

LEG. FINANCE - BILLS 1985 - 1986 2314

CSHB 67 - CSHB 72 2314

COMMITTEE REPORT

SENATE

FURTHER:

5/4/89

Date 5-15-89

Mr. President

The Committee on FINANCE considered CSHB 67(F10) admissibility of hearsay evidence of certain statements by children before grand juries; and amending Rule 6(r), Alaska Rules of Criminal Procedure.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECCMMENDATIONS

Chairman

Chairman recommendation

Offered: 5/2/85
Referred: Rules

Original sponsor: Phillips

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 67 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the admissibility of hearsay
7 evidence of certain statements by children before
8 grand juries; and amending Rule 6(r), Alaska Rules of
9 Criminal Procedure."

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

11 * Section 1. AS 12.40 is amended by adding a new section to read:

12 Sec. 12.40.110. HEARSAY EVIDENCE IN PROSECUTIONS FOR SEXUAL
13 OFFENSES. (a) In a prosecution for an offense under AS 11.41.410 -
14 11.41.440 or 11.41.455, hearsay evidence of a statement related to the
15 offense, not otherwise admissible, made by a child under the age of 10
16 who is the victim of the offense may be admitted into evidence before
17 the grand jury if

18 (1) the circumstances of the statement indicate its relia-
19 bility;

20 (2) additional evidence is introduced to corroborate the
21 statement; and

22 (3) the child testifies at the grand jury proceeding or the
23 child will be available to testify at trial.

24 (b) In this section "statement" means an oral or written asser-
25 tion or nonverbal conduct if the nonverbal conduct is intended as an
26 assertion.

27 * Sec. 2. AS 12.40.110, added by sec. 1 of this Act, has the effect of
28 amending Rule 6(r), Alaska Rules of Criminal Procedure, by changing the
29 circumstances under which hearsay evidence may be introduced in grand jury

1 proceedings for certain sexual offenses.

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P/B

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

4/3

Revision Date: _____

REQUEST
Bill/Resolution No.: HB No. 67
Title: An Act relating to heresay evidence.
Sponsor: Rep Phillips
Requestor: _____
Date of Request: 2/4/85

70-2

FISCAL DETAIL
Agency Affected: Health and Social Services
Program Category Affected: Social Services
BRU, Program or Subprogram(s) Affected: Social Services BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

N/A

Prepared By: Michael L. Price Phone: 465-3170
Division: Family and Youth Services Date: 2/4/85

Approved by Commissioner: Jan R. G. Date: 2/5/85 JCC
Agency: Health & Social Services

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget

*Accompanied with
Title Page & Form 1*

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB No. 67
 Title: An Act relating to.....
hearsay evidence
 Sponsor: HESS
 Requestor: _____
 Date of Request: 4/3/85

FISCAL DETAIL

Agency Affected: Health and Social Services
 Program Category Affected: _____
Social Services
 BRU, Program or Subprogram(s) Affected: _____
Social Services, Juvenile Custody BRU's

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL		-0-	-0-	-0-	-0-	-0-
REVENUE		-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

N/A

Prepared By: Michael L. Price Phone: 465-3170
 Division: Family and Youth Services Date: 4/11/85

Approved by Commissioner: *John R. Boy* Date: 4-16-85 *JCC*
 Agency: Health & Social Services

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agencies

11/16

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

COMMITTEE SUBSTITUTE FOR HOUSE BILL 67

For an Act entitled "an Act relating to the admissibility of hearsay evidence of certain statements by children before grand juries; and amending Rule 6(r), Alaska Rule of Criminal Procedure".

This bill would allow admission at grand jury proceedings of hearsay statements of children under 12 years of age relating to any offense.

The department supports legislation that will increase the protection of children from harm. Initially HB 67 covered hearsay exceptions relating only to sexual offenses, both at grand jury and at trial. The department supported portions of hearsay exception relating to sexual offenders at grand jury but not at trial due to the potential constitutional issues.

RECOMMENDED:

Michael L. Price

Michael L. Price, Director
Division of Family
and Youth Services

DATE:

April 15, 1985

APPROVED:

John R. Pugh

John R. Pugh, Commissioner
Department of Health
and Social Services

DATE:

4-16-85

H+SS

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST
 Bill/Resolution No.: HB 67
 Title: "...admissability of certain hearsay evidence..."
 Sponsor: Phillips
 Requestor: House HFSS
 Date of Request: 1-29-85

FISCAL DETAIL Public Safety
 Agency Affected: _____
 Program Category Affected: _____
 Administration of Justice
 BRU, Program or Subprogram(s) Affected: _____
 Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

See attachment.

Prepared By: Francis C. Allan *F.C.A.* Phone: 269-5691
 Division: Alaska State Troopers Date: 1/23/85
 Approved by Commissioner *[Signature]* Date: 1-30-85
 Agency: Department of Public Safety

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

7/1/84

HB 67
Fiscal Note Attachment
01/23/85

No additional costs are directly associated with passage of this legislation. However, it should be noted that the Governor's Requested CIP budget contains a \$59,700 Sexual Assault Investigation Equipment Purchase project. This project was submitted in anticipation of passage of this type legislation.

The project involves the purchase of video taping equipment to record interviews with victims. This equipment would be located in the eleven Alaska State Troopers posts throughout the state.

5

SECTIONAL ANALYSIS FOR CS HOUSE BILL 67 (Fin)

An Act relating to the the admissibility of hearsay evidence of certain statements by children before grand juries; and amending Rule 6 (r), Alaska Rules of Criminal Procedure

Section 1

Amends AS 12.40 by adding a new section that allows for the admissibility of hearsay evidence for sexual abuses. The hearsay evidence is restricted and only applies if made by a child victim under the age of ten and only admissible at the grand jury level. Further, it must be shown that the circumstances of the statement indicate reliability, additional evidence to corroborate the statement is introduced and the child testifies at the grand jury proceeding or the child will be available to testify at the trial.

Hearsay evidence of a statement related to the offense means an oral or written assertion or non-verbal conduct if it is intended as a statement.

Section 2

Section 1 has the affect of amending Rule 6 (r) of the Alaska Rules of Criminal Procedure.

DEPARTMENT OF PUBLIC SAFETY
POSITION PAPER - CSHB 67 (Jud)

Support

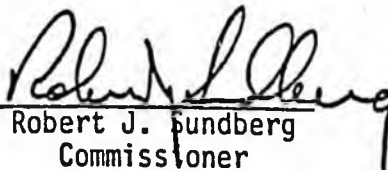
April 30, 1985

CSHB 67(Jud) - "An Act relating to the admissibility of hearsay evidence of certain statements by children before grand juries; and amending Rule 6(r), Alaska Rules of Criminal Procedure."

This Bill will allow the use of hearsay evidence from sexually abused children in grand jury proceedings. It is an attempt to shield victims from additional emotional trauma.

House Bill 67 will allow an individual trained in child abuse cases who has interviewed the victim to testify in his or her place or it will allow the submission of a video tape of the interview. Courtroom atmosphere often inhibits and intimidates the young victims - particularly one who may be discussing a sexual encounter with a parent or relative.

This legislation will not result in abuse of the grand jury system and only addresses cases of sexual abuse of minors. Although the admittance of hearsay evidence is not traditional in grand jury proceedings in Alaska, cases of this type warrant an exception to protect the victims.


Robert J. Sundberg
Commissioner

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 5, 1984

SUBJECT: Hearsay evidence in sexual
abuse prosecutions
(Work Order No. 14-0131)

TO: Representative Randy Phillips

FROM: Michael F. Ford *M.F.*
Legislative Counsel

As you know, last year the legislature considered a similar bill to the one you have requested, concerning prosecution of sexual abuse crimes and the use of hearsay evidence. At that time, the possibility that the constitution would prohibit use of such evidence was raised. This memo addresses section two of this bill, relating to introduction of hearsay evidence at trial. The first section of the bill deals only with grand jury proceedings, and does not raise a constitutional question.

This bill is based on Washington Criminal Code sec. 9A.44.120. I have been informed by the Department of Law that the Washington statute has been challenged a number of times and upheld in the trial courts, but it has yet to be ruled on by the state's highest court. Therefore the Washington law is of little help in determining the validity of this bill.

In prosecutions for sexual abuse of a minor in any degree, this bill allows the prosecutor to introduce at trial, "hearsay evidence of a statement made by a child under the age of 10 describing an act of sexual contact with the child" if certain criteria are met (AS 12.45.049). Before the hearsay evidence may be introduced, the court must determine that the circumstances of the child's statement indicate its reliability, and the child must either testify at the proceeding, or be unavailable as a witness. If the evidence is admitted on the basis that the child is

unavailable, there must be some further evidence introduced to corroborate the child's statement.

Existing Rules of Evidence provide that hearsay is inadmissible, but provide for certain exceptions (Rules of Evidence 803 and 804). The apparent purpose of the bill is to make it easier to prosecute sexual abuse cases by allowing in evidence that the jury would otherwise not be permitted to consider. For example, under present law, if a child tells a teacher that the child's parent is sexually abusing the child, but the child refuses or is emotionally unable to repeat the story at the parent's sexual abuse trial, the teacher would not be permitted to repeat the child's story at the trial because it would be hearsay and does not fall under one of the existing exceptions. The bill would allow the teacher to testify if (1) the court determines that the child's statement appears reliable, and (2) the child either testifies (on some other matter) or is unavailable and there is some further evidence that the child's statement is true.

The sixth amendment to the United States Constitution and Article I, sec. 11 of the Alaska Constitution both provide that a defendant in a criminal trial may not be denied the right "to be confronted with the witnesses against him." This bill is in potential conflict with this constitutional right because it permits the statements of a child to be used against a criminal defendant without giving the defendant the opportunity to cross-examine the child.

The Alaska Supreme Court has summarized the right to confrontation as follows:

This right of confrontation protects two vital interests of the defendant. First, it guarantees him the opportunity to cross-examine the witnesses against him so as to test their sincerity, memory, ability to perceive and relate, and the factual basis of their statements. Second, it enables the defendant to demonstrate to the jury the witness' demeanor when confronted by the defendant so that the inherent veracity of the witness is displayed in the crucible of the courtroom. (Footnotes omitted).

Lemon v. State, 514 P.2d 1151, 1153 (Alaska 1973). The Court in Lemon analyzed the United States Supreme Court decisions on the right to confrontation as it relates to the introduction of hearsay evidence and concluded that

Representative Randy Phillips
December 5, 1984
Page 3

...while the demeanor interest of the right of confrontation is not a crucial element, the right to effective cross-examination is essential unless the testimony falls within certain established exceptions to the hearsay rule. (Footnote omitted).

Lemon, supra, at 1154. The Court ruled that Lemon had been denied the right of confrontation because of the admission of a hearsay statement against him that did not fall within the established exceptions to the hearsay rule.

This bill does contain certain protections for the defendant, but these may not be enough to survive a constitutional challenge. Since the bill permits the prosecution to use hearsay evidence that does not fall within one of the established exceptions to the hearsay rule against the defendant, the Lemon case seems to prohibit it. Even if the criteria for the admission of the hearsay evidence contained in the bill are met, a court could still find that the defendant has been denied the right to confrontation. Although the question is an open one, there is a strong possibility that the bill could be found unconstitutional if challenged.

If you have further questions, please contact me.

MFF:ojb
J9/095

FISCAL NOTE SUMMARY BY DEPARTMENT

<u>Department</u>	<u>Original Request</u>	<u>Passed House</u>	<u>Bill #</u>
Health and Social Services	0	0	HB 67
	1966.3	1582.1	HB 88
	0	0	HB 92
	128.0	-----	SB 21
	0		SB 219
TOTALS	<u>2094.3</u>	<u>1582.1</u>	
<hr/>			
Public Safety	0	0	HB 67
	200.0	20.0	HB 88
	81.2	-----	SB 21
	1478.9	-----	SB 219
TOTALS	<u>1760.1</u>	<u>20.0</u>	
<hr/>			
Law	1160.6	515.8	HB 88
	0	0	HB 92
TOTALS	<u>1160.6</u> <i>359.5</i>	<u>515.8</u>	
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Administration	733.3	535.7	HB 88
<hr/>			

*GF 6+ million
House - 4.117.4*

Court System	145.9	51.3	HF 88
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Commerce	3.3	-----	SB 263
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Revenue	(69.6)	(69.6)	HB 92
	+ 2.5	-----	SB 263
	<hr/>	<hr/>	
TOTALS	(67.1)	(69.6)	

FISCAL NOTE SUMMARY FOR CHILD ABUSE LEGISLATION

<u>Bill #</u>	<u>Dept</u>	<u>Original Agency Request</u>	<u>Passed by House</u>	<u>Senate #'s</u>	<u>New Postions</u>
HB 67	Public Safety DHSS	0 <u>0</u>	0 <u>0</u>	no change no change	none none
	TOTALS	0	0		
HB 88	DHSS	1966.3	1582.1	???????	31 FT (Agency) 8 PT (Agency) 31 FT (House) 8 PT (House) House funded 10 months instead of 12
	Law	1160.6 (GF) 145.2 (IAR)	515.8 (GF) 108.9 (IAR)	???????	19 FT (Agency) 3 PT (Agency) 9 FT (House) 2 PT (House)
	Public Defender	437.2	317.4	???????	6 FT (Agency) 5 FT (House)
	Public Advocate	296.1	218.3	???????	4 FT (Agency) 4 FT (House) House funded at 10 months
	Domestic Violence	200.0	20.0	200.0	3 (Agency) 2 (House)
	Court System	145.9	51.3	???????	3 FT (Agency) 1 FT (House) 1 PT (House)
	Troopers	<u>0</u>	<u>0</u>	0	none
	TOTALS	4206.1 145.2 (IAR)	2704.9 108.9 (IAR)	???????	

HB 92	Revenue	(69.6)	(69.6)	no change	none
	Law	0	0	no change	none
	DHSS	<u>0</u>	<u>0</u>	no change	none
	TOTALS	(69.6)	(69.6)		
SB 21	DHSS	128.0	-----	?????????	1 full-time 2 part-time
	Public Safety	<u>81.2</u>	-----	?????????	2 full-time
	TOTALS	209.2			
SB 219	Public Safety	1478.9	-----	918.2	18 FT (Agency)
	Law	359.5	-----	??????	10 FT (SFC)
	Corrections	0	-----	??????	5 FT (Agency)
	DHSS	<u>0</u>	-----	0	1 PT (Agency)
	TOTALS	1838.4		0	none
				918.2?	none
SB 263	Commerce	3.3	-----	0	none
	Revenue	<u>+2.5</u>	-----	+2.5	none
	TOTALS	.8		+2.5	

HOUSE
COMMITTEE REPORT

(11)

Date referred: 2/3/86

FURTHER REFERRALS:

DATE: 2/21/86

The FINANCE Committee has considered HB 68

"An Act relating to motor vehicle insurance."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 68 (L+C) same title
- new title

and recommends No Recommendation

further referral to the _____ Committee

and attaches:

- letter of intent
- first fiscal note
- new fiscal note
- zero fiscal note 2/20/86 CS (LIC)

SIGNING DO PASS:

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature] No Rec

[Signature] - NO Rec

[Signature] - No Rec

[Signature] - No Rec

[Signature] - No Rec

[Signature] - NO REC

[Signature] (NO Rec)

[Signature] No Recommendation

[Signature] No REC.

[Signature]

Chairman

Offered: 4/24/85
Referred: Judiciary and
Finance

Original sponsor: Shultz

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 68 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to motor vehicle liability insur-
7 ance."

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

9 * Section 1. AS 28.22.010 is repealed and reenacted to read:

10 Sec. 28.22.010. MOTOR VEHICLE LIABILITY POLICY. (a) An owner's
11 motor vehicle liability policy must designate by description or appro-
12 priate reference the motor vehicles that it covers and insure the
13 person named against loss from the liability imposed by law for dam-
14 ages that arise from the ownership, maintenance, or use of a desig-
15 nated motor vehicle, or the use by an insured person of a nonowned
16 motor vehicle.

17 (b) An operator's motor vehicle liability policy must insure the
18 person named as insured against loss from the liability imposed by law
19 for damages that arise from the use by the operator of a motor vehicle
20 not owned by the operator.

21 (c) A personal motor vehicle liability policy must insure the
22 person named as insured against loss from the liability imposed by law
23 for damages that arise from the ownership, maintenance, or use by the
24 named person of an owned or nonowned motor vehicle.

25 (d) A motor vehicle liability policy must provide coverage in
26 the United States or Canada, subject to limits exclusive of interest
27 and costs, with respect to each vehicle, as follows:

28 (1) \$50,000 because of bodily injury to or death of one
29 person in one accident, and, subject to the same limit for one person,

1 \$100,000 because of bodily injury to or death of two or more persons
2 in one accident; and

3 (2) \$25,000 because of injury to or destruction of property
4 of others in one accident.

5 (e) A motor vehicle liability policy must provide coverage under
6 AS 28.22.100 - 28.22.130 in the amounts set out in (d) of this section
7 for the protection of the persons insured under the policy who are
8 legally entitled to recover damages from the owner or operator of an
9 uninsured or underinsured motor vehicle because of bodily injury or
10 death, or damage to or destruction of property arising out of the
11 ownership, maintenance, or use of the uninsured or underinsured motor
12 vehicle.

13 (f) A motor vehicle liability policy must state the name and
14 address of the named insured and meet the requirements of AS 21.42.-
15 160 - 21.42.170. In the absence of specific contract language or
16 endorsement the motor vehicle liability policy issued for a person in
17 this state is presumed to meet the minimum requirements of (d) of this
18 section.

19 * Sec. 2. AS 28.22.100(b) is amended to read:

20 (b) If both the owner and operator of a [THE UNINSURED] vehicle
21 are unknown, payment under the uninsured and underinsured motorists
22 coverage may be made only where direct contact between the [INSURED
23 AND UNINSURED OR UNDERINSURED] motor vehicles has occurred. A vehicle
24 and operator that have [HAS] left the scene of the accident with
25 another [AN INSURED] vehicle are [IS] presumed to be uninsured if the
26 insured person reports the accident to the appropriate authorities
27 within 24 hours.

28 * Sec. 3. AS 28.22.100(c) is amended to read:

29 (c) The uninsured and underinsured motorists coverage for damage

1 to or destruction of property is subject to a deductible of \$250 in
2 any one accident, but the insurer may offer a deductible other than
3 \$250. This coverage shall be limited to damage to or destruction of
4 the covered [INSURED] motor vehicle. It may not include loss of use
5 of such vehicle.

6 * Sec. 4. AS 28.22.200(a) is amended to read:

7 (a) The operator or owner of a motor vehicle subject to registra-
8 tion under AS 28.10.011 when driven on a highway, vehicular way or
9 area, or on other public property in the state, shall be insured under
10 a [HAVE] motor vehicle liability policy [INSURANCE] that complies with
11 this chapter or a certificate of self-insurance that complies with
12 AS 28.20.400 [IN EFFECT FOR THE MOTOR VEHICLE], unless

13 (1) the motor vehicle is being driven or moved on a high-
14 way, vehicular way, or a public parking place in the state that is not
15 connected by a land highway or vehicular way to

16 (A) the land-connected state highway system, or

17 (B) a highway or vehicular way with an average daily
18 traffic volume greater than 499; and

19 (2) the operator has not been cited within the preceding
20 five years for a traffic law violation with a demerit point value of
21 six or more on the point schedule determined under regulations adopted
22 by the department under AS 28.15.221.

23 * Sec. 5. AS 28.22.600 is repealed and reenacted to read:

24 Sec. 28.22.600. DEFINITION. In this chapter, "motor vehicle
25 liability policy" means an owner's policy, an operator's policy, or a
26 personal policy that

27 (1) meets the requirements established under AS 28.22.010;
28 and

29 (2) is issued by an insurance carrier authorized to

1 transact business in the state to or for the benefit of the person
2 named as insured.

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 68 (I&C)
 Title: An Act relating motor
vehicle liability insurance
 Sponsor: Labor and Commerce
 Requestor: Labor and Commerce
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Public Utilities Comm.
 BRU: Commerce and Econ Dev.
 Components: Public Protection
Division of Insurance

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary.

Prepared by: John L. George, Director
 Division: Alaska Public Utilities Commission

Phone: 465-2515
 Date: February 20, 1986

Approved by Commissioner: John L. Armstrong
 Agency: Commerce and Economic Development

Date: February 20, 1986

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1986 LEGISLATIVE SESSION -
FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CS HB 68 (L&C)
 Title : An Act relating to motor vehicle liability insurance
 Sponsor : Shultz
 Requestor : House Judiciary
 Date of Request : 1-31-86

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Motor Vehicles
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

No fiscal impact.

K. M. ...

Prepared by : Bill Brown^{BB}
 Division : Motor Vehicles

Phone : 465-2650
 Date : 1-31-86

Approved by Commissioner : [Signature]
 Agency : Public Safety

Date : 1/31/86

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH N
JUNEAU, ALASKA 99811
PHONE: 465-4322

March 5, 1985

File
W.H. #B 68

The Honorable Dick Shultz
House of Representatives
Alaska State Legislature
Pouch V
Juneau, AK 99811


Dear Representative Shultz:

I have reviewed Committee Substitute for House Bill 68 "An act relating to motor vehicle liability insurance".

The broader interpretation addressed in the aforementioned committee substitute clarifies the scope and insurance policy needs to meet the requirements of vehicle liability insurance.

The Department supports the amendments.

Sincerely,


Robert J. Sundberg
Commissioner

Enclosure

from Rep. Shultz

ANALYSIS OF CS FOR HB 68 (LABOR AND COMMERCE)

Sec. 1. AS 28.22.010 is repealed and reenacted to read:

- (a) Sec. 28.22.010 Motor Vehicle Liability Policy --owners policy must designate by description or reference the vehicle covered and the name of the person insured against liability.
- (b) operators liability policy must insure person named as insured from liability imposed by law for damages arising from use by operator of vehicle not owned by operator
- (c) a personal motor vehicle liability policy must insure person named as insured against loss for damages arising from ownership maintenance or use by a person of an owned or unowned vehicle
- (d) Must provide coverage in U. S. and Canada
 - (1) \$50,000.00 bodily injury or death of one person--\$100,000.00 for 2 persons.
 - (2) \$25,000.00 to cover injury to or destruction of property of other, in one accident
- (e) Must provide coverage under AS 28.22.100--28.22.130 in amounts set forth in (d) of this section.
- (f) Policy must state name and address of insured and meet requirements of AS 21.42.160--21.42.170

Sec. 2. AS 28.22.100 (b) is amended to read :

- (b) If owner and operator of a vehicle are unknown, payment under the uninsured or underinsured coverage maybe made only where direct contact between motor vehicles has occurred . If one person leaves the scene of an accident, the other person is presumed to be insured if he or she reports the accident to the authorities within 24 hours.

Sec. 3 AS 28.22.100 (c) is amended to read:

- (c) deductible of \$250.00 is allowed but insurer may offer more or less to insured. This is only allowed in case of damage to vehicle and does not include loss of use of vehicle.

Sec. 4 AS 28.22.200 (a) is amended to read:

- (a) Owner or operator must have insurance in compliance with this chapter or that complies with AS 28.20.400 unless
 - (A) Vehicle is moved on land not connected to highway system
 - (B) Highway has a daily traffic volume greater than 499 and
- (2) Operator has not been cited within preceding 5 years or a traffic law violation of more than 6 demerits value under regulations adopted by the dept. under AS 28.15.221.

ANALYSIS OF CS FOR HB 68 (LABOR AND COMMERCE)

- Sec. 5. Gives definition of "motor vehicle liability policy" that
- (1) meets requirements under AS 28.22.010
 - (2) insurance carriers authorized to do business in the State of Alaska for the benefit of the person insured.

Offered: 4/24/85
Referred: Judiciary and
Finance

Original sponsor: Shultz

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 68 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to motor vehicle liability insur-
7 ance."

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

9 * Section 1. AS 28.22.010 is repealed and reenacted to read:

10 Sec. 28.22.010. MOTOR VEHICLE LIABILITY POLICY. (a) An owner's
11 motor vehicle liability policy must designate by description or appro-
12 priate reference the motor vehicles that it covers and insure the
13 person named against loss from the liability imposed by law for dam-
14 ages that arise from the ownership, maintenance, or use of a desig-
15 nated motor vehicle, or the use by an insured person of a nonowned
16 motor vehicle.

17 (b) An operator's motor vehicle liability policy must insure the
18 person named as insured against loss from the liability imposed by law
19 for damages that arise from the use by the operator of a motor vehicle
20 not owned by the operator.

21 (c) A personal motor vehicle liability policy must insure the
22 person named as insured against loss from the liability imposed by law
23 for damages that arise from the ownership, maintenance, or use by the
24 named person of an owned or nonowned motor vehicle.

25 (d) A motor vehicle liability policy must provide coverage in
26 the United States or Canada, subject to limits exclusive of interest
27 and costs, with respect to each vehicle, as follows:

28 (1) \$50,000 because of bodily injury to or death of one
29 person in one accident, and, subject to the same limit for one person,

1 \$100,000 because of bodily injury to or death of two or more persons
2 in one accident; and

3 (2) \$25,000 because of injury to or destruction of property
4 of others in one accident.

5 (e) A motor vehicle liability policy must provide coverage under
6 AS 28.22.100 - 28.22.130 in the amounts set out in (d) of this section
7 for the protection of the persons insured under the policy who are
8 legally entitled to recover damages from the owner or operator of an
9 uninsured or underinsured motor vehicle because of bodily injury or
10 death, or damage to or destruction of property arising out of the
11 ownership, maintenance, or use of the uninsured or underinsured motor
12 vehicle.

13 (f) A motor vehicle liability policy must state the name and
14 address of the named insured and meet the requirements of AS 21.42.-
15 160 - 21.42.170. In the absence of specific contract language or
16 endorsement, the motor vehicle liability policy issued for a person in
17 this state is presumed to meet the minimum requirements of (d) of this
18 section.

19 * Sec. 2. AS 28.22.100(b) is amended to read:

20 (b) If both the owner and operator of a [THE UNINSURED] vehicle
21 are unknown, payment under the uninsured and underinsured motorists
22 coverage may be made only where direct contact between the [INSURED
23 AND UNINSURED OR UNDERINSURED] motor vehicles has occurred. A vehicle
24 and operator that have [HAS] left the scene of the accident with
25 another [AN INSURED] vehicle are [IS] presumed to be uninsured if the
26 insured person reports the accident to the appropriate authorities
27 within 24 hours.

28 * Sec. 3. AS 28.22.100(c) is amended to read:

29 (c) The uninsured and underinsured motorists coverage for damage

1 to or destruction of property is subject to a deductible of \$250 in
2 any one accident, but the insurer may offer a deductible other than
3 \$250. This coverage shall be limited to damage to or destruction of
4 the covered [INSURED] motor vehicle. It may not include loss of use
5 of such vehicle.

6 * Sec. 4. AS 28.22.200(a) is amended to read:

7 (a) The operator or owner of a motor vehicle subject to regis-
8 tration under AS 28.10.011 when driven on a highway, vehicular way or
9 area, or on other public property in the state, shall be insured under
10 a [HAVE] motor vehicle liability policy [INSURANCE] that complies with
11 this chapter or a certificate of self-insurance that complies with
12 AS 28.20.400 [IN EFFECT FOR THE MOTOR VEHICLE], unless

13 (1) the motor vehicle is being driven or moved on a high-
14 way, vehicular way, or a public parking place in the state that is not
15 connected by a land highway or vehicular way to

16 (A) the land-connected state highway system, or

17 (B) a highway or vehicular way with an average daily
18 traffic volume greater than 499; and

19 (2) the operator has not been cited within the preceding
20 five years for a traffic law violation with a demerit point value of
21 six or more on the point schedule determined under regulations adopted
22 by the department under AS 28.15.221.

23 * Sec. 5. AS 28.22.600 is repealed and reenacted to read:

24 Sec. 28.22.600. DEFINITION. In this chapter, "motor vehicle
25 liability policy" means an owner's policy, an operator's policy, or a
26 personal policy that

27 (1) meets the requirements established under AS 28.22.010;

28 and

29 (2) is issued by an insurance carrier authorized to

1 transact business in the state to or for the benefit of the person
2 named as insured.

Introduced: 1/16/85
Referred: Labor & Commerce,
Judiciary and Finance

1 IN THE HOUSE

BY SHULTZ

2

HOUSE BILL NO. 68

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to motor vehicle liability insurance."

7

8

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

9

* Section 1. AS 28.20.450 is amended to read:

10

Sec. 28.20.450. NOTICE OF CANCELLATION OR TERMINATION OF CERTI-

11

FIED POLICY. When an insurance carrier certifies a motor vehicle

12

liability policy under AS 28.20.410, [OR] 28.20.420, or AS 28.22.200

13

the insurance certified may not be cancelled or terminated until at

14

least 10 days after a notice of cancellation or termination of the

15

insurance is filed with the department, except that a policy that

16

complies with the requirements of AS 28.22 or this chapter, subse-

17

quently procured and certified shall, on the effective date of its

18

certification, terminate for the purpose of this chapter the insurance

19

previously certified for a vehicle designated in both certificates.

20

* Sec. 2. AS 28.22.010(a) is amended to read:

21

(a) The holder's [OWNER'S] policy of liability insurance shall

22

(1) [DESIGNATE BY DESCRIPTION OR APPROPRIATE REFERENCE ALL

23

VEHICLES THAT IT COVERS;

24

(2)] insure the person named against loss from the liabil-

25

ity imposed by law for damages arising out of the ownership, mainte-

26

nance, or use of a [THE] vehicle in the United States or Canada,

27

subject to limits exclusive of interest and costs [, WITH RESPECT TO

28

EACH VEHICLE,] as follows:

29

(A) \$50,000 because of bodily injury to or death of

1 one person in any one accident, and, subject to the same limit
2 for one person, \$100,000 because of bodily injury to or death of
3 two or more persons in any one accident; and

4 (B) \$25,000 because of injury to or destruction of
5 property of others in any one accident;

6 (2) [(3)] contain coverage prescribed in AS 28.22.100
7 28.22.130 in the amounts set out in (1) [(2)] of this subsection for
8 the protection of the persons insured under the policy who are legally
9 entitled to recover damages from the uninsured or underinsured owner
10 or operator of a [AN UNINSURED OR UNDERINSURED] motor vehicle because
11 of bodily injury or death, or damage to or destruction of property
12 arising out of the [OWNERSHIP, MAINTENANCE, OR] use of the [UNINSURED
13 OR UNDERINSURED] motor vehicle.

14 * Sec. 3. AS 28.22.050(a) is amended to read:

15 (a) A policy is not effective under AS 28.22.010 unless it is
16 issued by an insurance company or surety company authorized to do
17 business in this state, [EXCEPT AS PROVIDED IN (b) OF THIS SECTION,]
18 and unless it complies with the limit requirements established in
19 AS 28.22.010.

20 * Sec. 4. AS 28.22.100(b) is amended to read:

21 (b) If [BOTH] the [OWNER AND] operator of a [THE UNINSURED]
22 vehicle is [ARE] unknown, payment under the uninsured and underinsured
23 motorists coverage may be made only where direct contact between the
24 [INSURED AND UNINSURED OR UNDERINSURED] motor vehicles has occurred.
25 A vehicle operator who [THAT] has left the scene of the accident with
26 another [AN INSURED] vehicle is presumed to be uninsured if the in-
27 sured person reports the accident to the appropriate authorities
28 within 24 hours.

29 * Sec. 5. AS 28.22.100(c) is amended to read:

1 (c) The uninsured and underinsured motorists coverage for damage
2 to or destruction of property is subject to a deductible of \$250 in
3 any one accident, but the insurer may offer a deductible other than
4 \$250. This coverage shall be limited to damage to or destruction of
5 the insured operator's motor vehicle. It may not include loss of use
6 of such vehicle.

7 * Sec. 6. AS 28.22.120 is amended to read:

8 Sec. 28.22.120. POLICY COVERAGE AND PRIORITIES. If an insured
9 is entitled to uninsured or underinsured motorists coverage under more
10 than one policy of motor vehicle liability insurance, [OR UNDER MORE
11 THAN ONE COVERAGE IF TWO OR MORE VEHICLES ARE INSURED UNDER ONE POLI-
12 CY,] the maximum amount an insured may recover may [SHALL] not exceed
13 the highest limit of any one policy or coverage. Where multiple
14 policies or coverages apply, payment shall be made in the following
15 order of priority, subject to the limit of liability for each appli-
16 cable policy or coverage:

17 (1) a policy or coverage covering the operator of a motor
18 vehicle occupied by the injured person at the time of the accident;

19 (2) a policy or coverage covering the operator of a motor
20 vehicle that came into contact with the insured while a pedestrian;
21 and

22 (3) a policy or coverage covering [A MOTOR VEHICLE NOT
23 INVOLVED IN THE ACCIDENT WITH RESPECT TO WHICH] the injured person [IS
24 AN INSURED OR A NAMED INSURED].

25 * Sec. 7. AS 28.22.200 is repealed and reenacted to read:

26 Sec. 28.22.200. MOTOR VEHICLE LIABILITY INSURANCE REQUIRED. The
27 holder of an Alaska driver's license shall have in effect, at all
28 times, motor vehicle liability insurance that complies with this
29 chapter.

1 * Sec. 8. AS 28.22.210 is amended to read:

2 Sec. 28.22.210. REQUIREMENT OF PROOF OF MOTOR VEHICLE LIABILITY
3 INSURANCE. The holder of an Alaska driver's license [OWNER OR OPERA-
4 TOR OF A MOTOR VEHICLE REQUIRED TO HAVE MOTOR VEHICLE LIABILITY INSUR-
5 ANCE THAT COMPLIES WITH THIS CHAPTER OR A CERTIFICATE OF SELF-INSUR-
6 ANCE THAT COMPLIES WITH AS 28.20.400,] must show proof of motor vehi-
7 cle liability [THIS] insurance when that person

8 (1) is involved in an accident that results in bodily
9 injury to or death of a person, or damage to the property of a person
10 exceeding \$500; [OR]

11 (2) is charged with a traffic law violation with a demerit
12 point value of six or more on the point schedule determined under
13 regulations adopted by the department under AS 28.15.221; or

14 (3) applies to obtain or renew an Alaska driver's license.

15 * Sec. 9. AS 28.22.210 is amended by adding a new subsection to read:

16 (b) A holder of an Alaska driver's license who changes motor
17 vehicle liability insurance carriers shall present to the department's
18 satisfaction, in person or by mail, evidence of a written binder of
19 insurance coverage that complies with the requirements of this chapter
20 before the discontinued policy is scheduled to terminate.

21 * Sec. 10. AS 28.22.240(a) is amended to read:

22 (a) If the holder of an Alaska driver's license [A PERSON] fails
23 to provide proof that motor vehicle liability insurance [OR A CERTIFI-
24 CATE OF SELF-INSURANCE] was in effect at the time of an accident or
25 when the person was charged with a violation of a traffic law de-
26 scribed in AS 28.22.210, the department shall suspend the driver's
27 license of that person for the following periods:

28 (1) not less than 90 days if, within the preceding 10
29 years, the person has not previously had a driver's license suspended

1 for violation of AS 28.22.200;

2 (2) not less than one year if, within the preceding 10
3 years, the person has previously had a driver's license suspended one
4 or more times for violation of AS 28.22.200.

5 * Sec. 11. AS 28.22.240 is amended by adding a new subsection to read:

6 (h) Upon notification by an insurance carrier that the motor
7 vehicle liability coverage of a licensed Alaska driver has been can-
8 celled or terminated, the department shall suspend the person's li-
9 cense subject to the provisions of subsections (f) and (g). The
10 suspension remains in effect until a new driver's license is obtained.
11 The provisions of AS 28.15.211 do not apply to license suspensions
12 under this subsection.

13 * Sec. 12. AS 28.22.600 is amended to read:

14 Sec. 28.22.600. DEFINITION. In this chapter, "motor vehicle
15 liability policy" means an [OWNER'S POLICY OR AN] operator's policy
16 containing an agreement or endorsement and issued by an insurance
17 carrier authorized to transact business in the state to or for the
18 benefit of the person named as insured.

19 * Sec. 13. AS 28.22.010(b) and 28.22.050(b) are repealed.

COMMITTEE REPORT
SENATE

FURTHER:

1/23/85

Date 1/24/85

Mr. President

The Committee on FINANCE considered HB 70
donation of leave by state employees; efd

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation *to SD Law*
in Adm
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Ed A. Fitch

Bob Brown

John ...

Rob ...

Chairman

Chairman

Chairman recommendation

Chairman recommendation

Introduced: 1/16/85
Referred: State Affairs and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 70

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to donation of leave by state em-
7 ployees; and providing for an effective date."

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

9 * Section 1. AS 39.20.245(b) is amended to read:

10 (b) An officer or employee, [OF THE LEGISLATURE OR OF A LEGISLA-
11 TIVE AGENCY] with the approval of the person authorizing the employ-
12 ment, may donate accrued personal or annual leave to another officer
13 or employee [OF THE LEGISLATURE OR OF A LEGISLATIVE AGENCY] only for
14 use as leave for medical reasons. The official responsible for [LEG-
15 ISLATIVE] employee accounts shall debit the donor's personal leave
16 account and credit the donee's personal leave account, for medical
17 reasons only, by converting the donated leave into cash value at the
18 donor's rate of pay and reconverting the cash value to hours of leave
19 at the donee's rate of pay. Leave donated under this subsection is
20 not leave taken by the donor for purposes of AS 39.20.225(c). An
21 employee who is covered by a collective bargaining agreement may
22 donate leave to or receive donations of leave from an employee or
23 officer who is not covered by a collective bargaining agreement,
24 notwithstanding AS 39.20.310(8) and (9).

25 * Sec. 2. AS 39.20.310(8) is amended to read:

26 (8) persons employed by the division of marine transporta-
27 tion as masters and members of the crews operating the state ferry
28 system who are covered by collective bargaining agreements as provided
29 in AS 23.40.040, except as expressly provided by law;

1 * Sec. 3. AS 39.20.310(9) is amended to read:

2 (9) persons employed by the state who are covered by col-
3 lective bargaining agreements as provided in AS 23.40.210, except as
4 expressly provided by law.

5 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
6 10.070(c).

216

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Page 1 of 2

Revision Date: _____

REQUEST
 Bill/Resolution No.: HB 70, No. 1
 Title: "An Act relating to donation of personal leave..."
 Sponsor: House Rules/Governor
 Requestor: OMB/Governor's Ofc.
 Date of Request: 1-10-85

FISCAL DETAIL
 Agency Affected: Department of Law
 Program Category Affected: Gen. Govt., Admin. Justice, Public Prot.
 BRU, Program or Subprogram(s) Affected: Legal Services, Prosecution, Consumer Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87.	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared By: Richard I. Pegues Director Phone: 465-3672
 Division: Administrative Services Date: 1/10/85
 Approved by Commissioner: Richard I. Pegues / RR
Norman C. Gorsuch Date: 1/10/85
 Agency: Department of Law

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

7/1/84

This bill amends AS 39.20.245(b) by permitting non-covered state workers to donate sick leave for use by another state worker. Currently, the law speaks only to legislative employees. The amendment would allow the same charitable act to be accomplished by executive and judicial branch non-covered workers. State employees covered by a collective bargaining agreement are already allowed to donate sick leave in this same manner.

The earned personal leave of non-covered workers represents an obligation on the part of the employer to provide either paid leave during the period of employment or payment in cash for any unused personal leave when a non-covered worker's employment is terminated. The donation of sick leave simply transfers the employer's obligation from one employee to another without any additional cost. To the extent that this obligation is paid off before a worker's employment is terminated, the financial obligation or cost to the state would actually decrease because, assumably, the hourly rate of pay would be less.

11/15

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Page 1 of 2

Revision Date: _____ Page 1 of 2

REQUEST
 BILL/Resolution No.: HB 70, No.2
 Title: An act relating to personal leave by State employees.
 Sponsor: Rules at request of Governor. BRU, Program or Subprogram(s) Affected: Personnel
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL
 Agency Affected: Administration
 Program Category Affected: Centralized Administrative Services.

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SVS.						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCT						
700 GRANTS, CLAIM						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Frank Raye *Frank Raye* ^{FR} Phone: 465-4430
 Division: Personnel Date: December 11, 1984

Approved by Commissioner: Lisa Rudd *Lisa Rudd* ^{LR} Date: 1/15/85
 Agency: Department of Administration

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

House Bill 70 No. 2, Page 2 of 2
Fiscal Note Analysis
Prepared by the Division of Personnel
Department of Administration
December 11, 1984

This bill will have no fiscal impact. The cost of leave is the same whether the leave is used by the employee who earned it or by the employee to whom it is donated. In either case, it is funded out of the current Personal Services line item.

Analysis for House Bill 70

Section 1

This section expands the group of state employees that can donate personal or annual leave to include employees of the judicial and executive branch. Currently, only those employees of the Legislature or state employees covered by collective bargaining may donate leave. It also specifically states that an exempt or partially exempt employee may donate leave to an employee covered by collective bargaining and vice versa.

Section 2

Currently certain employees of the marine highway system are prohibited from donating leave. This section merely allows them to donate leave if "expressly provided by law".

Section 3

Same as Section 2 except that it deals with other employees covered by collective bargaining.

Section 4

This bill provides for an immediate effective date.

There is no fiscal impact since this merely involves the transfer of leave time.

The person who is immediately affected by this bill ran out of leave as of January 1, 1985 because she took time off to see her father who suffered a stroke. She also took more leave time when she had a back condition that was later diagnosed as being cancer.

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 16, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the donation of personal or annual leave by state officers and employees.

Section 1 of the bill amends AS 39.20.245(b), concerning the donation of personal or annual leave by one state worker for use as sick leave by another. Currently, the law speaks only to legislative employees. The amendment would allow the same charitable act to be accomplished by executive and judicial branch non-covered workers. State employees covered by a collective bargaining agreement are already allowed to donate leave in this way. The amendment also allows covered and noncovered employees and officers to donate leave to each other for use as sick leave.

Sections 2 and 3 of the bill amend AS 39.20.310(8) and (9), respectively, to clarify that employees covered by a collective bargaining agreement are excluded from AS 39.20.200 -- 39.20.330 "except as expressly provided by law." This provides consistency with the amendment in sec. 1.

Section 4 of this bill provides for an immediate effective date because I know of at least one present situation in which the amended statute would be applied as soon as the amendment is enacted. To make timely provision for this humanitarian act that will cost the state nothing, I strongly urge your immediate passage of this bill.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

COMMITTEE REPORT

HOUSE

(11)

FURTHER:

3/22/85

Date:

4-10-85

The Committee on FINANCE has had HB 71

"An Act making a special appropriation to the Alaska permanent fund; and providing for an effective date."

under consideration and recommends:

do pass

do not pass

do pass with attached amendments(s)

replace with CS for HB 71 (CN) same title

new title

and recommends do pass

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation

Zero Fiscal Note Attached

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Albert G. Adams
William J. ...
Ronald J. ...
...
...
...
...
...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

...
Fort Fairchild (no rec)
...
...
...
...

Albert G. Adams

CHAIRMAN

Offered: 3/22/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 71 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Alaska
7 permanent fund; and providing for an effective date."

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

9 * Section 1. The sum of \$500,000,000 is appropriated from the general
10 fund to the Alaska permanent fund (art. IX, sec. 15, Constitution of the
11 State of Alaska; AS 37.13.010).

12 * Sec. 2. (a) Beginning July 1, 1985, the commissioner of revenue may
13 make regular deposits to the Alaska permanent fund of the appropriation
14 made by sec. 1 of this Act. A deposit to the Alaska permanent fund may
15 only be in an amount determined by the governor to represent excess general
16 fund revenue that is not necessary to finance all valid encumbrances of
17 outstanding appropriations enacted by law that are obligated for the fiscal
18 year in which the deposit is made.

19 (b) Before the commissioner of revenue makes a deposit authorized
20 under (a) of this section

21 (1) the governor shall report the amount of the deposit to the
22 Legislative Budget and Audit Committee for review;

23 (2) 45 days shall elapse before the deposit is made unless the
24 Legislative Budget and Audit Committee recommends, before the 45 days
25 elapses, that the deposit be made; and

26 (3) if the Legislative Budget and Audit Committee recommends
27 within the 45-day period that the deposit should not be made, the governor
28 shall review the proposed deposit and if the governor decides to authorize
29 the deposit, the governor shall provide the Legislative Budget and Audit

1 Committee with a statement of the governor's reasons before the deposit is
2 made.

3 * Sec. 3. The appropriation made by sec. 1 of this Act is not a one-
4 year appropriation. The unexpended balance of the appropriation made in
5 sec. 1 of this Act carries forward to subsequent fiscal years until the
6 entire amount appropriated is deposited in the Alaska permanent fund.

7 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
8 10.070(c).

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date _____

REQUEST

Bill/Resolution No: CS HB 71 (SA)
 Title: Special Appropriation to
Permanent Fund
 Sponsor: House State Affairs
 Requestor: House Finance
 Date of Request: March 26, 1985

FISCAL DETAIL

Agency Affected: Department of Revenue
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected:
Treasury

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker *MB*
 Division: Treasury

Phone: 465-2350
 Date: March 26, 1985

Approved by Commissioner: *Mary K. Sturdale*
 Agency: Department of Revenue

Date: 4/3/85

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST

Bill/Resolution No: CSHB71 (State Affairs)
 Title: Special Appropriation to the
Alaska Permanent Fund
 Sponsor: State Affairs Committee
 Requestor: House Finance Committee
 Date of Request: March 26, 1985

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	See Analysis	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: MCF RWE
 Mary Ellen Frank/Robert Elliott
 Division: Revenue - Research Section

Phone: 465-2173

Date: 3/29/85

Approved by Commissioner: [Signature]
 Agency: [Signature]

Date: 4/3/85

Distribution (by Agency preparing fiscal note):

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

FISCAL NOTE CSHB 71 (STATE AFFAIRS)
Attachment

Although this bill would transfer in its entirety \$500 million from the General Fund to the Permanent Fund, it is unknown the time frame of when General Fund revenues will be available for deposit to the Permanent Fund. While the General Fund would be negatively impacted (investment earnings and total unrestricted revenues) and the Dividend Fund and Permanent Fund (PF balance, inflation proofing, UIA balance and earnings) would be positively impacted, it is impossible to estimate these specific components without a more definite payment schedule.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 16, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making a special appropriation to the principal of the Alaska permanent fund (art. IX, sec. 15, Alaska Const.). The bill provides for the addition of \$500,000,000 to the principal of the permanent fund.

The 1981 legislature, conscious of its responsibilities to future generations of Alaskans and with foresight too rarely seen in government, appropriated \$1.8 billion as a special deposit to the Alaska permanent fund. When my administration took office two years ago, \$700 million of that money remained undeposited. Today, approximately 700 days later, that debt is paid, and it is time that we again consider our obligations to future generations.

The bill is similar to the original appropriation enacted in ch. 61, SLA 1981. The discretion granted by this bill gives me enough flexibility to increase the principal of the permanent fund if an unexpected increase in state revenue occurs because of economic conditions. I share with the legislature a keen interest in protecting and enhancing the principal of the permanent fund so that subsequent generations will benefit from surplus revenues held in the state treasury. Only through generous contributions to the permanent fund can our expectations be realized.

I urge your prompt action on this measure.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

Testimony by COMMISSIONER NORDALE (DOR) 3/21/85
before (H) STATE AFFAIRS

HB 71 authorizes the deposit in the Permanent Fund of \$500 million.

The deposit would be made over time as the state receives funds excess to requirements to fund all valid encumbrances of outstanding appropriations. The bill would allow Alaskans to save. Without that authority, no saving can occur over and above the currently authorized percentages of royalty, rental and lease income.

Notwithstanding the projections of reduced income, this state enjoys a phenomenal amount of revenue now. We are so far from being broke and so far from having to curtail our lifestyle that suggestions that essential programs for the present as well as the future will have to be terminated is, I believe, somewhat misleading. We are not only not broke, we enjoy sufficient income to have money to save.

However, we are all aware that the money derived from development of our oil and gas resources is declining. In the next few years, we may not be in the comfortable position of having money to save. Therefore,

if we fail to embark on a savings program now, we may very well have sacrificed for all time the opportunity to provide for a comfortable future.

Governor Sheffield has stated again and again that the savings which this bill would authorize is his top priority. He has stated again and again that we have as much ~~of~~ a responsibility to use our resources for future benefits as we have to meet present needs.

If we have the will, we can both save for the future and provide for present needs. HB 71 should and, indeed, must be passed.

Offered: 3/22/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 71 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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13 make regular deposits to the Alaska permanent fund of the appropriation
14 made by sec. 1 of this Act. A deposit to the Alaska permanent fund may
15 only be in an amount determined by the governor to represent excess general
16 fund revenue that is not necessary to finance all valid encumbrances of
17 outstanding appropriations enacted by law that are obligated for the fiscal
18 year in which the deposit is made.

19 (b) Before the commissioner of revenue makes a deposit authorized
20 under (a) of this section

21 (1) the governor shall report the amount of the deposit to the
22 Legislative Budget and Audit Committee for review;

23 (2) 45 days shall elapse before the deposit is made unless the
24 Legislative Budget and Audit Committee recommends, before the 45 days
25 elapses, that the deposit be made; and

26 (3) if the Legislative Budget and Audit Committee recommends
27 within the 45-day period that the deposit should not be made, the governor
28 shall review the proposed deposit and if the governor decides to authorize
29 the deposit, the governor shall provide the Legislative Budget and Audit

1 Committee with a statement of the governor's reasons before the deposit is
2 made.

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4 year appropriation. The unexpended balance of the appropriation made in
5 sec. 1 of this Act carries forward to subsequent fiscal years until the
6 entire amount appropriated is deposited in the Alaska permanent fund.

7 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
8 10.070(c).

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Introduced: 1/16/85
Referred: State Affairs and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

HOUSE BILL NO. 71

2

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act making a special appropriation to the Alaska
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12 * Sec. 2. Beginning July 1, 1985, the commissioner of revenue may make
13 regular deposits to the Alaska permanent fund of the appropriation made by
14 sec. 1 of this Act. A deposit to the Alaska permanent fund must be in an
15 amount determined by the governor to be in excess of the general fund reve-
16 nues necessary to finance all valid encumbrances of outstanding appropria-
17 tions enacted by law.

18 * Sec. 3. The appropriation made by sec. 1 of this Act is not a one-
19 year appropriation. The unexpended balance of the appropriation made in
20 sec. 1 of this Act carries forward to subsequent fiscal years until the
21 entire amount appropriated is deposited in the Alaska permanent fund.

22 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).

COMMITTEE REPORT

SENATE

FURTHER:

5/1/85

Date 5/8/85

Mr. President

The Committee on FINANCE considered CSHB 72 (CSBA)

municipal government; etd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CSHB 92 (Fin)
- new title
- same title and recommends individual recommendation
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING

DO PASS

[Signature]

MEMBERS HAVING

OTHER RECOMMENDATIONS

[Signature]

Chairman

Chairman recommendation

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3/15/85

Page 1 of 2

Handwritten notes:
9-24-83

REQUEST

Bill/Resolution No.: CASHB 72 (C&RA)
Title: An Act Relating to
Municipal Government
Sponsor: Rules/Governor
Requestor: Senate C&RA Committee
Date of Request: _____

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
Program Category Affected: _____
Community Development
BRU, Program or Subprogram(s) Affected: _____
Community Assistance Grants
Component: Organizational Grants

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		-0-	400.0	350.0		
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	400.0	350.0		

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	400.0	350.0		
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	400.0	350.0		

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

SEE ATTACHED ANALYSIS

Prepared By: Doug Griffin, Deputy Director *griffin* Phone: 465-4750
Division: Municipal & Regional Assistance Date: 3/15/85

Approved by Commissioner: *[Signature]* Date: 3/15/85
Agency: Community & Regional Affairs

Distribution (by Agency preparing fiscal note): *Super*
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Handwritten: 71-94

AN ACT RELATING TO MUNICIPAL GOVERNMENT

CSHB 72 (C&RA) Page 2 of 2

ANALYSIS: This bill commits the State to paying increased levels of transitional assistance to newly incorporated cities and boroughs. However, given the increasingly complex requirements for incorporation, the fact that the bill does not become effective until January 1, 1986 (half way through FY 86), and the ability to request supplemental funding to pay transitional grants after the fact on a reimbursement basis, assumptions have been changed to produce a zero fiscal effect for FY 86. This will prevent money from being tied up to address incorporations which may not occur.

The Legislature does need to acknowledge that the bill does carry possible increased financial obligations, but it is impossible to predict when these added costs will be borne by the State. For this reason, the fiscal note reflects no additional cost for FY 86, but assumptions for future years are included as follows:

Assumptions: FY 86 - no incorporations
FY 87 - two cities and one borough incorporate
FY 88 - two cities incorporate

Program Summary: The only portion of this bill which will create fiscal impact is Sec. 29.05.180-190 which provides additional transitional assistance through increased organizational grants. The Department is also required to provide additional assistance to newly formed cities and boroughs in setting up a sales tax collection system and tax rolls for property taxation. It is difficult to gauge whether this type of assistance will in fact be requested. If it is requested, additional work will be required of the State Assessor and technical assistance sections of the Division of Municipal and Regional Assistance. Given this uncertainty, possible costs for this type of technical assistance are not reflected in this fiscal note.

Computations:

Grants in FY 86.....	-0-
Grants in FY 87.....	400.0
(2 cities @ \$50,000 per -- first year grant)	
(1 borough @ \$300,000 per -- first year grant)	
Grants in FY 88.....	350.0
(2 cities @ \$50,000 per -- first year grant)	
(2 cities @ \$25,000 per -- second year grant)	
(1 borough @ 200,000 per -- second year grant)	

Economic Impact: The economic impact on State and local governments will be limited.

Impact on Local Governments: This bill is strongly supported by the Alaska Municipal League and most municipalities of the State. Impacts will generally be positive, particularly for newly incorporated municipalities.



Official Business

Alaska State Legislature

Senate Finance Committee

5/7/85
Sackett
J
Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

Date: May 6, 1985

To: Members, Senate Finance

From: Senator John Sackett

Subj: Amendments to SCS CSHB-72 (Jud)

1. Page 11, line 14:
After "city" insert "or adopts a home rule charter"
2. Page 11, line 19:
Delete "election or the reclassification" and inset ", reclassification, or adoption of a home rule charter"
3. Page 29, after line 9, insert the following new subsection to read:
"(b) A second class city that exceeds 35 square miles in area may adopt a charter for its own government if the department determines from the best figures available that the population of the city is at least 3,500 permanent residents."

Reletter the following subsections accordingly.

The effect of the amendments would be to permit the City of Bethel, currently a second class city, to become a home rule charter city should the voters approve such a change in their status.

The 35 square mile and 3,500 population reference ensures that Bethel is the only community which would fall under the provisions of the amendments relating to home rule charter.

The City of Bethel has long requested the change in language so that they can conduct an election and let the voters decide if they want to adopt a home rule charter form of self government.

Cook
#2
Adopted

A M E N D M E N T

Offered in the SENATE

By ELIASON

TO: SCS CSHB 72(Jud)

Page 189, after line 9 insert the following new bill section:

"* Sec. 20. AS 04.21.010(c) is amended to read:

(c) A municipality may not impose taxes on alcoholic beverages except

(1) property taxes on alcoholic beverage inventories; [AND]

(2) sales taxes on alcoholic beverage sales if sales taxes are imposed on other sales within the municipality; and

(3) sales taxes on alcoholic beverage sales that were in effect before July 1, 1985."

Renumber the following bill sections accordingly

Testimony:

Senator Reef
Scott Burgess, AK Mun League
Jeff. Smith, C&RA

In favor.
Against
Supports

Am #2 Adopted — no ob

Burns Am

#3

Adopted
Multivisions

PROPOSED AMENDMENT TO SENATE CS FOR CS
FOR HOUSE BILL NO. 72 (JUDICIARY)

On page 34, line 3, add new (26) as follows and renumber remaining sections accordingly:

(26) AS 29.35.060 (local franchising)

On page 202, line 2, replace (1) with the following:

A person, utility, or cooperative that is exempt from regulation under AS 42.05.711(a) or (d) - (k) is not subject regulation by a municipality under AS 29.35.060 - 29.35.070 [AS 29.48.060 - 29.48.090].

FF: *y* *SC*

Testimony:

Fed Burns
Scott Burgess

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 7, 1985

SUBJECT: Franchises and permits (SCS CSHB 72(Jud))

TO: Senator Jan Faiks, Chair
Senate Finance Committee

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

You have asked for an explanation of the section of the municipal code revision bill dealing with franchises and permits. Sec. 29.35.060 is not a home rule limitation and has not been a home rule limitation under any of the earlier versions of the municipal code. The section itself has not been changed from earlier versions either.

The existing provision on the subject is AS 29.48.050, which is a home rule limitation under AS 29.13.100(17). Subsection (c) of AS 29.48.050 specifically deals with the treatment of utilities that are regulated under AS 42.05, giving them the right to use streets and public places, and giving the municipalities the right to establish permit fees and reasonable terms and conditions. That subsection was entirely eliminated in the municipal code revision bill, so the section now addresses only franchises and permits for utilities not certificated by the Alaska Public Utilities Commission. Since the section does not prohibit the granting of franchises and permits to utilities that are regulated by APUC, and, in fact, does not address their treatment at all, merely making the section a home rule limitation would not clearly have the effect of prohibiting a home rule municipality from acting with regard to regulated utilities. At best, it might be argued that the grant of authority regarding franchises and permits for utilities that are not regulated amounts to a restriction regarding franchises and permits for utilities that are regulated through negative implication. This creates unnecessary confusion in the law.

Senator Jan Faiks
May 7, 1985
Page 2

If the Senate Finance Committee wishes to limit the power of a home rule municipality with respect to franchises and permits for regulated utilities, a possible approach would be to reincorporate AS 29.48.050(c) into Sec. 29.35.060 and make that section a home rule limitation. This would preserve the status quo by ensuring that the regulated utilities could use streets and public places while allowing both home rule and general law municipalities to establish reasonable fees and reasonable terms and conditions for that use.

TBC:ojb
J14/093

Hall Am



Adopted

A M E N D M E N T

Offered in the SENATE

TO: SCS CSHB 72(Jud)

Page 75, line 17:

After "may" insert ", only within its boundaries,"

Testimony:

Hall
Cook
Burgess

AMENDMENT

7 - HOLD
Adopted
5/8/85
pm

To: SCS CSHB-72 (Jud)

by Sackett

Date: May 8, 1985 a.m.

Replace amendment #4 with the following:

Page 74, line 28, add the following:

After the phrase "waste disposal," add
"utility services"

- ¹⁰ Am #4
p: -y, 1 86; - 06

Testimony:
~~Hutchins~~
~~Smith~~
Cook

1 (5) to investigate an affair of the municipality and make
2 inquiries into the conduct of a municipal department;

3 (6) to levy a tax or special assessment, and impose a lien
4 for its enforcement;

5 (7) to enforce an ordinance and to prescribe a penalty for
6 violation of an ordinance;

7 (8) to acquire, manage, control, use, and dispose of real
8 and personal property, whether the property is situated inside or
9 outside the municipal boundaries; this power includes the power of a
10 borough to expend, for any purpose authorized by law, money received
11 from the disposal of land in a service area established under AS 29.-
12 35.450;

13 (9) to expend money for a community purpose, facility, or
14 service for the good of the municipality to the extent the municipal-
15 ity is otherwise authorized by law to exercise the power necessary to
16 accomplish the purpose or provide the facility or service;

17 (10) to regulate the operation and use of a municipal right-
18 of-way, facility, or service;

19 (11) to borrow money and issue evidences of indebtedness;

20 (12) to acquire membership in an organization that promotes
21 legislation for the good of the municipality;

22 (13) to enter into an agreement, including an agreement for
23 cooperative or joint administration of any function or power with a
24 municipality, the state, or the United States;

25 (14) to sue and be sued.

26 Sec. 29.35.020. EXTRATERRITORIAL JURISDICTION. (a) To the
27 extent a municipality is otherwise authorized by law to exercise the
28 power necessary to provide the facility or service, the municipality
29 may provide parks, playgrounds, cemeteries, emergency medical

1 services, solid and septic waste disposal, utility services, airports,
2 streets (including ice roads), trails, transportation facilities,
3 wharves, harbors and other marine facilities outside its boundaries
4 and may regulate their use and operation to the extent that the juris-
5 diction in which they are located does not regulate them. A regu-
6 lation adopted under this section must state that it applies outside
7 the municipality.

8 (b) A municipality may adopt an ordinance to protect its water
9 supply and watershed, and may enforce the ordinance outside its bound-
10 aries. Before this power may be exercised inside the boundaries of
11 another municipality, the approval of the other municipality must be
12 given by ordinance.

13 (c) This section applies to home rule and general law municipal-
14 ities.

15 Sec. 29.35.030. EMINENT DOMAIN. (a) A municipality may exer-
16 cise the powers of eminent domain and declaration of taking in the
17 performance of a power or function of the municipality under the
18 procedures set out in AS 09.55.250 -- 09.55.460.

19 (b) This section applies to home rule and general law municipal-
20 ities.

21 Sec. 29.35.040. EMERGENCY DISASTER POWERS. (a) A municipality
22 that is wholly or partially in an area that is declared by the Presi-
23 dent or governor to be a disaster area may participate in and provide
24 for housing, urban renewal, and redevelopment in the same manner as a
25 home rule city. The exercise of these powers by a borough shall be on
26 a nonareawide basis, except a borough may exercise the powers trans-
27 ferred to it by a city as provided by AS 29.35.310.

28 (b) Powers granted by this section must be initiated within a
29 period of not more than five years after the date of declaration of a

Offered: 5/2/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 72 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL
6 For an Act entitled: "An Act relating to municipal government; and provid-
7 ing for an effective date."

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

9 * Section 1. PURPOSE. The legislature finds that the municipal code
10 contains many provisions that have created problems for municipalities that
11 must function under AS 29 and that the title is poorly organized and
12 difficult for people to use. Therefore, it is the purpose of the
13 legislature to revise and reorganize the municipal code to permit local
14 government to function more effectively. Except as expressly provided, the
15 legislature does not intend by this Act to alter or affect in any way the
16 relationship or balance of authority between the state and home rule or
17 general law municipalities with respect to the timing or manner of resource
18 development under AS 31, AS 38, or other provisions of law. Except as
19 expressly provided, the legislature does not intend by this Act to increase
20 or reduce the authority of state agencies to carry out their functions
21 under other titles.

22 * Sec. 2. AS 29.03 is amended by adding a new section to read:

23 Sec. 29.03.030. PLATTING AUTHORITY. Subject to AS 40.15.075,
24 the Department of Natural Resources is the platting authority in the
25 unorganized borough in the area outside all cities.

26 * Sec. 3. AS 29 is amended by adding a new chapter to read:

27 CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

28 Sec. 29.04.010. HOME RULE. A home rule municipality is a
29 municipal corporation and political subdivision. It is a city or a

1 borough that has adopted a home rule charter, or it is a unified
2 municipality. A home rule municipality has all legislative powers not
3 prohibited by law or charter.

4 Sec. 29.04.020. GENERAL LAW. A general law municipality is a
5 municipal corporation and political subdivision and is an unchartered
6 borough or city. It has legislative powers conferred by law.

7 Sec. 29.04.030. CLASSES OF GENERAL LAW. General law municipali-
8 ties are of five classes:

- 9 (1) first class boroughs;
10 (2) second class boroughs;
11 (3) third class boroughs;
12 (4) first class cities;
13 (5) second class cities.

14 Sec. 29.04.040. RECLASSIFICATION OF SECOND CLASS CITIES. (a) A
15 second class city may be reclassified as a first class city by holding
16 an election on the question, if the department determines from the
17 best figures available that the population of the city has reached 400
18 permanent residents.

19 (b) An election on the question of reclassification may be ini-
20 tiated in two ways:

21 (1) a number of voters equal to 15 percent of the number of
22 votes cast in the city at the preceding regular election may file a
23 petition with the council; or

24 (2) the council may propose reclassification.

25 (c) The council shall hold at least one public hearing in the
26 city on the question of reclassification. The council shall then
27 evaluate the ability of the city to assume first class status and make
28 its findings public.

29 (d) The council shall, within 30 days after its findings have

1 been made public, order an election on the question of reclassifica-
2 tion. The election shall be held at least 30 days after the order and
3 not later than the next regular election occurring after the 30-day
4 period. If more than one question is to be voted on at the election,
5 each shall appear separately on the ballot.

6 (e) The council shall certify the election results to the de-
7 partment. If the majority of votes cast is favorable, the city shall
8 be considered reclassified to first class status 30 days after certi-
9 fication of the election results.

10 Sec. 29.04.050. RECLASSIFICATION OF SECOND CLASS BOROUGHES. A
11 second class borough may reclassify as a first class borough in the
12 manner provided by AS 29.35.320 - 29.35.330 for the addition of an
13 areawide power by a first or second class borough, except the petition
14 or proposal requests reclassification instead of requesting addition
15 of a power.

16 Sec. 29.04.060. RECLASSIFICATION OF THIRD CLASS BOROUGHES. (a)
17 A third class borough may reclassify as a first or second class bor-
18 ough in the manner provided by AS 29.35.320 - 29.35.330 for the addi-
19 tion of an areawide power by a first or second class borough, except
20 the petition or proposal requests reclassification instead of request-
21 ing addition of a power. At the time of voting on reclassification of
22 a third class borough to first or second class status, voters shall
23 vote also on whether the borough shall, on reclassification, retain a
24 combined assembly and school board or elect a separate assembly and
25 board as otherwise provided for first and second class boroughs.

26 (b) If a combined assembly and school board are approved at the
27 reclassification election, the assembly serving at the time of the
28 election continues to serve as the assembly and board on voter ap-
29 proval of reclassification and until terms of assembly members expire

1 as provided before reclassification.

2 (c) If a separate assembly and school board are approved at the
3 reclassification election, a school board shall be elected in confor-
4 mity with AS 14.12.030 - 14.12.100 at the next regular election, if it
5 occurs within 90 days of the date of the reclassification election, or
6 otherwise at a special election within 90 days of the date of the
7 reclassification election. Expiration dates of terms of school board
8 members elected at a special election must coincide with the date of
9 the regular election. Until a board is elected and qualified, the
10 assembly continues to serve as the board.

11 * Sec. 4. AS 29 is amended by adding a new chapter to read:

12 CHAPTER 05. INCORPORATION.

13 ARTICLE 1. REQUIREMENTS.

14 Sec. 29.05.010. INCORPORATION OF A CITY. (a) A community that
15 meets the following standards may incorporate as a first class city:

16 (1) the community has 400 or more permanent residents;

17 (2) the boundaries of the proposed city include all areas
18 necessary to provide municipal services on an efficient scale;

19 (3) the economy of the community includes the human and
20 financial resources necessary to provide municipal services; in con-
21 sidering the economy of the community, the Local Boundary Commission
22 shall consider property values, economic base, personal income, re-
23 source and commercial development, anticipated functions, and the
24 expenses and income of the proposed city, including the ability of the
25 community to generate local revenue;

26 (4) the population of the community is stable enough to
27 support city government;

28 (5) there is a demonstrated need for city government.

29 (b) A community that meets all the standards under (a) of this