

HOUSE JUDICIARY COMMITTEE
October 23, 1987
1:00 p.m.
Ketchikan City Council Chambers
Ketchikan, Alaska

MEMBERS PRESENT

Rep. John Sund, Chair
Rep. Mike Navarre (arrived 2:30 p.m.)
Rep. Robin Taylor

Present Via Teleconference:

Rep. Fran Ulmer, Vice Chair (from Juneau)
Rep. Ramona Barnes (from Anchorage)

MEMBERS ABSENT

Rep. Sam Cotten
Rep. Max Gruenberg

COMMITTEE CALENDAR

HB 237: An Act relating to murder, assault, and the physical and sexual abuse of children; amending Rule 404 of the Alaska Rules of Evidence; ed.

~~HB 229~~ An Act relating to homicide by abuse.

SB 117: An Act relating to child support enforcement.

WITNESS REGISTER

Rep. Fran Ulmer
P.O. Box V
Juneau, Alaska 99811
Position: Sponsor of HB 237.

Floyd Richmond
Women In Safe Homes
Box 6552
Ketchikan, Alaska 99901
225-9474
Position: Supports HB 237 and HB 229.

Patricia Francis
815 Brown Deer
Ketchikan, Alaska 99901
225-5827
Position: Supports HB 237.

Constance Griffith
League of Women Voters of Alaska
2509 4th Avenue
Ketchikan, Alaska 99901
225-5069
Position: Supports HB 237.

Virginia Peltier
Box 3024
Ketchikan, Alaska 99901
225-6794
Position: Supports HB 237.

Susan Pickrell
361 Main
Ketchikan, Alaska 99901
225-6631
Position: Supports HB 237.

Rep. Bill Hudson
P.O. Box V
Juneau, Alaska 99811
Position: Sponsor of HB 229.

Jim Ayers
KIDPAC
281 Franklin Street
Juneau, Alaska 99801
463-3445
Position: Supports HB 237 and HB 229.

Holly Ploog
Director
Division of Child Support Enforcement (CSED)
550 W. 7th Street
Anchorage, Alaska 99501-3556
263-6270
Position: Discuss and answer questions regarding CSED.

Nicki Stillman
501 Front Street
Ketchikan, Alaska 99901
225-3157
Position: Discuss problems with CSED.

Colleen Scanlon
Administrator
Ketchikan Daycare Assistance Program
344 Front Street
Ketchikan, Alaska 99901
225-6151
Position: Discuss problems with CSED.

Sandy Armstrong
Box 2131
Wrangell, Alaska 99929
874-2431
Position: Discuss problems with CSED.

Dennis McCarty
320 Bawden #309
Ketchikan, Alaska 99901
225-2108
Position: Discuss problems with CSED.

Robert Armstrong
Box 2132
Wrangell, Alaska 99929
874-2431
Position: Discuss problems with CSED.

Terry Angerman
Box 7
Wrangell, Alaska 99929
874-3053
Position: Discuss problems with CSED.

Helena Dunn
Box 6161
Ketchikan, Alaska 99901
225-3760
Position: Discuss problems with CSED.

Carl Campbell
Box 671
Wrangell, Alaska 99929
874-2033
Position: Discuss problems with CSED.

Shawn Mock
Rt. 2, Box 1342
Ketchikan, Alaska 99901
225-0707
Position: Discuss problems with CSED.

Gary Buethe
 Box 1841
 Wrangell, Alaska 99929
 874-2176
 Position: Discuss problems with CSED.

Angelo Martin
 P.O. Box 6016
 Ketchikan, Alaska 99901
 225-6821
 Position: Discuss problems with CSED.

Dale Rogers
 Ketchikan, Alaska 99901
 Position: Discuss problems with CSED.

PREVIOUS ACTION

HB 237:	Jrn-Date	Jrn-Pg		Action
	04/01/87	704	(H)	Read the first time with referral(s)
	04/01/87	704	(H)	HESS, Judiciary, Finance
	04/22/87	1117	(H)	Co-Sponsor removed: Sund
	05/04/87	1117	(H)	HES RPT CS(HESS) new title 7NR
	05/04/87	1117	(H)	Fiscal Note published 5/4/87
	05/04/87	1117	(H)	3 Zero Fiscal Notes published 5/4/87
	05/04/87	1117	(H)	Zero Fiscal Note/ Analysis 5/4/87
	05/04/87	1117	(H)	Referred to Judiciary

Previous Judiciary committee consideration and testimony on HB 237 held on 5/5/87.

HB 229:	Jrn-Date	Jrn-Pg		Action
	03/30/87	674	(H)	Read the first time with referral(s)
	03/30/87	674	(H)	Judiciary then Finance
	03/30/87	688	(H)	Co-Sponsors added: Ellis, Davidson, and Gruenberg
	04/01/87	712	(H)	Co-Sponsor added: Hanley
	04/03/87	733	(H)	Co-Sponsor added: Collins

Previous Judiciary committee consideration and testimony on HB 229 held on 5/5/87.

SB 117:	Jrn-Date	Jrn-Pg		Action
	02/10/87	239	(S)	Read the first time with referral(s)
	02/10/87	239	(S)	Governor's Transmittal letter
	02/10/87	239	(S)	Zero Fiscal Note Published
	02/10/87	239	(S)	Judiciary, Finance
	03/27/87	729	(S)	JUD RPT 4DP
	03/27/87	729	(S)	Letter of Intent with JUD Report
	05/13/87	1369	(S)	FIN RPT 5DP with JUD Letter of Intent
	05/13/87	1397	(S)	Rules to calendar
	05/14/87	1424	(S)	Read the second time
	05/14/87	1424	(S)	Advanced to third reading unan consent
	05/14/87	1424	(S)	Read the third time SB 117
	05/14/87	1425	(S)	(S) Adopted JUD Letter of Intent
	05/14/87	1425	(S)	Passed Y14 N- A6
	05/14/87	1438	(S)	Transmitted to (H)
	05/15/87	1441	(H)	Read the first time with referral(s)
	05/15/87	1441	(H)	Judiciary, Finance

ACTION NARRATIVE

(Note: Two sets of tapes were used to record this meeting. Because of technical difficulties some information was missed on each set of tapes but has been included in this written record. If the tape record is referenced for complete testimony both sets of tapes may be useful.)

TAPE 71, SIDE 1
Number 001

Chairman Sund called the meeting to order at 1:00 p.m. He explained that the meeting was scheduled to begin that morning but was moved to the afternoon because some committee members were unable to get into Ketchikan due to faulty navigational equipment at the airport and would therefore be participating via teleconference. He asked Rep. Ulmer to testify on HB 237.

Number 13

Rep. Ulmer gave a brief description of HB 237 and reviewed statistics regarding increases in child abuse and child sexual assault in Alaska. She said that staff resources are not adequate to effectively protect children. She

reported that child protective services show a 222% increase in the number of reported cases of child abuse from 1978 to 1986 and that national statistics suggest only a small percent of incidents of abuse is reported.

(The remainder of Rep. Ulmer's testimony has been transcribed by request. The first minute or so of Rep. Ulmer's testimony was mistakenly not taped, but is summarized above.)

Number 75

"The other statistic of concern to me is how many child abuse cases which are submitted to the Attorney General's office for prosecution are not prosecuted and I want to share a few of those numbers with you. We get a lot of numbers thrown at us in the context of how many people are serving time in Alaska's correctional institutions because of sexual assault, particularly child sexual assault, and so we tend to think there are lots of people doing time so maybe our system is working and these people are behind bars. But, when you look at the number of cases which are serious enough to be investigated by the Attorney General's office but are never brought to prosecution for a variety of reasons, I think we have to reach the conclusion that there are indeed a lot of people who abuse children that are never being brought to justice. In FY 85 there were 462 cases admitted for prosecution, 40% of which were declined. In FY 86 there were 356 cases submitted for prosecution with 48% of those cases being declined. That, incidentally, compares with approximately 30% decline rate for general felony cases submitted to the criminal division of the Department of Law. As a result of conversations with individuals involved in the prosecution of these cases, there are two principal reasons why many of these cases are never brought to a trial. Number one: the shortage of resources. Number two: recent Court of Appeals rulings in the State of Alaska which significantly reduce the chances of being able to obtain a successful conviction.

The shortage of resources is particularly relevant to child abuse cases because of the additional resources necessary to prepare these cases to go to trial. Child victims, child witnesses, the lack of evidence, the nature of the relationship between the victim and the perpetrators of the violence, are all very difficult to handle in a courtroom situation and in order to have these cases prepared adequately, it requires extra time on the part of prosecutors and the assistants to them to be able to prepare the child victim. When there is a shortage of resources, as there has been because of budget cuts, the first thing that gets reduced in terms of how time is

allocated are these cases that are particularly time intensive. During the last few years, the prosecutors' offices that previously had special witness assistance programs and even special offices where these children could be prepared for the courtroom experience: that's what we have seen get cut out of the budget. So the shortage of resources means they are spending less time to prepare these cases and when you spend less time to prepare them it unfortunately results in fewer of them being prosecuted or appropriately charged.

Number 130

The second reason is the Court of Appeals decisions that have, 1) limited the admissibility of certain types of evidence, 2) imposed caps on the lengths of sentences, and 3) restricted the joinder of cases which should be tried together. All limit the ability of the prosecution to successfully prosecute these cases. I think it's only human nature that the prosecutors tend to put their time into those cases where they think they can get successful prosecutions. That does not necessarily mean that these are unfounded cases or that there shouldn't have been a finding of guilty had these cases gone through the entire process. But they are either getting charge-bargained down (reducing the charge to what they think they might be able to prove) so that somebody actually ends up spending some time in jail (which incidentally is how the Paulo case in Juneau got reduced) or they're simply not bringing them at all. Where they're able to prosecute the cases and obtain a successful conviction, we're finding a rather large number of these convictions being turned back by the Court of Appeals for evidentiary reasons, which brings us to House Bill 237.

House Bill 237 was introduced with an eye toward dealing with those aspects of recent decisions by the judiciary in the State of Alaska which limit the ability of prosecutors to successfully prove these cases and as I believe is outlined on a piece of paper, which either should be in your files from the session or perhaps made available by staff today, there are four issues which are specifically addressed in this bill: 1) changes to evidentiary Rule 404, which makes the offender's prior acts of physical and sexual assault admissible; 2) a change in the definition of the abuse to include "a pattern or practice of abuse," which allows the evidence of a series of assaults against a child to be admitted and brought into one case, one charge, which deals with the joinder issue I mentioned previously. A number of these cases are being required to be severed or brought separately, which limits the ability of the prosecution to show the relationship between the child and the victim and the aggravated nature because of the

compounding nature of multiple abuse. Incidentally, this pattern or practice of abuse is modeled on a recently adopted State of Washington criminal statute on child abuse; 3) a clarification of the use of prior inconsistent statements.

For those of you who are not familiar with this concern, what we're finding is that the Court of Appeals has substituted its judgement for the trial court's decision as to whether or not a prior inconsistent statement by the victim is sufficient (see Brower v. State). This issue is important because of the nature of the relationship between the victim and the abuser. The victim is frequently the child, stepchild, or dependent of the live-in boyfriend; in other words, a person that is frequently in the home and can exercise considerable control over the victim. This frequently results in a recanting of previous testimony or changing his or her story because of pressure which is brought to bear upon the victim to say the abuse never happened. This provision in House Bill 237 at least attempts to deal with that situation by clarifying that it is in the trial court's discretion to determine sufficiency.

Number 213

And finally, 4) the changes to the sentences requiring a higher presumptive sentence for multiple abuse cases. This particular provision of the bill was changed by the HESS Committee as the HESS Committee did not increase the sentences. This is an issue we need to discuss. I would like to briefly explain why I believe higher sentences are appropriate. When you have a relationship occurring over a number of months, years, indeed the lifetime of a child, then there's social justification from the standpoint of public policy and the standpoint of the negative emotional and physical impact upon the child, that this kind of conduct receives a more serious penalty, a higher sentence. This doesn't argue the question of whether presumptive sentencing is correct or not, it assumes that is the system the State of Alaska has and it doesn't try to change that. My original bill would have had a higher sentence for this offense (13 years). There may be other ways of dealing with that if you don't like presumptive sentencing, perhaps additional aggravators that should be put into the sentence, but something to make certain that the person that repeatedly abuses a child, either physical abuse or sexual assault, receives a higher sentence.

I probably have talked longer than I should have, sorry John. That's a brief overview and I would be happy to go back after the testimony that we receive and deal with these issues more completely."

Number 232

Chairman Sund asked if Dana Fabe, of the Public Defender's Office, was available to testify. It was clarified by committee staff that she was originally available during the morning, but had another commitment for the afternoon; however, she would be available to testify at a future date.

Number 270

Floyd Richmond, Executive Director of Women In Safe Homes (W.I.S.H.), testified in support of HB 237 and HB 229 and presented informational packets to the committee including his written testimony. He clarified that child abuse and sexual assault is of a complex nature and a difficult social problem and that HB 237 and HB 229 deals with only one important facet. He hoped the committee would maintain that focus and not let other issues influence their consideration of the legislation, such as false allegations which lead to dismissal of cases of alleged child abuse. It is an important matter, but another issue. He felt that false allegations have little to do with this legislation. It's important to clean up our act on reported abuse, investigation of abuse, and the system charged with that responsibility, but that is not what the bills speak to. The issue boils down to whether children need special attention and protection, if so, then the Rules of Evidence have to be changed to convict an offender of repeated child abuse. The goal should be to protect children who are victims now and future victims, not to continue to protect an individual who has no control over their behavior and there are very limited ways to help them gain control. In 1986, there were between 1,200 to 5,000 deaths resulting from child abuse, depending on the source of reporting. Many of the children were victims of repeated abuse and the average age was 2.6 years.

He verified the accuracy of statistics referred to by Rep. Ulmer. He said experts in the field of sexual offenders never use the word "cure", but talk of some offenders getting control or a reduction in the offenses committed. A study on non-incarcerated sex offenders showed 411 individuals, of which 44% were incest offenders and offended outside the home, 50% were multiple deviants, and 232 of the molesters were responsible for 17,000 victim assaults. A study at the Oregon State Hospital showed 53 incarcerated offenders committed 25,000 sexual crimes. He pointed out that children continue to trust adults even after they've been victimized.

Number 345

Mr. Richmond continued by saying that legislation was

needed to hold adults responsible for their actions. He did not advocate punishment as a deterrent. The rights of offenders who repeatedly offend against a child's rights are a secondary issue. Society, children in particular, must be protected from these individuals. The system presently recognizes the rights of the offender over the rights of the victim. He noted that pedophiles are victimizing younger children because such cases are harder to prosecute. He felt that this legislation will help break the cycle of abuse.

Number 385

Chairman Sund asked what Mr. Richmond's observation was of repeat offenders in Alaska. Mr. Richmond replied that there were no statistics available to him, but the pattern in general is usually very repetitive. He discussed behavior modification as being the only somewhat successful treatment.

Rep. Barnes asked for his comments on the incest situation whereby the offender is removed from the family home. Mr. Richmond replied that there was not much of a family if a man is molesting his children. He needs treatment and incarceration and the whole family needs treatment. Kids especially need to be told that they have been mistreated. Usually when the man remains in the home treatment doesn't occur. If families can change and be reunited after incarceration and treatment, a special system can be developed after; but there is still a great risk, particularly with incest offenders.

Number 437

Rep. Ulmer pointed out Mr. Richmond's comments about the repetitive cycle of abuse and sexual assault. She related the early experiences of child victims to increases of teenage suicide and drug abuse because of the emotional damage it causes. In other words, "as the twig is bent, so grows the tree," and early intervention and treatment is one of the most effective ways society can deal with teenage problems.

Mr. Richmond mentioned a forthcoming study of women diagnosed with manic-depressive problems in the 20-40 year old age bracket in which a high percentage had severe sexual abuse in their background. Once that is brought to the fore and they begin to heal that part of their personality, the manic-depressive diagnosis is lost.

Chairman Sund directed this question to both Rep. Ulmer and Mr. Richmond. What does the state have to offer to families to sustain them economically when the father is in

jail. Rep. Ulmer replied that most are not healthy family units, other economic realities have probably come to bear, and the modern Alaska family woman is usually already working; but there were not statistics available to specifically answer the question. She said the departure of the man will impact the family economically, but not as with the weight of continued physical and emotional abuse. Mr. Richmond replied that W.I.S.H. and a number of other groups across the state have survivor groups available for incest victims; so they provide some services, although not enough. Needed is self-help and support groups to help victims heal, along with child care and child care assistance and further education in schools.

Number 510

Chairman Sund noted that victims may tolerate abuse because the economic choice seems to be overwhelming. State programs need to be available to support a victims' decisions to get out of abusive situations. Mr. Richmond didn't feel the conscious reason for women is economic but rather that shame and guilt are bigger factors. If society says in a big voice that child abuse and sexual assault are intolerable, it makes it easier for women to come forward.

Rep. Ulmer noted that California and Oregon have work programs for guilty offenders in prison where the money they earn goes to their victims for counseling costs.

Chairman Sund announced that Rep. Taylor has a court appointment related to his law practice and will miss a portion of the meeting.

Number 554

Patricia Francis testified in support of HB 237 and HB 229 representing victims and survivors of abuse. She was physically and sexually abused from age 4 to 16 and described her experience of terror, shame, guilt, mistrust, nightmares and death wishes. She felt that victims share a lifelong sentence of emotional holocaust caused by such crimes, if they survive. Passage of such legislation will vindicate the victims of these unspeakable crimes.

Rep. Barnes commented that she was touched by the testimony and says it speaks to the reason why incest fathers should not remain in the home.

Chairman Sund requested a copy of Ms. Francis' written testimony to include in the committee files.

Number 593

Constance Griffith, of the League of Women Voters of

Alaska, supported HB 237 and HB 229 and read written testimony of the League's position on domestic violence. They define it as physical harm or the threat of it among household or family members, including abuse, neglect and sexual assault. All individuals have the right to be safe from physical abuse in their own homes and the right to live in a fear-free environment. Special protection is needed for vulnerable or dependent people regardless of age or geographic location (speaking of the villages in Alaska which often don't receive needed attention). She discussed intervention, coordinated response and special training of agencies, as well as the preference for removing the perpetrator rather than the victim from the home. Special attention should be given to adolescents and people in rural areas as they have been inadequately served in the past. She discussed a special fund into which perpetrators should pay and public services that should be available in the state.

Ms. Griffith continued with discussion about high school education for teenagers and single parents. A copy of the League's position paper was made available to the committee file.

Number 650

Virginia Peltier testified next in support of HB 237 and HB 229. She commented on Patricia Francis' testimony and verified that her's was a life of triumph in that she survived such a debilitating childhood and that it hinged on the fact that the court said that her father was wrong, not her. It was a turning point in her life whereby she was able to reconstruct her life in a positive manner and is living productively now. Ms. Peltier discussed a recent U.S. Customs seizure of child pornography material from a cruise ship employee who was an admitted homosexual in which nothing could be done to the man and he is free to continue to work on the cruise ships.

TAPE 71, SIDE 2

Number 001

Susan Pickrell spoke in favor of HB 237 and HB 229. She has worked for the Ketchikan Police Department for six years and addressed questions regarding repeat offenders. There is not enough data on offenders and recidivism in Alaska and there are inadequate facilities and programs in state. Relative to Ketchikan cases, there are not many convictions and of the cases that are presented there is only one District Attorney to handle all misdemeanors and felonies. She discussed what happens when the child victim is removed from the home rather than the offender. She read from written testimony, a copy of which was provided

to the committee. She discussed agency protocol in dealing with child abuse and sexual assault cases and provided a copy of the protocol agreement among Ketchikan agencies. She also discussed statistics and particular cases where prosecution was not sought because of the difficulty of proving cases under current law. Victims should receive special protection by virtue of their status as children and that of obeying adults and these crimes should receive special recognition. New legislation is needed to underscore the non-acceptability of child abuse and its dynamics which manifest in life threatening patterns and serious physical and psychological damage to the victims.

Number 100

Chairman Sund noted that a copy of testimony by Dana Fabe, Public Defender, had been made available to the committee and is on file.

Rep. Bill Hudson testified next on HB 229, which he sponsored. He gave the reasons for introduction of the bill bringing up a recent Juneau case involving the death of a child which was charge-bargained down and given a lenient sentence. The bill speaks to heinous crimes which are growing in Alaska and nationwide. Statutes don't provide an adequate mechanism for dealing with these types of crimes. HB 229 creates a new crime, "homicide by abuse," by establishing a pattern or practice of assault or abuse which leads to the death of a child under the age of 16 as first degree murder. It also addresses the question of charge-bargaining. It is modeled after State of Washington legislation, although theirs includes dependent adults in the same category as children. He felt the state needs to provide strong penalties for such crimes against children.

Number 200

Jim Ayers, of KIDPAC, testified in support of HB 237 and HB 229. He reiterated previous testimony as to the repetitive cycle and increasing spiral of abused becoming abusers. He felt legislation was only part of a comprehensive approach, which he proceeded to outline in eight points: 1) more child awareness is needed; how children can get help, such as an emergency hot line, a place where they can escape without consequences; 2) family awareness and training services; 3) community support in services and counseling; 4) victim services for children; noting that programs have been reduced the last two fiscal years; 5) judiciary action such as this legislation, although it is not enough without the other guidelines; 6) rehabilitation services for perpetrators; 7) education and information available for kids, including the cycle of abuse; and 8) additional

training for police, teachers, and others involved in the issue of child abuse. Legislation needs to be addressed as a critical element of the total package to bring child abuse under control in the state.

Number 280

Rep. Barnes commented that the state does have some facilities available and they may need to be publicized better, referring to the mental health facilities. She also suggested a statewide crisis line be available.

Chairman Sund asked Rep. Ulmer if the Interim Children's Commission was putting together a compendium of statewide services available to children and families. Rep. Ulmer replied that there was no comprehensive package available and that the Commission's work has been multidimensional, not just focused on abuse issues, but they will be making recommendations. Many existing programs are budget items and need improvement, extra resources and coordination.

Number 344

Rep. Ulmer proceeded to discuss HB 237 by section, giving a brief analysis of what each section does.

Section 1 redefines second degree murder and amends existing statutes in two ways. It changes language in Subsection 2 to "knowingly engages in conduct" to clarify what is already in law by making the statute in conformance to judicial decision. The change has received no objection. Regarding Subsection 4 - the pattern or practice language - Dana Fabe advised that it needs to relate to physical abuse. It deals with the heart of the Covington case regarding the pattern or practice. Rep. Ulmer discussed the Covington case, in that the victim couldn't describe the exact instances or specific dates of abuse, so the conviction was overturned.

Number 422

Chairman Sund asked about page 2, lines 2 & 3, regarding the change to "results in" from "directly causes." Rep. Ulmer replied that it was suggested by Dana Fabe and it is the consensus of use in the Alaska Criminal Code. Chairman Sund asked if the bill addressed whether a jury had to be unanimous about the establishment of pattern or practice. Rep. Ulmer responded that it is a question of what the unanimity of jury constitutional requirements really means to a particular criminal offense. For example, is the charge a specific incident of sexual intercourse or the sexual abuse which may involve intercourse on a number of occasions. RICO statutes have a similar charge of several

incidents becoming the criminal offense itself. She believed it was not an issue that would be resolved through the legislation, but litigated and decided by the Supreme Court. Chairman Sund preferred working on it further instead of having the Supreme Court write this law.

Rep. Ulmer discussed Section 2, which defines the terms "abuse or gross neglect." Chairman Sund asked about proposals by Dana Fabe concerning the definitions of assault and physical abuse. Rep. Ulmer discussed the language regarding the particular definitions. Language was offered in the HESS subcommittee by the Department of Health and Social Services, which was adopted. Further refinement of the definitions have been suggested.

Number 520

Chairman Sund announced that a flight reached Ketchikan and Rep. Navarre had just arrived at the meeting.

Rep. Ulmer discussed Section 3, which makes the same language change as in Section 1 of "knowingly engages in conduct" and uses the pattern or practice language. Section 4 is the definition which was discussed in Section 2. Sections 5 and 6 deal with repeated sexual abuse of a minor where they can be brought together as one charge, dealing with the joinder problem and the Covington case issue. Further discussion included the presumptive sentence increase for the repeated offender. She then discussed the evidentiary issue amending Rule 404 as well as Section 11 regarding the Brower vs. State issue (a response to a Court of Appeals case regarding conviction when the testimony of a victim is recanted, as often results from pressure by the perpetrator on the victim to change their testimony). If the lower court (as the trier of fact) determines enough voracity to the testimony, it should be sufficient to convict. Basically it says it should be the decision of the trier of fact which determines the relevancy of the testimony rather than leaving it to the Court of Appeals to determine or substitute its judgment. She pointed out that a recent decision brought to her attention by Dana Fabe is that the Court of Appeals seems not to be following the Brower decision any longer and that it didn't apply, thereby making this section unnecessary.

Chairman Sund pointed out that Section 11, regarding "prior inconsistent statements" had been removed by the HESS committee. Rep. Ulmer referenced Bodine vs. State, in which a child changed her testimony, but the Court of Appeals concluded it was still sufficient to hold up the conviction.

Number 703

Rep. Ulmer continued her analysis, stating that the change to Rule 404 is extremely important to the bill. It has been judicially altered by the Court of Appeals by increasing restriction of admissibility of the defendant's disposition to commit the offense and the uniqueness of the particular offense and relationship between the offender and victim. It is important to show the offender is predisposed to sexual relations with children or is abusive. It is the prevailing evidentiary rule in other states and federal court, but it's no longer true in Alaska and it greatly limits the ability of the prosecution to prove that the individual is guilty.

TAPE 72, SIDE 1
Number 175

(Note: Two tapes were used to record this meeting. Because testimony was missing on one tape, the second set of tapes is used here. There is an overlap of Rep. Ulmer's testimony on the beginning of this side which explains why the tape counter number begins at 175.)

Rep. Ulmer felt it would be useful to discover how many convictions were reversed by the Court of Appeals because of Rule 404 and how many Courts of Appeals have reduced sentences in the past few years, and perhaps the committee would request an analysis. Chairman Sund replied that House Research or Legal Services could research the request. He asked if the purpose of the legislation was to make a narrow exception to Rule 404. Rep. Ulmer replied that it was narrowly drafted, in that it was restricted to physical and sexual assaults. She noted that justification for the change can be found in other jurisdictions. She referenced a February 11, 1987, submittal by Rick Svobodny regarding stricter interpretation of Rule 404 in abuse cases by the Court of Appeals over other types of cases.

Number 245

Chairman Sund commented that it requires 27 votes to amend a court rule. He announced that the committee would take a short break and reconvene at 3:00 p.m to take testimony on child support enforcement.

Chairman Sund reconvened the meeting at 3:00 p.m.

Number 275

Holly Ploog, Director of the Child Support Enforcement Division (CSED) within the Department of Revenue, described the responsibilities of the division and it's function in

relation to President Reagan's 1984 amendments to federal law regarding child support enforcement. She gave some statistics about the poverty level of children in households and costs of public assistance. She stated that there is much national activity regarding child support enforcement. The division is largely funded by the Federal Government and they are therefore bound by federal regulations and directives in many areas. All states have mandatory guidelines adopted by the federal court system which judges must follow and it will increase the amount of child support being ordered. Alaska is above the national average in collection of welfare and non-welfare child support cases. The caseload has increased 68% in the last two years, whereas the staff positions have not increased at all. There are 23,290 cases presently with 59 staff to handle that volume. The new law (1984) has put some teeth into their ability to collect support and collections have increased as a result.

Ms. Ploog stated that the CSED is currently under a federal sanction in the area of paternity establishment because they were found to be out of compliance in FY 85. The CSED has put together a corrective action plan to be reviewed by auditors in FY 89 and may face a penalty which could equal 5% of the AFDC federal money received by the state if not in compliance. Ms. Ploog provided copies of statistics to the committee. She noted that the last annual Ombudsman's report indicated that the CSED was the most increased effective state program for that year.

Number 375

Rep. Navarre asked if there had been a study of other states for increased effectiveness in Alaska and what the legislature can do to accomplish that. Ms. Ploog replied there had and that Alaska is involved in a five state clearinghouse project to investigate interstate caseload expediency. Interstate cases have increased because of people leaving the state recently. The CSED hopes to increase automation to provide clerical savings and they have had to shut down their telephones from 1:00 to 4:30 p.m. each day to work on cases.

Number 409

Rep. Taylor asked for a statistical breakdown of Alaska parents with out-of-state kids, including percentages of regularly paid child support compared to those who are one or two months late occasionally and those who are deadbeats. He wanted to know if there is a better return out of Alaska parents or payers from other states. Ms. Ploog replied that Alaskans do a better job. She discussed the incentive structure with the Federal Government since

the 1984 amendments. 40% of CSED caseload is interstate and there are 5,000 cases of out-of-state fathers with children in Alaska.

Number 461

Rep. Taylor asked if the state collects its welfare money first, then the arrearage owed in child support to the custodial parent gets paid after that: first the state, then the custodial parent. Ms. Ploog replied in the affirmative and clarified that first, ongoing support is paid, then arrearage owed to the state, and third is arrearage owed to the custodial parent.

Rep. Taylor asked if it was true that the state doesn't help collect arrearages after the child is 18 years old. Ms. Ploog replied that was incorrect. CSED just won't take a new arrearage case if the child is already 18.

Number 508

Nicki Stillman testified next. She supported a child support enforcement system for unpaying fathers and was sympathetic to the caseload. She discussed her and her husband's situation with the CSED and indicated that it resulted in much wasted time. They had been current in payments, the custodial parent signed a statement of arrearage and the CSED did not request any verification of arrearage but assumed the arrearage was true, and that the father was wrong. There is no assumption that the custodial parent is wrong. She suggested using payment booklets or notices to the state for payment by the custodial parent, or having the non-custodial parent make payments directly through the state instead of directly to the custodial parent. She also suggested that child support bookkeeping information could be provided for custodial parents to help keep records straight.

Number 575

Colleen Scanlon, Administrator of the Ketchikan Daycare Assistance Program, testified in support of SB 117 and any other legislation that will help stiffen the child support laws in Alaska. She sees on a daily basis many single parents who don't receive child support payments as they should. She noted that monthly child care costs alone can cost more than support payments. There is a need for more personnel in the CSED. She supported child support enforcement laws that conform with other states.

Number 601

Sandra Armstrong, a former Oregon legislator and sponsor of

child support legislation, testified next regarding the CSED. She felt that the CSED disobeys laws which govern them and has poor record keeping. She felt it was fruitless to obtain administrative remedies to their grievances. She discussed her husband's cases and several problematic issues surrounding them in detail.

TAPE 72, SIDE 2
Number 001

Ms. Armstrong continued her testimony. She provided many documents to Chairman Sundt regarding their personal case and discussed the problems they and others have encountered with CSED. Problems include the following: bookkeeping practices, notice of wage garnishment by certified mail, interest on arrearages, notification of credit reporting, 100% garnishment of wages, percentage of garnishment of unemployment compensation, payment delinquency caused by employer sending garnishment late, arbitrary increase of payments, and double collection of money owed.

Number 250

She had a list of recommendations and suggestions which follows: a random audit of child support cases to verify magnitude of accounting errors; certified mail notification of liability and demand for payment; a late payment or interest charge to employers who send in garnished wages; adjustment of unemployment compensation garnishment to 25%; no wage withholding if current in monthly payments; the CSED to provide clear information and definition of federal law; a position of Obligor Complaint Officer be established at the CSED for one year; the ability to negotiate hardship cases; have the CSED forward to the Attorney General's office complaints received about welfare fraud; rewrite of the consumer credit notice; prohibition of 100% garnishment of sole income or contract proceeds; upgrade qualification and pay of caseworkers; and a consumer complaint/public relations training and workshop for caseworkers. Ms. Armstrong also requested that a portion of the next House Judiciary Committee meeting be open for complaints about CSED.

Number 431

Rep. Navarre asked Ms. Ploog how complaints such as those described by Ms. Armstrong were handled by the CSED currently. Ms. Ploog replied that Ms. Armstrong had not personally presented her case to her, but it had been before CSED caseworkers. In general, complaints usually come to her attention through the Commissioner's office, the Ombudsman, or the Attorney General's office and she is the final determinant of policy. She noted that the

Ombudsman has reported that the CSED is efficient in correcting errors when they are brought to their attention.

Chairman Sund noted that there were many others present to testify on child support enforcement and he would be willing to carry over testimony tomorrow. He asked Ms. Ploog to withhold responding to the testimony until it is complete, at which time issues and complaints could be addressed at once.

Number 482

Dennis McCarty, a practicing Ketchikan attorney for 13 years, testified about CSED. He has observed problems with the CSED and discussed particular case histories. Concerns include interstate jurisdiction, interest payments, children not living with the custodial parent, garnishment of wages when the obligor is willing to pay or payment is current, accounting problems, balloon payments with no credit given, cost of living adjustments, split families, problems with visitation, travel costs, use of fixed formulas for irregular income and the guidelines used by the CSED, and transfer of property in lieu of child support.

TAPE 73, SIDE 1
Number 001

Mr. McCarty concluded his testimony by discussing self-employed obligors and the need for specific guidelines and definitions within the CSED.

Number 33

Rep. Taylor clarified that the formula referred to by Mr. McCarty is Supreme Court rule, there was no state legislation concerning what the guidelines should be.

Number 61

Rob Armstrong, of Wrangell, testified about discrimination against divorced, non-custodial fathers who make payments but have no say in their children's upbringing or visitation rights. He related his personal case. He stated that in Michigan, to deny visitation rights constitutes a felony. He discussed an organization which he heads, called Dads Against Discrimination, to advocate for fathers' rights. He discussed complaints about too many caseworkers experienced by many obligors, problems getting through on the toll-free phone number and the telephone hours.

Number 217

Terry Angerman, of Wrangell, testified about her husband's case. When his child support was beyond his means and before they were married, her income was taken into consideration. She discussed her personal case concerning collection between Alaska and Washington, the confusion of paperwork and accounting of payments. They requested an audit of payments to Washington through Alaska, but felt no help was gained and that the CSED needed improvements to its system.

Helena Dunn, of Ketchikan, testified about her husband's case, discussing problems with CSED bookkeeping, garnishment of bank accounts and credit bureau reporting.

Number 370

Carl Campbell, of Wrangell, testified about problems experienced regarding different caseworkers assigned and bad attitudes, as well as garnishment of bank accounts with no notification. He suggested visitation credit be given as well as a written accounting of child support expenditures by the custodial parent.

Number 419

Shawn Mock, of Ketchikan, testified about his experiences with the CSED. He makes regular child support payments, yet his wife does not receive child support from her previous spouse, who moved to Hawaii. He stated an obligor can beat the system through under-the-table employment payments and hidden and liquidated assets. He felt the CSED needed more support people, laws need to be more specific, stiffer and enforceable, arrearages should go to the children first and then the state, a watchdog committee be established to monitor complaints and problems with the CSED, and law should require the CSED to maintain current employment records and accurate addresses of both obligor and obligee.

Number 497

Jerry Buethe, of Wrangell, gave testimony on his personal case. He had complaints about getting a phone call through to the CSED, being assigned different caseworkers and the CSED acceptance of custodial and child support agreements between between obligors and obligees.

Number 570

Angelo Martin, of Ketchikan, testified about problems with the CSED's computer accounting system. He pays ahead and

is accused of being in arrears. He felt the system needs more care taken in cases and there are problems dealing with multiple caseworkers on one case.

Number 616

Dale Rogers, of Ketchikan, testified about problems he experienced with the CSED accounting section, the toll-free telephone, phone handling and personnel.

TAPE 73, SIDE 2
Number 001

Mr. Rogers summarized his testimony. Chairman Sund asked if Ms. Ploog could participate in the meeting tomorrow morning to address the concerns and issues raised. Ms. Ploog indicated she could be available via teleconference from Anchorage. Chairman Sund announced tomorrow's meeting would begin at 8:45 a.m. He adjourned the meeting at 5:00 p.m.

HOUSE JUDICIARY COMMITTEE

May 5, 1987

1:30 p.m.

MEMBERS PRESENT

Representative John Sund
Representative Fran Ulmer
Representative Sam Cotten
Representative Max Gruenberg
Representative Mike Navarre
Representative Robin Taylor
Representative Ramona Barnes

COMMITTEE CALENDAR

- HB 229 An Act relating to homicide by abuse.
- HB 237 An Act relating to murder, assault, and physical and sexual abuse of children; the admissibility of certain evidence in criminal prosecutions; amending Rule 404 of the Alaska Rules of Evidence; and providing for an effective date.

WITNESS REGISTER

Representative Bill Hudson
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811
Position: Sponsor of HB 229

Representative Fran Ulmer
Alaska State Legislature
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Position: Sponsor of HB 237

Representative Virginia Collins
Alaska State Legislature
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Position: Opposes HB 229 and HB 237

Frank Feichtinger
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Position: Supports HB 229 and HB 237

Tim Bean
Society to Prevent Exploitation of Children
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Amelia Endorf
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Position: Supports HB 229 and HB 237.

Harriet Beleal
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Janice Leinhart
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Position: Supports HB 229 and HB 237

Marge Hall
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Position: Supports HB 229 and HB 237

Margaret Howerter
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Position: Supports HB 229 and HB 237

PREVIOUS ACTION

HB 229	DATE		PAGE	ACTION
	03/30/87	(H)	674	Read the first time - referrals Judiciary, Finance
			688	Cosponsor added: Ellis, Davidson Cosponsor added: Gruenberg
	04/01/87	(H)	712	Cosponsor added: Hanley
	04/03/87		733	Cosponsor added: Collins
Committee Action: HB 229				first heard before Judiciary on 5/5/87.

HB 237	DATE		PAGE	ACTION
	04/01/87	(H)	704	Read the first time - referrals
			704	HESS, Judiciary, Finance
	04/22/87		937	Cosponsor removed: Sund
	05/04/87		1117	HESS Rpt CS(HESS) New title 7NR Fiscal note published 3 Zero fiscal notes published Zero fiscal note/analysis Referred to Judiciary
Committee Action: HB 237				first heard before Judiciary on 5/5/87.

ACTION NARRATIVE

TAPE 60 SIDE 1
#HB 229
#HB 237
HJUD, 5/5/87
Number 000

Chairman Sund called the meeting to order at 1:35 p.m. He announced that testimony on HB 229 and HB 237 would be taken first and questions would be held to a minimum. He invited Representative Hudson to address the committee.

Representative Cotten arrived at 1:38 p.m.

Number 035

Representative Bill Hudson, sponsor of HB 229, discussed the bill. He explained that Section 1 provides specific language relating to a pattern of assault or torture of a child under sixteen years that leads to the death of the child. The crime would be homicide by abuse. Section 2 provides for a classification of that crime as first class murder with a prison term of 20 to 99 years. HB 229 was modeled after similar legislation in Washington which was recently signed into law. Their legislation included elderly dependents and developmentally disabled individuals. The purpose of HB 229 is to ensure that those who cause the death of a child after a practice of assault or torture serve an appropriate sentence. Defendants often serve five years, as occurred in a recent Juneau case and which created a public outcry. He added

that HB 229 is complimentary to HB 237, sponsored by Representative Ulmer and he is a co-sponsor on that bill. He stated that several individuals from the Victims' Fly-In were present to testify as well as Detective Frank Feichtinger, of the Anchorage Police Department, who is a nationally recognized expert on children abuse cases.

Representative Navarre arrived at 1:43 p.m.

Number 161

Chairman Sund asked that the committee withhold questions to allow time to take testimony on both bills. He asked Representative Ulmer to address the committee on HB 237.

Number 183

Representative Fran Ulmer gave an overview of HB 237. She stated that it is an effort, along with HB 229, to deal with a child abuse epidemic in Alaska, and that it is a complicated problem requiring several different solutions. HB 237 deals with the way criminal conduct is defined regarding child abuse. It also deals with the Rules of Evidence and the procedural way in which a case can be proved. She introduced HB 237 because she was convinced that recent Court of Appeals decisions in Alaska have limited the ability to effectively prosecute child abuse cases.

Number 220

Representative Virginia Collins, testified that she had mixed feelings about both bills. She has worked over the last two years on child abuse issues and it is a complicated matter. She intended to introduce similar bills but held back because of the importance of having a broad view of the problems. She noted the governor has initiated a children's task force. She hoped that the legislation would not pass this session but be considered by the governor's task force for comprehensive legislation. She cautioned the committee as it is a complex issue.

Number 265

Frank Feichtinger, Investigator at the Anchorage Police Department assigned to the exploited child unit, testified in support of HB 229 and HB 237. He commented that in past years the legislature attached stiff penalties such as presumptive and consecutive sentencing, which have since been watered down by Court of Appeals decisions. Many of these crimes are repeated often and perhaps the only solution is long-term incarceration where they do not have to access to children. He had two specific concerns. One was that the age in both bills refers to children under sixteen. First degree sexual abuse of a minor currently on the books and in the criminal code deals with minors entrusted to the care of an individual and covers minors under eighteen. He feels that the proposed legislation should be the same. He referred to foster

care and group home situations which deal with minors under the age of eighteen. Legislation should reflect that, as those children are generally more vulnerable to the persons whose care they are in than persons outside of the family. Children under eighteen can be victimized as easily as those under sixteen, and he has seen that happen repeatedly. In physical and sexual abuse legislation, it is necessary to acknowledge the difference between a one-time offender and a repetitive offender. Studies have shown there are different types. Repeat offenders are the most damaging, and legislation should address that. He also had a concern that the proposed bills attach repetitive abuse only in cases where the minor is entrusted to the care of another individual. He has investigated many cases where the victimized minors were not in the care of the perpetrator yet the offenses were repetitive, not only with single victims, but in cases with multiple victims. He does not distinguish between a child who has been abused by a family member versus a nonfamily member as effects on the child are the same. Legislation that addresses one portion of that should address both portions as well.

It has been difficult in Alaska and elsewhere to address repetitive offenders and do something about them. To his knowledge, no effective treatment has been developed to cure them, they will continue to reoffend in most cases once released from prison or a treatment program. The best thing to do with the current state of knowledge is to provide harsh consequences for repeat offenders. HB 229 is a needed statute as it is difficult for police to prove the degree of intent involved in the death of a child, although it is often clear that repetitive physical abuse is not an unintentional act. This is often the reason that only a five year conviction can be obtained for the death of a child.

Number 403

Representative Barnes discussed second thoughts she had about presumptive sentencing based on complaints against parents and others which have been proven to be untrue. She asked about people having to prove themselves innocent with a great amount of funds extended, and how the state would compensate them.

Mr. Feichtinger replied that he believed he had never charged a person with a crime they did not commit. He hoped that other police, prosecutors and courts would use the same standards of proof as for other types of cases before charges are made. In his department, particular care is taken in child abuse and sexual abuse cases to determine if there is adequate probable cause before the accused is charged. As with any other crime, there is the possibility for false accusation, but if an investigation is conducted properly, a case won't be presented to the district attorney's office unless there is sufficient corroborative evidence that the person did commit the offense they are charged with.

Representative Barnes asked how long cases are generally investigated before charges are made. Mr. Feichtinger replied there are many variables, but some investigations have gone over a

year, others have only take a few days and it is rare that it takes less than that.

Number 459

Representative Cotten asked Representative Barnes is she knew of lots of people that were falsely charged. Representative Barnes replied that was correct.

Representative Taylor responded that there are rarely false charges through the district attorney's or prosecutor's office, but through Health and Social Services reports which are made that are never prosecuted.

Representative Barnes stated she knew of a family that was brought into the court system and it cost them every dime they had to prove their innocence. She was concerned about this and wanted to look at the whole broad area.

Chairman Sund stated that the children's task force needs to look at the dual criteria faced by social workers regarding the best interests of the child versus keeping the family together. He asked Mr. Feichtinger if he knew of scientific studies regarding the incurability of repeat offenders.

Number 512

Mr. Feichtinger replied he had some which he brought with him. He said it was necessary to distinguish between the two types of offenders, the situational and the preferential. He described the situational offender as one motivated to commit the offense as a result of other stresses occurring in their lives and the availability of a child at the same time, and this type is generally treatable with some success achieved in Alaska and elsewhere. The preferential offender is one whose sexual fantasies and desires center entirely on children and to date there has been no effective treatment anywhere in the state or country. Comprehensive national studies of convicted offenders show that most of them are reoffending, and sometimes while in outpatient treatment. Those are the types that are being addressed by proposed legislation dealing with repeated sexual abuse as opposed to isolated incidents.

He addressed Representative Barnes' concerns about falsely accused people by stating that it is necessary to distinguish between what happens with the Division of Family and Youth Services (DFYS) and with criminal law. Any offense reported to DFYS involving allegations of sexual abuse is reported to the police at which point a criminal investigation is begun separate from the DFYS investigation. Many cases reported by DFYS or other social agencies result in no criminal prosecution or charges filed because they are not able to establish enough probable cause under criminal law to substantiate the charge.

Number 565

Representative Taylor asked Mr. Feichtinger if he that felt plea bargaining should be available as a sentencing alternative in these situations, particularly with homicide. Mr. Feichtinger replied that it was a difficult question. In some cases, plea bargaining was appropriate, in others it was unacceptable. He has been pleased by the district attorney's office in regard to which cases to pursue a plea bargaining arrangement. He said there is no hard and fast rule which could be applied.

Representative Sund commented that the eight-year presumptive has taken the sentencing out of the court and into the D.A.'s office and the police department by charge bargaining and plea bargaining. Once it gets into the court and there is a conviction, the judge has no choice, so all the discretion is out of the judicial system and into the prosecutor's office. He asked if Mr. Feichtinger felt that was the best place for it to be.

Mr. Feichtinger said it was in these kinds of offenses.

Representative Ulmer added that the difference between charge bargaining and plea bargaining is important to consider. It is not because prosecutors are choosing a lesser charge because they feel the defendant should spend less time in jail, but because they don't feel that with the evidentiary restrictions they could prove the more serious charge. That is what was involved in the Juneau case. The evidentiary restrictions made it too difficult to get the relevant evidence that would have proved a more serious charge.

Number 610

Tim Bean, of the Homer Society to Prevent Exploitation of Children (SPEC), testified in support of HB 237. They feel the law should be subserviant to justice, not the reverse, and are concerned about the lack of justice on the part of victims, especially children. Statistics from the National Department of Justice show that over 90% of known child sexual abuse cases do not go forward for prosecution. He stated there were 38 DFYS cases reported in Homer last year, 17 of which were substantiated and only two went forward for prosecution. The average sexual abuser can molest up to eighty victims. SPEC supports making it possible to increase evidence to be entered into the courts which will hopefully result in a greater number of prosecutions.

Mr. Bean addressed the Public Defender's remarks to Section 6 regarding unconstitutionality. He believed that the jury still needs a unanimous decision that the act occurred at least three times, and in fact it may have occurred hundreds of times. The issue is not the jury agreeing to exactly which three acts, it is that they agree that three acts took place. He said the trier of

facts should be allowed to hear all the evidence and make a decision. He also referred to the Covington versus State case regarding inability of young children to differentiate times, days and dates specifically.

He added that there is a difference between incest and other offences to the victim in that statistics have shown incest is more devastating to the victim. He discussed his experience as a nurse working in emergency rooms and pediatric wards regarding suicide attempts, drug overdoses, and teen runaways.

Mr. Bean said the Public Defender cited full prisons as evidence to the fact of successful prosecutions of such offenses. He felt that it was not a reasonable way to document the effective prosecution of sexual offenses against children. In this system, children are treated with mistrust and expected to perform as adults. Homer statistics are worse than the national average in lack of prosecution and frequency of abuse. He believed the two were undeniable linked and needed to be looked at. He added that SPEC also supports HB 229.

Number 760

Amelia Endorf, testified in support of HB 229. She said parents' rights versus rights of a child in the home is difficult because of the question of where to draw the line. Regarding HB 229, there is a body of a child. If a parent or babysitter has lost so much control that they can kill a child, society has to be given the message that that is unacceptable. Children are special and they are not political footballs, they are human beings with rights. The right to live has been held by this country as a basic constitutional right. If a child is killed by abuse, the person should pay for it just the same if an adult had been killed by a gun. HB 229 makes a statement that society does not condone abuse. There is no gray line when there is the dead body of a child.

Number 809

Harriet Beleal, vice president of Cook Inlet Native Association, testified in support of HB 229 and HB 237. She stated that some native are not vocal and will not put their private life on the line and make it public. She stated her retarded daughter was kidnapped in 1982 and the police did not bring the man in when charges were filed. She questioned the leniency and lethargy of the justice system and public servants in protecting children. She referred also to sexual abuse of her four year old granddaughter. She expressed disappointment with agencies and their enforcement response.

TAPE 60 SIDE 2
Number 000

Ms. Beleal continued by stating that too many criminals were running loose and those incarcerated were given undue special

treatment. Children must be believed when they tell about what is happening to them. She discussed budget problems and encouraged keeping social services a priority.

Number 102

Margot Dick, of the Council on Domestic Violence and Sexual Assault, testified that 2,500 of 10,000 clients that have come through their programs have been children. The response to victimization of children is a crisis in and of itself, not only in the legal system but also in families. The programs have seen too many of the "worst case scenarios." Police response is inadequate because of improper training; social worker caseload ratio is approaching 100 to 1; the constitution is inadequate because the legal system does not deal adequately with crimes against small children; treatment is inadequate. The system fails and the child must often go back to an abusive situation, so the child has been wronged by the abuser, the family and the system. It is not an uncommon scenario but must be balanced by protection of defendants rights and wrongful accusation. She said these bills are an attempt to address one part of the child abuse problem, but it is a complex issue and there is still a long way to go. She discussed repeat offenders and a practice of assault. Sexual offenders offend both within and outside of the family and victims range from a dozen to hundreds. She cited a study by Suzanne Fitzroy on treatability of sexual offenders, concluding that 20% are too dangerous to release, 40% may be treatable, and 40% may not be treatable at all. Ms. Dick cited statistics supporting that abusive behavior is repeated and is generational, abused children become the next generation's abusers. She stated that abuse crimes are fundamentally different from simple assault in that they are a violation of trust, an abuse of power created by an adult who is following a pattern of conduct that leads to repeated abuse of a child.

Number 277

Chairman Sund requested a copy of Ms. Dick's testimony and asked what she thought should be done. There is an abuser, a problem, and a crime that is not treatable. Ms. Dick replied first the victim should be protected, then develop a community response that better addresses the support and treatment needs of the victim to enable healing. Offenders need to be punished, need to get treatment, and afterwards a means of controlling and monitoring behavior must be initiated. If an abuser returns to the family, the family with adequate support and treatment are oftentimes the best choice to monitor the behavior. An offender will often move from family to family. There are many facets, including decreasing the social worker case load and increasing penalties.

Chairman Sund asked if she supported first time presumptive sentencing on sexual abuse. Ms. Dick replied that the network had not taken a position on that although there has been much dialogue.

They are unanimous on the need for monitoring and controlling behavior that should be structured into the system.

Chairman Sund asked about balancing the best interest of the child versus keeping the family together versus the need for punishment. Ms. Dick said that is an important question which faces social workers. They not only have to investigate the case, they are supposed to provide treatment for the child and family. There are circumstances which will be unreconcilable. It is difficult to do all at once and she hoped the governor's task force would look at those structural problems.

Number 384

Janice Leinhart, of the Victims Fly-in group, testified that there is a need to change the philosophy of the system. A crime is a crime, hurting people is hurting people. There is too much protection for the criminal in our system. The best way to help people get over a problem is providing a punishment severe enough so that they don't want to be punished again. The system isn't working. What people in jail have time to feed on, they become. If they can watch x-rated movies and read sex manuals and see garbage that feeds their sickness, they are not being helped. They should have positive input and see what it feels like, like drug addicts forced to be clean. The people with problems are feeding off garbage which perpetuates what they're doing. She knew of sexual offenders who get visits from their kids and are being groomed to offend when they get out. She discussed the 8-year presumptive sentence for sexual offenders, noting that it has been watered down by court appeals and goodtime. It is time to get more severe and confront people with their problems. Prisoners have too many rights, down to the point that their food has to be the right temperature. The state is supporting a weak bunch of criminals who don't know how to make it or function once they get released.

Number 474

Chairman Sund asked Ms. Leinhart if she felt in some cases there should be a termination of parental rights by the state. Ms. Leinhart replied that she did. She said a person's rights should start being diminished the moment they hurt someone else.

Number 498

Representative Barnes asked about the Court of Appeals cases and automatic lowering of 8-year presumptive sentences. Ms. Leinhart said she did not know the details. Representative Barnes said she had never heard that before. The only way she thought it could happen was on a case-by-case basis rather than automatically. She stated she would personally look into it. Ms. Leinhart responded that she had heard of certain cases.

Number 535

Representative Taylor asked if Ms. Leinhart supported the death penalty. Ms. Leinhart replied that she did.

Representative Ulmer thanked Ms. Leinhart and the other victims who came to testify. She added that oftentimes legislators were in an ivory tower when it came to the impact of violent crimes on people.

Number 578

Representative Gruenberg discussed suggested legislation regarding juvenile offenders who are unrehabilitated and asked Ms. Leinhart to speak to it. Ms. Leinhart responded that it was the Violent Person Act in California, whereby juveniles who can be released at the age of 21 can be reevaluated if the system perceives them as dangerous, and they would automatically be put through adult court. It is a means to protect people, as some criminals can be helped and some can never be helped.

Number 600

Marge Hall, of the Alaska Victims Fly-in and the Alaska Juvenile Crime Commission, testified in support of HB 237 and HB 229. She suggested that HB 229 be titled "homicide by torture." The word "abuse" has been overused and euphemised. It should be called what it is. People are torturing children and people who are less able to defend themselves and it should be dealt with on that level. With regard to HB 237, she commented that often much of the evidence that could help the jury convict in a case has been disallowed. To let people get off on technicalities, recommit and progress in criminal behavior is criminal. She said Alaska is number one in teenage killers because we accept violence. She has spoken to many victims of violence and is convinced that the system is not working. She requested the committee to put politics aside and make Alaska a better place to live.

Number 675

Representative Taylor asked if Ms. Hall supported the death penalty. She replied that there were certain people in the state she would like to pull the plug on.

Number 682

Louise Howerter testified in support of HB 229 and HB 237. She had a pamphlet with photos of victimized children for the committee's perusal. She commented that abuse statistics have increased and gave additional statistics about child abuse. From 1983-1985 over 100,000 children suffered from abuse in Alaska. Children comprise 30% of the population but are 100% of our future and need protection. Only 10% of cases ever make it to the courtroom.

Criminals do not need protection, the public does. She felt that society was not sick, but criminals are. They have alienated themselves from society and are no longer a part of it.

Number 720

Chairman Sund asked if there was anyone else to testify. He announced that the committee planned to be closely involved with the governor's Commission on Children and these bills along with others would be carried through the interim with hearings to be held in the fall throughout the state. He asked if Representative Ulmer wanted a subcommittee.

Representative Ulmer stated that a number of legal issues that had been raised had answers. She requested the opportunity to work through them in a smaller setting.

Chairman Sund stated he would put together a working subcommittee for these bills and others to see what worked.

Representative Taylor stated that rather than take the committee's time to amend HB 229, he wanted to move the bill. Chairman Sund stated he would not accept the motion and the bill would not move today. He adjourned the meeting at 3:00 p.m.

#

Original sponsors: Hudson, Ulmer,
Larson, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 229 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the definition of murder in the
7 first degree to include homicide by a pattern or
8 practice of assault or torture of a child under the
9 age of 16."

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

11 * Section 1. AS 11.41.100(a) is amended to read:

12 (a) A person commits the crime of murder in the first degree if
13 (1) [,] with intent to cause the death of another person,
14 the person

15 (A) [(1)] causes the death of any person; or

16 (B) [(2)] compels or induces any person to commit
17 suicide through duress or deception; or

18 (2) the person knowingly engages in a pattern or practice
19 of assault or torture of a child under the age of 16 that results in
20 the death of the child under circumstances manifesting extreme indif-
21 ference to the value of human life; for purposes of this paragraph, a
22 person "engages in a pattern or practice of assault or torture" if the
23 person inflicts serious physical injury to the child in at least two
24 separate instances.

25 * Sec. 2. AS 11.41.115(a) is amended to read:

26 (a) In a prosecution under AS 11.41.100(a)(1)(A) [AS 11.41.-
27 100(a)(1)] or 11.41.110(a)(1), it is a defense that the defendant
28 acted in a heat of passion, before there had been a reasonable oppor-
29 tunity for the passion to cool, when the heat of passion resulted from

1 a serious provocation by the intended victim.

1 IN THE HOUSE

BY HUDSON, ULMER, LARSON,
MENARD, HOFFMAN AND GOLL

2

HOUSE BILL NO. 229

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to homicide by abuse."

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

8 * Section 1. AS 11.41 is amended by adding a new section to read:

9 Sec. 11.41.105. HOMICIDE BY ABUSE. (a) A person commits the
10 crime of homicide by abuse if, under circumstances manifesting an
11 extreme indifference to the life of a child under 16 years of age, the
12 person engages in a pattern or practice of assault or torture of the
13 child that results in the death of the child.

14 (b) Homicide by abuse is an unclassified felony and is punish-
15 able as provided in AS 12.55.

16 * Sec. 2. AS 12.55.125(a) is amended to read:

17 (a) A defendant convicted of murder in the first degree or
18 homicide by abuse shall be sentenced to a definite term of imprison-
19 ment of at least 20 years but not more than 99 years.

HB

230

(11)

HOUSE COMMITTEE REPORT

Date referred: 4/28/87

FURTHER REFERRALS:

(waived from Judiciary 4/28)

DATE: 5/7/87

The Finance Committee has considered HB 230

"An Act relating to the premium tax on certain insurers."

RECOMMENDS:

- replace with CS HB 230 (Fin.) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING TO PASS:

SIGNING OTHER RECOMMENDATIONS:

CARSON [Signature]

GOLB [Signature]

SWACK-AMMER [Signature]

BOYER [Signature]

RIEGER [Signature]

WALLS [Signature]

POURCHOT [Signature] no rec

FRANK [Signature] no rec.

[Signature] Vice-Chair

Chairman's signature

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version CS HB 230 (Fin)
Publish Date : _____

Revision Date: _____

Agency Affected: Commerce & Econ. Dev.
BRU: Insurance

Title: Relating to the premium tax on certain insurers.

Sponsor: Ulmer

Components: Public Protection

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	1,448.6	2,897.2	2,900.0	2,900.0	2,900.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The insurance premium tax rate changes from 2.7% to 3.0% with this bill. Title insurance changes from 1% to 3%. Due to condition of economy and the expectation that premiums are starting to stabilize, we project an even level of added revenue resulting from this proposal.

Prepared by: John I. George, Director
Division: Division of Insurance

Phone: 465-2515
Date: April 24, 1987

Approved by Commissioner John J. Anthony Smith, Commissioner
Agency: Commerce and Economic Development

Date: April 24, 1987

Distribution (by preparer):

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

0481K42487a

RECEIVED
APR 27 1987

Original sponsors: Ulmer, Goll,
Navarre, et al.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 230 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the premium tax on certain insur-
7 ers."

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

9 * Section 1. AS 21.09.210(b) is amended to read:

10 (b) Each insurer, and each formerly authorized insurer with
11 respect to premiums received while an authorized insurer in this
12 state, shall pay tax on the total direct premium income received
13 during the year ending on the preceding December 31 and paid for the
14 insurance of property or risks resident or located in the state other
15 than wet marine and transportation insurance, after deducting from the
16 total direct premium income the applicable cancellations, returned
17 premiums, the unabsorbed portion of any deposit premium, all policy
18 dividends, unabsorbed premiums refunded to policyholders, refunds,
19 savings, savings coupons and other similar returns paid or credited to
20 policyholders with respect to their policies. No deductions may be
21 made of cash surrender value of policies. Considerations received on
22 annuity contracts are not included in the direct premium income and
23 are not subject to tax. The tax shall be paid to the director annual-
24 ly before April 1, and [, EXCEPT AS PROVIDED IN AS 21.69.390(c),] is
25 computed at the rate of

26 (1) for domestic and foreign insurers, except hospital and
27 medical service corporations, three [2.7] percent;

28 (2) for hospital and medical service corporations, six
29 percent of their gross premiums less claims paid.

1 * Sec. 2. AS 21.09.210 is amended by adding a new subsection to read:

2 (j) The tax paid to the director under (b) of this section shall
3 be deposited in the general fund. The Department of Administration
4 shall separately account for 10 percent of the tax collected under (b)
5 of this section and deposited in the general fund. The annual esti-
6 mated balance in the account may be used by the legislature to fund
7 the State Fire Commission (AS 44.41) and other fire prevention and
8 training services.

9 * Sec. 3. AS 21.66.110 is repealed and reenacted to read:

10 Sec. 21.66.110. TITLE INSURANCE PREMIUM TAX. Each title insur-
11 ance company shall pay a tax on premiums received as provided under
12 AS 21.09.210(b).

13 * Sec. 4. AS 21.09.210(c), 21.09.210(h) and AS 21.69.390(c) are re-
14 pealed.

15 * Sec. 5. This Act applies to the tax due by April 1, 1988, on direct
16 premium income received after June 30, 1987, and to the tax due for subse-
17 quent years.

HOUSE FINANCE COMMITTEE

MEETING OF: 5/7/87

SUBJECT: ~~R.O. CS HB 154 (SA)~~

Goll: CS HB 230 (LEC)
del. Sec. 2

MEMBER	YES	NO
ADAMS		
BOYER	X	
BROWN		
DAVIS		
FRANK		
GOLL	X	
LARSON		X
<u>POURCHOT</u>		X
RIEGER	X	
SWACKHAMMER	X	
WALLIS	X	

FAILED: _____

PASS: _____



GASTINEAU CHAPTER

ALASKA STATE FIREFIGHTERS ASSOCIATION

P.O. BOX 187

JUNEAU, ALASKA 99802

April 16, 1987

Representative Fran Ulmer
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Ulmer:

The House of Representatives will be reviewing HB230. This Bill is intended to assist in the funding of the State Fire Marshal's Office. I don't know if you can understand the importance of this office to the firefighters of this state.

This Bill will help insure continued training of firefighters, both paid and volunteer in the areas of fire prevention, building inspection, public fire education, Fire Service Training, and investigation of fires across the state to better evaluate causes and to work to eliminate those we can.

Alaska has the highest fire deaths per capita in the United States. As a volunteer firefighter, I need your support of this Bill to stop fires from taking our families, friends, and property.

It would be disastrous to the citizens of this state should this office be under funded.

I urge you to vote for HB230. Thank you for your support of the Alaska State Firefighters.

Sincerely,

GASTINEAU CHAPTER
ALASKA STATE FIREFIGHTERS' ASSOC.

Mike Tagaban
President

MT:djo

Insurance Premium Tax Rates by State

State	P&C Tax	Net Marine Tax	Fire Marshall	Other Fire	Total Tax
AL	4.00 GP	4.00 GP	None	None	4.00 GP
AK	2.70 GP	0.75 Pr	None	None	2.70 GP
AZ	1.70 GP	1.70 GP	0.20 +	None	1.90 GP
AR	2.50 GP	0.75 Pr	None	None	2.50 GP
CA	2.35 GP	5.00 Pr(3)	None	None	2.35 GP
CO	2.25 GP	2.25 GP	None	None	2.25 GP
CT	2.00 GP	5.00 Pr(3)	None	None	2.00 GP
DE	1.75 GP	5.00 Pr(3)	None	None	1.75 GP
DC	2.00 GP	2.00 GP	None	None	2.00 GP
FL	2.00 GP	0.75 Pr	0.63 +	None	2.63 GP
GA	2.25 GP	2.25 GP	None	2.50 +	4.75 GP
HI	4.28 GP	0.88 Pr	None	None	4.28 GP
ID	3.00 GP	3.00 GP	None	None	3.00 GP
IL	2.00 GP	2.00 GP	1.00 +	2.00 +	5.00 GP
IN	2.00 GP	2.00 GP	0.50 incl	None	2.00 GP
IA	2.00 GP	6.50 Pr(3)	None	None	2.00 GP
KS	2.00 GP	2.00 GP	1.25 +	2.00 +	5.25 GP
KY	2.00 GP	2.00 GP	0.75 +	None	2.75 GP
LA	1.85 GP	1.85 GP	1.25 +	2.25 +	5.35 GP
ME	2.00 GP	2.00 GP	0.75 +	None	2.75 GP
MD	2.00 GP	2.00 GP	None	None	2.00 GP
MA	2.28 GP	5.70 Pr(3)	None	None	2.28 GP
MI	2.35 GP	2.35 GP	None	None	2.35 GP
MIN	2.00 GP	5.00 Pr(3)	2.00 +	2.00 +	6.00 GP
MS	3.00 GP	3.00 GP	0.50 +	None	3.50 GP
MO	2.00 GP	2.00 GP	None	None	2.00 GP
MT	2.75 GP	2.75 GP	0.75 +	1.25 +	4.75 GP
NE	1.00 GP	1.00 GP	0.75 +	None	1.75 GP
NV	3.00 GP	3.00 GP	None	None	3.00 GP
NH	2.00 GP	5.00 Pr	None	None	2.00 GP
NJ	2.00 GP	5.00 Pr(3)	None	None	2.00 GP
NM	3.00 GP	3.00 GP	None	None	3.00 GP
NY	2.60 GP	2.60 GP	1.25 +	None	3.85 GP
NC	2.50 GP	2.50 GP	1.00 +	0.50 +	4.00 GP
ND	2.50 GP	2.50 GP	None	None	2.50 GP
OH	2.50 GP	2.50 GP	0.75 +	None	3.25 GP
OK	4.00 GP	4.00 GP	0.31 +	None	4.31 GP
OR	2.25 GP	5.00 Pr(3)	1.00 +	None	3.25 GP
PA	2.00 GP	5.00 Pr	None	None	2.00 GP
RI	2.00 GP	5.00 Pr(3)	None	None	2.00 GP
SC	2.00 GP	2.00 GP	None	1.10 +	3.10 GP
SD	2.50 GP	2.50 GP	0.50 +	None	3.00 GP
TN	2.50 GP	2.50 GP	0.75 +	None	3.25 GP
TX	3.50 GP	3.50 GP	1.25 +	None	4.75 GP
UT	2.25 GP	5.00 Pr	None	None	2.25 GP
VT	2.00 GP	2.00 GP	None	None	2.00 GP
VA	2.75 GP	2.75 GP	None	None	2.75 GP
WA	2.00 GP	0.95 Pr	None	None	2.00 GP
WV	4.00 GP	4.00 GP	0.50 +	None	4.50 GP
WI	2.38 GP	0.50 GP	None	2.00 +	4.38 GP
WY	2.50 GP	0.75 Pr	None	None	2.50 GP

Tax Rates by State

State	P&C Tax	Wet Marine Tax	Fire Marshall	Notes
AL	4.00	4.00 GP	None	
AK	2.70	0.75 Pr	None	
AZ	1.70	1.70 GP	0.20 †	
AR	2.50	0.75 Pr	None	
CA	2.35	5.00 Pr(3)	None	
CO	2.25	2.25 GP	None	
CT	2.00	5.00 Pr(3)		???????
DE	1.75	5.00 Pr(3)	None	
DC	2.00	2.00 GP	None	
FL	2.00	0.75 Pr	0.63 †	
GA	2.25	2.25 GP	None	† max of 2.50 by county
HI	4.28	0.88 Pr	None	
ID	3.00	3.00 GP	None	
IL	2.00	2.00 GP	1.00 †	† 2.00 for Fire Dept
IN	2.00	2.00 GP	0.50 incl	
IA	2.00	6.50 Pr(3)	None	
KS	2.00	2.00 GP	1.25 †	† 2.00 Firefighters Relief
KY	2.00	2.00 GP	0.75 †	
LA	1.85	1.85 GP	1.25 †	† 2.25 Fire Dept & Training
ME	2.00	2.00 GP	0.75 †	
MD	2.00	2.00 GP	None	
MA	2.28	5.70 Pr(3)	None	
MI	2.35	2.35 GP	None	
MN	2.00	5.00 Pr(3)	2.00 †	† 2.00 Firemens Relief Fund
MS	3.00	3.00 GP	0.50 †	
MO	2.00	2.00 GP	None	
MT	2.75	2.75 GP	0.75 †	† 1.25 Firemens Pension
NE	1.00	1.00 GP	0.75 †	
NV	3.00	3.00 GP	None	
NH	2.00	5.00 Pr	None	
NJ	2.00	5.00 Pr(3)	None	
NM	3.00	3.00 GP	None	
NY	2.60	2.60 GP	1.25 †	
NC	2.50	2.50 GP	1.00 †	† 0.50 Firemens Relief Fund
ND	2.50	2.50 GP	None	
OH	2.50	2.50 GP	0.75 †	
OK	4.00	4.00 GP	0.31 †	
OR	2.25	5.00 Pr(3)	1.00 †	
PA	2.00	5.00 Pr	None	
RI	2.00	5.00 Pr(3)	None	
SC	2.00	2.00 GP	None	† 1.10 Fire Dept & Inspectio
SD	2.50	2.50 GP	0.50 †	
TN	2.50	2.50 GP	0.75 †	
TX	3.50	3.50 GP	1.25 †	
UT	2.25	5.00 Pr	None	
VT	2.00	2.00 GP	None	
VA	2.75	2.75 GP	None	
WA	2.00	0.95 Pr	None	
WV	4.00	4.00 GP	0.50 †	
WI	2.38	0.50 GP	None	† 2.00 Fire Dept Dues
WY	2.50	0.75 Pr	None	

Preferential Tax Rates for Wet Marine

State	P&C Tax	Wet Marine Tax
AK	2.70 GP	0.75 Pr
AR	2.50 GP	0.75 Pr
FL	2.00 GP	0.75 Pr
WY	2.50 GP	0.75 Pr
HI	4.28 GP	0.88 Pr
WA	2.00 GP	0.95 Pr
NH	2.00 GP	5.00 Pr
PA	2.00 GP	5.00 Pr
UT	2.25 GP	5.00 Pr
CA	2.35 GP	5.00 Pr(3)
CT	2.00 GP	5.00 Pr(2)
DE	1.75 GP	5.00 Pr(3)
MN	2.00 GP	5.00 Pr(3)
NJ	2.00 GP	5.00 Pr(3)
OR	2.25 GP	5.00 Pr(3)
RI	2.00 GP	5.00 Pr(3)
MA	2.28 GP	5.70 Pr(3)
IA	2.00 GP	6.50 Pr(3)
WI	2.38 GP	0.50 GP

Notes:

GP = Gross Premium
 Pr = Profit
 Pr(2) = Average 3 Year Profit

19 States have a preferential tax treatment for Wet Marine insurance

Added Premium Tax for Fire Marshall & Fire Related

State	P&C Tax	Fire Marshall Tax	Additional Fire Related Tax
AK	2.70	None	
AZ	1.70	0.20 †	
FL	2.00	0.63 †	
GA	2.25	None	† max of 2.50 by county
IL	2.00	1.00 †	† 2.00 for Fire Department
IN	2.00	0.50 incl	
KS	2.00	1.25 †	† 2.00 Firefighters Relief
KY	2.00	0.75 †	
LA	1.85	1.25 †	† 2.25 Fire Dept & Training
ME	2.00	0.75 †	
MN	2.00	2.00 †	† 2.00 Firemens Relief Fund
MS	3.00	0.50 †	
MT	2.75	0.75 †	† 1.25 Firemens Pension
NE	1.00	0.75 †	
NY	2.60	1.25 †	
NC	2.50	1.00 †	† 0.50 Firemens Relief Fund
OH	2.50	0.75 †	
OK	4.00	0.31 †	
OR	2.25	1.00 †	
SC	2.00	None	† 1.10 Fire Dept & Inspection
SD	2.50	0.50 †	
TN	2.50	0.75 †	
TX	3.50	1.25 †	
WV	4.00	0.50 †	
WI	2.38	None	† 2.00 Fire Dept Dues

Notes:

All tax rates above apply to gross premium

20 states have an added insurance premium tax for the Fire Marshall's office.

1 state has an amount in the insurance premium tax allocated for the Fire Marshall's office.

9 states have an added insurance premium tax for a fire related purpose.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 16, 1987

SUBJECT: Domestic insurer tax exemption
(HB 230)

TO: Representative Dave Donley

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

You have asked whether the domestic insurer tax exemption under AS 21.09.210(c) is a constitutionally valid exercise of the state's taxing authority. In light of the latest U.S. Supreme Court decision striking down a state law that imposed a different rate of tax on foreign insurers, this form of exemption would appear to be equally defective. In Metropolitan Life Insurance Company v. Ward, 470 U.S. ___, 84 L.Ed 2d 751 (1985), the court held that neither the promotion of domestic business within a state nor the encouragement of capital investment are legitimate reasons that would permit discrimination against foreign corporations, in light of the equal protection clause. The court also noted that this type of discrimination would also be prohibited under the commerce clause. See Bacchus Imports, Ltd. v. Dias, 468 U.S. ___, 82 L Ed 2d 200 (1984). The exemption contained in AS 21.09.210(c) creates an impermissible discrimination between foreign and domestic insurers.

The present language of sec. 2 in HB 230 that limits the exemption to corporations organized before July 1, 1987 and may eliminate this issue as a practical matter. To avoid any possibility of litigation, the exemption should probably be repealed rather than limited.

MFF:mkr
m11/029



GASTINEAU CHAPTER

ALASKA STATE FIREFIGHTERS ASSOCIATION

P.O. BOX 187

JUNEAU, ALASKA 99802

April 16, 1987

Representative Fran Ulmer
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Ulmer:

The House of Representatives will be reviewing HB230. This Bill is intended to assist in the funding of the State Fire Marshal's Office. I don't know if you can understand the importance of this office to the firefighters of this state.

This Bill will help insure continued training of firefighters, both paid and volunteer in the areas of fire prevention, building inspection, public fire education, Fire Service Training, and investigation of fires across the state to better evaluate causes and to work to eliminate those we can.

Alaska has the highest fire deaths per capita in the United States. As a volunteer firefighter, I need your support of this Bill to stop fires from taking our families, friends, and property.

It would be disastrous to the citizens of this state should this office be under funded.

I urge you to vote for HB230. Thank you for your support of the Alaska State Firefighters.

Sincerely,

GASTINEAU CHAPTER
ALASKA STATE FIREFIGHTERS' ASSOC.

Mike Tagaban
President

MT:djo

House Bill 230

This is the division's "wish list". Bill only sets aside 10% of tax raised for possible legislative appropriation or approximately \$290K in FY 89.

The Division of Fire Prevention would fund the following on a priority basis should the Legislature appropriate monies generated by HB 230:

Priority	Amount	BRU	Description
1.	110.0	FP	Provide funding to cover plan review program receipts shortfall. The downturn in the economy is projected to result in a substantial shortfall which would cause the loss of 1.5 more positions in FY 88.
2.	412.7		Restore positions lost in FY 87 & FY 88:
	62.2	FP	a. PCN 12-2002 Anch. Supervisor
	56.5	FP	b. PCN 12-2010 DFMI Anchorage
	54.9	FST	c. PCN 12-2022 Ed Spec I Juneau
	53.0	FST	d. PCN 12-2020 Ed Spec I (Public Education Specialist)
	58.0	FP	e. PCN 12-2008 DFMI Fairbanks
			f. Restore 10% Governor's cut (Personal Services)
	79.0	FP	(1) Fire Prevention BRU
	11.0	FST	(2) Fire Service Training BRU
	18.0	FP	g. Restore Premium Pay cut in FY 88 (13.1) and need increase.
	20.1	FST	h. Restore funds to keep FST Supervisor position.
3.	180.0		Fund State Fire Commission

The following program increases will assist in accomplishing the basic services as identified in "Alaska On Fire," Report of the Task Force on Fire Prevention and Control:

4.a	100.0	FST	Restore travel increase requested in the FY 86 budget. Will provide for non-employee travel and per diem for technical assistance teams, itinerant instructors, curricula workshops, firefighter and fire officer training, standards development and for staff certification visits. (Task Force Report [TFR], pp. 44-45)
-----	-------	-----	--

Priority	Amount	BRU	Description
4.b	40.0	FP	Restore travel funds for code enforcement cut in FY86-88. This would reinstate the high-risk priority inspection program; eliminate the charge back plan to users and other state agencies as proposed for FY 88; provide vital oversight and technical assistance to VPSO safety programs; provide better technical assistance to local fire departments while addressing fire hazards in the most critical occupancies. 23.6 lost in FY 87. 6.0 lost in FY 86. (TFR, p. 57)
5.	113.0	FST	Restore the FY 88 (38.0) and FY 87 (75.0) grants decrement. Many basic needs of the over 250 fire departments can be met at the local level. Regional training programs can be funded to better utilize existing facilities. Other organizations need assistance in specialty areas: <ul style="list-style-type: none"> a. Provide funds to assist with the Public Fire Safety Education seminar (cancelled in 1986). b. Provide 2 fire inspection training seminars (none held in last 2 years). c. Provide assistance to the Arson Seminar. d. Provide assistance to firefighters/fire chiefs conferences. e. Provide assistance to duplicate the Federal Community Volunteer programs (TFR, p. 46) f. Grant monies to assist local communities with the Learn Not To Burn program. (TFR, p. 42)

Priority	Amount	BRU	Description
6.	65.0	FP	<p>Restore contractual decrements of FY 88 (30.0) and FY 87 (35.0). These funds would provide the following services:</p> <ul style="list-style-type: none"> a. Publication of a fire service directory. b. Support publication of Fire Service Newsletter (none published for last 2 years). c. Publish directory of fire service equipment for use by local departments. (TFR, p. 49) d. Technical assistance to more timely adopt codes (our slow process is thoroughly addressed in TFR pp. 53-55). e. To contract or RSA to Information Systems Section funds to provide enhancements to the ANFIRS network. This would make the system more useful to local and state agencies who use the system. (TFR, p. 65) f. Contractual funds to computerize the Inspection File Maintenance system.
7.	50.0	FST	<p>Restore contractual decrements in FST and add funding to implement the Task Force recommendations:</p> <ul style="list-style-type: none"> a. Develop new curricula: <ul style="list-style-type: none"> (1) Haz-Mat, TFR, p. 45 (2) Arson, TFR, p. 51 (3) Firefighter career ladder, TFR, p. 45 (4) Fire Inspector, TFR, p. 54 (5) Public fire educator, TFR, p. 45 (6) Others as identified as needed. b. Computer program upgrade and integration.

Priority	Amount	BRU	Description
8.	80.0	FST	The Public Fire Safety Education Program has been transferred from FP to FST. Specific funding to administer an effective program never came with the position. Provide funding to administer a Public Education Program:
	25.0		a. Promote residential sprinkler and smoke detector demos (Fed. funds expire 9/87) TFR, pp. 39-41
	30.0		b. Lending library upgrade. Duplication and conversion of films to cassettes; establish resource centers in Fbks and Juneau to improve public access. TFR, p. 41
	5.0		c. Publish a resource guide for local communities. TFR p. 41
	15.0		d. Travel for Ed. Spec. and non-employee specialists to do in-service work and assist in local program planning.
	5.0		e. Supplies and materials.
9.	10.0	FP	Establish a toll-free Arson Hotline. TFR p. 31
10.	30.0	All	Arson Prevention & Enforcement activities. a. Support of Juvenile counseling b. Support of awareness & education campaign. TFR pp. 80-81
11.	30.0	All	Restore and add equipment funds. Equipment funds have been transferred to other components; purchases have been delayed. a. portable radios b. pagers c. computer hardware & software d. field investigation kits

Priority	Amount	SRU	Description
12.	40.0	FST	Provide refresher training to VPSO and rural school safety inspection program
13.	70.0	FST	Add 1 new Ed. Spec. position to Fairbanks office.
14.	65.0	All	Add 1 new Administrative Assistant to perform budget and many duties of the deputy director position.

1,395.7 Budget increase

1,201.0 Existing Gov. Rev. FY 88 Total

2,596.7 Total Budget.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

May 6, 1987

SUBJECT: Sectional analysis - CSHB 230(L&C)
TO: Representative Fran Ulmer
FROM: Michael F. Ford *M-F.*
Legislative Counsel

The following is a section by section analysis of CSHB 230(L&C):

Section 1 - Raises the premium tax imposed on domestic and foreign insurers from 2.7 to 3 percent.

Section 2 - Exempts domestic companies organized before January 1, 1987, from the premium tax imposed by AS 21.09.210.

Section 3 - Requires that 10 percent of the premium tax be deposited into a separate account. Provides the account may be used to fund the State Fire Commission and for other fire prevention and training services.

Section 4 - Provides that title insurance is taxed as provided in AS 21.09.210(b).

Section 5 - Repealers.

Section 6 - Applicability section.

MFF:mkr
m11/127



Alaska State Legislature

House

Official Business

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

March 30, 1987

TO: ALL REPRESENTATIVES

FROM: Representative Fran Ulmer

RE: HB 230

I am concerned about fire prevention for the following reasons:

**Alaska leads the Nation in deaths by fire. In 1985, the last year for which statistics have been finalized, there were 29 deaths. Of the 29 who died, 27 were in their homes, either single family or multi-family dwellings.

**Of these 29 deaths, ten children under the age of 9 were among the victims.

**Property losses in 1985 totaled \$38,819,596.

House Bill 230, "An Act relating to the premium tax on certain insurers", increases the tax on total direct premium income from 2.7% to 3.0% for each insurer. This tax increase is a return to the 1986 tax rate for over 90% of the insurance business in the State. Additionally, as many as 20 other states are using funds collected from the insurance industry for fire prevention and training.

House Bill 230 can provide funding for the State Fire Commission and adequately provide for fire prevention and training services -- services that will address the concerns stated above.

Coalition for Home Fire Sprinklers



Honorary Committee

Karrem Abdul-Jabbar
Los Angeles Lakers (NBA)

Steve Allen
Entertainer

Tom McAllister
Alaska Fire Chiefs Association

Robert Purcell
Alaska State Firefighters Association

Chief Ron Coleman
Fullerton Fire Department

John George, Director
Alaska Division of Insurance

Ralph Mingo
Governor's Safety & Health Conference

U.S. Congressman David Dreier
33rd District, California

Chief Robert T. Edwards
Scottsdale, Arizona

Marty Ingels
Entertainer

Sain Neal
Alaska State Fire Marshal

U.S. Congressman Don Young
Alaska District

Chief Ross Fosberg
Anchorage Fire Department

Shirley Jones
Entertainer

Gene Kelly
Entertainer

Bill Weaver C.F.P.S.
Frank B. Hall & Co. of Alaska

James F. McMullen
California State Fire Marshal

Ron Ozmina
Alaska Association of Public Fire Educators

Scott Sullivan
Providence Hospital Thermal Unit

Chief Roy Parrish
Clark County, Nevada Fire Department

William Patterson
F.E.M.A.-U.S.F.A.

David McDowell
Alaskan Homebuilder

ALASKA CAMPAIGN
1301 E. 80th Avenue
Anchorage, Alaska 99518
(907) 267-4960

April 30, 1987

Honorable Fran Ulmer
Alaska State House
Pouch V
Juneau, Alaska 99811

Dear Representative Ulmer,

I'm sure that I'm not telling you anything that you are not already aware of when I tell you of Alaska's current status as "number one in fire fatalities in the industrialized world". But let me put it in a different perspective---imagine, if you will a warning printed on the bottom of Alaska travel brochures as follows:

WARNING: The U.S. Fire Administration has determined that your chances of dying in a fire in Alaska are greater than anywhere else in the United States.

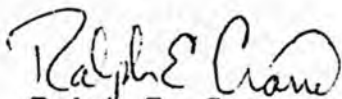
!!!SLEEP WITH EXTREME CAUTION!!!

Sounds ridiculous doesn't it? However, while I don't advocate printing such a statement when we advertise Alaska's many wonders, the truth of the statement still remains.

We have the technology available today to virtually eliminate Alaska's fire fatality rate. Our Coalition is working very hard in that direction. The Coalition, however, can not do it alone. We have depended heavily on the support of the Alaska State Fire Marshal during our efforts. And when I say support, the records will show that I don't mean financial assistance. The Division of Fire Suppression has been an invaluable resource for advice, data, moral support, and technical assistance in our efforts to help solve Alaska's significant fire problem. It has been disappointing to watch the reduction of that Division while Alaska continues to burn its citizens at a rate higher than anywhere else in the industrialized world.

House Bill 230, which is currently making its rounds of the Alaska Legislature is certainly a step in the right direction. In this era of "megetrends" and "searches for excellence", a bill like this has great potential for creating a "win-win" situation for all involved. Please support this bill.

Sincerely,

A handwritten signature in cursive script that reads "Ralph E. Crane".

Ralph E. Crane

Executive Director

1986 Alaskan Firefighter of the Year

RECEIVED JAN 29 1987

D b



ALASKA FIRE CHIEF'S ASSOCIATION

POST OFFICE BOX 304 • CORDOVA, ALASKA 99574 • TEL. (907) 424-7475

January 22, 1987

The Honorable Bill Nix
Commissioner
Department of Public Safety
P. O. Box 11
Juneau, Alaska 99811

Dear Commissioner Nix:

As President of the Alaska Fire Chief's Association, I feel compelled to write to you and tell you how angered I am by the proposal of another 20% budget cut in Fire Prevention/Fire Training for FY/88. Compounded with this year's 10% cut, our State fire agencies will be working at a pre-1972 level.

In FY/86 they had 21 employees, in FY/88 that would be reduced to 15; that is a 30% cut in personnel. Are you prepared to lay off 30% of the other Public Safety Divisions? Possibly 250 people? I doubt it; it's too easy to abuse "the little guy". Apparently you have chosen to disregard the direction of the Governor's Public Safety Transition Team Committee who, after days of in-depth study, declared that the Fire Marshal's office could not survive any further cuts.

With this cut, all inspection of existing structures will cease. Do we need to have a hundred people die in some hotel fire to wake you people up? Fire protection, to be effective must be a proactive service. It cannot afford to be a totally reactionary service similar to law enforcement. My God, there is a body count for every code on the books. One fire marshal doing a plan review or inspection can save more lives than anyone else you have working for you.

And the Fire Service Training Program is in a worse predicament. There are roughly 4000 firefighters in this state, and three people in the State Fire Service Training Program. And we might lose one of them. All those fire training programs that we have all been working on for years are down the tubes. It took years of effort to get 5 regional training centers built for over \$7 million. They will be empty buildings with these cuts.

Firefighting is the most dangerous occupation in this country; and you will reduce the training program to the status of a resource library.

Letter to Commissioner Nix
January 22, 1987
Page 2

The certified Firefighter I course which we worked years in establishing is to be dropped. I spent a year writing the Senior Fire Officer's Course, on my own time, and arranged for the first grant to put it on line. This was cut. What the hell did I spend my time for?

We in the Alaska Fire Chief's Association and Alaska Firefighter's Association, have spent our own money and time to work with OUR own State Agency to pull the fire service into the twentieth century only to have some disinterested bureaucrat meat axe it to death.

I am just as aware as anyone else that state revenues are short. But, the two fire associations and the Division of Fire Prevention/Fire Training have already outlined several things that could be done to cut corners through consolidation and reorganization.

The fire service can do more with less than any group you know. Unfortunately, that is what we've been doing for years. During the pipeline years, Fire Prevention did not grow and build it's empire like other agencies, they just took their money and quietly did their jobs and provided the service. They have no fat to trim, and it is your responsibility to recognize that.

I guess it is true, nice guys do finish last.

Sincerely,



Dewey Whetsell
President

cc: Peter Jeans (Governor's Office)
Jim Sampson (Commissioner of Labor, Chairman Public Safety Transition Team)
Pat Wellington (Committee member Public Safety Transition Team)
Chief Charles Lundfeld (Committee member Public Safety Transition Team)
Gaylen Brevik (President, Alaska State Firefighters Assoc.)
Members of House of Representatives
Members Alaska Senate



GASTINEAU CHAPTER

ALASKA STATE FIREFIGHTERS ASSOCIATION

P.O. BOX 187

JUNEAU, ALASKA 99802

April 16, 1987

Representative Fran Ulmer
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Ulmer:

The House of Representatives will be reviewing HB230. This Bill is intended to assist in the funding of the State Fire Marshal's Office. I don't know if you can understand the importance of this office to the firefighters of this state.

This Bill will help insure continued training of firefighters, both paid and volunteer in the areas of fire prevention, building inspection, public fire education, Fire Service Training, and investigation of fires across the state to better evaluate causes and to work to eliminate those we can.

Alaska has the highest fire deaths per capita in the United States. As a volunteer firefighter, I need your support of this Bill to stop fires from taking our families, friends, and property.

It would be disastrous to the citizens of this state should this office be under funded.

I urge you to vote for HB230. Thank you for your support of the Alaska State Firefighters.

Sincerely,

GASTINEAU CHAPTER
ALASKA STATE FIREFIGHTERS' ASSOC.

Mike Tagaban
President

MT:djo

BILL NO:

DATE:

CSHB 230 (L&C)

April 30, 1987

TITLE:

CONTACT:

An act relating to the
premium tax on certain
insurers.

Gordon Brunton
465-4331

DEPARTMENT OF
PUBLIC SAFETY

This measure increases the insurance premium tax from 2.7 to 3.0 percent, provides for separate accounting of 10 percent of the tax collected which may be appropriated to fund the State Fire Commission (AS 44.41) and other fire prevention services.

Alaska fire losses, both deaths and property, are 2.5 times that of the rest of the United States. In fact, they are the highest in the industrialized western world. We believe this to be unacceptable. Passage of CSHB 230 (L&C) will provide the resources needed to reduce these losses.

During the era of high revenues, the Legislature provided funds for fire protection equipment and facilities. Now there needs to be support for the firefighters and preventers who utilize these facilities for the protection of their communities.

The Division of Fire Prevention serves in both direct and indirect capacities to achieve its mission. Direct delivery of code enforcement, investigations and training are provided as well as indirect delivery by various means of support to local fire departments and fire related organizations. Should this bill pass, and the Legislature appropriate the funds, the division would be able to provide the following:

- Maintenance of the inspection of high-risk facilities, such as health care, schools, pre-schools, day care, correctional institutions, large assembly occupancies, and high rises, without implementing a user fee or inspection charge, a concept that, to date, has met with little enthusiasm or probability.
- Continuation of the plan review program, well received by architects and designers, which helps insure that safe buildings are erected in compliance with State fire codes.
- Improved response to requests for investigative assistance in suspicious and large loss fires to determine causes and assign responsibilities, and the implementation of arson prevention programs such as the Arson Awards, Arson Hot Line, juvenile fire setter counseling. There has already been an increase in arson fires since the downturn in the economy.
- Continuation and expansion of the fire information network, a vital tool used to gather information regarding fires, E.M.S. activities, and hazardous materials incidents, so that the fire service can better manage their operations.

- Direct assistance in the form of training and certification of personnel at various levels of competence, both at local fire departments and at regional fire training centers.
- Indirect assistance by the development of statewide personnel performance standards and curriculum, accreditation of local training programs, and provision of grants for approved local and regional training projects.
- Assistance in the development of programs to educate the public in methods to protect themselves against fire and other disasters.

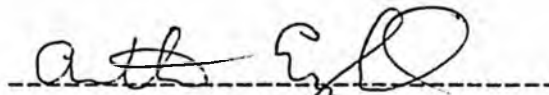
To put this all into perspective, take the case of Bethel. In the early 1980's we identified Bethel as having an extremely high fire death rate. Causes were identified through careful investigations. Treatments were devised, training provided, and programs implemented. The results: only 2 fire deaths since 1983, as compared to 12 for 1980-1982. Accurate collection of data, access to public education resources, effective training and delivery, while an oversimplification, caused this dramatic turnaround in Bethel.

Volunteerism has historically been the backbone of the fire service. Alaska has some 250 fire departments, of which 30 are fully or partly paid; the rest are staffed by volunteers. An untold amount of time and resources are donated to protecting local communities from fire and other disasters, both natural and man-made. A few have undertaken the effort to enforce fire codes through inspections and plan reviews, to make accurate determinations of the causes of fires, and to educate their citizens about fire safe practices. Most have only the resources to concentrate their efforts on maintaining a well trained and equipped cadre of volunteers to combat the inevitable--a chemical spill, a fire of any proportion (structural, wildland, aircraft, marine or vehicular), an EMS emergency. A reduction in the assistance now provided by the division to local fire departments will not result in their assuming those duties. The local situation is directly impacted by the assistance provided by the State.

There are presently 21 different State agencies which address fire in some form, as well as many at the local and federal levels. The Fire Commission was established to provide a focal point for all these fire programs. Funding for the commission

will allow it to develop and implement a master plan encompassing all fire agencies in the state, develop policies and establish directions for those programs, correlate and analyze data, recommend actions to improve the quality of fire protection, and provide technical assistance. It is believed that such a system will result in not only a reduction in fire losses, but also a reduction in the resources currently being expended.

The Department of Public Safety supports passage of this bill.

A handwritten signature in cursive script, appearing to read "Arthur English", is written over a horizontal dashed line.

Arthur English
Commissioner

	GROSS PREMIUM	CURRENT TAX RATE	CURRENT TAX REVENUE	ADDITIONAL REVENUE ALL AT 2.7% G.P.	ADDITIONAL REVENUE 3% GP LTD PTC	ADDITIONAL REVENUE ALL AT 3% G.P.	ADDITIONAL REVENUE 3.5% GP LTD PTC	ADDITIONAL REVENUE ALL AT 3.5% G.P.
LIFE AND DISABILITY INSURANCE	199,450,000	2.7% G.P.	5,385,154	NO CHANGE	598,950	598,950	1,595,600	1,595,600
LIFE AND DISABILITY STATE + MUNICP	56,760,081	0%	0	NO CHANGE	NO CHANGE	NO CHANGE	NO CHANGE	NO CHANGE
HOSPITAL / MEDICAL SERVIC OCEP	60,001,429	6% OF PROFIT	269,629	1,350,400	NO CHANGE	1,530,400	NO CHANGE	1,890,421
PROPERTY / CASUALTY INSURANCE	656,240,740	2.7% G.P.	17,718,544	NO CHANGE	1,968,722	1,968,722	5,249,926	5,249,926
WATER AND TRAVEL DETACH	12,485,366	0.75% OF PROFIT	58,146	278,958	NO CHANGE	316,415	NO CHANGE	378,842
TITLE INSURANCE	16,507,725	1% G.P.	165,077	280,700	NO CHANGE	330,184	NO CHANGE	412,693

PREPARED BY:

ALABAMA DIVISION OF INSURANCE

4-2-87

23,596,550

1,909,958

2,567,072

14,744,041

6,845,526

9,467,982

Original sponsors: Ulmer, Goll,
Navarre, et al.

1 IN THE HOUSE BY THE LABOR AND COMMERCE COMMITTEE
2 CS FOR HOUSE BILL NO. 230 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the premium tax on certain insur-
7 ers."

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

9 * Section 1. AS 21.09.210(b) is amended to read:

10 (b) Each insurer, and each formerly authorized insurer with
11 respect to premiums received while an authorized insurer in this
12 state, shall pay tax on the total direct premium income received
13 during the year ending on the preceding December 31 and paid for the
14 insurance of property or risks resident or located in the state other
15 than wet marine and transportation insurance, after deducting from the
16 total direct premium income the applicable cancellations, returned
17 premiums, the unabsorbed portion of any deposit premium, all policy
18 dividends, unabsorbed premiums refunded to policyholders, refunds,
19 savings, savings coupons and other similar returns paid or credited to
20 policyholders with respect to their policies. No deductions may be
21 made of cash surrender value of policies. Considerations received on
22 annuity contracts are not included in the direct premium income and
23 are not subject to tax. The tax shall be paid to the director annual-
24 ly before April 1, and [, EXCEPT AS PROVIDED IN AS 21.69.390(c),] is
25 computed at the rate of

26 (1) for domestic and foreign insurers, except hospital and
27 medical service corporations, three [2.7] percent;

28 (2) for hospital and medical service corporations, six
29 percent of their gross premiums less claims paid.

1 * Sec. 2. AS 21.09.210(c) is amended to read:

2 (c) A domestic company organized before January 1, 1987, is
3 exempt from taxation under this section for a period of five years
4 from the date of its organization.

5 * Sec. 3. AS 21.09.210 is amended by adding a new subsection to read:

6 (j) The tax paid to the director under (b) of this section shall
7 be deposited in the general fund. The Department of Administration
8 shall separately account for 10 percent of the tax collected under (b)
9 of this section and deposited in the general fund. The annual esti-
10 mated balance in the account may be used by the legislature to fund
11 the State Fire Commission (AS 44.41) and other fire prevention and
12 training services.

13 * Sec. 4. AS 21.66.110 is repealed and reenacted to read:

14 Sec. 21.66.110. TITLE INSURANCE PREMIUM TAX. Each title insur-
15 ance company shall pay a tax on premiums received as provided under
16 AS 21.09.210(b).

17 * Sec. 5. AS 21.09.210(h) and AS 21.69.390(c) are repealed.

18 * Sec. 6. This Act applies to the tax due by April 1, 1988, on direct
19 premium income received after June 30, 1987, and to the tax due for subse-
20 quent years.

1 IN THE HOUSE BY ULMER, GOLL, NAVARRE,
KOPONEN AND HUDSON

2 HOUSE BILL NO. 230

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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15 than wet marine and transportation insurance, after deducting from the
16 total direct premium income the applicable cancellations, returned
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18 dividends, unabsorbed premiums refunded to policyholders, refunds,
19 savings, savings coupons and other similar returns paid or credited to
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22 annuity contracts are not included in the direct premium income and
23 are not subject to tax. The tax shall be paid to the director annual-
24 ly before April 1, and, except as provided in AS 21.69.390(c), is
25 computed at the rate of

26 (1) for domestic and foreign insurers, except hospital and
27 medical service corporations, three [2.7] percent;

28 (2) for hospital and medical service corporations, six
29 percent of their gross premiums less claims paid.

1 * Sec. 2. AS 21.09.210(c) is amended to read:

2 (c) A domestic company organized before July 1, 1987, is exempt
3 from taxation under this section for a period of five years from the
4 date of its organization.

5 * Sec. 3. AS 21.09.210 is amended by adding a new subsection to read:

6 (j) The tax paid to the director under (b) of this section shall
7 be deposited in the general fund. The Department of Administration
8 shall separately account for 10 percent of the tax collected under
9 (b)(1) of this section and deposited in the general fund. The annual
10 estimated balance in the account may be used by the legislature to
11 fund the State Fire Commission (AS 44.41) and other fire prevention
12 and training services.

13 * Sec. 4. This Act applies to the tax due by April 1, 1988, for the tax
14 year beginning January 1, 1987, and to the tax due for subsequent years.