

SB

119

FISCAL NOTE

R... 1
 Bill Version: CS 119 (L&C)
 (S) Publish Date: 3-14-97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act relating to fraternal societies; and providing for
an effective date.
 Sponsor: Senate L & C
 Requestor: _____

Department: Commerce and Economic Development
 BRU: Insurance
 Component: Insurance
 COMPONENT SERIAL NO. _____ 324

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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					
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)
 This bill will not have a fiscal impact on the component.

Prepared by: Marianne K. Burke, Director *Marianne K. Burke* Phone: 465-2515
 Division: Insurance Date: _____
 Approved by Commissioner: William L. Hensley *William L. Hensley* Date: 2-10-97
 Agency: Commerce and Economic Development

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ALASKA STATE LEGISLATURE



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(907) 465-3717
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Senate Judiciary Committee

MEMORANDUM

TO: Senator Taylor, Chairman
Senator Pearce, Vice Chairman
Senator Miller
Senator Parnell
Senator Ellis

FROM: Laura Chase, Committee Aide *Laura Chase*

DATE: April 10, 1997

RE: SB 119 . Richard Klevens testimony

Mr. Klevens was scheduled to testify in support of SB 119: Fraternal Benefit Societies. He will be unable to testify when the committee reconvenes today because a teleconference line is unavailable; instead, Charlie Miller will present information in support of this bill.

If, for some reason, the committee encounters a problem or concern *that would prevent moving the bill from committee*, Mr. Klevens requests that it be held until the next available meeting when he can participate telephonically.

SENATE COMMITTEE REPORT

DATE: 3/14/97

FURTHER:

DATE TURNED
IN TO OFFICE: 4/11/97

Judiciary Committee considered SENATE BILL NO. 119

"An Act relating to fraternal benefit societies; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical change

new: SCR* _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Ute Miller</i>	✓	<i>Sean P. Gornell</i>	✓		
<i>J. Ellis</i>	✓				
CHAIR: <i>Chris T. Taylor</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>(E.D.) / INSURANCE</i>	<i>3/14/97</i>	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

ALASKA STATE LEGISLATURE



Sen. Robin Taylor, Chair
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State Capitol
Juneau, AK 99801-1182
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FROM: Laura Chase, Committee Aide *Laura Chase*

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625 Fourth Avenue South
Minneapolis, Minnesota 55415



STATEMENT CONCERNING THE NEED FOR
THE MODEL FRATERNAL CODE
IN THE STATE OF ALASKA

Mr. Chairman and members of the Committee, my name is Richard J. Kleven. I am Assistant Vice President of the Law Division of Lutheran Brotherhood, a fraternal benefit society domiciled in Minneapolis, Minnesota, and licensed in Alaska. I am appearing on behalf of the National Fraternal Congress of America (NFCA), the national trade organization for fraternal benefit societies, the author of the Model Fraternal Code that has been introduced as House Bill 179 and Senate Bill 119.

Fraternal benefit societies are not for profit, self-help membership organizations formed by people of common ethnic, religious or vocational backgrounds or people holding similar moral, ethical and patriotic beliefs. By law, fraternal benefit societies must operate on a lodge system, maintain a representative form of government and offer benefits solely to members and their dependents.

The law governing fraternal benefit societies is Chapter 84 of Title 21 of the Alaska Insurance Laws. It was enacted in 1966 as Chapter 120, and has been amended several times. Despite numerous amendments, Chapter 84 does not give fraternal benefit societies authority to meet the insurance needs of their members in today's financial environment. In October of 1983, the NFCA adopted the Model Fraternal Code to govern fraternal benefit societies. This model was the product of several years of activity taking into account the needs and interests of the members of all societies: large - small - ethnic - occupational - religious - general.

Many of the provisions of the Model Fraternal Code are a response to conflicts with the administration of laws produced outside of state government, like those created by the Internal Revenue Service and the Securities Exchange. Those and other agencies have made rules affecting members of fraternal benefit societies which are either not addressed, or are inappropriately addressed, in existing statutes such as Chapter 84, Title 21 of the Alaska Insurance Laws. For example: the naming of irrevocable beneficiaries; the privilege to assign insurance to another owner; and the ability to purchase insurance on a third-party basis are all common transactions in estate planning and income tax planning. These issues have little or no effect on state regulations but they are important to consumers - including the members of fraternal benefit societies residing in Alaska.

Model Fraternal Code
State of Alaska
March 6, 1997
Page 2

The Model Fraternal Code contains provisions which give fraternal benefit societies authority to offer their members the products they demand in response to their needs in modern America. This new Code offers some flexibility which is not now available under Chapter 84, while maintaining the character of fraternal benefit societies.

REVIEW OF IMPORTANT PROVISIONS

Here is a list of important provisions contained in the Model Fraternal Code that are not now contained in Chapter 84:

1. Fraternal may form subsidiaries or nonprofit institutions to carry out their charitable or benevolent purposes.
2. Fraternal may use irrevocable beneficiary designations and absolute assignments in their insurance certificates, so that members can use their fraternal insurance for modern estate planning needs.
3. Fraternal may set up separate accounts and may issue variable insurance products to members, upon approval of the Director of Insurance and in keeping with SEC requirements.
4. Fraternal may issue, upon approval of the Director of Insurance, new life or health insurance products that may be developed in the future and that are approved for use by commercial insurers.

Certain outdated provisions of current Chapter 84 are deleted, while other provisions have been consolidated and re-written in "easy to understand" language that is gender neutral.

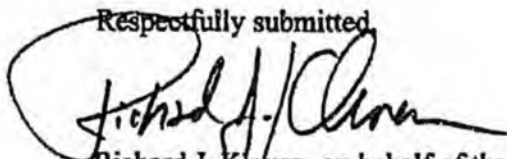
This Model Fraternal Code has been enacted in 33 states and four other states have enacted its essential features. There are no domestic fraternal benefit societies licensed in Alaska, but several societies from other states are. Those societies have over 8,000 members in Alaska, and through their 45 local lodges in your state in 1995 held 818 fraternal events, performed 9,587 fraternal acts of service represented by 57,988 hours of service. In addition, Alaska licensed fraternal benefit societies disbursed \$227,488 for fraternal, charitable and benevolent activities for the citizens of Alaska in 1995.

Model Fraternal Code
State of Alaska
March 6, 1997
Page 3

The revisions contained in the Model Fraternal Code will be of benefit to the Alaska Division of Insurance, to the licensed fraternal benefit societies in Alaska, to their 8,000+ members in the state, to the Alaska citizens who may in the future become members of a fraternal benefit society, and to the communities which we also serve.

Therefore, on behalf of the NFCA, I respectfully request that House Bill 179 and Senate Bill 119 be favorably considered and enacted by the Legislature of Alaska.

Respectfully submitted,



Richard J. Kjeven, on behalf of the National Fraternal Congress of America
March 1997

LEGAL SERVICES**DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

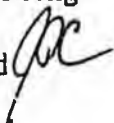
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 12, 1997

SUBJECT: Sectional Summary of House Bill 179. (Work Order No. 20-LS0720A)

TO: Representative Norman Rokeberg
Attn: Shirley Armstrong

FROM: James P. Crawford 
Assistant Revisor

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Additionally, there appear to be no cases in Alaska that substantively discuss Fraternal Benefit Organizations in a way that could provide guidance on issues presented in the bill. Consequently, the division of insurance is likely to one of the best resources to tap should questions about the bill arise.

Finally, rather than trying to discuss every point in each bill section exhaustively, I have limited discussion where possible to the main points of each section in the interests of readability and brevity.

Section 1. This section adds Article 1.

AS 21.84.005 - This section relates to representative forms of government of societies, which, among other things, must have a supreme governing body that is either an assembly or a board. In subsection (c), there is in my mind a question whether a supreme governing body board is in addition to or in place of a board of directors. However, once the sponsor decides this issue, minor language changes could clear up any ambiguity. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.900(4).*

AS 21.84.015 - This section requires that societies provide benefits as set out in AS 21.84.201 and operate for certain purposes. It also allows societies to adopt laws and rules

Representative Norman Rokeberg
March 12, 1997
Page 2

relating to its government. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.200 and AS 21.84.060(2).*

Section 2. This section adds 21.84.025, which relates to qualifications for membership, classes and types of membership, rights and privileges of and limitations on membership, and nonassignability of membership rights. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.180.*

Section 3. This section adds AS 21.84.035, which relates to location of the principal office; business transacted at meetings; minutes of the proceeding, which must conform to the English language requirement set out in AS 21.84.070; the official publication; synopses of annual statements; and grievance and complaint procedures. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.160 and 21.84.340(c).* Please note that subsection (c) is essentially restated in 21.84.465(e), found in bill section 26. Because this material fits better in the context of AS 21.84.465, the material should be removed from this section if the sponsor wants to eliminate what appears to be a redundancy.

By cross-referencing AS 21.84.070, the bill incorporates an English-language requirement for certain documents. I have recently (this morning at 8:00 am) become aware that a challenge to the constitutionality of an English-only law in Arizona reached the U.S. Supreme Court. Before reaching the Supreme Court, lower courts held the law, which required Arizona state employees to express the "official acts" of the state in English to be unconstitutional. However, the Supreme Court vacated the lower court holdings as moot because the state employee resigned from state employment a day after notices of appeal were filed. US Sup Ct, No. 95-974, 3/3/97. I have not had time to research this issue more closely, but I think it is safe to say that the constitutionality of such laws is an open question in the Ninth Circuit, which encompasses Alaska. There may be a distinction between that case and the present situation in that the law in Arizona required use of English by public employees, where the law here requires the use of English by private organizations.

Section 4. This section adds AS 21.84.045, which provides that officers and members are not personally liable for a society's benefits; requires indemnification and reimbursement of certain persons, along with exceptions; allows purchase of insurance on behalf of directors, officers, employees, and agents for certain purposes; and provides limited immunity for certain persons serving without compensation. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.250.*

Section 5. This section adds AS 21.84.055, which allows a society to provide that laws may not be waived in certain circumstances, and AS 21.84.059, which relates to the process by which a society may amend its laws. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.150 and 21.84.140.*

Representative Norman Rokeberg
March 12, 1997
Page 3

Section 6. This section amends AS 21.84.060 by changing "society" to "domestic society"; by inserting a date relating to a domestic society's form of government; by deleting references to certain purposes of societies, which may now be found in AS 21.84.015(a)(2); and by changing "certificate" to "certificate of authority."

Section 7. This section amends AS 21.84.070, the most significant amendments being the increase in the amounts of bonds relating to the completion date of the organization of a society.

Section 8. This section amends AS 21.84.080 by changing "certificate" to "certificate of authority" and "society" to "domestic society."

Section 9. This section amends 21.84.090, the most significant amendments relating to requirements a society must satisfy before taking actions relating to incurring liabilities, issuing certificates, or paying certain benefits.

Section 10. This section amends AS 21.84.100 by changing "society" to "domestic society" and by changing "certificate" to "certificate of authority."

Section 11. This section amends AS 21.84.120 to change a date relating to an obligation for a society to reincorporate.

Section 12. This section amends AS 21.84.170(a) to provide that societies may operate not for profit institutions to further purposes permitted by AS 21.84.015.

Section 13. This section adds AS 21.84.175, which relates to reinsurance agreements by societies. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.310.*

Section 14. This section adds 21.84.185, which relates to procedures and requirements for consolidations and mergers between societies. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.500 and 21.84.510.*

Section 15. This section adds 21.84.195, which relates to plans of conversion from a fraternal benefit organization to a mutual life insurance company. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.520.*

Section 16. This section adds 21.84.201, which lists types of benefits a society may provide, requires a society to specify rules relating to persons who may be issued or covered by contractual benefits, and allows benefits on the lives of persons under the age of adult membership. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.200.*

Representative Normian Rokeberg
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Section 17. This section amends AS 21.84.230(a) to provide for irrevocable beneficiary designations.

Section 18. This section amends AS 21.84.230(c) to provide that benefit contract proceeds are payable to the owner of the benefit contract at the death of an insured person if the insured person was not the owner and if there are no beneficiaries.

Section 19. This section adds AS 21.84.255, which relates to benefit contracts. It describes materials comprising the benefit contract; it describes the effect on certificate owners and beneficiaries of amendments to a society's laws; it discusses certain persons below the age of majority; it describes requirements that apply if reserves of classes of certificates become impaired; it discusses requirements relating to certificates of benefit contracts; it discusses transferability of certain benefit contracts; and it discusses assignability of benefit contracts. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.260 and 21.84.270.*

Section 20. This section adds AS 21.84.265, which relates to the size of certain amounts and benefit values connected to certificates. These amounts and benefit values are treated differently based on the certificate's date of issuance. If the certificate was issued before a specified date, the size is set by the provision of laws applicable on the day before the effective date of the Act. Note that the Act has an effective date of January 1, 1998, assuming the effective date provision receives the required number of votes. On the other hand, if the certificate was issued on or after the specified date, the size is set by reference to interest rate and mortality tables authorized by state law and used in calculating similar benefits of life and health insurers. The pivotal specified date in this section is a date one year after the effective date of the act. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.220.*

Section 21. This section adds AS 21.84.275, which describes investments authorized for societies, including foreign and alien societies. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.330.*

Section 22. This section amends AS 21.84.320(a) by changing "contract" to "benefit contract."

Section 23. This section adds subsection (d) to AS 21.84.320. This subsection relates to the establishment and operation of separate accounts and contracts issued on a variable basis.

Section 24. This section adds AS 21.84.335, which provides that societies are governed by AS 21.84 but are exempt from all other provisions of the insurance laws of the state except for specific chapters and sections listed. These listed chapters and sections outside AS 21.84 apply to societies to the extent applicable unless they conflict with AS 21.84. *For purposes*

Representative Norman Rokeberg
 March 12, 1997
 Page 5

of comparison, some analogous or similar provisions in existing law are found in AS 21.84.590.

Section 25. This section adds 21.84.455, which relates to standards of valuation of certificates issued by societies. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.350.*

Section 26. This section adds AS 21.84.465, which requires the filing of an annual statement of certain information about the society; requires the communication of synopses of the statement to benefit members; and allows the director of the division of insurance to require more frequent filing of statements. Note that subsection (e) essentially restates AS 21.84.035(c), set out in bill section 3. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.340.*

Section 27. This section adds AS 21.84.475, which relates to licences and renewals. Certain societies are authorized to conduct business through June 30 immediately following the effective date of the Act, which has an effective date of January 1, 1998, assuming the effective date provision receives the required number of votes. This authorization relates (1) to societies authorized to conduct business on the effective date of the act, and (2) to societies that become licensed after the effective date but before July 1 immediately following the effective date. The authority of these societies may be renewed annually but terminates on the first day of the succeeding July, which is also the case for all other societies. However, issued licenses continue until a new license is issued or specifically refused. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.030.*

Section 28. This section adds AS 21.84.485, which allows the director of the division of insurance to examine societies in the manner authorized under AS 21.06.120 - 21.06.230 for examination of insurers. Note that AS 21.06 has additional sections relating to examination that this section does not reference. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.370, 21.84.380, and 21.84.390.*

Section 29. This section adds 21.84.495, which relates to the licensing of foreign or alien societies. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.040.*

Section 30. This section adds AS 21.84.535, which relates to suspension, revocation, or refusal of licenses of foreign or alien societies. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.050.*

Section 31. This section adds 21.84.565, which requires agents of societies to be licensed in accordance with AS 21.27, which relates to licensing requirements in the insurance

Representative Norman Rokeberg

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industry in Alaska. It also creates an exception to requirements of examination and licensing.

Section 32. This section adds 21.84.575, which subjects societies and agents to AS 21.36, relating to unfair methods of competition or unfair or deceptive acts or practices in the business of insurance. This section also clarifies that the application of AS 21.36 does not affect certain activities by societies.

Section 33. This section adds Article 7 to AS 21.84.

AS 21.84.625 - This section requires a society to appoint the director of the division of insurance as its representative for receiving service of process. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.490.*

AS 21.84.650 - This section provides specific penalties for certain acts and a general penalty for acts that constitute a violation of AS 21.84 that are not penalized elsewhere.

AS 21.84.675 - This section provides for judicial review of decisions and findings of the director of the division of insurance. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.550.*

AS 21.84.700 - This section creates exemptions from the application and effect of AS 21.84 for certain categories of associations offering certain kinds of benefits. However, this section also removes the exemptions in some circumstances and places restrictions on activities of certain exempt associations. Also, please note that subsection (f) provides that societies that are exempt from the provision of AS 21.84 are "exempt from all other provisions of the insurance laws of this state," also found in existing law. *For purposes of comparison, some analogous or similar provisions in existing law are found in AS 21.84.020.*

Section 34. This section amends four definitions in AS 21.84.900, the chapter's definitions section, and repeals one definition, which is "representative form of government." This phrase is now found in AS 21.84.005, set out bill section 1.

Section 35. This section adds nine defined terms or phrases to AS 21.84.900.

Section 36. This section repeals those sections from AS 21.84 that have not been retained.

Section 37. This section provides an effective date of January 1, 1998.

JPC:glc
97-166.glc

**1994 LIFE, ANNUITY AND A AND H
BUSINESS FOR FRATERNAL ORGANIZATIONS
(\$000)**

COMPANY NAME	DOM	LIFE				A & H PREMIUMS		
		ISSUED DURING CURRENT YEAR	IN FORCE END OF YEAR	PREMIUMS WRITTEN	BENEFITS PAID	ANNUITY CONSIDERATIONS	COLLECTIVELY RENEWABLE	ALL OTHER
AID ASSOCIATION FOR LUTHERANS	WI	17,861	190,841	1,140	725	1,039	0	150
AMERICAN POSTAL WORKERS ACC BNFT ASN	NH	0	0	0	0	0	0	0
INDEPENDENT ORDER OF FORESTERS US BR	NY	555	42,113	356	195	5	0	1
KNIGHTS OF COLUMBUS	CT	17	2,679	20	27	0	0	2
LUTHERAN BROTHERHOOD	MN	15,016	134,390	947	712	203	0	129
SONS OF NORWAY	MN	1,748	23,406	286	1,271	339	0	2
WOODMEN OF THE WORLD LIFE INS SOC	NE	0	941	10	26	0	0	0
TOTAL		35,197	394,370	2,759	2,958	1,586	0	284

7 COMPANIES

**RECAP OF 1994 ALASKA ACCIDENT & HEALTH BUSINESS*
(LIFE, AND PROPERTY & CASUALTY INSURERS - \$000)**

	DIRECT WRITTEN PREMIUMS	DIRECT EARNED PREMIUMS	DIRECT LOSSES INCURRED
GROUP	249,670	197,668	158,812
CREDIT	4,628	4,525	2,437
COLLECTIVELY RENEWABLE	277	284	16
ALL OTHER	10,124	10,372	5,074
TOTAL	264,699	212,849	166,339

*Includes Canadian Life Insurers

**WOODMEN OF THE WORLD/OMAHA WOODMEN
LIFE INSURANCE SOCIETY**



WOODMEN TOWER, 1700 FARNAM ST.
OMAHA, NEBRASKA 68103
TELEPHONE (402) 843-1800
FACSIMILE (402) 841-0668

March 11, 1997

VIA FACSIMILE 907-465-3810

The Honorable Loven Leman
Alaska State Senate
Juneau, Alaska

MARK D. THEISEN
*Vice President and
General Counsel*

CALVIN E. ROBINSON
*Vice President and
Assistant General Counsel*

JAMES M. GLEASON
*Assistant Vice President and
Associate General Counsel*

LYNN L. ESPELAND
Assistant General Counsel

S. JAMES PATTERSON
Assistant General Counsel

Dear Senator Leman:

Re: S.119 (Model Fraternal Code)

On behalf of our 117 members in the State of Alaska, Woodmen of the World/Omaha Woodmen Life Insurance Society strongly supports the adoption of the Model Fraternal Code in Alaska. We hope that Alaska will join the over two-thirds of other states who have adopted the Model Code on behalf of fraternal benefit societies and fraternalists in their states.

Again, we support S.119 and concur with statements made in support of S.119 by the individual who will be representing the National Fraternal Congress of America (NFCA), who I believe will be Mr. Rick Kleven of Lutheran Brotherhood.

Sincerely,

Mark D. Theisen
Vice President and
General Counsel

lj

cc: David Brummond, General Counsel
National Fraternal Congress of America



Post-It™ brand fax transmittal memo 7671		# of pages > 1	
To	Sen. Loren Leman	From	Greg Eisert
Co.		Co.	Luth. Brotherhood
Dept.		Phone #	907-277-0035
Fax #	907-465-380	Fax #	907-274-6841

March 10, 1997

Senator Loren Leman
Chairman, Senate Labor and Commerce Committee

Dear Mr Chairman:

I am writing to indicate my support of H.P. 179 and S. F. 119, which would bring the Model Fraternal Code to Alaska. As a fraternalist, and a member of Lutheran Brotherhood, and also as a District Rep. for Lutheran Brotherhood, this bill is important to me as it will allow fraternalists the flexibility to meet the needs of their members now and into the future. It will not change our basic nature as not-for-profit, self-help membership organizations, with local lodges throughout our state and the rest of the nation.

Thank you for your support of this bill.

Gregory A. Eisert FIC,
2525 Blueberry Rd. Ste.102
Anchorage, AK 99503
(907) 277-0035

A handwritten signature in cursive script that reads 'Gregory A. Eisert'.



**LUTHERAN
BROTHERHOOD**

H. Wayne Berg
District Representative

P.O. Box 3247
Ketchikan, AK 99901
Phone: (907) 225-8963

March 10, 1997

Senator Loren Leman
Chairman, Senate Labor and Commerce Committee
Alaska State Legislature

Dear Mr. Chairman;

I am writing to indicate my support of H.F. 179 and S.P. 119, which would bring the Model Fraternal code to Alaska. As a fraternalist, member of and District Representative for Lutheran Brotherhood, this bill is important to me as it will allow fraternalists the flexibility to meet the needs of their members now and in the future. It will not change our basic nature as not-for-profit, self-help membership organizations, with local lodges throughout our state and the rest of the nation.

Thank you for your support of this bill.

Sincerely,

H. Wayne Berg
600 Main St.
Ketchikan, Ak. 99901

John L. George & Associates
3328 Fritz Cove Road
Juneau, Alaska 99801
Tel. 907 789-0172 Fax 907 789-6964

March 10, 1997

The Honorable Loren Leman
Chairman Senate Labor and Commerce Committee
State Capitol
Juneau, Alaska 99801

Reference: SB 119

Dear Senator Leman,

On behalf of the American Council of Life Insurance, I would like to express our support for SB 119 which up dates the insurance statutes relating to fraternal benefit societies. Fraternal provide insurance products to their members in competition with products provided by stock and mutual life insurance companies. Although fraternal serve a relatively small and specialized membership, we believe that they are an important provider of coverage to their members.

The proposed legislation modernizes the current statutes and does not create a significant competitive advantage or disadvantage for fraternal benefit societies. Although I do not plan to testify on this bill before your committee, I wanted to express to you that we support passage of this legislation.

Sincerely,


John L. George

March 12, 1997

Senator Loren Leman
Chair, Senate Labor And Commerce
State Capitol
Juneau, AK 99801-1182

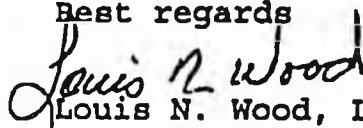
Dear Senator Leman

I am writing to ask your support for a bill now pending in the Alaska Senate that affects the future of the fraternal benefit system in this state. Senate Bill 119 would implement the provisions of the Model Fraternal Code of the National Fraternal Congress of America in Alaska.

Fraternal benefit societies are nonprofit, self-help membership organizations formed by people of common ethnic, religious, or vocation backgrounds or people holding similar moral, ethical, or patriotic beliefs. By law, fraternal benefit societies must operate on a lodge system, maintain a representative form of government and offer benefits solely to members and their dependants. The Model Fraternal Code is needed in Alaska to update the law governing fraternal benefit societies and modernize the authority for fraternal to offer meaningful benefits to members.

I ask for your support for Senate Bill 119 so that fraternal benefit societies can continue their work in addressing community needs in this state. Thank you for your consideration of this measure.

Best regards


Louis N. Wood, LUTC

A PROPOSAL FOR ENACTMENT OF THE MODEL FRATERNAL CODE
OF THE NATIONAL FRATERNAL CONGRESS OF AMERICA
IN LIEU OF CHAPTER 84 OF THE ALASKA INSURANCE CODE

A. The legislative history of the antecedents to Chapter 84 of the Alaska Insurance Code.

Alaska enacted a new comprehensive Insurance Code in 1966 as Title 21 of the Statute Law of Alaska (Chapter 120, SLA 1966). Chapter 84 of Title 21, Sections 21.84.010 to 21.84.590 and 21.84.900, govern fraternal benefit societies. The provisions in Chapter 84 as enacted in 1966 were nearly identical to the text of the Uniform Fraternal Code of 1962 that had been drafted and approved by the National Fraternal Congress of America (NFCA) and the National Association of Insurance Commissioners. Twenty-four other states and Puerto Rico also adopted the Uniform Fraternal Code.

Present Chapter 84 has been amended several times since 1966:

<u>Section</u>	<u>Caption</u>	<u>Amendment Date</u>
21.84.010	Scope	Sec. 211, C. 67, 1992
21.84.030	License	Sec. 21, C. 26, 1985
21.84.210	Children	Sec. 22, C. 21, 1985
21.84.220	Nonforfeiture	Secs. 4,5, C. 28, 1984
21.84.290	(repealed)	Sec. 223, C. 67, 1992
21.84.340	Statement	Sec. 22, C. 26, 1985
21.84.350	Valuation	Sec. 6, C. 28, 1984 Sec. 212, C. 67, 1992
21.84.410 to		
21.84.460	(repealed)	Sec. 223, C. 67, 1992
21.84.470	Misrepresentation	Sec. 19, C. 149, 1984
21.84.480	Discrimination	Sec. 213, C. 67, 1992
21.84.490	Process	Sec. 24, C. 26, 1985
21.84.560 to		
21.84.580	(repealed)	Sec. 223, C. 67, 1992
21.84.590	Applicability of Code	Sec. 2, C. 40, 1981 Sec. 2, C. 45, 1981 Sec. 20, C. 149, 1984 Sec. 25, C. 26, 1985

21.84.900

Definitions(added)

Sec. 36, C. 50, 1989

Sec. 3, C. 106, 1990

Sec. 214, C. 67, 1992

Sec. 215, C. 67, 1992

Senate Bill S. 319. Laws of 1996 also amended various sections non-substantively in Chapter 84 [S. 319, Secs. 98 to 102].

In 1980, the NFCA undertook a project to revise and update the 1962 Uniform Code. The 1983 Model Fraternal Code draft was the result. adopted by the NFCA at its Annual Convention in Denver, Colorado, in October 1983.

Since then, the 1983 Model Fraternal Code (MFC), with some drafting changes to accommodate requests of the particular Insurance Department, has been enacted in thirty-one states:

Arizona	Illinois	Minnesota	North Dakota	Virginia
Arkansas	Indiana	Missouri	Oklahoma	Washington
Colorado	Iowa	Montana	Oregon	Wyoming
Florida	Kansas	Nebraska	Pennsylvania	
Georgia	Kentucky	Nevada	Rhode Island	
Hawaii	Louisiana	New Mexico	South Dakota	
Idaho	Michigan	North Carolina	Tennessee	

Fifteen of those states, like Alaska, had previously enacted the Uniform Code. California, Utah and Wisconsin also have modern fraternal benefit societies laws containing the essential features of the NFCA 1983 Model Code. MFC legislation is currently being considered in the District of Columbia, Maryland and New York. An MFC bill in Ohio, HB-468, has already passed the House and is pending in the Senate.

B. Why does Alaska need a new fraternal benefit society law?

Today's environment of rapid changes in the insurance industry demand that there also be major changes in the laws regulating insurers.

While one particular fraternal benefit society may be affected by current changes to a greater or lesser degree than would another society, no society is entirely immune from the environment in which it operates. When changes in the environment occur, each society must carefully evaluate the nature of the changes. Implicit

in this consideration is that each society has options from which to choose alternate courses of action. It is one thing to choose not to exercise an option and quite another to have no options from which to choose.

The 1983 Model Fraternal Code of the NFCA meets the challenges of the present and future in the following ways. The most sweeping additions to the revised code would give fraternal clear authority to own subsidiary corporations and to establish the separate accounts necessary for offering variable life insurance and variable annuities. Another addition would assure that the benefit authority of fraternal would be able to keep pace with any new authorities granted to commercial life insurers in the future.

In addition to these major changes, the revised code:

- Improves the presentation of fraternal purposes and characteristics through rewriting and reorganization.
- Maintains key fraternal characteristics--lodge system, representative form of government, membership--and traditional elements such as ritual.
- Improves provisions regarding juvenile contracts, designation of irrevocable beneficiaries, assignment of contracts and use of contracts for third-party insurance situations--to make contracts more useful to members in their personal, financial and tax planning.
- Integrates some regulatory provisions with commercial insurance standards to assure up-to-date regulation, while maintaining specific exceptions for unique fraternal practices.
- Uses updated language, uniform definitions, gender-neutral references, and consistent terminology.

C. The following is a section by section comparison of the MFC bill draft of new section numbers in Chapter 84 with corresponding sections in present Chapter 84:

<u>MFC</u>	<u>Ch. 84</u>	
<u>Section</u>	<u>Section</u>	<u>Caption and Commentary</u>
21.84.1010	21.84.900(1)	Fraternal Benefit Society description is substantially the same as present law.
21.84.1020	21.84.900(2)	Lodge System description is substantially the same as present law. Subsection (b) is essentially the same as present Section 21.84.210(a) relating to branches for children.

21.84.1030	21.84.900(4)	<p>Representative Form of Government - is similar to present law. Subsection (a) clearly recognizes two types of supreme governing bodies: (1) an assembly consisting of delegates elected by the members, and (2) a board elected directly by the members. Voting by mail has been authorized. At least one foreign society licensed in Alaska has the latter form of government.</p>
21.84.1040	21.84.900	<p>Terms Used -- Defines terms commonly used in the chapter. This section includes the definition of "premiums" and "society" in present Section 21.84.900 (3) and (5). The other definitions in that section are found in MFC Sections 21.84.1010, 21.84.1020 and 21.84.1030.</p>
21.84.1050	21.84.060(2)	<p>Purposes and Powers -- contains a listing of named purposes for which a society may be organized and states that these purposes may be carried out directly by the society, or indirectly through subsidiaries or affiliated organizations. The named purposes in subsection (a)(2) are the same as recited in present Section 21.84.060(2) with "patriotic" added. Owning subsidiary corporations which engage in activities beyond the stated purposes would be permitted only in accordance with the investment laws of the state of domicile of a society and whatever subsidiary authority can be derived therefrom. MFC Section 21.84.1210 covers investments generally, specifically authorizing societies to invest their funds in investments authorized for life insurers. The organization requirements are contained in MFC Section 21.84.1100.</p>
21.84.1060	21.84.180	<p>Membership -- emphasizes the importance of fraternal as membership organizations, and gives societies authority to set eligibility standards and the rights and privileges of each membership class. This section stresses the society's right and duty to set membership qualifications. A conscious effort has been made to divorce concepts of membership from concepts of insurance, the latter taken up in MFC Section 21.84.1160 - Benefits, and Section 21.84.1190 - The Benefit Contract.</p>

21.84.1070	21.84.160: .340(c)	Location of Office, Meetings, Communications--Subsection (a) is similar to present law, except that a society may hold a meeting where it has only one branch (instead of five). Subsection (b)(1) permits notices, etc. to be distributed to members through the society's official publication. Subsection (b)(2) is similar to present section 21.84.340(c) (requiring the mailing of a synopsis of the annual statement to a society's members). Subsection (c) contains statutory authorization for grievance procedures.
21.84.1080	21.84.250	No Personal Liability-Subsection (a) is similar to present law. Subsections (b) and (c) provide authorization for indemnification of directors, officers, etc. and for the purchase of directors and officers liability insurance. Subsection (d) provides immunity from liability for directors, officers and employees serving without compensation.
21.84.1090	21.84.150	Waiver - provides that no subordinate body, officers or members may waive any provisions of the laws of the society, similar to present law.
21.84.1100	21.84.-060 to 21.84.100	Organization - This section includes all organizational requirements of present law, and increases the bond requirement to not less than \$300,000 nor more than \$1,500,000 as required by the Director. The amount of initial premiums required has been raised to \$150,000. The purpose of these changes is to bring the organizational requirements more in line with contemporary economic realities. However, to our knowledge no domestic society has ever been organized in Alaska.
21.84.1110	21.84.140	Amendments to Laws - provides for submission and approval of amendments to the laws of a domestic society, and the filing of any such amendments by licensed foreign or alien societies, the same as present law.
21.84.1120	21.84.170	Institutions -- permits societies to operate and maintain organizations relevant to their society's purposes, similar to present law. Subsection (b) is the same as present Section 21.84.170(c)

providing that a society may not own or operate funeral homes or undertaking establishments.

21.84.1130 21.84.130 Reinsurance - is substantially the same as present law, but provides that a society may not reinsure the business of another society other than in a consolidation or merger.

21.84.1140 21.84.500; .510 Consolidations and mergers - is substantively the same as present law.

21.84.1150 21.84.520 Conversion of Fraternal Benefit Society into Mutual Life Insurance Company - is similar to present law.

21.84.1160 21.84.200; .210 Benefits -- lists authorized benefits the same as present law, but without the \$300 limit on tombstone benefits, and includes benefits for children and adults instead of providing for them in separate sections. The words "health care" are used in subsection (a)(4) to reflect the amendment enacted by section 102 of S. 316, Laws of 1996. Subsection (a)(7) provides that a society may issue benefits as authorized for life insurers, and which are not inconsistent with the fundamental characteristics of fraternal benefit societies. The question of contractual benefits is addressed in subsection (b).

21.84.1170 21.84.230 Beneficiaries -- places control of beneficiary designations in the hands of each society. This section covers the various matters contained in present law, subsection (c) also providing that if the owner of the certificate is other than the insured, the proceeds shall be paid to the owner.

21.84.1180 21.84.240 Benefits Not Attachable - is the same as present law.

21.84.1190 21.84.260 to 21.84.300 and 21.84.190

The Benefit Contract -- subsections (a) and (b) preserve the "open contract" concept of fraternal certificates contained in present Section 21.84.260(a) and (c). Likewise, the traditional "maintenance of solvency" provision in present Section 21.84.190 is preserved in subsection (d). Subsection (f) requires all fraternal certificates to be filed with the Director, the same as present law, and all certificates

issued after one year from the effective date of the Model Code must conform to the requirements for like policies issued by commercial life and health insurers. The provision in present Section 21.84.300(c) that a filing of a health certificate shall be considered approved unless disapproved within 60 days has been inserted in subsection (f) and made applicable also to a filing of a life certificate.

Subsection (f) makes unnecessary the inclusion of the text of present Sections 21.84.270 to .300 (standard and prohibited provisions) because fraternal certificates will be subject to the same general requirements for commercial life and health insurance company policies.

Subsections (g) and (h) pertain to control over juvenile contracts, and the conditions under which benefit contracts may be assigned.

21.84.1200 21.84.220; 21.84.350 & 21.84.1250

Nonforfeiture Benefits (Section 21.84.1200), and Valuation (Section 21.84.1250) - The thrust of these two sections is essentially the same as present law relating to calculation of nonforfeiture benefits and valuation of reserves. They provide that existing law shall apply to outstanding certificates, but that for certificates issued on or after one year from the effective date of the Model Code, societies must use at least the Commissioner's 1941 CSO Table. These two sections incorporate the authorization in present Section 21.84.220(d) and 21.84.350(j) that a society may calculate nonforfeiture benefits and value reserves of newly issued policies on any more recent mortality table authorized for use by commercial life insurance companies.

21.84.1210 21.84.330

Investments- This section is the same as present law.

21.84.1220 21.84.320

Funds - Subsections (a) and (b) are the same as in present law. Subsection (c) gives societies specific authority to create separate accounts. This authority is new. It will give fraternalists the ability to offer members variable benefits. If variable benefits are subject to federal securities laws, the supreme governing body is authorized to exclude these forms of benefits from the "open contract" and

"maintenance of solvency" requirements in subsections (b) and (d) of MFC Section 21.84.1190. The supreme governing body is also empowered to authorize that separate, independent control be set up over such accounts should that be necessary or desirable. The text of present Section 21.84.320(c) would be obsolete and unnecessary because of the reserve valuation requirements in MFC Section 21.84.1250.

21.84.1230 21.84.010 and 21.84.590 - Applicability of other code provisions.

Subsection (a) is the same as present Section 21.84.010. Subsection (b) is the same as 21.84.590 with explanatory captions added for clarity.

21.84.1240 21.84.400 Taxation - is the same as present law.

21.84.1250 21.84.350 Valuation - See comment under MFC Section 21.84.1200. The text of present Section 21.84.350 would be obsolete and unnecessary because of the modern valuation requirements in MFC Section 21.84.1250.

21.84.1260 21.84.340; .350; .360

Reports - Subsection (a) is the same as present Section 21.84.340(h). Subsection (b) requires the filing of valuation reports similar to the requirement in present Section 21.84.350, but the valuation standards are set forth in MFC Section 21.84.1250. Subsection (c) provides a penalty for late filing of an annual statement, the same as in present Section 21.84.360.

21.84.1270 21.84.030 Annual License - is essentially the same as present law.

21.84.1280 21.84.370; .380; .390

Examination of Societies; No Adverse Publications - This section covers both domestic, foreign and alien societies. The confidentiality requirement of present Section 21.84.390 is preserved. Insurance Department examination of fraternal would be on the same basis as for commercial life and health insurers.

21.84.1290	21.84.040	Foreign or Alien society - Admission - Is essentially the same as present law.
21.84.1300	21.84.530	Injunction - Liquidation - Receivership of Domestic Society - This section is essentially the same as present law.
21.84.1310	21.84.050	Suspension, Revocation or Refusal of License of Foreign or Alien Society - is substantially the same as present law.
21.84.1320	21.84.540	Injunction - This section provides that only the Director of Insurance may bring an injunction proceeding against a society, not private litigants.
21.84.1330	21.84.590(7); AS 21-27	

Licensing of Agents - Subsection (a) provides that full-time fraternal agents will be required to meet the same licensing and regulatory standards applicable to commercial life insurance agents under AS 21.27, the same as present law. AS 21.27.060(d)(1) provides that an applicant for a limited license under AS 21.27.150(5) [a fraternal benefit society limited producer license to a person whose sole purpose is to be appointed by and to act on behalf of a fraternal benefit society] shall not be required to take an examination.

Subsection (b) provides that no examination or license shall be required of salaried persons who devote substantially all of their services to other than solicitation of insurance and who receive no commission or compensation dependent upon the amount of business obtained.

Subsection (c) provides an exemption from licensing of persons who devote only part-time to the solicitation of insurance and who in one year write no more than \$50,000 of life insurance or other insurance on a maximum number of 25 persons.

The Alaska Producers Act, AS 21.27, does not have the exemptions provided in subsections (b) and (c).

21.84.1340	21.84.470; .480; .590(9); AS 26-36	
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Unfair Methods of Competition - This section makes it clear that fraternal organizations are subject to the unfair trade practices and frauds laws of Alaska contained in AS 26-36, the same as provided in present Section 21.84.590(9). This section also makes it clear that unfair trade practices laws are not to be interpreted to interfere with membership practices of fraternal organizations. The application of AS 26-36 to societies makes obsolete and unnecessary retention of the text of present Sections 21.84.470 and 21.84.480.

21.84.1350	21.84.490	Service of Process - Is essentially the same as present law.
21.84.1360	(None)	Penalties - This section provides specific penalties for certain violations in addition to the penalties specified in other sections. Subsection (a) contains the penalty for misrepresentation in present Section 21.84.470(b). Subsection (d) is a general catch-all penalty for a violation for which a specific penalty is not provided.
21.84.1370	21.84.550	Review - is essentially the same as present law.
21.84.1380	21.84.020	Exemption of Certain Societies -- Is the same as present law. The words "health care" are used in subsections (a)(3), (a)(4), (b) and (d) to reflect the amendments enacted by sections 98, 99 and 100 of S. 319, Laws of 1996.
21.84.1390	(None)	Severability - This section creates a rule of construction for courts ruling on a provision or provisions of this chapter that may not affect other sections.

D. Why not further amend the existing Chapter 84 rather than enact a whole new fraternal code?

A review of the changes made by the NFCA 1983 Model Fraternal Code indicates that the improvements are so numerous that a piece-meal amendment process to Chapter 84, as has been done frequently in the past, would not produce the same effect.

Uniformity of regulations is important to multi-state operations. When a statute on a certain subject is different than the one in another state, it makes varying interpretations more likely. That produces the need for different forms, different member benefits, complicated operations, and frustrated management.

What amendments would be given what priority? How many times would amendments be needed? This new Code provides a means to keep pace with things without constantly seeking law changes. Also, the Model Code would be a more readily understandable statute than present law, and would give the Alaska Director of Insurance more regulatory authority over fraternal benefit societies than does present law.

The NFCA Model Fraternal Code is the product of professional deliberation and scholarship which accounted for all aspects of fraternal operations. Its enactment in Alaska would produce far better legislation than could piece-meal amendments to solve a problem here and a problem there.

E. Summary.

Enactment of the MFC in Alaska would in no way affect the rights of existing society members and certificate holders.

The MFC would, though, affect the future conduct of business of fraternal societies in Alaska. The MFC gives societies certain additional authority under Sections 21.84.1050, .160(a)(7) and .220(c). The MFC would also strengthen regulatory control over societies by the Insurance Director: particularly, (1) under Section 21.84.1100 by increasing the organizational financial requirements for new societies; (2) under Section 21.84.1190 (f), requiring that all new certificates filed after one year from the effective date of the code shall conform to the same policy requirements as established for the same kinds of policies issued by commercial life and health insurers; and (3) under Sections 21.84.1200 and 21.84.1250, requiring the calculation of nonforfeiture benefits and the valuation of certificate reserves on new business on at least the 1941 CSO Table of Mortality.

The provision of MFC Section 21.84.1160(a)(7) that a fraternal benefit society may provide such other benefits as authorized for life and health insurers (which are not inconsistent with the concepts and fundamental nature of fraternal as expressed in the MFC) should be a major benefit to present members and future members of societies. Under that provision, the Director of Insurance can approve new forms of insurance for fraternal that have likewise been approved for commercial life and health insurers, without having to wait for the Legislature to enact an otherwise necessary amendment to the fraternal chapter.

MFC Section 21.84.1170(a) authorizes a society to provide that the owner of a benefit contract may designate an irrevocable beneficiary, and Section 21.84.1190(h) would authorize assignment of a benefit contract to a third party.

In summary, it is believed that the MFC would provide a clearer and more comprehensive statute regulating fraternal benefit societies than present Chapter 84 and would give the Director of Insurance more authority and control over their operations. The MFC provisions would be more beneficial and provide more protection to the people in Alaska who are or may choose to become members of and insured by a fraternal

benefit society licensed in Alaska. In addition, several sections clarify the law by specifically providing for the particular regulatory authority under Chapter 84, with particular references to other applicable chapters and sections.

There are no domestic fraternal benefit societies in Alaska of which we are aware, but there are six member-societies of the National Fraternal Congress of America from other states licensed in Alaska.

These societies have nearly 7,600 life insurance certificates and over 280 health insurance certificates on their members residing in Alaska. It is desirable that these societies be able to offer to their members in Alaska the benefits afforded by this new Model Fraternal Code.

Therefore, on their behalf the NFCA urges the introduction and enactment of the Model Fraternal Code bill in the 1997 session of the Alaska Legislature.

A legislative bill draft in the Alaska format and style is submitted with this Proposal.

Attached are two cross-reference charts showing corresponding sections of the Model Fraternal Code bill with the sections in present Chapter 84, and vice versa.

Respectfully submitted,

National Fraternal Congress of America
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P.O. Box 3087
Naperville, Illinois 60566-7087
(630) 355-6633
October 1996

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 3/6/97

FURTHER: Judiciary

Date of 5-Day Notice: 3-6-97
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3-14-97

Labor and Commerce Committee considered SENATE BILL NO. 119

"An Act relating to fraternal benefit societies and providing for an effective date."

and recommends:

- be replaced with CS SB119 (etc.)
- adopt previous CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DP PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
Tim Kelly	✓	<i>[Signature]</i>	✓		
Mike Miller	✓	<i>[Signature]</i>			
		<i>[Signature]</i>			
CHAIR: <i>[Signature]</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
C+ED	3/10/97	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Previous Committee Report(s)

to bill + CS