the intent of the committee, we suggest that sec. 7 be deleted from the bill.

Very truly yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By: 

Laurie H. Ottb
Assistant Attorney General

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: Possession of firearms while intoxicated BRU: Alaska State Troopers
 Sponsor: Senator Binkley, et al. Component: Detachments
 Requestor: House State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will not have any fiscal impact on the Department of Public Safety.

Prepared by: Francis C. Allan
 Division: Alaska State Troopers

Phone: 269-5691
 Date: 12/19/89

Approved by Commissioner: Arthur English
 Agency: Department of Public Safety

Date: 1-8-90
 Page 1 of 1

Photo
12/22/89

b. Example / Checklist Contact sheet

LEGISLATIVE SPONSOR: House State Affairs
 Pub. Hear Work Ses. Inv. Hear
 LEGISLATIVE REFERENCE: HB888
 SUBJECT: Making ^{possession of} Marijuana Illegal
 CONTACT: AMM PH: 4931

TC DATE/DAY: Thurs, Mar 11
 TIME: 8:30 - 10:00 am
 JUNEAU ROOM: C-102
 BRIDGE: _____
 # OF PORTS: 5
 DATE TAKEN/BY: James 3/10/89

TELECONFERENCE SITES:

LIO'S

- Anchorage → Julie Kenison
- Barrow *
- Bethel
- Delta Junction *
- Dillingham *
- Fairbanks
- Glennallen *
- Juneau
- Ketchikan
- Kodiak
- Kotzebue
- Mat-Su
- Nome
- Petersburg *
- Sitka
- Soldotna
- Valdez *

LTC'S

- Homer
- Wrangell

VTS'S

See List on Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

get address & name spelling

Brooks 3/14

Chen this
 OFFNETS: 766-2950 (Haines)
does not want to be called Dr. Lee Maxwell
248-1335 / 277-7735 (ANC)
he will call Dr. Bernard Segal
786-1801 (ANC)
563-4981 Dr. Bonar (Gagne) 10:00

CHAIRING SITE: Juneau
 CHAIRPERSON: Rep. Boucher

[] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

Center for Alc & Addic. Studies
 U of AA
 3211 Providence Dr.
 99508

SIGNATURE OF SPONSOR/CONTACT PERSON

DATE

Will be hiring outside bridge - will call or collect. If use Flixs-800# they can call.
 LIO will give instructions program. *(will fill up ports. Using small bridge in Flixs). Can't get port 1000 - need equipment*
 SPECIAL INSTRUCTIONS

Bridge number: 200-418-8406

To Red/Dennis
 Date 3/8 Time 4:20

WHILE YOU WERE OUT

M. Clyde Bill
 of Haines 766-2319
 Phone 30yr resident (766) (2950)
Area Code Number Extension

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	<input checked="" type="checkbox"/>	WILL CALL AGAIN	<input checked="" type="checkbox"/>
WANT TO SEE YOU	<input checked="" type="checkbox"/>	URGENT	<input checked="" type="checkbox"/>

RETURNED YOUR CALL

Message Marijuana Bills
not worth voting for.
Will send proposals in
writing.

HB 88
 Operator



DR Lee Maxwell
 248-1335
 277-7735

HR DR
 more productive -
 effective utilization
 work sessions

Guova →

Buyer
 Committee
 Aide →

office → 786-1801

To ANN
 Date _____ Time _____

WHILE YOU WERE OUT

M. Cathy Carlson
 of _____

Phone _____
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	

RETURNED YOUR CALL

Message Yes They would
like to ~~test~~ from
HO in Wash
502-8573

Operator _____



b. EXAMPLE / Checklist Contact Sheet

LEGISLATIVE SPONSOR: House State Affairs

TC DATE/DAY: Tues, Feb 21

Pub. Hear Work Ses. Inv. Hear

TIME: 8:30 - 10:00

LEGISLATIVE REFERENCE: HB 98

JUNEAU ROOM: C-102

SUBJECT: Making Marijuana

BRIDGE: _____

Illegal

OF PORTS: _____

CONTACT: Am PH: 4931

DATE TAKEN/BY: 2/17 Becky

TELECONFERENCE SITES:

LIO'S

LTC'S

VTS'S

- Anchorage - bridge
- Barrow *
- Bethel
- Delta Junction *
- Dillingham *
- Fairbanks
- Glennallen *
- Juneau
- Ketchikan
- Kodiak
- Kotzebue
- Mat-Su
- Nome
- Petersburg *
- Sitka
- Soldotna
- Valdez *

- Homer
- Wrangell

See List on Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

OFFNETS: Jay Page
265-3003
Bob Wagstaff
277-8611
Randy Smith

CHAIRING SITE: Juneau

CHAIRPERSON: Rep. Bouchon

[] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

SIGNATURE OF SPONSOR/CONTACT PERSON

DATE

SPECIAL INSTRUCTIONS

using Anchorage. Becky calling these people with the number.



Chamber of Commerce

1107 West 8th, No. 1 (907) 586-6420 Juneau, Alaska 99801

DATE: September 22, 1989

TO: All Members of the Sixteenth Alaska State Legislature

FROM: John Gucker, President
Greater Juneau Chamber of Commerce

SUBJECT: Resolution 89-6 relating to Initiative No. 88MARI

MESSAGE: Enclosed for your information is a copy of Resolution 89-6 passed by the Greater Juneau Chamber of Commerce September 22, 1989. The resolution is in support of Initiative 88MARI requesting that the recriminalization of marijuana be placed before the voters during the next state-wide election.

We ask for and encourage your support in bringing this issue before the voters so all resident Alaskans have an opportunity to voice their opinions.

RESOLUTION 89-6 OF THE GREATER JUNEAU CHAMBER OF COMMERCE

A RESOLUTION IN SUPPORT OF INITIATIVE NO. 88MARI REGARDING THE RECRIMINALIZATION OF MARIJUANA BEING PLACED BEFORE THE VOTERS AT THE NEXT STATE-WIDE ELECTION.

WHEREAS, marijuana has been found to be physically and mentally addictive and significantly impairs learning for individuals under the influence; and

WHEREAS, Alaska is the only state in the union with a permissive statute for personal possession of marijuana; and

WHEREAS, the supreme courts of other states and the United States Supreme Court uphold state statutes prohibiting the use and possession of marijuana; and

WHEREAS, current Alaska state statutes are not in conformity with federal drug enforcement laws and International Treaties; and

WHEREAS, conflicts between federal and state laws pertaining to marijuana create barriers for law enforcement officials in providing protection to the public; and

WHEREAS, marijuana use affects business through high absenteeism, tardiness, high injury and accident rates, thefts of equipment, money and merchandise, poor workmanship, low productivity, high workers' compensation rates, low morale of workers and increased errors and mistakes; and

WHEREAS, current Alaska law indicates to Alaska youth that the use of marijuana is an acceptable adult behavior contrary to federal laws making possession of marijuana a crime; and

WHEREAS, representatives of 60 Alaskan high schools at the Alaska Association of School Governments' Annual Conference in 1986, unanimously passed a resolution to repeal the current marijuana law and make the drug in all its forms illegal in Alaska; and

WHEREAS, Alaska currently receives federal monies in fiscal year 1989 for: drug enforcement; drug-free school programs; juvenile justice; alcohol, drug abuse, and mental health administration to the total of \$5,175,000; and

WHEREAS, continued receipt of these funds is jeopardized by Alaska's failure to conform its marijuana laws to national standards; and

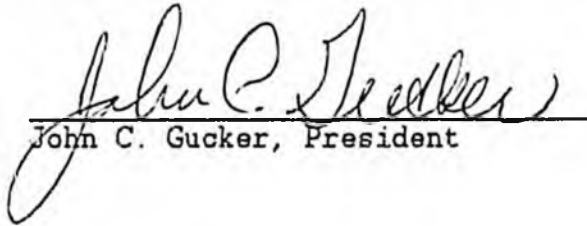
WHEREAS, one of the major purposes and objectives of the Greater Juneau Chamber of Commerce is to "improve the business climate and to make this community a more desirable place to live and work";

NOW, THEREFORE, BE IT RESOLVED BY THE GREATER JUNEAU CHAMBER OF COMMERCE:

That the Greater Juneau Chamber of Commerce 1. urges the Alaska State Legislature to revise the statutes relating to marijuana to conform to the national standards, and 2. supports Initiative No. 88MARI being placed on the next state-wide ballot to give the residents of Alaska the choice of whether or not to recriminalize marijuana, and 3. urges Alaskans to vote to recriminalize marijuana during the next state-wide ballot on Initiative 88MARI.

Effective date. This resolution shall be effective immediately upon adoption.

Adopted this 22nd day of September, 1989



John C. Gucker, President

Attest:

Judy Gilmore, Office Manager

Initiative: Marijuana

This measure would make any use or display of marijuana in any public place, public or private, and having less than one-half pound of a substance which has marijuana in it, punishable by up to 90 days in jail and up to a \$1,000 fine.

Current Law

<u>Place</u>	<u>Amount</u>	<u>Classification</u>	<u>Penalty - Up To</u>
Anywhere	>8 oz	A misdemeanor	\$5,000/1 yr
Anywhere	>4 <8 oz	B misdemeanor	\$1,000/90 days
Public	>1 <4 oz	B misdemeanor	\$1,000/90 days
Public	<1 oz	7th degree vio	\$100
Private	<4 oz		no penalty

CSHB 88

Anywhere	> 8 oz	A misdemeanor	\$5,000/1 yr
Anywhere	>4 <8 oz	B misdemeanor	\$1,000/90 days
Anywhere	>1 <4 oz	B misdemeanor	\$1,000/no jail first offense*
Anywhere	<1 oz	7th degree vio	\$300/citation

CSHB 88 combines a criminal provision for possession of 1 to 4 oz's (class B misdemeanor) with a non-criminal provision for possession of less than 1 oz (a violation), and eliminates the public/private distinction.

*

Subsequent offenses may result in jail time up to 90 days, drug treatment/community work service at the discretion of the court.

AS CHAIR OF THE HOUSE STATE AFFAIRS COMMITTEE I HAVE SPENT CONSIDERABLE TIME LISTENING TO THE VIEWS OF MY COLLEAGUES AND THE PUBLIC ABOUT MARIJUANA - THOSE VIEWS GENERALLY HAVE CENTERED ON THESE QUESTIONS:

- SHOULD THE POSSESSION OF SMALL QUANTITIES OF MARIJUANA BE MADE ILLEGAL?
- IF WE MAKE SMALL QUANTITIES ILLEGAL, WHAT IS THE APPROPRIATE PENALTY?
- DOES ALASKA'S CONSTITUTION PRECLUDE PROHIBITION OF SMALL QUANTITIES OF MARIJUANA?

THE OPINIONS/VIEWS RANGE FROM MAKING MARIJUANA POSSESSION A CRIMINAL OFFENSE RESULTING IN JAIL TIME AND A LARGE FINE TO MAKING POSSESSION A VIOLATION WITH A SMALL FINE. OTHERS FEEL THAT WE SHOULD DO NOTHING - THAT A PERSONS RIGHT TO PRIVACY OUTWEIGHED THE NEED TO CHANGE THE LAW - THEY ARGUE IT HAS NOT BEEN SHOWN MARIJUANA USE IS MORE HARMFUL THAN ALCOHOL OR TOBACCO SO WHY CRIMINALIZE IT?

HOWEVER MUCH I WOULD LIKE TO TRY, I CANNOT RECONCILE THESE DIFFERING VIEWS - I CAN ONLY TELL YOU THAT MANY PEOPLE INCLUDING PROFESSIONALS WORKING IN INTERVENTION/PREVENTION PROGRAMS AND IN LAW ENFORCEMENT, ALL SEEM TO AGREE THAT WE MUST SEND A MESSAGE THAT WE DO NOT CONDONE MARIJUANA'S USE, BUT THAT SOLE MESSAGE IS NOT JUST JAIL TIME AND LARGE FINES; RATHER, WE MUST ALSO EDUCATE OUR YOUTH AND CHILDREN ABOUT THE

POTENTIAL HEALTH AND EMOTIONAL RISKS THEY TAKE WHEN THEY USE MARIJUANA.

THE BILL WHICH THE HOUSE STATE AFFAIRS COMMITTEE FINALLY AGREED ON AND PASSED OUT - CS FOR HB88(SA) - CAN BE VIEWED AS A COMPROMISE BETWEEN THOSE WHO WISH TO CRIMINALIZE THE POSSESSION OF MARIJUANA AND THOSE WHO WISH TO TREAT POSSESSION OF SMALL QUANTITIES AS A VIOLATION.

CS FOR HB88(SA) TREATS POSSESSION OF LESS THAN 1 OZ A VIOLATION WITH A MAXIMUM FINE OF \$300. POSSESSION OF 1 TO 4 OZ'S IS TREATED AS A MISDEMEANOR B WITH NO JAIL TIME FOR THE FIRST OFFENSE - THE COURT MAY REQUIRE A DRUG TREATMENT PROGRAM AND/OR COMMUNITY SERVICE. IN SUMMARY, THIS APPROACH COMBINES A CRIMINAL PROVISION FOR POSSESSION OF 1 TO 4 OZ'S WITH A NON-CRIMINAL PROVISION FOR POSSESSION OF LESS THAN 1 OZ AND ELIMINATES THE PUBLIC/PRIVATE DISTINCTION.

OBVIOUSLY THIS APPROACH IS NOT A COMPROMISE FOR THOSE WHO WOULD PREFER TO KEEP THE STATUS QUO - I CAN ONLY SAY TO THESE INDIVIDUALS, I HAVE HEARD EVIDENCE AND TESTIMONY WHICH CONVINCES ME WE NEED TO SEND A MESSAGE TO OUR CHILDREN AND YOUTH THAT WE DO NOT CONDONE THE USE OF MARIJUANA IN THE HOME OR ANYWHERE - CS FOR HB88(SA) REPRESENTS THAT MESSAGE BUT ACKNOWLEDGES THAT JAIL TIME FOR SMALL QUANTITIES - LESS THAN 1 OZ - IS NOT THE ANSWER. YOU SHOULD NOTE THAT THE STATE

AFFAIRS COMMITTEE PASSED OUT HB88 WITH A STRONG LETTER OF INTENT AND THAT INTENT IS THAT IN CONSIDERING THE PASSAGE OF LEGISLATION TO CRIMINALIZE THE USE AND POSSESSION OF MARIJUANA, THE LEGISLATURE ADEQUATELY FUND DRUG ENFORCEMENT AGENCIES, DRUG RESEARCH ACTIVITIES, AND STATE PROGRAMS PROVIDING DRUG PREVENTION/INTERVENTION TO FAMILIES AND YOUTH VICTIMIZED BY DRUG ABUSE.

THE CS FOR HB 88(SA) DOES NOT INCLUDE A COMPREHENSIVE SET OF MEDICAL FINDINGS AS ARE FOUND IN SB 18 AND HB 22. IT IS MY UNDERSTANDING THAT WE MUST DEMONSTRATE A NEED TO CHANGE THE LAW REGARDING THE USE OF MARIJUANA IN THE HOME BASED ON PROOF THAT THE PUBLIC HEALTH OR WELFARE WILL SUFFER IF CONTROLS ARE NOT APPLIED TO ITS USE. WHILE I PERSONALLY BELIEVE THERE ARE SUFFICIENT SOCIAL AND MEDICAL/HEALTH REASONS, IT IS NOT CLEAR WE ARE YET AT A POINT WHERE "FINDINGS" COULD WITHSTAND A COURT TEST - FINDINGS SUCH AS THOSE PRESENTED IN SB 18 AND HB 22.

YOU WILL NOTE THAT THERE IS ANOTHER BILL SPONSORED BY THE HOUSE STATE AFFAIRS COMMITTEE - HJR 42. THIS RESOLUTION PROPOSES TO AMEND ARTICLE I, SECTION 22 OF THE ALASKA CONSTITUTION TO EXCLUDE FROM THE RIGHT TO PRIVACY A PERSON'S POSSESSION OR USE OF MARIJUANA. BY PASSAGE OF THIS RESOLUTION, THE LEGISLATURE COULD REGULATE THE USE OF MARIJUANA WITHOUT CONCERN FOR A VIOLATION OF THE

CONSTITUTIONAL RIGHT TO PRIVACY. ULTIMATELY IT MAY HAVE TO BE THE PEOPLE WHO DECIDE WHETHER THEY ARE WILLING TO CHANGE THE RIGHT TO PRIVACY PROVISION IN THE STATE CONSTITUTION TO PRECLUDE THE USE OF CONTROLLED SUBSTANCES SUCH AS MARIJUANA.

WE SHOULD KEEP IN MIND THAT THE LEGISLATURE HAS THE OPPORTUNITY TO PASS A LAW WHICH SENDS A MESSAGE THAT WE DO NOT CONDONE THE USE OF MARIJUANA BUT DOES NOT APPLY PENALTIES WHICH SIMPLY PUT PEOPLE IN JAIL - IF WE DON'T PASS THIS LAW, THE INITIATIVE THAT IS PRESENTLY CIRCULATING THROUGHOUT ALASKA WOULD, IF ADOPTED, PLACE ON THE BALLOT IN THE 1990 GENERAL ELECTION A MEASURE WHICH WOULD MAKE THE USE OR DISPLAY OF LESS THAN ONE-HALF POUND OF MARIJUANA ANYWHERE A MISDEMEANOR B RESULTING IN 90 DAYS OF JAIL AND A \$1,000 FINE - THE LEGISLATURE HAS THE OPPORTUNITY TO ADDRESS THIS ISSUE NOW AND IN A REASONABLE MANNER THROUGH CSHB 88.

I ENCOURAGE YOUR SUPPORT OF CSHB 88 THANK YOU.

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2

HOUSE JOINT RESOLUTION NO. 42

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

Proposing an amendment to the Constitu-

6

tion of the State of Alaska providing

7

that an individual's right of privacy

8

does not include the possession or use

9

of controlled substances.

10 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. Article I, sec. 22, Constitution of the State of Alaska,

12 is amended to read:

13

SECTION 22. RIGHT OF PRIVACY. The right of the people to pri-

14

vacy is recognized and shall not be infringed. The right of privacy

15

does not include the right to possess or use controlled substances.

16

The legislature shall implement this section.

17

* Sec. 2. The amendment proposed by this resolution shall be placed

18

before the voters of the state at the next general election in conformity

19

with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-

20

tion laws of the state.

Original sponsor: State Affairs Committee

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 88 (State Affairs)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act amending the definitions of the offenses of
7 misconduct involving a controlled substance in the
8 sixth degree to make the use, display, or possession
9 of one to four ounces of marijuana illegal as a class
10 B misdemeanor and to make the use or display of less
11 than four ounces of marijuana by a minor, and the use
12 or display of any amount of marijuana within the im-
13 mediate control of the operator of a propelled vehi-
14 cle, illegal as a class B misdemeanor, and of miscon-
15 duct involving a controlled substance in the seventh
16 degree to make the use, display, or possession of
17 less than one ounce of marijuana illegal as a viola-
18 tion; and relating to disposition of offenses of
19 misconduct involving a controlled substance in the
20 sixth and seventh degrees."

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

22 * Section 1. PURPOSE. (a) Alaska's criminal code classifies marijuana
23 as a schedule VIA controlled substance. Section 2 of this Act makes the
24 possession of one ounce or more but less than four ounces of marijuana
25 illegal as the offense of misconduct involving a controlled substance in
26 the sixth degree. Section 4 of this Act makes the possession of less than
27 one ounce of marijuana illegal as the offense of misconduct involving a
28 controlled substance in the seventh degree.

29 (b) Misconduct involving a controlled substance in the seventh degree

1 is, under current Alaska law, a violation, that is, an offense punishable
2 by a fine of not more than \$100. The amendment made by sec. 5 of this Act
3 increases the fine that may be imposed to \$300.

4 (c) It is the purpose of secs. 6 and 7 of this Act to amend applica-
5 ble law so that a law enforcement officer who stops or contacts a person
6 for possession of a small amount of marijuana may issue a citation for that
7 offense, and the person who receives the citation may waive a court appear-
8 ance and remit a payment as satisfaction of the offense.

9 * Sec. 2. AS 11.71.060(a) is amended to read:

10 (a) Except as authorized in AS 17.30, a person commits the crime
11 of misconduct involving a controlled substance in the sixth degree if
12 the person

13 (1) [USES OR DISPLAYS ANY AMOUNT OF A SCHEDULE VIA CON-
14 TROLLED SUBSTANCE OR POSSESSES ONE OR MORE PREPARATIONS, COMPOUNDS,
15 MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF ONE OUNCE OR MORE
16 CONTAINING A SCHEDULE VIA CONTROLLED SUBSTANCE ON A PUBLIC STREET OR
17 SIDEWALK OR ON THE PREMISES OF A PUBLIC CARRIER OR BUSINESS ESTABLISH-
18 MENT OR IN ANY OTHER PUBLIC PLACE;

19 (2)] knowingly uses, displays, or possesses any amount of a
20 schedule VIA controlled substance within the immediate control of that
21 person while operating a propelled vehicle;

22 (2) [(3)] being under 19 years of age, uses, displays, or
23 possesses one or more preparations, compounds, mixtures, or substances
24 of an aggregate weight of less than four ounces containing a schedule
25 VIA controlled substance;

26 (3) uses, displays, or [(4)] possesses one or more prepara-
27 tions, compounds, mixtures, or substances of an aggregate weight of
28 one ounce [FOUR OUNCES] or more containing a schedule VIA controlled
29 substance; or

1 (4) [(5)] refuses entry into a premises for an inspection
2 authorized under AS 17.30.

3 * Sec. 3. AS 11.71.060 is amended by adding a new subsection to read:

4 (c) A court

5 (1) may impose a sentence of imprisonment on a person
6 convicted of an offense under (a)(3) or (a)(4) of this section only if
7 the person has previously been convicted of an offense

8 (A) described in (a) of this section; or

9 (B) under a law or ordinance in another jurisdiction
10 with elements substantially similar to an offense described in
11 (a) of this section;

12 (2) may require the defendant to participate in a program
13 under AS 12.55.015(d);

14 (3) may require the defendant to engage in community work
15 under AS 12.55.015(a) and 12.55.055.

16 * Sec. 4. AS 11.71.070(a) is amended to read:

17 (a) Except as authorized in AS 17.30, a person commits the
18 offense of misconduct involving a controlled substance in the seventh
19 degree if the person

20 (1) manufactures or delivers, or possesses with the intent
21 to manufacture or deliver, one or more preparations, compounds, mix-
22 tures, or substances of an aggregate weight of less than one-half
23 ounce of a schedule VIA controlled substance; or

24 (2) uses, displays, or possesses one or more preparations,
25 compounds, mixtures, or substances of an aggregate weight of less than
26 one ounce containing a schedule VIA controlled substance [ON A PUBLIC
27 STREET OR SIDEWALK OR ON THE PREMISES OF A PUBLIC CARRIER OR BUSINESS
28 ESTABLISHMENT OR IN ANY OTHER PUBLIC PLACE].

29 * Sec. 5. AS 11.71.070(b) is amended to read:

1 (b) Misconduct involving a controlled substance in the seventh
2 degree is a violation and is punishable as authorized in AS 12.55 [,
3 EXCEPT THAT IF A FINE IS IMPOSED IT SHALL NOT BE MORE THAN \$100].

4 * Sec. 6. AS 11.71 is amended by adding a new section to read:

5 Sec. 11.71.075. CITATION FOR VIOLATION. (a) The provisions of
6 AS 12.25.180(b) and 12.25.190 - 12.25.230 apply to a person arrested
7 or cited for the commission of an offense under AS 11.71.070.

8 (b) An offense under AS 11.71.070 for which a citation is issued
9 may be disposed of without court appearance. For each offense under
10 AS 11.71.070, the supreme court shall establish a schedule of bail
11 amounts, not to exceed the amount of a fine prescribed by law. The
12 citing officer shall write on the citation the amount of bail appli-
13 cable to the cited offense.

14 (c) A person cited under (a) of this section may, within five
15 days after the date of the citation, mail or personally deliver to the
16 clerk of the court having jurisdiction over the place where the of-
17 fense occurred

18 (1) the amount of bail indicated on the citation for that
19 offense; and

20 (2) a copy of the citation signed by the person on an
21 appropriate blank on the citation indicating the person's waiver of
22 appearance, plea of no contest, and direction to forfeit the bail.

23 (d) When bail has been forfeited under this section, a judgment
24 of conviction shall be entered. Bail forfeited under this section is
25 a complete satisfaction for the offense, and the offender shall be
26 given a receipt stating that fact.

27 (e) The maximum penalty that may be imposed for the offense may
28 not exceed the bail amount for that offense set out in the schedule of
29 bail amounts as determined by the supreme court under (b) of this

1 section.

2 * Sec. 7. AS 12.25.190(c) is amended to read:

3 (c) The person cited for the crime shall give a written promise
4 to appear in court by signing at least one copy of the written cita-
5 tion prepared by the peace officer and the officer shall deliver a
6 copy of the citation to the person. The written promise requirement
7 of this subsection does not apply to

8 (1) motor vehicle and traffic citations for which a bail or
9 fine schedule has been established under AS 28.05.151;

10 (2) [,] fish and game citations for which a bail schedule
11 has been established under AS 16.05.165;

12 (3) [,] citations issued under AS 18.35.341;

13 (4) [,] citations issued in state park and recreational
14 facilities under AS 41.21.960;

15 (5) [, OR] littering citations issued under AS 46.06.080;

16 or

17 (6) citations issued under AS 11.71.075.

18 * Sec. 8. AS 12.45.155(a) is amended to read:

19 (a) In a prosecution under AS 11.71.010 - 11.71.075 [AS 11.71.-
20 010 - 11.71.070], a complete copy of an official laboratory report
21 from the Department of Public Safety or a laboratory operated by
22 another law enforcement agency is prima facie evidence of the content,
23 identity, and weight of a controlled substance. The report must be
24 signed by the person performing the analysis and must state that the
25 substance which is the basis of the alleged offense has been weighed
26 and analyzed. In the report, the author shall state with specificity
27 findings as to the content, weight, and identity of the substance.

28 * Sec. 9. AS 17.30.080(b) is amended to read:

29 (b) A person who violates (a) of this section, or who otherwise

1 manufactures, distributes, dispenses, or conducts research with a
2 controlled substance in the state without fully complying with 21
3 U.S.C. 811 - 830 (Controlled Substances Act), and regulations adopted
4 under those sections, is guilty of misconduct involving a controlled
5 substance under AS 11.71.010 - 11.71.075 [AS 11.71.010 - 11.71.070] in
6 the degree appropriate to the circumstances as described in those
7 sections.

FISCAL NOTE

REQUEST:

Revision Date: April 3, 1989
 Title: "AN ACT AMENDING OFFENSES INVOLVING A CONTROLLED SUBSTANCE..."
 Sponsor: House State Affairs
 Requestor: House State Affairs

Agency Affected: Department of Law
 BRU: Prosecution
 Components: Third District, Fourth District, Crim. Appeals & Spl. Prosc., Criminal Justice Litigation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		133.6	137.6	141.7	146.0	150.4
TRAVEL		3.6	3.7	3.8	3.9	4.0
CONTRACTUAL		72.7	74.9	44.3	45.6	47.0
SUPPLIES		10.8	7.4	7.6	7.8	8.0
EQUIPMENT		12.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	233.2	233.6	197.4	203.3	209.4

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	233.2	233.6	197.4	203.3	209.4
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	2	2	2	2	2
PART-TIME	-0-	1	1	1	1	1
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard L. Pegues

Prepared by: Richard L. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: April 3, 1989

Richard L. Pegues / FARJ
 Approved by Commissioner: Douglas B. Bailly Attorney General Date: April 3, 1989
 Agency: Department of Law

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1
CSHB 88 (SA)
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

The committee substitute for HB 88 recriminalizes the possession and use of small amounts of marijuana. The bill would make possession of one ounce or more but less than four ounces of marijuana a class B misdemeanor, and the bill would make possession of less than one ounce of marijuana a violation. The maximum penalty for such a violation would be raised from \$100 to \$300. The legislature is also considering a joint resolution proposing a constitutional amendment at the next general election in November of 1990, which would provide that an individual's right to privacy does not extend to the possession or use of controlled substances. The bill would be effective 90 days after it becomes law, or sometime during the summer of 1989, if it is approved.

The passage of CSHB 88 will have a fiscal impact on the Department of law in three general areas: (1) the cost of processing additional new criminal cases; (2) the cost of educating the public about the new law; (3) approval of the proposed constitutional amendment will have the effect of repealing the Alaska Supreme Court's decision in Ravin. However, because the bill would be effective about 18 months before the constitutional amendment would become effective, it is anticipated that the bill will come under a vigorous constitutional challenge.

1. New Criminal Cases

Much of the behavior that the bill would classify as either a class B misdemeanor or a violation is not now an offense of any kind. In the past, some law enforcement officers who work primarily in the drug enforcement area indicated that recriminalizing marijuana could potentially result in "thousands" of new criminal cases a year. The police now doubt this but, nonetheless, a large number of the new cases would arise from situations where law enforcement officers now commonly discover small amounts of marijuana (as when an officer responds to a domestic disturbance call and sees some marijuana plants in a person's home, or when a person is arrested for a minor offense and a routine search for weapons reveals some marijuana cigarettes in the person's pocket, for example). Incidents of this sort occur frequently now, but do not generally result in any criminal prosecution for the marijuana possession. Many of these cases are likely to be referred for criminal prosecution if CSHB 88 becomes law because police officers will not ignore evidence of wrongdoing that is in plain view. Many of these defendants are middle-class people who can be expected to vigorously resist having a criminal record. Class B misdemeanors entitle a defendant to a jury trial and court-appointed counsel. Although the bill provides that possession of less than one ounce of marijuana will be handled as a violation, some unknown yet substantial number of these lesser offenses can be expected to be disputed, requiring attorney time to prosecute.

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1
CSHB 88 (SA)
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

Prosecutors generally predict a substantially lesser number of new potential criminal cases under CSHB 88 than the "thousands" that were once predicted. Once the public becomes aware of the new law, some people are likely to become more careful about not allowing marijuana or smoking paraphernalia to be exposed in plain view in their homes; for example. Judging from the number of minor marijuana offenses prosecuted prior to the Ravin decision in 1975, prosecutors still expect at least a "few hundred" new criminal cases a year. Possession of small amounts of marijuana for personal use has been legal since the Ravin decision in 1975. Consequently, there is no accurate way to predict the number of new offenses that will occur when this current behavior is outlawed. Nor is there any accurate means to determine, in advance, the number of new offenses that will constitute class B misdemeanors, as opposed to violations. All of the department's prosecution offices are working at maximum capacity. Past budget cuts have left little time available to handle minor offenses, and the department has had to focus its remaining resources on major offenses, particularly crimes of violence. Prosecution of a whole new block of crime, although relatively minor, simply cannot be undertaken without some additional resources. The department's current estimate of a "few hundred" offenses is very conservative. The actual number of new cases may be significantly higher. It certainly will not be less.

Class B misdemeanor cases and disputed violations which are accepted for prosecution will require attorney time both at trial and in preparation for trial (i.e., preparation of search warrants, response to defense motions, evaluation of results of laboratory analysis, pretrial witness preparation, etc.). To handle screening of the expected case referrals, and to prosecute the additional misdemeanors and disputed violations, the criminal division will require the addition of at least one Attorney III position and one Legal Secretary I position in Anchorage. It is anticipated that a half-time attorney will also be needed in the Fairbanks District Attorney's office.

2. Public Education

In order to inform the public of the changes in the law, the Department of Law will develop and disseminate public notices explaining the new law. These notices will include newspaper ads and brochures, and will be modeled upon the public education notices which were distributed statewide in connection with the new drug law in 1982 and the new DWI and drinking age laws in 1983. Based upon experience with these earlier notices, approximately \$25,000 will be needed to cover the costs of writing, layout, typesetting, publication, and distribution.

In addition to the costs explained above, it is anticipated that the passage of this bill will result in increased costs to other components of the criminal justice system, including law enforcement, the courts, the public defender agency, the Office of Public Advocacy, and corrections.

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1
CSHB 88 (SA)
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

3. Defending the New Law

In 1975 the Alaska Supreme Court in the case of Ravin v. State, 537 P.2d 497 (Alaska 1975), ruled that under Art. I, Sec. 22 of the Alaska Constitution the state could not prohibit possession of marijuana by adults in their own homes for personal use. The court held that the state had not demonstrated the existence of a legitimate state interest which was strong enough to justify the regulation of this conduct.

Since passage of CSHB 88 would make it a crime for an adult to possess any amount of marijuana anywhere, including in his or her own home, the constitutionality of the new law is certain to be challenged. An appellate court will have to decide whether the state has proved that there is a "compelling state interest" in the prohibition of the use of marijuana which is sufficient to outweigh an individual's right to privacy under the state constitution. It is extremely important, therefore, that the legislature's consideration of this bill include extensive public hearings, debate on the social policy merits of the proposal, and the collection of the results of the most recent scientific, medical, and pharmacological studies regarding the physical, emotional, and social effects of marijuana usage.

In addition to the necessary legislative hearings, evidentiary hearings at the trial court level can be expected when a challenge to the new law is filed. Challenges to the new law will most likely arise in the context of a defendant's pretrial motion to dismiss a criminal prosecution. When responding to such a defense motion, the prosecutor would, in essence, have to convince a court to reverse the ruling in the Ravin case. In order to demonstrate that the result in Ravin is no longer correct, the prosecutor would have to present convincing, scientifically accurate, evidence that the effects of marijuana usage are so injurious to a person's mental and physical health as to justify the legislative decision to totally prohibit use of marijuana by anyone at any time (as opposed to use by minors or use by a person who is operating a motor vehicle--both of which are already prohibited under current law).

The presentation of this convincing evidence will require the prosecution to present expert testimony from authorities who have conducted recent research in this area. Out-of-state witnesses in medical and scientific fields charge a fee for their services. These fees will vary from individual to individual, but are expected to average at least \$150 per hour. This would include services for consultation, witness preparation and actual testimony. Costs will be incurred for expert witness transportation, food and lodging, and other incidental expenses. Additionally, there will be some costs for preparation of exhibits and written reports. To the extent possible, the Department of Law would attempt to present written testimony in situations where it is not feasible to fly a person to Alaska to testify

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1
CSHB 88 (SA)
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

Fourth Judicial District - Fairbanks

	<u>Atty. III</u> <u>(PPT)</u>	<u>Total</u>
Personal Services	36.9	36.9
Travel - Witness travel subsistence, Atty. travel	1.8	1.8
Contractual Services		
office commo., equip. repair	2.4	2.4
copy - postage	1.2	<u>1.2</u>
		3.6
Commodities - Ongoing		
office consumables	1.8	1.8
Law library	1.2	1.2
Commodities - one time		
New position materials	1.2	<u>1.2</u>
		4.2
Equipment - one time		
New position equipment	2.0	2.0
		<hr style="width: 100px; margin: 0 auto;"/>
		48.5

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1
CSHB 88 (SA)
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

2. Public Education

Criminal Justice Litigation Component/Prosc. BRU

<u>Object</u>	<u>Total</u>
Contractual Services - one time writing, layout, typesetting, publication and distribution of public notices and information brochures describing the changes in the law.	25.0

	25.0

3. Defending the New Law

Criminal Appeals & Special Prosecution Component/Prosc. - BRU

<u>Object</u>	<u>Total</u>
Contractual Services - Professional fees scientific experts 120 hrs. X \$150 =	\$18,000
Experts' staff support, preparation of exhibits, written testimony 50 hrs. X \$60 =	3,000
Experts' travel to attend hearings and offer testimony 6 trips X 4 days X \$80 = \$1,920 subsistence	1,920
6 trips X \$1,500 = \$9,000 travel	9,000

	\$31,920

This amount will be required for both FY 90 and FY 91, to cover both trials and appeals.

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1
CSHB 88 (SA)
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

in person. We estimate that a minimum of six expert witnesses will be required to attempt to successfully defend the new law at the trial court level.

Hearings at the trial court level can reasonably be expected to take several days. A substantial commitment of attorney time will be required for scientific and legal research in preparation for the hearings, actual court time, legal briefing, and the preparation of proposed findings of fact. Since prosecutions under the new law will occur statewide, defense challenges may be raised at the same time in different parts of the state. The extensive hearings described above may have to be held in more than one judicial district in the state.

Regardless of which side prevails at the trial court level, the lower court ruling would almost certainly be followed by an appeal. At a minimum, such an appeal (or appeals) would require additional legal research, a thorough review of the record, the drafting of briefs, and oral argument before the appellate court and the Supreme Court.

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1
CSHB 88 (SA)
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

1. New Criminal Cases

Third Judicial District - Anchorage

<u>Total</u>	<u>Atty III</u> <u>(PFT)</u>	<u>Legal Sec I</u> <u>(PFT)</u>	<u>Total</u>
Personal Services	63.8	32.9	96.7
Travel - Witness travel subsistence, atty. travel	1.8	-0-	1.8
Contractual Services			
office commo. equip. repair	2.4	1.2	3.6
copy - postage	1.2	1.2	2.4
Office Space rent/lease	4.0	2.2	<u>6.2</u>
			12.2
Commodities - Ongoing			
office consumables	1.8	1.2	3.0
Law library	1.2	-0-	1.2
Commodities - one time			
New position materials	1.2	1.2	<u>2.4</u>
			6.6
Equipment - one time			
New position equipment	2.0	8.5	10.5
	<hr/>	<hr/>	<hr/>
	79.4	48.4	71.1

Costs beyond FY 90 include a 3% inflation factor, less one-time items.

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1
CSHB 88 (SA)
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

Summary of Expenses (All Components)

	<u>Defending the new Law</u>	<u>New Criminal Cases</u>	<u>Public Education</u>	<u>Total</u>
Personal Services		133.6		133.6
Travel		3.6		3.6
Contractual	31.9	15.8	25.0	72.7
Commodities		10.8		10.8
Equipment		12.5		12.5
	<u>31.9</u>	<u>176.3</u>	<u>25.0</u>	<u>233.2</u>

Position Title Attorney III		No. of Positions 1	Range/Step 22A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location EBA - Anchorage		Election District 8
Justification				
<p>This full-time attorney position is required at Anchorage to handle the influx of new cases that will result when marijuana possession or use is recriminalized. Prosecutors expect that at least a few hundred such offenses will occur each year as a result of the enactment of this bill. This position will be responsible for prosecuting those new cases that are brought in the Third Judicial District and handling appellate briefs and appeals hearings. Because these new cases will be classed as misdemeanor offenses and violations, allocation of the position to the Attorney III level is appropriate.</p>				
Type of Expenditure		Amount		
1	2	3		
Salary	49,140			
Benefits	14,657			
Premium Pay				
Other				
Total Personal Services		63,797		
Travel		1,800		
Contractual		7,600		
Commodities		4,200		
Equipment		2,000		
Other				
Total Cost		79,397		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	79,397		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Law
 DRU Prosecution
 Component Third Judicial District.

Revised Date

FY 90

Position Title Legal Secretary I		No. of Positions 1	Range/Step 10B	Marg. Unit GGU
Time Status PFT	Staff Months 12	Location Anchorage		Election District 8
Justification				
This Legal Secretary I position will be needed to handle the paperwork and scheduling requirements for the influx of new trials that will occur when the possession or use of small amounts of marijuana is outlawed. At the least a "few hundred" new offenses are expected. This estimate is very conservative, and the actual number of new cases may be somewhat higher. It certainly will not be any less. The support staff in the Anchorage District Attorney's Office was cut severely in FY 87, and any additional caseload will require an increase in support staff. Allocation to the Legal Secretary I level is appropriate because of the legal and trial documentation necessary to try these cases.				
Type of Expenditure		Amount		
1	2	3		
Salary	22,716			
Benefits	10,220			
Premium Pay				
Other				
Total Personal Services		32,936		
Travel		-0-		
Contractual		4,600		
Commodities		2,400		
Equipment		8,500		
Other				
Total Cost		48,436		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	48,436		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Third Judicial District.

Revised Date

FY 90

Position Title Attorney III		No. of Positions ;	Range/Step 22A	Barg. Unit PX
Time Status PPT	Staff Months 12	Location JBA - Fairbanks		Election District 16
Type of Expenditure		Justification		
		This permanent part-time position at Fairbanks is required to handle the influx of new cases that will result when the use or possession of small amounts of marijuana is recriminalized. Prosecutors expect that at least a few hundred offenses will occur each year as a result of the enactment of this bill. This position will be responsible for prosecuting those new cases that are brought in the Fourth Judicial District. Because these new cases will be classed as misdemeanor and violation offenses, allocation of the position to the Attorney III level is appropriate.		
Amount				
1	2	3		
Salary	28,122			
Benefits	8,826			
Premium Pay				
Other				
Total Personal Services		36,948		
Travel		1,800		
Contractual		3,600		
Commodities		4,200		
Equipment		2,000		
Other				
Total Cost		48,548		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	48,548		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

page 12 of 12

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Fourth Judicial District

Revised Date

FY 90

No. 1
 CSHB 88 (SA)
 HOUSE 4/6/89

Item 7



CITY OF HOMER

CITY HALL

491 EAST PIONEER AVENUE

HOMER, AK., 99603-7624

FAX 235-3140
(907)235-8121

DATE:

11/25/89

TIME:

11:55 521

FAX TRANSMISSION

4/6 5 30 4/1

TO:

C.E. Seavek Hammer

ATTENTION:

FROM:

Chief Deputy

DEPARTMENT:

NUMBER OF PAGES TRANSMITTED (including cover sheet)

2

Confirm transmission received?

1471384 P.02

RECRIMINALIZATION OF MARIJUANA

of Marijuana

The three law enforcement organizations acknowledge the diversity of opinion held by the public regarding the issue of recriminalization. Perhaps because of the long, and unsuccessful, attempts to have Marijuana recriminalized, many police officers and chiefs no longer see the issue as a top priority.

Nonetheless, there is general agreement about the desirability of recriminalizing Marijuana for several reasons:

* Alaska, alone among all the states, continues to have legalized small amounts for use in the home. No other state has determined that one's privacy in the home extends to the use of what is illegal everywhere else.

* Legal use of small amounts in the home, in effect stimulates the importation of Marijuana from other states (where it is illegal) and the trafficking and sale in Alaska, which remain illegal.

* Alaska's legal use of Marijuana is in direct violation of federal law. The State Supreme Court's decision to legalize small amounts of Marijuana, in effect, encourages violating federal law. This conflict between state and federal law sends a message of confusion and doubt to youngsters whose values are being molded by society.

* The Peace Officer's position is supported by two recent samples of public opinion in Alaska. Dittman and Associates Public Attitudes Survey in Anchorage in November 1988 revealed that "well over half of all respondents feel possession of any amount of Marijuana by adults should be illegal." (Page 3)

The results of Senator Frank Murkowski's drug opinion survey, released in December 1988, involving some 10,000 Alaskans, showed that 63.9% want state law to be changed to be consistent with federal law.

We would also support enactment of a state tax on illegal drugs, which would require drug dealers to buy tax stamps and affix them to drug packages. Little, if any, income is expected from sale of the stamps, but the tax would provide another legal weapon against dealers. Several states with such a tax have collected several millions of dollars in fines assessed the dealers who have not purchased the tax stamps.

been apprehended, and have.

JAN 17 RECD

JAN 17 RECD
JAN 17 RECD

Leonard J. Karpinski
810 E. 42nd Pl. #16
Anchorage, Alaska 99503
12 January 1989

Rep. Red Boucher
Pouch V
Juneau, Alaska 99811

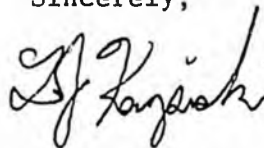
Greetings:

It worries me that again this year there are those who would take away my right as an adult to have marijuana in my home. I wish that these people would respect my privacy and let bills such as SB32 and the stupid back-door tax idea die rather than rely on so-called "findings" and polls weighted in favor of those bothered enough by the subject to respond.

It also worries me that I may someday have to resign my job rather than take a urine drug test. HB283B was a bill that should have received unanimous support from those interested in workers' rights, yet no real action was taken on it. I'd like to see this bill re-introduced.

Thanks for taking the time to read this.

Sincerely,



Leonard J. Karpinski

January 24, 1989

Representative H.A. "Red" Boucher
Alaska House of Representatives
Pouch 7
Juneau, AK 99811

Dear Red:

I understand that legislation has been introduced that would recriminalize the possession for personal use of marijuana. I believe that there may be differing versions, i.e. different penalties, but all have generally the same intent.

Let me state that I am unequivocally opposed to any change in existing law which would infringe on the constitutionally guaranteed rights to privacy and that I consider the proposed changes to be just that.

I served as an expert witness in State v Raven. At that time I worked for the Anchorage Health Department, responsible for the mental health, alcoholism, and drug abuse education, prevention, and treatment programs throughout the city. My testimony at that time was generally that the treatment community had no plans to develop programs for adult marijuana users as it was not considered a problem.

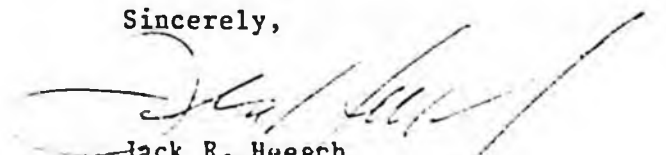
Further, in terms of priorities, there are a host of legal drugs, not the least of which is alcohol, that provided us with much greater cause for concern in terms of addiction, social maladjustments, violence, physical debilitations, and deaths.

More recently, the U.S. Surgeon General has determined nicotine is in fact the most addictive drug available. Recent research has demonstrated a significant link between nicotine and death. There can be no question that nicotine consumption poses far greater societal risks than does any other drug, particularly marijuana.

The point is, there are problems caused by readily available drugs that should be of much, much greater concern to the state than are posed by marijuana. While constitutional protections may apply to those more noxious drugs as well, the state has a far greater case in suggesting that drugs which are unquestionably killing people are ones with which the state should be concerned.

The criminalizing of the possession of marijuana for personal use by adults will do nothing to begin to deal with the serious social problems that exist as a result of drug use in Alaska. Such criminalization of marijuana will, however, undermine the constitutionally guaranteed rights of Alaska's citizens and will provide some small segment of the population with the mistaken notion that they have done something substantial in dealing with serious social problems, when in fact they have only created more.

Sincerely,



Jack R. Heesch
P.O. Box 201608
Anchorage, AK 99520

TELECOPY COVER SHEET

Ketchikan Legislative Information Office

Office - (907) 225-9675

Fax - (907) 225-8546

TO: Sen. Fairs
Rep. Brouker, Rep. Ellis FAX: 465-3700 PHONE: _____

FROM: Alaskans For a Drug Free Youth PHONE: _____

INSTRUCTIONS: Please Distribute

RECEIVED: Date _____ Time _____

SENT: Date 1/29/89 Time 2:30

DISPOSAL OF ORIGINAL: Discard Hold for Pickup _____

NUMBER OF PAGES: 1 (Not counting cover sheet)

SENT BY: [Signature]



Alaskans for Drug-Free Youth

An Affiliate Member of the National Federation of Parents for Drug-Free Youth.

*Marc, How
we go - you
thought on this
RD*

FOR IMMEDIATE RELEASE
JANUARY 20, 1989

CONTACT: NANCY URICK
907-247-2273

ADFY WILL NOT SUPPORT HB 88

Alaskans for Drug-Free Youth announced January 20, 1989 that they will not support HB 88. The bill does not address marijuana use as a health hazard nor does it recriminalize marijuana! More adequate penalties must be attached to show Alaskan youth and others that our society does not condone the use of marijuana because of the health and social problems associated with it.

Alaskans for Drug-Free Youth will instead support SB 18 and HB 22, identical bills that address the health and social consequences of marijuana.

MAR 15 '89 15:04 LIO - ANCH 277-6112

P.1/15

TELECOPY COVER SHEET
Anchorage Legislative Information Office

Office - (907) 581-7007

Fax - (907) 582-4378

TO: H. STATE AFFAIRS FAX: _____ PHONE: _____

FROM: George Gilchrist - Trinity Presb. PHONE: _____

INSTRUCTIONS: ~~Pls. call Rep. on arrival~~

From: G. Gilchrist - Trinity Presbyterian Church
12310 Lorraine St, ANCHORAGE 99516

RECEIVED: Date _____ Time _____

SENT: Date 3/15/89 Time 3:06

DISPOSAL OF ORIGINAL: Discard _____ Hold for Pickup _____

NUMBER OF PAGES: 15 (counting cover sheet)

SENT BY: DJ

Page 1 of 13

"Shall Alaska Statute 11.71.060(a) be amended to classify the use, display, or possession of any amount of marijuana up to one-half pound as a class B misdemeanor?"

WE, the undersigned, have read and support the above stated initiative. We are all qualified voters residing in the State of Alaska, and as sponsors, are committed to circulate the petition throughout the State in person and collect sufficient signatures to place the initiative on the next statewide election ballot.

- | | <u>Voter I.D. #</u> | <u>Printed Name</u> | <u>Signature</u> |
|----|---------------------|------------------------------|---------------------------|
| 1. | 1949113 | Deeathy Ann Wright | <i>Deeathy Ann Wright</i> |
| | | 306 Deerfield Dr Anchorage | 349-4962 |
| | | Address | Telephone |
| 2. | | Kathleen Knowles | <i>Kathleen Knowles</i> |
| | | PO Box 90211 99509 | |
| | | Address | Telephone |
| 3. | | Sharon M. Kudo | <i>Sharon M. Kudo</i> |
| | | 13421 Wimmerush Cir. | 343-2857 |
| | | Address | Telephone |
| 4. | | Loretta Foster | <i>Loretta Foster</i> |
| | | 4620 Golden Spring Cir 99507 | 346-1565 |
| | | Address | Telephone |
| 5. | | LANA TRUVILLO | <i>Lana Truvillo</i> |
| | | 1701 Elcadiere #3 99507 | 344-1438 |
| | | Address | Telephone |
| 6. | | Carol Fuller | <i>Carol Fuller</i> |
| | | 12810 Troy St, Anch | 345-3411 |
| | | Address | Telephone |
| 7. | | ROBERT E. WEIMER | <i>Robert Ekkevier</i> |
| | | 1620 WINTERSSET DR ANCH | 562-5647 |
| | | Address | Telephone |

*This page may be duplicated for additional sponsors.

Page 2 of 13

"Shall Alaska Statute 11.71.060(a) be amended to classify the use, display, or possession of any amount of marijuana up to one-half pound as a class B misdemeanor?"

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	<u>Voter I.D. #</u>	<u>Printed Name</u>	<u>Signature</u>
1.	729353	Nancy J. Beardsley	Nancy J. Beardsley
	13201	Reef Pt. Anch, AK 99515	345-4764
		<u>Address</u>	<u>Telephone</u>
2.	1409276	Linda K. Yost	Linda K. Yost
	13621	Venus Way Anch, AK 99515	345-5329
		<u>Address</u>	<u>Telephone</u>
3.	1442815	Marcia K. Hastings	Marcia K. Hastings
	7136	Condore Cir 99516	346-2524
		<u>Address</u>	<u>Telephone</u>
4.		Nancy D. Hamilton	Nancy D. Hamilton
	P.O. Box 11915	99511	346-2524
		<u>Address</u>	<u>Telephone</u>
5.		Judy A. Houlihan	Judy A. Houlihan
	3431	Spinnaker Dr. 99516	345-0562
		<u>Address</u>	<u>Telephone</u>
6.		Leslie Lee Kirtia	Leslie Lee Kirtia
	12831	Monterey Cir 99510	345-5616
		<u>Address</u>	<u>Telephone</u>
7.		Kevin Lee Turabley	Kevin Lee Turabley
	750	Waters Dr. 99516	345-0720
		<u>Address</u>	<u>Telephone</u>

*This page may be duplicated for additional sponsors.

Page 3 of 15

"Shall Alaska Statute 11.71.060(a) be amended to classify the use, display, or possession of any amount of marijuana up to one-half pound as a class B misdemeanor?"

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- | | <u>Voter I.D. #</u> | <u>Printed Name</u> | <u>Signature</u> |
|----|---------------------|---------------------|----------------------|
| 1. | | | |
| | 7621 W 69th | Anchor, AK 99502 | 748-1814 |
| | <u>Address</u> | | <u>Telephone</u> |
| 2. | 2621 W 69th | ANCHORAGE AK 99502 | 748-1814 |
| | <u>Address</u> | | <u>Telephone</u> |
| 3. | 311377 | Lee Ann Crumbley | Lee Ann Crumbley |
| | 630 Cedar Pk. Cir. | Anchorage, AK 99515 | 907-344-5175 |
| | <u>Address</u> | | <u>Telephone</u> |
| 4. | 367257 | ALICE RICHARDSON | May Alice Richardson |
| | 1521 Sunrise Dr. | Anchorage, 99508 | 277-5770 |
| | <u>Address</u> | | <u>Telephone</u> |
| 5. | 8740 | Anchorage, AK 99502 | 247-4418 |
| | <u>Address</u> | | <u>Telephone</u> |
| 6. | 850883 | Rhonda J. Senter | Rhonda Senter |
| | 2711 Cutwater Cir. | Anchorage 99516 | 345-7363 |
| | <u>Address</u> | | <u>Telephone</u> |
| 7. | | MARY CAROL WRIGHT | Mary Carol Wright |
| | 1565 Southpark Loop | Anchorage | 345-6432 |
| | <u>Address</u> | 99516 | <u>Telephone</u> |

*This page may be duplicated for additional sponsors.

Pg 4 of 13

"Shall Alaska Statute 11.71.060(a) be amended to classify the use, display, or possession of any amount of marijuana up to one-half pound as a class B misdemeanor?"

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Voter I.D. #	Printed Name	Signature
1.	ANETTE C. SHOWALTER	<i>Anette C. Showalter</i>
	2300 TASHA DR., ANCHORAGE, 99502	348-3153
	Address	Telephone
2.	Patricia A. Jackson	<i>Patricia A. Jackson</i>
	15210 Pollock Dr. Anchorage, 99516	345-1434
	Address	Telephone
3.	Leslie Wiederholt	<i>Leslie W. Wiederholt</i>
	12831 Trent Circle	345-5979
	Address	Telephone
4.		
	Address	Telephone
5.		
	Address	Telephone
6.		
	Address	Telephone
7.		
	Address	Telephone

*This page may be duplicated for additional sponsors.

Page 5 of 13

"Shall Alaska Statute 11.71.060(a) be amended to classify the use, display, or possession of any amount of marijuana up to one-half pound as a class B misdemeanor?"

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- | | <u>Voter I.D. #</u> | <u>Printed Name</u> | <u>Signature</u> |
|----|---|----------------------------|--------------------------|
| 1. | 36770F | Glenn H. Lundell | <i>Glenn H. Lundell</i> |
| | 3011 Brittany Place, Anchorage AK 99504 | | 333-0054 |
| | <u>Address</u> | | <u>Telephone</u> |
| 2. | 378268 | Christine Lundell | <i>Christine Lundell</i> |
| | 3011 Brittany Pl. Anchorage, AK 99504 | | 333-0054 |
| | <u>Address</u> | | <u>Telephone</u> |
| 3. | 413369 | JOHN J BENTZ | <i>John Bentz</i> |
| | P.O. Box 112663 Anchorage AK 99511 | | 345-6557 |
| | <u>Address</u> | | <u>Telephone</u> |
| 4. | 156255 | DOROTHY TONEY | <i>Dorothy Toney</i> |
| | 2502 Greenwood Dr 99517 | | 243-8402 |
| | <u>Address</u> | | <u>Telephone</u> |
| 5. | | MARTHA M. NELSON | <i>Martha M. Nelson</i> |
| | 12870 BEN CT ANCH. AK. 99515 | | 345-0007 |
| | <u>Address</u> | | <u>Telephone</u> |
| 6. | | DAVID F. NELSON | 345-0007 |
| | <u>Address</u> | | <u>Telephone</u> |
| 7. | | Sheilah Silva | <i>Sheilah Silva</i> |
| | 3407 Dorbrandt St. Anch. AK. | | 567 3194 |
| | <u>Address</u> | | <u>Telephone</u> |

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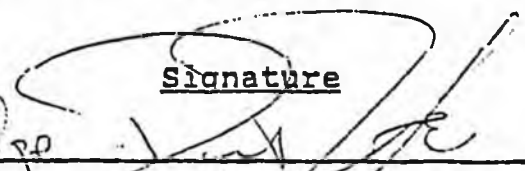
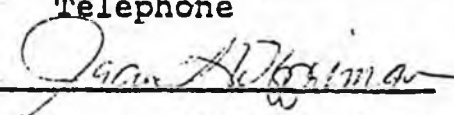
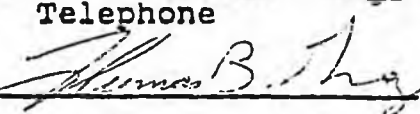
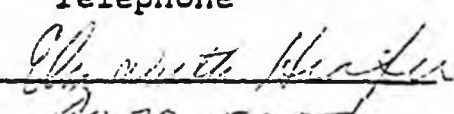
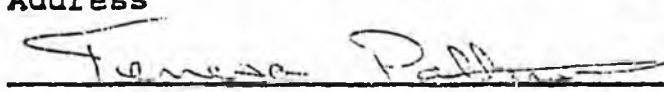
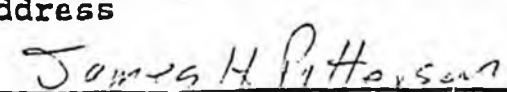
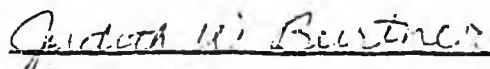
<u>Voter I.D. #</u>	<u>Printed Name</u>	<u>Signature</u>
1. 113751	EVA J REESE	<i>Eva Reese</i>
	3602 12th St. Anch AK 99517	248-5998
	Address	Telephone
2. 2166659		<i>Lidia Stambur</i>
	P.O. Box 110412 / 4901 Hillandale Dr.	345-0671
	Address	Telephone
3. 2166989		<i>Lidia</i>
	P.O. Box 110412 / 4901 Hillandale Dr.	345-0671
	Address	Telephone
4. 04551586	DARLENE NELSON	<i>Darlene Nelson</i>
	2621 W 69th Ave. Anch 99502	248-1814
	Address	Telephone
5. 183964	Paul Rohwer	<i>Paul Rohwer</i>
	10845 OUR RD Anch. AK	907 346 1655
	Address	Telephone
6. 183953	Ellen Rohwer	<i>Ellen Rohwer</i>
	10845 OUR RD Anch AK	907 346 1655
	Address	Telephone
7. 1987	Jerry W Kitzley	<i>Jerry W Kitzley</i>
	1987 Olympic Blvd Anch AK 99515	907-344-5850
	Address	Telephone

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- | | <u>Voter I.D. #</u> | <u>Printed Name</u> | <u>Signature</u> |
|----|--|---------------------|---|
| 1. | 1951994 | Rick Davidson |  |
| | 3501 Admiralty Bay Anch AK | | 349-7329 |
| | <u>Address</u> | 99515 | <u>Telephone</u> |
| 2. | 4197259 | Jean Wappaman |  |
| | 12841 Silver Spruce Dr Anch 99516 | | 345-2455 |
| | <u>Address</u> | | <u>Telephone</u> |
| 3. | 4766771 | Thomas Gray |  |
| | 13131 BISCAYNE CIRCLE ANCHORAGE AK 99516 | | 345-1356 |
| | <u>Address</u> | | <u>Telephone</u> |
| 4. | | Elizabeth Heffer |  |
| | 1143 E. H. Woodhouse AK | | 342-5257 |
| | <u>Address</u> | | <u>Telephone</u> |
| 5. | | Teresa Patten |  |
| | 3500 La Touche # 260 | | 99508 562-2969 |
| | <u>Address</u> | | <u>Telephone</u> |
| 6. | | James H. Pitterson |  |
| | 3500 La Touche St | | 345-3215 |
| | <u>Address</u> | | <u>Telephone</u> |
| 7. | | Carole M. Burtner |  |
| | Green Alps PO Box 11041 | | 345-1598 |
| | <u>Address</u> | | <u>Telephone</u> |

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- | | <u>Voter I.D. #</u> | <u>Printed Name</u> | <u>Signature</u> |
|----|--|---------------------|----------------------------|
| 1. | 6246312
246312 | Alice S Green | <i>Alice S. Green</i> |
| | 2205 Boniface Pkwy #33 | | 337-3084 |
| | <u>Address</u> | | <u>Telephone</u> |
| 2. | 771320 | Ernest Schlereth | <i>Ernest Schlereth</i> |
| | | | 345 7363
272 5549 |
| | <u>Address</u> | | <u>Telephone</u> |
| 3. | 3267011
Margie Gilchrist | Margie Gilchrist | <i>Margie L. Gilchrist</i> |
| | 4931 Omega Cir | | 345-0640 |
| | <u>Address</u> | | <u>Telephone</u> |
| 4. | JOHN L. TORREY | | |
| | 1802 PREEZE DODD DR. | | 249-8402 |
| | <u>Address</u> | | <u>Telephone</u> |
| 5. | 4708759 DENISE WRIGHT | | <i>Denise Wright</i> |
| | 12102 Lilac Circle, Anch., AK 99516 | | (907)345-8568 |
| | <u>Address</u> | | <u>Telephone</u> |
| 6. | 1152701 ROBERT A. WHITE | | <i>Robert Allen White</i> |
| | Box 11219 Anchorage AK 99517 | | 345-3922 |
| | <u>Address</u> | | <u>Telephone</u> |
| 7. | <i>Marcia M. Hill</i> | | |
| | 0300 Indian St Anchorage 99507 | | 344-2424 |
| | <u>Address</u> | | <u>Telephone</u> |

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	<u>Voter I.D. #</u>	<u>Printed Name</u>	<u>Signature</u>
1.	1216996	Joan Higgins	<i>Joan Higgins</i>

	<u>Address</u>	<u>Telephone</u>
2.	DAVID J. LORAN	David J. Loran

	12431 CLIPPERSHIP DR ANCHORAGE	345-3920
--	--------------------------------	----------

3.	7801 Upper DeArmon	Elizabeth B. Hudson	345-6731
----	--------------------	---------------------	----------

	Joseph S. CALNARERA	349-1561
--	---------------------	----------

4.	5301 COUNTRY CLUB, ANCH. AK.	
----	------------------------------	--

	<u>Address</u>	<u>Telephone</u>
5.		

	<u>Address</u>	<u>Telephone</u>
6.		

	<u>Address</u>	<u>Telephone</u>
7.		

	<u>Address</u>	<u>Telephone</u>
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	<u>Voter I.D. #</u>	<u>Printed Name</u>	<u>Signature</u>
1.	2935416	M. Barbara Wolflick	M. Barbara Wolflick
	<u>06 Box 118502, Anch. Alaska 99511</u>		<u>346-1481</u>
	<u>Address</u>		<u>Telephone</u>
2.	639617	Karleen K. Jackson	Karleen K. Jackson
	<u>12021 Forelands Circle, Anchorage, AK 99515</u>		<u>522-15201</u>
	<u>Address</u>		<u>Telephone</u>
3.	115346	Lois E. KENNY	Lois E. Kenny
	<u>3304 Greenland AA Anch. AK 99517</u>		<u>277-7352</u>
	<u>Address</u>		<u>Telephone</u>
4.	293046	Jacqueline F. Jones	Jacqueline F. Jones
	<u>P.O. Box 112604, Anchorage, AK 99511</u>		<u>345-1221</u>
	<u>Address</u>		<u>Telephone</u>
5.	682825	Sandra M. Peck	Sandra M. Peck
	<u>12305 Wilderness Anchorage Ak 99516</u>		<u>345-3207</u>
	<u>Address</u>		<u>Telephone</u>
6.	4121538	Gerald K. VanKortzen	Gerald K. VanKortzen
	<u>4551 E 135th Anch Ak 99516</u>		<u>345-7900</u>
	<u>Address</u>		<u>Telephone</u>
7.	7735 Port Anford	Marlene Taus	Marlene Taus 346 2403
	<u>Address</u>		<u>Telephone</u>

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	<u>Voter I.D. #</u>	<u>Printed Name</u>	<u>Signature</u>
1.	1779866	NORA L. BRYANT	<i>Nora Bryant</i>
	1539	HARRIET CT. ANCH. AK. 99515	907-345-4344
		Address	Telephone
2.	55913	Jay B. Melville	<i>Jay B. Melville</i>
	6641	Teshlar Dr Anch 99509	907-349-1167
		Address	Telephone
3.		Judith L. Melville	<i>Judith L. Melville</i>
	6641	Teshlar Dr Anch 99509	907-349-1167
		Address	Telephone
4.		ROBERT L. RICHMOND	<i>Robert L. Richmond</i>
	11200	Snowline Drive	276-5727
		Address	Telephone
5.	571956	CAROL V. RICHMOND	<i>Carol V. Richmond</i>
	11200	Snowline Dr. Anch 99516	346-1246
		Address	Telephone
6.	421520	Sue A. Wise	<i>Sue A. Wise</i>
	3140	Meridian Anch. 99516	349-1544
		Address	Telephone
7.			
		Address	Telephone

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- | | <u>Voter I.D. #</u> | <u>Printed Name</u> | <u>Signature</u> |
|----|-----------------------------|------------------------------------|-----------------------------|
| 1. | 596949 | Carolyn Craft Ludwig | <i>Carolyn Craft Ludwig</i> |
| | | 10510 Lone Tree Drive 99516 | 346 3115 |
| | | Address | Telephone |
| 2. | FRANCES M. O'Meara (930358) | Frances M. O'Meara | <i>Frances M. O'Meara</i> |
| | | 12440 Bainbridge Rd. 99516 | 345-4794 |
| | | Address | Telephone |
| 3. | CAROL A. FARREN (152768) | Carol A. Farren | <i>Carol A. Farren</i> |
| | | 12800 Ridgewood Rd Andin Ave 99516 | 345-0786 |
| | | Address | Telephone |
| 4. | | | |
| | | Address | Telephone |
| 5. | | | |
| | | Address | Telephone |
| 6. | | | |
| | | Address | Telephone |
| 7. | | | |
| | | Address | Telephone |

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<u>Voter I.D. #</u>	<u>Printed Name</u>	<u>Signature</u>
1. 3-3044217	Brian E. Houlahan	Brian E. Houlahan

~~3-195~~

Address

Telephone

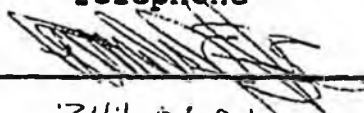
2. 3-957956	Cathleen T. Miller	Cathleen T. Miller
-------------	--------------------	--------------------

925 Coral Ln Anchorage 99515

345-1844

Address

Telephone

3. 01782663	Pamela D. Engle	
-------------	-----------------	--

Box 110152 Fairbanks, AK 99511

344-0601

Address

Telephone

4.	Steven D Gordon	Steven Gordon
----	-----------------	---------------

3820 Robin St Anchorage AK 99504

333-9541

Address

Telephone

5.		
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Address

Telephone

6.		
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Address

Telephone

7.		
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Address

Telephone

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THE NATIONAL FOOTBALL LEAGUE



FOREST S. TENNANT, JR., M.D., DR. P.H.
DRUG ADVISOR

February 28, 1989

H. A. "Red" Boucher, Chairman
House State Affairs
P.O. Box V
Anchorage, Alaska 99511

Dear Chairman Boucher,

It was a pleasure to meet you a few days ago. Your interest in dealing with the drug problem and the NFL Drug Education video series is very much appreciated.

Under separate cover I am forwarding to Sandy Spargo and Bobbi Trani in Juneau a set of NFL video tapes which I made two years ago. One of these tapes ("Don't Drop the Ball Again") shows the effects of marijuana on the eyes. It is found that this video tape has been very effective with athletes since it shows them that their eye-hand coordination will be markedly impaired if they use drugs. I am forwarding a copy of this letter, plus another letter, to Bobbi and Sandy in Juneau to have them set up an appointment with you and your staff to view these videos.

I wish you and I had had some time to visit for a while. It sounds like you have spent a good deal of your life dealing with young people and athletes. Furthermore, some of your comments tell me that you know how to discipline them and how to motivate them.

Please count of me for any continued help.

Best regards,

Forest

Forest Tennant, M.D., Dr.P.H.

FT/pb

cc: Bobbi Trani
Sandy Spargo

RECEIVED

MAR 1 1989

28 March 1989

Dear Representative Boucher:

RECEIVED
MAR 30 1989

The recriminalization issue before the legislature is, in reality, a camouflage for the subversion of our civil liberties. In order to send a message to our young, we would relinquish another basic, constitutional right?

This legislation would infringe on our right to privacy. It is not the legislature's responsibility to institute more government control into our homes. We elect our government to protect our rights not to take them away.

This legislation would also increase police state activities. There are a lot of things that people do in our society that are not good for us, but we don't classify people as criminals for them. More police control is not the answer to our social problems. This type of legislation taxes an already overburdened court system and asks our overburdened police force to enforce the unenforceable. They are not the solution to the problem.

Perhaps, if you legislators are seeking a way to send a message to our young, you could institute substance abuse testing for yourselves.

Sincerely,

H. Kaye Pullen

H. Kaye Pullen
P.O. Box 770961,
Eagle River, Alaska 99577

CON ST
X#688

RECEIVED

MAR 29 1989

March 22, 1989

Chairman Boucher & members of the House State Affairs Committee,

I see that the personal use of marijuana in the privacy of one's home is once again being debated in the Alaskan legislature.

There are few points I would to make on this issue and I will try to be brief as I can.

I feel that I am as qualified as anyone & probably more so than most to comment on this issue. I teach the very students who are supposed to benefit from recriminal-izing possession of small amounts of marijuana(mj). I also belong to the Alaska Council for the Prevention of Alcohol & Drug Abuse & have received training from the Alaska Council as well as drug abuse counseling as part of my advanced degree in Counseling & Guidance. This training & my concern about the issue of drug abuse has led to my involvement in leading groups of teenagers who are interested in staying straight. We even started a group at Palmer High School called PHOLK (Palmer High on Life Krowd) that promotes drug free behavior. I also teach about the dangers and symptoms of drug abuse in my high school Psychology classes.

What I'm saying is that I know something about drug abuse from formal education as well as from direct contact with high school students.

I have also experimented with many drugs including mj & alcohol. I no longer use any illegal drugs or alcohol and although I don't believe that I abused these drugs over time, I have used mj & alcohol to a degree that would constitute abuse on occasion. I have to watch out here since "denial" is always one of the first defenses of drug abusers. Anyway, my point is that I also have personal knowledge of drug use as well as drug abuse. An important note here is that there is a big difference between use & abuse and while abstinence is obviously better than either use or abuse it isn't a very realistic option for many adolescents.

...So much for establishing my credibility.

COMMENTS

1. In my opinion marijuana is not as dangerous a drug as the legal drug alcohol. If "sending mixed messages" is such a concern, what about the students who see the results of alcohol abuse every where around them? What about the

violence, the anger, the relaxation of inhibitions, the hangovers, the drunken stupors, the injuries & deaths because of drunk drivers and the diseases associated with long term alcohol abuse? Of course, marijuana is a mind altering drug, that's why people use it but it does^{not} cause any of the above problems even when abused! I'm not saying that mj can't be abused or that its abuse doesn't cause problems but mj abuse problems compared to abuse of other illegal drugs or alcohol are less severe.

If you don't think that students see hypocrisy here, take some time out & ask them.

2. I find it ironic that while the major drug abuse problem in Alaska & the USA is alcohol, we don't ban its use because "we tried prohibition & it didn't work". I don't agree with this logic but for the sake of making my point lets say it does make sense. How is prohibiting the use of marijuana by adults in their home going to stop its use? It didn't stop alcohol!

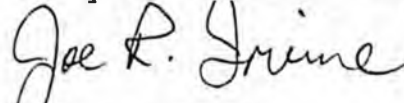
3. Both these drugs, marijuana & alcohol, are already restricted with regard to possession & use by minors.

4. It is politically expedient to oppose drug use & not get labeled as soft on drugs but risks need to be taken by our leaders when their analysis of a situation shows that misconceptions exist. To me, this issue about mj use in a private home is such a case which calls for your advocating personal freedom & reasonableness.

5. Please consider the following as a guideline with regard to restricting marijuana use:

Substitute the word "alcohol" for "marijuana"; if you are willing to propose the same restrictions on alcohol say, "OK" if not then say, "NO WAY".

For your consideration,



Joe R. Irvine
P.O. BOX 139
Palmer, Ak. 99645

(105)
NB88

Fred L. Garvin
1538 Orca St.
Anchorage, AK 99501
March 23, 1989

Hon. H.A. "Red" Boucher
House of Representatives
Box V
Juneau, Alaska 99811

RECEIVED

MAR 27 1989

Dear Representative Boucher:

I am writing to express my opposition to legislation recriminalizing small amounts of marijuana in a private home. While I share the concern of many people over the excessive use of drugs by some individuals, I do not believe that making criminals of a great many law-abiding Alaskans will make any headway in solving that problem.

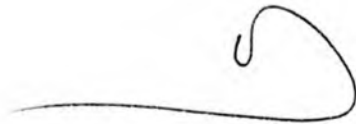
As the Alaska Supreme Court stated in the Ravin decision, no compelling reasons justify criminalizing marijuana use in the home so as to overcome the privacy rights guaranteed in the Alaska Constitution. Use of marijuana in the home poses no greater health risk than the use of alcohol. New information on the health risks of marijuana use are no more startling than the recent medical findings on the risks of alcohol and tobacco. The fact that some strains of marijuana may be more potent than those available at the time of the Ravin decision does not logically lead to the conclusion that use of marijuana in the home is so much more dangerous as to justify its illegalization. The use of marijuana as opposed to the use of alcohol is a matter of personal choice protected by our state constitution.

Public safety concerns such as use of marijuana in public or driving under its influence are already addressed in our criminal laws. As we learned during Prohibition of the 1920s, illegalizing a recreational drug is not an effective way to deal with its misuse. Education and counseling as to the risks of more addictive drugs is a far more effective response. Directing law enforcement efforts at recreational use of marijuana in the home would divert limited resources from more pressing problems. In dealing with current public concern over drug abuse, we must not confuse use of marijuana with the serious problems posed by heroin, crack, pop and other addictive drugs.

There are many people who came to Alaska because of the freedoms available in this State. While people argue that we are out of step with the rest of the country because of our marijuana laws, I would contend that, given this State's unique history and situation, our current marijuana laws are appropriate and do not need changing. The New York Times in an editorial last year recognized that decriminalization marijuana use would focus law enforcement efforts on more serious drug problems. I urge you to

A -

Has this been distributed
in packets?



resist the hysteria of the war on drugs and vote against
recriminalization legislation. Making law-abiding Alaskans
criminals will not solve our substance abuse problems.

Sincerely,

Fred L. Garvin

Fred L. Garvin

803
XNK 88 ?

KENAI PENINSULA BOROUGH SCHOOL DISTRICT

148 North Binkley Street • Soldotna, AK 99669 • Phone 907/262-5846



March 14, 1989

RECEIVED
MARCH 17 1989

Representative H.A. Boucher
House of Representatives
Box V
Juneau, AK 99811-3100

Dear Representative Boucher:

Attached please find a resolution which the Kenai Peninsula Borough School District Board of Education recently passed regarding the recriminalization of marijuana. I believe this resolution accurately reflects our views on this very important issue.

Sincerely,

Fred Pomeroy
Superintendent

bj

enc.

KENAI PENINSULA BOROUGH SCHOOL DISTRICT

RESOLUTION 88-89-8

RECRIMINALIZATION OF MARIJUANA

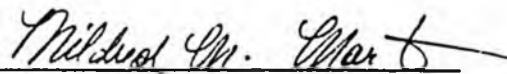
WHEREAS, the physiological, psychological and sociological effects of marijuana use are well documented; and

WHEREAS, the use of this substance by some elements of the school age population continues to be a disruptive force; and

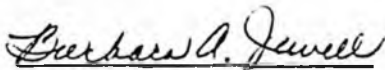
WHEREAS, current state statute permits possession of marijuana for adult private use which makes this substance more accessible to the school age population;

NOW THEREFORE BE IT RESOLVED, that the Kenai Peninsula Borough School District Board of Education supports the recriminalization of marijuana and the appropriate provisions for enforcement.

ADOPTED BY THE BOARD OF EDUCATION OF THE KENAI PENINSULA THIS
13th DAY OF MARCH, 1989.


Mildred Martin, President
Kenai Peninsula Borough Board of
Education

ATTEST:


Barbara A. Jewell
Notary Public

ALASKANS FOR DRUG-FREE YOUTH/JUNEAU

Contact: Officer Shirley Warner
President
Alaska Officers' Assoc.
376-5481k (b)

Prepared by:
Sandy Spargo
Alaskans for Drug-
Free Youth
586-6122 (h)
or 1-800-478-CARE

FOR IMMEDIATE RELEASE ON MARCH 22, 1989

**ALASKA PEACE OFFICERS ASSOCIATION
SUPPORTS MARIJUANA POSSESSION
AS A MISDEMEANOR**

RECEIVED

MAR 30 1989

The Alaska Peace Officers Association officially changed its stance on the penalty of marijuana possession from a violation to a misdemeanor. A Class B misdemeanor's penalty is 0-90 days in jail and a maximum of a \$1,000 fine.

Attached is a letter of February 25, 1989, from Officer Shirley Warner to Representative Alyce Hanley. Quoting Officer Warner, "A violation would do very little to persuade anyone that we are serious about our fight against drugs." A violation does not recriminalize marijuana, because a violation is not a criminal act.

Copies of the letter were sent to Representatives Fran Ulmer, C. E. Swackhammer, and Ann Sponholz.

House Bill 88 treats marijuana possession of four ounces or less as a violation. In contrast, House Bill 22 and Senate Bill 18 ask for any amount of marijuana to carry the misdemeanor penalty.

Alaskans for Drug-Free Youth supports House Bill 22 and Senate Bill 18.

*Louise
For your Information.
Steve*

ALASKA PEACE OFFICERS ASSOCIATION

State APOA Office • P.O. Box 240106 • Anchorage, AK 99524-0106 • (907) 376-5481

February 25, 1989

Representative Alyce Hanley
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Representative Hanley,

Thank you for the opportunity to serve on your subcommittee regarding the recriminalization of marijuana. I found it to be an interesting and enlightening experience, both during, and after the fact.

Even though there was no formal vote in relation to the violation vs. B misdemeanor I left with the distinct impression that the subcommittee was going to go with the violation of 1 oz. or less.

I naturally wanted to work with the committee in drafting this bill and considering the different angles. I now find it critical that I make our position as clear as possible.

Last year we supported the violation as there was concern from some of the Legislators that law enforcement would have a heyday with this law; they would form task forces and bust peoples' doors down to arrest. This simply was not the case.

We were concerned with the message it sent our youth, the drug activity the law spawned, the now known danger of the drug, and the confusion with contrary federal and state laws. That, more or less, backfired on us. Our membership beat us up and the Legislators said "law enforcement is not serious about criminalizing marijuana".

The Alaska Peace Officers Association is in support of criminalizing the possession of marijuana. As I cannot be available for all of the hearings regarding your bill and the other marijuana bills I must rely on you to resolve the language.



EXECUTIVE DIRECTOR
H. James Messick

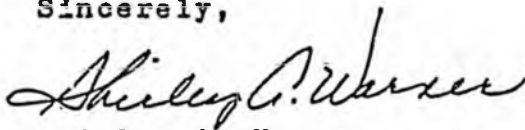
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Please keep in mind the testimony of the young people at your meeting who said the violation would not affect the marijuana drug activity. I would also like to reiterate on my testimony during the teleconference. A violation would do very little to persuade anyone that we are serious about our fight against drugs.

If there is any more I can do from here to help pass this legislation please call.

Sincerely,



Shirley A. Warner
President

cc: Representative Fran Ulmer
Representative Swackhammer
Representative Ann Sponholz
Board Members



ALASKA MANAGEMENT TECHNOLOGIES, INC.
240 MAIN STREET - SUITE 701
JUNEAU, ALASKA 99801 • 907-586-4404

March 9, 1989

Representative Red Boucher
House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Boucher:

Per your request, enclosed please find the names and addresses of all CloseUp participants from this past session.

If you have any questions, please call me at 586-4404.

Sincerely,

A handwritten signature in cursive script, appearing to read "Heidi Bohn".

HEIDI BOHN
CloseUp Program

enc.

SESSION III

BAKUN, Fred
P.O. Box 194
Naknek, AK 99633
Bristol Bay Borough High School

BOYKIN, Tony
4829 E. 6th
Anchorage, AK 99508
East High School

CONRAD, John (teacher)
P.O. Box 115
Tanana, AK 99777
Tanana High School

CROWSON, David
Box 231
Delta Junction, AK 99737
Delta Junction High School

CRUGER, LEDA
P.O. Box 72
Galena, AK 99741
Galena High School

DANIELS, Lisa
P.O. Box 31
Angoon, AK 99820
Angoon High School

DEAL, Annette
2910 W. 35th
Anchorage, AK 99517
West High School

DETZEL, Jack (teacher)
Pouch 1
Delta Junction, AK 99737
Delta Junction High School

FRONTERHOUSE, Lea
Box 397
Healy, AK 99743
Tri-Valley High School

GEAGAN, Valita (teacher)
Box 3037
Anderson, AK 99744
Anderson Elementary

GLAVINOVICH, Mikel
2840 Seafarer Loop
Anchorage, AK 99516
Service High School

GREGORY, Annie
P.O. Box 566
Delta Junction, AK 99737
Delta Junction High School

GROAT, Marcia
P.O. Box 29
Naknek, AK 99633
Bristol Bay Borough High School

HAMILTON, Jason
P.O. Box 9
Eagle, AK 99738
Eagle Community School

HAMILTON, Joel
P.O. Box 9
Eagle, AK 99738
Eagle Community School

HOGAN, Jennifer
8821 Tempest Circle
Anchorage, AK 99507
Service High School

JANSEN, Teresa
17907 Tonsina Court
Eagle River, AK 99577
Chugiak High School

JAEHNING, Kurt (teacher)
P.O. Box 30
Naknek, AK 99633
Bristol Bay Borough High School

JORDAN, Terry
P.O. Box 203
Tanana, AK 99777
Tanana High School

KNITTEL, Joan (teacher)
P.O. Box 261
Galena, AK 99741
Galena High School

KOLESKY, Marne
7810 Ascot
Anchorage, AK 99502
Dimond High School

MIKESELL, Tim
Box 156
Delta Junction, AK 99737
Delta Junction High School

MILLER, Robert
4334 Butte Circle
Anchorage, AK 99504
Bartlett High School

MAYO, Trent
General Delivery
Tanana, Ak 99777
Tanana High School

PATRAWKE, Erna
3530 Perenosa
Anchorage, AK 99515
Service High School

PIPER, Stephan
11347 Terrace Hills Drive
Eagle River, AK 99577
Chugiak High School

PCLK, Stephen (teacher)
7716 Chaimi Loop
Anchorage, AK 99504
Service High School

PREWITT, Brandi
24-367 B Pansy Court
Elmendorf A.F.B., AK 99506
Bartlett High School

RIVERA, Javier
8601 Flamingo Drive
Anchorage, AK 99502
Dimond High School

SALAZAR, Royce
7910 Ascot St.
Anchorage, AK 99502
West High School

SIMMONS, Tiffany
P.O. Box 317
Galena, AK 99741
Galena High School

SMITH, Jeffrey
Box 58
Eagle, AK 99756
Eagle Community School

SWENSON, Stephanie
Box 82
Tanana, AK 99777
Tanana High School

TAYLOR, Tawni
Box 3005
Anderson, AK 99744
Anderson High School

THOMPSON, Rhonda
P.O. Box 183
Naknek, AK 99633
Bristol Bay Borough High School

WAKEFIELD, Cristine
8820 Solar Drive.
Anchorage, AK 99507
Steller Secondary School

CLOSEUP
240 Main Street, Suite 701
Juneau, AK 99801

Sara Hannan
Heidi Bohi
Melinda Gruening

Dear Mr. Boucher:

I feel that mari Juana should be legalized forever, or until we find some way to stop it for good. If they do legalize it I fear people may go to a more potent drug. I personally know that a lot of people smoke the drug regularly. If you do legalize it drug pushers will higher the price so that people will resort to stealing. I think you should take a vote from the people.

Sincerely

Terry Jordan

Representative Boucher.

This afternoon you asked us to think about how the laws made by our state government affect us. I ask what has making drugs illegal done to our country and state?

I say our laws have turned a health problem concerning substance abuse into a huge international crime problem. Just as prohibition gave organized crime its first big foothold in the cities of our country; our drug laws made possible a new a larger kind of organized crime and drug empire. - we need to take the profit out of crime. Tuff drug laws have only aggravated a bad situation.

Let focus on education and other form of drug control. - our drug law have failed we don't need more of the same.

John Conrad

Box 31

Angoon, AK 99820

March 6, 1989

H. A. "Red" Boucher

Box V

Juneau, AK. 99811

Dear Representative Boucher,

Thank you for taking time
to talk with the students
that attended Close-Up.

With the Marijuana
problem, my personal opinion
it is that it should be decriminalized.
To me, I think it is very
encouraging for young adults
in Alaska.

Sincerely a Close-Up Student,

Lisa M. Daniels

2-6-89

DEAR RED,

I'D LIKE TO THANK YOU FOR SPENDING TIME WITH THE CLOSE-UP STUDENTS AND MYSELF (I'M AN ANCHORAGE HIGH SCHOOL SOCIAL STUDIES TEACHER) TODAY & DISCUSSING IN PLAIN LANGUAGE THE ISSUE OF ~~LEAD~~ MARIJUANA. WHEN I WAS IN HIGH SCHOOL (I'M 35 NOW) THE ISSUE OF DRUG USE WAS NOT MUCH DIFFERENT THAN THEY ARE TODAY. I EXPERIMENTED, AS MOST STUDENTS DID & DO, WITH ALCOHOL, MARIJUANA & HASH. OTHER PEOPLE I KNEW TRIED SPEED, PSYCHEDELICS etc. DRUGS WILL ALWAYS BE AVAILABLE - SO THE ISSUE IS NOT "MAKE IT ILLEGAL AND SO WIPE OUT DRUG USE/ABUSE."

THE ISSUE TO ME IS - "ARE THERE SUBSTANCES THAT HARM SOCIETY, AND SINCE THERE ARE, SOCIETY MUST PROTECT ITSELF AND MAKE A MORAL STATEMENT ABOUT DRUGS & THEIR USE & ABUSE." IN OTHER WORDS, EVEN THOUGH PEOPLE WILL USE DRUGS - WE AS A SOCIETY ~~AT~~ SHOULD NOT CONDONE THEIR USE TO PROTECT ALL OF US. A MORAL SOCIETAL STATEMENT AGAINST DRUG USE IS POWERFUL AND IS IMPORTANT.

IF EVERYTHING / ANYTHING IS
ALLOWED - MORE PEOPLE WILL
BE HURT THAN IF IT IS NOT
ALLOWED.

EVEN WHEN I USED SOME
DRUGS I KNEW SOCIETY DIDN'T
APPROVE - AND, DEEP DOWN, KNEW
IT WASN'T GOOD FOR ME. NOT
BECAUSE PEOPLE WANTED TO STOP
ME FROM HAVING FUN - BUT
BECAUSE IT WAS ACTUALLY,
REALLY BAD FOR ANYONE,
PHYSICALLY & PSYCHOLOGICALLY.
BOTTOM LINE - SOCIETY (that's
all of us) NEEDS TO PROTECT
ITSELF AND TO DEFINE
WHAT A DANGER IS. MARIJUANA
SEEMS A DANGER, THE TOUGH
JOB, OF COURSE, IS TO DETERMINE
AN APPROPRIATE PENALTY - I
DON'T ENVY YOU THAT JOB.

Steve Polk

Dear Rep. Boucher,

Thank you for asking us in to discuss the marijuana resolution. I enjoyed that extensively. I believe that marijuana should be outlawed with harsh penalties. What is the difference between it and any other dangerous drugs that are outlawed?

As for Europe and its laws I spent all summer there in 1988. They have an extensive drug and alcohol problem but it is not well known because they don't broadcast it. On the other side of the coin is Israel, with about the lowest drug problem in the world, that they outlawed drugs and have an instant death penalty for drugs. I don't think we should be that extreme though. Maybe we should look at Russia, anyone can get alcohol and, most, until recently could legally get drugs, they are one of the drunkest, most storied nations on earth, worse by far than the U.S.

Maybe we should ask the federal government to declare war on drug dealers. If a country ~~data~~ kills that many people

we declare war on them, yet
10,000 + people are killed by drugs
and we tick the police on them.
Shouldn't the group equipped to
fight people that are armed and
carrying automatics (the military)
be asked to deal with them?

The most abused drug in my
school is alcohol, followed by
nicotine and THC (marijuana's main
drug). Those drugs are killing
America and our will to work
and win, therefore we are losing
our edge to Japan. ~~The~~ Ban marijuana
and educate the people, and then
thoroughly enforce those laws. Also
make the laws have a true penalty
to stop those dealers and users,
don't tease them.

Jason Hamilton
Eagle

please show this to Dick Shultz
also, thanks

Robert Miller
43341 Butte Circle
Anch, Alaska. 99504

Dear Rep. Boucher,

Thank you for your talk on drugs. Many Representatives don't take the time to talk to the teen-agers nowadays, because they think of us as juvenile delinquents. I do not think, that people don't spend a lot of time with us kids, were the future of this State or any other state. I feel if were going to get any kind of response to illegalizing drugs we must do it together.

I heard ^{when} you asked us, if ~~we~~ you should solve the problems, or pass a bill behind the backs of Alaskans, that wouldn't work, nobody would be satisfied just the people of the Court would.

I feel that you should legalize drug use in the home. I know it's on the streets, I've been there, but all we have to do is enforce our drug laws just a little harder. Drugs will never cease, ~~then~~ they're all over the place, little five year old kids are getting drugs and selling them, so lets put a little more effort into this drug problem, pass it on to other members, and I'll pass it on to the students of Anchorage and maybe we can make some progress.

Thank You!!!

H.A. "Red" Boucher
Box V
Juneau, Ak. 99811

Lead Frontierhouse
Box 377
Healy, Ak 99743
March 4, 1989

Dear Rep. H.A. "Red" Boucher,
I'd like to thank you for
your time on 3/4/89. I found your
feelings on the Recriminalization of
Marijuana very interesting. You asked
for our feelings on paper. I think
that marijuana is like alcohol,
when it is illegal to a minor they
are the ones that use it the most.
For the people that it is legal for
it is no big deal but for the people
that can't have it want it the
most. I think that if it is legal
that there will be less of a problem.
I hope you find my feelings useful
to your ideas and thinking. Thank
you for asking for our opinions.

Sincerely,
Lead Frontierhouse

H.A. "Red" Boucher

Pouch 21

Jessieville, Alaska 99811

Mar. 6, 1989

Dear Representative Boucher,

I want to thank you for talking with our
Close-Up students today. I know you must be a very
busy man and I think the students felt good about
you wanting to hear their thoughts. Your concern and
interest in them was appreciated.

I would like to see much stricter penalties
for all substance abuse. I certainly don't think marijuana
should be legalized. I don't agree with the "prohibition
argument". Our laws should be strictly enforced with
more community service not just a slap on the hand.

Thank you

Close-up Teacher

Hanni Ann Taylor
Box 3005
Anderson, AK 99744
March 6, 1988

H.A. Red Boucher
P.O. Box V
Juneau, AK 99811

Dear Representative Boucher:

Thankyou for the time that you spent today talking to our group of Close-Up students. I think that it was very nice of you to take such an interest in our feelings; not many legislators care what we think.

I personally do not believe that the use of marijuana is right. It seems to me that our laws contradict themselves when they say that marijuana is illegal, but if you have under four ounces in your own home for your own use — it is okay. How did the marijuana get to your home? The people had to transport it at sometime or participate in illegally buying it from a drug dealer.

This is just my opinion. Thankyou for your time.

Sincerely,

Hanni Ann Taylor

Annette Deal
2910 West 35th
Anchorage, AK. 99517
West Anchorage H.S.

H.A. Red Boucher
P.O. Box V
Juneau, AK. 99811

March 6, 1989

Dear Representative Red Boucher,

I would like to thank you for the time you gave us to talk with you. I feel it a great pleasure and honor to be selected for close up.

It is very difficult for me to make a judgement call on this marijuana issue, because I have never been involved with it. I find myself to be a rare example of this though, when you give people an inch, they take a mile. Do people really stop at 4 ounces? I don't know many that do, but it is to remain legal for the 4 ounces, when there should be more control and punishment on it.

I think the best idea though is to abide with the federal laws and to make any possession whatsoever illegal.

Sincerely, Annette Deal

March 6, 1989

Dear Representative Boucher,

In my opinion I believe that marijuana should not be recriminalized. There are many factors to my decision. First of all, I think that people should have the choice to make or break their lives. Second, I myself wouldn't want to be imposed upon if I made a habit out of something and then someone makes it illegal.

I can relate to those who are concerned with the well being of the future generations and those who just need a reason to quit. But, not everybody (unfortunately) will be consenting to that law. The people who do sell drugs like marijuana are already breaking the law. And the people who smoke the stuff are putting themselves in a situation by buying it. Most people do not grow their supply of marijuana.

The government would ~~not~~ be making a wise decision in my opinion by putting up funds for educating the public about drugs and their negative effects. If that doesn't stop them nothing will.

Thank you for your
time.

Rhonda
Thompson

P.O. Box 566
Delta Jct., AK
99737

March 6, 1989

H.A. Red Boucher
Pouch V
Juneau, AK 99811

Dear Mr. Boucher,

If you would decriminalize marijuana
you would cause more problems
than you have right now.
I have not been in contact
with the stuff so I don't know
what to tell you. My Dad is
very protective.

Alcohol I know lots
about because my dad takes
me to Bars and I see a lot
of people drunk. I have also
tasted alcohol so I know
what some taste like. But
I didn't like it ~~too~~ though.

Sincerely yours,

March 6-89

Box - 317
Galena, Alaska
-99741-

Dear Representative Boucher,

I think that if you made it against the law that people would smoke dope even more because it is something to be sly about and say "hey, look at me, I can do this and not get caught because nobody is going to find out. So other kids will think that if they can do that and not get caught so can I to be cool.

I don't really know what the answer is but if it is illegal for parents to then kids won't have access to it and be able to steal it from parents.

Thank you for speaking with the Close Up students

Jiffany Simmons
Close Up Student

3/6/89

Dear 'Red' Barcher,

I would like to thank you for taking the time to invite us to your committee room to ask us our opinions about the proposed bill of decriminalizing marijuana. I personally think no matter what the state does people are still going to be smoking marijuana, illegal or not. Cocaine is illegal and look how bad of a national problem it is. Recriminalizing marijuana might deter a few people from growing and smoking, but the majority are still going to be doing it. The only solution to the nation's drug problem is ~~at~~ direct relations with the country's who are major producers of illegal substances. I know it's easier said than done, but it can be accomplished. My parents are from the country of Colombia and I often go there for summer vacation. Colombians, especially teenagers, hardly have drug problems because they know what it can do. But, the big problem there is the violence caused by drug trafficking. Alaska must convince the nation to work hard with the Colombian government to stop the drug problem at its root.

Sincerely,

Javier Rivera

JAVIER RIVERA

March 6

Dear Representative Boucher,

Thank you for talking with us to day, The Marijuana issue is one that affects teenagers greatly and its nice to know that someone cares what we feel.

I'm not sure if Marijuana should be "recriminalized" because the crime rate could go up and it could ~~raise~~ ^{rise to} the level of cocaine or crack. I feel that prevention steps should be taken because the problems of abuse are not just the people who abuse drugs now but the people who have the potential to become abusers.

Education programs should be set up in early elementary school no age is to young to start learning about substance abuse. Many kids start using drugs at 8 years old or younger, and a large majority of these kids have parents that use drugs, and there is a pattern that stems from this we need to get these kids to break the pattern & to ~~stop using~~ not start ~~so~~ using drugs.

Sincerely,
Cristina Wakefield

March 6, 1989

H.A. "Red" Bowchen
Pouch V
Gumnaau, AK 99811

Dear Sir:

I feel that this act should not be
recriminalized, although I feel that a change
should be made. I don't know
the solution to the marijuana problem.

If the marijuana act was
recriminalized the way it would
increase and I don't think it would
better the problem. It would
worsen it.

I really don't know of the
marijuana problem as well as others
because I haven't tried it before
even though I am 17 years old,
I do know the problem exists.

Sorry I can't think of any
solutions at the present. Thank
you for your time.

Sincerely,
A Close-Up Student

March 6, 1987

Dear Representative Boncher,

My concern of the present marijuana laws is that they do not concur with the federal laws and I believe that dictates a mixed-message to society. It is my firm belief that state laws should concur with federal laws, and since the present law concerning marijuana is convulsed to the point of ridiculousness, I also believe we should decriminalize, or make illegal, marijuana.

I would also like to thank you for taking the time to confer with myself and fellow members of Close-Up this afternoon. I thank you all appreciated it greatly.

Sincerely,
Phil Harrison

March 6, 1989

Dear Rep. Boucher,

The whole marijuana issue seems kind of inane to me. It is clearly a dangerous and illegal substance, and I feel that it should be outlawed in any quantity. If you can't buy it, sell it, grow it, or transport it, you shouldn't have it at all, regardless of any "privacy" laws. Privacy rights go too far when they involve such a dangerous substance. If the country as a whole has determined that marijuana is illegal to possess, what right does Alaska have to decide to re-interpret the issue? I myself am receiving quite mixed signals. We receive all this drug education in school, but then we are told that it's okay to possess 4 ounces in our home? It doesn't make sense. So basically, I'm saying that marijuana should definitely be made illegal in any quantity. Thanks so much for caring enough to hear our point of view.

Sincerely,
Jennifer Hogen

never tried marijuana

March 6, 1959

Dear Representative Bavelor,

I have never tried marijuana but I know people who love. I believe it is good to make all marijuana illegal because what if a person smokes it then leaves his house?

I know of a man ~~who~~ who grows his own crop and frequently gets high before he goes flying. This guy has crashed up several airplanes, but has survived each time. My greatest fear is that this type of person may land or crash into other people, because he flies midlands on heavily traveled water ways.

~~I would also like to see more education~~

I would also like to see more education in the bush concerning drugs and alcohol because most abusers don't understand what they do to their bodies.

Sincerely,
Fred [unclear]

March 6, 1989

I have never tried marijuana.

I feel that to educate children in school that marijuana is a detrimental drug, but to have a precedent set that a person cannot be held for possession of said drug, is a double standard in the first degree. A law banning possession will not make people stop using marijuana - but it will at least tell them that we don't approve. I believe that there should be a law outlawing it, but that it should be rather lenient. The best way to combat drugs is through education, not incarceration.

If you have any questions, my name is Tim Mikesell. My home address is: Box 156 Delta Jet, Alaska, 99737. Phone: (907) 895-4317. Please feel free to call.

Thanks for your time.

March 6, 1989

Rep. Baucher, I have never used
any illegal substances & I don't really
know much about it. I am a senior
at Delta Jct. High & I have never been
approached in relation to drug use before,
but I'm really not the kind of person that
would be approached. A friend of mine
has told me that he can get all
sorts of drugs in under half an
hour. I don't have an opinion
about the drugs in your own home, but
I am decidedly against the use of marijuana &
other drugs & I appreciate your efforts.

David Crawford

Dear Representative Boucher,

I feel that marijuana use should be made illegal. I think that the punishment that goes with this should increase in severity fairly rapidly, such as a fairly heavy fine on the second offense, and a jail sentence of 30 days on the third offense, while the first offense should only have a light fine. I think that this would be very effective because the first time offenders (people who are experimenting) get a light warning, while people who repeatedly break the law are punished fairly heavily. I think this would be appealing to many sides of the issue.

Sincerely,
Jeff Smith

Jeff Smith

Marijuana-

March 6, ~~1988~~ 1989

Dear Rep. Boucher,

I think that the use of marijuana should be illegalized. I think that would make it so that it would be easier to punish people. That way, anyone ~~to~~ that had marijuana would be in trouble. But, the punishment should get worse and worse for each offense.

Sincerely,

Joel Hamilton
Joel Hamilton

3-6-89

Dear Red Boucher,

Thanks for taking the time to listen to our opinions. I really appreciate that.

I have never used or even tried any drugs, including pot. ~~That does not mean~~ However, that does not mean that I'm not around people who do. Many of my friends and family have tried drugs.

In my school, there is a problem. Just last week "Fast Freddie," a student there, was arrested for selling to fellow students. I go to Chugiak High School.

I think that marijuana should be illegal in any amount. I've seen too many people with ruined lives because of it. If someone gets caught with a joint and faces a jail sentence, it's his own fault. A parent may fear having one of his kids go jail, but the kid must learn that drugs are wrong.

Thanks a lot for listening!

- Teresa M Jansen

Red Bowden

3-6-89

Dear Red

Thank you very much for taking the time to discuss your feelings about the marijuana issue with us on a personal basis and giving us a chance to speak our mind on the issue.

I do feel there is an increasing problem in the schools dealing with marijuana. It is everywhere! I think that we need to put harsh punishments on second time offenders! Many of my peers have used marijuana and ~~have~~ experimented with other drugs - especially alcohol. It is a definitely a curiosity among young people. A good saying is "Do as I say not as I do". Our examples are important. We need help.

Many people have easy access to buying the weed - keep the seller in jail away from us. Stress the importance of clamping down on the laws. I see kids at school participating every day - "stoned" especially after lunch. They never get caught so each time it goes a little further. If you want to know more about what I see in school let me know. I will help in any way I think it is too much to have for decoration in one house!

Erna Patrawke Erna Patrawke

ERNA PATRAWKE
5530 PERENSA
9/15/15

3-6-89

Rep. Red Boucher, Hello I'm glad that you took the time and talked to us because I was rather disappointed in my District 13 representative & he acted as if his problem are more important than some of the kids here for just a week.

I would hope to see you tomorrow at breakfast because I would like to talk to you some more on the substance abuse in our schools

P.S

Thanks again
for taking the time

Sincerely
Yony Baskin
of East Anchorage

By the way I was very a great deal because I really wasn't excited about the program but your talk changed my mind because you made me feel like my opinion counted.

Thanks.

March 6, th 1989

Representative Red-

I myself haven't used any alcohol or drugs and I don't plan to in the future. Although, all of my friends have tried both drugs and alcohol at sometime in their lives they do not experiment on a regular basis.

I've noticed that in my school, the central problem with drugs/alcohol is the "availability" of it. We need to find out how these kids are getting it and where they're getting it. We also need to invoke a stricter punishment on those who are caught with it while being "underage." Another thing we need to do is, to get the "adults" who are providing/selling these things to the kids.

Have you ever seen 21 Jump Street? I think we should have some kind of program like this to target drug sources/dealers. But it would have to start early on in high school.

I talked to a few others (students) about it - it's been tried before but unsuccessfully. It was unsuccessful because ^{new} kids were "brought in" from the outside and everyone knew. It would have to be a highly secretive and collective program.

Sincerely,
BARTLETT H.S.
ANCHORAGE Alaska Brandi Pruitt

Dear Rod

Thankyou for taking time to talk to us. I myself have used alcohol before but never used marijuana before.

I think as a solution to the problem, it should be taxed like alcohol and put certain restrictions on it. If you made it illegal I think that would just cause more problems. The people who "have to have it" will do anything to get it no matter what.

Another option to the problem would be to do something like 21 Jumpstreet. Look over Brandi Krewitt letter she gives in detail the project.

Thankyou

Marne Kolesky
Marne Kolesky

Tanya Rodriguez
8542 Steep Place
Juneau, AK 99801

Pouch V
Juneau, AK 99811

Dear Representative Boucher,

I am writing to urge you oppose HB 88. In reading and researching this bill I have found that this bill will only make Marijuana a violation, which is only as bad as a parking ticket. This bill will not recriminalize Marijuana. Even though I am only a sophomore in High school, I am strongly against this. I researched the pros and cons of Marijuana, and have seen the consequences of potential health damage to our society. Please oppose HB 88!

Sincerely,

Tanya Rodriguez

Tanya Rodriguez

cc: House State Affairs Committee

Representative Fran Ulmer

Representative Bill Hudson

To: H.A. Boucher

From: Krystie Bengtson

Re: HB 88

In a survey taken by Senator Frank Murkowski, 63.9% of the 10,000 people who responded wanted marijuana recriminalized. I feel because recrimianalization is what the people of Alaska want then we must support bills that will recriminalize marijuana. I am against HB 88 because it does not give Alaskans what they want it just pretends to. HB 88 makes the possession of marijuana only a violation which is the same as going through a stop sign. Where as the support of HB 22 and SB 18 makes the possession of marijuana a misdemeanor.

The drug problem in the Alaska school system is worse than that of New York City schools. This should be enough to make us want to clean up our schools and our youth. "You can't say drugs are bad at the same time that you are making them legal. Law is a teaching instrument among other things." (Rudolph Giuliani, US attorney New York). I feel that if we put restrictions on marijuana many people will stop using it.

Please support HB 22 and SB 18.

P.S I am 15 years old.

Thank you.


Krystie Bengtson

April Jackson
Box 164
Douglas, Alaska
99824

Representative Boucher
Pouch V
Juneau 99811

Dear Representative Boucher,

I oppose House Bill 88 because it does not recriminalize marijuana. It makes the possession of marijuana only a violation. Drugs are a big problem in Alaska. House Bill 88 will not effect our drug problem. We need stronger laws against marijuana. Even though I am fourteen, this is a concern of mine.

Even though your committee sponsored this legislation, I urge you to oppose House Bill 88.

Sincerely,

April Jackson
April Jackson

cc: State Affairs Committee Members
Representative Fran Ulmer
Representative Bill Hudson

Anna Mesdag
4937 Hummingbird Ln.
Juneau, Alaska 99801

Representative H.A. Boucher
Pouch V
Juneau 99811

Dear Mr. Representative,

Alaska has the worst drug problem in the Union and in order to change that, Alaska needs stronger drug laws. I am opposed to House Bill 88 because it does not recriminalize marijuana, it only makes it a violation. I may only be 14, but this issue concerns me.

Although your committee sponsored this legislation, I earnestly urge you to vote against this bill.

Sincerely,

Anna Mesdag
Anna Mesdag

cc: State Affairs Committee Members
Representative Fran Ulmer
Representative Bill Hudson

David J. Numme
8402 Decoy Boulevard
Juneau, Alaska 99801
March 13, 1989

Representative Red Boucher
Pouch V
Juneau, Alaska 99811

Dear Representative Boucher,

I am a 16 year old local high school student. I am writing you concerning HB 88. I have been told that you are sensitive to the needs of children. So from that standpoint, I do urge you not to support CS HB 88. CS HB 88 would not make the penalty for having marijuana harsh enough. It would be the same penalty as running a red light. Such a penalty for the long range damages of the harm that marijuana does in my view is not harsh enough.

I know that your committee sponsored CS HB 88, it would be hard for you to vote against the bill that you sponsored, but please consider the harm that it would do. The law must be consistent from a federal standpoint. I do not understand how we can say yes to marijuana and no to cocaine and heroine.

Again, for the sake of Alaska's youth, I urge you not to support HB 88.

Sincerely,

David J. Numme

David J. Numme

9-6973

after 4pm

cc: State Affairs Committee
Representative Fran Ulmer
Representative Bill Hudson

FOR IMMEDIATE RELEASE
January 18, 1989

CONTACT: Marie Majewske
333-0717

4488

MARIJUANA INITIATIVE SPONSORS STILL SIGNING ON

Organizers of a statewide drive to recriminalize the use of marijuana say they aren't having any trouble getting book sponsors.

Since December 21, 1988, when the Division of Elections certified the Marijuana Initiative Petition with 116 signatures of qualified voters throughout the state, over 160 additional sponsors have signed on and more signatures are anticipated in the weeks to come. The Division of Elections has certified over 270 sponsors thus far, meaning that each person will receive a book for gathering signatures as soon as the Department of Law approves the initiative language. At 100 signatures per book, this dedicated group can easily gather 27 000 signatures.

The Chair of the drive says the initiative is needed because the legislature refuses to address the issue.

"We, the citizens of Alaska, must make our voices heard in the legislature and the Governors office," Marie Majewske said.

RECEIVED

FEB 7 1989

MARIJUANA INITIATIVE

Page 2

Although several pieces of legislation dealing with the recriminalization of marijuana have been or will be introduced this session, Majewske, who is Chair of the Marijuana Initiative Committee has urged her committee members to continue their efforts to bring the issue to the forefront of public attention.

"The problem is, and has been, that we have relied upon our elected officials to heed our concerns about the detrimental affect Alaska's permissive marijuana laws are having on our children and our society as a whole," Majewske said. "Our legislature has been given many opportunities to enact appropriate legislation, but hasn't. After years of disappointment, we decided that the initiative process was the only recourse available to us."

Initiative Committee Chair Majewske believes that no matter what the legislature passes, it will be challenged in court by out of state special interest groups through their Alaskan lawyers. This may delay repeal of the current permissive laws for unknown years. Majewske added, "The initiative may be the quickest way to solve the marijuana problem as it is less likely that the Alaska Supreme Court

MARIJUANA INITIATIVE

Page 3

would overturn a vote of the people in a matter of public health and safety."

Majewski stressed that the Initiative Committee strongly opposes the passage of HB 88, which would treat the possession and use of marijuana much the same as a traffic violation, by allowing those individuals charged with possession to simply mail in their fines. "We want possession and use of marijuana to be classified as a Class B misdemeanor," said Majewske. "Issuing a citation with the option of mailing in the fine, amounts to little more than a slap on the hand."

The Committee supports HB 22 by Rep. Alyce Hanley and SB 18 by Sen. Paul Fischer which would increase the penalty for possession/use of marijuana.

Senators Frank Murkowski and Ted Stevens have pledged their support and assistance in working with the Committee to recriminalize the possession and use of marijuana in Alaska.

Marie Majewske

###

"Red" get off the fence
It's either right
or wrong —
middle of the road no good.

Jerry Hanington

METRO

"Red" you let
me down!
still waiting
on your
due's
\$40.00
Shepmate
Hanington

TUESDAY

SECTION B Jan. 31, 1989

Marijuana again becomes tricky issue

House Democrats try to walk thin line since pot law turned into hot campaign topic

By DAVID POSTMAN
Daily News reporter

JUNEAU — Bruised by campaign charges of being soft on drugs, and worse, House Democrats are again trying to figure out what to do about marijuana to "send a message" about drugs without violating the constitution.



Boucher

"A few of the Democrats I've talked to said, 'We're not going to get beat up on this again' and I said, 'Yeah, Republicans got beat up on local hire and we lost a couple of people,'" said Republican Rep. Alyce Hanley. "I think something will happen."

A bill introduced by Rep. Red Boucher's State Affairs Committee would make possession of marijuana a civil violation, but not a criminal offense. While Republicans say it doesn't go far enough, it is a step further than the House took last year.

The committee has scheduled a

work session today on the bill.

In the 1988 session, a Senate bill that recriminalized possession and use of marijuana was committed to death in the House. The Republican-controlled Senate passed the bill on the grounds that new research showed that the drug is a serious health threat.

In the House, though, there was testimony from several experts who said there was no such research.

The Alaska Supreme Court in 1975 had ruled that adults could possess and smoke marijuana at home because there were no ill

health effects and, therefore, the constitutional right to privacy prevailed.

House leaders didn't buy the health argument made by the Senate and worried that recriminalizing marijuana would violate the court ruling.

This year, though, House leaders are at least considering changes to the law.

"Let's face it, it is a campaign issue," Boucher said. "And most of the things that happen here are driven by vocal outbursts."

Boucher has pushed harder than most House Democrats for tougher

marijuana laws. Last year he spoke against the leadership's attempts to keep the recriminalization bill hidden away in committee. But even he was pegged as giving in to drug pushers in the November campaign. He wants to make sure he can't be hit with that again.

"I think, personally, that marijuana should be considered part of the drug scene," he said. "The State Affairs bill is a starting place. I'm not saying it's perfect but at least it gets us talking."

Please see Page B-2, POT

REP: Alaska Repertory Theatre closes its doors today

Continued from Page D-1

date for Anchorage. Ken Myers, Peppard's show manager, said from New York that May is the earliest the actor could be available.

"The board will do what they can to fill the gap for the time being," said board member Lanie Fleischer. "There's road shows traveling all around the Lower 48. Nothing's firm yet, but we're looking."

Tomlinson said he is negotiating for several shows, including a large-scale musical he described as "a major coup." The musical would be brought up by its producer, who would rent one of the center's three auditoriums.

Even though TAC doesn't exist, and may not ever exist under that name, Tomlinson said the center has laid the

groundwork "for a group of people to talk about how professional theater was going to continue in the state. That was our intent, so I feel good about it."

Other groups are looking at the gap the Rep leaves. Out North Theatre Company has already announced its intention to expand and produce professional theater. A loose-knit group dubbed Citizens Forum for Professional Theatre is trying to decide what Anchorage needs.

The center is lending a meeting room and clerical help to the citizens forum. Called together by local actor and director Marty Decker, the forum met two weeks ago and will meet again today at 5:30 p.m. in the center office.

The first meeting dealt primarily with whether An-

chorage needs a new professional theater company or whether the Forum should help an existing group, such as Out North or the Theatre Guild, move into that arena.

Tiny Out North, known for low-budget, high-quality shows with gay and lesbian themes, recently announced that next season it would expand its focus considerably, producing mainstream plays with a half-million-dollar budget.

On Saturday, Out North will hold a 5 p.m. planning meeting at the John W. Thomas Community Center, 325 E. Third Ave. The public meeting is designed to draft a five-year plan for the development of professional theater under the Out North banner. For its 1989-90 season, Out North has scheduled three main-stage shows

in the arts center's Discovery Theatre and two second-stage productions in another location.

Hart said she hopes groups planning to move into the Rep's place move slowly.

"If this thing is done too quickly, they're still not going to solve the problem of a professional theater that costs too much."

Carr said he wants "to get back to fund raising and helping this thing get off the ground, whether it's Theatre at the Center or something else. My only goal is to fill the center."

The Rep's much-reduced staff has been cutting refund checks to subscribers who paid for a full season but got a partial one when the company stopped producing Dec. 31.

POT: Becomes tricky issue again

Continued from Page B-1

Boucher is clearly hoping that last year's campaign rhetoric will propel some sort of marijuana bill through the House.

House Speaker Sam Cotten and Rep. Johnny Ellis, who last year was co-chairman of the Health, Education and Social Services Committee, which killed the bill, agreed that action is more likely this year than last, but said legislation should not be passed to deal with what they consider dirty campaign tricks.

Ellis faced perhaps the most direct campaign attacks. His opponent, Bill Dam, said Ellis was "soft on drugs" and "refused to let tougher laws on drugs out of his committee."

"I was attacked vociferously," Ellis said.

Cotten said he didn't think the Republican charges will do much to get a bill passed. "I hadn't thought about that much," Cotten said. "Perhaps it raises people's consciousness and it is a good emotional issue."

Besides, Cotten said, the incumbent Democrats who were hit hard on the drug issue were all re-elected, so the attacks did not appear to work.

For Ellis, being labeled soft on drugs doesn't mean he will rush to embrace any bill that recriminalizes marijuana.

"I think people would like to put the issue behind us," he said. "But why are we spending so much time talking about marijuana when there are so many more serious substance abuse problems documented in the state of Alaska?"

OBITUARIES

JACK TEFFETELLER

Jack Teffeteller, 59, an Anchorage resident, died Jan. 28 at Elmendorf Air Force Base Hospital.



Teffeteller

Mr. Bedlington was born July 24, 1913, in Custer, Wash. In 1933, he graduated from Ferndale High School in Ferndale, Wash. He arrived in Alaska in 1938.

He worked for the Civil Aeronautics Administration

Masons Lodge 56 in Lynden, Wash., the Juneau Scottish Rite Bodies, the Royal Arch Masons in Juneau, the American Legion Post 143 in Twisp, Wash., and Pioneers of Alaska Igloo 4.

He leaves his brothers,

BARBARA CAROL LAIN

Barbara Carol Lain, 35, died Jan. 26 at Providence Hospital after a lengthy battle with cancer.

A funeral will be at 6 p.m. Wednesday at Witzleben Family Funeral Homes & Crematory, Bragow Chapel

She was an active member of the Center of Hope Church of God in Christ, where she was a member of the senior choir.

She had lived in Alaska since 1981 and had worked as a secretary for an attorney's office, a

Terrick and Derrick, all of Anchorage; her daughter, Brandie Lain, of Anchorage; her brothers, Belvard Burns, of San Diego, Calif., and Terrence Burns, of Anchorage; and her sisters, Madonna Adkins and Lelear McGhee, both of Anchorage.

M+D 2
X HB 88

SUGGESTED PRESS STATEMENT FOR REP. BOUCHER ON BEHALF OF THE
MAJORITY CAUCUS

HB 88 the marijuana bill sponsored by the House State Affairs Committee which Rep. Boucher chairs, represents a consensus on the part of the House majority caucus for a compromise between those who feel that possession of marijuana should be decriminalized and those who feel possession should entail arrest, a fine and jail sentence.

One of the bill's salient features is that it brings clarity to a law which is ambiguous. Current law provides different penalties for marijuana possession, depending on the quantity involved and whether the possession is in a public or private place. The bill offered by the House Majority addresses this ambiguity by making it illegal in both public and private places to possess small amounts of marijuana. Possession of larger amounts has not been a public issue and the law will remain the same.

Rep. H.A. "Red" Boucher introduced HB 88 through the House State Affairs Committee by request. Said Boucher, "This issue has been dividing us for too long and something has to be done", and "I'm happy to try and bring about a compromise on this issue."

Boucher's State Affairs Committee will begin hearings on the marijuana bill soon.

I. MARIJUANA POSSESSION

A. Comparison of current law and proposed HB 88

1. Current law

<u>Place</u>	<u>Quantity</u>	<u>Offense Classification</u>	<u>Penalty</u>
Public	< 1 oz.	7th Degree Violation	\$ 100
Public	> 1 < 4 oz.	Misdemeanor B	\$1000/90 days
Anywhere	> 4 < 8 oz.	Misdemeanor B	\$1000/90 days
Anywhere	> 8 oz.	Misdemeanor A	\$5000/1 year

2. Proposed HB 88

Anywhere	< 4 oz.	7th Degree Violation	\$ 100
Anywhere	> 4 < 8 oz.	Misdemeanor B	\$1000/90 days
Anywhere	> 8 oz.	Misdemeanor A	\$1000/1 year

Alaska State Legislature

Committees:

Chair-State Affairs
V. Chair-Judiciary
Telecommunications
Special Ethics
Legislative Council
Finance Subcommittee
for the University of Alaska
Joint Committee
on Economic Recovery

File



*See
46: A*

P.O. Box V
Juneau, Alaska 99811
(907) 465-4947

REPRESENTATIVE FRAN ULMER

November 25, 1988

Representative Red Boucher
Box V
Juneau, AK 99811

Dear Red:

I have been working on a bill for next session which would impose a fine for small quantity possession of marijuana. This is the concept promoted by the Alaska Peace Officers Association.

In the past you have expressed some interest in this issue. Please let me know if you have any comments on the draft, and if you would be interested in being a cosponsor or principal sponsor.

I feel this is an important issue for us to address early in the session and hopefully by the Democratic majority.

Sincerely,

Fran
Fran Ulmer

DEC 7 1988

6-0278A/
Chenoweth
12/2/88

1 IN THE HOUSE

BY

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to possession of controlled sub-
7 stances and imitation controlled substances, to their
8 delivery to certain persons under 21 years of age,
9 and to the disposition of offenses of misconduct
10 involving a controlled substance in the seventh
11 degree."

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

13 * Section 1. PURPOSE. (a) Alaska's criminal code classifies marijuana
14 as a schedule VIA controlled substance. Section 4 of this Act makes the
15 possession of a very small amount of marijuana misconduct involving a
16 controlled substance in the seventh degree. Misconduct involving a con-
17 trolled substance in the seventh degree is, under current Alaska law, a
18 "violation," that is, an offense punishable by a fine.

19 (b) It is the purpose of secs. 6 and 8 of this Act to amend applica-
20 ble statutes so that a law enforcement officer who stops or contacts a
21 person for possession of a small amount of marijuana may issue a citation
22 for that offense, and the person who receives the citation may waive a
23 court appearance and remit a payment as satisfaction of the offense.

24 * Sec. 2. AS 11.71.010(a) is amended to read:

25 (a) Except as authorized in AS 17.30, a person commits the crime
26 of misconduct involving a controlled substance in the first degree if
27 the person

28 (1) delivers any amount of a schedule IA controlled sub-
29 stance to a person under 21 [19] years of age who is at least three

1 years younger than the person delivering the substance; [OR]

2 (2) delivers any amount of a schedule IIA or IIIA con-
3 trolled substance to a person under 21 [19] years of age who is at
4 least three years younger than the person delivering the substance; or

5 (3) engages in a continuing criminal enterprise.

6 * Sec. 3. AS 11.71.030(a) is amended to read:

7 (a) Except as authorized in AS 17.30, a person commits the crime
8 of misconduct involving a controlled substance in the third degree if
9 the person

10 (1) manufactures or delivers any amount of a schedule IIA
11 or IIIA controlled substance or possesses any amount of a schedule IIA
12 or IIIA controlled substance with intent to manufacture or deliver;

13 (2) delivers any amount of a schedule IVA, VA, or VIA con-
14 trolled substance to a person under 21 [19] years of age who is at
15 least three years younger than the person delivering the substance; or

16 (3) being 18 years of age or older, possesses any amount of
17 a schedule IA or IIA controlled substance within the grounds of or on
18 a parking lot immediately adjacent to a public or private preschool,
19 elementary, junior high, or secondary school.

20 * Sec. 4. AS 11.71.070(a) is amended to read:

21 (a) Except as authorized in AS 17.30, a person commits the
22 offense of misconduct involving a controlled substance in the seventh
23 degree if the person

24 (1) manufactures or delivers, or possesses with the intent
25 to manufacture or deliver, one or more preparations, compounds, mix-
26 tures, or substances of an aggregate weight of less than one-half
27 ounce of a schedule VIA controlled substance; [OR]

28 (2) possesses one or more preparations, compounds, mix-
29 tures, or substances of an aggregate weight of less than one ounce

1 containing a schedule VIA controlled substance on a public street or
2 sidewalk or on the premises of a public carrier or business establish-
3 ment or in any other public place; or

4 (3) possesses one or more preparations, compounds, mix-
5 tures, or substances of an aggregate weight of less than four ounces
6 containing a schedule VIA controlled substance in a place other than a
7 public place.

8 * Sec. 5. AS 11.71.070(b) is amended to read:

9 (b) Misconduct involving a controlled substance in the seventh
10 degree is a violation and is punishable by [AS AUTHORIZED IN AS 12.55,
11 EXCEPT THAT IF] a fine of [IS IMPOSED IT SHALL] not [BE] more than
12 \$250 [\$100].

13 * Sec. 6. AS 11.71 is amended by adding a new section to read:

14 Sec. 11.71.075. CITATION FOR VIOLATION. (a) The provisions of
15 AS 12.25.190(b) apply to a person arrested or cited for the commission
16 of an offense under AS 11.71.070.

17 (b) The supreme court shall establish a schedule of bail
18 amounts, not to exceed fines prescribed by law, for each offense under
19 AS 11.71.070. If the offense for which the citation is issued may be
20 disposed of without court appearance, the citing officer shall write
21 on the citation the amount of bail applicable to the cited offense.

22 (c) A person cited under (a) of this section may, within five
23 days after the date of the citation, mail or personally deliver to the
24 clerk of the court having jurisdiction over the place where the of-
25 fense occurred

26 (1) the amount of bail indicated on the citation for that
27 offense; and

28 (2) a copy of the citation signed by the person on an
29 appropriate blank on the citation indicating the person's waiver of

1 appearance, plea of no contest, and direction to forfeit the bail.

2 (d) When bail has been forfeited under this section, a judgment
3 of conviction shall be entered. Bail forfeited under this section is
4 a complete satisfaction for the offense, and the offender shall be
5 given a receipt stating that fact.

6 (e) The maximum penalty that may be imposed for the offense may
7 not exceed the bail amount for that offense set out in the schedule of
8 bail amounts as determined by the supreme court under (b) of this
9 section.

10 * Sec. 7. AS 11.73.030(a) is amended to read:

11 (a) Except as provided in AS 11.73.050, a person 21 [19] years
12 of age or older may not deliver an imitation controlled substance to a
13 person under 21 [19] years of age, who is at least three years younger
14 than the person delivering the substance.

15 * Sec. 8. AS 12.25.190(c) is amended to read:

16 (c) The person cited for the crime shall give a written promise
17 to appear in court by signing at least one copy of the written cita-
18 tion prepared by the peace officer and the officer shall deliver a
19 copy of the citation to the person. The written promise requirement
20 of this subsection does not apply to

21 (1) motor vehicle and traffic citations for which a bail or
22 fine schedule has been established under AS 28.05.151;

23 (2) [,] fish and game citations for which a bail schedule
24 has been established under AS 16.05.165;

25 (3) [,] citations issued under AS 18.35.341;

26 (4) [,] citations issued in state park and recreational
27 facilities under AS 41.21.960;

28 (5) [, OR] littering citations issued under AS 46.06.080;

29 or

1 (6) citations issued under AS 11.71.075.

2 * Sec. 9. AS 12.45.155(a) is amended to read:

3 (a) In a prosecution under AS 11.71.010 - 11.71.075 [AS 11.71.-
4 010 - 11.71.070], a complete copy of an official laboratory report
5 from the Department of Public Safety or a laboratory operated by
6 another law enforcement agency is prima facie evidence of the content,
7 identity, and weight of a controlled substance. The report must be
8 signed by the person performing the analysis and must state that the
9 substance which is the basis of the alleged offense has been weighed
10 and analyzed. In the report, the author shall state with specificity
11 findings as to the content, weight, and identity of the substance.

12 * Sec. 10. AS 17.30.080(b) is amended to read:

13 (b) A person who violates (a) of this section, or who otherwise
14 manufactures, distributes, dispenses, or conducts research with a
15 controlled substance in the state without fully complying with 21
16 U.S.C. 811 - 830 (Controlled Substances Act), and regulations adopted
17 under those sections, is guilty of misconduct involving a controlled
18 substance under AS 11.71.010 - 11.71.075 [AS 11.71.010 - 11.71.070] in
19 the degree appropriate to the circumstances as described in those
20 sections.
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22
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1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 HOUSE BILL NO. 88

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the definition of the offense of
7 misconduct involving a controlled substance in the
8 seventh degree to make possession of less than four
9 ounces of marijuana illegal as a violation, and
10 relating to the disposition of offenses of misconduct
11 involving a controlled substance in the seventh
12 degree."

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

14 * Section 1. PURPOSE. (a) Alaska's criminal code classifies marijuana
15 as a schedule VIA controlled substance. Section 2 of this Act makes the
16 possession of less than four ounces of marijuana illegal as the offense of
17 misconduct involving a controlled substance in the seventh degree. Miscon-
18 duct involving a controlled substance in the seventh degree is, under
19 current Alaska law, a violation, that is, an offense punishable by a fine.

20 (b) It is the purpose of secs. 3 and 4 of this Act to amend applica-
21 ble statutes so that a law enforcement officer who stops or contacts a
22 person for possession of a small amount of marijuana may issue a citation
23 for that offense, and the person who receives the citation may waive a
24 court appearance and remit a payment as satisfaction of the offense.

25 * Sec. 2. AS 11.71.070(a) is amended to read:

26 (a) Except as authorized in AS 17.30, a person commits the
27 offense of misconduct involving a controlled substance in the seventh
28 degree if the person

29 (1) manufactures or delivers, or possesses with the intent
to manufacture or deliver, one or more preparations, compounds,

1 mixtures, or substances of an aggregate weight of less than one-half
2 ounce of a schedule VIA controlled substance; [OR]

3 (2) possesses one or more preparations, compounds, mix-
4 tures, or substances of an aggregate weight of less than one ounce
5 containing a schedule VIA controlled substance on a public street or
6 sidewalk or on the premises of a public carrier or business establish-
7 ment or in any other public place; or

8 (3) possesses one or more preparations, compounds, mix-
9 tures, or substances of an aggregate weight of less than four ounces
10 containing a schedule VIA controlled substance in a place other than a
11 public place.

12 * Sec. 3. AS 11.71 is amended by adding a new section to read:

13 Sec. 11.71.075. CITATION FOR VIOLATION. (a) The provisions of
14 AS 12.25.180(b) and 12.25.190 - 12.25.230 apply to a person arrested
15 or cited for the commission of an offense under AS 11.71.070.

16 (b) An offense under AS 11.71.070 for which a citation is issued
17 may be disposed of without court appearance. For each offense under
18 AS 11.71.070, the supreme court shall establish a schedule of bail
19 amounts, not to exceed the amount of a fine prescribed by law. The
20 citing officer shall write on the citation the amount of bail appli-
21 cable to the cited offense.

22 (c) A person cited under (a) of this section shall, within five
23 days after the date of the citation, mail or personally deliver to the
24 clerk of the court having jurisdiction over the place where the of-
25 fense occurred

26 (1) the amount of bail indicated on the citation for that
27 offense; and

28 (2) a copy of the citation signed by the person on an
29 appropriate blank on the citation indicating the person's waiver of

1 appearance, plea of no contest, and direction to forfeit the bail.

2 (d) When bail has been forfeited under this section, a judgment
3 of conviction shall be entered. Bail forfeited under this section is
4 a complete satisfaction for the offense, and the offender shall be
5 given a receipt stating that fact.

6 (e) The maximum penalty that may be imposed for the offense may
7 not exceed the bail amount for that offense set out in the schedule of
8 bail amounts as determined by the supreme court under (b) of this
9 section.

10 * Sec. 4. AS 12.25.190(c) is amended to read:

11 (c) The person cited for the crime shall give a written promise
12 to appear in court by signing at least one copy of the written cita-
13 tion prepared by the peace officer and the officer shall deliver a
14 copy of the citation to the person. The written promise requirement
15 of this subsection does not apply to

16 (1) motor vehicle and traffic citations for which a bail or
17 fine schedule has been established under AS 28.05.151;

18 (2) [,] fish and game citations for which a bail schedule
19 has been established under AS 16.05.165;

20 (3) [,] citations issued under AS 18.35.341;

21 (4) [,] citations issued in state park and recreational
22 facilities under AS 41.21.960;

23 (5) [, OR] littering citations issued under AS 46.06.080;

24 or

25 (6) citations issued under AS 11.71.075.

26 * Sec. 5. AS 12.45.155(a) is amended to read:

27 (a) In a prosecution under AS 11.71.010 - 11.71.075 [AS 11.71.-
28 010 - 11.71.070], a complete copy of an official laboratory report
29 from the Department of Public Safety or a laboratory operated by

1 another law enforcement agency is prima facie evidence of the content,
2 identity, and weight of a controlled substance. The report must be
3 signed by the person performing the analysis and must state that the
4 substance which is the basis of the alleged offense has been weighed
5 and analyzed. In the report, the author shall state with specificity
6 findings as to the content, weight, and identity of the substance.

7 * Sec. 6. AS 17.30.080(b) is amended to read:

8 (b) A person who violates (a) of this section, or who otherwise
9 manufactures, distributes, dispenses, or conducts research with a
10 controlled substance in the state without fully complying with 21
11 U.S.C. 811 - 830 (Controlled Substances Act), and regulations adopted
12 under those sections, is guilty of misconduct involving a controlled
13 substance under AS 11.71.010 - 11.71.075 [AS 11.71.010 - 11.71.070] in
14 the degree appropriate to the circumstances as described in those
15 sections.
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