

ALASKA LEGISLATURE

1280

HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996

GENERAL APPROPRIATIONS ACT, 1993
STATE OF TEXAS

EXCERPT FROM TEXAS DEPARTMENT OF PUBLIC SAFETY

TEXAS RIVER COMPACT COMMISSIONERS
(Continued)

C.1.1. Strategy: ANNUAL ACCOUNTING		
Develop and implement an annual accounting system of water deliveries to each compacting state.		
\$	33,662	\$ 33,662
Outputs:		
Number of Users of Texas' Water Apportioned by the Red River Compact		
	250	250
D. Goal: RIO GRANDE RIVER COMPACT		
The Rio Grande River Compact Commission will ensure delivery of Texas' equitable share of quality water from the Rio Grande River and its tributaries as apportioned by the Rio Grande Compact.		
D.1. Objective:		
Ensure delivery of Texas' share of water from the Rio Grande River		
Outcomes:		
Percent of Texas' equitable share of quality water received annually as apportioned by the Rio Grande Compact		
	95%	95%
D.1.1. Strategy: ANNUAL ACCOUNTING		
Prepare and resolve the annual accounting of water deliveries to Texas by New Mexico and Colorado as apportioned by the Rio Grande Compact.		
\$	162,911	\$ 164,211
Outputs:		
Number of Acre-Feet of Quality Water Received by Texas as Apportioned by the Rio Grande Compact		
	750,500	750,500
E. Goal: SABINE RIVER COMPACT		
The Sabine River Compact Commission will ensure delivery of Texas' equitable share of quality water from the Sabine River and its tributaries as apportioned by the Sabine River Compact.		
E.1. Objective:		
Ensure delivery of Texas' share of water from the Sabine River		
Outcomes:		
Percent of Texas' equitable share of quality water received annually as apportioned by the Sabine River Compact.		
	100%	100%
E.1.1. Strategy: ANNUAL ACCOUNTING		
Prepare and resolve the annual accounting of water deliveries and diversions by Texas and Louisiana as apportioned by the Sabine River Compact.		
\$	54,534	\$ 54,534
Outputs:		
Number of Acre-Feet of Quality Water Available to Texas as Apportioned by the Sabine River Company		
	1,037,300	1,037,300
F. Goal: SEC 146, 1993 SALARY INC		
Section 146, 1993 Salary Increase		
\$	5,688	\$
Grand Total, TEXAS RIVER COMPACT COMMISSIONERS		
\$	393,157	\$ 393,769
Schedule of Exempt Positions		
Red River Compact Commissioner	\$24,225	\$24,225
Rio Grande Compact Commissioner	41,195	41,195
Sabine River Compact Commissioner	(2) 8,488	(2) 8,488
Canadian River Compact Commissioner	10,767	10,767
Pecos River Compact Commissioner	20,247	20,247

TEXAS RIVER COMPACT COMMISSIONERS
(Continued)

Administrative and Support Cost as a Percent of Expenditures:		
Canadian River Compact	5.1%	\$ 19
Pecos River Compact	2.6%	2,64
Red River Compact	8.0%	8,02
Rio Grande River Compact	1.2%	1,32
Sabine River Compact	4.5%	4,52

Article V Exemption, Leave Provisions. It is specifically provided that the Red River Compact, Sabine River Compact, Canadian River Compact and Pecos River Compact Commissioners are exempt from Article V, provisions concerning Employees Working Hours and Holidays, and Employees Vacation and Leave, provisions of this Act.

DEPARTMENT OF PUBLIC SAFETY

	For the Years Ending	
	August 31, 1994	August 31, 1995
A. Goal: PROMOTE TRAFFIC SAFETY		
To promote traffic safety.		
A.1. Objective:		
Reduce death, injury & economic loss by containing traffic death rate		
Outcomes:		
Annual Texas Rural Traffic Death Rate	22	22
A.1.1. Strategy: HIGHWAY PATROL		
Supervision of traffic on rural highways by uniformed officers.		
\$	84,001,551	\$ 83,823,703
Outputs:		
Traffic Law Violator Contacts	2,070,355	2,121,925
Rural Traffic Accidents Investigated	48,498	48,498
Efficiencies:		
Average Cost of Patrolling a Mile of Rural Highway	417	416
A.1.2. Strategy: PATROL COMMERCIAL TRAFFIC		
Supervision of commercial and "for hire" traffic on rural highways by uniformed officers.		
\$	15,310,665	\$ 15,055,355
Outputs:		
Traffic Law Violator Contacts	394,937	394,937
Commercial Vehicles Placed Out of Service	29,983	29,983
A.1.3. Strategy: DRIVER LICENSE & RECORDS		
Ensure the competency of Texas drivers through testing of new drivers, determining the eligibility of renewal applicants, and through the improvement or delicensing of problem drivers.		
\$	59,501,480	\$ 54,094,959
Outputs:		
Number of Examinations Administered	5,704,377	5,704,377
Number of Drivers Licenses Issued	4,337,826	4,181,203
Number of Driver Records Established and Maintained	13,366,100	13,499,761

DEPARTMENT OF PUBLIC SAFETY
(Continued)

A.1.4. Strategy: BREATH & BLOOD TESTING

Operate a scientific breath alcohol and blood testing program statewide. Supervise and maintain this program, train operators, and testify to its validity in court.

\$ 1,620,257 \$ 1,592,527

Outputs:

Number of Breath Alcohol Tests Supervised 45,000 45,000

Number of Blood Alcohol and Toxicology Cases Completed 5,225 5,225

A.1.5. Strategy: VEHICLE INSPECTION

Administer the state's vehicle inspection program.

\$ 8,244,413 \$ 7,686,483

Outputs:

Number of Inspection Stations Supervised 9,598 9,790

Number of Inspectors Supervised 30,498 31,107

Number of Inspector Certifications Suspended/Revoked 295 295

A.1.6. Strategy: TRAFFIC ACCIDENT RECORDS

Administer the traffic accident records system for the State of Texas.

\$ 2,296,812 \$ 2,282,702

Outputs:

Number of Accident Reports Processed 450,000 450,000

Number of Reports and Summaries Prepared 110,000 110,000

Efficiencies:

Average Cost per Accident Report Processed 5.11 5.11

A.1.7. Strategy: EDUCATION & TRAINING

Provide appropriate alcohol, drug, traffic safety, and crime prevention educational programs for the citizens of Texas and provide operational and technical training for law enforcement, emergency management, and support personnel in the state.

\$ 3,956,094 \$ 3,914,394

Outputs:

Number of Alcohol, Drug, Traffic Safety, and Crime Prevention Programs Conducted 7,374 7,374

Number of Personnel Instructed 8,500 8,500

Number of Traffic Safety Literature Items Produced 131,060 131,060

Total, Objective A.1: Reduce death, injury & economic loss by containing traffic death rate

\$ 174,931,272 \$ 168,449,623

Total, Goal A: PROMOTE TRAFFIC SAFETY

\$ 174,931,272 \$ 168,449,623

B. Goal: PREVENT & DETECT CRIMES

To promote the preservation of the peace and the prevention and detection of crime.

B.1. Objective:

Reduce death, injury, & economic loss by working to reduce crime

Outcomes:

Annual Texas Crime Index Rate 7,806 7,798

B.1.1. Strategy: NARCOTICS ENFORCEMENT

Administer the Narcotics enforcement program.

\$ 23,182,099 \$ 24,568,320

Outputs:

Number of Criminal Investigations of Narcotics Violations Conducted 4,529 5,049

Number of Arrests for Narcotics Violations 1,657 1,777

Efficiencies:

Average Cost of Criminal Investigation 4,933 4,933

DEPARTMENT OF PUBLIC SAFETY
(Continued)

C.1. Objective:

Reduce death, injury & economic loss through emergency management

Outcomes:

Percentage of Jurisdictions Receiving Planning Guidance and Assistance in Emergency Preparedness	39%	39%
Percentage of Jurisdictions Receiving Recovery and Mitigation Assistance	53%	53%

C.1.1. Strategy: PLANNING ASSISTANCE

Provide emergency management planning assistance and guidance to state agencies and local governments in Texas.

Outputs:

Number of Planning Documents Processed	2,139	2,139
Number of Student Hours of Emergency Management Instruction Provided	17,400	17,400

C.1.2. Strategy: RECOVERY & MITIGATION

Process and monitor all requests and applications for recovery and mitigation assistance based upon requirements and procedures.

Outputs:

Number of Jurisdictions Assisted	767	767
Average Cost per Assistance Request Processed	1,989	1,989

C.1.3. Strategy: RESPONSE COORDINATION

Review and coordinate emergency and disaster response operations.

Outputs:

Number of Emergency Incidents Coordinated	745	745
Number of Local Governments Assisted	521	521

Total, Objective C.1: Reduce death, injury & economic loss through emergency management

\$ 4,063,838 \$ 4,055,538

Total, Goal C: DISASTER RESPONSE

\$ 4,063,838 \$ 4,055,538

D. Goal: SEC 146, 1893 SALARY INC
Section 146, 1993 Salary Increase

\$ 4,742,024 \$

Grand Total, DEPARTMENT OF PUBLIC SAFETY

\$ 251,558,159 \$ 241,649,533

Method of Financing:

State Highway Fund No. 006	\$ 213,632,378	\$ 205,768,333
Operators and Chauffeurs License Fund No. 099	12,500,000	11,043,996
State Parking Fund No. 125	295,000	295,000
Motor Vehicle Inspection Fund No. 274	12,000,000	11,423,680
Criminal Justice Planning Fund No. 421	4,813,177	4,813,177
Motorcycle Education Fund No. 301	850,034	844,528
Federal Funds	6,066,671	6,066,671
All-Terrain Vehicle Safety Fund No. 598	4,000	4,000

DEPARTMENT OF PUBLIC SAFETY
(Continued)

Appropriated Receipts
Interagency Contracts
Earned Federal Funds

\$8,927	\$8,927
1,137,972	1,137,972
<u>2(X)0(X)</u>	<u>193,249</u>

Total, Method of Financing

\$ 251,558,159 \$ 241,649,533

Schedule of Exempt Positions

Director \$84,664 \$84,664

Bond Debt Service

\$ 436,918 \$ 438,511

Administrative and Support Cost as a Percent of Expenditures

0.0% 9.0%

1. Capital Budget. None of the funds appropriated above may be expended for capital budget items except as listed below. The amounts shown below shall be expended only for the purposes shown and are not available for expenditure for other purposes. Amounts appropriated above and identified in this provision as appropriations either for "Lease payments to the Master Equipment Lease Purchase Program" or for items with an "(MEL.PP)" notation shall be expended only for the purpose of making lease-purchase payments to the Texas Public Finance Authority pursuant to V.T.C.S., Art. 601(d), Sec. 9A.

	1994	1995
a. Acquisition or Lease-Purchase of Land and other Real Property	\$ 300,000	\$ 460,000
b. Construction of Buildings and Facilities	7,300,000	3,078,100
c. Repairs or Rehabilitation	1,000,000	1,000,000
d. Acquisition or Lease-Purchase of Information Resource Technologies	9,838,915	\$ 5,403,000
e. Transportation Items	6,308,522	5,948,522
f. Purchase or Lease-Purchase of Capital Equipment and Items	2,374,800	2,120,800
g. Capitol Security Equipment	<u>248,398</u>	<u>0.0</u>
Total, Capital Budget	\$ 27,370,635	\$ 18,022,322

Method of Financing (Capital Budget):

State Highway Fund No. 006	\$ 25,345,635	\$ 16,181,322
Criminal Justice Planning Fund No. 421	1,350,000	1,390,000
Operators and Chauffeurs License Fund No. 099	<u>675,000</u>	<u>451,000</u>

Total, Method of Financing(Capital Budget)

\$ 27,370,635 \$ 18,022,322

2. Sale of Vehicles. Funds derived from the sale of passenger vehicles and aircraft operated by the Department of Public Safety are hereby reappropriated to the Department of Public Safety and are to be deposited in appropriations where like purchases can be made as per Article 601b, V.A.C.S.

3. Abandoned Vehicles. Funds accruing to the department under the provisions of Article 4477-9a, Section 5.01 et. seq. are hereby appropriated to the department to assist in the administration of the Act.

DEPARTMENT OF PUBLIC SAFETY
(Continued)

4. **Unexpended Vehicle Appropriations.** Any unexpended balance in funds appropriated for automobile purchases in the various strategies and identified in capital budget, for the 1994 fiscal year are hereby reappropriated for the 1995 fiscal year.
5. **Controlled Substances.** All amounts received under Chapter 481, Health and Safety Code and deposited to the credit of the Controlled Substance Fund No. 1998 are hereby appropriated to the Department of Public Safety to be used for law enforcement purposes. Any funds unexpended at the close of each fiscal year are reappropriated for the following year.
6. **Academy Costs.** The Department of Public Safety may charge employees and students of the DPS Academy for tuition, lodging, and meals at such prices as may be set by the department. Such funds as received are hereby appropriated to cover the expenses entailed in providing such students and employees their lodging, meals, incidental expenses, and to pay visiting instructors.
7. **Clothing Allowance.** All commissioned officers holding an exempt position and other required uniform personnel are to receive a clothing and cleaning allowance of \$500 per year. Those commissioned officers who are not provided a uniform shall receive a clothing and cleaning allowance of \$1,200 per year.
8. **Witness Fees.** From the appropriations made herein the Department of Public Safety may pay the witness fees and travel expenses of out-of-state witnesses, subject to the advance, written approval of the District Attorney for the county having venue over the law violation under investigation.
9. **Medical and Funeral Costs.** Monies appropriated above may be expended for drugs, medical, hospital, laboratory and funeral costs of law enforcement employees or other employees performing duties involving unusual risk when injury or death occurs in the performance of such duties. It is the intent of the Legislature that monies appropriated above shall not be expended for drugs, medical, hospital, laboratory or funeral costs of employees who are not actively engaged in the performance of law enforcement or other hazardous duties or of law enforcement employees when injury or death occurs in the performance of clerical or office duties as distinguished from law enforcement or other duties involving unusual risk. Monies appropriated above may also be expended for physical examinations and testing when such examinations and tests are a condition of employment or exposure to infectious diseases or hazardous materials occurs in the line of duty.
10. **Aircraft Authority.** The Department of Public Safety is authorized to own, maintain, and operate helicopters in performance of its responsibilities. In addition to authority to own, maintain and operate aircraft under the provisions of Section 411.013 of the Government Code, and Article V, Section 20 of this Act, the department is authorized to own, maintain and operate any aircraft seized pursuant to authority contained in Chapter 481, Health and Safety Code or under any other statute authorizing the Department to own, maintain, or operate seized aircraft. The department is directed to submit, as part of its Annual Report, details on the acquisition and disposition of seized aircraft.
11. **Purchase of Evidence.** From the amounts appropriated for the support and maintenance of the Department of Public Safety, an amount not to exceed One Million Dollars (\$1,000,000) each year of the biennium, exclusive of amounts forfeited to the Department of Public Safety by any court of competent jurisdiction and amounts received from the United States government derived from the forfeiture of monies and property, is hereby designated for the purchase of evidence and/or information and surveillance expenses deemed necessary by the Department of Public Safety; and accountability for expenditures as set forth above shall be governed by such rules and regulations as the Director of the Department of Public Safety

DEPARTMENT OF PUBLIC SAFETY
(Continued)

- may recommend, subject to review and approval by the State Auditor. Such amounts may be maintained in cash to facilitate the purchase of evidence, information and/or surveillance expense.
12. **Driver License Facilities.** It is the intent of the Legislature that the driver license facilities and personnel provided for in this Act be dispersed over the entire State in both rural and urban areas, and that driver license service to counties with populations equal to or less than 50,000 shall not be reduced below the service levels currently provided by the Department of Public Safety.
 13. **Marked Vehicles.** None of the funds appropriated hereinabove may be expended for the salaries of personnel operating motor vehicles used to stop and actually arrest offenders of highway speed laws unless such vehicles are patrol vehicles of the standard black-and-white color, plainly marked with the department's insignia.
 14. **Aviator Reimbursement.** From the amounts appropriated above, an amount not to exceed \$10,000 each year of the biennium may be used only for aviator search, rescue or disaster-related functions, limited to reimbursements for actual costs of aircraft operation to include fuel, oil and routine maintenance costs incurred by trained and certified private volunteer aviators using privately-owned aircraft in state-authorized flight operations. The reimbursement shall not exceed the rate of \$60.00 per flying hour, when such aircraft costs are not reimbursable by other governmental agencies in accordance with Chapter 418, Government Code.
 15. **Gasoline Contingency.** In addition to funds appropriated above and contingent upon certification by the Comptroller of Public Accounts, the Department of Public Safety is hereby appropriated up to \$40,000 annualized per year from State Highway Fund No. 100 for each cent increase in the average gasoline cost per gallon to the department above \$90 per gallon.
 16. **Disaster Relief Funds.** In addition to the appropriations otherwise provided in this Act there is hereby appropriated to the Department of Public Safety any federal funds including those authorized under the Disaster Relief Act of 1974, received by the department either directly or as agent of the Governor. Such funds may be used for any purpose for which the federal grant, allocation, aid, or payment was made or for any purpose for which the funds they replace were appropriated, and funds otherwise appropriated to the department may be used in carrying out the department's duties.
 17. **Texas Rangers.** It is the intent of the Legislature that the Texas Rangers shall be a separate division of the Department of Public Safety and the Senior Captain of the Texas Rangers shall report directly to the Director of the Department of Public Safety.
 18. **Appropriations of Receipts - Parking Violation Revenues.** The Texas Department of Public Safety shall collect a \$10.00 (Ten Dollars) fine for all parking violations on state-owned property in the Capitol Complex. All revenue received from parking violations shall be deposited to the General Revenue Fund and is hereby appropriated for use by the Department of Public Safety for Capitol Police Security and parking for the 1994-95 biennium.
 19. **Appropriation of Parking Fees.** All parking fees collected by the Texas Department of Public Safety pursuant to Art. 601b, Sec. 4.12(c), V.T.C.S., shall be deposited by the department into the State Parking Fund No. 125 to be used by the department, according to general law, for the operation, maintenance and improvement of state parking facilities, temporary or permanent. The department may expend these funds only to the extent

DEPARTMENT OF PUBLIC SAFETY
(Continued)

- identified in Article I of this act. This fund shall serve as a method of finance for parking operations in the Capitol Complex. The Texas Department of Public Safety shall deposit all funds to the State Treasury, except for a \$300 petty cash account for payment of refunds. This account shall be administered in accordance with approved procedures established by the Comptroller of Public Accounts. Any unobligated balances shall remain in the fund, available for appropriation by the Legislature in subsequent years for the same purpose and subject to the same restrictions.
20. **Security - Aircraft Pooling Board.** The Texas Department of Public Safety shall be responsible for the security of state owned real property and facilities acquired for use by the Aircraft Pooling Board and shall recover costs through fees charged to the Aircraft Pooling Board.
21. **Seized Assets Report.** The Department of Public Safety shall file with the Governor and the Legislative Budget Board, no later than October 1 of each year, a report detailing the acquisition and use of seized assets. The report shall contain, at a minimum, the following information: the court in which the case was adjudicated, the nature of the assets, the value of the assets, and the actual or intended use of the assets.
22. **Disposition of Seized Funds.** The Department of Public Safety is hereby directed to deposit all funds currently held, or obtained in the future pursuant to seizure actions or judicial forfeiture according to rules and procedures developed by the State Treasurer. DPS shall cooperate with the State Treasurer in developing agreements and procedures for the deposit of seized state funds in accounts with the State Treasurer.
23. **Promotion Examination.** It is the intent of the Legislature that the Department of Public Safety obtain the services of a qualified and appropriate consultant, within the first year of the biennium, for the purposes of updating and validating the Department's written promotion exam. The Department shall report the findings of the consultant to the Governor, Lieutenant Governor, and the Speaker of the House of Representatives.
24. **Salary Provision - H.B. 9 Transfer of Personnel.** It is the intent of the Legislature that any commissioned peace officer transferred from the Driver's License Service or the Motor Vehicle Inspection Service to another Service within the Department, in compliance with H.B. 9, 72nd Legislature, First Called Session, shall not receive a decrease in salary as a result of the transfer. It is further the intent of the Legislature that applicable salary levels be reinstated in cases where such transfers have resulted in a reduction in salary.
25. **Polygraph Examinations.** None of the funds appropriated herein above may be expended for polygraph testing of commissioned law enforcement officers of the Department of Public Safety, unless requested by the officer.
26. **Sunset Contingency.** Funds appropriated above for fiscal year 1995 for the Department of Public Safety are made contingent on the continuation of the Department of Public Safety by the Legislature. In the event the agency is not continued, the funds appropriated for fiscal year 1994 or as much thereof as may be necessary are to be used to provide for the phase out of the agency operations.
27. **Encumbered Balances - AFIS.** Any encumbered balances remaining as of August 31, 1992, not to exceed \$6,336,254, in the appropriation made out of the State Highway Fund No. 006 to the Department of Public Safety in Article VII of S.B. 222, Seventy-first Legislature, Regular Session, and identified in rider provision J on page I-269 of that Act, are hereby reappropriated to the Department of Public Safety for the fiscal year beginning September 1, 1993. Funds appropriated pursuant to this provision may be expended only for

DEPARTMENT OF PUBLIC SAFETY
(Continued)

- the completion of the contract for the Automated Fingerprint Identification System (AFIS) consistent with the provisions of Rider J, page I-269, S.B. 222.
28. **Contingency Appropriation Senate Bill 1.** Contingent upon the enactment of Senate Bill 1, Seventy-third Legislature, Regular Session, or similar legislation relating to administrative license revocation, there is hereby appropriated to the Department of Public Safety \$2,202,390 for fiscal year 1994 and \$3,506,853 for fiscal year 1995. Appropriations are made out of the Operator's and Chauffeur's License Fund No. 099 from reinstatement fees collected pursuant to the Act, and from the State Highway Fund No. 006, for the purpose of implementing the provisions of the Act. Appropriations made from State Highway Fund No. 006 shall be expended only to the extent necessary, in the absence of sufficient reinstatement fee revenue in the Operator's and Chauffeur's License Fund No. 099. The Department of Public Safety is hereby authorized to transfer the appropriations made pursuant to this provision to the appropriate strategies.
29. **Contingency Appropriation for Senate Bill 310.** Contingent upon the enactment of Senate Bill 310, Seventy-third Legislature, Regular Session, or similar legislation, The Department of Public Safety is hereby appropriated \$374,519 out of the State Highway Fund No. 006 and \$56,942 out of the Operator's and Chauffeur's License Fund No. 099 for fiscal year 1994, and \$337,592 out of the State Highway Fund No. 006 and \$45,751 out of the Operator's and Chauffeur's License Fund No. 099 for fiscal year 1995 for the purpose of implementing the provisions of this Act. The Department of Public Safety is hereby authorized to transfer the appropriations made pursuant to this provision to the appropriate strategies listed above.
30. **Contingency Appropriation for Senate Bill 536.** Contingent upon the enactment of Senate Bill 536, Seventy-third Legislature, Regular Session, or similar legislation, the Department of Public Safety is hereby appropriated the additional fee revenue collected pursuant to the provisions of that Act in an amount not to exceed \$146,794 for fiscal year 1994 and \$135,124 for fiscal year 1995 for the purpose of implementing the provisions of that Act. The Department of Public Safety is hereby authorized to transfer the appropriations made pursuant to this provision to the appropriate strategies listed above.
31. **Contingency Appropriation for House Bill 945.** Contingent upon the enactment of House Bill 945, Seventy-third Legislature, Regular Session, or similar legislation, the Department of Public Safety is hereby appropriated the additional revenue collected pursuant to the provisions of that Act in an amount not to exceed \$774,192 out of the Motor Vehicle Inspection Fund No. 274 for fiscal year 1994 and \$729,404 out of the Motor Vehicle Inspection Fund No. 274 for fiscal year 1995 for the purpose of implementing the provisions of that Act. The Department of Public Safety is hereby authorized to transfer the appropriations made pursuant to this provision to the appropriate strategies listed above.
32. **Contingency Appropriation for House Bill 1776.** Contingent upon the enactment of House Bill 1776, Seventy-third Legislature, Regular Session, or similar legislation, the Department of Public Safety is hereby appropriated the fee revenue collected pursuant to the provisions of that Act in an amount not to exceed \$5,017,390 out of the Handgun License Account in the General Revenue Fund No. 001 for fiscal year 1994 and \$2,938,942 out of the Handgun License Account in the General Revenue Fund No. 001 for fiscal year 1995 for the purpose of implementing the provisions of that Act. The Department of Public Safety is hereby authorized to transfer the appropriations made pursuant to this provision to the appropriate strategies listed above.

* See Veto Proclamation.

H USE COMMITTEE REPORT

2/9/96

(7)

Date Referred: January 16, 1995

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-7-96

The STATE AFFAIRS Committee considered:

HB 22

HOUSE BILL NO. 22

STATE LONG-TERM PLANNING

"An Act relating to long-term plans of certain state agencies and recommendations regarding elimination of duplication in state agency functions."

recommends it be replaced with the following committee substitute [] the same title [] a new title

[] additional referral to _____ Committee

[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal note(s) _____

[] fiscal note(s) _____

X zero fiscal note(s) _____

[] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Jeannette James</i>	James	✓			
<i>James Green</i>	Green	✓			
<i>Tuan</i>	Tuan	✓			
<i>Willis</i>	Willis	✓			
<i>Agan</i>	Agan	✓			
		(5)			

CHAIR'S SIGNATURE *Jeannette James*

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

MISSION

To promote and protect the well-being of every Alaskan by investing in families and communities. To work toward this mission and to manage changes occurring on the federal level.

DHSS management has adopted seven guiding principles:

- Services should be consumer driven.
- Staff should work toward an efficient, effective management system.
- Program managers should design outcome-based, effective services.
- Collaboration strategies should be adopted.
- Programs should be designed to promote program client self-sufficiency.
- The department should strive for a quality work force.
- All departmental staff should strive to optimize local ownership of programs.

Major Goals and Strategies

Institute internal and public processes to improve assistance programs and to address changing federal requirements.

- Move more people into jobs and reduce welfare costs by continuing to implement changes to welfare.
- Restructure the State's Medicaid program and institutional processes.

Work with communities and local governments to address health and safety issues.

- Support legislation to increase taxes on alcohol and tobacco, as a public health measure to reduce consumption.
- Join with communities to implement pilot programs to reduce juvenile crime and address consequences for first time offenders.
- Begin development of a public health improvement plan that defines the outcomes Alaskans want from health services and identifies collaborative efforts (across departments and within communities) that are critical to the plan's successful implementation.

Do our work in accordance with our guiding principles.

- Reduce paperwork and eliminate duplicate requirements for community service providers by completing the re-engineering of departmental grant functions and processes.
- Encourage flexibility and creativity in community agencies by appropriately structuring and implementing those new grant processes.
- Improve planning and enable outcome-based evaluations of services through a comprehensive review of departmental and grantee data systems aimed at integrating and strengthening those systems.
- Achieve further departmental administrative efficiencies in FY 97.

KEY PERFORMANCE MEASURES

- Over the next five years, reduce the AFDC caseload by 10%, through the reinvestment of up to \$55 million in job training and child care. (Legislation is being proposed.)
- Each month for the next five years, provide employment or job training opportunities for 5,000 welfare families.
- Reduce departmental administrative costs by 3% for FY 97.
- Reduce the per capita alcohol consumption of people 14 and over by 2.25 gallons by the year 2000, through public awareness efforts and a focus on teens.

Other Key Issues

For the first time in recent history, the Department's budget does not include general fund increments for its two largest formula programs, Aid To Families With Dependent Children, and Medicaid. Our goal is to continue this sound management while implementing proposed federal changes to these programs. These federal changes to public assistance and medical assistance programs are expected to require substantial operational and funding changes.

The department's new FY 97 budget structure is a first major step toward efficient management by reducing the number of appropriations and budget components within the department.

Efficiencies and Economies

Division of Administrative Services: For greater efficiency, the division is functionally reorganizing its activities and increasing its use of computer applications.

Division of Alcoholism and Drug Abuse: To better identify and strengthen the efforts of local communities in addressing substance abuse, the division is working closely with its newly constituted Advisory Board. The division also will be working with communities, local governments and other state departments to develop pilot projects focused on reducing substance abuse on all levels, including prevention, early intervention, and treatment-based initiatives.

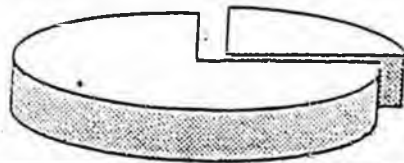
Division of Family & Youth Services: The division is supporting the Governor's Conference on Youth and Justice in developing recommendations for changes in the juvenile justice system. It will complete a Facilities Master Plan identifying statewide facility bed needs and community-based programming alternatives. It will identify staffing needs by location and approaches for increasing the Division's efficiency.

Division of Medical Assistance: The division will be contracting for pilot projects designed to improve Medicaid services and control expenditures.

Division of Mental Health and Developmental Disabilities: Using existing personnel, the division is developing an approach for structuring its mental health section activities and accountability along regional and community lines, and also is developing an outcome-based quality assurance approach to help achieve a customer focus and basis for evaluating its performance.

Division of Public Assistance: To focus its staff resources on providing employment-oriented assistance to welfare recipients, the division is reorganizing its functions and eliminating unnecessary paperwork.

Division of Public Health: To reduce costs and achieve greater efficiency, the division is consolidating two of its sections, Emergency Medical Services and Community Health. The division also is moving towards the consolidation of its public health laboratory functions into a single, centralized facility by FY 99.



Department of Health and Social Services
22% of Total Operating Budget

Budget Summary	FY95 Actual	FY96 Authorized	FY97 Governor
General Fund - Designated for other purposes	\$N/A	\$3,090.0	\$3,215.0
General Fund - All Other	424,636.2	452,114.4	453,608.1
Federal Funds	296,979.7	339,381.6	338,226.5
Other Funds - State corporation earnings, internal service funds	61,751.2	68,114.7	66,338.9
TOTAL BUDGET	\$783,367.1	\$862,700.7	\$861,388.5
Positions - Full-time	2,038	2,078	2,047
Part-time and Seasonal	79	59	58

These figures include both the main operating budget and the separate mental health appropriation bill.

DEPARTMENT OF PUBLIC SAFETY

MISSION

The mission of the Alaska Department of Public Safety is the protection of life and property.

Major Goals and Strategies

1 Preserve the public peace, enforce specific laws, prevent and detect crime, apprehend offenders, protect life, and property and Alaska's fish and wildlife resources.

- Seek Community Participation for Public Safety Programs - Continue to expand village involvement in focusing trooper programs to address local needs. Evaluate alternatives like "Community Courts" to help provide relief to the criminal justice system for minor incidents and misdemeanors.
- Reduce domestic violence and sexual assault throughout Alaska.

2 Administer motor vehicle and driving laws to promote driving safety and preserve property rights of vehicle owners and lien holders.

- Expand Delivery of Government Services Through Private Sector Arrangements - Continue to work with Emission Inspection stations, car dealers, banks and fleet owners to identify service delivery opportunities for DMV services.

3 Provide statewide criminal justice training, information, person identification and forensic services.

- Integrate Criminal Justice Agencies - Information Systems - Continue efforts to integrate criminal justice agency computer systems to ensure essential criminal justice information is available on-line to Alaska's 4,500 criminal justice professionals who are involved in decisions regarding investigations, arrest, sentencing, release from custody, employment, licensing and other purposes.

4 Promote ways to protect life and property against fire, explosion and panic.

- Develop a Statewide Fire Suppression Strategy - Identify a planning framework with state, local and media participation to educate the public regarding the magnitude of fire related issues. Identify a balanced approach to fixing responsibility and resources needed to save lives, property and associated costs.

KEY PERFORMANCE MEASURES

Division of Motor Vehicles

- Increase the number of public-private partnership contracts to provide DMV service by 50%.
- Increase DMV productivity by processing an average of 5% more transactions per employee.
- Increase orientation visits to high schools by driver improvement specialists to at least one per month.

State Fire Marshal/Division of Fire Prevention

- Increase the number of fire investigations conducted by State Fire Marshals by 5%
- Increase the number of division public fire prevention education programs by 10%.
- Reduce Alaska's fire death rate by 10% within three years through fire prevention education and other programs.

Fish & Wildlife Protection

- Reduce the number of sport fish and wildlife violations by increasing the number of contacts with recreational hunters and fishermen statewide by 1.5% (approximately 800 more contacts).
- Reduce the number of commercial crab fishery violations by increasing enforcement patrol contacts with commercial crab fishermen by 5%. Crab fisheries represent 26% of Alaska's 218 commercial fisheries.

Alaska State Troopers

- Reduce by 10% the incidents of motor vehicle fatality traffic accidents involving alcohol/drugs occurring in State Trooper jurisdiction over a three year period. This will be accomplished through public education and increased DWI enforcement efforts using existing Trooper resources and a five person NHTSA traffic enforcement team.

Other Key Issues

Deploy a New Police Case Report System:

The "CRIMES" system will allow troopers in the field to create police reports electronically via portable laptop computers. CRIMES will eliminate microfilming of hard copy case reports, redundant data entry on multiple systems, and allow automatic retrieval of traffic accident reports.

Improve Alaska Criminal History Records:

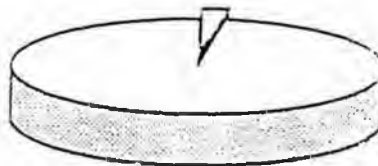
Federally funded projects will improve timeliness, completeness and quality of arrest, disposition and fingerprint information used for investigations, person identification, sentencing, release, employment and licensing purposes.

Efficiencies and Economies

Making General Funds Go Further: By including federal features in the new CRIMES case information system, approximately \$200.0 in federal funding can replace state general funds.

Computer Efficiencies: A new computer interface with the Department of Law will permit downloading case disposition information that is currently transmitted in paper form requiring duplicate data entry. Other interfaces are being designed with the Courts, Corrections and selected police agencies.

Department of Public Safety
3% of Total Operating Budget



Budget Summary	FY95 Actual	FY96 Authorized	FY97 Governor
General Fund - Designated for specific purposes	\$N/A	\$560.0	\$561.7
General Fund - All Other	88,541.0	85,519.0	85,738.9
Federal Funds	5,666.6	10,887.5	5,677.9
Other Funds - State corporation earnings, internal service funds	3,902.3	4,209.9	4,946.7
TOTAL BUDGET	\$98,109.9	\$101,176.4	\$96,925.2
Positions - Full-time	866	871	854
Part-time and Seasonal	60	49	46

Texas Commission for the Blind Strategic Plan

GOALS

OBJECTIVES *(Customer Oriented)*

STRATEGIES

To assist Texans who are blind to live as independently as possible consistent with their capabilities.

To increase by 6% by 1995 the number of consumers who achieve their independent living goals.

To provide a statewide program of developing independent living skills.

To increase by 7 % the number of children who achieve their habilitative goals.

To provide habilitative services to blind and visually impaired children.

To assist Texans who are blind or visually impaired to secure or maintain employment in careers consistent with their skills, abilities, and interests.

To increase by 6 % by 1995 the number of successfully employed consumers who are visually impaired.

To provide vocational rehabilitation services to persons who are blind or visually impaired.

To provide transition program services leading to successful transition from school to work.

To provide employment opportunities in the food service industry for persons who are blind or visually impaired.

15

OUTCOME MEASURES FOR THE BLIND COMMISSION

GOAL: TO ASSIST TEXANS WHO ARE BLIND OR VISUALLY IMPAIRED TO LIVE AS INDEPENDENTLY AS POSSIBLE CONSISTENT WITH THEIR CAPABILITIES.

OBJECTIVE: To increase by 6 percent by 1995 and 18 percent by 1998 the no. of consumers who achieve their independent living goals.

- Percent of need met
- Percent of consumers avoiding a dependent living environment who are at risk

OBJECTIVE: To increase by 7 percent by 1995 and 17 percent by 1998 the number of children who achieve their habilitative goals.

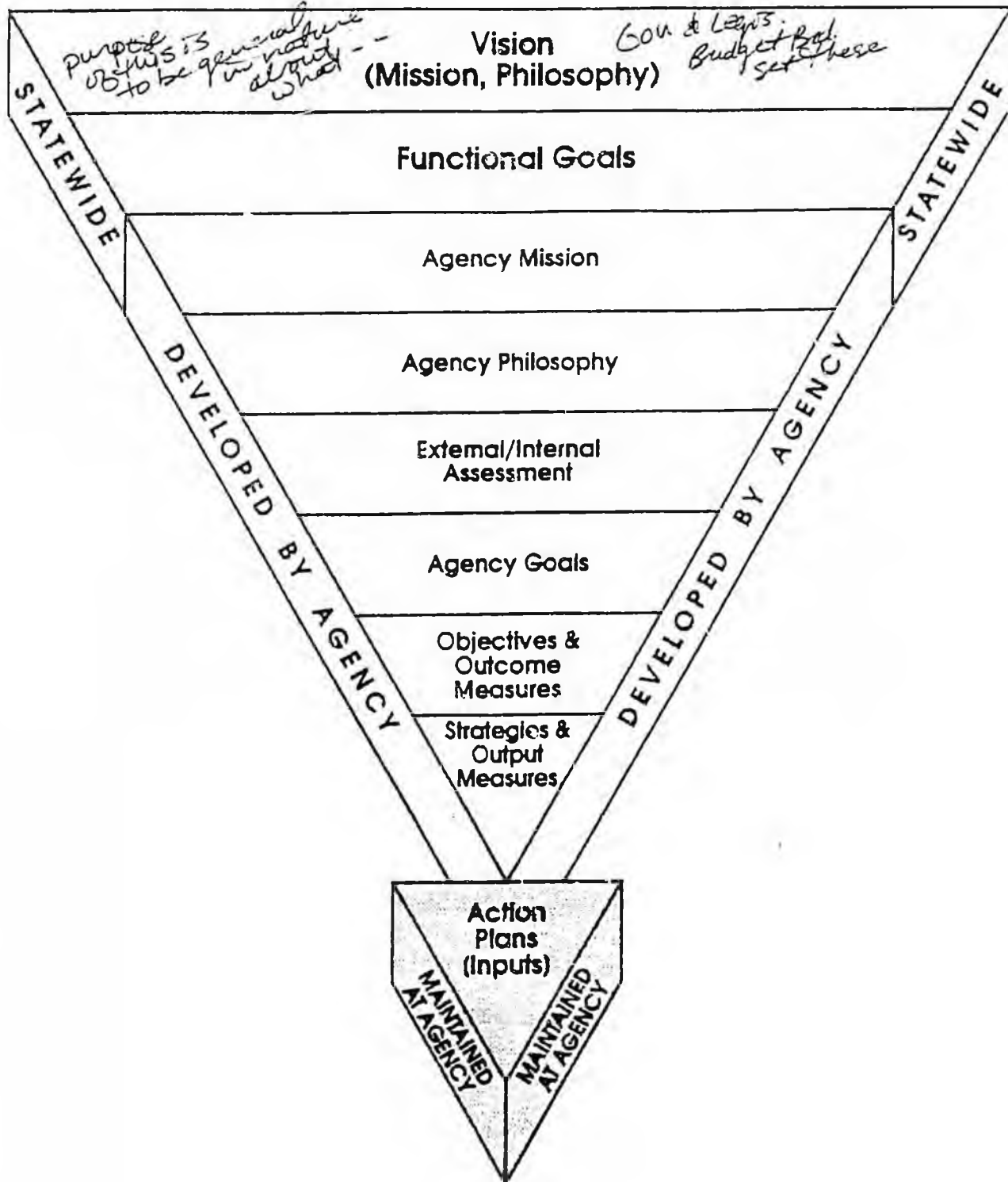
- Percent of need met
- Number of children with improved vision
- Number of children not needing additional services

GOAL: TO ASSIST TEXANS WHO ARE BLIND OR VISUALLY IMPAIRED TO SECURE OR MAINTAIN EMPLOYMENT IN CAREERS CONSISTENT WITH THEIR SKILLS, ABILITIES, AND INTERESTS.

OBJECTIVE: To increase by 6 percent by 1995 and 15 percent by 1998 the number of successfully employed consumers who are visually impaired.

- Percent of consumers who were determined eligible and were successfully rehabilitated
- Percent of consumers successfully rehabilitated with improved economic self sufficiency
- Percent increase in the number of consumers successfully employed with earnings meeting or exceeding the statewide per capita income
- Percent of need met
- Average earnings per consumer employed.

TEXAS STRATEGIC PLANNING TEMPLATE



FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 22

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act relating to long term plans of certain state agencies BRU: Administrative Services
 Component: Health Planning and Facilities Management
 Sponsor: PARNELL, Hanley, Therriault, Green, et al. COMPONENT SERIAL NO. 2020
 Requestor: House STA See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	450.8	464.1	480.2	494.2	511.7	527.1
TRAVEL	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL	95.5	55.5	55.5	55.5	55.5	55.5
SUPPLIES	7.0	7.0	7.0	7.0	7.0	7.0
EQUIPMENT	52.5	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	615.8	536.6	552.7	566.7	584.2	599.6

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

CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	615.8	536.6	552.7	566.7	584.2	599.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	615.8	536.6	552.7	566.7	584.2	599.6

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

POSITIONS:

FULL-TIME	7	7	7	7	7	7
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Department of Health and Social Services, because of its size and complexity, envisions that a core group of analysts/planners will be required to work with each division in the development and ongoing refinement of long-term agency plans. Necessary for production of the required long range plan will be the establishment of data standards and elements and systems of measurement and computation. It is assumed that these positions will be Range 19, and will be located within the Division of Administrative Services.

Prepared by: Janet Clark, Director
 Division: Administrative Services
 Approved by Com: Karen Peddic, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3082
 Date: 02/06/96
 Date: 2/6/96

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ANALYSIS (cont.):

Description	FY97	FY98	FY99	FY00	FY01
Line 100 - Personal Services 7 Analyst/Planner positions (R-19 Juneau)	450.8	464.1	480.2	494.2	511.7
Line 200 - Travel	10.0	10.0	10.0	10.0	10.0
Line 300 - Contractual Services					
Office Space Rental for Staff	32.0	32.0	32.0	32.0	32.0
Training *	50.0	10.0	10.0	10.0	10.0
Miscellaneous Costs **	3.5	3.5	3.5	3.5	3.5
Printing	10.0	10.0	10.0	10.0	10.0
Total line 300	95.5	55.5	55.5	55.5	55.5
Line 400 - Supplies	7.0	7.0	7.0	7.0	7.0
Line 500 - Equipment					
Includes computers, software, fax machine, modular furniture, chairs, tables, etc.	52.5	0.0	0.0	0.0	0.0

- * Training in development of workload and outcome based measures.
 ** Includes telephone service, postage, and other miscellaneous costs.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

(Revised)

BILL NO. HB 22

Revision Date: _____ Dept. Affected: Office of the Governor
 Title: Act relating to long-term plans of certain state agencies. BRU: Office of Mat. and Budget
 Component: Office of the Director
 Sponsor: Parnell, Hanley, et al.
 Requestor: House State Affairs Committee COMPONENT SERIAL NO. 1385

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 2000	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	41.4	230.0	230.0	230.0	230.0	230.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	41.4	230.0	230.0	230.0	230.0	230.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

In addition to the impacts shown above, this analysis assumes that 1 OMB policy analyst and 1 OMB budget analyst would need to devote approximately 1.0 months each FTE in FY 97 (for three pilot departments) and 3.0 months each FTE in FY 98 (for remainder of departments) to assist agencies in the development of long-term plans. These OMB costs could be financed out of normal budget appropriation levels but only by reducing staff capacity in other areas. (SEE ANALYSIS, ATTACHED.)

Prepared by: Jack Fagnoli *Jack Fagnoli* Phone: 465-4678
 Division: Office of the Director Date: 2/27/96
 Approved by Commissioner: Annalee McConnell *Annalee McConnell* Date: 2/27/96
 Agency: Office of Management and Budget

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CONSOLIDATED FISCAL NOTE

ANALYSIS

Assumptions:

- In some agencies, though not all, implementation of HB 22 would likely entail cost impacts that could not be "absorbed" within existing agency budget levels. Specifically:
 - in larger agencies and regionally organized agencies (e.g., the Department of Transportation and Public Facilities), just compiling the required annual plan would require significant additional planning or administrative staff resources;
 - because agency fiscal and administrative staffs have little or no "surplus" capacity, the planning and reporting tasks stipulated in the legislation would require additional staff resources to be obtained, at least on a seasonal or part-time basis;
 - in at least one case (the Department of Health and Social Services), a substantial amount of integration of currently disparate data systems would have to precede, or at least accompany, implementation of the planning process required by the legislation;
 - in all agencies, lesser or greater amounts of additional staff resources and computing technology would be necessary to provide the performance monitoring, evaluating, and reporting functions required by the legislation.
- In view of this, it is assumed that, to implement HB 22, each department would require additional staff capacity equivalent to that provided by a Research Analyst II (Range 18) working full-time for six months per year. At current salary levels, and assuming an average benefits factor (across departments) of 25 percent, the annual total cost of this capacity for sixteen departments, the University of Alaska, and the judicial branch would be:

\$1,697 per month x 6 months per year F.T.E.

x 1.25 [i.e., total benefits @ 25%]

x 18 agencies

= \$229,095 per year

- Because of the uncertainty surrounding the nature and timing of these impacts, flexibility would be better preserved (at least in the initial two years) by funding these costs through a lump sum amount directed to the Office of Management and Budget. OMB would then allocate different portions of the funding to different agencies (e.g., via RSA), as their needs warranted. For this reason, the single figure of \$230,000 per year is shown in OMB's contractual category on Page 1, starting in FY 98.

Additionally, a pro rata (3/18ths) amount of \$41,400 is shown for FY 97 on Page 1, reflecting the legislation's requirements for three departments to develop plans in that year.

- Beyond the costs described above, OMB would incur costs for providing training to agencies in FY 97 and FY 98, as indicated below. These costs could be absorbed within OMB's normal funding level, but only by reducing staff availability for other activities.

FY 97: (to assist 3 departments)

1 analyst (R21 - 2,077/mo.) @ <u>1 mo. FTE</u> , for <u>pilot agency</u> training on new budget forms and procedures	2.6
--	-----

1 analyst (R21 - 2,077/mo.) @ <u>1 mo. FTE</u> , for <u>pilot agency</u> training on overall process and concepts, and assistance in developing measures	2.6
---	-----

<i>Total:</i>	<u>5.2</u>
---------------	------------

FY 98: (to assist 13 departments)

1 analyst (R21 - 2,077/mo.) @ <u>3 mo. FTE</u> , for <u>remaining agency</u> training on new budget forms and procedures	7.8
--	-----

1 analyst (R21 - 2,077/mo.) @ <u>3 mo. FTE</u> , for <u>remaining agency</u> training on overall process and concepts, and assistance in developing measures	7.8
---	-----

<i>Total:</i>	<u>15.6</u>
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(Figures shown include salary plus benefits estimated @ 25%.)

FISCAL NOTE

No. 1

Bill Version: HB 22

(H) Publish Date: 2/9/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date:		Dept. Affected: <u>Office of the Governor</u>	
Title:	<u>Act relating to long-term plans of certain state agencies.</u>	BRU: <u>Office of Management/Budget</u>	
Sponsor:	<u>Parnell, Hanley, et al.</u>	Component: <u>Director's Office</u>	
Requestor:	<u>House State Affairs Committee</u>	COMPONENT SERIAL NO. <u>1385</u>	

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 2000	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This analysis assumes that 1 OMB policy analyst and 1 OMB budget analyst would need to devote approximately 1.0 months each FTE in FY 97 (for three pilot departments) and 3.0 months each FTE in FY 98 (for remainder of departments) to assist agencies in the development of long-term plans. These and other related OMB costs, as well as associated agency costs of the legislation, would be financed out of normal budget appropriation levels but would reduce staff availability in OMB and agencies for other duties.

Prepared by:	<u>Jack Fargnoli</u>	Phone: <u>465-4678</u>	
Division:	<u>Office of the Director</u>	Date: <u>2/6/96</u>	
Approved by Commissioner:	<u>Annalee McConnell</u>	Date: <u>2/6/96</u>	
Agency:	<u>Office of Management and Budget</u>		

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HB

22

SFIN

FILE

FISCAL NOTE

No. 2

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version: CSHB 22(FIN)

(H) Publish Date: 3/12/96

Title: An Act relating to Long
Term Plans
Sponsor: Parnell
Requestor: House Finance Committee

Dept. Affected: All Departments
BRC: All Agencies
Components: _____
Serial #: _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
Personal Services						
Travel						
Contractual	5.2	15.6				
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	5.2	15.6				

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

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

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	5.2	15.6				
Federal Fund						
Other						
TOTAL	5.2	15.6				

POSITIONS :

Full-time						
Part-time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

see attached analysis

Prepared by:

House Finance Committee
Rep. Mark Hanley, Co-Chair
Rep. Richard Foster, Co-Chair

Date: 3-12-96

Phone: 465-4939

Phone: 465-3789

SENATE FINANCE COMMITTEE REPORT

DATE: 3/22/96

FURTHER:

REPORTED OUT OF
SFC 4/27/96

DATE TURNED INTO OFFICE: 4-27-96

The Finance Committee considered CS FOR HOUSE BILL NO. 22(FIN)

Relating to long-term plans of certain state agencies and recommendations regarding elimination of duplication in state agency functions.

and recommends:

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

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

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Steve Thi</i>	✓		
		<i>Bill E. Allen</i>	✓		
		<i>Derek W. Wiley</i>	✓		
		<i>Charles E. Zerkoff</i>	✓		
		<i>Bill [unclear]</i>	✓		
Co-Chair:		Co-Chair: <i>Rick Halford</i>	✓		
Co-Chair: <i>Don</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

#2	HFC - All Depts.	3/7/96	5.2

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 02

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: CSHB 22(FIN)

(H) Publish Date: 3/12/96

Title: An Act relating to Long
Term Plans
Sponsor: Parnell
Requestor: House Finance Committee

Dept. Affected: All Departments

ERC: All Agencies

Components: _____

Serial #: _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
Personal Services						
Travel						
Contractual	5.2	15.6				
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	5.2	15.6				

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

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

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	5.2	15.6				
Federal Fund						
Other						
TOTAL	5.2	15.6				

POSITIONS:

Full-time						
Part-time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

see attached analysis

Prepared by:

House Finance Committee

Rep. Mark Hanley, Co-Chair

Rep. Richard Foster, Co-Chair

Date: 3-12-96

Phone: 465-4939

Phone: 465-3789

Alaska State Legislature

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HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT

HOUSE BILL 22

"An Act relating to long-term plans of certain state agencies"

With declining state revenues, the Governor and the Legislature need a more rational, objective mechanism for establishing funding priorities. Those funding priorities should reflect a long-term focus on performance and accountability for expenditures.

House Bill 22 requires state government to engage in long-range planning. Second, it provides for the establishment of performance measures by which the Governor and Legislature can evaluate an agency's achievement of its goals and objectives under the long-range plan, thereby assisting the Governor and Legislature to make better informed fiscal decisions. Third, the bill provides for reporting to the public of the long-range plans and agencies' performance measures and results. Ultimately, the sponsor believes that long-range planning should be incorporated into the budget process as well as in the actual budget passed by the legislature (see attached *Texas Department of Public Safety Budget* example compared to *Alaska Department of Public Safety Budget*)

The Office of Management and Budget (OMB) will spearhead the administrative oversight function for the agencies' long-range planning effort. In the first year, three agencies will be chosen by OMB to participate in the new planning process, and the following year the rest of the agencies will come on line.

The development of long-term plans under HB 22 follows a five point timeline that tracks the dates of OMB's budget process:

(1) At the beginning of the calendar year, the Governor will develop statewide goals for strategic planning purposes. These goals will be used in developing agency goals.

(2) By May 1 of each year, the Governor will issue state goals for long-term planning and the OMB will provide economic and population data and forecasts to all departments.

(3) By July 1 of each year, the Governor will review and approve the agencies' goals. OMB will develop forms and instructions for developing the long term plans and work with the agencies to develop measures of workload and results.

(4) By October 1 of each year, each agency will issue their long-term plan. The plan will cover six years from date of issue and include: a statement of goals; an analysis of workload and results of agency programs; an identification of the people served by the agency, their needs and how each will change; an analysis and projection of agency resources and how they are used; an explanation of expected changes in the agency due to new state or federal laws; the strategy for achieving the goals of the agency and improving program functions; and other information necessary for the long-term plan.

The Legislative Budget & Audit Committee (LB&A) may review each plan, hold hearings and request additional agency information if necessary.

(5) By December 15 of each year, OMB shall compile a comprehensive six year state long-range plan of the agencies. Any duplication of services or inefficiencies of service could then be examined and proposed for elimination or improvement.

The long-range plan could be quite similar to those developed this year by each agency at the Governor's request and published in the Administration's Executive Budget Summary (see attached samples). HB 22 ensures long-range planning continues well beyond this Governor and Legislature and begins the process of cooperation in budgeting.

By requiring long-range agency plans consisting of goals, performance measures, and reporting of results, and utilizing them yearly in the budget process, we can better prioritize our use of state funds and reshape government so it is more mission driven and citizen oriented. I urge your support of HB 22.

LEGAL SERVICES

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

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

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

MEMORANDUM

March 19, 1996

SUBJECT: Long-term plans of state agencies (CSHB 22(FIN))

TO: Representative Sean Parnell

FROM: Tamara Brandt Cook
Director *TBC*

Here is the sectional summary you requested.

Sec. 1. Requires each principal department of the executive branch, the court system, and the University of Alaska to develop a long-range plan by October 1 of each year. The plan covers a six year period and addresses items specifically listed. The director of OMB is required to develop forms for use in preparing the plans. Agencies are required to work with OMB to develop goals and measures of workload and results for use in the plans. The goals for the executive branch are subject to approval by the governor. By May 1 of each year OMB must provide information about the state's economy and population with forecasted changes. The governor is to provide an explanation of statewide goals the governor supports.

The Legislative Budget and Audit Committee and OMB must review each plan. After the review OMB must compile a single long-term plan for the judicial and executive branches of state government. The compiled plan is due for delivery by December 15 of each year. The governor and the legislature are directed to consider the plan when developing the state budget. The legislative auditor is directed to consider the degree to which an agency conforms to the plan in performance audits.

The LBA Committee and OMB are directed to evaluate laws that require state agencies to perform functions, provide services, or compile planning information. Recommendations for legislation needed to eliminate duplication must be submitted to the legislature by December 15 of each year.

Sec. 2. The provisions of this Act apply only in 1997 and thereafter. In 1997 only three principal departments shall issue long-term plans.

TBC:pl
96-087.plm

GENERAL APPROPRIATIONS ACT, 1993
STATE OF TEXAS

EXCERPT FROM TEXAS DEPARTMENT OF PUBLIC SAFETY

HB 22

TEXAS RIVER COMPACT COMMISSIONERS
(Continued)

C.1.1. Strategy: ANNUAL ACCOUNTING		
Develop and implement an annual accounting system of water deliveries to each compacting state.	\$ 33,662	\$ 33,662
Outputs:		
Number of Users of Texas' Water Apportioned by the Red River Compact	250	250
D. Goal: RIO GRANDE RIVER COMPACT		
The Rio Grande River Compact Commission will ensure delivery of Texas' equitable share of quality water from the Rio Grande River and its tributaries as apportioned by the Rio Grande Compact.		
D.1. Objective:		
Ensure delivery of Texas' share of water from the Rio Grande River		
Outcomes:		
Percent of Texas' equitable share of quality water received annually as apportioned by the Rio Grande Compact	95%	95%
D.1.1. Strategy: ANNUAL ACCOUNTING		
Prepare and resolve the annual accounting of water deliveries to Texas by New Mexico and Colorado as apportioned by the Rio Grande Compact.	\$ 162,911	\$ 162,211
Outputs:		
Number of Acre-Feet of Quality Water Received by Texas as Apportioned by the Rio Grande Compact	750,500	750,500
E. Goal: SABINE RIVER COMPACT		
The Sabine River Compact Commission will ensure delivery of Texas' equitable share of quality water from the Sabine River and its tributaries as apportioned by the Sabine River Compact.		
E.1. Objective:		
Ensure delivery of Texas' share of water from the Sabine River		
Outcomes:		
Percent of Texas' equitable share of quality water received annually as apportioned by the Sabine River Compact.	100%	100%
E.1.1. Strategy: ANNUAL ACCOUNTING		
Prepare and resolve the annual accounting of water deliveries to Texas by Louisiana and Mississippi as apportioned by the Sabine River Compact.	\$ 54,534	\$ 54,534
Outputs:		
Number of Acre-Feet of Quality Water Available to Texas as Apportioned by the Sabine River Compact	1,037,300	1,037,300
F. Goal: SEC 146, 1983 SALARY INC		
Section 146, 1993 Salary Increase	\$ 688	\$
Grand Total, TEXAS RIVER COMPACT COMMISSIONERS		
	\$ 393,157	\$ 393,769
Schedule of Exempt Positions		
Red River Compact Commissioner	\$24,225	\$24,225
Rio Grande Compact Commissioner	41,195	41,195
Sabine River Compact Commissioner	(2) 8,488	(2) 8,488
Canadian River Compact Commissioner	10,767	10,767
Pecos River Compact Commissioner	20,247	20,247

TEXAS RIVER COMPACT COMMISSIONERS
(Continued)

Administrative and Support Cost as a Percent of Expenditures:		
Canadian River Compact	5.1%	5.1%
Pecos River Compact	2.6%	2.6%
Red River Compact	8.0%	8.0%
Rio Grande River Compact	1.2%	1.3%
Sabine River Compact	4.5%	4.5%

J. Article V Exemption, Leave Provisions. It is specifically provided that the Red River Compact, Sabine River Compact, Canadian River Compact and Pecos River Compact Commissioners are exempt from Article V, provisions concerning, Employees Working Hours and Holidays, and, Employees Vacation and Leave, provisions of this Act.

DEPARTMENT OF PUBLIC SAFETY

	For the Years Ending	
	August 31, 1994	August 31, 1995
A. Goal: PROMOTE TRAFFIC SAFETY		
To promote traffic safety.		
A.1. Objective:		
Reduce death, injury & economic loss by containing traffic death rate		
Outcomes:		
Annual Texas Rural Traffic Death Rate	2.2	2.2
A.1.1. Strategy: HIGHWAY PATROL		
Supervision of traffic on rural highways by uniformed officers.	\$ 84,001,551	\$ 83,823,203
Outputs:		
Traffic Law Violator Contacts	2,070,353	2,121,923
Rural Traffic Accidents Investigated	48,498	48,498
Efficiencies:		
Average Cost of Patrolling a Mile of Rural Highway	417	416
A.1.2. Strategy: PATROL COMMERCIAL TRAFFIC		
Supervision of commercial and "for hire" traffic on rural highways by uniformed officers.	\$ 15,310,665	\$ 15,055,355
Outputs:		
Traffic Law Violator Contacts	394,937	394,937
Commercial Vehicles Placed Out of Service	29,983	29,983
A.1.3. Strategy: DRIVER LICENSE & RECORDS		
Ensure the competency of Texas drivers through testing of new drivers, determining the eligibility of renewal applicants, and through the improvement or delicensing of problem drivers.	\$ 59,501,480	\$ 54,094,959
Outputs:		
Number of Examinations Administered	5,704,377	5,704,377
Number of Drivers Licenses Issued	4,337,826	4,381,203
Number of Driver Records Established and Maintained	13,366,100	13,499,761

DEPARTMENT OF PUBLIC SAFETY
(Continued)

A.1.4. Strategy: BREATH & BLOOD TESTING

Operate a scientific breath alcohol and blood testing program statewide. Supervise and maintain this program, train operators, and testify to its validity in court.

Outputs:
Number of Breath Alcohol Tests Supervised 45,000 45,000
Number of Blood Alcohol and Toxicology Cases Completed 5,225 5,225

A.1.5. Strategy: VEHICLE INSPECTION

Administer the state's vehicle inspection program. \$ 8,244,413 \$ 7,686,483

Outputs:
Number of Inspection Stations Supervised 9,598 9,790
Number of Inspectors Supervised 30,498 31,107
Number of Inspector Certifications Suspended/Revoked 395 395

A.1.6. Strategy: TRAFFIC ACCIDENT RECORDS

Administer the traffic accident records system for the State of Texas. \$ 2,296,812 \$ 2,282,702

Outputs:
Number of Accident Reports Processed 450,000 450,000
Number of Reports and Summaries Prepared 110,000 110,000
Efficiencies:
Average Cost per Accident Report Processed 5.11 5.11

A.1.7. Strategy: EDUCATION & TRAINING

Provide appropriate alcohol, drug, traffic safety, and crime prevention educational programs for the citizens of Texas and provide operational and technical training for law enforcement, emergency management, and support personnel in the state.

Outputs:
Number of Alcohol, Drug, Traffic Safety, and Crime Prevention Programs Conducted 7,374 7,374
Number of Personnel Instructed 8,500 8,500
Number of Traffic Safety Literature Items Produced 131,060 131,060

Total, Objective A.1: Reduce death, injury & economic loss by containing traffic death rate \$ 174,931,272 \$ 168,449,623

Total, Goal A: PROMOTE TRAFFIC SAFETY \$ 174,931,272 \$ 168,449,623

B. Goal: PREVENT & DETECT CRIMES

To promote the preservation of the peace and the prevention and detection of crime.

B.1. Objective:

Reduce death, injury, & economic loss by working to reduce crime

Outcomes:

Annual Texas Crime Index Rate 7,806 7,798

B.1.1. Strategy: NARCOTICS ENFORCEMENT

Administer the Narcotics enforcement program. \$ 23,182,099 \$ 24,568,320

Outputs:
Number of Criminal Investigations of Narcotics Violations Conducted 4,529 5,049
Number of Arrests for Narcotics Violations 1,657 1,777
Efficiencies:
Average Cost of Criminal Investigation 4,933 4,933

DEPARTMENT OF PUBLIC SAFETY
(Continued)

B.1.2. Strategy: VEHICLE THEFT ENFORCEMENT

Administer the Motor Vehicle Theft enforcement program. \$ 4,432,833 \$ 4,829,822

Outputs:
Number of Criminal Investigations for Motor Vehicle Theft Conducted 4,224 4,137
Number of Arrests for Motor Vehicle Theft 614 646
Efficiencies:
Average Cost of Criminal Investigation 1,165 1,175

B.1.3. Strategy: CRIMINAL INTELLIGENCE

Administer the Criminal Intelligence enforcement program. \$ 6,559,237 \$ 6,481,758

Outputs:
Number of Criminal Investigations in Criminal Intelligence Conducted 3,205 3,205
Number of Criminal Intelligence Arrests 284 284

B.1.4. Strategy: TEXAS RANGERS

Administer the Texas Rangers enforcement program. \$ 6,123,476 \$ 6,241,321

Outputs:
Number of Criminal Investigations 4,878 4,878
Number of Traffic Actions 323 323

B.1.5. Strategy: PUBLIC SECURITY/PARKING

Provide appropriate security for public officials and property during the period 1992 through 1998. \$ 9,396,878 \$ 9,303,855

Outputs:
Number of Parking Transactions 50,256 50,256
Hours of Security Provided 372,233 381,184

B.1.6. Strategy: TECHNICAL ASSISTANCE

Provide high quality and timely technical assistance programs to requesting criminal justice agencies in Texas during the period 1992 through 1998. \$ 6,764,814 \$ 6,160,638

Outputs:
Number of Drug Cases Examined 24,400 24,400
Number of Criminalistics Cases Worked 4,500 4,500

B.1.7. Strategy: OPERATIONAL ASSISTANCE

Provide high quality and timely operational assistance programs to requesting criminal justice and other authorized agencies and entities during the period 1992 through 1998. \$ 11,361,688 \$ 11,554,658

Outputs:
Number of Law Enforcement or Emergency Aircraft Hours Flown 4,164 4,164

Number of Criminal History Inquiries From Authorized Agencies/ Entities Processed 1,171,800 1,230,300

Number of Fingerprint Cards Processed Through Automated and Manual Systems 645,000 645,000

Total, Objective B.1: Reduce death, injury, & economic loss by working to reduce crime \$ 67,821,025 \$ 69,144,372

Total, Goal B: PREVENT & DETECT CRIMES \$ 67,821,025 \$ 69,144,372

C. Goal: DISASTER RESPONSE

To respond in a timely fashion to emergencies and disasters and administer a comprehensive emergency-management program.

DEPARTMENT OF PUBLIC SAFETY

MISSION

The mission of the Alaska Department of Public Safety is the protection of life and property.

Major Goals and Strategies

1 Preserve the public peace, enforce specific laws, prevent and detect crime, apprehend offenders, protect life, and property and Alaska's fish and wildlife resources.

- Seek Community Participation for Public Safety Programs - Continue to expand village involvement in focusing trooper programs to address local needs. Evaluate alternatives like "Community Courts" to help provide relief to the criminal justice system for minor incidents and misdemeanors.
- Reduce domestic violence and sexual assault throughout Alaska.

2 Administer motor vehicle and driving laws to promote driving safety and preserve property rights of vehicle owners and lien holders.

- Expand Delivery of Government Services Through Private Sector Arrangements - Continue to work with Emission Inspection stations, car dealers, banks and fleet owners to identify service delivery opportunities for DMV services.

3 Provide statewide criminal justice training, information, person identification and forensic services.

- Integrate Criminal Justice Agencies - Information Systems - Continue efforts to integrate criminal justice agency computer systems to ensure essential criminal justice information is available on-line to Alaska's 4,500 criminal justice professionals who are involved in decisions regarding investigations, arrest, sentencing, release from custody, employment, licensing and other purposes.

4 Promote ways to protect life and property against fire, explosion and panic.

- Develop a Statewide Fire Suppression Strategy - Identify a planning framework with state, local and media participation to educate the public regarding the magnitude of fire related issues. Identify a balanced approach to fixing responsibility and resources needed to save lives, property and associated costs

KEY PERFORMANCE MEASURES

Division of Motor Vehicles

- Increase the number of public-private partnership contracts to provide DMV service by 50%.
- Increase DMV productivity by processing an average of 5% more transactions per employee.
- Increase orientation visits to high schools by driver improvement specialists to at least one per month.

State Fire Marshal/Division of Fire Prevention

- Increase the number of fire investigations conducted by State Fire Marshals by 5%
- Increase the number of division public fire prevention education programs by 10%.
- Reduce Alaska's fire death rate by 10% within three years through fire prevention education and other programs.

Fish & Wildlife Protection

- Reduce the number of sport fish and wildlife violations by increasing the number of contacts with recreational hunters and fishermen statewide by 1.5% (approximately 800 more contacts).
- Reduce the number of commercial crab fishery violations by increasing enforcement patrol contacts with commercial crab fishermen by 5%. Crab fisheries represent 28% of Alaska's 218 commercial fisheries.

Alaska State Troopers

- Reduce by 10% the incidents of motor vehicle fatality traffic accidents involving alcohol/drugs occurring in State Trooper jurisdiction over a three year period. This will be accomplished through public education and increased DWI enforcement efforts using existing Trooper resources and a five person NHTSA traffic enforcement team.

Other Key Issues

Deploy a New Police Case Report

System: The "CRIMES" system will allow troopers in the field to create police reports electronically via portable laptop computers. CRIMES will eliminate microfilming of hard copy case reports, redundant data entry on multiple systems, and allow automatic retrieval of traffic accident reports.

Improve Alaska Criminal History

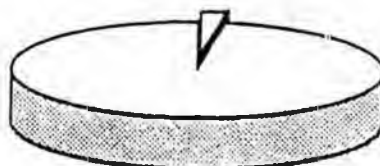
Records: Federally funded projects will improve timeliness, completeness and quality of arrest, disposition and fingerprint information used for investigations, person identification, sentencing, release, employment and licensing purposes.

Efficiencies and Economies

Making General Funds Go Further: By including federal features in the new CRIMES case information system, approximately \$800.0 in federal funding can replace state general funds.

Computer Efficiencies: A new computer interface with the Department of Law will permit downloading case disposition information that is currently transmitted on paper form requiring duplicate data entry. Other interfaces are being designed with the Courts, Corrections and selected police agencies.

Department of Public Safety
3% of Total Operating Budget



Budget Summary	FY95 Actual	FY96 Authorized	FY97 Governor
General Fund - Designated for specific purposes	\$N/A	\$560.0	\$561.7
General Fund - All Other	88,541.0	85,519.0	85,738.9
Federal Funds	5,666.6	10,887.5	5,677.9
Other Funds - State corporation earnings, internal service funds	<u>3,902.3</u>	<u>4,209.9</u>	<u>4,946.7</u>
TOTAL BUDGET	\$98,109.9	\$101,176.4	\$96,925.2
Positions - Full-time	866	871	854
Part-time and Seasonal	60	49	46

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

MISSION

To promote and protect the well-being of every Alaskan by investing in families and communities. To work toward this mission and to manage changes occurring on the federal level.

DHSS management has adopted seven guiding principles:

- Services should be consumer driven.
- Staff should work toward an efficient, effective management system.
- Program managers should design outcome-based, effective services.
- Collaboration strategies should be adopted.
- Programs should be designed to promote program client self-sufficiency.
- The department should strive for a quality work force.
- All departmental staff should strive to optimize local ownership of programs.

Major Goals and Strategies

1 Institute internal and public processes to improve assistance programs and to address changing federal requirements.

- Move more people into jobs and reduce welfare costs by continuing to implement changes to welfare.
- Restructure the State's Medicaid program and institutional processes.

2 Work with communities and local governments to address health and safety issues.

- Support legislation to increase taxes on alcohol and tobacco, as a public health measure to reduce consumption.
- Join with communities to implement pilot programs to reduce juvenile crime and address consequences for first time offenders.
- Begin development of a public health improvement plan that defines the outcomes Alaskans want from health services and identifies collaborative efforts (across departments and within communities) that are critical to the plan's successful implementation.

3 Do our work in accordance with our guiding principles.

- Reduce paperwork and eliminate duplicative requirements for community service providers by completing the re-engineering of departmental grant functions and processes.
- Encourage flexibility and creativity in community agencies by appropriately structuring and implementing those new grant processes.
- Improve planning and enable outcome-based evaluations of services through a comprehensive review of departmental and grantee data systems aimed at integrating and strengthening those systems.
- Achieve further departmental administrative efficiencies in FY 97.

KEY PERFORMANCE MEASURES

- Over the next five years, reduce the AFDC caseload by 10%, through the reinvestment of up to \$55 million in job training and child care. (Legislation is being proposed.)
- Each month for the next five years, provide employment or job training opportunities for 5,000 welfare families.
- Reduce departmental administrative costs by 3% for FY 97.
- Reduce the per capita alcohol consumption of people 14 and over by 2.25 gallons by the year 2000, through public awareness efforts and a focus on teens.

Other Key Issues

For the first time in recent history, the Department's budget does not include general fund increments for its two largest formula programs, Aid To Families With Dependent Children, and Medicaid. Our goal is to continue this sound management while implementing proposed federal changes to these programs. These federal changes to public assistance and medical assistance programs are expected to require substantial operational and funding changes.

The department's new FY 97 budget structure is a first major step toward efficient management by reducing the number of appropriations and budget components within the department.

Efficiencies and Economies

Division of Administrative Services: For greater efficiency, the division is functionally realigning its activities and increasing its use of computer applications.

Division of Alcoholism and Drug Abuse: To better identify and strengthen the efforts of local communities in addressing substance abuse, the division is working closely with its newly constituted Advisory Board. The division also will be working with communities, local governments and other state departments to develop pilot projects focused on reducing substance abuse on all levels, including prevention, early intervention, and treatment-based initiatives.

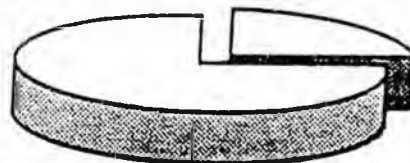
Division of Family & Youth Services: The division is supporting the Governors' Conference on Youth and Justice in developing recommendations for changes in the juvenile justice system. It will complete a Facilities Master Plan identifying statewide facility bed needs and community-based programming alternatives. It will identify staffing needs by location and approaches for increasing the Division's efficiency.

Division of Medical Assistance: The division will be contracting for pilot projects designed to improve Medicaid services and control expenditures.

Division of Mental Health and Developmental Disabilities: Using existing personnel, the division is developing an approach for structuring its mental health section activities and accountability along regional and community lines, and also is developing an outcome-based quality assurance approach to help achieve a customer focus and basis for evaluating its performance.

Division of Public Assistance: To focus its staff resources on providing employment-oriented assistance to welfare recipients, the division is realigning its functions and eliminating unnecessary paperwork.

Division of Public Health: To reduce costs and achieve greater efficiency, the division is consolidating two of its sections, Emergency Medical Services and Community Health. The division also is moving towards the consolidation of its public health laboratory functions into a single, centralized facility by FY 99.



Department of Health and Social Services
22% of Total Operating Budget

Budget Summary	FY95 Actual	FY96 Authorized	FY97 Governor
General Fund - Designated for other purposes	\$N/A	\$3,090.0	\$3,215.0
General Fund - All Other	424,636.2	452,114.4	453,608.1
Federal Funds	296,979.7	339,381.6	338,226.5
Other Funds - State corporation earnings, internal service funds	61,751.2	68,114.7	66,338.9
TOTAL BUDGET	\$783,367.1	\$862,700.7	\$861,388.5
Positions - Full-time	2,038	2,078	2,047
Part-time and Seasonal	79	59	58

These figures include both the main operating budget and the separate mental health appropriation bill.

BILL: HB 22 SHORT TITLE: STATE LONG-TERM PLANNING
BILL VERSION: CSHB 22(FIN)
SPONSOR(S): REPRESENTATIVE(S) PARNELL, HANLEY, THERRIAULT, GREEN, BUNDE, NAVARRE
TOOHEY, B. DAVIS, PORTER, IVAN, JAMES, NICHOLIA

CURRENT STATUS: (S) FIN

STATUS DATE: 03/22/96

TITLE: "AN ACT RELATING TO LONG-TERM PLANS OF CERTAIN STATE AGENCIES AND
RECOMMENDATIONS REGARDING ELIMINATION OF DUPLICATION IN STATE AGENCY
FUNCTIONS."

01/06/95	26	(H)	PREFILE RELEASED
01/16/95	26	(H)	READ THE FIRST TIME - REFERRAL(S)
01/16/95	26	(H)	STATE AFFAIRS, FINANCE
02/09/96	2677	(H)	STA RPT 5DP
02/09/96	2678	(H)	DP: JAMES, GREEN, IVAN, WILLIS, OGAN
02/09/96	2678	(H)	ZERO FISCAL NOTE (GOV)
02/09/96	2707	(H)	COSPONSOR(S): IVAN
03/12/96	3085	(H)	FIN RPT CS(FIN) 8DP 3NR
03/12/96	3085	(H)	DP: FOSTER, HANLEY, MULDER, PARNELL
03/12/96	3085	(H)	DP: KOHRING, NAVARRE, KELLY, THERRIAULT
03/12/96	3085	(H)	NR: MARTIN, GRUSSENDORF, BROWN
03/12/96	3085	(H)	FISCAL NOTE (H.FIN/ALL DEPTS)
03/12/96	3085	(H)	REFERRED TO RLS
03/19/96	3216	(H)	RULES TO CALENDAR 3/20/96
03/20/96	3216	(H)	READ THE SECOND TIME
03/20/96	3217	(H)	FIN CS ADOPTED UNAN CONSENT
03/20/96	3217	(H)	ADVANCED TO THIRD READING UNAN CONSENT
03/20/96	3217	(H)	READ THE THIRD TIME CSHB 22(FIN)
03/20/96	3217	(H)	PASSED Y33 N5 E1 A1
03/20/96	3227	(H)	COSPONSOR(S): JAMES, NICHOLIA
03/20/96	3227	(H)	TRANSMITTED TO (S)
03/22/96		(S)	READ THE FIRST TIME - REFERRAL(S)
03/22/96		(S)	FINANCE

HB

25

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 25 (FIN)

Title: "An Act revising Rule 14, AK. Rules of
Criminal Procedure, relating to discovery...."
Sponsor: Representative Parnell
Requestor: _____

Dept. Affected Public Safety
BRU: DPS Statewide
Components: Commissioner's Office
Serial # 523

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund	0.0	0.0	0.0	0.0	0.0	0.0
Federal Fund	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS :

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

see attached analysis

Prepared by: House Finance Committee
Rep. Mark Hanley, Co-Chair *MH*
Rep. Richard Foster, Co-Chair *RF*

Date: 1/25/96
Phone: 465-4939
Phone: 465-3789

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version: CSHB 25 (JUD)
(H) Publish Date: 3/29/95

Revision Date: _____
Title: "An Act revising Rule 16, Alaska Rules of Criminal Procedure relating to discovery"
Sponsor: Representative Parnell
Requestor: Representative Porter

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	364.7	380.7	397.4	414.8	433.0	452.0
TRAVEL	6.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	370.7	386.7	403.4	420.8	439.0	458.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	370.7	386.7	403.4	420.8	439.0	458.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	370.7	386.7	403.4	420.8	439.0	458.0

Estimate of any current year (FY 95) cost: \$ 0

POSITIONS:

FULL-TIME	6.0	6.0	6.0	6.0	6.0	6.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

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

Phone: (907) 264-4412
Date: _____

Approved by Commissioner: Mark Bover *Mark Bover*
Agency: Department of Administration

Date: 2/3/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSHB 25

ANALYSIS: (continued)

This bill proposes a profound change in the way criminal cases are litigated in Alaska. Under current court rule, the defense is entitled to all relevant materials concerning a case which is in the possession or control of the police/prosecutor. Under this proposal a defendant will receive full discovery only if he or she agrees to turn over information to the prosecution concerning the defense case.

The State of Alaska has long had a plea bargaining ban. Additionally, Alaska has strict sentencing provisions as regards mandatory sentences and enhanced sentences for repeat offenders. Parole release is restricted in many instances and good time deductions are not as liberal as in other jurisdictions. Ordinarily the combination of these factors would create more litigation of criminal matters. Fortunately, Alaska's full discovery provisions under Criminal Rule 16 provide the defense with an opportunity to review and evaluate the prosecution's case. Specifically, a defendant and his/her lawyer can make a knowing determination as to the propriety of pleading guilty versus exercising trial rights because of the full fund of information which is required to be provided under the current rule. As a result, more than 90 percent of Public Defender (PD) clients plead guilty or no contest.

If the rule is changed some percentage of criminal defendants will choose not to participate in reciprocal discovery. The effects will be as follows:

1. Fewer dispositions at the felony intake stage;
2. More pretrial hearings, including evidentiary hearings to "discover" facts;
3. More discovery disputes, involving lawyer and court time;
4. More gamesmanship generally with respect to criminal litigation; and
5. More trials (the most labor-intensive and costly component of criminal litigation).

It is difficult to determine to what extent individuals will opt out of the receipt of discovery from the prosecution. Until there is an experiential basis for making such a determination, the PD takes a very conservative approach to fiscal impact. No additional lawyers or clerical support are being requested. At the minimum, however, each of the 13 PD offices will need investigative support. Currently there are five offices which have no investigator position. Therefore, five investigators will be added to accommodate these offices. Additionally, the Anchorage PD office will require one additional investigator given the high volume caseload in that office location.

FISCAL ANALYSIS

6 Investigator II

Anchorage	51.5	
Sitka	51.5	
Kotzebue	71.0	
Kodiak	55.7	
Barrow	71.0	
Dillingham	<u>64.0</u>	
	364.7	
Personal Services		364.7
Travel		<u>6.0</u>
TOTAL		370.7

Position Title Investigator II		No. of Positions 6	Range / Step 16A	Barg. Unit GGU																				
Time Status PFT	Staff Months 72	Location MEA, DAA EBA, ARA, KAA, CAA.		Election District 10-26, 2, 37, 6, 37, 39																				
TYPE OF EXPENDITURE		AMOUNT																						
Salary		262,404																						
Benefits		102,274																						
Premium Pay																								
Other																								
Total Personal Services	0	364,678																						
Travel		6,000																						
Contractual																								
modities																								
Equipment																								
Other																								
Total Cost		370,678																						
FUNDING SOURCE FOR TOTAL COST																								
Federal Receipts	1002																							
G.F. Match	1003																							
General Fund	1004	370,678																						
I-A Receipts	1007																							
CIP Receipts	1061																							
Other																								
<p>Justification</p> <p>These six investigator positions will be necessary to meet the increased demands for defense investigation where the defendant has "opted out" the reciprocal discovery provisions. In those cases the defense lawyer/defendant will not have the benefit of police reports, witness statements, and other discovery which would ordinarily be used to prepare and evaluate the strength of the prosecution's case. Instead, the defense attorney will have to rely on defense staff investigators to interview witnesses and gather other factual information concerning the case. Except for the Anchorage position, these new positions are for PD offices where there is <u>no</u> investigator position.</p> <p>BUDGET ANALYSIS:</p> <p>6 Investigators II</p> <table> <tr> <td>Anchorage</td> <td>51.5</td> </tr> <tr> <td>Sitka</td> <td>51.5</td> </tr> <tr> <td>Kotzebue</td> <td>71.0</td> </tr> <tr> <td>Kodiak</td> <td>55.7</td> </tr> <tr> <td>Barrow</td> <td>71.0</td> </tr> <tr> <td>Dillingham</td> <td><u>64.0</u></td> </tr> <tr> <td></td> <td>364.7</td> </tr> </table> <table> <tr> <td>Personal Services</td> <td>364.7</td> </tr> <tr> <td>Travel</td> <td><u>6.0</u></td> </tr> <tr> <td>TOTAL</td> <td>370.7</td> </tr> </table>					Anchorage	51.5	Sitka	51.5	Kotzebue	71.0	Kodiak	55.7	Barrow	71.0	Dillingham	<u>64.0</u>		364.7	Personal Services	364.7	Travel	<u>6.0</u>	TOTAL	370.7
Anchorage	51.5																							
Sitka	51.5																							
Kotzebue	71.0																							
Kodiak	55.7																							
Barrow	71.0																							
Dillingham	<u>64.0</u>																							
	364.7																							
Personal Services	364.7																							
Travel	<u>6.0</u>																							
TOTAL	370.7																							

8/eg95/17/eslib25np.kp6

Request For New Position

AGENCY ADMINISTRATION

BRU PUBLIC DEFENDER AGENCY

COMPONENT PUBLIC DEFENDER AGENCY

FY 96

Page 3 of 3

Revised Date:

Adopted
1/25/94

9-LS0146N ✓
Luckhaupt
1/12/96

CS FOR HOUSE BILL NO. 25()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES PARNELL, Porter, Green, Bunde, Toohey

A BILL

FOR AN ACT ENTITLED

1 "An Act revising Alaska Rule of Criminal Procedure 16, relating to discovery and
2 inspection in criminal proceedings; and providing for an effective date."

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

4 * Section 1. Rule 16, Alaska Rules of Criminal Procedure, is repealed and reenacted to
5 read:

6 Rule 16. Discovery.

7 (a) Objectives of Pretrial Discovery.

8 (1) Procedures before trial should, consistent with the constitutional
9 rights of the defendant, the victim, and the prosecution,

10 (i) promote a fair and expeditious disposition of the charges;

11 (ii) provide the defendant with sufficient information to make
12 an informed plea;

13 (iii) permit thorough preparation for trial and minimize surprise
14 at trial;

1 (iv) reduce interruptions and complications during trial and
2 avoid unnecessary and repetitious trials by identifying and resolving before trial
3 a procedural, collateral, or constitutional issue;

4 (v) minimize the procedural and substantive inequities among
5 similarly situated defendants;

6 (vi) effect economies in time, money, judicial resources, and
7 professional skills by minimizing paperwork, avoiding repetitious assertions of
8 issues, and reducing the number of separate hearings; and

9 (vii) minimize the burden upon victims and witnesses.

10 (2) These needs can be served by

11 (i) full and free exchange of appropriate discovery;

12 (ii) simpler and more efficient procedures; and

13 (iii) procedural pressures for expediting the processing of cases.

14 (b) Disclosure to the Defendant. Except as is otherwise provided as to matters
15 not subject to disclosure and protective orders, the prosecuting attorney shall disclose
16 the following to the defense and make available for inspection and copying, as
17 appropriate:

18 (1) the names, addresses, and phone numbers, if known, of persons
19 known by the government to have knowledge of relevant facts and their written or
20 recorded statements;

21 (2) any written or recorded statements and any oral statements made
22 by the defendant;

23 (3) any written or recorded statements and any oral statements made
24 by a co-defendant;

25 (4) any books, papers, documents, photographs, or tangible objects,
26 which the prosecuting attorney is likely to use as evidence in the hearing or trial, or
27 which were obtained from or belong to the defendant, other than models, charts,
28 pictures, compilations of evidence, or other demonstrative evidence created by or on
29 behalf of the prosecuting attorney;

30 (5) any record of prior criminal convictions of the defendant and of
31 persons whom the prosecuting attorney is likely to call as witnesses at the hearing or

- 1 trial;
- 2 (6) any material, documents, or information relating to lineups,
3 showups, and picture or voice identifications in relation to the case;
- 4 (7) any material or information within the prosecuting attorney's
5 possession or control that tends to negate the guilt of the defendant as to the offense
6 or would tend to reduce the defendant's punishment therefor;
- 7 (8) any relevant material or information relating to the guilt or
8 innocence of the defendant that has been provided by an informant, and any electronic
9 surveillance, including wiretapping, of conversations to which the defendant or the
10 defendant's attorney was a party, or of premises of the defendant or the defendant's
11 attorney;
- 12 (9) any relevant material or information regarding the relationship, if
13 any, of witnesses to the prosecuting authority, including the nature and circumstances
14 of any agreement, understanding, or representation between the prosecution and the
15 witness that constitutes an inducement for the cooperation or testimony of the witness;
16 however, the prosecution does not have to disclose any payments or provision for
17 witness travel, housing, or meals in order to enable the witness to attend a specific
18 court proceeding;
- 19 (10) any relevant material and information regarding
- 20 (i) searches and seizures of the property or person of the
21 defendant; and
- 22 (ii) the acquisition of statements from the defendant;
- 23 (11) if the prosecution is likely to use character, reputation, or other act
24 evidence relating to the defendant, notice of that likelihood and disclosure of the
25 substance of that evidence;
- 26 (12) unless a different date is set by the court, as soon as known and
27 no later than 45 days before trial, the prosecution shall provide the defense with any
28 written report or written statement of experts made in connection with the case; with
29 respect to each expert the prosecution is likely to call at trial or another court
30 proceeding, (i) the prosecution shall also provide to the defendant the address, phone
31 number, and a curriculum vitae of the expert, and (ii) if a written report by the expert

1 is not made or is not adequate to provide fair notice of the expert's opinion and the
2 basis for that opinion, (aa) the prosecution shall provide the defendant with a written
3 description of the substance of the proposed testimony, including the expert's opinion
4 and the basis for that opinion, and (bb) upon request, the defense is entitled to conduct
5 a telephonic or in-person deposition or recorded interview of the expert, at the expense
6 of the defense; failure to provide timely disclosure entitles the defendant to a
7 continuance; if the court finds that a continuance is not an adequate remedy under the
8 circumstances of the case, the court may impose other sanctions, including prohibiting
9 the prosecutor from calling the expert at trial or declaring a mistrial;

10 (13) upon a reasonable request showing materiality to the preparation
11 of the defense, the court in its discretion may require disclosure to defense counsel of
12 relevant and admissible information not covered by (b)(1) - (12) of this rule.

13 (c) Disclosure to the Prosecution. Except as is otherwise provided as to
14 matters not subject to disclosure and protective orders, the defense shall disclose the
15 following to the prosecution and make available for inspection and copying, as
16 appropriate:

17 (1) the names, addresses, and phone numbers, if known, of persons the
18 defendant is likely to call as witnesses and their written or recorded statements;

19 (2) any books, papers, documents, photographs, or tangible objects the
20 defense is likely to use as evidence at a hearing or trial and which are not otherwise
21 disclosed under (b) of this rule, other than models, charts, pictures, compilations of
22 evidence, or other demonstrative evidence created by or on behalf of the defendant's
23 attorney;

24 (3) if the defense is likely to use character, reputation, or other act
25 evidence not relating to the defendant, notice of that likelihood and disclosure of the
26 substance of that evidence;

27 (4) any relevant material or information regarding the relationship, if
28 any, of witnesses to defense counsel and the defendant, including the nature and
29 circumstances of any agreement, understanding, or representation between the defense
30 and the witness that constitutes an inducement for the cooperation or testimony of the
31 witness; however, the defense does not have to disclose any payments or provisions

1 for witness travel, housing, or meals in order to enable the witness to attend a specific
2 court proceeding;

3 (5) unless a different date is set by the court, no later than 10 days
4 before trial in misdemeanor cases and 30 days in felony cases, notice of defenses if
5 the defendant is likely to rely upon a defense of alibi, justification, duress, entrapment,
6 or other statutory or affirmative defense; failure to provide timely notice shall entitle
7 the prosecutor to a continuance; if the court finds that a continuance is not an adequate
8 remedy under the circumstances of the case, the court may impose other sanctions,
9 including prohibiting the defendant from asserting the designated defense;

10 (6) unless a different date is set by the court, as soon as known and no
11 later than 30 days before trial, the defense shall provide the prosecution with the
12 address, phone number, curriculum vitae, and any report or written statement of any
13 expert witness likely to be called at trial or another court proceeding; with respect to
14 each expert, if a written report by the expert is not made or is not adequate to provide
15 fair notice of the expert's opinion and the basis for that opinion, (i) the defense shall
16 provide the prosecution with a written description of the substance of the proposed
17 testimony, including the expert's opinion and the basis for that opinion, and (ii) upon
18 request, the prosecution is entitled to conduct a telephonic or in-person deposition or
19 recorded interview of the expert, at the expense of the prosecution; failure to provide
20 timely disclosure entitles the prosecution to a continuance; if the court finds that a
21 continuance is not an adequate remedy under the circumstances of the case, the court
22 may impose other sanctions, including prohibiting the defense from calling the expert
23 at trial or declaring a mistrial;

24 (7) notice of an insanity defense or a defense of diminished capacity
25 due to mental disease or defect in compliance with AS 12.47;

26 (8) turn over to the prosecutor any physical evidence of the offense
27 received by defense counsel; if the physical evidence is received from the attorney's
28 client or the client's agent or acquired as a direct result of information communicated
29 by the client, defense counsel may not be compelled to provide any information
30 concerning the source of the evidence or the manner in which it was obtained; in such
31 cases, the prosecutor may not reveal the source of the evidence to the jury; if the

1 physical evidence is not received from the client or the client's agent or acquired as
2 a direct result of information communicated by the client, defense counsel shall reveal
3 the manner in which the physical evidence was obtained unless that information is
4 otherwise privileged;

5 (9) upon a reasonable request showing materiality to the preparation of
6 the prosecution, the court in its discretion may require disclosure to the prosecution of
7 relevant and admissible information not covered by (c)(1) - (8) of this rule.

8 (d) Regulation of Discovery.

9 (1) Timing of Discovery.

10 (i) Defense counsel has an immediate obligation to disclose
11 evidence subject to (c)(8) of this rule.

12 (ii) When the prosecution has provided the discovery required
13 under (b)(1) - (8) of this rule, the prosecuting attorney shall provide written
14 notice to defense counsel or to the defendant if the defendant is not
15 represented by counsel. Within 10 days of receiving notice from the
16 prosecuting attorney, or such later date as agreed by the prosecuting attorney
17 or ordered by the court, the defense shall provide to the prosecution the
18 discovery required under (c)(1) and (2) of this rule.

19 (iii) Discovery required of the prosecution under (b)(9) - (11)
20 and of the defense under (c)(3) and (4) of this rule shall be provided as agreed
21 by the parties or as ordered by the court.

22 (iv) Other discovery required by (b) and (c) of this rule shall be
23 provided as set out in the specific provision or as ordered by the court.

24 (2) Advice to Refrain From Discussing Case. Except as is otherwise
25 provided as to matters not subject to disclosure and protective orders, neither counsel
26 for the parties nor other prosecution or defense personnel shall advise persons (except
27 the defendant) having relevant material or information to refrain from discussing the
28 case with opposing counsel or showing opposing counsel any relevant material, nor
29 shall they otherwise impede opposing counsel's investigation of the case.

30 (3) Additional or Newly Discovered Information. If, subsequent to
31 compliance with these rules or orders issued pursuant thereto, a party discovers

1 additional material or information which is subject to disclosure, that party shall
2 promptly notify the other party or the other party's counsel of its existence. If the
3 additional material or information is discovered during trial, the court shall also be
4 notified.

5 (4) Materials to Remain in Exclusive Custody of Attorney.

6 (i) Materials furnished to an attorney pursuant to these rules
7 shall remain in the attorney's exclusive custody, shall be used only for the
8 purposes of conducting the case, and shall be subject to other terms and
9 conditions that the court may provide if the information is

10 (aa) a criminal history record of a victim or witness;

11 (bb) a medical, psychiatric, psychological, or counseling
12 record of a victim or witness;

13 (cc) an adoption record;

14 (dd) a record that is confidential under AS 47.10.090 or
15 a similar law in another jurisdiction;

16 (ee) a report of a presentence investigation of a victim
17 or witness prepared pursuant to Criminal Rule 32 or a similar law in
18 another jurisdiction;

19 (ff) a record of the Department of Corrections other than
20 an incident report relating to the crime with which the defendant is
21 charged; or

22 (gg) any other record that the court orders be kept in the
23 exclusive custody of the attorney.

24 (ii) An attorney shall not disclose to a defendant the residence
25 or business address or telephone number of a victim or witness, obtained from
26 information provided under this rule, even if the defendant is acting as co-
27 counsel. If the address and telephone numbers of all victims and witnesses
28 have been obliterated, materials that had contained the address or telephone
29 number of a victim or witness may be provided to a defendant proceeding
30 without counsel only as allowed by AS 12.61.120.

31 (iii) Notwithstanding a defendant's status as co-counsel,

1 materials covered by (d)(4)(i) or (ii) of this rule shall remain in the exclusive
2 custody of the defendant's attorney. If an attorney violates (d)(4)(i) or (ii) of
3 this rule, regardless of whether the defendant is co-counsel, the court shall refer
4 the attorney's violation to the Disciplinary Board of the Alaska Bar Association
5 as a grievance.

6 (iv) If a defendant is proceeding without counsel, materials
7 covered by (d)(4)(i) of this rule may be provided to the defendant. If materials
8 are provided to an unrepresented defendant under this paragraph, the court shall
9 order that the materials remain in the defendant's exclusive custody, be used
10 only for purposes of conducting the case, and be subject to other terms,
11 conditions, and restrictions that the court may provide. The court shall also
12 inform the defendant that violation of an order issued under this paragraph is
13 punishable as a contempt of court.

14 (5) Restriction or Deferral of Disclosure of Information. Upon a
15 showing of cause, the court may at any time order that specified disclosure be
16 restricted or deferred, or make such other order as is appropriate, provided that all
17 material and information to which a party is entitled shall be disclosed in time to
18 permit the party's counsel to make beneficial use thereof.

19 (6) Material Partially Discoverable. When some parts of certain
20 material are discoverable under these rules, and other parts are not discoverable, as
21 much of the material shall be disclosed as is consistent with this rule. Excision of
22 certain material and disclosure of the balance shall be preferred to withholding of the
23 whole. Material excised pursuant to court order shall be sealed and preserved in the
24 records of the court, and shall be made available to the court of appeals and the
25 supreme court in the event of an appeal.

26 (7) Denial or Regulation of Disclosure—Disclosure to Court in Camera—
27 Record of Proceedings. Upon request of any party, the court may permit:

28 (i) any showing of cause for denial or regulation of disclosure;

29 or

30 (ii) any portion of any showing of cause for denial or regulation
31 of disclosure to be made to the court in camera ex parte; a record shall be

1 made of such proceedings; if the court enters an order granting relief following
2 such a showing, the entire record of the proceedings shall be sealed and
3 preserved in the records of the court, to be made available to the court of
4 appeals and the supreme court in the event of an appeal.

5 (8) Information Within Possession or Control of Other Members of
6 Prosecuting Attorney's or Defense Counsel's Staff. The prosecuting attorney's or
7 defense counsel's obligations under this rule extend to material and information in the
8 possession or control of

9 (i) members of the prosecuting attorney's or defense counsel's
10 staff, respectively; and

11 (ii) any others who have participated in the investigation or
12 evaluation of the case and who either regularly report or with reference to the
13 particular case have reported to the prosecuting attorney's office or defense
14 counsel, respectively.

15 (9) Legal Research and Records of Prosecuting Attorney or Defense
16 Counsel. Disclosure shall not be required of legal research or those portions of
17 records, correspondence, reports or memoranda that contain the opinions, theories, or
18 conclusions of the

19 (i) prosecuting attorney or members of the prosecuting
20 attorney's legal staff; or

21 (ii) defense counsel or members of the defense counsel's legal
22 staff.

23 (e) Sanctions.

24 (1) Failure to Comply with Discovery Rule or Order. If at any time
25 during the course of the proceedings it is brought to the attention of the court that a
26 party has failed to comply with an applicable discovery rule or an order issued
27 pursuant thereto, the court shall order such party to permit the discovery of material
28 and information not previously disclosed or enter such other order as it deems just
29 under the circumstances.

30 (2) Willful Violations. Willful violation by counsel of an applicable
31 discovery rule or an order issued pursuant thereto may subject counsel to appropriate

1 sanctions by the court.

2 (f) Omnibus Hearing.

3 (1) Time for Hearing--When Set. If the defendant is charged with a
4 felony, the court shall set a time for an omnibus hearing when a plea of not guilty is
5 entered. The omnibus hearing shall be scheduled for a time when the briefing of
6 pretrial motions should be complete.

7 The omnibus hearing may be canceled by the court only upon the stipulation
8 of counsel that there are no motions which require hearing and that discovery is
9 complete. Counsel shall also provide the information outlined in (f)(2)(iv) of this rule.

10 The court may set an omnibus hearing in a misdemeanor case.

11 (2) Duties of Trial Court at Hearing. At the omnibus hearing the court
12 shall:

13 (i) ensure that discovery under this rule is complete;

14 (ii) rule on any pending motions which are ripe for decision;

15 (iii) schedule any necessary evidentiary hearings; and

16 (iv) obtain case management information from the parties,
17 including the expected length of trial, the likelihood of trial, and any
18 anticipated scheduling difficulties.

19 (g) Non-Testimonial Identification Procedures.

20 (1) Authority. Upon application of the prosecuting attorney, the court
21 by order may direct any person to participate in one or more of the procedures
22 specified in (g)(2) of this rule if affidavit or testimony shows probable cause to believe
23 that:

24 (i) an offense has been committed by one of several persons
25 comprising a narrow focal group that includes the subject person;

26 (ii) the evidence sought may be of material aid in identifying
27 who committed the offense; and

28 (iii) the evidence sought cannot practicably be obtained from
29 other sources.

30 (2) Scope. An order issued under (g)(1) of this rule may direct the
31 person to do or submit to any and all of the following:

- 1 (i) appear in a line-up;
2 (ii) speak words, phrases or sentences relevant to the case for
3 identification by witnesses;
4 (iii) be fingerprinted;
5 (iv) pose for photographs not involving reenactment of a scene;
6 (v) try on articles of clothing;
7 (vi) permit the taking of specimens of material under the
8 person's fingernails;
9 (vii) permit the taking of samples of blood, hair, and other
10 materials of the person's body which involve no unreasonable intrusion thereof;
11 (viii) provide specimens of the person's handwriting;
12 (ix) submit to a reasonable physical or medical inspection of the
13 person's body.

14 (3) Right to Counsel. When issuing an order under (g)(1) of this rule,
15 the court shall also order that the person be represented by counsel or waive the right
16 to be represented by counsel before being required to appear in a lineup, give a
17 specimen of handwriting, or speak for identification by witnesses to an offense.

18 (h) Material not in Possession or Control of Prosecuting Attorney; Confidential
19 Records.

20 (1) Whenever defense counsel provides notice to the prosecuting attorney
21 and designates and requests production of material or information that is not in the
22 possession or control of the prosecuting attorney, other than confidential records under
23 (h)(2) of this rule, but would be discoverable if in the possession or control of the
24 prosecuting attorney, the court shall issue suitable subpoenas or orders to cause such
25 material to be made available to defense counsel.

26 (2) If a defendant makes a particularized showing that confidential
27 records not in the possession of the prosecuting attorney are likely to contain relevant
28 information that would negate guilt or reduce the defendant's punishment, the court may
29 conduct an in camera review of the records after providing an opportunity to be heard
30 to the person who is the subject of the records and the agency keeping the records. If
31 the court determines during its in camera review that such information exists, the court
32 shall (i) provide a copy of that portion of the records that contains the information to the

1 defense, (ii) provide a copy of the material provided to the defense to the prosecution,
2 except for any statements by the defendant the disclosure of which would violate the
3 defendant's right against compulsory self-incrimination, and (iii) enter an order that a
4 hearing be held before the information may be introduced, used, or mentioned during an
5 open court proceeding. The hearing conducted by the court under (iii) of this section
6 will be outside the presence of the jury, and the court shall determine how the records
7 may be used after taking into consideration, among other things the court may find
8 appropriate, whether use of the records violates the right of privacy of the subject of the
9 records, hampers the ability of the agency to collect records, or violates the constitutional
10 or statutory rights of crime victims. The hearing to determine admissibility shall be
11 conducted in camera if there is a danger of unwarranted invasion of privacy.

12 (i) As used in this rule,

13 (1) "oral statement" means the substance of a statement of any kind by
14 a person, whether or not reflected in any existing writing or recording;

15 (2) "written or recorded statement" means

16 (i) any statement made by a person in writing that is signed,
17 adopted, or approved by that person; or

18 (ii) a statement of any kind made by a person that is embodied
19 or summarized in a writing or recording, whether or not specifically signed or
20 adopted by that person; the term is intended to include statements contained in
21 police or investigative reports, or notes taken by police officers or investigators,
22 but does not include attorney work product or notes taken by the attorney.

23 * Sec. 2. PROVISIONS OF SEC. 1 NOT SEVERABLE. Notwithstanding AS 01.10.030,
24 the provisions of sec.1 of this Act are not severable.

25 * Sec. 3. RETROACTIVITY. This Act is retroactive and applies to all criminal cases
26 pending on or arising after the effective date of this Act.

27 * Sec. 4. This Act supersedes Criminal Rule 16 and amendments to Criminal Rule 16
28 adopted by the Alaska Supreme Court before the effective date of this Act.

29 * Sec. 5. This Act takes effect July 1, 1996.

Discovery

The Network supports the concept of reciprocal discovery. We should not try by surprise, but rather conduct a search for truth. Such a search would be better able to reach its goal if each seeker has the necessary information to perform his part of the search as thoroughly as possible.

We do have a significant concern which the committee substitute ~~will~~ addresses and although we would prefer stronger language, we are ~~willing to accept~~ the language in the CS.
will accept ~~support~~

Our concern is over a victim's right to confidentiality. In 1992, the legislature passed a law providing for privileged communication between the victim of domestic violence or sexual assault, and a victim counselor. Approximately ten states that have established privilege for domestic violence and sexual assault victims have absolute privilege.

Alaska is one of several states that has established privilege with exceptions. The exceptions primarily address suspected child abuse and child cases, excited utterances, and circumstances in which the victim may have committed a crime.

Only two states require an in-camera hearing upon defense submission of a pretrial discovery motion. HB25 adds Alaska to this list. We hope enough safeguards surround the opportunity for in-camera review so that the privilege remains viable and victims will continue to come forward to seek help in ending the violence being perpetrated against them.

~~Leg committee support CS~~

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 29, 1995

FURTHER REFERRALS:

Date of Committee Action: 1/25/96

The FINANCE Committee considered:

HB 25

HOUSE BILL NO. 25

CRIMINAL DISCOVERY RULES

"An Act revising Rule 16, Alaska Rules of Criminal Procedure, relating to discovery and inspection in criminal proceedings, to adopt the comparable federal rule."

recommends it be replaced with the following committee substitute CSHB 25 (Fin) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

5 zero fiscal note(s) (2) DOA, 1-DPS zero fiscal note(s) _____
1-COURTS 1-LAW

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Mark Hanley</i>	Hanley	X			
<i>Terry Martin</i>	Martin	X			
<i>Jack Parnell</i>	Parnell	X			
<i>Vic Kohring</i>	Kohring	X			
<i>Bar Grussendorf</i>	Grussendorf	X			
<i>Peter Kelly</i>	Kelly	X			
<i>Mike Navarre</i>	Navarre	X			
<i>Gene Therriault</i>	Therriault	X			
<i>Richard [unclear]</i>	[unclear]	X			

CO-CHAIR'S SIGNATURE *Mark Hanley* *Richard [unclear]*
Hanley

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 25 (FIN)

Title: "An Act revising Rule 16. AK. Rules of Criminal Procedure. relating to discovery...."
Sponsor: Representative Parnell
Requestor: _____

Dept. Affected Public Safety
BRU: DPS Statewide
Components: Commissioner's Office
Serial #: 523

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund	0.0	0.0	0.0	0.0	0.0	0.0
Federal Fund	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS :

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

see attached analysis

Prepared by: House Finance Committee
Rep. Mark Hanley, Co-Chair *MH*
Rep. Richard Foster, Co-Chair *RF*

Date: 1/25/96
Phone: 465-4939
Phone: 465-3789

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 25 (FIN)

Revision Date: _____
 Title: "An Act revising Alaska Rule of Criminal Procedure 16,
 relating to discovery and inspection in criminal proceedings..."
 Sponsor: Rep. Pamell
 Requestor: (H) Fin

Dept. Affected: Administration
 BRJ: Office of Public Advocacy
 Component: Office of Public Advocacy
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Office of Public Advocacy.

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 1/23/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 25 (FIN)

Revision Date: 1/22/96
 Title: "An Act revising Alaska Rule of Criminal Procedure 16, relating to discovery and inspection in criminal proceedings..."
 Sponsor: Rep. Parnell
 Requestor: (H) Fin

Dept. Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Public Defender Agency.

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

Phone: 264-4400
 Date: _____

Approved by Commissioner: Mark Boyer *MPB*
 Agency: Department of Administration

Date: 1/23/96

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FISCAL NOTE

Work Draft
1/12/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 25 ()

Revision Date: <u>1/23/96</u>	Dept. Affected: <u>Department of Law</u>
Title: <u>"...revising Alaska Rule of Criminal Procedure 16. relating to discovery and inspection in criminal proceedings..."</u>	BRU: <u>Criminal Division</u>
Sponsor: <u>Representative Parnell</u>	Component: <u>Criminal Division</u>
Requester: <u>Representative Parnell</u>	COMPONENT SERIAL NO. <u>2085</u>

Expenditures/Revenues (Thousands of Dollars)

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

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill imposes a duty on both the prosecution and the defense for making full and fair disclosure of information in criminal cases. This version of the bill differs from previous versions in that it is less burdensome on the defense. As we advised in our original fiscal analysis, of 1/23/95, the department believes that the bill will result in fairer verdicts and, in some cases, may avoid trials when the prosecution is given early notice of a viable defense. Consequently, the bill will not have a fiscal impact.

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

Phone: 465-3672
 Date: 1/23/96
 Date: 1/23/96

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FISCAL NOTE

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

BILL NO. CSHB 25 (FIN)

Revision Date: 01/23/96 Dept. Affected: Alaska Court System
 Title: An Act revising Rule 16, Alaska Rules of BRU: Trial Courts
Criminal Procedure, relating to discovery Component: _____
 Sponsor: Reps: Farnell, Porter
 Requestor: _____ COMPONENT SERIAL NO. 768

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



Fund Source		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

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

Positions							
Full-Time							
Part-Time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 01/23/96
 Approved by: Arthur H. Snowden, II, Administrative Director  Date: 01/23/96
 Agency: Alaska Court System

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Proposed amendments to CSHB 25(JUD), version J:

Page 1 line 9: at the end of the line add "the victim and the prosecution"
line 11: delete the entire line

In several places on pages 2 and 3, change the word "accused" to "defendant"

Page 2: line 17: following "inspection", change "and" to "or"
line 27: following "trial," add "or which were obtained from or belong to the defendant,"

Page 3 line 26: Replace the entire subsection with:

(12) unless a different date is set by the court, as soon as known and no later than 45 days before trial, the prosecution shall provide the defense with any written report or written statement of experts made in connection with the case. With respect to each expert the prosecution is likely to call at trial or another court proceeding,

(A) the prosecution shall also provide to the defendant the address, phone number and a curriculum vitae of the expert, and

(B) if a written report by the expert is not made or is not adequate to provide fair notice of the expert's opinion and the basis for that opinion, (i) the prosecution shall provide the defendant with a written description of the substance of the proposed testimony, including the expert's opinion and the basis for that opinion and, (ii) upon request, the defense is entitled to conduct a telephonic or in-person deposition or recorded interview of the expert, at the expense of the defense.

Failure to provide timely disclosure under this subsection entitles the defendant to a continuance. If the court finds that a continuance is not an adequate remedy under the circumstances of the case, the court may impose other sanctions, including prohibiting the prosecutor from calling the expert at trial or declaring a mistrial.

Page 4 line 10: replace "material and" with "and admissible"
line 13: following "inspection" change "and" to "or"
line 15: after "addresses" add ", and phone numbers, if known," in order to conform to similar provision in (b)(1).
line 19: change "(c)" to "(b)"

Page 5 line 2: after "trial" add "in misdemeanor cases and 30 days in felony cases"
line 8: Replace the entire subsection with:

(6) unless a different date is set by the court, as soon as known and no later than 30 days before trial, the defense shall provide the prosecution with the

address, phone number, curriculum vitae and any report or written statement of any expert witness likely to be called at trial or another court proceeding. With respect to each such expert, if a written report by the expert is not made or is not adequate to provide fair notice of the expert's opinion and the basis for that opinion, (i) the defense shall provide the prosecution with a written description of the substance of the proposed testimony, including the expert's opinion and the basis for that opinion and, (ii) upon request, the prosecution is entitled to conduct a telephonic or in-person deposition or recorded interview of the expert, at the expense of the prosecution.

Failure to provide timely disclosure under this subsection entitles the prosecution to a continuance. If the court finds that a continuance is not an adequate remedy under the circumstances of the case, the court may impose other sanctions, including prohibiting the defense from calling the expert at trial or declaring a mistrial.

Page 7 line 19: replace "Incident" with "an incident"

Page 11 line 14: after the word "be" delete "represented by counsel or" and add "given the opportunity to be represented by counsel, including the public defender if the person qualifies under AS 18.85.100, or to"

lines 15-16: delete "give a specimen of handwriting"

line 27: after "guilt," add "or"

lines 27-28: delete "or establish bias on the part of a witness."

lines 28-29: replace "upon prior notice" with "after providing an opportunity to be heard"

line 31: switch positions of "provide" and "(i)"

line 32: add "provide" after "(ii)"

Page 12 line 2: delete "shall" and add "(iii)"

line 4: before "will" add "under (iii) of this subsection"

line 5: after "jury" delete the remainder of the sentence and add

", and the court shall determine how the records may be used, after taking into consideration, among other things the court may find appropriate, whether use of the records violates the right of privacy of the subject of the records, hampers the ability of the agency to collect records or violates the constitutional or statutory rights of crime victims."

line 16: delete "the substance of"

line 19: after the word "reports" add "or notes taken by police officers or investigators,"

Page 12 line 27: change effective date to "July 1, 1996"

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 16, 1995

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-24-95

The JUDICIARY Committee considered:

HB 25

HOUSE BILL NO. 25

CRIMINAL DISCOVERY RULES

"An Act revising Rule 16, Alaska Rules of Criminal Procedure, relating to discovery and inspection in criminal proceedings, to adopt the comparable federal rule."

recommends it be replaced with the following committee substitute CSHB 25 (JUD) the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) Admin (PDA)

fiscal note(s) _____

zero fiscal note(s) Law, Pub Saf, Courts zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Don Bunde</i>	<input checked="" type="checkbox"/>			
<i>John P. ...</i>	<input checked="" type="checkbox"/>			
<i>...</i>	<input checked="" type="checkbox"/>			
<i>Brian D. Fortes</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE Brian D Fortes

Alaska State Legislature

REPRESENTATIVE
SEAN R. PARNELL



710 WEST 4TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501
(907) 258-3104

While in Session
STATE CAPITOL
JUNEAU, ALASKA 99801
(907) 463-2005 • FAX (907) 463-2013

HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT House Bill 25

"An act revising Rule 16, Alaska Rules of Criminal Procedure, relating to discovery and inspection in criminal proceedings."

HB 25 changes Alaska Rules of Criminal Procedure to allow for reciprocal discovery between the prosecution and the defense, a system used in many other jurisdictions.

The Alaska Supreme Court's *Scott v. State* decision (No. 1968), handed down 20 years ago, created the most extreme discovery system in all 50 states and the only system that denied virtually all discovery to protect a persons constitutional right against "self-incrimination." This use of Section 9 (Alaska Constitution's "self-incrimination" clause modeled almost word for word after Article V of the US Constitution) to prevent discovery of non-defendant statements is completely out of step with federal and other state judicial practice.

The *Scott* decision was a "snapshot" in time that permanently froze the judicial beliefs of the 70's into Alaska law. Unfortunately this was at a time of extremes and not before or since has any court come remotely close to this type of opinion on "self-incrimination" and discovery. Given that the federal courts have only held "self-incrimination" to protect defendant statements and not expert or alibi witness names and addresses, and given that Alaska modeled its language after the federal "self-incrimination" clause, it is not unreasonable to interpret similarly for Alaska's discovery laws.

The "self-incrimination" clause was designed to protect defendants from coerced confessions by unscrupulous prosecutorial powers. Reciprocal discovery does not coerce a defendant's statement, but simply requires that if either the prosecution or defense is likely to use particular information in their case, apart from defendants statements, that they disclose it beforehand to

encourage timely and fair justice. This accelerated discovery notion has been articulated in many courts where some form of reciprocal discovery is used.

In practice, Alaska's current Rule 16 does not require the defense to divulge virtually any information to the prosecution, but allows for one-sided discovery by the defense, a most inequitable result. Alaska's rule enables defense attorneys to ambush the prosecution mid-trial with previously undisclosed evidence, which causes costly continuances of trials while the prosecution tries desperately to prepare for this new evidence. These delays can result in a failed case, not because of the innocence of the accused, but because the prosecution lacked the time to adequately prepare for this new evidence.

The Alaska Supreme Court recently adopted a new rule 16 (effective 7/95), which would establish partial reciprocal discovery for alibi defense and expert witnesses, saying that if you are likely to use this evidence than you should disclose it before trial in the interest of fair and speedy justice. However, discovery issues protected at the heart of Alaska Supreme Court's *Scott* decision did not change, and could not be changed by a simple court rule change. If the Alaska Supreme court wanted to overturn the *Scott* decision they would need a court case in which *Scott* was violated. This will never happen unless the court rules are changed by law to allow for complete reciprocal discovery. Since the Alaska supreme court has adopted reciprocal discovery, where it did not violate *Scott*, it seems appropriate to allow the courts the opportunity to complete the reciprocal discovery package.

HB 25 is motivated by the philosophy that justice is better served when both sides have full and free discovery in a timely and cost effective manner. I respectfully request your support.



The CRIMINAL LAW REPORTER

Text No. 1

October 5, 1994

THE BUREAU OF NATIONAL AFFAIRS, INC.

Volume 56, No. 1

ABA STANDARDS FOR CRIMINAL JUSTICE: DISCOVERY (THIRD EDITION)

Reprinted below are black letter American Bar Association Standards for Criminal Justice concerning Discovery. They were approved by the ABA's House of Delegates in August 1994.

The ABA's Criminal Justice Standards Committee, chaired by William H. Jeffress Jr., of Washington, D.C., and the Discovery Standards Task Force, chaired by Justice Ben F. Overton of the Florida Supreme Court, will be reviewing the proposed commentary to these Standards over the next year. The commentary is being prepared by Niki Kuckes of Miller, Cassidy, Larroca & Lewin in Washington, D.C. and by Professor Gerald Bennett of the University of Florida Law School. Upon completion, these Standards and supporting Commentary will be published in soft-cover by the ABA as part of the Third Edition ABA Standards for Criminal Justice.

The Standards are copyrighted by the American Bar Association and are reprinted here by permission of the ABA.

11-6.4 Custody of materials	2005
11-6.5 Protective orders	2005
11-6.6 Excision	2005
11-6.7 In camera proceedings	2005
Part VII. Sanctions	2005
11-7.1 Sanctions	2005

PART I. GENERAL PRINCIPLES

Standard 11-1.1 Objectives of pretrial procedures

- (a) Procedures prior to trial should, consistent with the constitutional rights of the defendant:
- (i) promote a fair and expeditious disposition of the charges, whether by diversion, plea, or trial;
 - (ii) provide the defendant with sufficient information to make an informed plea;
 - (iii) permit thorough preparation for trial and minimize surprise at trial;
 - (iv) reduce interruptions and complications during trial and avoid unnecessary and repetitious trials by identifying and resolving prior to trial any procedural, collateral, or constitutional issues;
 - (v) minimize the procedural and substantive inequities among similarly situated defendants;
 - (vi) effect economies in time, money, judicial resources, and professional skills by minimizing paperwork, avoiding repetitious assertions of issues, and reducing the number of separate hearings; and
 - (vii) minimize the burden upon victims and witnesses.
- (b) These needs can be served by:
- (i) full and free exchange of appropriate discovery;
 - (ii) simpler and more efficient procedures; and
 - (iii) procedural pressures for expediting the processing of cases.

Standard 11-1.2. Applicability

These standards should be applied in all criminal cases. Discovery procedures may be more limited than those described in these standards in cases involving minor offenses, provided the procedures are sufficient to permit the party adequately to investigate and prepare the case.

Standard 11-1.3. Definition of "statement"

- (a) When used in these standards, a "written statement" of a person shall include

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(i) any statement in writing that is made, signed or adopted by that person; and

(ii) the substance of a statement of any kind made by that person that is embodied or summarized in any writing or recording, whether or not specifically signed or adopted by that person. The term is intended to include statements contained in police or investigative reports, but does not include attorney work product.

(b) When used in these standards, an "oral statement" of a person shall mean the substance of any statement of any kind by that person, whether or not reflected in any existing writing or recording.

PART II. DISCOVERY OBLIGATIONS OF THE PROSECUTION AND DEFENSE

Standard 11-2.1. Prosecutorial disclosure

(a) The prosecution should, within a specified and reasonable time prior to trial, disclose to the defense the following information and material and permit inspection, copying, testing and photographing of disclosed documents or tangible objects:

(i) All written and all oral statements of the defendant or of any codefendant that are within the possession or control of the prosecution and that relate to the subject matter of the offense charged, and any documents relating to the acquisition of such statements.

(ii) The names and addresses of all persons known to the prosecution to have information concerning the offense charged, together with all written statements of any such person that are within the possession or control of the prosecution and that relate to the subject matter of the offense charged. The prosecution should also identify the persons it intends to call as witnesses at trial.

(iii) The relationship, if any, between the prosecution and any witness it intends to call at trial, including the nature and circumstances of any agreement, understanding or representation between the prosecution and the witness that constitutes an inducement for the cooperation or testimony of the witness.

(iv) Any reports or written statements of experts made in connection with the case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons. With respect to each expert whom the prosecution intends to call as a witness at trial, the prosecutor should also furnish to the defense a curriculum vitae and a written description of the substance of the proposed testimony of the expert, the expert's opinion, and the underlying basis of that opinion.

(v) Any tangible objects, including books, papers, documents, photographs, buildings, places, or any other objects, which pertain to the case or which were obtained from or belong to the defendant. The prosecution should also identify which of these tangible objects it intends to offer as evidence at trial.

(vi) Any record of prior criminal convictions, pending charges, or probationary status of the defendant or of any codefendant, and, insofar as known to the prosecution, any record of convictions, pending charges, or probationary status that may be used for

impeachment of any witness to be called by either party at trial.

(vii) Any material, documents or information relating to lineups, showups, and picture or voice identifications in relation to the case.

(viii) Any material or information within the prosecutor's possession or control which tends to negate the guilt of the defendant as to the offense charged or which would tend to reduce the punishment of the defendant.

(b) If the prosecution intends to use character, reputation or other act evidence, the prosecution should notify the defense of that intention and of the substance of the evidence to be used.

(c) If the defendant's conversations or premises have been subjected to electronic surveillance (including wiretapping) in connection with the investigation or prosecution of the case, the prosecution should inform the defense of that fact.

(d) If any tangible object which the prosecutor intends to offer at trial was obtained through a search and seizure, the prosecution should disclose to the defense any information, documents or other material relating to the acquisition of such objects.

Standard 11-2.2. Defense disclosure

(a) The defense should, within a specified and reasonable time prior to trial, disclose to the prosecution the following information and material and permit inspection, copying, testing and photographing of disclosed documents and tangible objects:

(i) The names and addresses of all witnesses (other than the defendant) whom the defense intends to call at trial, together with all written statements of any such witness that are within the possession or control of the defense and that relate to the subject matter of the testimony of the witness. Disclosure of the identity and statements of a person who will be called for the sole purpose of impeaching a prosecution witness should not be required until after the prosecution witness has testified at trial.

(ii) Any reports or written statements made in connection with the case by experts whom the defense intends to call at trial, including the results of physical or mental examinations and of scientific tests, experiments, or comparisons that the defendant intends to offer as evidence at trial. For each such expert witness, the defense should also furnish to the prosecution a curriculum vitae and a written description of the substance of the proposed testimony of the expert, the expert's opinion, and the underlying basis of that opinion.

(iii) Any tangible objects, including books, papers, documents, photographs, buildings, places, or any other objects, which the defense intends to introduce as evidence at trial.

(b) If the defense intends to use character, reputation or other act evidence not relating to the defendant, the defense should notify the prosecution of that intention and of the substance of the evidence to be used.

(c) If the defense intends to rely upon a defense of alibi or insanity, the defense should notify the prosecution

tion of that intent and of the names of the witnesses who may be called in support of that defense.

Standard 11-2.3. The person of the defendant

(a) After the initiation of judicial proceedings, the defendant should be required, upon the prosecution's request, to appear within a time specified for the purpose of permitting the prosecution to obtain fingerprints, photographs, handwriting exemplars, or voice exemplars from the defendant, or for the purpose of having the defendant appear, move, or speak for identification in a lineup or try on clothing or other articles. Whenever the personal appearance of the defendant is required for the foregoing purposes, reasonable notice of the time and place of such appearance should be given by the prosecuting attorney to the defendant and the defendant's counsel.

(b) Upon motion by the prosecution, with reasonable notice to defendant and defendant's counsel, the court should upon an appropriate showing order the defendant to appear for the following purposes:

(i) to permit the taking of specimens of blood, urine, saliva, breath, hair, nails, and material under the nails;

(ii) to permit the taking of samples of other materials of the body;

(iii) to submit to a reasonable physical or medical inspection of the body; or

(iv) to participate in other reasonable and appropriate procedures.

(c) The motion and order pursuant to paragraph (b) above should specify the following information where appropriate: the authorized procedure, the scope of the defendant's participation, the name or job title of the person who is to conduct the procedure, and the time, duration, place, and other conditions under which the procedure is to be conducted.

(d) The court should issue the order sought pursuant to paragraph (b) above if it finds that:

(i) the appearance of the defendant for the procedure specified may be material to the determination of the issues in the case; and

(ii) the procedure is reasonable and will be conducted in a manner which does not involve an unreasonable intrusion of the body or an unreasonable affront to the dignity of the individual; and

(iii) the request is reasonable.

(e) Defense counsel may be present at any of the foregoing procedures unless, with respect to a psychiatric examination, it is otherwise ordered by the court.

PART III. SPECIAL DISCOVERY PROCEDURES

Standard 11-3.1. Obtaining nontestimonial information from third parties

(a) Upon motion by either party, if the court finds that there is good cause to believe that the evidence sought may be material to the determination of the issues in the case, the court should in advance of trial issue compulsory process for the following purposes:

(i) To obtain documents and other tangible objects in the possession of persons not parties to the case.

(ii) To allow the entry upon property owned or controlled by persons not parties to the case. Such process should be issued if the court finds that the party requesting entry has met the standard that the government would be required to meet to obtain access to the property at issue.

(iii) To obtain from a third party fingerprints, photographs, handwriting exemplars, or voice exemplars, or to compel a third party to appear, move or speak for identification in a lineup, to try on clothing or other articles, to permit the taking of specimens of blood, urine, saliva, breath, hair, nails, or other materials of the body, to submit to a reasonable physical or medical inspection of the body, or to participate in other reasonable and appropriate procedures. Such process should be issued if the court finds that:

(1) the procedure is reasonable and will be conducted in a manner which does not involve an unreasonable intrusion of the body or an unreasonable affront to the dignity of the individual the individual; and

(2) the request is reasonable.

(b) The motion and the order should specify the following information where appropriate: the authorized procedure; the scope of participation of the third party; the name or job title of the person who is to conduct the procedure; and the time, duration, place and other conditions under which the procedure is to be conducted.

(c) A person whose interests would be affected by the compulsory process sought should have the right and a reasonable opportunity to move to quash the process on the ground that compliance would subject the person to an undue burden, or would require the disclosure of material that is privileged or otherwise protected from disclosure, or would otherwise be unreasonable.

Standard 11-3.2. Preservation of evidence and testing or evaluation by experts

(a) If either party intends to destroy or transfer out of its possession any objects or information otherwise discoverable under these standards, the party should give notice to the other party sufficiently in advance to afford that party an opportunity to object or take other appropriate action.

(b) Upon motion, either party should be permitted to conduct evaluations or tests of physical evidence in the possession or control of the other party which is subject to disclosure. The motion should specify the nature of the test or evaluation to be conducted, the names and qualifications of the experts designated to conduct evaluations or tests, and the material upon which such test will be conducted. The court may make such orders as are necessary to make the material to be tested or examined available to the designated expert.

(i) The court should condition its order so as to preserve the integrity of the material to be tested or evaluated.

(ii) If the material is contraband material or a controlled substance, the entity having custody of the material may elect to have a representative present during the testing of the material.

PART IV. TIMING AND MANNER OF DISCLOSURE

Standard 11-4.1. Timely performance of disclosure

(a) Each jurisdiction should develop time limits within which discovery should be performed. The time limits should be such that discovery is initiated as early as practicable in the process. The time limit for completion of discovery should be sufficiently early in the process that each party has sufficient time to use the disclosed information adequately to prepare for trial.

(b) The time limits adopted by each jurisdiction should provide that, in the general discovery sequence, disclosure should first be made by the prosecution to the defense. The defense should then be required to make its correlative disclosure within a specified time after prosecution disclosure has been made.

(c) Each party should be under a continuing obligation to produce discoverable material to the other side. If, subsequent to compliance with these standards or orders pursuant thereto, a party discovers additional material or information which is subject to disclosure, the other party should promptly be notified of the existence of such additional material. If the additional material or information is discovered during or after trial, the court should also be notified.

Standard 11-4.2. Manner of performing disclosure

Disclosure may be accomplished in any manner mutually agreeable to the parties. Absent agreement, the party having the burden of production should:

(a) notify opposing counsel that material and information, described in general terms, may be inspected, obtained, tested, copied, or photographed during specified reasonable times; and

(b) make available to opposing counsel at the time specified such material and information and suitable facilities or other arrangements for inspection, testing, copying, and photographing of such material and information.

Standard 11-4.3. Obligation to obtain discoverable material

(a) The obligations of the prosecuting attorney and of the defense attorney under these standards extend to material and information in the possession or control of members of the attorney's staff and of any others who either regularly report to or, with reference to the particular case, have reported to the attorney's office.

(b) The prosecutor should make reasonable efforts to ensure that material and information relevant to the defendant and the offense charged is provided by investigative personnel to the prosecutor's office.

(c) If the prosecution is aware that information which would be discoverable if in the possession of the prosecution is in the possession or control of a government agency not reporting directly to the prosecution, the prosecution should disclose the fact of the existence of such information to the defense.

(d) Upon a party's request for, and designation of, material or information which would be discoverable if in the possession or control of the other party and which

is in the possession or control of others, the party from whom the material is requested should use diligent good faith efforts to cause such material to be made available to the opposing party. If the party's efforts are unsuccessful and such material or others are subject to the jurisdiction of the court, the court should issue suitable subpoenas or orders to cause such material to be made available to the party making the request.

(e) Upon a showing that items not covered in the foregoing standards are material to the preparation of the case, the court may order disclosure of the specified material or information.

PART V. DEPOSITIONS

Standard 11-5.1. Depositions to perpetuate testimony

(a) After an indictment or information upon which a defendant is to be tried is filed, upon motion of the defense or the prosecution, the court may order a deposition taken to perpetuate the testimony of a prospective material witness if the court finds that there is reason to believe that the witness will be unable to be present and to testify at trial because of serious illness or other comparably serious reason, and that it is necessary to take the witness's deposition to prevent a failure of justice. The motion should be verified or the grounds for the motion supported by affidavit.

(b) In the order for the deposition, the court may also require that any designated books, papers, documents or tangible objects, not privileged, be produced at the time and place of the deposition.

(c) The court should make provision for the defendant to be present at the taking of the deposition and should make such other provisions as are necessary to preserve the defendant's right to confrontation of witnesses.

(d) A deposition so taken and any evidentiary material produced at such deposition may be introduced in evidence at trial, subject to applicable rules of evidence. However, no deposition taken under this section should be used or read in evidence when the attendance of the deposed witness can be procured, except for the purpose of contradicting or impeaching the testimony of the deponent.

Standard 11-5.2. Discovery depositions

(a) On motion of either the prosecution or the defense, the court should order the taking of a deposition upon oral examination of any person other than the defendant, concerning information relevant to the offense charged, but only upon a showing that:

(i) the name of the person sought to be deposed has been disclosed to the movant by the opposing party through the exchange of names and addresses of witnesses or has been discovered during the movant's investigation of the case; and

(ii) no writing, summarizing the relevant knowledge of the person sought to be deposed, adequate to prevent surprise at trial, has been furnished to the movant; and

(iii) the movant has taken reasonable steps to obtain a voluntary oral or written statement from the witness, but the witness has refused to cooperate in giving a voluntary statement; and

(iv) the taking of a deposition is necessary in the interests of justice.

(b) The defendant may not be present at the deposition unless the court orders otherwise for good cause shown.

(c) The procedure for taking a discovery deposition, including the scope of the examination, should be in accordance with express rules to be written for depositions in criminal proceedings.

(d) Unless otherwise stipulated by the parties, a discovery deposition should be admissible at a trial or hearing only for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(e) A person whose deposition is sought should have the right to move to quash on the ground that compliance would subject the person to an undue burden, or would require the disclosure of material that is privileged or otherwise protected from disclosure, or would otherwise be unreasonable.

PART VI. GENERAL PROVISIONS GOVERNING DISCOVERY

Standard 11-6.1. Restrictions on disclosure

(a) Disclosure should not be required of legal research or of records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the prosecuting attorney or the defense attorney, or members of the attorney's legal staff.

(b) Disclosure of an informant's identity should not be required where such identity is a prosecution secret and where a failure to disclose will not infringe the constitutional rights of the defendant. Disclosure should not be denied of the identity of witnesses to be produced at a hearing or trial.

(c) Disclosure should not be required where it involves a substantial risk of grave prejudice to national security and where a failure to disclose will not infringe the constitutional rights of the defendant. Disclosure should not be denied regarding witnesses or material to be produced at a hearing or trial.

(d) Disclosure should not be required from the defense of any communications of the defendant, or of any other materials which are protected from disclosure by the state or federal constitutions, statutes or other law.

(e) The court should have the authority to deny, delay, or otherwise condition disclosure authorized by these standards if it finds that there is substantial risk to any person of physical harm, intimidation, or bribery resulting from such disclosure which outweighs any usefulness of the disclosure.

Standard 11-6.2. Failure of a party to use disclosed material at trial

The fact that a party has indicated during the discovery process an intention to offer specified evidence or to call a specified witness is not admissible in evidence at a hearing or trial.

Standard 11-6.3. Investigations not to be impeded

Neither the counsel for the parties nor other prosecution or defense personnel should advise persons (other than the defendant) who have relevant material or infor-

mation to refrain from discussing the case with opposing counsel or showing opposing counsel any relevant material, nor should they otherwise impede opposing counsel's investigation of the case.

Standard 11-6.4. Custody of materials

Any materials furnished to an attorney pursuant to these standards should be used only for the purposes of preparation and trial of the case, and should be subject to such other terms and conditions as the court may provide.

Standard 11-6.5. Protective orders

Upon a showing of cause, the court may at any time order that specified disclosures be restricted, conditioned upon compliance with protective measures, or deferred, or make such other order as is appropriate, provided that all material and information to which a party is entitled is disclosed in sufficient time to permit counsel to make beneficial use of the disclosure.

Standard 11-6.6. Excision

When some parts of material or information are discoverable under these standards and other parts are not discoverable, the discoverable parts should be disclosed. The disclosing party should give notice that nondiscoverable parts have been withheld and the nondiscoverable parts should be sealed, preserved in the records of the court, and made available to the appellate court in the event of an appeal.

Standard 11-6.7. In camera proceedings

Upon request of any person, the court may permit any showing of cause for denial or regulation of disclosures, or any portion of such showing, to be made in camera. A record should be made of both in court and in camera proceedings. Upon the entry of an order granting relief following a showing in camera, all confidential portions of the in camera portion of the showing should be sealed, preserved in the records of the court, and made available to the appellate court in the event of an appeal.

PART VII. SANCTIONS

Standard 11-7.1. Sanctions

(a) If an applicable discovery rule or an order issued pursuant thereto is not promptly implemented, the court should do one or more of the following:

(i) order the noncomplying party to permit the discovery of the material and information not previously disclosed;

(ii) grant a continuance;

(iii) prohibit the party from calling a witness or introducing into evidence the material not disclosed, subject to the defendant's right to present a defense and provided that the exclusion does not work an injustice either to the prosecution or the defense; or

(iv) enter such other order as it deems just under the circumstances.

(b) The court may subject counsel to appropriate sanctions, including a finding of contempt, upon a finding that counsel willfully violated a discovery rule or order.



Rick Mystrom,
Mayor

ANCHORAGE POLICE DEPARTMENT

4501 South Bragaw Street • Anchorage, Alaska 99507-1599
Telephone (907) 786-8500



Service since 1921

January 24, 1995

Representative Sean R. Parnell
Alaska State Legislature
Juneau, Alaska 99801-1182

Dear Representative Parnell:

The Anchorage Police Department supports House Bill 25, which is an Act revising Rule 16 of the Alaska Rules of Criminal Procedure. We feel that it is important and expeditious to the administration of justice that the rules relating to discovery and inspection in criminal proceedings conform to the comparable federal rules.

Sincerely,

A handwritten signature in cursive script that reads "Kevin M. O'Leary". The signature is written in dark ink and is positioned above the printed name and title.

Kevin M. O'Leary
Chief of Police



Alaska Women's Resource Center

111 W. 9th Avenue • Anchorage, Alaska 99501 • (907) 276-0528 • Fax: (907) 278-8944

January 22, 1996

VIA FAX

Representative Sean Parnell
State Capitol, Room 515
Juneau, AK 99801-1182

Dear Representative Parnell:

I am writing on behalf of the Alaska Women's Resource Center to express our support of House Bill No. 25.

For all citizens of the State of Alaska to enjoy a healthy and safe community in which to live, laws must be enforced in a thorough and timely manner. House Bill No. 25 addresses the sharing of information and evidence for the purpose of promoting a fair and expeditious disposition of the charges. This will not only facilitate the trial process, but it will also assure victims and non-victims in the community that perpetrators will be held accountable for their actions.

The Alaska Women's Resource Center favors House Bill No. 25 as a means of promoting fully informed and timely law enforcement for the protection of the citizens of Alaska.

Sincerely,


Diane J. Heard
Executive Director

HB

26

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: January 26, 1995

FURTHER REFERRALS:

Date of Committee Action: 2/1/95

The FINANCE Committee considered:

HB 26

HOUSE BILL NO. 26

DEPOSITIONS IN CRIMINAL CASES

"An Act revising Rule 15, Alaska Rules of Criminal Procedure, relating to depositions, to adopt the comparable federal rule."

recommends it be replaced with the following committee substitute CS HB 26 (JUD) the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: _____

(Dept/Date)

fiscal note(s) _____

fiscal note(s) ^{Alaska} Court 1/26/95

zero fiscal note(s) _____

zero fiscal note(s) DPS 1/26/95

Law 1/26/95

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Richard Foster</i> FOSTER			*	
<i>Mark Hanley</i> HANLEY	X			
<i>Adam Mulder</i> MULDER	X			
<i>Chris Navarre</i> NAVARRE	X			
<i>Terry Martin</i> MARTIN	X			
<i>Sean Parnell</i> PARNELL	X			
<i>Gene Thernawit</i> Thernawit	X			
<i>Vick Kohring</i> Kohring	X			
<i>Walt Kelly</i> Kelly	✓			
<i>Ben Grussendorf</i> Grussendorf			X	
<i>Lay Brown</i> BROWN			X	

CHAIR'S SIGNATURE

Mark Hanley
co-chair HANLEY

Richard Foster
co-chair FOSTER

FISCAL NOTE

No. 2

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL N

Bill Version: CS 33 26 (JUD)

(H) Publish Date: 11/20/95

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An Act revising Rule 15 Alaska Rules BRU: DPS Statewide Support
relating to depositions to adopt federal rule." Component: Commissioner's Office
 Sponsor: Representative Parnell
 Requestor: (H) JUD COMPONENT SERIAL NO. 0523

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

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ 0.00

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated by the Division of Fish and Wildlife Protection with the passage of this legislation.

Prepared By: Lee Ann Lucas, Special Assistant to the Commissioner Phone: (907) 465-4322

Division: Commissioner's Office Date: 01/24/95

Approved by Commissioner: [Signature] Date: 01/24/95

Agency: for Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

BILL NO. HB 25

Revision Date: _____ Dept. Affected: Department of Law
 Title: An Act revising Rule 15, Alaska Rules of Criminal SRU: Prosecution
 Procedure, relating to depositions... Component: All
 Sponsor: Representative Farnell
 Requester: Representative Farnell COMPONENT SERIAL NO. 0085-0090

Expenditures/Revenues (Thousands of Dollars)

	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.01	0.01	0.01	0.01	0.01	0.01
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill revises Rule 15, Alaska Rules of Criminal Procedure, relating to depositions and, in so doing, adopts a rule comparable to the federal rule. A defendant's use of depositions in a criminal proceeding is supposed to be rare. This is because the defense is provided with police reports and transcripts, a record of the grand jury proceedings, and evidence held by the prosecution. The process of taking depositions can be lengthy and delays the entire judicial process in matters that should be set to go to trial quickly. Of more importance, however, some judges allow the defense to take depositions from victims, including the victims of sexual abuse. This further traumatizes victims and can cause a victim to refuse to testify later at trial. The bill will have the effect of setting stringent limits on the taking of depositions in criminal proceedings, allowing their use only in exceptional circumstances. The bill will not have a fiscal impact on the Department of Law.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 1/23/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 1/23/95
 Department of Law

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FISCAL NOTE

Bill Version: CS HB 26 (JVO)

BI (H) Publish Date: 1/26/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date:

Dept. Affected: Alaska Court System

Title: An Act revising Rule 15, Alaska Rules of Criminal Procedure

BRU: Trial Courts

Sponsor: Rep. Pamell

Components:

Requestor: Judiciary

COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0.3					
SUPPLIES	0.2					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	1.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	1.0	0.0	0.0	0.0	0.0	0.0

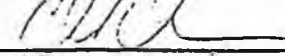
POSITIONS


FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 01/25/95

Approved by: Arthur H. Snowden, II, Administrative Director 
 Agency: Alaska Court System Date: 01/25/95

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Alaska Court System
Fiscal Analysis
HB 26

This legislation will require revision of Criminal Rule 15 of the Alaska Rules of Court. It is anticipated that the rule will be drafted by the court rules attorney and circulated to all Bar members.

Contractual

Postage to mail the revised Criminal Rule to 2,500 members of the Bar \$832

Supplies

Printing supplies: copier paper, envelopes, per page copier maintenance charges, etc. 182

Total \$1,014

Alaska State Legislature

716 WEST 4TH AVENUE, SUITE 320
ANCHORAGE, ALASKA 99501
(907) 258-6194

While in Juneau
STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-2995

REPRESENTATIVE
SEAN R. PARNELL



HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT House Bill 26

"An act revising Rule 15, Alaska Rules of Criminal Procedure, relating to depositions, to adopt the comparable federal rule."

HB 26 changes Alaska Rules of Criminal Procedure to permit depositions of victims and adverse witnesses only in exceptional circumstances. Under the bill, the defense will retain access to statements taken by police and grand jury testimony of the victim and witnesses, as well as the ability to face the accuser at the trial.

In practice, Alaska's current Rule 15 enables defense attorneys to take numerous depositions of victims and witnesses, and provides fertile ground for discovery abuse. The mishandling of this privilege slows due process, unnecessarily burdens the courts, and serves to harass victims rather than promoting the ends of justice. I respectfully request your support.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450

FAX (907) 465-2029

Mail Stop 3101

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

MEMORANDUM

January 18, 1995

SUBJECT: Sectional Summary of HB 26. (Work Order No. 9-LS0147A)

TO: Representative Sean Parnell
Attn: Richard Vitale

FROM: Gerald P. Luckhaupt
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill repeals the current version of Alaska Rule of Criminal Procedure 15, dealing with depositions of witnesses in criminal cases, and adopts in its place, as the Alaska rule, Federal Rule of Criminal Procedure 15.

GPL:glc
95-064.glc

SECTIONAL SUMMARY



Rick Mysterom,
Mayor

ANCHORAGE POLICE DEPARTMENT

4501 South Bragaw Street • Anchorage, Alaska 99507-1599
Telephone: (907) 786-8500



Service since 1921

January 24, 1995

Representative Sean R. Parnell
Alaska State Legislature
Juneau, Alaska 99801-1182

Dear Representative Parnell:

The Anchorage Police Department supports House Bill 26, which is an Act revising Rule 15 of the Alaska Rules of Criminal Procedure. This change will facilitate an equal administration of justice related to the taking of depositions by adopting the comparable federal rule.

Sincerely,

Kevin M. O'Leary
Chief of Police