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Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

April 19, 1996

TO: Members of House Judiciary Committee

FROM: Tom Meyer

RE: Fiscal notes for death penalty bills

Attached are incomplete sets of fiscal notes for SB 52 (missing OPA and updated Public Safety) and HB 481 (missing Public Safety, Courts) for your review for these bills. The next hearing for these bills is likely Monday, April 22, 1996, as "bills held from previous calendars".

FISCAL NOTE

No. 3

Bill Version: CS SS SB 52 (JUD)

(S) Publish Date: 3/28/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: 03/25/96
Title: Capital Punishment for Murder
Sponsor: Sens. Taylor, Pearce
Requestor: Senate Judiciary

Dept. Affected: Alaska Court System
BRU: Trial Courts
Component: _____
COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1007 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel
Agency: Alaska Court System

Approved by: Arthur H. Snowden, II, Administrative Director
Agency: Alaska Court System

Phone: 264-8228
Date: 03/25/96

Date: 03/25/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

No. 2
 B) Bill Version: CS SSS852(JWD)
 (S) Publish Date: 3/28/96

Revision Date: March 18, 1996 Dept. Affected: Public Safety
 Title: Capital Punishment for Murder BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Senator Taylor
 Requestor: S. Finance COMPONENT SERIAL NO. 0799

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	9.0	0.0	0.0	0.0	0.0

CAPTITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY 96) impact: \$ _____

POSITIONS:

FULL - TIME						
PART - TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill will not have a fiscal impact on the Division of State Troopers. The impact of this bill on the division is the possibility of troopers having to attend court proceedings that they do not currently have to attend.

Prepared By: Li. Dan Lowden Phone: 465-5505
 Division: Alaska State Troopers Date: March 18, 1996
 Approved by Commissioner: Ronald L. Otte Date: 3/19/96
 Agency: Ronald L. Otte, Department of Public Safety

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FISCAL NOTE

No. 1
 Bill Version: CSSSSR 52(TUD)
 (S) Publish Date: 3/12/96

**STATE OF ALASKA
 1996 LEGISLATIVE SESSION**

Revision Date: 3/7/96 Dept. Affected: Office of the Governor
 Title: An Act authorizing capital punishment BRU: Elective Operations
 authorizing an advisory vote on instituting capital punishment Component: General and Primary Elections
 Sponsor: Senator Taylor
 Requester: Senate Judiciary COMPONENT SERIAL NO. 22

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	2.2					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2.2	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF	2.2					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	2.2	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet as required by AS 15.58, and the programming costs for counting votes cast on the question. However, only four measures can be printed on a single ballot card. If this measure requires an additional ballot card, the costs will increase by \$53.4.

Prepared by: Dana LaTour Phone: 465-5347
 Division: Division of Elections Date: 3/7/96
 Approved by: Lt. Governor Fran Ulmer Date: 3/7/96
 Agency: Office of the Lt. Governor

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

Revision Date: _____
Title: "An Act authorizing capital punishment..."

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency

Sponsor: Senator Taylor
Requestor: (S) JUD

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES		770.4	1032.0	1638.7	1638.7	2496.3
TRAVEL		50.0	150.0	250.0	350.0	450.0
CONTRACTUAL		184.8	468.2	896.6	1256.6	1699.6
SUPPLIES		25.0	24.0	33.0	33.0	48.0
EQUIPMENT		54.0	18.0	40.5	-0-	40.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	1084.2	1692.2	2858.8	3278.3	4734.4

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1084.2	1692.2	2858.8	3278.3	4734.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	1084.2	1692.2	2858.8	3278.3	4734.4

Estimate of any current year (FY 96) cost: \$ -0-

POSITIONS:

FULL-TIME		12.0	16.0	25.0	25.0	38.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: John B. Salemi, Director
Division: Public Defender Agency

Phone: (907) 264-4412
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 2/7/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS: (continued)

Introduction

This bill authorizes capital punishment for the crime of Murder in the First Degree if certain attendant aggravating factors are found to exist and are established by competent evidence. Prosecution is given discretion whether to seek the death penalty in a given case.

The capital caseload of the Public Defender Agency will be a direct function of the number of murder cases prosecuted in the state combined with prosecutorial decisions to seek the death penalty. As such the Public Defender Agency's fiscal analysis is premised on projections made by the Department of Law in its fiscal analysis of HB 45. The Department of Law indicated it prosecuted 17 murder cases in 1994 where the death penalty could have been sought in that the requisite statutory aggravators were present. Of those 17, ten would likely result in death penalty trials. The Department of Law concluded that they would gain nine convictions from which the death penalty would be imposed in six cases.

Of the ten cases which are projected to go to trial as capital cases, the Public Defender anticipates being assigned to seven, with the other three either involving private lawyers or attorneys secured through the Office of Public Advocacy (where the PD is unable to undertake representation because of legal conflict of interest).

Because the number of murders can vary significantly from year to year, predicting actual numbers of cases is difficult. It is not difficult, however, to predict a profound fiscal impact for the PD once the death penalty becomes law. The concept of "super due process", established by the U.S. Supreme Court as the required standard of practice for defending death penalty cases, necessitates that highly capable lawyers and support staff (in sufficient numbers) be in place to handle any and all cases of this nature.

Fiscal Impact

Passage of this death penalty legislation will have an undeniably significant impact on the entire criminal justice system, including the courts, corrections, prosecution, public counsel services, and other related entities. Death penalty cases require greater due process safeguards than do non-capital cases. This is obviously a consequence of the severity and finality of a death sentence as well as the potential for killing an innocent person by mistake. It must be understood that the criminal justice system is an imperfect process based on the combination of law and human judgment. Some percentage of error is a consequence of the American jury system. In non-death cases the system stands ready to correct those mistakes when and where they become known. An execution following a death penalty case can never be corrected. It is for these reasons so much care must be taken to defend individuals accused in capital cases. Providing "super due process" translates into adequate attorney resources, support resources, expert and consultation monies, funds for appealing death penalty convictions and other attendant expenses. A commonly accepted estimate for expert witness fees alone in a death penalty case is \$60,000.

It is not unusual for a death penalty case to remain in the court system, litigated by the parties, for a period of up to ten years. This is a result of the extensive appellate work which is routinely done in each death penalty case following conviction. Following are the procedures which are typically utilized after a trial and sentencing:

1. Motion to modify the death sentence/reconsider before state trial judge;
2. Mandatory appeal of conviction and sentence to Alaska Supreme Court;
3. Writ of certiorari to the United States Supreme Court;
4. Post-conviction relief proceedings in state court;

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BILL NO. SSSB 52

5. Appeal of unsuccessful post-conviction relief proceedings to the Court of Appeals;
6. Petition for hearing of post-conviction relief proceeding denial to the Alaska Supreme Court;
7. Petition for writ of habeas corpus in Federal District Court;
8. Appeal to the United States Court of Appeals if writ unsuccessful;
9. Rehearing in the United States Court of Appeals;
10. Writ of certiorari to the United States Court of Appeals;
11. Request for clemency/commutation to Executive Branch of government;
12. Emergency stays to the United States Supreme Court prior to execution.

Breakdown of Fiscal Impact

1. Personal Services. Given the complexity and intensity of effort involved in each death penalty trial and penalty hearing, many states require by statute that a minimum of two defense attorneys take up representation of the accused in death penalty matters. Both the state District Attorney and the Office of Public Advocacy contemplate such a policy for their respective agencies. The Public Defender will follow this prudent course, whether established by statute or internal policy.

Assuming that the Public Defender Agency handles six to seven capital cases per year, death penalty units will be established in its two largest offices; Anchorage and Fairbanks. A trial team in each of these offices will be established the first year. The second year an appellate team will be placed in Anchorage. (Please note that unlike the Department of Law, the Public Defender Agency has no equivalent to the Office of Special Prosecutions and Appeals.) The appellate team will not be needed until the second year following enactment of the death penalty because it is not expected that an appeal would be "ripe" until that time. Obviously adequate support staff, to include legal interns (designated as "Associate Attorneys" under state personnel classification) paralegals, investigators and secretaries, will be necessary. A second appellate team will be established in Fairbanks in the third year following enactment of capital punishment.

2. Travel and Contractual. Travel expenses will be necessarily high in that a team approach is being taken by this agency. These teams will have to travel to locations where the crime occurred and where trial is being held. Travel expenses are higher in Alaska because of the geography of the state, the lack of surface roads, and the high cost of air travel and lodging. Costs will be even higher for the considerable out-of-state travel associated with these cases. Once an individual is convicted of a capital offense, preparation begins for the penalty phase (sentencing hearing). Defense investigators will travel to locations where the defendant lived, went to school, etc., to interview people and develop facts for the purpose of vitiating a sentence of execution. If favorable witnesses are located, they will then have to be subpoenaed for travel to Alaska for the hearing.

Contractual expenditures for expert witnesses will be significant. As the Department of Law pointed out in a 1993 fiscal note related to a death penalty proposal, "recent cost studies of capital trials in other states indicate that expert witnesses for both the trial and sentencing proceedings cost about \$60,000, on the average". This estimate is consistent with the research by the Public Defender Agency on this issue. In addition there will be expert witness costs for the appellate work done following trial, conviction and sentence to death. These costs can be as high as the expert witness fees incurred during trial.

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3. Supplies and Equipment. These expenses naturally accrue when additional staff are required. Estimates which follow are conservative projections without consideration of inflationary factors.

4. Training. Training for lawyers engaged in death penalty work is a critical component for any death penalty defense unit. Both the prosecution and the defense will avail themselves of national training programs which are conducted on a yearly basis related to these kinds of cases.

Conclusion

Due to the accrual of cases from year to year, once implementation of the death penalty occurs expenses could greatly exceed that anticipated in this fiscal analysis. This agency has no control over the trend of homicide crimes nor the discretion which will be exercised by the prosecution in seeking the death penalty. There is the real likelihood that additional staff will have to be added to this agency beyond the third year of implementation of the capital crime law. Simply stated, this cost estimate very well might understate staff/contractual needs. Only several years of experience with the death penalty will permit adjustment of projections and fiscal analysis.

Fiscal Impact--FY 98

Personal Services (100 Line) *

Anchorage - Trial Team

Attorney V	
Salary & Benefits	\$ 88.9
Attorney IV	
Salary & Benefits	83.6
Associate Attorney I	
Salary & Benefits	53.8
Paralegal Assistant II	
Salary & Benefits	52.1
Investigator II	
Salary & Benefits	52.1
Legal Secretary I	
Salary & Benefits	37.0

Fairbanks - Trial Team

Attorney V	
Salary & Benefits	100.9
Attorney IV	
Salary & Benefits	94.7
Associate Attorney I	
Salary & Benefits	61.2
Paralegal Assistant II	
Salary & Benefits	53.9
Investigator II	
Salary & Benefits	\$ 53.9
Legal Secretary I	
Salary & Benefits	<u>38.3</u>

SUBTOTAL

\$ 770.4

* Using FY 96 salary schedule with no increases factored in.

FISCAL NOTE

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BILL NO. SSSB 52

Travel (200 Line)

Death penalty teams will travel to appropriate venue for all relevant hearings. Travel includes that of staff, witnesses, expert witnesses, etc. This includes both in-state and out-of-state travel.

SUBTOTAL \$ 50.0

Contractual (300 Line)

Expert witness fees	\$120.0
Additional office space for death penalty staff in Anchorage and Fairbanks P.D. offices	30.8
Communications	15.0
Printing	4.0
Depositions	10.0
Westlaw	<u>5.0</u>

SUBTOTAL \$ 184.8

Supplies (400 Line)

Office consumables	\$ 5.0
Law library	10.0
New position supplies (one time)	<u>10.0</u>

SUBTOTAL \$ 25.0

Equipment (500 Line)

Office furniture and equipment, pc/word processing, etc. (one time)	SUBTOTAL	\$ <u>54.0</u>
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TOTAL FY 98 \$1084.2

Fiscal Impact--FY 99

(These costs are in addition to FY 98 costs which will be carried over from year to year.)

Personal Services (100 Line)

Anchorage - Appellate Team

Attorney V	
Salary & Benefits	\$ 88.9
Attorney IV	
Salary & Benefits	83.6
Paralegal Assistant II	
Salary & Benefits	\$ 52.1
Legal Secretary I	
Salary & Benefits	<u>37.0</u>

SUBTOTAL \$261.6

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BILL NO. SSSB 52

Travel (200 Line)

Staff travel, expert travel
and per diem.

SUBTOTAL \$100.0

Contractual (300 Line)

Expert witness fees (based on accrual
of FY 98 and 99 cases) \$240.0
Office space for Anchorage
appellate team 11.4
Training for Death Penalty Appellate Team 4.0
Communications 10.0
Depositions 5.0
Document production 5.0
Westlaw 8.0

SUBTOTAL \$ 283.4

Supplies (400 Line)

Office consumables \$ 3.0
Law library 2.0
New position supplies (one time) 4.0

SUBTOTAL \$ 9.0

Equipment (500 Line)

New position equipment (one time) SUBTOTAL \$ 18.0

SUBTOTAL FY 99 \$ 672.0

FY 98 CONTINUING COSTS \$1020.2

TOTAL FY 99 EXPENDITURES \$1692.2

Fiscal Impact--FY 00

(These costs are in addition to FY 98-99 costs which will be carried over from year to year.)

Personal Services (100 Line)

Anchorage

Attorney V (Additional death penalty trial attorney)
Salary & Benefits \$ 88.9
Associate Attorney I
Salary & Benefits 53.8
Legal Secretary I
Salary & Benefits 37.0

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1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

Fairbanks

Attorney V (Additional death penalty trial attorney)	
Salary & Benefits	\$ 100.9
Legal Secretary I (Trial support)	
Salary & Benefits	38.3

Appellate Team (Fairbanks)

Attorney V (Additional lawyer for death penalty appellate work)	
Salary & Benefits	100.9
Attorney IV (Additional lawyer for death penalty appellate work)	
Salary & Benefits	94.7
Paralegal Assistant II	
Salary & Benefits	53.9
Legal Secretary I (Appellate support)	
Salary & Benefits	<u>38.3</u>

SUBTOTAL	\$606.7
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Travel (200 Line)

Staff travel, expert travel and per diem.	
SUBTOTAL	\$100.0

Contractual (300 Line)

Expert witness fees based on trial and appellate cases for FY 00	\$ 360.0
Additional office space for new staff	25.4
Communications	20.0
Depositions	10.0
Document production	5.0
Westlaw	<u>8.0</u>

SUBTOTAL	\$ 428.4
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Supplies (400 Line)

Office consumables	\$ 5.0
New position supplies (one time)	<u>8.0</u>

SUBTOTAL	\$ 13.0
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Equipment (500 Line)

New position equipment (one time)	SUBTOTAL	<u>\$ 40.5</u>
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SUBTOTAL FY 00	\$1188.6
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FY 99 CONTINUING COSTS	<u>\$1670.2</u>
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TOTAL FY 00 EXPENDITURES	\$2858.8
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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

Fiscal Impact--FY 01

(These costs are in addition to FY 98-99-00 costs which will be carried over from year to year.)

<u>Personal Services (100 Line)</u>	SUBTOTAL	.0
<u>Travel (200 Line)</u>		
Death penalty teams will travel to appropriate venue for all relevant hearings. Travel includes that of staff, witnesses, expert witnesses, etc.	SUBTOTAL	\$100.0
<u>Contractual (300 Line)</u>		
Expert witness fees, office space, communications, Westlaw, etc.	SUBTOTAL	360.0
<u>Supplies (400 Line)</u>		
Office, law library	SUBTOTAL	<u>8.0</u>
	SUBTOTAL FY 01	\$ 468.0
	FY 00 CONTINUING COSTS	<u>\$2810.3</u>
	TOTAL FY 01 EXPENDITURES	\$3278.3

Fiscal Impact--FY 02

(These costs are in addition to FY 98-99 costs which will be carried over from year to year.)

Personal Services (100 Line)

Anchorage - Trial Team

Attorney V	
Salary & Benefits	\$ 88.9
Attorney IV	
Salary & Benefits	83.6
Associate Attorney I	
Salary & Benefits	53.8
Paralegal Assistant II	
Salary & Benefits	52.1
Investigator III	
Salary & Benefits	59.2
Legal Secretary II	
Salary & Benefits	39.1

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

Fairbanks

Attorney V (Additional death penalty trial attorney)		
Salary & Benefits	100.9	
Investigator II		
Salary & Benefits	53.9	
Legal Secretary I (Trial support)		
Salary & Benefits	38.3	
Attorney V (Additional lawyer for death penalty appellate work)		
Salary & Benefits	100.9	
Attorney IV (Additional lawyer for death penalty appellate work)		
Salary & Benefits	94.7	
Paralegal Assistant II		
Salary & Benefits	53.9	
Legal Secretary I (Appellate support)		
Salary & Benefits	<u>\$ 38.3</u>	

SUBTOTAL \$ 857.6

Travel (200 Line)

Staff travel, expert travel and per diem.		
	SUBTOTAL	\$ 100.0

Contractual (300 Line)

Expert witness fees based on trial and appellate cases for FY 00	360.0	
Additional office space for new staff	30.0	
Training for staff	10.0	
Communications	20.0	
Depositions	10.0	
Document production	5.0	
Westlaw/CD Rom	<u>8.0</u>	

SUBTOTAL \$ 443.0

Supplies (400 Line)

Office consumables	\$ 5.0	
New position supplies (one time)	<u>10.0</u>	

SUBTOTAL \$ 15.0

Equipment (500 Line)

New position equipment (one time)	SUBTOTAL	<u>\$ 40.5</u>
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SUBTOTAL FY 02 \$1456.1

FY 01 CONTINUING COSTS \$3278.3

TOTAL FY 02 EXPENDITURES \$4734.4

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

BUDGET BACKGROUND

TRAVEL EXPENDITURES:

Round trip fares between the following locations are used as the basis for computing estimated travel by attorneys, support staff, witnesses and experts: (per diem expenses additional)

Anchorage -	Dillingham	\$ 466	Fairbanks -	Fort Yukon	\$156
	Unalaska	1014		Barrow	650
	St. Paul	1106		Galena	216
	Kodiak	386		Wainwright	530
	Cordova	224		Pt. Hope	600
	Valdez	200			
	Bethel	694			
	Nome	580			
	Kotzebue	580			
	Fairbanks	406			
	Juneau	444			
	Sitka	470			
	Ketchikan	588			
	Seattle	986			
	Washington, DC	1678			
	Kenai	130			

OFFICE SPACE FOR ADDITIONAL EMPLOYEES:

Attorney V	175 sq. ft.	@ \$1.75	= \$306/mo. x 12	= \$3672/yr.
Attorney IV	175 sq. ft.	@ \$1.75	= \$306/mo. x 12	= \$3672/yr.
Assoc. Attorney I	122 sq. ft.	@ \$1.75	= \$213/mo. x 12	= \$2,556/yr.
Paralegal II	98 sq. ft.	@ \$1.75	= \$171/mo. x 12	= \$2052/yr.
Investigator II	68 sq. ft.	@ \$1.75	= \$119/mo. x 12	= \$1428/yr.
Legal Secretary I	98 sq. ft.	@ \$1.75	= \$171/mo. x 12	= \$2052/yr.

OFFICE EQUIPMENT FOR ADDITIONAL EMPLOYEES: (one time)

Desk, chairs, table, bookshelves PC/word processing - \$4500 each.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CS SS SB 52 (JUD)

Revision Date: _____ Dept. Affected: Corrections
 Title: "An Act authorizing capital punishment, classifying murder in the first degree as a capital felony, and establishing...." BRU: Statewide Programs
 Sponsor: Senator Taylor Component: Spring Creek CC
 Requester: _____ COMPONENT SERIAL NO. # 0772

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES		67.1	69.4			
TRAVEL		3.0				
CONTRACTUAL		1,665.0				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS			350.0	2,343.0	2,343.0	2,343.0
TOTAL OPERATING	0.0	1,735.1	419.4	2,343.0	2,343.0	2,343.0

CAPITAL EXPENDITURES			9,135.0			
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1,735.1	9,554.4	2,343.0	2,343.0	2,343.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	1,735.1	9,554.4	2,343.0	2,343.0	2,343.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0	1	26	25	25	25
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note assumes that the proposed advisory vote succeeds and leads to reinstating capital punishment. It also assumes that the capital punishment bill proposed will be similar to SS SB 52 version C. If the advisory vote fails there will be no fiscal impact on the Department of Corrections.

The Dept. of Law estimates six individuals per year would be prosecuted and sentenced to death under this bill. Experience in states with a death penalty statute indicate that an individual remains on death row for slightly less than ten years before execution. Using these estimates, the Department of Corrections must plan for a death row facility capable of holding 60 inmates. Additionally the new facility would need to contain suitable structure for the execution itself. This bill requires death by intravenous injection administered by a licensed physician. CONTINUED ON PAGE TWO:

Prepared by: Jerry Shriner Phone: 465-4652
 Division: Office of the Commissioner Date: 4/18/96
 Approved by Commissioner: Margaret Pugh Date: 4/18/96
 Agency: Department of Corrections

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CS SS SB 52 (JUD)

Fiscal Note

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The average age of Alaskan male inmates sentenced for murder in the first degree is 31 years. It is assumed that each inmate sentenced to death will live until the day of execution or until age 73 years old; whichever comes first. Thus, it is assumed that each person sentenced to death will remain in the new death row facility for the rest of their life and no allowances are made for appeals, commutations, sentence modifications or other means of sentence reductions.

The death row facility would have to be built to the highest security standards. The cost of construction of a maximum security bed is \$180,000.00 to \$200,000.00. The lower figure is based on the assumption that the facility would be built adjacent to the Spring Creek Correctional Center and some infrastructure construction cost savings could be realized. Construction would need to begin immediately and engineering (E) and design (D) funds have been included in the contractual line item for FY 98 with construction to begin in FY 99. (It is expected that these funds would be transferred by RSA to DOT & PF.) E & D costs are estimated at 15% of the total construction costs.

The Department would be required to construct special facilities in which to administer the penalty. Special technology and hardware would be required for this portion of the construction. The cost of this facility would be in excess of \$300,000.00 assuming that it would be built in conjunction with the death row facility.

CONSTRUCTION COSTS

(60 bed facility X \$180,000 per bed) + 300,000.00 = \$11,100,000.

.15 E & D X \$11,100,000. + \$1,665,000. in FY 98

\$10,800,000. - \$1,665,000. + \$9,135,000. in FY 99

The Department of Corrections does not expect to be required to house prisoners sentenced to the death penalty until FY 00. The only staff necessary in FY 99 would be a facilities manager to deal with DOC's responsibilities in the planning and design phase. The position is carried on until completion of the project which is expected to be at the end of FY 99. Actual operation of the facility would come on line in FY 00, with staff hiring and training to begin in Mid FY 99. This cost is estimated to be \$350,000. CONTINUED ON PAGE THREE:

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Staffing of the facility would require eighteen to twenty correctional officers, and five administrative and support staff. The average daily cost rate of \$107.00 has been used and is shown in the miscellaneous line simply because the final design will determine the line item cost break down. Also, no inflation factor has been used, so the further out in time one goes the less accurate the estimates become. The facility will need to be fully staffed from the date of opening even though it will not be filled with inmates sentenced to death. If overcrowding exists at that time, as it now does; other high security inmates could be housed there to mitigate the costs.

OPERATING COSTS

60 beds x \$107.00 per day X 365 days = \$2,343,000.00 in FY 00 and beyond

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSSSB 52 (JUD)

Revision Date: 4/18/96 Dept. Affected: Department of Law
 Title: "An Act providing for an advisory vote on the BRU: Criminal Division
issue of capital punishment." Component: Criminal Division
 Sponsor: Senator Taylor
 Requester: House Judiciary Committee COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES		481.0	1,005.5	1,462.9	1,462.9	1,462.9
TRAVEL		243.5	480.5	605.5	605.5	605.5
CONTRACTUAL		430.8	1,089.7	1,529.7	1,464.7	1,464.7
SUPPLIES		32.4	55.5	72.6	60.6	60.6
EQUIPMENT		56.0	64.5	58.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	1,243.7	2,695.7	3,728.7	3,593.7	3,593.7

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1,243.7	2,695.7	3,728.7	3,593.7	3,593.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	1,243.7	2,695.7	3,728.7	3,593.7	3,593.7

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME		8.0	17.0	25.0	25.0	25.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Senate Judiciary Committee substitute for SSSB 52 would place an advisory vote before the voters at the next general election asking whether the legislature should enact a law providing for capital punishment for murder in the first degree. In the event that the voters respond in the affirmative, and the legislature enacts capital punishment legislation, there will be significant costs for the Department of Law. These costs have been noted before in the department's previous analysis of SB 52, when the bill provided for a statutory mechanism that authorized capital punishment.

A subsequent legislative bill would authorize capital punishment, classify murder in the first degree as a capital felony, and establish sentencing procedures for capital felonies. The death sentence would not be imposed unless at least one of several specified aggravating factors was found to exist and the aggravating factor, or factors, was not outweighed by mitigating factors.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 4/18/96
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 4/18/96
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSSSB 52 (JUD)

ANALYSIS CONTINUATION:

In 1994, the department's criminal division had 17 first degree murder cases (that could have been accepted for prosecution at this level) where aggravating factors were present that would justify the death penalty, had the bill already been the law. The number of murders committed in Alaska varies somewhat from year-to-year and, therefore, the assumptions made in this fiscal note are as conservative as possible.

Overview

Capital felony trials would be bifurcated, or held in two parts. The first part would determine innocence or guilt; the second part would determine whether aggravating factors exist sufficient to justify the death penalty; whether mitigating factors exist that outweigh the aggravating factors; and whether the defendant should be sentenced to a term of imprisonment or to death. Based on 1994's data, where 17 murders having death penalty aggravators occurred, the department would probably seek the death penalty in ten cases. In the remaining seven cases, prosecutors would elect to try the cases as noncapital first degree murders for discretionary reasons, primarily due to the difficulty of obtaining a conviction if the death penalty was included. As a result of this preliminary screening, between capital and noncapital charging, the department expects that nine capital offense convictions will occur each year. Of this latter number, we believe that the death penalty will be imposed six times each year.

Thus, the department must be prepared to prosecute capital felonies on ten occasions each year, and it must also be prepared to handle a multi-year appellate review process that will grow at an accumulating rate of six cases per year. The experience in other states is that capital trials require far more in the way of prosecution and investigative resources than first degree murder cases that do not include the death penalty.

In its several reviews of capital penalty laws, the United States Supreme Court has repeatedly stated, "death is different." Consequently, the Supreme Court has required that states accord capital defendants procedural and substantive protections that go far beyond those required for noncapital defendants. The Court has, in effect, mandated that capital defendants be accorded "super" due process. The federal courts have consistently held that capital cases demand special consideration, both at trial and on appellate review, because of the exceptional and irrevocable nature of the penalty involved.

In order to meet this heightened level of due process, it will be necessary for the state to employ far greater prosecution resources. Many of the thirty-seven states having a death penalty, for instance, provide two defense attorneys to capital defendants to insure that the due process safeguards required by the courts are met. Likewise, the state's prosecution case must also be properly represented. During and prior to the trial phase, crime scene evidence will have to be examined and presented by highly qualified forensic experts. Psychiatric experts will also be required during the trial phase, during sentencing proceedings, and during the appellate review, to rebut and overcome competency and psychiatric defenses to both the substantive-charge and the capital sentence. Recent cost studies of capital trials in other states indicate that expert witness expenses for both the trial and sentencing proceedings cost about \$60,000, on the average. A lesser, but still significant cost for experts is also required for appellate reviews.

A sentencing proceeding, or the penalty phase of a capital trial, is categorically different in character, procedure, and magnitude from any counter part in a noncapital trial, and it accounts for a large part of the increase in costs. The heightened due process requirements, and the right to effective assistance of counsel, apply equally to the sentencing phase as they do to the trial phase. At this stage of the proceeding, the defense may be expected to use many of the socio-psychiatric witnesses employed during the trial phase. Additionally, the defense may also use the defendant's family, friends, neighbors, co-workers, school personnel, and social workers as witnesses. The defense's sentencing phase investigations will involve a complete retrospective analysis of every positive aspect of the defendant's life from the day of birth to the date of sentence.

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ANALYSIS CONTINUATION:

The prosecution, on the other hand, must interview each of the defendant's witnesses to rebut mitigation evidence, and present its own witnesses to prove its aggravating factors. For example, in a California case, 240 persons were investigated and interviewed as potential witnesses and 120 were eventually called as witnesses in a single sentencing proceeding. In view of the foregoing, it appears likely that the same level of state resources, needed for the state's most expensive criminal trials, will also be needed for many of the capital murder trials. For example, a five-fold increase in pretrial motion practice, often involving a state's supreme court, has occurred in other states between capital and noncapital first degree murder cases.

Last, post-conviction appellate reviews of death sentences will also require a substantial expenditure of state resources. Initially, challenges to the law itself can be expected to be taken to the Alaska Supreme Court on the basis of both state and federal constitutional due process, equal protection, and cruel and unusual punishment doctrines. Such challenges should be expected during the first two or three years after the provisions of the bill go into effect. Otherwise, the bill provides for a straightforward appeals process to the Alaska Supreme Court, but death sentences will nonetheless result in lengthy and complicated appellate litigation. This is because of the substantial appellate avenues available to capital defendants in the federal court system, primarily on claims of due process, competency, and newly discovered evidence. Typically, these cases move up and down throughout the state and federal court systems, and involve the state superior and supreme courts, the U.S. Supreme Court, and the U.S. Circuit Court of Appeals, and the U.S. District Court. As a result, as has been the experience in every other capital punishment state, it should be expected that many years will pass before a death sentence can be carried out. Current information indicates that nationally an average of 9.6 years elapses from the time a death penalty sentence is imposed and the time the sentence is carried out.

Implementation

The Department of Law anticipates that the time from when an offense is committed until a capital felony trial takes place will be between one and two years after the bill takes effect, although one bifurcated trial may begin during the first year. Likewise, the post-conviction appellate review process will not commence until sometime during the second year. For these reasons, the department has developed a multi-year implementation plan for this fiscal note.

During the first year, it will be necessary to add three attorneys, three paraprofessionals, and two legal secretaries to handle capital felony prosecutions. Although only four bifurcated trials may actually get underway during the first year, substantial time will be required preparing for trial. This includes advising police investigators, examining evidence, interviewing witnesses, consulting with psychiatric and forensic experts, and initiating, responding to, and arguing pretrial motions. Also, preparation work on all 17 capital felonies expected to occur during the first year must begin as soon as possible after an offense is committed.

The "super" due process required by the courts in death penalty cases, and the requirement for a separate sentencing proceeding, will more than triple the work of the department's staff who handle these cases, compared with noncapital first degree murder cases. Extraordinary amounts of attorney and paraprofessional time will be needed to satisfy these minimum, mandatory requirements. As a consequence, capital felony prosecutions could not readily be undertaken in any of the department's offices, except for Anchorage and Fairbanks, without providing special prosecution staff on a case-by-case basis. And, even for Anchorage and Fairbanks, the existing staff would have to be substantially augmented each time a capital

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ANALYSIS CONTINUATION:

felony is handled. All of the positions to be added to handle capital trials and post-conviction death sentence appeals would be located in the department's Office of Special Prosecutions and Appeals, in Anchorage.

During the second year, eight or more additional capital felonies are expected to go to trial, and 17 new capital felony offenses will occur. At this point, it will be necessary to add two attorneys, two paraprofessionals, and two legal secretaries to help handle the increasing capital felony trial caseload and to help with the first capital felony appeal. It will be necessary to establish a capital felony appeals staff during the second year, when appeals from the first four trials are expected to be in the appellate review process. Initially, one attorney, one paraprofessional, and one legal secretary will be needed to handle capital felony appeals.

During the third year, the number of bifurcated trials (10) should equal the number of new capital offenses (after screening), although some compression and overlapping of the caseload will likely occur. Consequently, it will be necessary to increase the trial staff during the third year, in order to handle the total annual workload, and to insure against speedy trial problems. Post-conviction capital felony appeals will have reached eight by year three, and they will continue to increase at the rate of six new cases each year, thereafter. It will, therefore, be necessary to increase the appeals staff in the third year.

It is not possible to accurately predict the eventual annual costs of a capital felony law beyond its first three or four years. There are simply too many unknowns. However, the costs that have been predicted are conservative. The following factors have been considered in arriving at these costs.

- 1) Capital felony due process and bifurcated trial requirements will more than triple the cost and time spent in prosecuting three first degree murder offenses, at a minimum.
- 2) The time required for a bifurcated trial will probably vary between two months and six months, although time lines are completely uncertain, and extremes will most likely be the rule. Serious overlapping and scheduling conflicts between investigations, trials, and available staff time will undoubtedly occur.
- 3) Pretrial motion practice will increase dramatically, resulting in additional scheduling problems.
- 4) Logistics problems will occur at most locations, except Anchorage and Fairbanks, and these problems will become more severe the smaller and more remote the location.
- 5) Witness travel and subsistence will be expensive because of the large number of witnesses that will be required for both the trial and the sentencing phases of capital felony prosecutions, and in many cases this includes out-of-state travel.
- 6) Staff travel and per diem will likewise be expensive for trials held outside of Anchorage. Extensive staff travel expense will also be necessary, for trials held at all locations, to interview both prosecution and defense witnesses who will appear at sentencing proceedings.
- 7) One of the most complex murder prosecutions ever held in Alaska was the John Kenneth Peel trial. Because this case involved extraordinary evidence problems, it probably represents costs that are outside the norm. Due to this and other complications, Peel case costs included two grand jury proceedings and two trials. But there can be no question that the state will have to provide a nearly comparable effort if it is to prevail in death penalty cases. By comparison, capital felony trials will be held in two parts, necessitate

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ANALYSIS CONTINUATION:

considerable expert testimony and depositions, involve two separate sets of witnesses, and require extensive staff travel. For this reason, the average prosecution costs of a bifurcated capital felony case has been projected to be nearly \$266,000 or less than one-half of the \$597,000 cost for the *first Peel* trial.

8) The cost for appeals is shown only through the fourth year; however, this cost will ultimately grow enormously. The average length of time between a death sentence conviction and an execution in the United States is nearly ten years. Consequently, the state will have to provide enough resources to respond to the appeals of 10 or more capital felony defendants annually, within 10 years. The eventual costs for this extended timeframe are not within the scope of this fiscal note analysis.

9) Therefore, the following per trial expense estimates have been used to calculate the costs of this fiscal note.

Capital Felony Trials

- Witness travel and subsistence, \$50,000 per case.
- Staff travel and per diem, \$7,500 per attorney, \$5,000 per paraprofessional, \$3,000 per secretary, per annum.
- Expert witness fees, \$60,000 per case.
- Witness fees paid to others, \$6,000 per case.
- Deposition/court reporter charges, \$20,000 per case.

Death Sentence Appellate Review

- Staff travel, \$3,500 per attorney, \$2,500 per paraprofessional, per annum.
- Expert witness fees, legal scholars for years two and three only, \$30,000, each year.
- Socio-psychiatric experts, \$25,000 in years two and three.
- Socio-psychiatric experts, \$50,000 by year four.
- Transcription/court reporter costs, \$30,000 per case.

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ANALYSIS CONTINUATION:

Fiscal Analysis CSSSSB 52 (JUD)
 Cost Summary (First Year - FY 98 - Capital Trials)

OBJECT	Attv V	(2) Attv IV	Assoc. ATTY I	P/A II	Sec I	Sec I	TOTAL
100 - Salaries & Benefits	<u>86.6</u> 86.6	<u>164.0</u> 164.0	<u>105.8</u> 105.8	<u>51.1</u> 51.1	<u>36.4</u> 36.4	<u>36.4</u> 36.4	<u>481.0</u> 481.0
200 - Travel							
Staff Travel & Per Diem	<u>7.5</u> 7.5	<u>15.0</u> 15.0	<u>10.0</u> 10.0	<u>5.0</u> 5.0	<u>3.0</u> 3.0	<u>3.0</u> 3.0	<u>43.5</u> 43.5
300 - Contractual							
Communications, Copy	3.6	7.2	4.8	2.4	2.4	2.4	22.8
Office Space Leases	5.6	11.2	11.2	5.6	5.6	5.6	44.8
PC Network Maintenance	1.5	3.0	3.0	1.5	1.5	1.5	12.0
WestLaw	<u>1.2</u> 11.9	<u>2.4</u> 23.8	<u>2.4</u> 21.4	<u>1.2</u> 10.7	<u>0.0</u> 9.5	<u>0.0</u> 9.5	<u>7.2</u> 86.8
400 - Supplies							
Office Consumables	1.8	3.6	3.6	1.8	1.2	1.2	13.2
Law Library	1.2	2.4	2.4	1.2	0.0	0.0	7.2
New Position Supplies	<u>1.5</u> 4.5	<u>3.0</u> 9.0	<u>3.0</u> 9.0	<u>1.5</u> 4.5	<u>1.5</u> 2.7	<u>1.5</u> 2.7	<u>12.0</u> 32.4
500 - Equipment							
New Position Equipment	2.5	5.0	5.0	2.5	2.0	2.0	19.0
PC/Word Processing	<u>4.0</u> 6.5	<u>8.0</u> 13.0	<u>8.0</u> 13.0	<u>4.0</u> 6.5	<u>6.5</u> 8.5	<u>6.5</u> 8.5	<u>37.0</u> 56.0
TOTAL	117.0	224.8	159.2	77.8	60.1	60.1	699.7

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ANALYSIS CONTINUATION:

Fiscal Analysis CSSSSB 52 (JUD)
 Cost Summary (Second and Third Years Additions -
 FY 99 and FY 00 - Capital Trials)

OBJECT	<u>Second Year</u>					<u>Third Year</u>			
	<u>Attv V</u>	<u>Attv IV</u>	(2) Assoc <u>Attv I</u>	2 Legal <u>Sec I</u>	<u>TOTAL</u>	<u>Attv IV</u>	<u>P/A II</u>	Legal <u>Sec I</u>	<u>TOTAL</u>
100 - Salaries & Benefits	<u>87.3</u>	<u>82.0</u>	<u>105.8</u>	<u>72.8</u>	<u>347.9</u>	<u>82.0</u>	<u>51.1</u>	<u>36.4</u>	<u>169.5</u>
	87.3	82.0	105.8	72.8	347.9	82.0	51.1	36.4	169.5
200 - Travel									
Staff Travel & Per Diem	<u>7.5</u>	<u>7.5</u>	<u>10.0</u>	<u>6.0</u>	<u>31.0</u>	<u>7.5</u>	<u>5.0</u>	<u>3.0</u>	<u>15.5</u>
	7.5	7.5	10.0	6.0	31.0	7.5	5.0	3.0	15.5
300 - Contractual									
Communications, Copy, Document Production	<u>3.6</u>	<u>3.6</u>	<u>7.2</u>	<u>4.8</u>	<u>19.2</u>	<u>3.6</u>	<u>3.6</u>	<u>2.4</u>	<u>9.6</u>
Office Space Leases	<u>5.6</u>	<u>5.6</u>	<u>11.2</u>	<u>11.2</u>	<u>33.6</u>	<u>5.6</u>	<u>5.6</u>	<u>5.6</u>	<u>16.8</u>
PC Network Maintenance	<u>1.5</u>	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	<u>9.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>4.5</u>
WestLaw	<u>1.2</u>	<u>1.2</u>	<u>2.4</u>	<u>0.0</u>	<u>4.8</u>	<u>1.2</u>	<u>1.2</u>	<u>0.0</u>	<u>2.4</u>
	11.9	11.9	23.8	19.0	66.6	11.9	11.9	9.5	33.3
400 - Supplies									
Office Consumables	<u>1.8</u>	<u>1.8</u>	<u>3.6</u>	<u>2.4</u>	<u>9.6</u>	<u>1.8</u>	<u>1.8</u>	<u>1.2</u>	<u>4.8</u>
Law Library	<u>1.2</u>	<u>1.2</u>	<u>2.4</u>	<u>0.0</u>	<u>4.8</u>	<u>1.2</u>	<u>1.2</u>	<u>0.0</u>	<u>2.4</u>
New Position Supplies	<u>1.5</u>	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	<u>9.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>4.5</u>
	4.5	4.5	9.0	5.4	23.4	4.5	4.5	2.7	11.7
500 - Equipment									
New Position Equipment	<u>2.5</u>	<u>2.5</u>	<u>5.0</u>	<u>4.0</u>	<u>14.0</u>	<u>2.5</u>	<u>2.5</u>	<u>2.0</u>	<u>7.0</u>
PC/Word Processing	<u>4.0</u>	<u>4.0</u>	<u>8.0</u>	<u>13.0</u>	<u>29.0</u>	<u>4.0</u>	<u>4.0</u>	<u>6.5</u>	<u>14.5</u>
	6.5	6.5	13.0	17.0	43.0	6.5	6.5	8.5	21.5
TOTAL	117.7	112.4	161.6	120.2	511.9	112.4	79.0	60.1	251.5

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1996 LEGISLATIVE SESSION

BILL NO. CSSSSB 52 (JUD)

ANALYSIS CONTINUATION:

Fiscal Analysis CSSSSB 52 (JUD)
 Cost Summary (Second and Third Years Additions -
 FY 99 and FY 00 - Appellate Review Process)

OBJECT	<u>Second Year</u>				<u>Third Year</u>			
	<u>Atty V</u>	<u>Assoc Atty I</u>	<u>Legal Sec. I</u>	<u>TOTAL</u>	<u>(2.0) Atty IV</u>	<u>P/A II</u>	<u>(2) Legal Sec. I</u>	<u>TOTAL</u>
100 - Salaries & Benefits	<u>87.3</u>	<u>52.9</u>	<u>36.4</u>	<u>176.6</u>	<u>164.0</u>	<u>51.1</u>	<u>72.8</u>	<u>287.9</u>
	87.3	52.9	36.4	176.6	164.0	51.1	72.8	287.9
200 - Travel								
Staff Travel & Per Diem	<u>3.5</u>	<u>2.5</u>	<u>0.0</u>	<u>6.0</u>	<u>7.0</u>	<u>2.5</u>	<u>0.0</u>	<u>9.5</u>
	3.5	2.5	0.0	6.0	7.0	2.5	0.0	9.5
300 - Contractual								
Communications, Copy, Document Production	22.4	22.4	2.4	47.2	44.8	22.4	4.8	72.0
Office Space Leases	5.6	5.6	5.6	16.8	11.2	5.6	11.2	28.0
PC Network Maintenance	1.5	1.5	1.5	4.5	3.0	1.5	3.0	7.5
WestLaw	<u>2.4</u>	<u>2.4</u>	<u>0.0</u>	<u>4.8</u>	<u>4.8</u>	<u>2.4</u>	<u>0.0</u>	<u>7.2</u>
	31.9	31.9	9.5	73.3	63.8	31.9	19.0	114.7
400 - Supplies								
Office Consumables	1.8	1.8	1.2	4.8	3.6	1.8	2.4	7.8
Law Library	1.2	1.2	0.0	2.4	2.4	1.2	0.0	3.6
New Position Supplies	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>7.2</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>	<u>11.4</u>
	4.5	4.5	2.7	11.7	9.0	4.5	5.4	18.9
500 - Equipment								
New Position Equipment	2.5	2.5	2.0	7.0	5.0	2.5	4.0	11.5
PC/Word Processing	<u>4.0</u>	<u>4.0</u>	<u>6.5</u>	<u>14.5</u>	<u>8.0</u>	<u>4.0</u>	<u>13.0</u>	<u>25.0</u>
	6.5	6.5	8.5	21.5	13.0	6.5	17.0	36.5
TOTAL	133.7	98.3	57.1	289.1	256.8	96.5	114.2	467.5

FISCAL NOTE

1996 LEGISLATIVE SESSION

BILL No. CSSSSB 52 (JUD)

ANALYSIS CONTINUATION:

Fiscal Analysis CSSSSB 52 (JUD)
Cumulative Implementation Cost by Year

<u>Object</u>	<u>Criminal Felony Trial</u>				<u>Appellate Review</u>			
	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4 +</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4 +</u>
100 - Personal Services	481.0	828.9	998.4	998.4	0.0	176.6	464.5	464.5
200 - Travel - Staff	43.5	74.5	90.0	90.0	0.0	6.0	15.5	15.5
Travel - Witness	200.0	400.0	500.0	500.0	0.0	0.0	0.0	0.0
300 - Contractual - Staff	86.8	153.4	186.7	186.7	0.0	73.3	188.0	188.0
Contractual - Outside Svcs	344.0	688.0	860.0	860.0	0.0	175.0	295.0	230.0
400 - Supplies	32.4	43.8	46.5	42.0	0.0	11.7	26.1	18.6
500 - Equipment	<u>56.0</u>	<u>43.0</u>	<u>21.5</u>	<u>0.0</u>	<u>0.0</u>	<u>21.5</u>	<u>36.5</u>	<u>0.0</u>
TOTAL	1,243.7	2,231.6	2,703.1	2,677.1	0.0	464.1	1,025.6	916.6

FISCAL NOTE

1996 LEGISLATIVE SESSION

BILL NO.

CSSSSB 52 (JUD)

ANALYSIS CONTINUATION:

Out-of-Pocket Costs - Capital Felony Trials

Year One (4 cases underway) (FY 98)

Witness travel and subsistence \$50,000 per case X's 4 cases =	\$200,000
Expert witness fees \$60,000 per case X's 4 cases =	\$240,000
Witness fees (witnesses of fact) \$6,000 per case X's 4 cases =	\$24,000
Deposition/court reporter charges \$20,000 per case X's 4 cases =	\$80,000

Year Two (8 cases underway) (FY 99)

Witness travel and subsistence \$50,000 per case X's 8 cases =	\$400,000
Expert witness fees \$60,000 per case X's 8 cases =	\$480,000
Witness fees (witnesses of fact) \$6,000 per case X's 8 cases =	\$48,000
Deposition/court reporter charges \$20,000 per case X's 8 cases =	\$160,000

Estimate of any current year (FY96) cost: \$

Year Three (10 cases underway) (FY 00)

Witness travel and subsistence \$50,000 per case X's 10 cases =	\$500,000
Expert witness fees \$60,000 per case X's 10 cases =	\$600,000
Witness fees (witnesses of fact) \$6,000 per case X's 10 cases =	\$60,000
Deposition/court reporter charges \$20,000 per case X's 10 cases =	\$200,000

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSSSB 52 (JUD)

ANALYSIS CONTINUATION:

Capital Felony Appeals

Year Two (4 cases underway) (FY 99)

Expert witness/legal scholars
to uphold death penalty law
(year two and three only)
\$30,000 per year X's 1 = \$30,000

Expert witness
Socio-psychiatric experts
\$25,000 per year X's 1 = \$25,000

Deposition/court reporter charges
\$30,000 per case X's 4 cases = \$120,000

Year Three (8 cases underway) (FY 00)

Expert witness/legal scholars
to uphold death penalty law
(year two and three only)
\$30,000 per year X's 1 = \$30,000

Expert witness
Socio-psychiatric experts
\$25,000 per year X's 1 = \$25,000

Deposition/court reporter charges
\$30,000 per case X's 8 cases = \$240,000

Year Four (14 cases underway) (FY 01)

Expert witness
Socio-psychiatric experts
\$50,000 per year X's 1 = \$50,000

Deposition/court reporter charges
\$30,000 per case X's 6 cases = \$180,000

02/01/96

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

DEPARTMENT OF LAW

SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS BRU NAME: CRIMINAL DIVISION

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S MOS BUDG	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
03#011		ATTORNEY V		F ANCHORAGE		A XE AA 25A 12	66332	0	20933	87265.67	

**** JUSTIFICATION:

This senior level Attorney V position will be needed to oversee and head capital felony prosecutions, during the first year that capital felony law goes into effect. The substantial due process protections accorded to defendants by the U.S. Supreme Court, will require a three-fold increase in prosecution effort in order to obtain death penalty convictions. Legal expertise at the highest level will be required to handle these prosecutions, allocations to the Attorney V level is therefore recommended. This position will be required in FY 1998.

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	117665.67	87265.67

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	87265.67
TOTAL FUNDING	87265.67

03#012		ATTORNEY IV		F ANCHORAGE		A XE AA 24A 12	61923	0	20100	82023.52	
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**** JUSTIFICATION:

This Attorney IV position will be required to handle capital felony trials, during the first year after the law goes into effect. "Super" due process trial consideration and sentencing proceedings are expected to more than triple the time now required for murder trials. First degree murder trials require highly skilled prosecutors and for this reason the department is requesting the full working level prosecutor classification of Attorney IV. This attorney will be needed for the bifurcated capital trials, beginning in FY 1998.

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	112423.52	82023.52

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	82023.52
TOTAL FUNDING	82023.52

03#013		ATTORNEY IV		F ANCHORAGE		A XE AA 24A 12	61923	0	20100	82023.52	
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**** JUSTIFICATION:

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	112423.52	82023.52

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	82023.52
TOTAL FUNDING	82023.52

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

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DEPARTMENT OF LAW

SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS PRU NAME: CRIMINAL DIVISION

PCN	UNAI/II PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S BUDG	MOS	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
03/014		ASSOC ATTORNEY I	F	ANCHORAGE	A XE AA	17A	12	38440	0	14412	52052.89	

*** JUSTIFICATION:

This advanced paraprofessional position will be required, during the first year that the capital felony law goes into effect, to handle evidence preparation and assist in legal research that is necessary to try capital cases. The heightened due process protection accorded defendants, in these cases, causes a far more severe burden of proof standard for prosecution. Allocation to the Associate Attorney I paraprofessional level is therefore recommended. This position will be required in FY 1998.

TRAVEL COSTS	5000.00	
CONTRACTUAL COSTS	10700.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	79552.89	52052.89

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	52852.89
TOTAL FUNDING	52852.89

03/015		PARALEGAL ASST II	F	ANCHORAGE	A GG 2A	16A	12	36990	0	14157	51148.42	
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*** JUSTIFICATION:

This paralegal assistant position will be needed during the first year after the capital felony law goes into effect to assist the attorneys assigned to prosecuting defendants in capital crimes, where the state is seeking the death penalty. The position will be responsible for witness assistance and coordination, and assist with trial logistics. Allocation to the full working paraprofessional level of Paralegal Assistant II is recommended. This position will be required in FY 1998.

TRAVEL COSTS	5000.00	
CONTRACTUAL COSTS	10700.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	77048.42	51148.42

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	51148.42
TOTAL FUNDING	51148.42

03/016		LEGAL SECRETARY I	F	ANCHORAGE	A GG 2A	10A	12	25127	0	11284	36411.80	
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*** JUSTIFICATION:

This is one of two legal secretaries needed to provide office services support for three attorneys and three paraprofessionals who will be required to handle capital felony trials, during the first year the law goes into effect. The work of the attorneys is expected to generate considerable legal documentation, in the form of motions and briefs, requiring full-time secretarial support. This position will be required in FY 1998.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	60111.80	36411.80

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	36411.80
TOTAL FUNDING	36411.80

02/01/96

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

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DEPARTMENT OF LAW

SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS DRU NAME: CRIMINAL DIVISION

PCN	UNAUTII PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S MOS BUDG	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
03#017		LEGAL SECRETARY I	F	ANCHORAGE	A GG 2A 10A 12		25127	0	11284	36411.80	

**** JUSTIFICATION:

This is one of two legal secretaries needed to provide office services support for the three attorneys and three paraprofessionals who will be required to handle capital felony trials, during the first year the law goes into effect. The work of the attorneys is expected to generate considerable legal documentation, in the form of motions and briefs, requiring full-time secretarial support. This position is required in FY 1998.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	60111.80	36411.80

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	36411.80
TOTAL FUNDING	36411.80

03#018		ATTORNEY V	F	ANCHORAGE	A XE AA 25A 12		66332	0	20933	87265.67	
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**** JUSTIFICATION:

This senior level Attorney V position will be needed during the second year the capital felony law goes into effect, to handle the growing number of capital trials. During the second year eight additional trials should be underway and ten additional capital felonies will have been committed. The extraordinary due process standards required of prosecution, in capital cases, necessitate the highest level of legal expertise. Allocation to the Attorney V level is therefore recommended. This position will be required in FY 1999.

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	117665.67	87265.67

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	87265.67
TOTAL FUNDING	87265.67

03#019		ASSOC ATTORNEY I	F	ANCHORAGE	A XE AA 17A 12		38440	0	14412	52852.89	
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**** JUSTIFICATION:

This advanced paraprofessional position will be required, during the second year the capital felony law is in effect, to handle the growing number of capital trials. Eight new trials are expected to commence during the second year, and ten new offenses will have been committed. This position will help organize and examine evidence, and assist attorneys with legal research. Allocation to the Associate Attorney I level is therefore recommended. This position is required in FY 1999.

TRAVEL COSTS	5000.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	80752.89	52852.89

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	52852.89
TOTAL FUNDING	52852.89

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

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DEPARTMENT OF LAW SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS BRU NAME: CRIMINAL DIVISION

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B C U	\$	R&S BUDG	MOS	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
03#020		LEGAL SECRETARY I	F	ANCHORAGE	A	CG	2A	10A	12	25127	0	11284	36411.80

**** JUSTIFICATION:

This Legal Secretary I position will be required, during the second year the capital felony law is in effect, to handle the growing caseload. Eight new capital felony trials are expected to commence, and ten new offenses will be committed during the year. Legal documentation for these trials will be intense. Allocation to the Legal Secretary I level is therefore commended. This position will be needed in FY 1999.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	60111.80	36411.80

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	36411.80
TOTAL FUNDING	36411.80

03#021		ATTORNEY V	F	ANCHORAGE	A	XE	AA	25A	12	66332	0	20933	87265.67
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**** JUSTIFICATION:

This Attorney V position will be required, during the second year the capital felony law is in effect, to handle the post-conviction appellate review process. It is anticipated that six defendants' convictions will be on appeal during the second year. Up to ten years or more may pass before these appeals are finally resolved. Initially, legal attacks on the law itself will go to the Alaska Supreme Court. If upheld, appeals will go to the federal court system, including the U.S. District Court. The highest level of legal expertise will be required to handle these appeals. Allocation to the Attorney V level is therefore recommended. This position will be needed in FY 1999.

TRAVEL COSTS	3500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	133665.67	87265.67

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	87265.67
TOTAL FUNDING	87265.67

03#022		ASSOC ATTORNEY I	F	ANCHORAGE	A	XE	AA	17A	12	38440	0	14412	52852.89
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**** JUSTIFICATION:

This Associate Attorney paraprofessional position will be required, during the second year the capital felony law is in effect, to assist handling legal research for post-conviction appellate review process. It is anticipated that six defendants' convictions will be on appeal during the second year. Legal attacks on the law itself will be before the Alaska Supreme Court, as will appeals of convictions. Further appeals to the federal court system will commence, if the law is upheld. An enormous amount of research will be required. Allocation to the Associate Attorney I level is therefore recommended.

TRAVEL COSTS	2500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	98252.89	52852.89

*** FUNDING DETAIL:

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

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DEPARTMENT OF LAW

SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS DRU NAME: CRIMINAL DIVISION

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R C	B U	S	R&S MOS BUDG	SALARY	PREM PAY	DERES	PER.SERV. COSTS	G. F. AMOUNT
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1004 GENERAL FUND RECEIPTS 52652.89

TOTAL FUNDING 52052.89

03/023 LEGAL SECRETARY I F ANCHORAGE A GG 2A 10A 12 25127 0 11284 36411.80

**** JUSTIFICATION:

This Legal Secretary I position will be required, during the second year the capital felony law is in effect, to handle the post-conviction appellant review process. This process is expected to begin during the second year, when the first six convictions should be on appeal. This process is document intensive and full-spectrum secretarial services will be required. Allocation to the Legal Secretary I level is therefore recommended. This position is needed in FY 1999.

TRAVEL COSTS	0.00
CONTRACTUAL COSTS	9500.00
SUPPLIES COSTS	2700.00
EQUIPMENT COSTS	8500.00
OTHER COSTS	0.00
TOTAL COSTS	57111.80

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 36411.80

TOTAL FUNDING 36411.80

03/025 ATTORNEY IV F ANCHORAGE A XE AA 24A 12 61923 0 20100 82023.52

**** JUSTIFICATION:

This Attorney IV position will be required, during the third year the capital felony law is in effect, to handle the growing number of capital felony trials. It is anticipated that ten of these trials will be underway in the third year, and ten new offenses will have been committed. An enormous amount of attorney time is required to handle these because of the heightened due process standards that are mandated for capital prosecutions. Those trials require highly skilled prosecutors. Allocation to the full-working level of Attorney IV, is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	7500.00
CONTRACTUAL COSTS	11900.00
SUPPLIES COSTS	4500.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00
TOTAL COSTS	112423.52

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 82023.52

TOTAL FUNDING 82023.52

03/026 PARALEGAL ASST II F ANCHORAGE A GG 2A 16A 12 36990 0 14157 51148.42

**** JUSTIFICATION:

This Paralegal Assistant position will be required, during the third year the capital felony law is in effect, to handle the growing number of capital felony trials. It is anticipated that ten trials will be underway at this point, and ten new offenses will have been committed. This position will assist witnesses and coordinate witness schedules and trial logistics. Allocation to the Paralegal Assistant II level is therefore recommended. This position will be required in FY 2000.

TRAVEL COSTS	5000.00
CONTRACTUAL COSTS	11900.00
SUPPLIES COSTS	4500.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00
TOTAL COSTS	79048.42

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

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DEPARTMENT OF LAW SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS DRU NAME: CRIMINAL DIVISION

PCN	UNAUTH PCN	JOB CLASS TITLE	Y	LOCATION NAME	R B S C U	R&S	MOS	SALARY	PREM PAY	BENEF	PER.SERV. COSTS	G. F. AMOUNT
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*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	51140.42
TOTAL FUNDING	51140.42

03#027	LEGAL SECRETARY I	F ANCHORAGE	A	GG 2A 10A 12	25127	0	11284	36411.80
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**** JUSTIFICATION:

This Legal Secretary position will be required, during the third year the capital felony law is in effect, to handle a growing number of capital felonies. It is anticipated that ten capital trials will be underway at this point, and ten new offenses will have been committed. The work generated by attorneys will require substantial secretarial assistance. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	60111.00	36411.80

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	36411.80
TOTAL FUNDING	36411.80

03#028	ATTORNEY IV	F ANCHORAGE	A	XE AA 24A 12	61923	0	20100	82023.52
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**** JUSTIFICATION:

This Attorney IV position will be required, during the third year the capital felony law is in effect, to handle post-conviction appeals. It is anticipated that six new convictions will be on appeal by the third year, bringing the total cases on appeal to 12. Capital penalty appeals have an average span of ten years. These appeals are heard in the Alaska Supreme Court, the U.S. District Court, the U.S. Court of Appeals and the U.S. Supreme Court. These appeals often move up and down through the system, as each separate issue is argued. Full-working level legal expertise is necessary to handle this work, and allocation to Attorney IV is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	3500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	120423.52	82023.52

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	82023.52
TOTAL FUNDING	82023.52

03#029	PARALEGAL ASST II	F ANCHORAGE	A	GG 2A 16A 12	36990	0	14157	51140.42
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**** JUSTIFICATION:

This Paralegal Assistant II position will be required, during the third year of the capital felony law, to assist the preparation of appellate documentation and research. Six new appeals are expected in the third year, bringing the total to be handled to 12. These appeals have an average time span of ten years.

TRAVEL COSTS	2500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE:

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DEPARTMENT OF LAW

SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS DRU NAME: CRIMINAL DIVISION

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R C	B U	S	R&S BUDG	MOS	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
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Enormous amounts of time must be spent researching the law, examining trial records, and preparing legal arguments, and briefs. A substantial documents and research effort will be required. Allocation to the

TOTAL COSTS	96540.42	51140.42
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*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS

51148.42

TOTAL FUNDING

51148.42

03#030	LEGAL SECRETARY I	F ANCHORAGE	A	CG	2A	10A	12	25127	0	11204	36411.80
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**** JUSTIFICATION:

This Legal Secretary I will be required, during the third year the capital felony law is in effect, to handle a growing number of post-conviction appellate reviews. It is anticipated that a total of six reviews will be underway at this time, and this number will grow by six reviews, each year, thereafter. Each review lasts about ten years and involves numerous courts, and many court proceedings. Substantial secretarial assistance will be needed to handle this work. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS 0.00

CONTRACTUAL COSTS 9500.00

SUPPLIES COSTS 2700.00

EQUIPMENT COSTS 8500.00

OTHER COSTS 0.00

TOTAL COSTS 57111.80 36411.80

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS

36411.80

TOTAL FUNDING

36411.80

03#031	ASSOC ATTORNEY I	F ANCHORAGE	A	XE	AA	17A	12	30440	0	14412	52052.89
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**** JUSTIFICATION:

This advanced paraprofessional position will be required, during the first year that the capital felony law goes into effect, to handle evidence preparation and assist in legal research that is necessary to try capital cases. The heightened due process protection accorded defendants, in these cases, causes a far more severe burden of proof standard for prosecution. Allocation to the Associate Attorney I paraprofessional level is therefore recommended. This position will be required in FY 1998.

TRAVEL COSTS 5000.00

CONTRACTUAL COSTS 10700.00

SUPPLIES COSTS 4500.00

EQUIPMENT COSTS 6500.00

OTHER COSTS 0.00

TOTAL COSTS 79552.89 52052.89

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS

52052.89

TOTAL FUNDING

52052.89

03#032	ASSOC ATTORNEY I	F ANCHORAGE	A	XE	AA	17A	12	30440	0	14412	52052.89
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**** JUSTIFICATION:

This advanced paraprofessional position will be required, during the second year that the capital felony law is in effect, to handle evidence preparation and assist in legal research that is necessary to try capital cases. The

TRAVEL COSTS 5000.00

CONTRACTUAL COSTS 11900.00

SUPPLIES COSTS 4500.00

EQUIPMENT COSTS 6500.00

PCN	UNAUTH PCN	JOB CLASS TITLE	Y S	LOCATION NAME	P B S C U	R&S MOS BUDG	SALARY	PREM PAY	BENEF	PER.SERV. COSTS	G. F. AMOUNT
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highlighted due process protection accorded defendants, in these cases, causes a far more severe burden of proof standard for prosecution. Allocation to the Associate Attorney I paraprofessional level is therefore recommended. This position will be required in FY 1999.

OTHER COSTS	0.00	
TOTAL COSTS	80752.09	52052.09

*** FUNDING DETAIL:
1004 GENERAL FUND RECEIPTS 52052.09
TOTAL FUNDING 52052.09

1033	ATTORNEY IV	F ANCHORAGE	A XE AA 24A 12	61923	0 20100	82023.52
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**** JUSTIFICATION:

This Attorney IV position will be required, during the third year the capital felony law is in effect, to handle post-conviction appeals. It is anticipated that six new convictions will be on appeal by the third year, bringing the total cases on appeal to 12. Capital penalty appeals have an average span of ten years. These appeals are heard in the Alaska Supreme Court, the U.S. District Court, the U.S. Circuit Court of Appeals, and the U.S. Supreme Court. These appeals often move up and down, through the system, as each separate issue is argued. Full-working level legal expertise is necessary to handle this work, and allocation to Attorney IV is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	3500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	128423.52	82023.52

*** FUNDING DETAIL:
1004 GENERAL FUND RECEIPTS 82023.52
TOTAL FUNDING 82023.52

034	LEGAL SECRETARY I	F ANCHORAGE	A GG 2A 10A 12	25127	0 11284	36411.00
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**** JUSTIFICATION:

This Legal Secretary I will be required, during the third year the capital felony law is in effect, to handle a growing number of post-conviction appellate reviews. It is anticipated that a total of six reviews will be underway at this time, and this number will grow by six reviews, each year, thereafter. Each review lasts about ten years and involves numerous courts, and many court proceedings. Substantial secretarial assistance will be needed to handle that work. Allocation to the Legal Secretary I is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	0.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	57111.00	36411.00

*** FUNDING DETAIL:
1004 GENERAL FUND RECEIPTS 36411.00
TOTAL FUNDING 36411.00

02/01/96

15:49:05.9

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 10

DEPARTMENT OF LAW

SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS DRU NAME: CRIMINAL DIVISION

PCN	UNAUTII PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S BUDG	MOS	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
03#035		ATTORNEY IV	F	ANCHORAGE	A XE AA	24A	12	61923	0	20100	82023.52	

**** JUSTIFICATION:

This Attorney IV position will be needed during the second year the capital felony law goes into effect, to handle the growing number of capital trials. During the second year eight additional trials should be underway and ten additional capital felonies will have been committed. The extraordinary due process standards required of prosecution, in capital cases necessitate the full working level of legal expertise. Allocation to the Attorney IV level is therefore recommended. This position will be required in FY 1999.

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	112423.52	82023.52

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	82023.52
TOTAL FUNDING	82023.52

03#036		LEGAL SECRETARY I	F	ANCHORAGE	A GG 2A	10A	12	25127	0	11204	36411.80	
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**** JUSTIFICATION:

This Legal Secretary I position will be required, during the second year the capital felony law is in effect, to handle the growing caseload. Eight new capital felony trials are expected to commence, and ten new offenses will be committed during the year. Legal documentation for these trials will be intense. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 1999.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	60111.80	36411.80

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	36411.80
TOTAL FUNDING	36411.80

**** COMPONENT TOTALS:

FULL TIME NEW POSITIONS	25	TOTAL PERSONAL SERVICES	1462942.24
PART TIME/SEASONAL NEW POSITIONS	0	TOTAL COSTS INC. ASSOC COSTS	2219742.24
NON PERMANENT NEW POSITIONS	0		
OTHER.....	0		

NUMBER OF NEW POSITIONS IN COMPONENT:	25
---------------------------------------	----

FUNDING DATA: G.F. & G.F. MATCH:	1462942.24
OTHER FUNDS:	0.00
TOTAL FUNDING:	1462942.24

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act authorizing capital punishment, classifying BRU: Criminal Division
murder in the first degree as a capital felony..." Component: Criminal Division
 Sponsor: Senator Taylor
 Requester: Governor's Office COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES		481.0	1,005.5	1,462.9	1,462.9	1,462.9
TRAVEL		243.5	480.5	605.5	605.5	605.5
CONTRACTUAL		430.8	1,089.7	1,529.7	1,464.7	1,464.7
SUPPLIES		32.4	55.5	72.6	60.6	60.6
EQUIPMENT		56.0	64.5	58.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	1,243.7	2,695.7	3,728.7	3,593.7	3,593.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1,243.7	2,695.7	3,728.7	3,593.7	3,593.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	1,243.7	2,695.7	3,728.7	3,593.7	3,593.7

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME		8.0	17.0	25.0	25.0	25.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would authorize capital punishment, classify murder in the first degree as a capital felony, and establish sentencing procedures for capital felonies. The death sentence would not be imposed unless at least one of several specified aggravating factors was found to exist and the aggravating factor, or factors, was not outweighed by mitigating factors.

In 1994, the department's criminal division had 17 first degree murder cases (that could have been accepted for prosecution at this level) where aggravating factors were present that would justify the death penalty, had the bill already been the law. The number of murders committed in Alaska varies somewhat from year-to-year and, therefore, the assumptions made in this fiscal note are as conservative as possible.

Richard I. Peques
Richard I. Peques, Director

Prepared by: Richard I. Peques, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 2/6/96
 Date: 2/6/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION:

Overview

Capital felony trials would be bifurcated, or held in two parts. The first part would determine innocence or guilt; the second part would determine whether aggravating factors exist sufficient to justify the death penalty; whether mitigating factors exist that outweigh the aggravating factors; and whether the defendant should be sentenced to a term of imprisonment or to death. Based on 1994's data, where 17 murders having death penalty aggravators occurred, the department would probably seek the death penalty in ten cases. In the remaining seven cases, prosecutors would elect to try the cases as noncapital first degree murders for discretionary reasons, primarily due to the difficulty of obtaining a conviction if the death penalty was included. As a result of this preliminary screening, between capital and noncapital charging, the department expects that nine capital offense convictions will occur each year. Of this latter number, we believe that the death penalty will be imposed six times each year.

Thus, the department must be prepared to prosecute capital felonies on ten occasions each year, and it must also be prepared to handle a multi-year appellate review process that will grow at an accumulating rate of six cases per year. The experience in other states is that capital trials require far more in the way of prosecution and investigative resources than first degree murder cases that do not include the death penalty.

In its several reviews of capital penalty laws, the United States Supreme Court has repeatedly stated, "death is different." Consequently, the Supreme Court has required that states accord capital defendants procedural and substantive protections that go far beyond those required for noncapital defendants. The Court has, in effect, mandated that capital defendants be accorded "super" due process. The federal courts have consistently held that capital cases demand special consideration, both at trial and on appellate review, because of the exceptional and irrevocable nature of the penalty involved.

In order to meet this heightened level of due process, it will be necessary for the state to employ far greater prosecution resources. Many of the thirty-seven states having a death penalty, for instance, provide two defense attorneys to capital defendants to insure that the due process safeguards required by the courts are met. Likewise, the state's prosecution case must also be properly represented. During and prior to the trial phase, crime scene evidence will have to be examined and presented by highly qualified forensic experts. Psychiatric experts will also be required during the trial phase, during sentencing proceedings, and during the appellate review, to rebut and overcome competency and psychiatric defenses to both the substantive-charge and the capital sentence. Recent cost studies of capital trials in other states indicate that expert witness expenses for both the trial and sentencing proceedings cost about \$60,000, on the average. A lesser, but still significant, cost for expert is also required for appellate reviews.

A sentencing proceeding, or the penalty phase of a capital trial, is categorically different in character, procedure, and magnitude from any counterpart in a noncapital trial, and it accounts for a large part of the increase in costs. The heightened due process requirements, and the right to effective assistance of counsel, apply equally to the sentencing phase as they do to the trial phase. At this stage of the proceeding, the defense may be expected to use many of the socio-psychiatric witnesses employed during the trial phase. Additionally, the defense may also use the defendant's family, friends, neighbors, co-workers, school personnel, and social workers as witnesses. The defense's sentencing phase investigations will involve a complete retrospective analysis of every positive aspect of the defendant's life from the day of birth to the

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ANALYSIS CONTINUATION:

date of sentence. The prosecution, on the other hand, must interview each of the defendant's witnesses to rebut mitigation evidence, and present its own witnesses to prove its aggravating factors. For example, in a California case, 240 persons were investigated and interviewed as potential witnesses and 120 were eventually called as witnesses in a single sentencing proceeding. In view of the foregoing, it appears likely that the same level of state resources, needed for the state's most expensive criminal trials, will also be needed for many of the capital murder trials. For example, a five-fold increase in pretrial motion practice, often involving a state's supreme court, has occurred in other states between capital and noncapital first degree murder cases.

Last, post-conviction appellate reviews of death sentences will also require a substantial expenditure of state resources. Initially, challenges to the law itself can be expected to be taken to the Alaska Supreme Court on the basis of both state and federal constitutional due process, equal protection, and cruel and unusual punishment doctrines. Such challenges should be expected during the first two or three years after the provisions of the bill go into effect. Otherwise, the bill provides for a straightforward appeals process to the Alaska Supreme Court, but death sentences will nonetheless result in lengthy and complicated appellate litigation. This is because of the substantial appellate avenues available to capital defendants in the federal court system, primarily on claims of due process, competency, and newly discovered evidence. Typically, these cases move up and down throughout the state and federal court systems, and involve the state superior and supreme courts, the U.S. Supreme Court, and the U.S. Circuit Court of Appeals, and the U.S. District Court. As a result, as has been the experience in every other capital punishment state, it should be expected that many years will pass before a death sentence can be carried out. Current information indicates that nationally an average of 9.6 years elapses from the time a death penalty sentence is imposed and the time the sentence is carried out.

Implementation

The Department of Law anticipates that the time from when an offense is committed until a capital felony trial takes place will be between one and two years after the bill takes effect, although up to four bifurcated trials may begin during the first year. Likewise, the post-conviction appellate review process will not commence until sometime during the second year. For these reasons, the department has developed a multi-year implementation plan for this fiscal note.

During the first year, it will be necessary to add three attorneys, three paraprofessionals, and two legal secretaries to handle capital felony prosecutions. Although only four bifurcated trials may actually get underway during the first year, substantial time will be required preparing for trial. This includes advising police investigators, examining evidence, interviewing witnesses, consulting with psychiatric and forensic experts, and initiating, responding to, and arguing pretrial motions. Also, preparation work on all 17 capital felonies expected to occur during the first year must begin as soon as possible after an offense is committed.

The "super" due process required by the courts in death penalty cases, and the requirement for a separate sentencing proceeding, will more than triple the work of the department's staff who handle these cases, compared with noncapital first degree murder cases. Extraordinary amounts of attorney and paraprofessional time will be needed to satisfy these minimum, mandatory requirements. As a consequence, capital felony prosecutions could not readily be undertaken in any of the department's offices, except for Anchorage and Fairbanks, without providing special prosecution staff on a case-by-case basis. And, even for Anchorage and Fairbanks, the existing staff would have to be substantially augmented each time a capital

FISCAL NOTE

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ANALYSIS CONTINUATION:

felony is handled. All of the positions to be added to handle capital trials and post-conviction death sentence appeals would be located in the department's Office of Special Prosecutions and Appeals, in Anchorage.

During the second year, eight or more additional capital felonies are expected to go to trial, and 17 new capital felony offenses will occur. At this point, it will be necessary to add two attorneys, two paraprofessionals, and two legal secretaries to help handle the increasing capital felony trial caseload. It will also be necessary to establish a capital felony appeals staff during the second year, when appeals from the first four trials are expected to begin the appellate review process. Initially, one attorney, one paraprofessional, and one legal secretary will be needed to handle capital felony appeals.

During the third year, the number of bifurcated trials (10) should equal the number of new capital offenses (after screening), although some compression and overlapping of the caseload will likely occur. Consequently, it will be necessary to increase the trial staff during the third year, in order to handle the total annual workload, and to insure against speedy trial problems. Post-conviction capital felony appeals will have reached eight by year three, and they will continue to increase at the rate of six new cases each year, thereafter. It will, therefore, be necessary to increase the appeals staff in the third year.

It is not possible to accurately predict the eventual annual costs of a capital felony law beyond its first three or four years. There are simply too many unknowns. However, the costs that have been predicted are conservative. The following factors have been considered in arriving at these costs.

- 1) Capital felony due process and bifurcated trial requirements will more than triple the cost and time spent in prosecuting 10 first degree murder offenses, at a minimum.
- 2) The time required for a bifurcated trial will probably vary between two months and six months, although time lines are completely uncertain, and extremes will most likely be the rule. Serious overlapping and scheduling conflicts between investigations, trials, and available staff time will undoubtedly occur.
- 3) Pretrial motion practice will increase dramatically, resulting in additional scheduling problems.
- 4) Logistics problems will occur at most locations, except Anchorage and Fairbanks, and these problems will become more severe the smaller and more remote the location.
- 5) Witness travel and subsistence will be expensive because of the large number of witnesses that will be required for both the trial and the sentencing phases of capital felony prosecutions, and in many cases this includes out-of-state travel.
- 6) Staff travel and per diem will likewise be expensive for trials held outside of Anchorage. Extensive staff travel expense will also be necessary, for trials held at all locations, to interview both prosecution and defense witnesses who will appear at sentencing proceedings.
- 7) One of the most complex murder prosecutions ever held in Alaska was the John Kenneth Peel trial. Because this case involved extraordinary evidence problems, it probably represents costs that are outside the norm. Due to this and other complications, Peel case costs included two grand jury proceedings and two trials. But there can be no question that the state will have to provide a nearly comparable effort if it is to prevail in death penalty cases. By comparison, capital felony trials will be held in two parts, necessitate

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ANALYSIS CONTINUATION:

considerable expert testimony and depositions, involve two separate sets of witnesses, and require extensive staff travel. For this reason, the average prosecution costs of a bifurcated capital felony case has been projected to be nearly \$266,000 or less than one-half of the \$597,000 cost for the first Peel trial.

8) The cost for appeals is shown only through the fourth year; however, this cost will ultimately grow enormously. The average length of time between a death sentence conviction and an execution in the United States is nearly ten years. Consequently, the state will have to provide enough resources to respond to the appeals of 60 or more capital felony defendants annually, within 10 years. The eventual costs for this extended timeframe are not within the scope of this fiscal note analysis.

9) Therefore, the following per trial expense estimates have been used to calculate the costs of this fiscal note.

Capital Felony Trials

- Witness travel and subsistence, \$50,000 per case.
- Staff travel and per diem, \$7,500 per attorney, \$5,000 per paraprofessional, \$3,000 per secretary per annum.
- Expert witness fees, \$60,000 per case.
- Witness fees paid to others, \$6,000 per case.
- Deposition/court reporter charges, \$20,000 per case.

Death Sentence Appellate Review

- Staff travel, \$3,500 per attorney, \$2,500 per paraprofessional, per annum.
- Expert witness fees, legal scholars for years two and three only, \$30,000 per year.
- Socio-psychiatric experts, \$25,000 in years two and three.
- Socio-psychiatric experts, \$50,000 by year four.
- Transcription/court reporter costs, \$30,000 per case.

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BILL NO: SSSB 52

ANALYSIS CONTINUATION:

Fiscal Analysis SSSB 52
Cost Summary (First Year - FY 98 - Capital Trials)

<u>OBJECT</u>	<u>Attv V</u>	<u>(2) Attv IV</u>	(2) Assoc	<u>P/A II</u>	<u>Sec I</u>	<u>Sec I</u>	<u>TOTAL</u>
			<u>Attv I</u>				
100 - Salaries & Benefits	<u>87.3</u>	<u>164.0</u>	<u>105.8</u>	<u>51.1</u>	<u>36.4</u>	<u>36.4</u>	<u>481.0</u>
	87.3	164.0	105.8	51.1	36.4	36.4	481.0
200- Travel							
Staff Travel & Per Diem	<u>7.5</u>	<u>15.0</u>	<u>10.0</u>	<u>5.0</u>	<u>3.0</u>	<u>3.0</u>	<u>43.5</u>
	7.5	15.0	10.0	5.0	3.0	3.0	43.5
300 - Contractual							
Communications, Copy	3.6	7.2	4.8	2.4	2.4	2.4	22.8
Office Space Leases	5.6	11.2	11.2	5.6	5.6	5.6	44.8
PC Network Maintenance	1.5	3.0	3.0	1.5	1.5	1.5	12.0
Westlaw	<u>1.2</u>	<u>2.4</u>	<u>2.0</u>	<u>1.2</u>	<u>0.0</u>	<u>0.0</u>	<u>7.2</u>
	11.9	23.8	21.4	10.7	9.5	9.5	86.8
400 - Supplies							
Office Consumables	1.8	3.6	3.6	1.8	1.2	1.2	13.2
Law Library	1.2	2.4	2.4	1.2	0.0	0.0	7.2
New Position Supplies	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>12.0</u>
	4.5	9.0	9.0	4.5	2.7	2.7	32.4
500 - Equipment							
New Position Equipment	2.5	5.0	5.0	2.5	2.0	2.0	19.0
PC/Word Processing	<u>4.0</u>	<u>8.0</u>	<u>8.0</u>	<u>4.0</u>	<u>6.5</u>	<u>6.5</u>	<u>37.0</u>
	6.5	13.0	13.0	6.5	8.5	8.5	56.0
TOTAL	117.7	224.8	159.2	77.8	60.1	60.1	699.7

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1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION:

Fiscal Analysis SSSB 52
Cost Summary (Second and Third Years Additions -
FY 99 and 00 - Capital Trials)

OBJECT	<u>Second Year</u>					<u>Third Year</u>			
	<u>Attv V</u>	<u>Attv IV</u>	(2) Assoc <u>Attv I</u>	2 Legal <u>Sec. I</u>	<u>TOTAL</u>	<u>Attv IV</u>	<u>P/A II</u>	Legal <u>Sec. I</u>	<u>TOTAL</u>
100 - Salaries & Benefits	<u>87.3</u>	<u>82.0</u>	<u>105.8</u>	<u>72.8</u>	<u>347.9</u>	<u>82.0</u>	<u>51.1</u>	<u>36.4</u>	<u>169.5</u>
	87.3	82.0	105.8	72.8	347.9	82.0	51.1	36.4	169.5
200- Travel									
Staff Travel & Per Diem	<u>7.5</u>	<u>7.5</u>	<u>10.0</u>	<u>6.0</u>	<u>31.0</u>	<u>7.5</u>	<u>5.0</u>	<u>3.0</u>	<u>15.5</u>
	7.5	7.5	10.0	6.0	31.0	7.5	5.0	3.0	15.5
300 - Contractual									
Communications, Copy	<u>3.6</u>	<u>3.6</u>	<u>7.2</u>	<u>4.8</u>	<u>19.2</u>	<u>3.6</u>	<u>3.6</u>	<u>2.4</u>	<u>9.6</u>
Office Space Leases	<u>5.6</u>	<u>5.6</u>	<u>11.2</u>	<u>11.2</u>	<u>33.6</u>	<u>5.6</u>	<u>5.6</u>	<u>5.6</u>	<u>16.8</u>
PC Network Maintenance	<u>1.5</u>	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	<u>9.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>4.5</u>
Westlaw	<u>1.2</u>	<u>1.2</u>	<u>2.4</u>	<u>0.0</u>	<u>4.8</u>	<u>1.2</u>	<u>1.2</u>	<u>0.0</u>	<u>2.4</u>
	11.9	11.9	23.8	19.0	66.6	11.9	11.9	9.5	33.3
400 - Supplies									
Office Consumables	<u>1.8</u>	<u>1.8</u>	<u>3.6</u>	<u>2.4</u>	<u>9.6</u>	<u>1.8</u>	<u>1.8</u>	<u>1.2</u>	<u>4.8</u>
Law Library	<u>1.2</u>	<u>1.2</u>	<u>2.4</u>	<u>0.0</u>	<u>4.8</u>	<u>1.2</u>	<u>1.2</u>	<u>0.0</u>	<u>2.4</u>
New Position Supplies	<u>1.5</u>	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	<u>9.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>4.5</u>
	4.5	9.0	9.0	4	23.4	4.5	4.5	2.7	11.7
500 - Equipment									
New Position Equipment	<u>2.5</u>	<u>2.5</u>	<u>5.0</u>	<u>4.0</u>	<u>14.0</u>	<u>2.5</u>	<u>2.5</u>	<u>2.0</u>	<u>7.0</u>
PC/Word Processing	<u>4.0</u>	<u>4.0</u>	<u>8.0</u>	<u>13.0</u>	<u>29.0</u>	<u>4.0</u>	<u>4.0</u>	<u>6.5</u>	<u>14.5</u>
	6.5	6.5	13.0	17.0	43.0	6.5	6.5	8.5	21.5
TOTAL	117.7	112.4	161.6	120.2	511.9	112.4	79.0	60.1	251.5

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION:

Fiscal Analysis SSSB 52
Cost Summary (Second and Third Years Additions -
FY 99 and 00 - Appellate Review Process)

OBJECT	<u>Second Year</u>				<u>Third Year</u>			
	<u>Attv V</u>	<u>Assoc Attv I</u>	<u>Legal Sec. I</u>	<u>TOTAL</u>	<u>(2.0) Attv IV</u>	<u>P/A II</u>	<u>(2) Legal Sec. I</u>	<u>TOTAL</u>
100 - Salaries & Benefits	<u>87.3</u>	<u>52.9</u>	<u>36.4</u>	<u>176.6</u>	<u>164.0</u>	<u>51.1</u>	<u>72.8</u>	<u>287.9</u>
	87.3	52.9	36.4	176.6	164.0	51.1	72.8	287.9
200- Travel								
Staff Travel & Per Diem	<u>3.5</u>	<u>2.5</u>	<u>0.0</u>	<u>6.0</u>	<u>7.0</u>	<u>2.5</u>	<u>0.0</u>	<u>9.5</u>
	3.5	2.5	0.0	6.0	7.0	2.5	0.0	9.5
300 - Contractual								
Communications, Copy	<u>22.4</u>	<u>22.4</u>	<u>2.4</u>	<u>47.2</u>	<u>44.8</u>	<u>22.4</u>	<u>4.8</u>	<u>72.0</u>
Office Space Leases	<u>5.6</u>	<u>5.6</u>	<u>5.6</u>	<u>16.8</u>	<u>11.2</u>	<u>5.6</u>	<u>11.2</u>	<u>28.0</u>
PC Network Maintenance	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>4.5</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>	<u>7.5</u>
Westlaw	<u>2.4</u>	<u>2.4</u>	<u>0.0</u>	<u>4.8</u>	<u>4.8</u>	<u>2.4</u>	<u>0.0</u>	<u>7.2</u>
	31.9	31.9	9.5	73.3	63.8	31.9	19.0	114.7
400 - Supplies								
Office Consumables	<u>1.8</u>	<u>1.8</u>	<u>1.2</u>	<u>4.8</u>	<u>3.6</u>	<u>1.8</u>	<u>2.4</u>	<u>7.8</u>
Law Library	<u>1.2</u>	<u>1.2</u>	<u>0.0</u>	<u>2.4</u>	<u>2.4</u>	<u>1.2</u>	<u>0.0</u>	<u>3.6</u>
New Position Supplies	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>4.5</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>	<u>7.5</u>
	4.5	4.5	2.7	11.7	9.0	4.5	5.4	18.9
500 - Equipment								
New Position Equipment	<u>2.5</u>	<u>2.5</u>	<u>2.0</u>	<u>7.0</u>	<u>5.0</u>	<u>2.5</u>	<u>4.0</u>	<u>11.5</u>
PC/Word Processing	<u>4.0</u>	<u>4.0</u>	<u>6.5</u>	<u>14.5</u>	<u>8.0</u>	<u>4.0</u>	<u>13.0</u>	<u>25.0</u>
	6.5	6.5	8.5	21.5	13.0	6.5	17.0	36.5
TOTAL	133.7	98.3	57.1	289.1	256.8	96.5	114.2	467.5

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION:

Fiscal Analysis SSSB 52
Cumulative Implementation Cost by Year

<u>OBJECT</u>	<u>Criminal Felony Trial</u>				<u>Appellate Review</u>			
	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4+</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4+</u>
100 - Personal Services	481.0	828.9	998.4	998.4	0.0	176.6	464.5	464.5
200- Travel - Staff	43.5	74.5	90.0	90.0	0.0	6.0	15.5	15.5
Travel - Witness	200.0	400.0	500.0	500.0	0.0	0.0	0.0	0.0
300 - Contractual	86.8	153.4	186.7	186.7	0.0	73.3	188.0	188.0
Contractual - Outside Svc	344.0	688.0	860.0	860.0	0.0	175.0	295.0	230.0
400 - Supplies	32.4	43.8	46.5	42.0	0.0	11.7	26.1	18.6
500 - Equipment	<u>56.0</u>	<u>43.0</u>	<u>21.5</u>	<u>0.0</u>	<u>0.0</u>	<u>21.5</u>	<u>36.5</u>	<u>0.0</u>
TOTAL	1,243.7	2,231.6	2,703.1	2,677.1	0.0	464.1	1,025.6	916.6

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION:

Out-of-Pocket Costs - Capital Felony Trials

Year One (4 cases underway) (FY 98)

Witness travel and subsistence \$50,000 per case Xs 4 cases =	\$200,000
Expert witness fees \$60,000 per case Xs 4 cases =	\$240,000
Witness fees (witnesses of fact) \$6,000 per case Xs 4 cases =	\$24,000
Deposition/court reporter charges \$20,000 per case Xs 4 cases =	\$80,000

Year Two (8 cases underway) (FY 99)

Witness travel and subsistence \$50,000 per case Xs 8 cases =	\$400,000
Expert witness fees \$60,000 per case Xs 8 cases =	\$480,000
Witness fees (witnesses of fact) \$6,000 per case Xs 8 cases =	\$48,000
Deposition/court reporter charges \$20,000 per case Xs 8 cases =	\$160,000

Third Year (10 cases underway) (FY 00)

Witness travel and subsistence \$50,000 per case Xs 10 cases =	\$500,000
Expert witness fees \$60,000 per case Xs 10 cases =	\$600,000
Witness fees (witness of fact) \$6,000 per case Xs 10 cases =	\$60,000
Deposition/court reporter charges \$20,000 per case Xs 10 cases =	\$200,000

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION:

Capital Felony Appeals

Year Two (4 cases underway) (FY 98)

Expert witness/legal scholars to uphold death penalty law (year two and three only) \$30,000 per year Xs 1 =	\$30,000
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Expert witness Socio-psychiatric experts \$25,000 per year Xs 1 =	\$25,000
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Deposition/court report charges \$30,000 per case Xs 4 cases =	\$120,000
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Year Three (8 cases underway) (FY 00)

Expert witness/legal scholars to uphold death penalty law (year two and three only) \$30,000 per year Xs 1 =	\$30,000
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Expert witness Socio-psychiatric experts \$25,000 per year Xs 1 =	\$25,000
---	----------

Deposition/court report charges \$30,000 per case Xs 8 cases =	\$240,000
---	-----------

Year Four (14 cases underway) (FY 01)

Expert witness Socio-psychiatric experts \$50,000 per year Xs 1 =	\$50,000
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Deposition/court report charges \$30,000 per case Xs 6 cases =	\$180,000
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02/01/96

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

DEPARTMENT OF LAW

SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS BRU NAME: CRIMINAL DIVISION

PCN	UNAUTII PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	I&S MOS BUDG	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
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03#011		ATTORNEY V		F ANCHORAGE	A XE AA 25A	12	66332	0	20933	87265.67	
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**** JUSTIFICATION:

This senior level Attorney V position will be needed to oversee and head capital felony prosecutions, during the first year that capital felony law goes into effect. The substantial due process protections accorded to defendants by the U.S. Supreme Court, will require a three-fold increase in prosecution effort in order to obtain death penalty convictions. Legal expertise at the highest level will be required to handle these prosecutions, allocations to the Attorney V level is therefore recommended. This position will be required in FY 1998.

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	117665.67	87265.67

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	87265.67
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TOTAL FUNDING	87265.67
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03#012		ATTORNEY IV		F ANCHORAGE	A XE AA 24A	12	61923	0	20100	82023.52	
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**** JUSTIFICATION:

This Attorney IV position will be required to handle capital felony trials, during the first year after the law goes into effect. "Super" due process trial consideration and sentencing proceedings are expected to more than triple the time now required for murder trials. First degree murder trials require highly skilled prosecutors and for this reason the department is requesting the full working level prosecutor classification of Attorney IV. This attorney will be needed for the bifurcated capital trials, beginning in FY 1998.

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	112423.52	82023.52

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	82023.52
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TOTAL FUNDING	82023.52
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03#013		ATTORNEY IV		F ANCHORAGE	A XE AA 24A	12	61923	0	20100	82023.52	
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**** JUSTIFICATION:

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	112423.52	82023.52

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	82023.52
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TOTAL FUNDING	82023.52
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DEPARTMENT OF LAW

SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS BRU NAME: CRIMINAL DIVISION

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S BUDG	MOS	SALARY	PREM PAY	DENES	PER.SERV. COSTS	G. F. AMOUNT
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03#014		ASSOC ATTORNEY I	F	ANCHORAGE	A XE AA	17A	12	38440	0	14412	52852.89	
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**** JUSTIFICATION:

This advanced paraprofessional position will be required, during the first year that the capital felony law goes into effect, to handle evidence preparation and assist in legal research that is necessary to try capital cases. The heightened due process protection accorded defendants, in these cases, causes a far more severe burden of proof standard for prosecution. Allocation to the Associate Attorney I paraprofessional level is therefore recommended. This position will be required in FY 1998.

TRAVEL COSTS	5000.00
CONTRACTUAL COSTS	10700.00
SUPPLIES COSTS	4500.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00
=====	
TOTAL COSTS	79552.89

52852.89

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 52852.89

TOTAL FUNDING 52852.89

03#015		PARALEGAL ASST II	F	ANCHORAGE	A GG 2A	16A	12	36990	0	14157	51148.42	
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**** JUSTIFICATION:

This paralegal assistant position will be needed during the first year after the capital felony law goes into effect to assist the attorneys assigned to prosecuting defendants in capital crimes, where the state is seeking the death penalty. The position will be responsible for witness assistance and coordination, and assist with trial logistics. Allocation to the full working paraprofessional level of Paralegal Assistant II is recommended. This position will be required in FY 1998.

TRAVEL COSTS	5000.00
CONTRACTUAL COSTS	10700.00
SUPPLIES COSTS	4500.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00
=====	
TOTAL COSTS	77048.42

51148.42

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 51148.42

TOTAL FUNDING 51148.42

03#016		LEGAL SECRETARY I	F	ANCHORAGE	A GG 2A	10A	12	25127	0	11284	36411.80	
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**** JUSTIFICATION:

This is one of two legal secretaries needed to provide office services support for three attorneys and three paraprofessionals who will be required to handle capital felony trials, during the first year the law goes into effect. The work of the attorneys is expected to generate considerable legal documentation, in the form of motions and briefs, requiring full-time secretarial support. This position will be required in FY 1998.

TRAVEL COSTS	3000.00
CONTRACTUAL COSTS	9500.00
SUPPLIES COSTS	2700.00
EQUIPMENT COSTS	8500.00
OTHER COSTS	0.00
=====	
TOTAL COSTS	60111.80

36411.80

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 36411.80

TOTAL FUNDING 36411.80

02/01/96

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 4

DEPARTMENT OF LAW

SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS BRU NAME: CRIMINAL DIVISION

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S MOS BUDG	SALARY	PREM PAY	DENES	PER.SERV. COSTS	G. F. AMOUNT	
03#017		LEGAL SECRETARY I	F	ANCHORAGE	A GG 2A 10A	12	25127	0	11284	36411.00		
**** JUSTIFICATION:												
This is one of two legal secretaries needed to provide office services support for the three attorneys and three paraprofessionals who will be required to handle capital felony trials, during the first year the law goes into effect. The work of the attorneys is expected to generate considerable legal documentation, in the form of motions and briefs, requiring full-time secretarial support. This position is required in FY 1998.												
										TRAVEL COSTS	3000.00	
										CONTRACTUAL COSTS	9500.00	
										SUPPLIES COSTS	2700.00	
										EQUIPMENT COSTS	8500.00	
										OTHER COSTS	0.00	
										TOTAL COSTS	60111.00	36411.00
**** FUNDING DETAIL:												
										100% GENERAL FUND RECEIPTS	36411.00	
										TOTAL FUNDING	36411.00	
03#018		ATTORNEY V	F	ANCHORAGE	A XE AA 25A	12	66332	0	20933	87265.67		
**** JUSTIFICATION:												
This senior level Attorney V position will be needed during the second year the capital felony law goes into effect, to handle the growing number of capital trials. During the second year eight additional trials should be underway and ten additional capital felonies will have been committed. The extraordinary due process standards required of prosecution, in capital cases, necessitate the highest level of legal expertise. Allocation to the Attorney V level is therefore recommended. This position will be required in FY 1999.												
										TRAVEL COSTS	7500.00	
										CONTRACTUAL COSTS	11900.00	
										SUPPLIES COSTS	4500.00	
										EQUIPMENT COSTS	6500.00	
										OTHER COSTS	0.00	
										TOTAL COSTS	117665.67	87265.67
**** FUNDING DETAIL:												
										100% GENERAL FUND RECEIPTS	87265.67	
										TOTAL FUNDING	87265.67	
03#019		ASSOC ATTORNEY I	F	ANCHORAGE	A XE AA 17A	12	38440	0	14412	52852.89		
**** JUSTIFICATION:												
This advanced paraprofessional position will be required, during the second year the capital felony law is in effect, to handle the growing number of capital trials. Eight new trials are expected to commence during the second year, and ten new offenses will have been committed. This position will help organize and examine evidence, and assist attorneys with legal research. Allocation to the Associate Attorney I level is therefore recommended. This position is required in FY 1999.												
										TRAVEL COSTS	5000.00	
										CONTRACTUAL COSTS	11900.00	
										SUPPLIES COSTS	4500.00	
										EQUIPMENT COSTS	6500.00	
										OTHER COSTS	0.00	
										TOTAL COSTS	80752.89	52852.89
**** FUNDING DETAIL:												
										100% GENERAL FUND RECEIPTS	52852.89	
										TOTAL FUNDING	52852.89	

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B C U	S	R&S BUDG	MOS	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
03#020		LEGAL SECRETARY I	F	ANCHORAGE	A	GG	2A 10A	12	25127	0	11284	36411.80	

**** JUSTIFICATION:

This Legal Secretary I position will be required, during the second year the capital felony law is in effect, to handle the growing caseload. Eight new capital felony trials are expected to commence, and ten new offenses will be committed during the year. Legal documentation for these trials will be intense. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 1999.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	60111.80	36411.80

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	36411.80
TOTAL FUNDING	36411.80

03#021		ATTORNEY V	F	ANCHORAGE	A	XE	AA 25A	12	66332	0	20933	87265.67	
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**** JUSTIFICATION:

This Attorney V position will be required, during the second year the capital felony law is in effect, to handle the post-conviction appellate review process. It is anticipated that six defendants' convictions will be on appeal during the second year. Up to ten years or more may pass before these appeals are finally resolved. Initially, legal attacks on the law itself will go to the Alaska Supreme Court. If upheld, appeals will go to the federal court system, including the U.S. District Court. The highest level of legal expertise will be required to handle these appeals. Allocation to the Attorney V level is therefore recommended. This position will be needed in FY 1999.

TRAVEL COSTS	3500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	133665.67	87265.67

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	87265.67
TOTAL FUNDING	87265.67

03#022		ASSOC ATTORNEY I	F	ANCHORAGE	A	XE	AA 17A	12	38440	0	14412	52852.89	
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**** JUSTIFICATION:

This Associate Attorney paraprofessional position will be required, during the second year the capital felony law is in effect, to assist handling legal research for post-conviction appellate review process. It is anticipated that six defendants' convictions will be on appeal during the second year. Legal attacks on the law itself will be before the Alaska Supreme Court, as will appeals of convictions. Further appeals to the federal court system will commence, if the law is upheld. An enormous amount of research will be required. Allocation to the Associate Attorney I level is therefore recommended.

TRAVEL COSTS	2500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	90252.89	52852.89

*** FUNDING DETAIL:

DEPARTMENT OF LAW SCENARIO: 1
 COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS BRU NAME: CRIMINAL DIVISION

PCN	UNAUTII PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S MOS BUDG	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT	
1004 GENERAL FUND RECEIPTS										52852.89		
TOTAL FUNDING										52852.89		
03#023		LEGAL SECRETARY I	F	ANCHORAGE	A	CG 2A 10A 12	25127	0	11284	36411.80		
**** JUSTIFICATION:												
This Legal Secretary I position will be required, during the second year the capital felony law is in effect, to handle the post-conviction appellant review process. This process is expected to begin during the second year, when the first six convictions should be on appeal. This process is document intensive and full-spectrum secretarial services will be required. Allocation to the Legal Secretary I level is therefore recommended. This position is needed in FY 1999.										TRAVEL COSTS	0.00	
										CONTRACTUAL COSTS	9500.00	
										SUPPLIES COSTS	2700.00	
										EQUIPMENT COSTS	8500.00	
										OTHER COSTS	0.00	
										TOTAL COSTS	57111.80	36411.80
*** FUNDING DETAIL:												
1004 GENERAL FUND RECEIPTS										36411.80		
TOTAL FUNDING										36411.80		
03#025		ATTORNEY IV	F	ANCHORAGE	A	XE AA 24A 12	61923	0	20100	82023.52		
**** JUSTIFICATION:												
This Attorney IV position will be required, during the third year the capital felony law is in effect, to handle the growing number of capital felony trials. It is anticipated that ten of these trials will be underway in the third year, and ten new offenses will have been committed. An enormous amount of attorney time is required to handle these because of the heightened due process standards that are mandated for capital prosecutions. These trials require highly skilled prosecutors. Allocation to the full-working level of Attorney IV, is therefore recommended. This position will be needed in FY 2000.										TRAVEL COSTS	7500.00	
										CONTRACTUAL COSTS	11900.00	
										SUPPLIES COSTS	4500.00	
										EQUIPMENT COSTS	6500.00	
										OTHER COSTS	0.00	
										TOTAL COSTS	112423.52	82023.52
*** FUNDING DETAIL:												
1004 GENERAL FUND RECEIPTS										82023.52		
TOTAL FUNDING										82023.52		
03#026		PARALEGAL ASST II	F	ANCHORAGE	A	CG 2A 16A 12	36990	0	14157	51148.42		
**** JUSTIFICATION:												
This Paralegal Assistant position will be required, during the third year the capital felony law is in effect, to handle the growing number of capital felony trials. It is anticipated that ten trials will be underway at this point, and ten new offenses will have been committed. This position will assist witnesses and coordinate witness schedules and trial logistics. Allocation to the Paralegal Assistant II level is therefore recommended. This position will be required in FY 2000.										TRAVEL COSTS	5000.00	
										CONTRACTUAL COSTS	11900.00	
										SUPPLIES COSTS	4500.00	
										EQUIPMENT COSTS	6500.00	
										OTHER COSTS	0.00	
										TOTAL COSTS	79048.42	51148.42

DEPARTMENT OF LAW

SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS DRU NAME: CRIMINAL DIVISION

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S MOS BUDG	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
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*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 51148.42

TOTAL FUNDING 51148.42

03#027		LEGAL SECRETARY I	F	ANCHORAGE	A	GG 2A 10A 12	25127	0	11734	36411.80	
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**** JUSTIFICATION:

This Legal Secretary position will be required, during the third year the capital felony law is in effect, to handle a growing number of capital felonies. It is anticipated that ten capital trials will be underway at this point, and ten new offenses will have been committed. The work generated by attorneys will require substantial secretarial assistance. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	60111.80	36411.80

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 36411.80

TOTAL FUNDING 36411.80

03#028		ATTORNEY IV	F	ANCHORAGE	A	XE AA 24A 12	61923	0	20100	82023.52	
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**** JUSTIFICATION:

This Attorney IV position will be required, during the third year the capital felony law is in effect, to handle post-conviction appeals. It is anticipated that six new convictions will be on appeal by the third year, bringing the total cases on appeal to 12. Capital penalty appeals have an average span of ten years. These appeals are heard in the Alaska Supreme Court, the U.S. District Court, the U.S. Court of Appeals and the U.S. Supreme Court. These appeals often move up and down, through the system, as each separate issue is argued. Full-working level legal expertise is necessary to handle this work, and allocation to Attorney IV is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	3500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	128423.52	82023.52

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 82023.52

TOTAL FUNDING 82023.52

03#029		PARALEGAL ASST II	F	ANCHORAGE	A	GG 2A 16A 12	36990	0	14157	51148.42	
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**** JUSTIFICATION:

This Paralegal Assistant II position will be required, during the third year of the capital felony law, to assist the preparation of appellate documentation and research. Six new appeals are expected in the third year, bringing the total to be handled to 12. These appeals have an average time span of ten years.

TRAVEL COSTS	2500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	

DEPARTMENT OF LAW

SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS BRU NAME: CRIMINAL DIVISIO

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B C U	S	R&S BUDG	MOS	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT	
Enormous amounts of time must be spent researching the law, examining trial records, and preparing legal arguments, and briefs. A substantial documents and research effort will be required. Allocation to the											TOTAL COSTS	96548.42	51148.42	
											*** FUNDING DETAIL:			
											100% GENERAL FUND RECEIPTS		51148.42	
											TOTAL FUNDING		51148.42	
03#030		LEGAL SECRETARY I	F	ANCHORAGE	A	GC	2A	10A	12	25127	0	11284	36411.80	
*** JUSTIFICATION:														
This Legal Secretary I will be required, during the third year the capital felony law is in effect, to handle a growing number of post-conviction appellate reviews. It is anticipated that a total of six reviews will be underway at this time, and this number will grow by six reviews, each year, thereafter. Each review lasts about ten years and involves numerous courts, and many court proceedings. Substantial secretarial assistance will be needed to handle this work. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 2000.											TRAVEL COSTS	0.00		
											CONTRACTUAL COSTS	9500.00		
											SUPPLIES COSTS	2700.00		
											EQUIPMENT COSTS	8500.00		
											OTHER COSTS	0.00		
											TOTAL COSTS		57111.80	36411.80
											*** FUNDING DETAIL:			
											100% GENERAL FUND RECEIPTS		36411.80	
											TOTAL FUNDING		36411.80	
03#031		ASSOC ATTORNEY I	F	ANCHORAGE	A	XE	AA	17A	12	38440	0	14412	52852.89	
**** JUSTIFICATION:														
This advanced paraprofessional position will be required, during the first year that the capital felony law goes into effect, to handle evidence preparation and assist in legal research that is necessary to try capital cases. The heightened due process protection accorded defendants, in these cases, causes a far more severe burden of proof standard for prosecution. Allocation to the Associate Attorney I paraprofessional level is therefore recommended. This position will be required in FY 1998.											TRAVEL COSTS	5000.00		
											CONTRACTUAL COSTS	10700.00		
											SUPPLIES COSTS	4500.00		
											EQUIPMENT COSTS	6500.00		
											OTHER COSTS	0.00		
											TOTAL COSTS		79552.89	52852.89
											*** FUNDING DETAIL:			
											100% GENERAL FUND RECEIPTS		52852.89	
											TOTAL FUNDING		52852.89	
03#032		ASSOC ATTORNEY I	F	ANCHORAGE	A	XE	AA	17A	12	38440	0	14412	52852.89	
**** JUSTIFICATION:														
This advanced paraprofessional position will be required, during the second year that the capital felony law is in effect, to handle evidence preparation and assist in legal research that is necessary to try capital cases. The											TRAVEL COSTS	5000.00		
											CONTRACTUAL COSTS	11900.00		
											SUPPLIES COSTS	4500.00		
											EQUIPMENT COSTS	6500.00		

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S MOS BUDG	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
-----	------------	-----------------	-----	---------------	-----------	--------------	--------	----------	-------	-----------------	--------------

heightened due process protection accorded defendants, in these cases, causes a far more severe burden of proof standard for prosecution. Allocation to the Associate Attorney I paraprofessional level is therefore recommended. This position will be required in FY 1999.

OTHER COSTS	0.00	
TOTAL COSTS	80752.89	52852.89

*** FUNDING DETAIL:
100% GENERAL FUND RECEIPTS 52852.89

TOTAL FUNDING 52852.89

033	ATTORNEY IV	F ANCHORAGE		A XE AA 24A 12	61923	0	20100	82023.52	
-----	-------------	-------------	--	----------------	-------	---	-------	----------	--

**** JUSTIFICATION:
This Attorney IV position will be required, during the third year the capital felony law is in effect, to handle post-conviction appeals. It is anticipated that six new convictions will be on appeal by the third year, bringing the total cases on appeal to 12. Capital penalty appeals have an average span of ten years. These appeals are heard in the Alaska Supreme Court, the U.S. District Court, the U.S. Circuit Court of Appeals, and the U.S. Supreme Court. These appeals often move up and down, through the system, as each separate issue is argued. Full-working level legal expertise is necessary to handle this work, and allocation to Attorney IV is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	3500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	128423.52	82023.52

*** FUNDING DETAIL:
100% GENERAL FUND RECEIPTS 82023.52

TOTAL FUNDING 82023.52

034	LEGAL SECRETARY I	F ANCHORAGE		A GG 2A 10A 12	25127	0	11284	36411.80	
-----	-------------------	-------------	--	----------------	-------	---	-------	----------	--

**** JUSTIFICATION:
This Legal Secretary I will be required, during the third year the capital felony law is in effect, to handle a growing number of post-conviction appellate reviews. It is anticipated that a total of six reviews will be underway at this time, and this number will grow by six reviews, each year, thereafter. Each review lasts about ten years and involves numerous courts, and many court proceedings. Substantial secretarial assistance will be needed to handle that work. Allocation to the Legal Secretary I is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	0.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	57111.80	36411.80

*** FUNDING DETAIL:
100% GENERAL FUND RECEIPTS 36411.80

TOTAL FUNDING 36411.80

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S MOS BUDG	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
03#035		ATTORNEY IV	F	ANCHORAGE	A XE AA	24A 12	61923	0	20100	82023.52	

**** JUSTIFICATION:

This Attorney IV position will be needed during the second year the capital felony law goes into effect, to handle the growing number of capital trials. During the second year eight additional trials should be underway and ten additional capital felonies will have been committed. The extraordinary due process standards required of prosecution, in capital cases necessitate the full working level of legal expertise. Allocation to the Attorney IV level is therefore recommended. This position will be required in FY 1999.

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	112423.52	82023.52

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 82023.52

TOTAL FUNDING 82023.52

03#036		LEGAL SECRETARY I	F	ANCHORAGE	A GG 2A	10A 12	25127	0	11284	36411.80	
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**** JUSTIFICATION:

This Legal Secretary I position will be required, during the second year the capital felony law is in effect, to handle the growing caseload. Eight new capital felony trials are expected to commence, and ten new offenses will be committed during the year. Legal documentation for these trials will be intense. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 1999.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	60111.80	36411.80

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 36411.80

TOTAL FUNDING 36411.80

**** COMPONENT TOTALS:

FULL TIME NEW POSITIONS	25	TOTAL PERSONAL SERVICES	1462942.24
PART TIME/SEASONAL NEW POSITIONS	0		
NON PERMANENT NEW POSITIONS	0	TOTAL COSTS INC. ASSOC COSTS	2219742.24
OTHER.....	0		

NUMBER OF NEW POSITIONS IN COMPONENT: 25

FUNDING DATA: G.F. & G.F. MATCH: 1462942.24
OTHER FUNDS: 0.00

TOTAL FUNDING: 1462942.24

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Capital Punishment for Murder BRU: Trial Courts
 Component: _____
 Sponsor: Sens. Taylor, Pearce
 Requestor: _____ COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES		375.9	375.9	375.9	375.9	375.9
TRAVEL		142.2	142.2	142.2	142.2	142.2
CONTRACTUAL		511.8	511.8	511.8	511.8	511.8
SUPPLIES		7.0	7.0	7.0	7.0	7.0
EQUIPMENT		31.7				
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	1,068.6	1,036.9	1,036.9	1,036.9	1,036.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1,068.6	1,036.9	1,036.9	1,036.9	1,036.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL		1,068.6	1,036.9	1,036.9	1,036.9	1,036.9

Estimate of any current year (FY 96) cost: \$ None

Positions

Full-Time		4.0	4.0	4.0	4.0	4.0
Part-Time		3.0	3.0	3.0	3.0	3.0
Temporary		1.0	1.0	1.0	1.0	1.0

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel
 Agency: Alaska Court System
 Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System

Phone: 264-8228
 Date: 02/06/96
 Date: 02/06/96

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Alaska Court System

Fiscal Analysis

SSSB 52

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Judge, Anchorage Trial Courts, 50% vested, PPT, 12 months	\$48,300	\$29,779	\$78,079
Pro Tem Judge, Anchorage Trial Courts, 50% vested, PPT, 12 months	48,300	29,779	78,079
Pro Tem Judge, Fairbanks Trial Courts, 50% vested, PPT, 6 months	24,501	14,933	39,434
Law Clerk I, Anchorage Trial Courts, range 13D, PFT, 12 months	31,824	13,549	45,373
Law Clerk I, Anchorage Trial Courts, range 13D, PFT, 12 months	31,824	13,549	45,373
Law Clerk I, Fairbanks Trial Courts, range 13D, PFT, 12 months	36,672	14,835	51,507
Law Clerk I, Anchorage Appellate Courts, range 15D, PFT, 12 months	36,672	14,835	51,507
Bailiff, Statewide, range 6A, NPP, 24 months	38,184	3,647	41,831
			<u>431,183</u>

Offset cost of existing caseload -

Currently, first degree murder cases experience a 50% trial rate and last approximately one month. Using this experience, the court could expect five trials and to incur approximately 5 months of trial. The proposed legislation will result in approximately 39 months of trial activity (see jury fees in the contractual section below). Therefore, the cost offset is computed at 5/39 of the expected personnel costs.

	<u>(55,300)</u>
Net personal services	<u>375,883</u>

Based on the fiscal note submitted by the Department of Law, the court system anticipates needing additional judicial staff to carry the workload of active judges assigned to capital offense cases. The court will use 50% vested pro tem judges, which are among the least-costly judicial positions available. Additional law clerks are required for extensive legal research of motions and other legal questions. Funding is requested for two non-permanent bailiffs, which will serve in the designated trial site.

Travel

Jury sequestration costs - transportation, meals and lodging	126,000
10 innocence/guilt trials with 18 jurors, 7 days in deliberation each, @ \$100 a day	

Offset cost of existing caseload -

See offset note in personal services.

	<u>(16,200)</u>
Net travel	<u>109,800</u>

Death penalty cases are often subject to intense media exposure, which may initiate changes in venue. High jury sequestration costs are anticipated due to lengthy deliberations.

Contractual

Jury fees - 10 innocence/guilt trial @ 66 days each (3 months), 18 jurors @ \$25 a day	386,100
and 9 sentencing trials @ 22 day each (1 month), 18 jurors @ \$25 a day	
Contractual security guard to staff metal detectors	10,000
Transcription fees - 19 transcripts, 5,000 pages each at \$2.00 a page	190,000
Freight for high security equipment kit	1,000
Total contractual service	<u>587,100</u>

Offset cost of existing caseload -

See offset note in personal services.

	<u>(75,300)</u>
Net contractual services	<u>511,800</u>

See additional note on contractual costs on the next page.

Alaska Court System
Fiscal Analysis (continued)
SSSB 52

The Department of Law expects to prosecute 10 capital offences each year. Capital offense trials will be split into 2 separate trials with each lasting 2 to 6 months. The court anticipates extraordinary jury costs from calling additional jurors, extended juror selection questioning, the need for alternate jurors and lengthy trials. The court anticipates high transcription costs resulting from preparation of the voluminous record for capital offense trials.

Supplies

Office and courtroom supplies for new positions and trials. 7,000

Equipment (one-time cost)

Standard office equipment and reference materials for law clerks 6,720

Portable high security equipment kit, consisting of a walk-through metal detector, temporary building card key system and video monitoring system. Will be shipped to trial site. 25,000

31,720

Total estimated costs \$1,068,603

212 Weaver Street
Juneau, AK
April 15, 1996

To: Brian Porter
Chair, House Judiciary

Comments from Amy Paige on HB481 and
SB52.

I believe it is unfair to offer the voters, seemingly simple solutions to what is a truly complex social issue. You are not asking voters for simple solutions to the complex budgetary and ^{other} social policy issues, you are dealing with because you know considerable debate by the people who work to become informed about these matters will be more likely to arrive at decisions which reflect reasoned and sound understanding based on facts.

This should be the case in this matter of the death penalty.

Instead of passing this bill, go back to your constituencies and engage with them in a dialog which opens people to the full meaning of our judicial + correctional system and how it can best deal with these types of crimes and their root causes.

Another concern must be the protection of the human + civil rights of individuals.

"Majority vote" cannot be allowed to deprive ^{people} of the full protection of those rights

4/15/96 P.O. Box 210405
Arla Bay 99821
789-4938

Rep Brian Porter & Members of the
Judiciary Committee -

I wish to express my opposition to
CS for Sponsor Sub for Senate Bill # 52 -

I am opposed to the death penalty -

An advisory vote is an unsound strategy
on this issue. Most individuals are
unaware of the disproportionate number of
incarcerations & deaths under death
penalties to various racial & economic groups

A "get tough" on crime attitude often
does not consider the real causes of violence,
crime & murder -

We must find a civil way of reducing
crime - Don't promote an uneducated advisory
vote on a life or death issue. Sincerely,
Doreen A. Kai.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 481

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act authorizing capital punishment....allowing.. BRU: Statewide Operations
the death penalty....murders committed against children..... Component: Spring Creek Correctional Center
 Sponsor: Representative Masek
 Requester: House Judiciary COMPONENT SERIAL NO. #0722

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	67.1	69.4	568.0	586.0	586.0	586.0
TRAVEL	3.0					
CONTRACTUAL	315.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS		97.6	8.6	17.2	25.8	34.4
TOTAL OPERATING	385.1	167.0	576.6	603.2	611.8	620.4

CAPITAL EXPENDITURES		1,785.0				
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	385.1	1,952.0	576.6	603.2	611.8	620.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	385.1	1,952.0	576.6	603.2	611.8	620.4

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	1	10				
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Department of Law (DOL) estimates that based on current data, where death penalty aggravators occur, the DOL would probably seek the death penalty in three (3) cases, annually. The DOL expects that two (2) capital offense convictions will occur each year. Of this latter number, the DOL believe that the death penalty will be imposed once each year. Experience in states with a death penalty statute indicate that an individual remains on death row an average of 9.6 years from the time a death penalty sentence is imposed and the time the sentence is carried out. Using these estimates, the Department of Corrections must plan for a "Death Row" structure within an existing facility capable of holding at least ten (10) prisoners. Additionally, the facility would need to contain suitable structures for the execution itself.

The average age of Alaskan male inmates sentenced for murder in the first degree is 31 years old. It is assumed that each inmate sentenced to death will live until the day of execution or until age 73 years old; which ever comes first. Thus, it is assumed that each person sentenced to death will remain in the (Continued on page 2)

Prepared by: Joseph Reeves Phone: 465-4652
 Division: Office of the Commissioner Date: 4/15/96
 Approved by Commissioner: Margaret U. Pugh Margaret Pugh Date: 4/15/96
 Agency: Department of Corrections

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Fiscal Note

HB 481

"An Act authorizing capital punishment...allowing...the death penalty.."

4/15/96

Page 2

death row structure for the rest of their life and no allowances are made for appeals; commutations, sentence modifications, or other means of sentence reductions.

The "Death Row" structure would have to be built to the highest security standards. The cost of construction of a maximum security bed is \$180,000 to \$200,000 per bed. The lower figure is based on the assumption that the structure stated on this fiscal note would be built adjacent to the Spring Creek Correctional Center and some infrastructure construction cost savings could be realized. Construction would begin immediately and engineering (E) and design (D) funds have been included in the contractual line item for FY97 with construction to begin in FY98. It is expected that these funds would be transferred by Reimbursable Services Agreement to the Department of Transportation and Public Facilities. E&D costs are estimated at 15% of the total construction costs.

The Department would be required to construct special facilities in which to administer the penalty. Special technology and hardware would be required for this portion of the construction. The cost of this facility would be in excess of \$300,000 assuming that it would be built in conjunction with the death row structure.

CONSTRUCTION COSTS

$(10 \text{ Bed Structure} \times \$180,000 \text{ per bed}) + \$300,00 = \$2,100,000$

$.15 \text{ E\&D} \times \$2,100,000 = \$315,000 \text{ in FY97}$

$\$1,800,000 + \$300,000 - \$315,000 = \$1,785,000 \text{ in FY98}$

The Department of Corrections does not expect to be required to house prisoners sentenced to the death penalty until FY99. The only staff necessary in FY98 would be a facilities manager to deal with DOC's responsibilities in the planning and design phase. The position will be carried on until completion of the project which is expected to be at least until the end of FY98. Actual operations of the structure would come on line in FY99, with staff hiring and training to begin in Mid FY98. The first year cost is estimated to be \$ 97.6.

Staffing of the structure would require nine correctional officers and one administrative support position. The estimated cost of these staff members would be \$ 568,000. Also, no inflation factor has been used. The structure will need to be fully staffed from the date of opening even though it will not be filled with inmates sentenced to death. If overcrowding exists at that time, other high security inmates could be housed there to mitigate the costs.

In addition, to staffing there are miscellaneous costs such as food service, and medical. The average cost of these services per inmate is \$23.62 a day. It is assumed that one inmate will be sentenced to death in FY 99, and one additional inmate will be sentenced to death each following year. This figure has been used and is shown in the miscellaneous line simply because final design will determine the line item cost break down.

Fiscal Note

HB 481

"An Act authorizing capital punishment...allowing...the death penalty.."

4/15/96

Page 3

OPERATING COSTS

2 CO III X \$75,000 = \$150,000

7 CO II X \$54,000 = \$378,000

1 Admin Clerk III X \$40,000 = \$40,000

\$8621.30 per inmate, per year for miscellaneous costs

Susi Gregg Fowler

603 WEST 12TH STREET JUNEAU, ALASKA 99801 (907)586-3279

April 15, 1996

Representative Brian Porter
House Judiciary Committee Members
Alaska State Legislative
Pouch V
Juneau, Alaska 99801

Re: CSSSSB 52(Jud)

Dear Representative Porter and Committee Members:

Thank you for the opportunity to testify. The Senate bill you have before you just provides for an advisory vote, but its purpose is to advance the death penalty and so I urge you to reject it. You don't need this legislation in order to find out what people think about the death penalty. I don't believe anyone has ever disputed that Alaskans currently support reinstatement of the death penalty. So the bill feels dishonest to me since it purports to gather information we already have and that is not in question. There are countless issues that could be put out for an advisory vote, from the arts council to legislative salaries to welfare reform. But we elect people to sift through difficult and painful material, make decisions, and then return home to explain those decisions, particularly when the decisions are such profoundly tender, ethical choices. This discussion must not be reduced to soundbites and slogans.

There are many reasons to oppose the death penalty. We know that the death penalty is not a deterrent. We know that it's more expensive than life imprisonment. We know that it is inequitably applied. We know that it is racist. There are studies on all of these points and I would be pleased to deliver materials to any member who requests them. My phone number is on this letter.

So why do people support the death penalty? I believe it is out of fear that judges and parole boards won't do their jobs and out of a sense that we just want "those people" off the streets for good. As to the fear about judges and parole boards, perhaps you can help educate the folks back home about our Alaska system. Murder 1 sentences average 80 to 90 years here. And the murder rate in Alaska is not going up. People need to hear this because studies show that people in Alaska are not well informed about our current criminal penalties. Many Alaskans are recent transplants from other states where there is a more lenient judiciary. You can help educate, listening to and recognizing people's fear and then, rather than pandering to that fear, help

I'll See You When The Moon Is Full
Illustrated by Jim Fowler
Greenwillow Books 1994
1995 Christopher Award winner

When Joel Comes Home
Illustrated by Jim Fowler
Greenwillow Books 1993

Fog
Illustrated by Jim Fowler
Greenwillow Books 1992

When Summer Ends
Illustrated by Marisabina Russo
Greenwillow Books 1989
Puffin 1992

them understand the real situation. Consider with them real ways to reduce crime in their neighborhoods and communities rather than wasting time and energy on empty legislation.

I share the concern about not wanting killers on our streets, but I stop short of wanting to kill. I think we find ourselves able to condemn to death when we socially distance ourselves from those who kill. We support death because we don't think the killers are like us.

I served on a Murder 1 jury once, about fourteen years ago. It was a painful, gut wrenching experience and I hope never to be in that position again. I assumed that if I came to find the accused guilty, I would, of course, feel distant from him. I'd be able to tell that he wasn't one of us, that he was cut of a different cloth. If I'd read about the case in the paper, I would have believed that he was "one of them." But I sat in the courtroom with him day after day, watched him, listened to him, his mother, his friends, and I knew -- at the same time that I voted to convict -- that we were made of the same stuff, he and I. He was human, not a monster, although what he had done was monstrous. I was deeply shaken, scared and humbled by recognizing him as a part of the humanity I shared, seeing that we were more alike than different. Did I want him off the streets? Yes. Could I have said kill him? No.

Last week my family was honored to host Daniel Georges-Abeyie, a speaker from Amnesty International. Some of you may have met him. He speaks for death penalty abolition from his background as a professor and consultant in the criminal justice field. But he speaks, too, as one who has lost three brothers to murder. I listen to him, as I earlier listened to Marietta Yaeger, whose daughter was murdered, and I am humbled in another way by the humanity I share with them. When I hear Daniel speak about justice with mercy, Marietta speak about forgiveness and reconciliation, a part of the fabric of humanity that has been breached and ripped by the hatred, murders, and terrorism in the world, is mended, is made richer, stronger. We are helped to heal. And we need to be healed.

Above all, we need to refuse to sanction violence, violence in our homes, in our schools, and certainly state-sanctioned violence. Please, don't kill for us, and don't vote for legislation that moves us in that direction.

Truly,


Susi Grege Fowler

FISCAL NOTE

No. 3
 Bill Version: CS SS SB 52 (JUD)
 (S) Publish Date: 3/28/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: 03/25/96 Dept. Affected: Alaska Court System
 Title: Capital Punishment for Murder BRU: Trial Courts
 Component: _____
 Sponsor: Sens. Taylor, Pearce
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

EXPENDITURES/REVENUES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

--	--	--	--	--	--	--

CHANGE IN REVENUES ()

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Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1007 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CLC* Phone: 264-8228
 Agency: Alaska Court System Date: 03/25/96
 Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CLC* Date: 03/25/96
 Agency: Alaska Court System

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FISCAL NOTE

No. 2

STATE OF ALASKA
1996 LEGISLATIVE SESSION

B| Bill Version: CS SSSB52(JWD)

(S) Publish Date: 3/28/96

Revision Date: March 18, 1996
 Title: Capital Punishment for Murder
 Sponsor: Senator Taylor
 Requestor: S. Finance

Dept. Affected: Public Safety
 BRU: Alaska State Troopers
 Component: Detachments

COMPONENT SERIAL NO. 0799

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES () Revenue Code						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY 96) impact: \$ _____

POSITIONS:

FULL - TIME						
PART - TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill will not have a fiscal impact on the Division of State Troopers. The impact of this bill on the division is the possibility of troopers having to attend court proceedings that they do not currently have to attend.

Prepared By: Lt. Dan Lowden
 Division: Alaska State Troopers

Phone: 465-5505
 Date: March 18, 1996

Approved by Commissioner: Ronald L. Otte
 Agency: Ronald L. Otte, Department of Public Safety

Date: 3/19/96

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FISCAL NOTE

No. 1

Bill Version: CSSS, SB 52 (TUD)

(S) Publish Date: 3/12/96

**STATE OF ALASKA
1996 LEGISLATIVE SESSION**

Revision Date: 3/7/96 Dept. Affected: Office of the Governor
 Title: An Act authorizing capital punishment... BRU Elective Operations
authorizing an advisory vote on instituting capital punishment Component: General and Primary Elections
 Sponsor: Senator Taylor
 Requester: Senate Judiciary COMPONENT SERIAL NO. 22

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	2.2					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2.2	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF	2.2					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	2.2	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet as required by AS 15.58, and the programming costs for counting votes cast on the question. However, only four measures can be printed on a single ballot card. If this measure requires an additional ballot card, the costs will increase by \$53.4.

Prepared by: Dana LaTour Phone: 465-5347
 Division: Division of Elections Date: 3/7/96

Approved by
 Commissioner: Lt. Governor Fran Ulmer *John Lundbeck, Jr.* Date: 3/7/96
 Agency: Office of the Lt. Governor

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HOUSE BILL NO. 481

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES MASEK, Kohring, Ogan

Introduced: 2/9/96

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing capital punishment, classifying murder in the first degree as
2 a capital felony, and allowing the imposition of the death penalty when certain
3 of those murders are committed against children; establishing sentencing procedures
4 for capital felonies; and amending Rules 32, 32.1, and 32.3, Alaska Rules of
5 Criminal Procedure, and Rules 204, 209, 210, and 212, Alaska Rules of Appellate
6 Procedure."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * Section 1. AS 05.15.140(b) is amended to read:

9 (b) In an application for a permit, a municipality or qualified organization shall
10 disclose the name and address of each person responsible for the operation of the
11 activity and whether any person named

12 (1) has been convicted of a violation of a law of this state that is, or
13 a law or ordinance of another state that would be if committed in this state, a capital

1 or [AN] unclassified felony described in AS 11, a Class A felony, extortion, or a
2 violation of a law or ordinance of this state or another jurisdiction that is a crime
3 involving theft or dishonesty or a violation of gambling laws; or

4 (2) has a prohibited financial interest, as defined in regulations adopted
5 by the department, in the operation of the activity.

6 * Sec. 2. AS 11.31.100(d) is amended to read:

7 (d) An attempt is

8 (1) an unclassified felony if the crime attempted is murder in the first
9 degree;

10 (2) a class A felony if the crime attempted is an unclassified felony
11 [OTHER THAN MURDER IN THE FIRST DEGREE];

12 (3) a class B felony if the crime attempted is a class A felony;

13 (4) a class C felony if the crime attempted is a class B felony;

14 (5) a class A misdemeanor if the crime attempted is a class C felony;

15 (6) a class B misdemeanor if the crime attempted is a class A or class
16 B misdemeanor.

17 * Sec. 3. AS 11.31.110(c) is amended to read:

18 (c) Solicitation is a

19 (1) class A felony if the crime solicited is a capital or [AN]
20 unclassified felony;

21 (2) class B felony if the crime solicited is a class A felony;

22 (3) class C felony if the crime solicited is a class B felony;

23 (4) class A misdemeanor if the crime solicited is a class C felony;

24 (5) class B misdemeanor if the crime solicited is a class A or class B
25 misdemeanor.

26 * Sec. 4. AS 11.31.120(h) is amended to read:

27 (h) Conspiracy is

28 (1) an unclassified felony if the object of the conspiracy is murder in
29 the first degree;

30 (2) a class A felony if the object of the conspiracy is a crime
31 punishable as an unclassified felony [OTHER THAN MURDER IN THE FIRST

1 DEGREE];

2 (3) a class B felony if the object of the conspiracy is a crime
3 punishable as a class A felony;

4 (4) a class C felony if the object of the conspiracy is a crime
5 punishable as a class B felony.

6 * Sec. 5. AS 11.31.120(i) is amended to read:

7 (i) In this section,

8 (1) "overt act in furtherance of the conspiracy" means an act of such
9 character that it manifests a purpose on the part of the actor that the object of the
10 conspiracy be completed;

11 (2) "serious felony offense" means an offense

12 (A) against the person under AS 11.41, punishable as a capital,
13 an unclassified, or class A felony; or

14 (B) involving controlled substances under AS 11.71, punishable
15 as an unclassified, class A, or class B felony.

16 * Sec. 6. AS 11.41.100(b) is amended to read:

17 (b) Murder in the first degree is a capital [AN UNCLASSIFIED] felony and
18 is punishable as provided in AS 12.55.125(a) [AS 12.55].

19 * Sec. 7. AS 12.30.020(a) is amended to read:

20 (a) A person charged with an offense shall, at that person's first appearance
21 before a judicial officer, be ordered released pending trial on the person's personal
22 recognizance or upon the execution of an unsecured appearance bond in an amount
23 specified by the judicial officer unless the offense is a capital felony, an unclassified
24 felony, or a class A felony or unless the officer determines that the release of the
25 person will not reasonably assure the appearance of the person as required, or will
26 pose a danger to other persons and the community. If the offense with which a person
27 is charged is a felony, on motion of the prosecuting attorney, the judicial officer may
28 allow the prosecuting attorney up to 48 hours to demonstrate that release of the person
29 on the person's personal recognizance or upon the execution of an unsecured
30 appearance bond will not reasonably assure the appearance of the person, or will pose
31 a danger to other persons and the community.

1 * Sec. 8. AS 12.30.040(b) is amended to read:

2 (b) Notwithstanding the provisions of (a) of this section, a person may not be
3 released on bail either before sentencing or pending appeal if the person has been
4 convicted of an offense that is

5 (1) a capital felony, an unclassified felony, or a class A felony; or

6 (2) a class B or class C felony if the person has been previously
7 convicted of an offense in this state that is an unclassified felony, a class A felony, or
8 a violation of AS 11.41.260, 11.41.420 - 11.41.425, or 11.41.436 - 11.41.438 or of an
9 offense in another jurisdiction with elements substantially similar to an offense of this
10 state described in this paragraph.

11 * Sec. 9. AS 12.47.110(b) is amended to read:

12 (b) On or before the expiration of the initial 90-day period of commitment the
13 court shall conduct a hearing to determine whether or not the defendant remains
14 incompetent. If the court finds by a preponderance of the evidence that the defendant
15 remains incompetent, the court may recommit the defendant for a second period of 90
16 days. The court shall determine at the expiration of the second 90-day period whether
17 the defendant has become competent. If at the expiration of the second 90-day period
18 the court determines that the defendant continues to be incompetent to stand trial, the
19 charges against the defendant shall be dismissed without prejudice and continued
20 commitment of the defendant shall be governed by the provisions relating to civil
21 commitments under AS 47.30.700 - 47.30.915 unless the defendant is charged with a
22 crime involving force against a person and the court finds that the defendant presents
23 a substantial danger of physical injury to other persons and that there is a substantial
24 probability that the defendant will regain competency within a reasonable period of
25 time, in which case the court may extend the period of commitment for an additional
26 six months. If the defendant remains incompetent at the expiration of the additional
27 six-month period, the charges shall be dismissed without prejudice and either civil
28 commitment proceedings shall be instituted or the court shall order the release of the
29 defendant. If the defendant remains incompetent for five years after the charges have
30 been dismissed under this subsection, the defendant may not be charged again for an
31 offense arising out of the facts alleged in the original charges, except if the original

1 charge is a class A felony, [OR] unclassified felony, or capital felony.

2 * Sec. 10. AS 12.55.025(i) is amended to read:

3 (i) Except as provided by AS 12.55.125(a)(3), 12.55.125(k), 12.55.145(d),
4 12.55.155(f), and 12.55.165, or in determining if a sentence of death should be
5 imposed under AS 12.58, the preponderance of the evidence standard of proof applies
6 to sentencing proceedings.

7 * Sec. 11. AS 12.55.125(a) is amended to read:

8 (a) A defendant convicted of murder in the first degree shall be sentenced to
9 a definite term of imprisonment of at least 20 years but not more than 99 years, or
10 shall be sentenced to death. A defendant convicted of murder in the first degree, but
11 not sentenced to death, shall be sentenced to a mandatory term of imprisonment of
12 99 years when

13 (1) the defendant is convicted of the murder of a uniformed or
14 otherwise clearly identified peace officer, fire fighter, or correctional officer who was
15 engaged in the performance of official duties at the time of the murder;

16 (2) the defendant has been previously convicted of

17 (A) murder in the first degree under AS 11.41.100 or former
18 AS 11.15.010 or 11.15.020;

19 (B) murder in the second degree under AS 11.41.110 or former
20 AS 11.15.030; or

21 (C) homicide under the laws of another jurisdiction when the
22 offense of which the defendant was convicted contains elements similar to first
23 degree murder under AS 11.41.100 or second degree murder under
24 AS 11.41.110; or

25 (3) the court finds by clear and convincing evidence that the defendant
26 subjected the murder victim to substantial physical torture.

27 * Sec. 12. AS 12.55.125(f) is amended to read:

28 (f) If a defendant is sentenced under (a) or (b) of this section,

29 (1) imprisonment for the prescribed minimum term may not be
30 suspended under AS 12.55.080;

31 (2) imposition of sentence may not be suspended under AS 12.55.085;

1 (3) imprisonment for the prescribed minimum term may not be
2 otherwise reduced;

3 (4) a sentence of death may not be suspended under AS 12.55.080.

4 * Sec. 13. AS 12.55.145(a) is amended to read:

5 (a) For purposes of considering prior convictions in imposing sentence under
6 AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), or (i)

7 (1) a prior conviction may not be considered if a period of 10 or more
8 years has elapsed between the date of the defendant's unconditional discharge on the
9 immediately preceding offense and commission of the present offense unless the prior
10 conviction was for a capital, [AN] unclassified, or class A felony;

11 (2) a conviction in this or another jurisdiction of an offense having
12 elements similar to those of a felony defined as such under Alaska law at the time the
13 offense was committed is considered a prior felony conviction;

14 (3) two or more convictions arising out of a single, continuous criminal
15 episode during which there was no substantial change in the nature of the criminal
16 objective are considered a single conviction unless the defendant was sentenced to
17 consecutive sentences for the crimes; offenses committed while attempting to escape
18 or avoid detection or apprehension after the commission of another offense are not part
19 of the same criminal episode or objective.

20 * Sec. 14. AS 12.55.155(f) is amended to read:

21 (f) Under this section, if [IF] the state seeks to establish a factor in
22 aggravation at sentencing or if the defendant seeks to establish a factor in mitigation
23 at sentencing, written notice must be served on the opposing party and filed with the
24 court not later than 10 days before the date set for imposition of sentence. Under this
25 section, factors [FACTORS] in aggravation and factors in mitigation must be
26 established by clear and convincing evidence before the court sitting without a jury.
27 All findings must be set out with specificity.

28 * Sec. 15. AS 12 is amended by adding a new chapter to read:

29 CHAPTER 58. CAPITAL PUNISHMENT.

30 ARTICLE 1. IMPOSITION OF SENTENCE.

31 Sec. 12.58.010. SENTENCING PROCEDURE FOR A CAPITAL FELONY.

1 (a) If, after a trial by jury, a defendant is convicted of a capital felony, the court shall
2 conduct a separate sentencing proceeding before the trial jury as soon as practicable.
3 If a jury trial has been waived or if the defendant has pled guilty, the sentencing
4 proceeding shall be held before a jury impaneled for the purpose.

5 (b) During the sentencing proceeding, evidence may be presented as to any
6 aggravating or mitigating factor that the court considers to have probative value,
7 regardless of the admissibility of the evidence under the rules of evidence. The
8 defendant shall have an opportunity to rebut hearsay evidence that is admitted. The
9 state and the defendant or the defendant's counsel shall be permitted to present oral
10 statements. This subsection does not authorize the introduction of evidence in
11 violation of the Constitution of the State of Alaska or the Constitution of the United
12 States.

13 (c) After hearing the evidence, the jury shall deliberate and recommend a
14 sentence to the court. The recommended sentence must include written findings of
15 whether the jury unanimously finds

16 (1) beyond a reasonable doubt that an aggravating factor or factors exist
17 to justify the death sentence;

18 (2) by a preponderance of the evidence that the aggravating factor or
19 factors outweigh any mitigating factors found to exist by a preponderance of the
20 evidence; and

21 (3) that the defendant should be sentenced to death.

22 Sec. 12.58.020. SENTENCE IMPOSITION FOR CAPITAL FELONY. (a)
23 After considering the evidence and the recommended sentence, the court shall enter
24 a sentence of death or a term of imprisonment in accordance with AS 12.55.125(a).
25 The court may not impose the death sentence unless the jury (1) finds beyond a
26 reasonable doubt at least one aggravating factor, (2) finds by a preponderance of the
27 evidence that that factor or those factors are not outweighed by any mitigating factors
28 found to exist by a preponderance of the evidence, and (3) recommends that the
29 defendant be sentenced to death. If the jury findings include an aggravating factor or
30 factors that are not outweighed by one or more of the mitigating factors and if the jury
31 recommends a sentence of death, the court shall sentence the defendant to death. If

1 a sentence of death is not recommended by the jury, the court shall sentence the
2 defendant to a term of imprisonment under AS 12.55.125(a).

3 (b) When the court enters a sentence of death, it shall state in writing the
4 jury's findings of

- 5 (1) aggravating factors that exist to justify the sentence; and
- 6 (2) mitigating factors considered but found insufficient to outweigh the
7 aggravating factors.

8 (c) A judgment of conviction for which a sentence of death is imposed is
9 subject to automatic review under AS 12.58.100.

10 Sec. 12.58.030. AGGRAVATING FACTORS. In determining whether to
11 impose a sentence of death, the following aggravating factors may be considered: the
12 defendant's conduct caused the death of a child under 18 years of age, the defendant,
13 at the time of the offense, was at least two years older than the child, and the
14 defendant

- 15 (1) was kidnaping, assaulting, or sexually assaulting, or was attempting
16 to kidnap, assault, or sexually assault, the child; or
- 17 (2) had kidnaped, assaulted, or sexually assaulted the child.

18 Sec. 12.58.040. MITIGATING FACTORS. In determining whether to impose
19 the death sentence, all mitigating factors shall be considered, including, but not limited
20 to, the following:

- 21 (1) the defendant committed the offense under a degree of duress,
22 coercion, threat, or compulsion that was insufficient to constitute a defense but that
23 significantly affected the defendant's conduct;
- 24 (2) the conduct of a youthful defendant was substantially influenced by
25 a person more mature than the defendant;
- 26 (3) the defendant acted with serious provocation from the victim;
- 27 (4) the defendant assisted authorities to detect or apprehend other
28 persons who committed the offense with the defendant.

29 ARTICLE 2. SENTENCE REVIEW.

30 Sec. 12.58.100. REVIEW OF JUDGMENT OF CONVICTION OF A
31 CAPITAL FELONY. (a) A judgment of conviction of a capital felony for which a

1 sentence of death is imposed shall automatically be reviewed by the supreme court
2 within 60 days after imposition of the sentence. This time limit may be extended by
3 the supreme court for good cause.

4 (b) A review under this section has priority over all other cases and the case
5 shall be heard in accordance with rules adopted by the supreme court. On review, the
6 court shall determine whether

7 (1) the sentence was imposed under the influence of passion, prejudice,
8 or other arbitrary factor;

9 (2) the evidence supports the finding of an aggravating factor under
10 AS 12.58.030 and whether the jury has properly considered mitigating factors under
11 AS 12.58.040;

12 (3) the sentence is excessive or disproportionate to the penalty imposed
13 in similar cases, considering both the crime and the defendant; and

14 (4) any other issue that the defendant may raise as a point on appeal.

15 (c) In its consideration of an automatic appeal under (a) and (b) of this section,
16 the supreme court

17 (1) may not require the defendant to file a notice of appeal unless the
18 defendant raises an issue as a point on appeal under (b)(4) of this section;

19 (2) may not require the defendant to pay a fee;

20 (3) shall designate the entire record of the proceedings before the
21 sentencing court as the record on appeal;

22 (4) shall prepare the transcript of the proceedings for the record on
23 appeal at public expense; and

24 (5) may not require the defendant to submit and file a brief unless the
25 defendant raises an issue as a point on appeal under (b)(4) of this section.

26 Sec. 12.58.110. ISSUANCE OF DEATH WARRANT. If the supreme court
27 upholds a judgment of conviction and sentence of death, the court shall issue a death
28 warrant that specifies a date of execution. The specified date of execution must be not
29 less than 30 days nor more than 60 days after the date of the warrant. The death
30 warrant shall be delivered to the commissioner of corrections.

31 ARTICLE 3. ADMINISTRATION OF THE DEATH PENALTY.

1 Sec. 12.58.200. ADMINISTRATION OF THE DEATH PENALTY. The
2 commissioner shall establish a procedure for the execution of a sentence of death
3 ordered by the state supreme court at the time and place legally appointed.

4 Sec. 12.58.210. EXECUTION UNDER SUPREME COURT DEATH
5 WARRANT. After receiving a supreme court warrant issued under AS 12.58.110, the
6 commissioner shall specify the time and place of execution.

7 Sec. 12.58.220. MANNER OF EXECUTION. (a) The punishment of death
8 shall be inflicted by continuous, intravenous administration of a lethal dose of sodium
9 thiopental until death is pronounced by a licensed physician.

10 (b) A death sentence shall be carried out within a state correctional facility.

11 Sec. 12.58.230. RETURN OF DEATH WARRANT. After the execution the
12 commissioner shall make a return upon the death warrant showing the time and place
13 in which the defendant was executed.

14 ARTICLE 4. STAY OF EXECUTION.

15 Sec. 12.58.300. INCOMPETENCY OR PREGNANCY OF PERSON
16 SENTENCED TO DEATH. If, after a sentence of death is imposed, the commissioner
17 has reason to believe that the defendant has become incompetent to proceed with the
18 execution or that the defendant is pregnant, the commissioner shall immediately give
19 written notice to the court in which the sentence of death was imposed, the prosecuting
20 attorney, and counsel for the defendant. The execution of sentence shall be stayed
21 pending further order of the court.

22 Sec. 12.58.310. EXAMINATION INTO COMPETENCY. (a) On receipt of
23 notice under AS 12.58.300 that the defendant is believed to be incompetent, the
24 sentencing court shall examine the mental condition of the defendant in the same
25 manner as provided for examining persons for competency to stand trial under
26 AS 12.47.070.

27 (b) If the sentencing court finds that the defendant is incompetent, the court
28 shall immediately certify that finding to the supreme court and the commissioner and
29 shall enter an order for commitment in the same manner as provided for commitment
30 under AS 12.47.110.

31 (c) If the sentencing court finds that the defendant is competent, the court shall

1 immediately certify the finding to the supreme court and the commissioner. The
2 supreme court shall issue and deliver another warrant to the commissioner under
3 AS 12.58.110, together with a copy of the certified finding. Unless the sentencing
4 court's finding is appealed in accordance with applicable court rule, the warrant shall
5 specify a date of execution that is not less than 30 days nor more than 60 days after
6 the date of the warrant.

7 Sec. 12.58.320. DISPOSITION PENDING PREGNANCY. (a) If the
8 defendant is pregnant, the sentencing court shall immediately certify that finding to the
9 supreme court and the commissioner. The supreme court shall issue an order staying
10 the execution of the sentence of death during the pregnancy.

11 (b) When the defendant is no longer pregnant, the sentencing court shall
12 immediately certify the finding to the supreme court and the commissioner. The
13 supreme court shall issue and deliver another warrant under AS 12.58.110, together
14 with a copy of the certified finding. Unless the sentencing court's finding is appealed
15 under applicable court rule, the warrant shall specify a date of execution not less than
16 30 days nor more than 60 days after the date of the warrant.

17 ARTICLE 5. GENERAL PROVISIONS.

18 Sec. 12.58.900. DEFINITIONS. In this chapter,

19 (1) "commissioner" means the commissioner of corrections;

20 (2) "department" means the Department of Corrections.

21 * Sec. 16. AS 22.07.020(a) is amended to read:

22 (a) The court of appeals has appellate jurisdiction in actions and proceedings
23 commenced in the superior court involving:

24 (1) criminal prosecution, except prosecution for a capital felony for
25 which a death sentence is imposed;

26 (2) post-conviction relief;

27 (3) children's court matters under AS 47.10.010(a)(1), including waiver
28 of children's court jurisdiction over a minor under AS 47.10;

29 (4) extradition;

30 (5) habeas corpus;

31 (6) probation and parole; and

1 (7) bail.

2 * Sec. 17. AS 22.07.020(b) is amended to read:

3 (b) Except for appeals of a death sentence or as limited in AS 12.55.120, the
4 court of appeals has jurisdiction to hear appeals of unsuspended sentences of
5 imprisonment exceeding two years for a felony offense or 120 days for a misdemeanor
6 offense imposed by the superior court on the grounds that the sentence is excessive,
7 or a sentence of any length on the grounds that it is too lenient. The court of appeals,
8 in the exercise of this jurisdiction, may modify the sentence as provided by law and
9 the state constitution.

10 * Sec. 18. AS 47.10.010(c) is amended to read:

11 (c) When a minor who was at least 16 years of age at the time of the offense
12 is arraigned on a charge for an offense specified in this subsection, AS 47.10.020 -
13 47.10.090 and the Alaska Delinquency Rules do not apply to the offense for which the
14 minor is arraigned or to any additional offenses joinable to it under the applicable rules
15 of court governing criminal procedure. The minor shall be charged, prosecuted, and
16 sentenced in the superior court in the same manner as an adult unless the minor is
17 convicted of some offense other than an offense specified in this subsection, in which
18 event the minor may attempt to prove, by a preponderance of the evidence, that the
19 minor is amenable to treatment under this chapter. If the court finds that the minor is
20 amenable to treatment under this chapter, the minor shall be treated as though the
21 charges had been heard under AS 47.10.010 - 47.10.142, and the court shall order
22 disposition of the charges of which the minor is convicted under AS 47.10.080(b). The
23 provisions of this subsection apply when the minor is arraigned on a charge

24 (1) that is a capital felony, an unclassified felony, or a class A felony
25 and the felony is a crime against a person; or

26 (2) of arson in the first degree.

27 * Sec. 19. AS 47.10.060(f) is amended to read:

28 (f) For purposes of making a determination under (a) and (d) of this section,

29 (1) the standard of proof is by a preponderance of the evidence; and

30 (2) the burden of proof that a minor is not amenable to treatment under

31 AS 47.10.010 - 47.10.142 is on the state; however, if the petition filed under

1 AS 47.10.020 seeking to have the court declare a minor a delinquent is based on the
2 minor's alleged commission of an offense that is a capital felony, an unclassified
3 felony, or class A felony and that is a crime against a person, the minor

4 (A) is rebuttably presumed not to be amenable to treatment
5 under AS 47.10.010 - 47.10.142; and

6 (B) has the burden of proof of showing that the minor is
7 amenable to treatment under AS 47.10.010 - 47.10.142.

8 * Sec. 20. APPLICABILITY TO CRIMINAL RULES. AS 12.58, added by sec. 15 of this
9 Act, has the effect of modifying the sentencing provisions of Rules 32, 32.1, and 32.3, Alaska
10 Rules of Criminal Procedure, by establishing exclusive procedures for imposition of death
11 sentence by a trial court and by authorizing automatic appeal of those sentences to the Alaska
12 Supreme Court.

13 * Sec. 21. APPLICABILITY TO APPELLATE RULES. AS 12.58.100, added by sec. 15
14 of this Act, has the effect of amending Rules 204, 209, 210, and 212, Alaska Rules of
15 Appellate Procedure, by establishing procedures and limitations on procedures relating to the
16 filing and disposition of appeals of sentences in cases in which the death penalty is imposed.

KAWERAK INCORPORATED

Resolution 94-09

OPPOSITION TO REINSTATEMENT OF THE DEATH PENALTY IN ALASKA

WHEREAS, the Kawerak, Inc. is concerned with equitable treatment of Alaska Natives within the criminal justice system; and

WHEREAS, Alaska Natives account for only 13.5% of the state's prison-age population, yet 32% of the jail population is comprised of Alaska Natives; and

WHEREAS, there is significant evidence of racial bias toward economically disadvantaged members of ethnic minorities in administration of the death penalty in other jurisdictions; and

WHEREAS, there is substantial concern among the Native community, and no evidence to the contrary, that in all likelihood the Alaska system of criminal jurisprudence is not capable of avoiding racial bias in the trial process; and

WHEREAS, the majority of Alaska Natives and people residing in rural areas of the state do not have the means to acquire adequate legal defense counsel when charged with serious crimes; and

WHEREAS, establishing a death penalty law and implementing it will cost millions of dollars and thereby deprive Alaska Natives and their communities of critical resources for service programs that focus on crime prevention; and

WHEREAS, Alaska Native tribes and organizations have historically opposed the death penalty as demonstrated by past actions to defeat federal death penalty legislation;

NOW THEREFORE BE IT RESOLVED, that Kawerak, Inc. is opposed to reinstatement of the death penalty in Alaska; and

BE IT FURTHER RESOLVED, that Kawerak, Inc. urges rural and urban legislators alike to oppose any effort to reinstate a death penalty in Alaska.

James Olafson
Chairman of the Board

Luci Eisinga
Board Secretary

4/2/94
Date

4-2-94
Date

The foregoing resolution was adopted at a duly convened meeting of the Kawerak Board of Directors, a quorum being present this 2nd day of April, 1994.