

HB

556

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER CS HB 556 (FIN)

SPONSOR Gruenberg

BILL TITLE Disasters

DATE REFERRED 4.20.90

HEARING SCHEDULED

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

OTHER

SENATE COMMITTEE REPORT

DATE: 4/20/90

FURTHER: Finance

DATE TURNED INTO OFFICE: _____

State Affairs

Committee considered CSHB 556 (Finance)

"An Act relating to disaster emergencies and disaster and emergency relief and preparedness."

and recommended:

- replace with _____ CS _____
 - or adopt _____ CS _____
 - attached amendment(s)
 - _____ letter of intent adopted
- same title
 new title
 technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) DnVA 3-13-90
EC 3-9-90

Governor's bill w/fiscal note

SIGNING DO PASS:

Tom Kelly

Al Adams

Jim Mills

OTHER RECOMMENDATIONS:

John F. ...

Chair: Signature and Recommendation

HB 556, relating to disasters

TELECONFERENCE; MAT-SU LIO

TO TESTIFY:

Representative Gruenberg

IRV MARTIN; Director of Division of Emergency Services
IS ON TELECONFERENCE

JEFF MORRISON; DMVA

NOTES;

Gruenberg drafted at the request of the DMVA.

Bill section 1 defines the essential elements of the governor's role in declaring a disaster emergency and initiating the response of the state government's executive branch. After removing from this subsection all references to the legislature's role in responding to a disaster emergency and establishing those in a separate section (AS 26.23.025, added in the next following bill section), the section rewrites the section stylistically, shifting the description of the governor's responsibilities from the passive to the active voice. Significant substantive changes are not otherwise made.

Bill section 2 describes the legislature's role in formulating a disaster emergency response:

Original sponsor(s): REP. GRUENBERG, Larson, Foster, Finkelstein

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 556 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to disaster emergencies and disaster
7 and emergency relief and preparedness."

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

9 * Section 1. AS 26.23.020(c) is repealed and reenacted to read:

10 (c) If the governor finds that a disaster has occurred or that a
11 disaster is imminent or threatened, the governor shall, by proclama-
12 tion, declare a condition of disaster emergency. The disaster emer-
13 gency remains in effect until the governor finds that the danger has
14 passed or the disaster has been dealt with so that the emergency no
15 longer exists. The governor may terminate the disaster emergency by
16 proclamation. A proclamation of disaster emergency may not remain in
17 effect longer than 30 days unless extended by the legislature by a
18 concurrent resolution. The proclamation must indicate the nature of
19 the disaster, the area threatened or affected, and the conditions that
20 have brought it about or that make possible the termination of the
21 disaster emergency.

22 * Sec. 2. AS 26.23 is amended by adding a new section to read:

23 Sec. 26.23.025. THE LEGISLATURE AND DISASTER EMERGENCIES. (a)
24 The provisions of this section apply when the governor declares a
25 condition of disaster emergency under AS 26.23.020(c) and in response
26 to the disaster the governor proposes to expend

27 (1) more than \$1,000,000 of the assets of the disaster
28 relief fund under AS 26.23.300(b);

29 (2) more than \$500,000 of the assets of the disaster relief

-- Subsection (a) should be read in conjunction with AS 26.23.300, set out later in the measure as part of bill section 17. It limits the operation of the section on legislative involvement to those instances in which the governor proposes to spend (1) more than \$1,000,000 from the disaster relief fund as grants and loans to alleviate the effects of a disaster; (2) more than \$500,000 from the fund if "an event . . . occurs in the state . . . that, in the determination of the governor, poses a direct and imminent threat of a disaster of sufficient magnitude and severity to justify state action" (see page 10, lines 13 - 16); or (3) an amount from the fund that exceeds the fund's unallocated balance.

-- Subsection (b) directs that, if the disaster emergency is declared while the legislature is in session, the governor is to submit a financing plan identifying sources of appropriated money that the governor intends to use to respond to the disaster or a supplemental appropriation.

-- Subsection (c) directs that, if the disaster emergency is declared while the legislature is not in session, the governor is to call for a legislative special session and submit the same documents; if within five days of the governor's call the presiding officers determine that a special session should not be convened, the governor is not to convene one.

-- Subsection (d) provides that actions of the governor in response to a disaster emergency not approved by concurrent resolution of the legislature at a regular or special session are void.

1 fund under AS 26.23.300(c); or

2 (3) an amount from the disaster relief fund that exceeds
3 the unallocated balance of the fund.

4 (b) When the governor declares a condition of disaster emergency
5 while the legislature is in session, concurrently with the issuance of
6 the proclamation the governor shall prepare and deliver to the presid-
7 ing officers of the legislature and to the persons who chair the
8 finance committees in each house of the legislature

9 (1) a financing plan relating to the source or sources of
10 money available from sources identified in AS 26.23.050(b) that the
11 governor proposes to use to cope with the disaster; or

12 (2) a supplemental appropriation to provide money necessary
13 to cope with the disaster.

14 (c) When the governor declares a condition of disaster emergency
15 while the legislature is not in session, concurrently with the issu-
16 ance of the disaster emergency proclamation the governor shall

17 (1) convene a special session of the legislature under this
18 subsection within five days unless the presiding officers of both the
19 house of representatives and the senate agree that a special session
20 should not be convened and so advise the governor in writing; and

21 (2) prepare and deliver to the presiding officers of the
22 legislature and to the persons who chair the finance committees in
23 each house of the legislature

24 (A) a financing plan relating to the source or sources
25 of money available from sources identified in AS 26.23.050(b)
26 that the governor proposes to use to cope with the disaster; or

27 (B) a supplemental appropriation to provide money
28 necessary to cope with the disaster.

29 (d) If the declaration of a disaster emergency occurs while the

-- Subsection (e) authorizes the governor to proceed under his proposed financing plan if the legislature, not in session, does not convene in a special session.

-- Following current law (AS 26.23.020), subsection (f) allows the legislature to terminate a disaster emergency at any time by concurrent resolution.

* * *

The remainder of the bill makes a series of technical and substantive changes whose inclusion had been suggested by the division of emergency services, drafting corrections, and substantive changes intended to better define the rela-

tionship of the Alaska Disaster Act to available federal assistance and to other related state laws.

Bill section 3 deletes a requirement that the annual plan prepared by the division of emergency services include a provision listing catalogs and extracts of current disaster assistance programs.

1 legislature is in session, or if a special session is held, actions
2 taken by the governor under this chapter that are not ratified by a
3 concurrent resolution adopted during that session are void.

4 (e) If the legislature does not convene in special session under
5 (c)(1) of this section, the governor may act under this chapter in a
6 manner that is consistent with the financing plan submitted.

7 (f) The legislature, by concurrent resolution, may terminate a
8 disaster emergency at any time.

9 * Sec. 3. AS 26.23.040(a) is amended to read:

10 (a) The Alaska division of emergency services shall prepare and
11 maintain a state emergency plan and keep it current. The plan may
12 include provisions for

13 (1) prevention and minimization of injury and damage caused
14 by disasters;

15 (2) prompt and effective response to disasters;

16 (3) emergency relief;

17 (4) identification of geographical areas, municipalities,
18 cities or villages especially vulnerable to a disaster;

19 (5) recommendations for

20 (A) zoning, building, and other land use controls;

21 (B) [,] safety measures for securing mobile homes or
22 other nonpermanent or semi-permanent structures; [,] and

23 (C) other preventive and preparedness measures de-
24 signed to eliminate or reduce disasters or their impact;

25 (6) assistance to local officials in designing local emer-
26 gency action plans;

27 (7) authorization and procedures for the construction of
28 temporary works designed to protect against or mitigate danger, dam-
29 age, or loss from a disaster;

Bill section 4 deletes from the list of the division's duties (1) providing mobile support units; (2) making surveys necessary to carry out the purposes of the Alaska Disaster Act, and (3) establishing equipment and housing registers.

1 (8) [PREPARATION AND DISTRIBUTION TO THE APPROPRIATE STATE
2 AND LOCAL OFFICIALS OF CATALOGS OR EXTRACTS LISTING FEDERAL, STATE,
3 AND PRIVATE ASSISTANCE PROGRAMS;

4 (9)] organization of manpower and chains of command;

5 (9) [(10)] coordination of federal, state, and local disas-
6 ter activities;

7 (10) [(11)] coordination of the state emergency plan with
8 the disaster plans of the federal government; and

9 (11) [(12)] other matters necessary to carry out the pur-
10 poses of this chapter.

11 * Sec. 4. AS 26.23.040(e) is amended to read:

12 (e) The Alaska division of emergency services shall

13 (1) determine requirements of the state and its political
14 subdivisions for food, clothing, and other necessities in the event of
15 a disaster emergency;

16 (2) procure and pre-position supplies, medicines, mate-
17 rials, and equipment;

18 (3) adopt standards and requirements for local and inter-
19 jurisdictional disaster plans;

20 (4) periodically review local and interjurisdictional
21 disaster plans;

22 (5) [PROVIDE FOR MOBILE SUPPORT UNITS;

23 (6)] establish and operate, or assist political subdi-
24 visions, their disaster agencies, and interjurisdictional disaster
25 agencies to establish and operate, training [AND PUBLIC INFORMATION]
26 programs;

27 (6) [(7)] MAKE SURVEYS OF INDUSTRIES, RESOURCES, AND FACILI-
28 TIES IN THE STATE, BOTH PUBLIC AND PRIVATE, AS ARE NECESSARY TO CARRY
29 OUT THE PURPOSES OF THIS CHAPTER;

Bill section 5 removes certain unnecessary limitations relating to the governor's authority to borrow when necessary to cope with a disaster, and makes technical language corrections.

1 (8)] plan and make arrangements for the availability and
2 use of any private facilities, services, and property and, if neces-
3 sary and if in fact used, provide for payment for use under terms and
4 conditions agreed upon by the parties;

5 (7) [(9)] establish a register of persons with types of
6 training and skills important in disaster prevention, preparedness,
7 response, and recovery;

8 (8) [(10) ESTABLISH A REGISTER OF MOBILE AND CONSTRUCTION
9 EQUIPMENT AND TEMPORARY HOUSING AVAILABLE FOR USE IN A DISASTER EMER-
10 GENCY;

11 (11)] prepare, for issuance by the governor, orders, procla-
12 mations, and regulations as necessary or appropriate in coping with
13 disasters;

14 (9) [(12)] cooperate with the federal government and any
15 public or private agency or entity in achieving any purpose of this
16 chapter and in implementing programs for disaster prevention, pre-
17 paredness, response and recovery;

18 (10) [(13)] develop and carry out procedures and policies to
19 effectively employ disaster relief funds made available by the gover-
20 nor's authority or by special legislative action; these procedures
21 shall include application and documentation by disaster victims or
22 applicants, review, verification and funding approval, and processing
23 of appeals;

24 (11) [(14)] do other things necessary or proper for the
25 implementation of this chapter.

26 * Sec. 5. AS 26.23.050(b) is amended to read:

27 (b) Whenever, and to the extent that, money is needed to cope
28 with a disaster, the first recourse shall be to money [FUNDS] regular-
29 ly appropriated to state and local agencies. The second recourse

Bill section 6 makes a technical correction in a reference to the term "municipality."

In bill section 7, and in several others that follow, the term "political subdivision" is substituted in order to make uniform the reference as to entities who are eligible to seek necessary financial assistance from the state and federal governments under the Alaska Disaster Act.

Bill section 8 deletes an unnecessary reference to "community" in the section caption and eliminates a provision that limits a political subdivision from applying for disaster assistance in an amount that would exceed 25 percent of the subdivision's annual operating budget for the fiscal year in which application is made.

1 shall be to money [FUNDS] available in the disaster relief fund or the
2 oil and hazardous substance release response fund, as appropriate. If
3 money available from these sources is insufficient, and if the gover-
4 nor finds that other sources of money to cope with the disaster are
5 not available or are insufficient, the governor may, notwithstanding
6 the limitations [ANY LIMITATION] imposed by AS 37.07.080(e),

7 (1) transfer and spend money appropriated for other pur-
8 poses; or

9 (2) [, IN SITUATIONS INVOLVING NATURAL DISASTERS,] borrow
10 money [FROM THE UNITED STATES GOVERNMENT OR OTHER PUBLIC OR PRIVATE
11 SOURCES] for a term not to exceed two years.

12 * Sec. 6. AS 26.23.060(a) is amended to read:

13 (a) Each political subdivision in the state is within the jurisdic-
14 tion of, and shall be served by, the Alaska division of emergency
15 services. A [AN INCORPORATED] municipality also may be served by a
16 local or interjurisdictional agency responsible for disaster prepared-
17 ness and coordination of response.

18 * Sec. 7. AS 26.23.060(c) is amended to read:

19 (c) Each political subdivision that does not have a disaster
20 agency and has not made arrangements to secure or participate in the
21 services of a disaster agency shall designate a liaison officer to
22 facilitate the cooperation and protection of that political subdivi-
23 sion [CITY] in the work of disaster prevention, preparedness, re-
24 sponse, and recovery.

25 * Sec. 8. AS 26.23.080 is amended to read:

26 Sec. 26.23.080. [COMMUNITY] DISASTER LOANS. Whenever, at the
27 request of the governor, the President has declared a major disaster
28 to exist in this state, the governor may

29 (1) upon the governor's determination that a political

The change made by bill section 9 revises and extends the limitation on grants awardable to families, to conform to the limitations of current federal law (i.e. \$10,000 plus a cost-of-living adjustment).

1 subdivision [LOCAL GOVERNMENT] of the state will suffer a substantial
2 loss of tax and other revenue from the disaster and has demonstrated a
3 need for financial assistance to perform its governmental functions,
4 apply to the federal government, on behalf of the political subdivi-
5 sion [LOCAL GOVERNMENT], for a loan; the governor may receive and
6 disburse the proceeds of any approved loan to any applicant political
7 subdivision [LOCAL GOVERNMENT];

8 (2) determine the amount needed by any applicant political
9 subdivision [LOCAL GOVERNMENT] to restore or resume its governmental
10 functions, and to certify the amount to the federal government; [HOW-
11 EVER, AN APPLICATION AMOUNT MAY NOT EXCEED 25 PER CENT OF THE ANNUAL
12 OPERATING BUDGET OF THE APPLICANT FOR THE FISCAL YEAR IN WHICH THE
13 MAJOR DISASTER OCCURRED;]

14 (3) recommend to the federal government, based upon review
15 by the governor, the cancellation of all or any part of repayment
16 when, for the first three full fiscal years following the major disas-
17 ter, the revenue of the political subdivision [LOCAL GOVERNMENT] is
18 insufficient to meet its operating expenses, including additional
19 disaster-related expenses of a municipal operation character.

20 * Sec. 9. AS 26.23.090(b) is amended to read:

21 (b) The governor is authorized to make financial grants, the
22 total of federal and state shares not to exceed the maximum amount
23 authorized by 42 U.S.C. 5178(f) for grants payable to individuals and
24 families [\$5,000], to an individual or family in any single major
25 disaster declared by the President, to meet disaster-related necessary
26 expenses or serious needs of individuals or families adversely affect-
27 ed by a major disaster that cannot otherwise adequately be met from
28 other means of assistance.

29 * Sec. 10. AS 26.23.110(a) is amended to read:

Bill sections 10 and 11 substitute the term "political subdivision" for various other terms in order to provide uniformity of reference as to entities eligible to seek necessary financial assistance from the state and federal governments under the Alaska Disaster Act.

Bill section 12 revises AS 26.23.210 in a way intended to clarify the relationship between assistance available under

AS 26.23 (the Alaska Disaster Act) and disaster assistance provided under the state's civil defense provisions (AS 26.20) in the event of disaster arising from military or paramilitary action.

1 (a) When the governor has declared a disaster emergency, or the
2 President, at the request of the governor, has declared a major disaster
3 or emergency to exist in this state, the governor may

4 (1) through the use of state agencies, clear from publicly
5 or privately owned land or water, debris and wreckage that may threaten
6 public health, safety, or property;

7 (2) apply for and accept funds from the federal government
8 and use those funds to make grants to a political subdivision [ANY
9 LOCAL GOVERNMENT] for the purpose of removing debris or wreckage from
10 publicly or privately owned land or water.

11 * Sec. 11. AS 26.23.110(b) is amended to read:

12 (b) Authority under (a)(1) of this section may not be exercised
13 unless the affected political subdivision [LOCAL GOVERNMENT], corporation,
14 organization, or individual unconditionally authorizes the
15 removal of the debris or wreckage from public and private property
16 and, in the case of removal of debris or wreckage from private property,
17 first agrees to indemnify the state government against claims
18 arising from the removal.

19 * Sec. 12. AS 26.23.210 is amended to read:

20 Sec. 26.23.210. RELATIONSHIP TO CIVIL DEFENSE LAWS [STATUTE].

21 (a) AS 26.20 (civil defense) [THE ALASKA CIVIL DEFENSE STATUTE
22 (AS 26.20),] applies to preparedness, response, and recovery from
23 disasters caused by enemy attack and other hostile military or para-
24 military action.

25 (b) The provisions of this chapter, other than AS 26.23.30,
26 apply to preparedness, response, and recovery in cases of natural and
27 [NONMILITARY] manmade disasters other than disasters listed in (a) of
28 this section.

29 * Sec. 13. AS 26.23.230(1) is amended to read:

The substantive change to the definition of "disaster" by bill section 13 at page 9, line 3 is made to align the definition to the change made in bill section 12. The substitution made at page 9, lines 8 and 9 is intended to clarify state response under the Alaska Disaster Act as it may be applicable to an oil or hazardous substance discharge that poses the threat of environmental danger or damage. The remaining change is stylistic.

The amendments made in bill sections 14 and 16 revise references to the principal source of federal disaster assistance.

Bill section 15 modifies the definition of "political subdivision" in light of the definition of "municipality" provided in AS 01.10.060 and makes stylistic changes.

Bill section 17 brings forward from AS 44.19.048 and 44.19.-052 the existing statutory provisions establishing the Disaster Relief Fund and the Fuel Emergency Fund. The limitations applicable to uses of these funds are brought forward without significant substantive change. However, outdated references to assistance available to the disaster of August, 1967 (the Fairbanks flood) and certain related deadlines are not brought forward. An addition to substantive law appears in proposed AS 26.23.300(e) (page 10, lines 19 and 20) in which the governor is directed to prepare and adopt regulations applicable to the fund and its use, and especially as to its use for grants and loans (page 10, lines 6 - 9).

1 (1) "disaster" means the occurrence or imminent threat of
2 widespread or severe damage, injury, or loss of life or property
3 resulting from a [ANY] natural or [NONMILITARY] man-made cause includ-
4 ing, [BUT NOT LIMITED TO,] fire, flood, earthquake, landslide, mud-
5 slide, avalanche, wind-driven water, weather condition, tsunami,
6 volcanic activity, epidemic, air contamination, blight, infestation,
7 explosion, riot, equipment failure, or shortage of food, water, fuel,
8 or clothing, or the release of oil or a hazardous substance if the re-
9 lease requires [REQUIRING] prompt action to avert environmental danger
10 or damage;

11 * Sec. 14. AS 26.23.230(3) is amended to read:

12 (3) "emergency" has the meaning given in 42 U.S.C. 5122
13 (Disaster Relief and Emergency Act [OF 1974]);

14 * Sec. 15. AS 26.23.230(5) is amended to read:

15 (5) "political subdivision" means

16 (A) a [HOME RULE OR GENERAL LAW BOROUGH OR CITY IN-
17 CLUDING A UNIFIED] municipality;

18 (B) [,] an unincorporated village; [,] or

19 (C) another [OTHER] unit of local government;

20 * Sec. 16. AS 26.23.230(6) is amended to read:

21 (6) "temporary housing" has the meaning given in the fed-
22 eral Disaster Relief and Emergency Act [OF 1974 (P.L. 93-288, 88 STAT.
23 143)];

24 * Sec. 17. AS 26.23 is amended by adding new sections to read:

25 ARTICLE 2. DISASTER RELIEF FUND.

26 Sec. 26.23.300. DISASTER RELIEF FUND. (a) There is in the
27 Office of the Governor a disaster relief fund. The Department of
28 Revenue is custodian of the fund.

29 (b) Subject to the restrictions of (d) of this section, the

The repealed provisions identified in bill section 18

(1) delete current AS 44.19.048 establishing the Disaster Relief Fund (transferred by bill section 17 to AS 26.23.300) and current AS 44.19.052 establishing the Fuel Emergency Fund (transferred by bill section 17 to AS 26.23.-400);

(2) eliminate AS 44.19.050 as unnecessary a definition of the term "disaster" applicable to AS 44.19.048 and AS 44.-19.049;

(3) eliminate AS 44.19.049, a dated and obsolete section authorizing state assistance in response to natural disasters that is tied to and dependent on federal sources (i.e. urban renewal assistance provisions of Title I of the Housing Act of 1949) that no longer exist; and

(4) eliminate AS 26.23.090(c), a dated definition of a crime involving willful misstatement in an application for financial assistance submitted under AS 26.23; the same act is covered by the elements of the crime of "unsworn falsification" under AS 11.56.210.

1 governor may, without additional legislative authorization, expend not
2 more than \$1,000,000 of the assets of the disaster relief fund for the
3 following purposes:

4 (1) to implement provisions of law relating to disaster
5 relief in the case of a disaster;

6 (2) to alleviate the effects of a disaster by making
7 grants or loans to persons or political subdivisions on terms the
8 governor considers appropriate or by other means the governor con-
9 sidered appropriate.

10 (c) Subject to the restrictions of (d) of this section, the
11 governor may, without additional legislative authorization, expend
12 during a fiscal year not more than \$500,000 of the assets of the
13 disaster relief fund to prevent or minimize the effects of an event
14 that occurs in the state and that, in the determination of the gover-
15 nor, poses a direct and imminent threat of a disaster of sufficient
16 magnitude and severity to justify state action.

17 (d) The governor shall present to the legislature an annual
18 accounting of money expended from the disaster relief fund.

19 (e) The governor shall adopt regulations to carry out the pro-
20 visions of this section.

21 ARTICLE 3. FUEL EMERGENCY.

22 Sec. 26.23.400. FUEL EMERGENCY FUND. There is established in
23 the Office of the Governor the fuel emergency fund. When the governor
24 determines that a shortage of fuel is sufficiently severe to justify
25 state assistance, the governor may make a grant from the fuel emer-
26 gency fund to a political subdivision to purchase emergency supplies
27 of fuel.

28 * Sec. 18. AS 26.23.090(c), AS 44.19.048, 44.19.049, 44.19.050, and
29 44.19.052 are repealed.

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

POSITION PAPER
CSHB 556 (FIN)

Summary of Bill: The bill revises the Alaska Disaster Act (A.S. 26.23) in order to put the statutory authority for state planning, response, and assistance in the event of a disaster emergency on a sound basis. After addressing the roles of the governor and the legislature in responding to a disaster emergency declaration, the balance of the bill revises and updates key provisions applicable to the state's preparedness and response mechanisms. A sectional analysis of the bill has been provided by Legislative Counsel Jack Chenoweth in a memo to the bill's sponsor, Rep. Gruenberg, dated April 12, 1990.

Impact of Bill on Department of Military and Veterans Affairs: The bill will help to clarify the responsibility of the administration in responding to disaster emergencies, and eliminate several current requirements in statute which the department has insufficient resources to perform, or which are no longer appropriate to perform.

Departmental Position on Bill: The department supports this bill.

Approved: _____

J. Morrison
for

MG John W. Schaeffer

Date: _____

4/19/90

DIVISION POLICY POSITION

DISASTER

The occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or nonmilitary man-made cause including, but not limited to, fire, flood, earthquake, landslide, mudslide, avalanche, wind-driven water, weather condition, tsunami, volcanic activity, epidemic, air contamination, blight, infestation, explosion, riot, equipment failure, or shortage of food, water, fuel, or clothing, or the release of oil or a hazardous substance requiring prompt action to avert environmental danger or damage.

Implicitly associated with the foregoing definition is the concept that the event is unanticipated, abnormal and unusual in the normal course of events; not a predictably frequent, or reoccurring event preventable through adequate maintenance and/or operations.

Sec. 26.23.010. Purposes. The purposes of this chapter are to:

- (1) reduce the vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from a disaster;
- (2) prepare for the prompt and efficient rescue, care, and treatment of persons victimized or threatened by a disaster;
- (3) provide a setting conducive to the rapid and orderly start of rehabilitation of persons and restoration of property affected by a disaster;
- (4) clarify and strengthen the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to and recovery from a disaster;
- (5) authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;
- (6) authorize and provide for the coordination of activities relating to disaster prevention, preparedness, response, and recovery by agencies and officers of the state, and similar state-local, inter-state, federal-state, and foreign activities in which the state and its political subdivisions may participate; and
- (7) assist in the prevention of disasters caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use. (§ 3 ch 104 SLA 1977)

Cross references. — For disaster relief fund, see AS 44.19.048 et seq.

Sec. 26.23.020. The governor and disaster emergencies. (a) The governor is responsible for meeting the dangers presented by disasters to the state and its people.

(b) The governor may issue orders, proclamations, and regulations necessary to carry out the purposes of this chapter, and amend or rescind them. These orders, proclamations, and regulations have the force of law.

(c) A condition of disaster emergency shall be declared by proclamation of the governor if the governor finds that a disaster has occurred or that such an occurrence is imminent or threatened. If the legislature is not in session when a proclamation is issued, concurrently with the proclamation, a call shall be issued by the governor for a special session of the legislature to consider ratification of actions taken under this chapter. A call for a special session under this section may be cancelled by the unanimous agreement of the presiding officers of the senate, house of representatives and the governor before the actual convening of the special session. If a special session is held, actions taken by the governor under this chapter that are not ratified by the legislature within 15 days of its convening are

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void. The disaster emergency so declared remains in effect until the governor finds that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist and the governor terminates the disaster emergency by proclamation; but a proclamation of disaster emergency does not remain in effect for longer than 30 days unless renewed by the legislature. The legislature, by concurrent resolution, may terminate a disaster emergency at any time. All proclamations issued under this subsection must indicate the nature of the disaster, the area or areas threatened or affected, and the conditions that have brought it about or which make possible the termination of the disaster emergency.

(d) An order or proclamation issued under this chapter shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless prevented or impeded by circumstances attendant upon the disaster, promptly filed with the Alaska division of emergency services, the lieutenant governor, and the municipal clerk in the area to which it applies.

(e) A proclamation of a disaster emergency activates the disaster response and recovery aspects of the state, local and interjurisdictional disaster emergency plans applicable to the political subdivisions or areas in question, and constitutes authority for the deployment and use of any force to which the plan or plans apply and for use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under this chapter or any other provision of law relating to disaster emergency response.

(f) During the effective period of a disaster emergency, the governor is commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. The governor may delegate or assign command authority by appropriate orders or regulations.

(g) In addition to any other powers conferred upon the governor by law, the governor may, under this chapter,

(1) suspend the provisions of any regulatory statute prescribing procedures for the conduct of state business, or the orders or regulations of any state agency, if compliance with the provisions of the statute, order, or regulation would prevent, or substantially impede or delay, action necessary to cope with the disaster emergency;

(2) use all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster emergency;

(3) transfer personnel or alter the functions of state departments and agencies or units of them for the purpose of performing or facilitating the performance of disaster emergency services;

(4) subject to any applicable requirements for compensation under AS 26.23.160, commandeer or utilize any private property, except for

all news media other than as specifically provided for in this chapter, if the governor considers this necessary to cope with the disaster emergency;

(5) direct and compel the relocation of all or part of the population from any stricken or threatened area in the state, if the governor considers relocation necessary for the preservation of life or for other disaster mitigation purpose;

(6) prescribe routes, modes of transportation, and destinations in connection with necessary relocation;

(7) control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in it;

(8) suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles;

(9) make provisions for the availability and use of temporary emergency housing; and

(10) allocate or redistribute food, water, fuel, or clothing. (§ 3 ch 104 SLA 1977)

Sec. 26.23.030. Creation of the Alaska division of emergency services. There is created in the Department of Military and Veterans' Affairs the Alaska division of emergency services possessing the powers and duties set out in AS 26.23.040. (§ 3 ch 104 SLA 1977; am E.O. No. 58, § 16 (1984))

Cross references. — For the status of catastrophic oil discharge as a disaster emergency, see AS 46.04.089.

Effect of amendments. — The 1984 amendment inserted "and Veterans."

Sec. 26.23.040. Duties of the Alaska division of emergency services. (a) The Alaska division of emergency services shall prepare and maintain a state emergency plan and keep it current. The plan may include provisions for

(1) prevention and minimization of injury and damage caused by disasters;

(2) prompt and effective response to disasters;

(3) emergency relief;

(4) identification of geographical areas, municipalities, cities or villages especially vulnerable to a disaster;

(5) recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semi-permanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

(6) assistance to local officials in designing local emergency action plans;

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STATE OF ALASKA THE LEGISLATURE

FOUCH Y STATE CAPITOL
UNEAU ALASKA 99511
907 465 3810

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 26, 1990

SUBJECT: (Re)defining "disaster"

TO: Representative Ron Larson, Co-Chair
House Finance Committee
ATTN: Jay Hogan

FROM: Jack Chenoweth
Legislative Counsel

Contrary to what you may have been advised, I have no special expertise in redefining the term "disaster." Still, to try to provide you some assistance, let me sketch out the following.

CSHB 556 (HESS) uses cross-references to tie the definitions of "disaster" appearing in AS 26.23 and in AS 44.19.048 - 44.19.050 together. For state purposes, the term is defined by bill section 13.

Apparently, there is no federal use or definition of the term "disaster." The comparable federal term appears to be "emergency." As broad and all-inclusive as the definition of the phrase "disaster" is under state law, the comparable federal term has even a broader reach. In 42 U.S.C 5122, "emergency" is defined as

. . . any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

In other words, under federal law, an "emergency" is just about anything the President says it is.

The federal statute distinguishes between an "emergency" and a "major disaster":

"major disaster" means any natural catastrophe (including any hurricane, tornado, storm,

high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter . . .

Thus, a number of the elements of the term "major disaster" appear in the Alaska definition of the term "disaster":

<u>Federal act</u>	<u>Alaska "disaster" definition</u>
hurricane	N/A, see "weather condition"
tornado	N/A, see "weather condition"
storm	N/A, see "weather condition"
high water	N/A, see "flood"
winddriven water	Used in state definition
tidal wave	Used in state definition
tsunami	Used in state definition
earthquake	Used in state definition
volcanic eruption	State definition uses "volcanic 'activity'"
landslide	Used in state definition
mudslide	Used in state definition
snowstorm)	State definition uses
drought)	"weather condition"
fire	Used in state definition
flood	Used in state definition
explosion	Used in state definition

In contrast, all of the following are enumerated in the state definition of "disaster" but do not appear in the federal definition of "major disaster":

- avalanche;
 - epidemic;
 - air contamination;
 - blight, infestation;
 - riot;
 - equipment failure;
 - shortage of food, water, fuel, or clothing; and
 - release of oil or a hazardous substance
- requiring prompt action to avert environmental danger or damage.

Representative Ron Larson
Page 3
March 26, 1990

Thus, if you intend to reduce the scope of the state definition, these elements would seem to me to be obvious candidates for modification or elimination.

Let me offer this further piece of legislative history: AS 26.23 derives from SB 176 of the 1977 session, a governor's bill. Governor Egan's transmittal letter notes that the measure "is based on and is substantially similar to the 'Example State Disaster Act of 1972,' prepared by the . . . Council of State Governments . . ." Senate Journal, p. 354. Indeed, virtually all of the elements of the state definition of "disaster" that do not also appear in the federal legislation are taken from the Model Act. (Only "avalanche," "equipment failure," and "shortage . . ." do not derive from the list; these three appear to have been added by the governor's office in preparing the initial draft of SB 176.) The commentary to the Model Act notes that

. . . [t]he definition of "disaster" is made purposely broad in subject matter, but is confined to situations in which the effect is widespread or severe. The identification of specific kinds of disasters is illustrative and it includes virtually all of the major types [of disasters] that can be expected in the United States. . . .

1973 Suggested State Legislation, at p. 110. The legislature adopted this portion of the bill without significant change.

I trust this is useful for the purposes intended.

* * *

If the Finance Committee does something with this legislation, it should at the same time correct in the following two places the references to read "Disaster Relief and Emergency Assistance Act [OF 1974]," for that is, in fact, the actual current name of the federal legislation: AS 26.23.-230(3), 26.23.230(6). These are technical changes to conform to the current federal legislation. If not corrected here, they could be incorporated into a future revisor's bill.

JBC:pl
WKP3/083

STATE OF ALASKA THE LEGISLATURE

FOUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 1, 1990

SUBJECT: Disaster relief and preparedness

TO: Representative Ron Larson
Attn: Wanda Cooksey

FROM: Jack Chenoweth
Legislative Counsel

When I prepared the draft of what is now HB 556, I advised the prime sponsor that I thought the bill was "less than what ought to be incorporated into a comprehensive revision [of state law addressing disaster relief and preparedness]."

At the same time, I offered the following suggestion:

"Notwithstanding Mr. [Ervin] Martin's suggestions, your notes, and the many questions identified in Mark [Handley's] handwriting (which I did not include in this draft and which deserve attention and direction), the revision of AS 26.23 and related disaster preparedness and assistance statutes warrants more attention than we have given in these last two days. If it is true that the measure of a government is its ability to respond during a disaster (and there seems to be something to that), then the subject should be reviewed more carefully than is done here. If the legislature does not pass this measure this session and you want more work done on this subject during the forthcoming interim, you might want to mention it to Tam [Cook, the Legal Services Division director] so that she can make an interim assignment. I don't think that preparation of a solid draft would require the attention of a committee during an interim that includes a general election. What seems preferable would be some study of the applicable law and regulations, a little time with Mr. Martin, preparation of a draft that could be reviewed by the disaster office in, say, September, and shared with municipal officials for comment, and a redraft by November 1 for your review."

JBC:pl
WKP2/113

STATE OF ALASKA
THE LEGISLATURE

POUCH • STATE CAPITOL
JUNEAU ALASKA 99811
747 465 2800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 4, 1990

SUBJECT: Constitutional questions and drafting
concerns re draft CSHB 556

TO: Representative Max F. Gruenberg, Jr.

FROM: Jack Chenoweth
Legislative Counsel

In the attached draft, proposed AS 26.23.025(g) is offered by way of a response to Representative Martin's request for inclusion of this kind of provision. I have to caution that I think the inclusion is of questionable constitutionality.

This office recently examined the issue of a legislator's physical presence in chambers as a condition for participation in the proceedings. This office concluded:

. . . I cannot say with certainty that the Alaska Supreme Court would reject an effort by the legislature to provide for participation by teleconference for a member under its authority to adopt uniform rules of procedure. However, such a ruling would be a tremendous extension of the current state of the law on the subject and I believe that it is very unlikely that the court would be willing to go that far. The rule that a member must be physically present to vote in a legislative body is a strong tradition of parliamentary law supported by policy considerations I expect a court would still find to be valid, including public verification of the identity of the person voting, verification that the person is not under the influence of another, and observation of the person's apparent competency.

Additionally, when the legislature authorized teleconferencing for state boards and commissions, it explicitly required that those participating have access to all materials that will be considered at the meeting. AS 44.62.310(a). These provisions, then, are the basis of the language appearing in

Representative Max F. Gruenberg, Jr.

Page 2

April 4, 1990

subsection (g). Nevertheless, despite the circumscriptions and the cautions, it is by no means certain--for the reasons noted in the quotation above--that a legislator's participation in a special session convened to consider a disaster emergency by means of a teleconference connection would receive judicial sanction. This is a grey area.

* * *

I'm concerned about the "fit" between the new "loan regulation" provision, AS 26.23.320 in this draft, and existing AS 44.19.048(b)(2)--AS 26.23.300(b)(2) of this draft. Under sec. 300(b)(2), the governor enjoys the right to set "terms . . . [considered] appropriate" for grants and loans from the disaster relief fund. Along comes proposed AS 26.23.320 giving the adjutant general, a subordinate officer, loan management authority through adoption of regulations. May I suggest that there is an inconsistency in this that deserves further attention.

JBC:mi
wkmi6/070

Enclosure

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99801
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 4, 1990

SUBJECT: The executive's authority to convene a special session

TO: Representative Max F. Gruenberg, Jr.

FROM: Jack Chenoweth
Legislative Counsel

In conjunction with your review of laws governing disaster assistance, you have asked me to review the authority of the executive to convene a special session of the legislature.

The general constitutional provision under which a special session may be convened is set out in article II, section 9. Recently, in May, 1987, Governor Cowper convened a special session at the conclusion of the First Regular Session of the 15th Legislature based on authority that he believes is independently provided to the executive by article III, section 17. See 1987 House Journal, at pp. 1669, 1670. (Until that special session, to my knowledge, governors had not used article III, section 17 as the source of authority to convene a session. Usually, article II, section 9 has been cited as the source of authority for a call.)

Neither provision incorporates a constitutional "waiting period" between the date of the proclamation and the convening of the legislature in special session.

The special session constitutional provisions have been augmented and expanded by AS 24.05.100. AS 24.05.100(a)(1) directs that, if the governor issues a call, 15 days must pass between the proclamation and the convening date. This provision--which is presumably applicable to calls issued under article II, section 9 or under article III, section 17--may be extended or shortened by the legislature by law. (Indeed, it is arguable that, if the governor acts to convene under article III, section 17, the legislature may not, by law, require a "waiting period," for to do so would contravene the executive's explicit authority to call the

Representative Max F. Gruenberg, Jr.

Page 2

April 4, 1990

legislature into session "[w]henver the governor considers it in the public interest.")

* * *

With respect to special legislative sessions, the principal differences between article II, section 9 and article III, section 17 is this: Under article II, section 19, when the governor calls the special session, the legislature is limited to consideration of those subjects identified by the governor in the call and to other items that may be presented by the governor to the legislature during the special session, to reconsideration of vetoes, and the session is limited in length to 30 days, article III, section 17 does not contain these limitations.

Based on your inquiry, this office will take a closer look at the interrelationship between article II, section 9 and article III, section 17, and, at the conclusion of our research, provide you a more extended memo discussing the questions you have raised.

For our purposes, in conjunction with consideration of HB 556, it seems to me that it is not necessary to go further. The provisions of AS 26.23.025 apply (assuming the governor proposes to spend more than the amounts in AS 26.23.025(a)) whether a special session is convened by the governor under article II, section 9 or under article III, section 17.

JBC:pl
WKP4/014

STATE OF ALASKA

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS ALASKA DIVISION OF EMERGENCY SERVICES

STEVE COWPER, GOVERNOR

3901 E. BOGARD RD.
WASILLA, AK 99687
PHONE: (907) 249-1370
(907) 378-2337

NOT IN COMM. PACKET

April 6, 1990

The Honorable Max Gruenberg
Alaska House of Representatives
Room 118, Capitol
P.O. Box V
Juneau, Alaska 99811

Attention: Phil Merrill

Subject: AS 44.19.049 - Urban Renewal, Grants & Loans

Dear Representative Gruenberg:

Pursuant to discussions this date with your Legislative Assistant, Phil Merrill, I attempted to verify the continued validity for "urban renewal" contingencies.

In subsequent telecon with Dick Buck, Federal Emergency Management Agency, Region X, Bothell, Washington, this provision, and reference to "urban renewal," is obsolete which should be eliminated.

Also, attached is copy of an excerpt from the Stafford Act referencing the \$10,000 limit on Individual & Family Grant Program.

Due to the volume of pages (28) of the Federal Disaster Stafford Act, we are mailing you a copy rather than faxing it.

Sincerely,

Ervin

EPM:rc
Enclosures: as stated

Ervin Paul Martin
Director

condition of any loan or grant made under the provisions of this Act, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed or approved by the President after adequate consultation with the appropriate elected officials of general purpose local governments, and the State shall furnish such evidence of compliance with this section as may be required by regulation.

UNEMPLOYMENT ASSISTANCE

Sec. 410. (a) The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of the Internal Revenue Code of 1986) or waiting period credit. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than 24 weeks after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) Reemployment Assistance.

(1) State Assistance. A State shall provide, without reimbursement from any funds provided under this Act, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section.

(2) Federal Assistance. The President may provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster and who reside in a State which does not provide such services.

INDIVIDUAL AND FAMILY GRANT PROGRAMS

Sec. 411. (a) In General. The President is authorized to make a grant to a State for the purpose of making grants to individuals or families adversely affected by a major disaster for meeting disaster-related necessary expenses or serious needs of such individuals or families in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act or through other means.

(b) Cost Sharing.

(1) Federal Share. The Federal share of a grant to an individual or a family under this section shall be equal to 75 percent of the actual cost incurred.

(2) State Contribution. The Federal share of a grant under this section shall be paid only on condition that the remaining 25 percent of the cost is paid to an individual or family from funds made available by a State.

(c) Regulations. The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and administration of grants under this section.

(d) Administrative Expenses. A State may expend not to exceed 5 percent of any grant made by the President to it under subsection (a) for expenses of administering grants to individuals and families under this section.

(e) Administration Through Governor. The Governor of a State shall administer the grant programs authorized by this section in the State.

(f) Limit on Grants to Individuals. No individual or family shall receive grants under this section aggregating more than \$10,000 with respect to any single major disaster. Such \$10,000 limit shall annually be adjusted to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

FOOD COUPONS AND DISTRIBUTION

Sec. 412. (a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 (P.L. 91-671; 84 Stat. 2048) and to make surplus commodities available pursuant to the provisions of this Act.

(b) The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in an area affected by a major disaster.

FOOD COMMODITIES

Sec. 413. (a) The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) The Secretary of Agriculture shall utilize funds appropriated under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

RELOCATION ASSISTANCE

Sec. 414. Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) shall be denied such

NOT IN COMM. PACKET

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 7, 1990

SUBJECT: "Obsolescence" of federal disaster assistance provisions making reference to urban renewal, and the implications for draft CSHB 556 ()

TO: Representative Max F. Gruenberg, Jr.

FROM: Jack Chenoweth
Legislative Counsel 

This is by way of further response on the need for revision or elimination of existing AS 44.19.049 (AS 26.23.310 in the previous draft CSHB 556).

Enclosed are copies of 42 U.S.C. 5316 in its slip law and codified form. Note that the provision terminated the authority of the Secretary of Housing and Urban Development to make grants and loans under various programs, including the one that is relevant for our purposes, the disaster assistance provisions of Title I of the Housing Act of 1949, the source of urban renewal federal assistance in the event of a disaster.

I cannot say with certainty why the Congress chose to suspend. The legislative report issued with the conference committee version of the bill makes no mention of the provision. There is a reference to this provision in the report issued by the U.S. Senate describing the bill it had passed. Under the general heading of "Consolidation," the Senate report affirms that the Community Development Program being proposed by the legislation would replace ten existing programs) including the Urban Renewal provisions authorized by Title I of the Housing Development Act of 1949) and further notes:

While the community development program would become effective on the date of enactment, the bill provides for a transitional period before program funds could be obligated or before existing programs would be terminated. . . . The Committee deemed it advisable to ensure additional funding

Representative Max F. Gruenberg, Jr.
Page 2
April 7, 1990

for communities which require amendatory grants in order to complete urban renewal projects now in execution. Section 318 [of this earlier version of the bill] provides continued authority to fund the urban renewal program during the one-year period following enactment of the bill.

That is the only committee reference I found that appears to provide insight into what Congress intended.

JBC:pl
WKP4/035

Enclosure

with any law of the United States, for cooperative effort and mutual assistance in support of community development planning and programs carried out under this title as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

TRANSITION PROVISIONS

Sec. 116. (a) Except with respect to projects and programs for which funds have been previously committed, no new grants or loans shall be made after January 1, 1975, under (1) title I of the Demonstration Cities and Metropolitan Development Act of 1966, (2) title I of the Housing Act of 1949, (3) section 702 or section 703 of the Housing and Urban Development Act of 1965, (4) title II of the Housing Amendments of 1955, or (5) title VII of the Housing Act of 1961.

(b) To the extent that grants under title I of the Housing Act of 1949 or title I of the Demonstration Cities and Metropolitan Development Act of 1966 are payable from appropriations made for the fiscal year 1975, and are made with respect to a project or program being carried on in any unit of general local government which is eligible to receive a grant for such fiscal year under section 106(a) or (h) of this Act, the amount of such grants made under title I of the Housing Act of 1949 or title I of the Demonstration Cities and Metropolitan Development Act of 1966 shall be deducted from the amount of grants which such unit of general local government is eligible to receive for the fiscal year 1975 under such section 106(a) or (h). The deduction required by the preceding sentence shall be disregarded in determining the amount of grants made to any unit of general local government that may be applied, pursuant to section 112 of this Act, to payment of temporary loans in connection with urban renewal projects under title I of the Housing Act of 1949. The amount of any appropriations made for the fiscal year 1975 which is used for grants so as to be subject to the provisions of this subsection relating to deductions shall be deemed to have been appropriated for grants pursuant to section 103(a) of this Act for such fiscal year for purposes of calculations under sections 106 and 107 of this Act.

(c) The first sentence of section 103(b) of the Housing Act of 1949⁸⁸ is amended by inserting before the period at the end thereof the following: ", and by such sums as may be necessary thereafter".

(d)(1) Section 111(b) of the Demonstration Cities and Metropolitan Development Act of 1966⁸⁹ is amended by inserting immediately after the first sentence the following new sentence: "In addition, there are authorized to be appropriated for such purpose such sums as may be necessary for the fiscal year ending June 30, 1975."

88. 42 U.S.C.A. § 1453(b).
89. 42 U.S.C.A. § 3311(b).

Aug. 22

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HEALTH AND WELFARE

Policy and Study on Housing 95-557, Title IX, § 1971 Stat. 2125, declared it the policy of Congress that in the administration of Federal housing and development programs, involuntary displacement of homes and neighborhoods be minimized and in keeping with this policy, authorized the Secretary of Urban Development to conduct the nature and extent of such studies, and, not later than Jan. 31, 1974, to report to Congress on recommendations for the formulation of a national policy to guide the displacement.

Alternative Formulae. Pub.L. 95-557, § 113, Oct. 12, 1977, 91 Stat. 2017, authorized the Secretary of Housing and Urban Development to conduct a study of the nature and extent of such displacement, and, not later than one year after Oct. 12, 1977, to report to the President and Congress on the formation of a national policy on the developmental needs of communities, and, among other things include alternative verifiable formulae for the distribution of discretionary funds available for allocation to such communities under this chapter.

History. For legislative history of Pub.L. 93-383, see 1974 U.S. Code Cong. and Adm. News, p. 4273. See also 95-128, 1977 U.S. Code Cong. and Adm. News, p. 2884; Pub.L. 97-35, 1981 U.S. Code Cong. and Adm. News, p. 396.

in conjunction with annual reports under this title.

other Federal departments and agencies.

including the issuance of regulations by Federal departments and agencies.

651.)

and section 711 of Title 31, U.S.C.

History. For legislative history of Pub.L. 93-383, see 1974 U.S. Code Cong. and Adm. News, p. 4273.

This is the provision in codified (i.e.

42 § 5316

CH. 69 CO. COMMUNITY DEVELOPMENT U.S.C.) form . . .

§ 5315. Interstate agreements or compacts; purposes

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in support of community development planning and programs carried out under this chapter as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

(Pub.L. 93-383, Title I, § 115, Aug. 22, 1974, 88 Stat. 651.)

Historical Note

References in Text. This chapter, referred to in text, in the original read "this title" meaning Title I of Pub.L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks

and Banking, and section 711 of Title 31, Money and Finance.

Legislative History. For legislative history and purpose of Pub.L. 93-383, see 1974 U.S. Code Cong. and Adm. News, p. 4273.

§ 5316. Transition provisions

(a) Prohibition on new grants or loans after January 1, 1975; exceptions

Except with respect to projects and programs for which funds have been previously committed, no new grants or loans shall be made after January 1, 1975, under (1) Title I of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C.A. § 3301 et seq.], (2) Title I of the Housing Act of 1949 [42 U.S.C.A. § 1450 et seq.], (3) section 702 or section 703 of the Housing and Urban Development Act of 1965 [42 U.S.C.A. § 3102 or 3103], (4) Title II of the Housing Amendments of 1955 [42 U.S.C.A. § 1491 et seq.], or (5) Title VII of the Housing Act of 1961 [42 U.S.C.A. § 1500 et seq.].

(b) Final date in fiscal year for submission of application for grant; establishment by Secretary

In the case of funds available for any fiscal year, the Secretary shall not consider any statement under section 5304(a) of this title, unless such statement is submitted on or prior to such date (in that fiscal year) as the Secretary shall establish as the final date for submission of statements in that year.

(Pub.L. 93-383, Title I, § 116(a), (b), (f), (g), Aug. 22, 1974, 88 Stat. 652, 653; Pub.L. 94-375, § 15(d), Aug. 3, 1976, 90 Stat. 1076; Pub.L. 96-399, Title I, § 111(h), Oct. 8, 1980, 94 Stat. 1622; Pub.L. 97-35, Title III, § 309(m), Aug. 13, 1981, 95 Stat. 397.)

Historical Note

References in Text. The Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (a), is Pub.L. 89-754, Nov. 3, 1966, 80 Stat. 1255, as amended. Title I of the Demonstration Cities and Metropolitan Development Act of 1966 is classified principally to subchapter I

(section 3301 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables volume.

The Housing Act of 1949, referred to in subsec. (a), is Act July 15, 1949, c. 338, 63

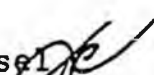
STATE OF ALASKA
THE LEGISLATURE

POLCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 12, 1990

SUBJECT: CSHB 556 (Finance) -- sectional analysis
TO: Representative Max F. Gruenberg, Jr.
FROM: Jack Chenoweth
Legislative Counsel 

The following summarizes the principal provisions of CSHB 556 (Finance) amending the Alaska Disaster Act, AS 26.23, and repealing related provisions.

This bill revises the Alaska Disaster Act in order to put the statutory authority for state planning, response, and assistance in the event of a disaster emergency on a sound basis. After giving attention to the respective roles of the governor and the legislature in responding to a disaster emergency declaration, the balance of the bill revises and updates key provisions applicable to the state's preparedness and response mechanisms.

* * *

The relationship between the executive branch and the legislative branch in responding to disasters is addressed in the bill's first two sections.

Bill section 1 defines the essential elements of the governor's role in declaring a disaster emergency and initiating the response of the state government's executive branch. After removing from this subsection all references to the legislature's role in responding to a disaster emergency and establishing those in a separate section (AS 26.23.025, added in the next following bill section), the section rewrites the section stylistically, shifting the description of the governor's responsibilities from the passive to the active voice. Significant substantive changes are not otherwise made.

Bill section 2 describes the legislature's role in formulating a disaster emergency response:

-- Subsection (a) should be read in conjunction with AS 26.23.300, set out later in the measure as part of bill section 17. It limits the operation of the section on legislative involvement to those instances in which the governor proposes to spend (1) more than \$1,000,000 from the disaster relief fund as grants and loans to alleviate the effects of a disaster; (2) more than \$500,000 from the fund if "an event . . . occurs in the state . . . that, in the determination of the governor, poses a direct and imminent threat of a disaster of sufficient magnitude and severity to justify state action" (see page 10, lines 13 - 16); or (3) an amount from the fund that exceeds the fund's unallocated balance.

-- Subsection (b) directs that, if the disaster emergency is declared while the legislature is in session, the governor is to submit a financing plan identifying sources of appropriated money that the governor intends to use to respond to the disaster or a supplemental appropriation.

-- Subsection (c) directs that, if the disaster emergency is declared while the legislature is not in session, the governor is to call for a legislative special session and submit the same documents; if within five days of the governor's call the presiding officers determine that a special session should not be convened, the governor is not to convene one.

-- Subsection (d) provides that actions of the governor in response to a disaster emergency not approved by concurrent resolution of the legislature at a regular or special session are void.

-- Subsection (e) authorizes the governor to proceed under his proposed financing plan if the legislature, not in session, does not convene in a special session.

-- Following current law (AS 26.23.020), subsection (f) allows the legislature to terminate a disaster emergency at any time by concurrent resolution.

* * *

The remainder of the bill makes a series of technical and substantive changes whose inclusion had been suggested by the division of emergency services, drafting corrections, and substantive changes intended to better define the rela-

tionship of the Alaska Disaster Act to available federal assistance and to other related state laws.

Bill section 3 deletes a requirement that the annual plan prepared by the division of emergency services include a provision listing catalogs and extracts of current disaster assistance programs.

Bill section 4 deletes from the list of the division's duties (1) providing mobile support units; (2) making surveys necessary to carry out the purposes of the Alaska Disaster Act, and (3) establishing equipment and housing registers.

Bill section 5 removes certain unnecessary limitations relating to the governor's authority to borrow when necessary to cope with a disaster, and makes technical language corrections.

Bill section 6 makes a technical correction in a reference to the term "municipality."

In bill section 7, and in several others that follow, the term "political subdivision" is substituted in order to make uniform the reference as to entities who are eligible to seek necessary financial assistance from the state and federal governments under the Alaska Disaster Act.

Bill section 8 deletes an unnecessary reference to "community" in the section caption and eliminates a provision that limits a political subdivision from applying for disaster assistance in an amount that would exceed 25 percent of the subdivision's annual operating budget for the fiscal year in which application is made.

The change made by bill section 9 revises and extends the limitation on grants awardable to families, to conform to the limitations of current federal law (i.e. \$10,000 plus a cost-of-living adjustment).

Bill sections 10 and 11 substitute the term "political subdivision" for various other terms in order to provide uniformity of reference as to entities eligible to seek necessary financial assistance from the state and federal governments under the Alaska Disaster Act.

Bill section 12 revises AS 26.23.210 in a way intended to clarify the relationship between assistance available under

Representative Max F. Gruenberg, Jr.

Page 4

April 12, 1990

AS 26.23 (the Alaska Disaster Act) and disaster assistance provided under the state's civil defense provisions (AS 26.-20) in the event of disaster arising from military or paramilitary action.

The substantive change to the definition of "disaster" by bill section 13 at page 9, line 3 is made to align the definition to the change made in bill section 12. The substitution made at page 9, lines 8 and 9 is intended to clarify state response under the Alaska Disaster Act as it may be applicable to an oil or hazardous substance discharge that poses the threat of environmental danger or damage. The remaining change is stylistic.

The amendments made in bill sections 14 and 16 revise references to the principal source of federal disaster assistance.

Bill section 15 modifies the definition of "political subdivision" in light of the definition of "municipality" provided in AS 01.10.060 and makes stylistic changes.

Bill section 17 brings forward from AS 44.19.048 and 44.19.-052 the existing statutory provisions establishing the Disaster Relief Fund and the Fuel Emergency Fund. The limitations applicable to uses of these funds are brought forward without significant substantive change. However, outdated references to assistance available to the disaster of August, 1967 (the Fairbanks flood) and certain related deadlines are not brought forward. An addition to substantive law appears in proposed AS 26.23.300(e) (page 10, lines 19 and 20) in which the governor is directed to prepare and adopt regulations applicable to the fund and its use, and especially as to its use for grants and loans (page 10, lines 6 - 9).

The repealed provisions identified in bill section 18

(1) delete current AS 44.19.048 establishing the Disaster Relief Fund (transferred by bill section 17 to AS 26.23.300) and current AS 44.19.052 establishing the Fuel Emergency Fund (transferred by bill section 17 to AS 26.23.-400);

(2) eliminate AS 44.19.050 as unnecessary a definition of the term "disaster" applicable to AS 44.19.048 and AS 44.-19.049;

Representative Max F. Gruenberg, Jr.

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(3) eliminate AS 44.19.049, a dated and obsolete section authorizing state assistance in response to natural disasters that is tied to and dependent on federal sources (i.e. urban renewal assistance provisions of Title I of the Housing Act of 1949) that no longer exist; and

(4) eliminate AS 26.23.090(c), a dated definition of a crime involving willful misstatement in an application for financial assistance submitted under AS 26.23; the same act is covered by the elements of the crime of "unsworn falsification" under AS 11.56.210.

JBC:pl
WKP4/057

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 9, 1990

SUBJECT: Draft CSHB 556()
TO: Representative Max F. Gruenberg, Jr.
FROM: Jack Chenoweth
Legislative Counsel

The draft requested is enclosed.

Please note that nothing in the draft is dispositive of the legislature's role in ratifying the governor's proposed financing plan if the disaster occurs while the legislature is in session. To cover that, you might revise proposed AS 26.23.025(d) to read:

(d) If the declaration of a disaster emergency occurs while the legislature is in session, or if a special session is held, actions taken by the governor under this chapter that are not ratified by a concurrent resolution adopted during that session are void.

JBC:pl
WKP4/038

House Finance members:
Please consider the above language
as an amendment in place of the language
on p 229- p 323 in the 4/9 proposed C/S.
Thanks.

MFG

Committee, I will insert it at this time. It has to do with instead of calling the senate alone, call either house alone. That's on page 5, lines 13 and 14. Our motion would be to strike the words "the senate alone," and insert in lieu thereof "either house alone". I ask unanimous consent.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent for adoption of the amendment.

SUNDBORG: Mr. Rivers, there was a paper that has been passed on to the Clerk which would strike the balance of the line, also. Is there any necessity of having "or the two houses in joint session"?

V. RIVERS: We thought there was a necessity for calling the houses in joint session at the times they were meeting or to call them for joint sessions alone for purposes of confirmation in view of the legislative act. It was discussed in Committee, we thought the words were of value.

PRESIDENT EGAN: Is there any objection to Mr. Rivers' unanimous consent request for the adoption of the proposed amendment? Will the Chief Clerk please read the proposed amendment again.

CHIEF CLERK: "Strike the words on line 13 'the Senate alone' making it 'either house alone'.

V. RIVERS: And that was all there was to my amendment.

PRESIDENT EGAN: Is there objection? Mr. Johnson.

JOHNSON: Mr. President, I have no objection. I would like to rise on a point of information.

PRESIDENT EGAN: Your point of information, Mr. Johnson?

JOHNSON: If we leave in the language "or the two houses in joint session", would that in any way conflict with the legislative article which provides for the calling of special sessions?

V. RIVERS: We in the Committee didn't think it would. We thought we should have, in view of the rather large number of functions which the joint sessions perform, authority to call them in joint session. Now that could be subject to some discussion. I'm merely expressing the majority opinion of the Committee after some considerable discussion.

PRESIDENT EGAN: Is there objection to the unanimous consent request? There being no objection, the proposed amendment is ordered adopted. Mr. Barr.

STATE OF ALASKA
THE LEGISLATURE

FOURTH FLOOR STATE CAPITOL
SHELDON ALASKA CENTER
JANUARY 1990

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 4, 1990

SUBJECT: Calling a special session

TO: Representative Max F. Gruenberg, Jr.

FROM: Tamara Brandt Cook
Director
Division of Legal Services *TBC*

The governor is authorized to call the legislature into special session under article II, section 9 which provides

SECTION 9. SPECIAL SESSIONS. Special sessions may be called by the governor or by vote of two-thirds of the legislators. The vote may be conducted by the legislative council or as prescribed by law. At special sessions called by the governor, legislation shall be limited to subjects designated in his proclamation calling the session, to subjects presented by him, and the reconsideration of bills vetoed by him after adjournment of the last regular session. Special sessions are limited to thirty days.

The state constitution also provides in article III, section 17:

SECTION 17. CONVENING LEGISLATURE. Whenever the governor considers it in the public interest, he may convene the legislature, either house, or the two houses in joint session.

You have asked whether the authority granted to the governor under article III, section 17 is entirely independent from the authority granted under article II, section 9 with respect to the calling of a special session. While the precise question has not been addressed by the court, it seems to me that the two sections must be read in conjunction. Article II, section 9 contains details regarding the special session that are not contained in the other provision, including restrictions on subjects that may be considered and

Representative Max F. Gruenberg, Jr.
Page 2
April 4, 1990

a 30-day special session limit. From the discussion contained in the minutes of the Alaska Constitutional Convention, it seems clear that the members of the convention expected the requirements set out in article II, section 9 to apply to all special sessions. (Alaska Constitutional Convention Proceedings, Part 3, Pages 1685-1698)

Under article III, section 17 the authority of the governor to convene the legislature is reaffirmed, but this provision sets out the general scope of this authority to convene the legislature, one house, or both houses in joint session. Although it may also be cited as authority to convene a special session, clearly it comes into play in situations other than the convening of a special session. (Abood v. Gorsuch, 703 P.2d 1158 (Alaska 1985)) When a special session is convened, however, both the constitutional provisions can be read in harmony and each can be given effect. To read article III, section 17 as providing completely separate authority for the governor to call a special session would be to render the restrictions (that the subjects to be considered are limited to those designated by the governor and to vetoes; that the session is limited to 30 days) contained in article II, section 9 ineffective. This is a result not likely to be acceptable to the court. Note also that the question of a conflict between the provisions was considered during the constitutional convention and dismissed. (Alaska Constitutional Convention Proceedings, Part 3, page 2120, attached)

TBC:pl
WKP4/015

Enclosure

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



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

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot
RE: Wednesday, April 25 Committee Hearing
DATE: April 24, 1990

On Wednesday, April 25 at 1:30 p.m. in the Beitz Room the Senate State Affairs Committee will hear the following bills:

*Indicates bill will be teleconferenced.

SB 206. An Act relating to intrastate competition in telecommunications; continuing the existence of the APUC; and providing for an effective date. Rescheduled to April 27

*CS HB 405. An Act relating to requests for information by public agencies, and relating to the copyrighting of software produced by or for public agencies. Sponsored by Representative Brown, this bill deals with public access to state and local government records. The major provisions of the bill are:

- .to govern access to and fees for obtaining public records, covering all agencies of state government and municipalities.
- .to establish discretionary authority for public agencies to offer to the public electronic services and products and criteria for setting fees, based on public demand and sufficient program receipts.
- .to authorize state agencies and municipalities to copyright software.
- .to address privacy rights of individuals by requiring state agencies to inform individuals that personal information may be subject to public disclosure and to provide a process to correct inaccurate personal information.

This is the second hearing for for this bill. Your packet contains the proposed State Affairs CS and six amendments. We are expecting an additional amendment from Department of Public Safety. The proposed amendments are numbered, briefly they include:

Amendment #1: Would allow the Bureau of Vital Statistics to continue set their own fees and exempt them from personal information notification because information will not be released for 50-75 years.

Amendment # 2: allows the Department of Law to rely on established court standards for what is public information.

Amendment # 3: corrects a problem the University of Alaska has had with federal law requiring student records to be confidential for students to be eligible for federal assistance, it removes U of A out from under TIC authority and it allows them to set their own fees.

Amendment # 4: Removes the Alaska Railroad out from under TIC authority and allows them to set their own fees.

Amendment # 5: Allows Municipalities to be excluded from this act if they can demonstrate substantially similar ordinances.

Amendment # 6: Changes the presumption from "open records" to "confidential records" for municipalities.

Proposed DPS amendment: Requests additional voluntary information from candidates to reduce chance of error and has a liability clause to protect DPS from distributing incorrect information.

*CS HB 556, An Act relating to disaster emergencies and disaster and emergency relief and preparedness. This bill, sponsored by Representative Gruenberg, revises the Alaska Disaster Act. Major provisions of this bill are to limit legislative involvement to instances whereby the governor proposes to spend more than \$1 million to alleviate effects of disaster or \$500,000 to avoid a disaster or an amount that exceeds the Disaster Relief Fund's unallocated balance and clarification of the Governor's role in declaring a disaster emergency. Sections 3-17 are changes suggested by the Division of Emergency Services which revise and update statutes relating to disaster emergencies and preparedness.

SB 240. An Act relating to the notice requirements for the adoption, amendment or repeal of regulations. Sponsored by Senator Adams, this bill would provide state agencies the option of providing notice of regulation change by publication in a newspaper or by broadcasting by radio or television. Included in your packet are two amendments proposed by Senator Adams.

SB 517. An Act relating to initiative and referendum elections in home rule municipalities. Sponsored by the Community and Regional Affairs Committee, this bill would allow initiatives and referendum elections in home rule and general law municipalities to be passed on a simple majority basis.

CS HB 511 (SA) am. An Act making a special appropriation to reimburse the dividend fund in fiscal year 1990 for prisoner gate money, sex offender treatment programs and the Violent Crimes Compensation Board. . .

Sponsored by Representative Boucher, this bill would authorize an immediate \$1.5 million appropriation to the dividend fund for deductions made in 1989 for Department of Corrections and Department of Public Safety programs. This would allow dividend recipients to be reimbursed for the 1989 deductions in their 1990 dividend check.