

**ALASKA LEGISLATURE**

**1328**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996**

**HB**

**146**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/14/95

FURTHER:

DATE TURNED INTO OFFICE: 3-28-95

Finance Committee considered CS FOR HOUSE BILL NO. 146(L&C) am

"An Act relating to an Iditarod mushing sweepstakes."

and recommends:

- be replaced with S CS CSHB146 (FIN)
- adopt previous CS ( )
- attached amendment(s) effic. date -
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:  
 same title  
 new title  
 House Bill:  
 same title  
 technical change  
 new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Steve Tim</i>	✓		
		<i>ROBERT SEED</i>	✓		
		<i>Daniel Doolley</i>	✓		
		<i>Charles Stewart</i>	✓		
		<i>BOB MORGAN</i>	✓		
Co-Chair:		<i>Donna</i>	✓		
Co-Chair: <i>Rick Halford</i>	✓				

**NEW FISCAL NOTE(S):**

Department                      Date    Zero    Fiscal

<i>SFC</i> DOR	3/28/95		\$25.0

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date    Zero    Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SCS CMB 146(Fin)

Revision Date: 3/28/95  
 Title: Sled Dog Race Classics  
 Sponsor: Representative Foster  
 Requestor: Senate Finance Committee

Dept. Affected Dept. of Revenue  
 BRU: Revenue Operations  
 Components: Charitable Gaming  
 Serial # 1883

**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous	25.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>25.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

**FUNDING: (THOUSANDS OF DOLLARS)**

General Fund /PR	25.0	0.0	0.0	0.0	0.0	0.0
Federal Fund						
Other						
<b>TOTAL</b>	<b>25.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**


Full-Time						
Part-Time						
Temporary						

**ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)**

see attached analysis

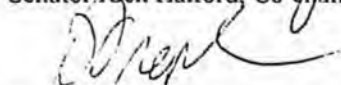
Funding is for Dept. of Revenue to develop necessary regulations.

Prepared by: Senate Finance Committee

  
 \_\_\_\_\_  
 Senator Rick Halford, Co-chair

Date: 3/28/95

Phone: 465-4958

  
 \_\_\_\_\_  
 Senator Steve Frank, Co-chair

Date: 3/28/95

Phone: 465-3709

3/28/95  
JFC

Amendment To CSHB 196 (L.C) am

By Riege

Page 2, lines 11-12

delete: "to the closest guess to the  
winning finish time of a sled  
dog race or the lead time at  
individual checkpoints along the race"

insert: "for the closest guess or guesses  
of at least three elements of  
uncertainty about the Iditarod  
sled dog race which cannot be  
determined prior to the commencement  
of the race"

Add: four-yr. sunset provision  
to the bill.

March 28, 1995

Norma -

At Ann's direction, delivered SCS CSHB 146 (Fin) to Nancy in the Senate Secretary's office. She advised that addition of effective date to the bill would be considered technical, and there is no problem with a title change.

Kathy

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SCS CSHB 146 (Fin)

REPORT  
NO. 3-22-95

Revision Date: 3/28/95  
Title: Sled Dog Race Classics  
Sponsor: Representative Foster  
Requestor: Senate Finance Committee

Dept. Affected Dept. of Revenue  
BRU: Revenue Operations  
Components: Charitable Gaming  
Serial # 1883

**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous	25.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>25.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUNDING: (THOUSANDS OF DOLLARS)**

General Fund /PR	25.0	0.0	0.0	0.0	0.0	0.0
Federal Fund						
Other						
<b>TOTAL</b>	<b>25.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

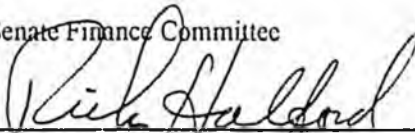
Full-Time						
Part-Time						
Temporary						

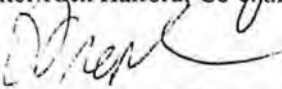
**ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)**

see attached analysis

Funding is for Dept. of Revenue to develop necessary regulations.

Prepared by: Senate Finance Committee

  
\_\_\_\_\_  
Senator Rick Halford, Co-chair

  
\_\_\_\_\_  
Senator Steve Frank, Co-chair

Date: 3/28/95  
Phone: 465-4958

Date: 3/28/95  
Phone: 465-3709

March 28, 1995

Ann -

Final SCS CSHB 146 (Fin) appears to amend existing statutes in Secs. 1, 3, 5, and 7 and apply a four-year, Dec. 31, 1999, sunset date. It further reenacts existing law in Secs. 2, 4, and 6, as of the day after sunset, January 1, 2000.

Note problem with title caused by addition of effective date. Is accompanying resolution also being drafted?

Norma  
4935

**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**

March 28, 1995

**SUBJECT:** Iditarod Mushing Sweepstakes - SCS CSHB 146(FIN)  
(Work Order No. 9-LS0523\0)

**TO:** Senator Rick Halford  
Attn: Kathy

**FROM:** Gerald P. Luckhaupt *GLP*  
Legislative Counsel

Enclosed is the Senate Committee Substitute you requested. I do have one comment concerning the amendment adopted by the committee to the definition of "mushing sweepstakes", now found in bill section 7. The amendment altered the definition of "mushing sweepstakes" so that the definition of that type of charitable gaming (a mushing sweepstakes) is no longer cast in general terms with a limitation on who may conduct this type of gaming event (the Iditarod Race Committee). Now a "mushing sweepstakes" as a type of charitable gaming is specifically tied in definition to the Iditarod sled dog race. The legislature has not previously defined a type of charitable gaming in terms of a specific event despite many opportunities to do so. See, for example, the definitions of "ice classic", "canned salmon classic", "mercury classic", etc., in AS 05.15.690. This reluctance to define a type of charitable gaming by referencing a specific event probably results from the prohibition on local or special laws contained in article II, section 19 of the Alaska Constitution. As a result it appears that the legislature has traditionally tried to define the type of charitable gaming in a neutral, generic sort of way while simultaneously limiting who can conduct that generic type of charitable gaming. While it is my opinion that limiting the application of a general law locally or specially is no less violative of the prohibition on local or special acts in the constitution, starting with a general law (and then limiting its application) at least provides an argument that the legislature has attempted to abide with the constitutional requirements in this regard. Therefore, you may want to consider deleting "the Iditarod" on page 3, line 2 of the SCS and inserting "a" to provide a general definition of the charitable gaming event.

GPL:klb  
95-215.klb

Enclosure

# A FAX

Alaska State Legislature

Date: 3/28/95 Attn: Terry Bannister  
To: Legal Services

Fax #: 2029 Phone #: 465-3867

From: Kathy - Senate Finance

Phone #: 2618

Re: JCS CS HB 146 (Fin.) - Please incorporate attached Amendment into CS HB 146 (LTC) am to produce Senate Finance version and return to Room 520 as soon as possible.

Following this page, please find 1 page(s). If this does not reach you in full, please inform us ASAP.



11:10 Terry Luckhaupt called back w/problems w/funding of amend. I referred him to Ann in Sen. Rieger's office.

## THANK YOU.

Concern relates to specific reference to Iditarod within the body of the bill.

GF/PR

$\frac{96}{1}$



Misc - 25.0

v. 1 A u r

— on the 1

Agos-

BRU Chantak 2.

Kaithy -

Passed, with this  
Amendment -

F/N \$25K by Leg.  
Finance

→ 4 yr. Sunset  
Provision

But is this verbage to be  
in the bill - They adopted  
it - but I'm confused if  
it pertains to F/N or is

# SCAL NOTE

No. L1

Bill Version: HB 146

(H) Publish Date: 2/15/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date: _____	Dept. Affected: <u>Revenue</u>
Title: <u>Sied Dog Race Classics</u>	SRU: <u>Revenue Operations</u>
	Component: <u>Charitable Gaming Division</u>
Sponsor: <u>Representative Foster</u>	
Requester: <u>Community &amp; Regional Affairs</u>	COMPONENT SERIAL NO. <u>1883</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill will not fiscally impact the Department of Revenue.

Prepared by: <u>Jeff Prather, Acting Director</u>	Phone: <u>465-2279</u>
Division: <u>Charitable Gaming Division</u>	Date: <u>2/8/95</u>
Approved by: _____	Date: <u>2/8/95</u>
Commissioner: <u>Wilson L. Condon</u>	
Agency: <u>Department of Revenue</u>	

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
For further distribution information, call the Governor's Legislative Office

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education  
State of Alaska

Kaithy -

Passed, with this  
amendment -

7/10 \$25K by Leg.  
finance

→ 4 yrs. Sunset  
Provision

But is this verbiage to be  
in the bill - They adopted  
it - but I'm confused if  
it pertains to 7/10 or is

to be added to  
the bill.

Inc

Louise -  
Norma

# FISCAL NOTE

No. L1

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Bill Version: HB 146  
(H) Publish Date: 2/15/95

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Sled Dog Race Classics BRU: Revenue Operations  
 Sponsor: Representative Foster Component: Charitable Gaming Division  
 Requester: Community & Regional Affairs COMPONENT SERIAL NO. 1883

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**FUND SOURCE (Thousands of Dollars)**

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

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

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill will not fiscally impact the Department of Revenue.

Prepared by: Jeff Prather, Acting Director Phone: 465-2279  
 Division: Charitable Gaming Division Date: 2/8/95  
 Approved by: \_\_\_\_\_  
 Commissioner: Wilson L. Condon Date: 2/8/95  
 Agency: Department of Revenue

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 For further distribution information, call the Governor's Legislative Office

*Cross Ref. to  
HB 146*

BILL: SB 66      SHORT TITLE: SLED DOG RACE CLASSICS  
BILL VERSION:  
SPONSOR(S): SENATOR(S) GREEN, Halford, Rieger

CURRENT STATUS: (S) RLS      STATUS DATE: 02/21/95

TITLE: "An Act relating to sled dog race classics."

02/03/95	165	(S)	READ THE FIRST TIME - REFERRAL(S)
02/03/95	165	(S)	FINANCE
02/09/95	225	(S)	COSPONSOR: HALFORD
02/14/95	267	(S)	FIN RPT CS 3DP 3NR      NEW TITLE
02/14/95	267	(S)	ZERO FISCAL NOTE (REV)
02/21/95	349	(S)	RULES TO CALENDAR      2/21/95
02/21/95	354	(S)	RETURN TO RLS COMMITTEE
02/21/95	354	(S)	REFERRED TO RULES
02/21/95	356	(S)	COSPONSOR(S): RIEGER

MAR 20 1995

Headquarters:  
217 2nd Street, Suite 201  
Juneau, Alaska 99801  
(907) 586-2323 FAX 463-5515



Regional Office:  
415 E Street, Suite 201  
Anchorage, Alaska 99501  
(907) 278-2722 FAX 278-6643

ALASKA  
★ STATE ★  
CHAMBER  
OF COMMERCE

RECEIVED  
MAR 21 REC'D

March 20, 1995

Members of the Senate Finance Committee  
Alaska State Legislature

Re: CS HB 146 - Sled Dog Race Classic

Dear Senator:

On March 3rd this year, the Board of Directors of the Alaska State Chamber of Commerce passed a resolution supporting legislation that would create a sweepstakes or lottery to support the official state sport of sled dog racing. We believe the economic and cultural impact of sled dog racing on the state of Alaska is important, and deserves adequate financial support. I have attached a copy of our resolution for your information.

The Alaska State Chamber of Commerce supports the legislation contained in CSHB 146, and urges your support for passage of this bill.

A handwritten signature in cursive script that reads "Pamela Neal".

Pamela Neal  
President

Headquarters:  
217 2nd Street, Suite 201  
Juneau, Alaska 99801  
(907) 586-2323 FAX 463-5515



---

ALASKA STATE CHAMBER OF COMMERCE

Resolution 95-11

Support for Sled Dog Racing

WHEREAS, sled dog racing is the official state sport in the State of Alaska; and

WHEREAS, the Iditarod Trail International Sled Dog Race has evolved into an event which has captured the attention and curiosity of the world; and

WHEREAS, the economic impact generated by the Iditarod has recently been determined to be in excess of \$20 million annually; and

WHEREAS, the Iditarod is important to Alaskans, as it serves as a reminder of our historic past as well as a celebration of the proud and rugged spirit of the Last Frontier; and

WHEREAS, it is important that the Iditarod be adequately supported financially so as to continue to be an important economic tool;

NOW THEREFORE BE IT RESOLVED that the Alaska State Chamber of Commerce urges the 19th Alaska Legislature to adopt as law bills that will be put before them which would enable the creation of a sweepstakes or lottery to support the official state sport of sled dog racing as outlined in HB 146 and CSSB 66.

ADOPTED

March 3, 1995

BY Pamela Neal

Pamela Neal  
President

BY Paul Richards

Paul Richards  
Chair, Board of Directors

RECEIVED

MAR 21 REC'D



Stan Hooley . Executive Director . Iditarod Trail Sled Dog Race . 907.352.2204

---

VIA FACSIMILE 907.465.4928

20 February, 1995

The Honorable Lyda Green  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

My dear Senator Green:

The following will serve as additional support for and answer questions regarding the implementation of the "Iditarod Sweepstakes" as proposed in SB 66.

GENERAL SITUATION

The Iditarod and its large national sponsors have been, and continue to be, the target of an ever-increasing amount of negative and harmful publicity by various radical special interest groups. As a way to diversify its funding base, and as a way to insulate itself from the most measurable effect of the animal rights groups (the erosion of financial support from large national advertisers outside the State of Alaska), this past spring the Iditarod Trail Committee, Inc. (ITC), asked the legislature to consider a permanent fund check-off which would allow Alaskan's to support their Race. This effort ultimately failed... not because of a lack of support for the Iditarod, but because of the many sensitivities surrounding the permanent fund itself.

As was predicted this past spring the two remaining outside sponsors announced this fall that they would not be renewing their sponsorship of the Race. \$390,000 disappeared from the Race budget this year and an additional \$175,000 will disappear this next year.

For the past six months the ITC has worked very hard to replace the lost revenues. Revenues which made it possible for the ITC to stage the caliber of Race which Alaskan's have come to expect, and the caliber of Race which, through national and international television coverage, helped to 'export Alaska' and benefit the visitor industry.

While corporate Alaska as well as individual Alaskans have responded quite admirably, the ITC believes it is vitally important to put a mechanism in place which will help to ensure the long-term financial stability of the Race. The ITC believes that the passage of SB 66, which would allow the ITC to conduct 'The Iditarod Sweepstakes,' a game of chance where a prize of money would be awarded to the closest guess to the winning time of the Iditarod, represents a significant fundraising opportunity for Alaska's Iditarod and would provide the ITC with an ongoing and stable funding base.

#### ECONOMIC IMPORTANCE OF THE IDITAROD

According to an economic impact report prepared by the Gilmore Research Group in December of 1992, the Iditarod attracted approximately sixteen (16%) percent of the state's out-of-state visitors during the Fall, Winter and Spring season. The race itself also draws thousands of visitors from within the state. These persons attend numerous events, stay at local hotels, eat at local restaurants, rent cars, buy gifts and participate in local cultural and entertainment activities. They are an important source of revenue. Their expenditures contribute to the local economy in the form of jobs, sales and taxes. Based upon the methodology utilized in this particular study, the Iditarod generates a collective economic impact to various areas of the State in excess of 15 million dollars annually.

In addition, over the years there has been extraordinary television coverage of the Iditarod which has been of significant benefit to the State and its visitor industry. Each year, to be conservative, approximately 1/2 of the total broadcast time focuses on, or accentuates, issues and images that support Alaska tourism. These issues include the scenery, the history, the frontier image, the romance of the wilderness and wildlife, as well as the "rugged individualist nature" of the people who live in Alaska.

In 1995, a one-hour Iditarod special will be produced for syndication domestically and internationally. It is anticipated that the special will be aired in media markets including seventy-five (75%) percent of U.S. households. While it is difficult to place a true value on the ability of the ITC to "Export Alaska" through this type of medium, the cost for comparable advertising would easily be in excess of 2 million dollars annually.

#### COMMUNITIES INVOLVED IN THE IDITAROD

In 1995, the Iditarod Trail International Sled Dog Race will travel through twenty-seven (27) cities, towns, villages and/or checkpoints along the 1,049 mile Iditarod Trail.

Anchorage, Eagle River, Wasilla, Knik, Yentna Station, Skwentna, Finger Lake, Rainy Pass, Rohn Roadhouse, Nikolai, McGrath, Takotna, Ophir, Iditarod, Shageluk, Anvik, Grayling, Eagle Island, Kaltag, Unalakleet, Shaktoolik, Koyuk, Elim, Golovin, White Mountain, Safety and Nome.

The Honorable Lyda Green  
20 February, 1995  
Page 3

### IMPLEMENTATION OF AN IDITAROD SWEEPSTAKES

Current law provides for the conduct of events similar in nature to the proposed "Iditarod Sweepstakes." Ice classics, rain classics, goose classics, mercury classics, canned salmon classics, salmon classics and king salmon classics are held annually to benefit certain causes and/or organizations.

While a business plan, or detailed plans for implementation are yet to be created, suffice it to say at this point that the ITC is committed to working closely with the Department of Revenue and the Division of Charitable Gaming to ensure that all aspects of the permitting and reporting processes are adhered to should this bill become law.

It is believed that a very sizable number of people would choose to participate in the Iditarod Sweepstakes by choosing the winning time of the race. Precisely how many remains to be seen. However, the Nenana Ice Classic, as an example, had at least 130,000 individuals purchase tickets this past year and paid out a jackpot of \$260,000.

Because of the broad appeal of the Iditarod it can be reasonably assumed that a far greater number of tickets would be sold and a correspondingly higher amount of money could be both paid out to the winner(s) as well as be raised on behalf of the ITC.

### THE LIKELIHOOD, OR LACK THEREOF, OF THE OPPORTUNITY FOR MISCHIEF OR FRAUD

In evaluating the potential for mischief or fraud it is believed that virtually no such potential exists.

Each entrant in the Iditarod Sweepstakes would be required to predict the winning time of the Iditarod in days, hours, minutes and *seconds*. By virtue of the fact that entries would require that *seconds* also be predicted, it would be virtually impossible for a winning musher to time their finish in such a way as to cross the finish line at a precise pre-established time.

- CONFIDENCE IN THE DAYS -

Furthermore, the Iditarod is a tremendously competitive event. Since 1990, the longest amount of time separating the winner of the Iditarod from the second place finisher has been 12 hours, 50 minutes and 54 seconds. The total number of seconds involved in this difference in time is 46,254. If, say for example, 250,000 tickets were sold and the number of multiple guesses were somewhat evenly distributed over the 46,254 seconds there would be at least five (5) jackpot winners.

### MUSHERS INVOLVED IN THE IDITAROD

Fifty-nine (59) mushers will begin Iditarod XXIII. Of the fifty-nine, forty-six are from the State of Alaska. Other States within the United States are represented as well including, Kentucky (1), Minnesota (1), Montana (1), Utah (1), and Washington (1).

Seven (7) foreign countries including England (1), Japan (2), Northwest Territories (1), Norway (1), Russia (1), Scotland (1) and Switzerland are also represented.

<u>Alaska</u>	Talkeetna (2)	Seattle
Anchorage (2)	Trapper Creek (2)	
Big Lake (2)	Two Rivers (2)	<u>England</u>
Chugiak (3)	Wasilla (3)	Manchester
Denali Park (2)	Willow (7)	
Eagle River (1)		<u>Japan</u>
Fairbanks (3)	<u>Kentucky</u>	Kobe
Fritz Creek (1)	Shelbyville	Toyko
Healy (1)		
Houston (1)	<u>Minnesota</u>	<u>Northwest Territories</u>
Kasilof (2)	Grand Marais	Yellowknife
Kenai (1)		
Knik (4)	<u>Montana</u>	<u>Norway</u>
Manley (1)	Sims	
Nenana (2)		<u>Russia</u>
Nome (1)	<u>Utah</u>	
St. Michael (1)	Midway	<u>Scotland</u>
Seward (1)		
Sheep Creek (1)	<u>Washington</u>	<u>Switzerland</u>

Robert Somers - Grand Marais, MN, Rick Mackey - Nenana, AK, Ben Jacobson - Chugiak, AK, Tim Triumph - Houston, AK, Linwood Fiedler - Willow, AK, Wayne Curtis - Knik, AK, Jack Berry - Fritz Creek, AK, Nikolai Ettyne - Russia, Martin Buser - Big Lake, AK, Pecos Humphreys - Talkeetna, AK, Diana Moroney - Chugiak, AK, Peryll Kyzer - Willow, AK, Don Bowers - Eagle River, AK, Rick Swenson - Two Rivers, AK, Dee Dee Jonrowe - Willow, AK, Jeff King - Denali, AK, Ramy Brooks - Fairbanks, AK, Doug Swingley - Sims, MT, Charlie Boulding - Manley, AK, Cliff Roberson - Seattle, WA, Vern Halter - Trapper Creek, AK, Jerry Austin - St Michael, AK, Andy Sterns - Willow, AK, Pat Danly - Trapper Creek, AK, Max Hall - Manchester, England, Nicolas Pattaroni - Switzerland/Big Lake, Bill Cotter - Nenana, AK, Don Lyrek - Denali, AK, Matt Desalernos - Nome, AK, Robert Salazar - Midway, UT, Keizo Funatsu - Japan, Tim Osmar - Kasilof, AK, David Sawatsky - Healy, AK, Libby Riddles - Knik, AK, Larry Williams - Chugiak, AK, John Gourley - Wasilla, AK, Mark Wildermuth - Talkeetna, AK, Mitch Seavey - Seward, AK, Lorren Weaver - Wasilla, AK, Harry Caldwell - Knik, AK, Dave Branholm - Wasilla, AK, Randy Adkins - Kasilof, AK, Rollin Westrum - Anchorage, AK, Paula Gmerek - Shelbyville, KY, David Milne - Scotland, Robert W. Bundtzen - Anchorage, AK, John Barron - Sheep Creek, AK, Kazuo Kojima - Tokyo, Japan, Bob Holder - Fairbanks, AK, Jon Terhune - Kenai, AK, Art Church - Willow, AK, Barrie Raper - Willow, David Olesen - Yellowknife, NT, Kjell B. Risung - Norway, David Dalton - Fairbanks, AK, Susan Whiton - Willow, AK, Kathleen Swenson - Two Rivers, AK, Ramey Smyth - Big Lake, AK.

The Honorable Lyda Green  
20 February, 1995  
Page 5

Senator Green, I am hopeful that the foregoing will prove to be beneficial to you and your colleagues as the merits of SB66 are discussed in the Senate. Please feel free to call upon me at any time should you have additional needs for information. And of course, thank you once again for sponsoring this important legislation.

Sincerely yours for,

THE IDITAROD TRAIL COMMITTEE, INC.

Stan Hooley  
Executive Director

cc: ITC Board of Directors

*Cross Ref. to HB146*

BILL: SB 66      SHORT TITLE: SLED DOG RACE CLASSICS

BILL VERSION:

SPONSOR(S): SENATOR(S) GREEN, Halford, Rieger

CURRENT STATUS: (S) RLS

STATUS DATE: 02/21/95

TITLE: "An Act relating to sled dog race classics."

02/03/95	165	(S)	READ THE FIRST TIME - REFERRAL(S)
02/03/95	165	(S)	FINANCE
02/09/95	225	(S)	COSPONSOR: HALFORD
02/14/95	267	(S)	FIN RPT CS 3DP 3NR      NEW TITLE
02/14/95	267	(S)	ZERO FISCAL NOTE (REV)
02/21/95	349	(S)	RULES TO CALENDAR      2/21/95
02/21/95	354	(S)	RETURN TO RLS COMMITTEE
02/21/95	354	(S)	REFERRED TO RULES
02/21/95	356	(S)	COSPONSOR(S): RIEGER

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SCS CSHB 146 (Fin)

Revision Date: 3/28/95  
 Title: Sled Dog Race Classics  
 Sponsor: Representative Foster  
 Requestor: Senate Finance Committee

Dept. Affected Dept. of Revenue  
 BRU: Revenue Operations  
 Components: Charitable Gaming  
 Serial # 1883

**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous	25.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>25.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUNDING: (THOUSANDS OF DOLLARS)**

General Fund /PR	25.0	0.0	0.0	0.0	0.0	0.0
Federal Fund						
Other						
<b>TOTAL</b>	<b>25.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

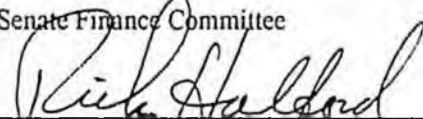
Full-Time						
Part-Time						
Temporary						

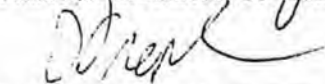
**ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)**

see attached analysis

Funding is for Dept. of Revenue to develop necessary regulations.

Prepared by: Senate Finance Committee

  
 \_\_\_\_\_  
 Senator Rick Halford, Co-chair

  
 \_\_\_\_\_  
 Senator Steve Frank, Co-chair

Date: 3/28/95  
 Phone: 465-4958

Date: 3/28/95  
 Phone: 465-3709

CS FOR HOUSE BILL NO. 146(L&C) AM  
"AN ACT RELATING TO AN IDITAROD MUSHING SWEEPSTAKES."

THE QUESTION TO BE RECONSIDERED: "SHALL CSHB 146(L&C) AM PASS THE HOUSE?" THE ROLL WAS TAKEN WITH THE FOLLOWING RESULT:

CSHB 146(L&C) AM--RECONSIDERATION  
THIRD READING  
FINAL PASSAGE

YEAS: 30 NAYS: 5 EXCUSED: 5 ABSENT: 0

YEAS: AUSTERMAN, BRICE, BROWN, BUNDE, DAVIES, G.DAVIS, ELTON,  
FINKELSTEIN, GREEN, GRUSSENDORF, HANLEY, IVAN, KELLY, KOHRING, KOTT,  
KUBINA, MACKIE, MACLEAN, MOSES, MULDER, NAVARRE, NICHOLIA, PHILLIPS,  
PORTER, ROKEBERG, THERRIAULT, TOOHEY, VEZEY, WILLIAMS, WILLIS

NAYS: BARNES, MARTIN, MASEK, OGAN, SANDERS

EXCUSED: B.DAVIS, FOSTER, JAMES, PARNELL, ROBINSON

03/10/95  
HB 146

HOUSE JOURNAL

PAGE 0709

AND SO, CSHB 146(L&C) AM PASSED THE HOUSE ON RECONSIDERATION AND WAS REFERRED TO THE CHIEF CLERK FOR ENGROSSMENT.

SELECTION=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT

B005-LAST PAGE

**HB**

**158**

**HFIN**

**FILE**

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 158

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: Tort Reform BRU: Trial Courts  
 Components: \_\_\_\_\_  
 Sponsor: Rep. Porter  
 Requestor: \_\_\_\_\_ 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	9.3	9.3	9.3	9.3	9.3	9.3
TRAVEL						
CONTRACTUAL	7.9	7.9	7.9	7.9	7.9	7.9
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
<b>TOTAL OPERATING</b>	<b>17.2</b>	<b>17.2</b>	<b>17.2</b>	<b>17.2</b>	<b>17.2</b>	<b>17.2</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	17.2	17.2	17.2	17.2	17.2	17.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>17.2</b>	<b>17.2</b>	<b>17.2</b>	<b>17.2</b>	<b>17.2</b>	<b>17.2</b>

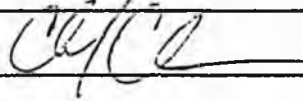
**POSITIONS**

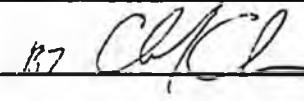
FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

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: 02/21/95

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 02/21/95  
 Agency: Alaska Court System

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Alaska Court System  
Fiscal Analysis  
HB 158 (cont.)

years, until all the legal issues were resolved by appeals to the supreme court. One of these attorneys estimated the period of increased litigation at five to seven years.

This fiscal note makes the following assumptions:

In superior court in FY 94, there were 875 tort cases filed. Approximately 38 tort trials were held, with approximately 50 percent returning a verdict for plaintiff; there were approximately 47 tort cases decided by summary judgment, with all returning a verdict for the defendant; and there were approximately 38 default judgments entered, with all entered for the plaintiff. Determining periodic payments will average one day of court time without a jury. Determining collateral benefits will average one-half day of court time, including jury time. Time spent is discounted by two-thirds in default cases.

In district court in FY 94, there were 532 tort cases filed (more than small claims). Approximately 21 tort trials were held; approximately 26 tort cases were decided by summary judgment; and approximately 21 default judgments were entered. Periodic payments will not be made in district court, because of the \$50,000 jurisdictional limit of that court. Because of the lower dollar value of cases, not as much time will be invested by litigants in determining collateral benefits; it is assumed that one-half as much court time will be used. District court jury costs are also less, because half as many jurors are used.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 158

Revision Date: \_\_\_\_\_  
Title: Civil Liability

Department: Commerce and Economic Development  
BRU: Insurance  
Component: Operations

Sponsor: REPS. PORTER, Toohy  
Requestor: Representative Porter

COMPONENT SERIAL NO. \_\_\_\_\_ #354

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 95) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Joan Brown, Administrative Officer *[Signature]*  
Division: Insurance  
Approved by Commissioner: William L. Hensley *[Signature]*  
Agency: Commerce and Economic Development

Phone: 465-2597  
Date: 2/8/95  
Date: 3/9/95

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251 15-2

**FISCAL NOTE**

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 158

Revision Date: \_\_\_\_\_  
Title: "An Act relating to civil actions; amending Alaska Rules of Civil Procedure 49, 68, and 95....."  
Sponsor: Porter and Toohey  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: Risk Management  
Component: Risk Management  
  
COMPONENT SERIAL NO. 0071

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

State agency civil liability claims exposure and the amount Risk Management will ultimately pay in liability loss settlements will be reduced by this legislation.

The extent of such savings is difficult to forecast, due to the uncertainty that any of the limitations in the type of claims that may be filed or amounts of damages that can be awarded will actually be realized in future liability claims that may be filed against the State arising from accidents that have not yet occurred.

Risk Management loss funding is collected solely through interagency receipts of premiums assessed each State agency.

In future years, Risk Management's liability premium assessments will reflect the reductions actually realized by this legislation as our premium charges are developed from actual claims expenses incurred.

Prepared by: J. Brad Thompson, Director  
Division: Risk Management

Phone: 465-5723  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
Agency: Department of Administration

Date: 2/10/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 158

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "...relating to civil actions; amending Alaska Rules BRU: Legal Services  
of Civil Procedure 49 and 68..." Component: Operations  
 Sponsor: Representative Porter  
 Requester: Representative Porter COMPONENT SERIAL NO. 0093

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

**FUND SOURCE** (Thousands of Dollars)

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

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

**POSITIONS**

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

**ANALYSIS:** (Attach a separate page if necessary)

This bill amends Title 9, the Alaska Code of Civil Procedure, to provide various changes that are intended to bring about reforms in the manner in which the state's civil justice system handles personal injury claims. The bill seeks to reduce costs associated with the civil justice system, and the bill seeks to create a more equitable distribution of the cost of risk of injury. The bill does this by changing the existing balance between claimants and defendants, and their respective, competing economic interests, by limiting the time in which certain claims can be filed, and by setting and reducing claims limits. As a result, the existing balance is tilted away from claimants and toward defendants. Consequently, the state's claims exposure and the amount it ultimately pays per case might be reduced in large claims. However, because the total number of claims would probably not be reduced, the impact on the department's defense of personal injury claims will be negligible..

*Richard I. Pegues*

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

Phone: 465-3672  
 Date: 2/13/95  
 Date: 2/13/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. CSHB 158 (FIN) AM

Revision Date: 05/02/95 Dept. Affected: Alaska Court System  
 Title: Tort Reform BRU: Trial Courts  
 Components: \_\_\_\_\_  
 Sponsor: Rep. Porter  
 Requestor: \_\_\_\_\_ 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	3.1	3.1	3.1	3.1	3.1	3.1
TRAVEL						
CONTRACTUAL	7.9	7.9	7.9	7.9	7.9	7.9
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	11.0	11.0	11.0	11.0	11.0	11.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	11.0	11.0	11.0	11.0	11.0	11.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	11.0	11.0	11.0	11.0	11.0	11.0

POSITIONS

FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
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 *[Signature]* Phone: 264-8228  
 Agency: Alaska Court System Date: 05/02/95  
 Approved by: Arthur H. Snowden, II, Administrative Director *[Signature]*  
 Agency: Alaska Court System Date: 05/02/95

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Alaska Court System  
Fiscal Analysis  
CSHB 158 (FIN) AM

CSHB 158 (Fin) am proposes numerous changes to that portion of the civil justice system which deals with personal injury and property damage. These changes are primarily intended to redistribute costs and risks associated with personal injury and property damage.

The Alaska Court System provides the primary forum in this state for the resolution of tort claims. The fiscal impact of the majority of these changes will be neutral or is impossible to reasonably predict. However, at least one of the proposed changes will have the effect of increasing the costs to the state of administering the tort system.

CSHB 158 (Fin) am repeals and reenacts AS 09.17.070, relating to collateral benefits. This amendment essentially provides that the amount which a defendant owes to a plaintiff will be reduced by whatever insurance benefits or other benefits the plaintiff has already received as compensation. Implementation will require extra trial time, in order for the jury to hear testimony regarding the types of coverage which might be involved, the amounts paid, and determining which payments may be offset. The current statute relating to collateral benefits is substantially less complex. Moreover, at the present time only the judge hears the testimony, and then only if the jury has returned a verdict for the plaintiff. The proposed system is thus less efficient and results in longer trials and more jury costs.

CSHB 158 (Fin) am can be expected to save some judicial costs by reducing the motion practice currently engaged in on issues which were not clearly resolved the last time tort laws were amended. The amount of savings is speculative, and this note assumes that it is offset by the longer trials and increased appeals that will result until the supreme court resolves issues created by the procedural and substantive changes made by CSHB 158 (Fin) am. In this regard, note that several of the pro-tort reform attorneys who testified in favor of HB 292 last session conceded that that bill would result in increased litigation for a period of years, until all the legal issues were resolved by appeals to the supreme court. One of these attorneys estimated the period of increased litigation at five to seven years.

This fiscal note makes the following assumptions:

In superior court in FY 94, there were 875 tort cases filed. Approximately 38 tort trials were held, with approximately 50 percent returning a verdict for plaintiff; there were approximately 47 tort cases decided by summary judgment, with all returning a verdict for the defendant; and there were approximately 38 default judgments entered, with all entered for the plaintiff. Determining collateral benefits will average one-half day of court time, including jury time. Time spent is discounted by two-thirds in default cases.

In district court in FY 94, there were 532 tort cases filed (other than small claims). Approximately 21 tort trials were held; approximately 26 tort cases were decided by summary judgment; and approximately 21 default judgments were entered. Because of the lower dollar value of cases, not as much time will be invested by litigants in determining collateral benefits; it is assumed that one-half as much court time will be used. District court jury costs are also less, because half as many jurors are used.

Alaska Court System  
Fiscal Analysis  
CSHB 158 (FIN) AM

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
<u>Personal Services</u>			
Pro Tem Judge, fully vested, Anchorage permanent part-time, 1 month	\$2,013	\$1,074	\$3,087
 <u>Contractual Services</u>			
Jury Fees			7,925
Superior Court-			
38 - 1/2 day length collateral benefit hearings with 13 jurors at \$12.50 a half day (from trials)		6,175	
District Court-			
20 - 1/2 day length collateral benefit hearings with 7 jurors at \$12.50 a half day (from trials)		1,750	
			-----
			<u>\$11,012</u>
	Estimated Total Cost		

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB339

Revision Date: \_\_\_\_\_  
Title: Termination of Parental Rights  
Sponsor: Representative Rokeberg  
Requestor: House (HES)

Dept. Affected: Health and Social Services  
BRU: Family and Youth Services  
Component: DFYS Central Office  
COMPONENT SERIAL NO. 259  
See also (SN#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact to the Division if this bill were to become law.

Prepared by: L. Diane Worley, Director  
Division: Family & Youth Services

Phone: 465-3191  
Date: 05/15/95

Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Date: 5/16/95

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# HOUSE COMMITTEE REPORT

(11)

Date Referred: March 8, 1995

FURTHER REFERRALS:

Date of Committee Action: 3/19/95

The FINANCE Committee considered:

HB 158

HOUSE BILL NO. 158

CIVIL LIABILITY

"An Act relating to civil actions; amending Alaska Rules of Civil Procedure 49, 68, and 95; amending Alaska Rule of Evidence 702; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 158 (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) Court System  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) 1-LAW 3/8/95  
1-DOA 3/8/95  
1-CED 3/8/95

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Mark Hanley</i> Hanley			X	
<i>Adon Muldet</i> Muldet	X			
<i>Terry Martin</i> Martin	<del>X</del>			
<i>Sean Parnell</i> Parnell			X	
<i>Ben Grussendorf</i> Grussendorf			<del>X</del>	X
<i>Jay Brown</i> Brown				X
<i>Gene Therriault</i> Therriault			X	
<i>Michelle Navarre</i> Navarre				X
<i>Richard Foster</i> Foster			X	

CHAIR'S SIGNATURE *Mark Hanley* *Richard Foster*  
 Hanley Foster

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. CSHB 158 (FIN)

Revision Date: 03/20/95 Dept. Affected: Alaska Court System  
 Title: Tort Reform BRU: Trial Courts  
 Components: \_\_\_\_\_  
 Sponsor: Rep. Porter  
 Requestor: \_\_\_\_\_ 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	3.1	3.1	3.1	3.1	3.1	3.1
TRAVEL						
CONTRACTUAL	7.9	7.9	7.9	7.9	7.9	7.9
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
<b>TOTAL OPERATING</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	11.0	11.0	11.0	11.0	11.0	11.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>

**POSITIONS**

FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
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 *CCS* Phone: 264-8228  
 Agency: Alaska Court System Date: 03/20/95

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CCS* Date: 03/20/95  
 Agency: Alaska Court System

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

Alaska Court System  
Fiscal Analysis  
CSHB 158 (FIN)

CSHB 158 (Fin) proposes numerous changes to that portion of the civil justice system which deals with personal injury and property damage. These changes are primarily intended to redistribute costs and risks associated with personal injury and property damage.

The Alaska Court System provides the primary forum in this state for the resolution of tort claims. The fiscal impact of the majority of these changes will be neutral or is impossible to reasonably predict. However, at least one of the proposed changes will have the effect of increasing the costs to the state of administering the tort system.

CSHB 158 (Fin) repeals and reenacts AS 09.17.070, relating to collateral benefits. This amendment essentially provides that the amount which a defendant owes to a plaintiff will be reduced by whatever insurance benefits or other benefits the plaintiff has already received as compensation. Implementation will require extra trial time, in order for the jury to hear testimony regarding the types of coverage which might be involved, the amounts paid, and determining which payments may be offset. The current statute relating to collateral benefits is substantially less complex. Moreover, at the present time only the judge hears the testimony, and then only if the jury has returned a verdict for the plaintiff. The proposed system is thus less efficient and results in longer trials and more jury costs.

CSHB 158 (Fin) can be expected to save some judicial costs by reducing the motion practice currently engaged in on issues which were not clearly resolved the last time tort laws were amended. The amount of savings is speculative, and this note assumes that it is offset by the longer trials and increased appeals that will result until the supreme court resolves issues created by the procedural and substantive changes made by CSHB 158 (Fin). In this regard, note that several of the pro-tort reform attorneys who testified in favor of HB 292 last session conceded that that bill would result in increased litigation for a period of years, until all the legal issues were resolved by appeals to the supreme court. One of these attorneys estimated the period of increased litigation at five to seven years.

This fiscal note makes the following assumptions:

In superior court in FY 94, there were 875 tort cases filed. Approximately 38 tort trials were held, with approximately 50 percent returning a verdict for plaintiff; there were approximately 47 tort cases decided by summary judgment, with all returning a verdict for the defendant; and there were approximately 38 default judgments entered, with all entered for the plaintiff. Determining collateral benefits will average one-half day of court time, including jury time. Time spent is discounted by two-thirds in default cases.

In district court in FY 94, there were 532 tort cases filed (other than small claims). Approximately 21 tort trials were held; approximately 26 tort cases were decided by summary judgment; and approximately 21 default judgments were entered. Because of the lower dollar value of cases, not as much time will be invested by litigants in determining collateral benefits; it is assumed that one-half as much court time will be used. District court jury costs are also less, because half as many jurors are used.

Alaska Court System  
Fiscal Analysis  
CSHB 158 (FIN)

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
<u>Personal Services</u>			
Pro Tem Judge, fully vested, Anchorage permanent part-time, 1 month	\$2,013	\$1,074	\$3,087
<u>Contractual Services</u>			
Jury Fees Superior Court-			7,925
38 - 1/2 day length collateral benefit hearings with 13 jurors at \$12.50 a half day (from trials)		6,175	
District Court-			
20 - 1/2 day length collateral benefit hearings with 7 jurors at \$12.50 a half day (from trials)		1,750	
			-----
	Estimated Total Cost		<u><u>\$11,012</u></u>

adopted N/O

AMENDMENT # 1

OFFERED IN THE HOUSE  
TO: CSHB 158(JUD)

BY REPRESENTATIVE PORTER

1 Page 10, line 2:

2 Delete "or"

3 Page 10, line 3:

4 Delete "."

5 Insert "; or

6 (4) the benefit consists of workers' compensation benefits received

7 under AS 23.30."

8 Page 10, line 13:

9 Delete "or"

10 Page 10, line 14, after "insurance,":

11 Insert "or evidence of workers' compensation benefits received under AS 23.30,"

12 Page 10, line 19:

13 Delete "Notwithstanding AS 23.30, a"

14 Insert "A"

adopted as amended

AMENDMENT #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 158(JUD)

Page 1, line 5 through <sup>page 3, LN 7 adopt</sup> [page 4, line 14:] DELETE

Delete all material.

Renumber following sections.

Failed 2-6

AMENDMENT #3

Brown

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

- 1 Page 1, line 12, through page 2, line 4:
- 2 Delete all material.
  
- 3 Renumber the following paragraphs accordingly.
  
- 4 Page 4, lines 3 - 4:
- 5 Delete all material.
  
- 6 Renumber the following paragraphs accordingly.
  
- 7 Page 4, line 15, through page 5, line 15:
- 8 Delete all material.
  
- 9 Renumber the following bill sections accordingly.
  
- 10 Page 17, line 1:
- 11 Delete "sec. 14"
- 12 Insert "sec. 13"
  
- 13 Page 17, line 5:
- 14 Delete "sec. 17"
- 15 Insert "sec. 16"
  
- 16 Page 17, line 10:
- 17 Delete "sec. 19"

- 1           Insert "sec. 18"
  
- 2   Page 17, line 13:
- 3           Delete "sec. 21"
- 4           Insert "sec. 20"
  
- 5   Page 17, line 16:
- 6           Delete "sec. 21"
- 7           Insert "sec. 20"
  
- 8   Page 17, line 18:
- 9           Delete "sec. 26"
- 10          Insert "sec. 25"

Failed 4-6

AMENDMENT #4

Brown

OFFERED IN THE HOUSE  
TO: CSHB 158(JUD)

- 1 Page 4, line 18:
- 2 Delete "personal injury, death, or"
  
- 3 Page 4, line 21:
- 4 Delete "personal injury, death, or"
  
- 5 Page 4, line 24:
- 6 Delete "personal injury, death, or"
  
- 7 Page 4, line 27:
- 8 Delete "personal injury, death, or"
  
- 9 Page 5, lines 8 - 11:
- 10 Delete all material.
  
- 11 Reletter the following subsection accordingly.

Withdrawn | Replaced with 5A  
AMENDMENT #5

TO: CSHB 158 (Jud)

BY: Rep. Kay Brown

Page 4, line 28

Delete: "prolonged"

Insert: after "to": "a"

Delete: "waste" and insert: "substance"

AMENDMENT

5(a) AS Amended  
Adopted

7-2

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 158(JUD)

Page 4, line 28:

Delete "prolonged"

Page 4, line 28 after "to":

Delete "hazardous waste"

Insert "a hazardous substance"

Page 6, following line 26:

Insert a new bill section to read:

"\*Sec. 6 AS 09.10 is amended by adding a new section to read:

Sec. 09.10.290. Definitions. In AS 09.10.10 - 09.10.240 "hazardous substance" means an element or compound that when it enters into the air or on the surface or subsurface land or water of the state, presents an imminent and substantial danger to public or individual health and welfare, ~~or to fish, animals, vegetation, or any part of the natural habitat in which fish, animals, or wildlife may be found.~~

Renumber following sections accordingly.

1) withdrawn  
2) adopted N/O

9-LS0328G.7  
Ford  
3/14/95

AMENDMENT #10

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

Brown

- 1 Page 5, line 16, through page 6, line 9:
- 2 Delete all material.
  
- 3 Renumber the following bill sections accordingly.
  
- 4 Page 17, line 1:
- 5 Delete "sec. 14"
- 6 Insert "sec. 13"
  
- 7 Page 17, line 5:
- 8 Delete "sec. 17"
- 9 Insert "sec. 16"
  
- 10 Page 17, line 10:
- 11 Delete "sec. 19"
- 12 Insert "sec. 18"
  
- 13 Page 17, line 13:
- 14 Delete "sec. 21"
- 15 Insert "sec. 20"
  
- 16 Page 17, line 16:
- 17 Delete "sec. 21"
- 18 Insert "sec. 20"

- 1 Page 17, line 18:
- 2 Delete "sec. 26"
- 3 Insert "sec. 25"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

*Brown*

- 1 Page 12, line 21:
- 2 Delete "three"
- 3 Insert "five"
  
- 4 Page 12, line 23, after "entered":
- 5 Insert ", or 11 percent, whichever is higher"

Failed 5-5

AMENDMENT #7

OFFERED IN THE HOUSE  
TO: CSHB 158(JUD)

*Brown*

- 1 Page 6, lines 21 - 22:
- 2 Delete "Notwithstanding the disability of minority described under AS 09.10.140(a),
- 3 a"
- 4 Insert "A"

Failed

4-6

AMENDMENT #8

9-LS0328\G.26

Ford 7  
3/14/95

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

Navarre

- 1 Page 3, line 22, after "litigation;":
- 2       Insert "and"
  
- 3 Page 3, lines 23 - 24:
- 4       Delete all material.
  
- 5 Reletter the following subparagraph accordingly.
  
- 6 Page 6, line 27, through page 7, line 21:
- 7       Delete all material.
  
- 8 Renumber the following bill sections accordingly.
  
- 9 Page 17, line 1:
- 10       Delete "sec. 14"
- 11       Insert "sec. 13"
  
- 12 Page 17, line 5:
- 13       Delete "sec. 17"
- 14       Insert "sec. 16"
  
- 15 Page 17, line 10:
- 16       Delete "sec. 19"
- 17       Insert "sec. 18"

- 1 Page 17, line 13:
- 2 Delete "sec. 21"
- 3 Insert "sec. 20"

- 4 Page 17, line 16:
- 5 Delete "sec. 21"
- 6 Insert "sec. 20"

- 7 Page 17, line 18:
- 8 Delete "sec. 26"
- 9 Insert "sec. 25"

withdrawn

AMENDMENT #9

OFFERED IN THE HOUSE  
TO: CSHB 158(JUD)

Navarre

- 1 Page 7, line 4:
- 2 Delete "\$300,000"
- 3 Insert "\$1,500,000"
  
- 4 Page 7, line 6:
- 5 Delete "\$500,000"
- 6 Insert "\$3,000,000"

Failed 4-6

9-LS0328G.9✓

Ford  
3/14/95

AMENDMENT #10

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

*Navarre*

- 1 Page 7, lines 20 - 21:
- 2 Delete all material.

Failed 4-6

AMENDMENT #11

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

*Brown*

- 1 Page 7, line 27:
- 2 Delete "new subsections"
- 3 Insert "a new subsection"
  
- 4 Page 7, line 28, through page 8, line 4:
- 5 Delete all material.
  
- 6 Reletter the following subsection accordingly.
  
- 7 Page 14, line 27:
- 8 Delete "AS 09.17.020(d)"
- 9 Insert "AS 09.17.020(b)"

Adopted 9-1  
AMENDMENT #12

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 158(JUD)

Page 7, line 25-26:

Delete "of malice or conscious acts showing deliberate disregard for another person by the person from whom punitive damages are sought."

Page 7, line 25 after "evidence of":

Insert "outrageous conduct, acts done with malice or bad motives, or reckless indifference to the interest of another."

*withdrawn*

AMENDMENT #13

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

*Brown*

- 1 Page 2, lines 21 - 22:
- 2 Delete "with malicious or"
- 3 Insert "intentionally with"
  
- 4 Page 7, line 25:
- 5 Delete "malice or conscious acts"
- 6 Insert "an intentional act"

Failed 5-5

AMENDMENT #14

OFFERED IN THE HOUSE  
TO: CSHB 158(JUD)

*Navarre*

- 1 Page 8, lines 9 - 23:
- 2 Delete all material.
  
- 3 Renumber the following bill sections accordingly.
  
- 4 Page 17, line 1:
- 5 Delete "sec. 14"
- 6 Insert "sec. 13"
  
- 7 Page 17, line 5:
- 8 Delete "sec. 17"
- 9 Insert "sec. 16"
  
- 10 Page 17, line 10:
- 11 Delete "sec. 19"
- 12 Insert "sec. 18"
  
- 13 Page 17, line 13:
- 14 Delete "sec. 21"
- 15 Insert "sec. 20"
  
- 16 Page 17, line 16:
- 17 Delete "sec. 21"
- 18 Insert "sec. 20"

- 1 Page 17, line 18:
- 2       Delete "sec. 26"
- 3       Insert "sec. 25"

adopted 10-0

AMENDMENT # 15

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 158(JUD)

Page 8, line 24 through page 9, line 1:

Delete all material.

Renumber following sections.

adopted N/O

9-LS0328\G.27✓

Ford

3/14/95

AMENDMENT #14

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

*Navarre*

- 1 Page 9, line 5:
- 2 Delete "as periodic payments become due"
- 3 Insert "[AS PERIODIC PAYMENTS BECOME DUE]"

Failed 3-6

AMENDMENT #17

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

Brown

- 1 Page 9, line 24, through page 10, line 22:
- 2 Delete all material.
  
- 3 Renumber the following bill sections accordingly.
  
- 4 Page 16, line 31:
- 5 Delete all material.
  
- 6 Renumber the following bill sections accordingly.
  
- 7 Page 17, line 1:
- 8 Delete "sec. 14"
- 9 Insert "sec. 13"
  
- 10 Page 17, line 5:
- 11 Delete "sec. 17"
- 12 Insert "sec. 16"
  
- 13 Page 17, line 10:
- 14 Delete "sec. 19"
- 15 Insert "sec. 18"
  
- 16 Page 17, line 13:
- 17 Delete "sec. 21"
- 18 Insert "sec. 20"

- 1 Page 17, line 16:
- 2       Delete "sec. 21"
- 3       Insert "sec. 20"
  
- 4 Page 17, line 18:
- 5       Delete "sec. 26"
- 6       Insert "sec. 25"

Failed 4-6

AMENDMENT #18

OFFERED IN THE HOUSE  
TO: CSHB 158(JUD)

*Navarre*

- 1 Page 1, line 2:
- 2 Delete "Rule of Evidence"
- 3 Insert "Rules of Evidence 411 and"

- 4 Page 11, after line 27:
- 5 Insert a new bill section to read:
- 6 **"\* Sec. 17.** AS 09.25 is amended by adding a new section to read:
- 7 Sec. 09.25.035. EVIDENCE OF LIABILITY INSURANCE. A claimant in
- 8 an action for personal injury or death may introduce evidence that a person defending
- 9 a claim is insured by a policy of liability insurance. In this section, "liability
- 10 insurance" means a policy of insurance described under AS 21.12.070(a)(2)."

11 Renumber the following bill sections accordingly.

- 12 Page 17, after line 4:
- 13 Insert a new bill section to read:
- 14 **"\* Sec. 30.** AS 09.25.035, enacted in sec. 17 of this Act, has the effect of amending
- 15 Alaska Rule of Evidence 411 by providing that evidence of liability insurance may be
- 16 introduced by a claimant in a civil action for personal injury or death."

17 Renumber the following bill sections accordingly.

- 18 Page 17, line 5:
- 19 Delete "sec. 17"
- 20 Insert "sec. 18"

- 1 Page 17, line 10:
- 2 Delete "sec. 19"
- 3 Insert "sec. 20"
  
- 4 Page 17, line 13:
- 5 Delete "sec. 21"
- 6 Insert "sec. 22"
  
- 7 Page 17, line 16:
- 8 Delete "sec. 21"
- 9 Insert "sec. 22"
  
- 10 Page 17, line 18:
- 11 Delete "sec. 26"
- 12 Insert "sec. 27"

Failed 4-5  
~~4-6~~

9-LS0328NG.17

Ford  
3/14/95

AMENDMENT #19

OFFERED IN THE HOUSE  
TO: CSHB 158(JUD)

*Navarre*

- 1 Page 1, line 1:
- 2 Delete "49,"
  
- 3 Page 1, line 2:
- 4 Delete the comma.
  
- 5 Page 2, lines 8 - 10:
- 6 Delete all material.
  
- 7 Renumber the following paragraphs accordingly.
  
- 8 Page 3, lines 27 - 30:
- 9 Delete all material.
  
- 10 Renumber the following paragraphs accordingly.
  
- 11 Page 10, lines 24 - 25:
- 12 Delete "person [PARTY TO THE ACTION]"
- 13 Insert "party to the action"
  
- 14 Page 10, line 31, through page 11, line 5:
- 15 Delete:
- 16 "(2) the percentage of the total fault [OF ALL OF THE PARTIES TO
- 17 EACH CLAIM] that is allocated to each claimant, defendant, third-party defendant,
- 18 [AND] person who has been released from liability under AS 09.17.091, or other

1 person responsible for the damages to each claimant regardless of whether the  
2 other person, including an employer, is or could have been named as a party to  
3 the action [AS 09.16.040]."

4 Insert:

5 "(2) the percentage of the total fault of all of the parties to each claim  
6 that is allocated to each claimant, defendant, third-party defendant, and person who  
7 has been released from liability under AS 09.17.091 [AS 09.16.040]."

8 Page 11, lines 11 - 16:

9 Delete "as determined under (a) of this section. An assessment of a percentage  
10 of fault against a person who is not a party may only be used as a measure for  
11 accurately determining the percentages of fault of a named party. Assessment  
12 of a percentage of fault against a person who is not a party does not subject that  
13 person to civil liability in that action and may not be used as evidence of civil  
14 liability in another action"

15 Page 17, lines 1 - 4:

16 Delete all material.

17 Renumber the following bill sections accordingly.

~~W/D~~  
failed

9-LS0328NG.18  
Ford  
3/14/95

AMENDMENT #20

Brown

OFFERED IN THE HOUSE  
TO: CSHB 158(JUD)

- 1 Page 3, line 31, through page 4, line 2:
- 2 Delete all material.
  
- 3 Renumber the following paragraphs accordingly.
  
- 4 Page 11, line 28, through page 12, line 18:
- 5 Delete all material.
  
- 6 Renumber the following bill sections accordingly.
  
- 7 Page 17, lines 5 - 9:
- 8 Delete all material.
  
- 9 Renumber the following bill sections accordingly.
  
- 10 Page 17, line 10:
- 11 Delete "sec. 19"
- 12 Insert "sec. 18"
  
- 13 Page 17, line 13:
- 14 Delete "sec. 21"
- 15 Insert "sec. 20"
  
- 16 Page 17, line 16:

- 1 Delete "sec. 21"
- 2 Insert "sec. 20"
  
- 3 Page 17, line 18:
- 4 Delete "sec. 26"
- 5 Insert "sec. 25"

AMENDMENT #21

w/D

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

Brown

- 1 Page 12, lines 15 - 27:
- 2 Delete all material.
  
- 3 Renumber the following bill sections accordingly.
  
- 4 Page 17, line 10:
- 5 Delete "sec. 19"
- 6 Insert "sec. 18"
  
- 7 Page 17, line 13:
- 8 Delete "sec. 21"
- 9 Insert "sec. 20"
  
- 10 Page 17, line 16:
- 11 Delete "sec. 21"
- 12 Insert "sec. 20"
  
- 13 Page 17, line 18:
- 14 Delete "sec. 26"
- 15 Insert "sec. 25"

AMENDMENT

21A

Failed  
3-7

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 158(JUD)

Page 12, line 21:

Delete "three"

Insert "five"

Page 12, line 23, after "entered":

~~Insert "or 10.5 percent, whichever is less"~~

WD

AMENDMENT #22

failed  
3-7

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

Navarre

- 1 Page 12, lines 28 - 30:
- 2 Delete all material.
  
- 3 Renumber the following bill sections accordingly.
  
- 4 Page 17, lines 10 - 12:
- 5 Delete all material.
  
- 6 Renumber the following bill sections accordingly.
  
- 7 Page 17, line 13:
- 8 Delete "sec. 21"
- 9 Insert "sec. 20"
  
- 10 Page 17, line 16:
- 11 Delete "sec. 21"
- 12 Insert "sec. 20"
  
- 13 Page 17, line 18:
- 14 Delete "sec. 26"
- 15 Insert "sec. 25"

~~WJD~~

AMENDMENT #23

OFFERED IN THE HOUSE

TO: CSHB 158(JUD)

Brown

1 Page 1, line 2:

2 Delete "amending Alaska Rule of Evidence 702;"

3 Page 2, lines 14 - 17:

4 Delete all material.

failed

5 Renumber the following paragraphs accordingly.

6 Page 13, line 7, through page 14, line 21:

7 Delete all material.

8 Renumber the following bill sections accordingly.

9 Page 17, lines 13 - 17:

10 Delete all material.

11 Renumber the following bill sections accordingly.

12 Page 17, line 18:

13 Delete "sec. 26"

14 Insert "sec. 24"

AMENDMENT#24

W/D

OFFERED IN THE HOUSE  
TO: CSHB 158(JUD)

Brown

- 1 Page 2, lines 5 - 7:
- 2 Delete all material.
  
- 3 Renumber the following paragraphs accordingly.
  
- 4 Page 4, lines 5 - 6:
- 5 Delete all material.
  
- 6 Renumber the following paragraphs accordingly.
  
- 7 Page 14, line 29, through page 15, line 27:
- 8 Delete all material.
  
- 9 Renumber the following bill sections accordingly.
  
- 10 Page 17, line 18:
- 11 Delete "sec. 26"
- 12 Insert "sec. 25"

*failed*  
*3-6*

AMENDMENT #25

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 158(JUD)

1 Page 17, line 26:

2 Delete "This Act takes effect July 1, 1995."

3 Insert "This Act takes effect only if, on or before December 31, 1999, the director of  
4 the division of insurance certifies to the lieutenant governor and the revisor of statutes that  
5 the liability insurance rates filed with the division of insurance have been reduced by at least  
6 20 percent from those filed on January 1, 1995. In this section, "liability insurance" means  
7 insurance described under AS 21.12.070(a)(2).

8 \* Sec. 37. If the condition described in sec. 36 of this Act is fulfilled, this Act takes effect  
9 30 days after the date of the certification described in sec. 36 of this Act."

AMENDMENT #34

Adopted

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 158(JUL)

Page 11, line 17-27:

Delete all material.

Renumber following sections.

W/D

Amendment CSHB 158 (Jud) #27

By Brown

page 4, line 18

after "for" insert "birth-related"

page 4, line 21

after first "the" insert "birth-related"

page 4, line 24

after second "the" insert "birth-related"

page 4 line 27

after "the" insert "birth-related"

AMENDMENT 28

*filed*

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 158(JUD)

Page 7, line 29 after "exceed":

Delete "three times the amount of compensatory damages awarded or \$300,000, whichever amount is greater"

Insert "\$5,000,000,000"

AMENDMENT

*Brown*

*29*

*failed*

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 158(JUD)

Page 4, line 15 through page 5, line 15:

Delete all material.

Insert a new section to read:

*\*\**Sec. 2. AS 09.10.055 is repealed and reenacted to read:

Sec. 09.10.055. STATUTE OF REPOSE OF EIGHT YEARS. (a)

Notwithstanding the disability of minority described under AS 09.10.140(a), a person may not bring an action for a birth related personal injury or death unless commenced within eight years of the birth or the last act alleged to have caused the birth related injury or death.

(b) This section does not apply if

(1) the birth related personal injury or death resulted from

(A) exposure to a hazardous substance; or

(B) an intentional act or gross negligence; or

(2) facts that would give notice of a potential cause of action are intentionally concealed.

(c) The limitation imposed under (a) of this section is tolled during any period in which there exists the undiscovered presence of a foreign

body, that has no therapeutic or diagnostic purpose or effect, in the body of the injured person and the action is based on the presence of the foreign body."

Conceptional Amendment adopt

after "party" insert "Other than an attorney  
Or law firm Representing  
A person in  
The case."

ROLL CALL  
HOUSE FINANCE COMMITTEE

MEETING OF \_\_\_\_\_

SUBJECT \_\_\_\_\_

Pg 14, line 7

MEMBER	YES	NO
PARNELL	7	
THERRIAULT		
BROWN		
GRUSSENDORF		
KELLY		
KOHRING		
MARTIN		
MULDER		
NAVARRE		
FOSTER		
HANLEY		

TOTAL \_\_\_\_\_

PASSED: \_\_\_\_\_

FAILED: \_\_\_\_\_

Section 18

PREJUDGMENT INTEREST

Section 18 of HB 158 changes the interest rate on judgments from 10.5% to a floating rate set 3% above the Federal Reserve discount rate. This is an attempt by insurance companies to secure a windfall at the expense of injured persons who are forced to litigate in order to be compensated for their injuries.

A prudent investor can earn substantially more on an investment than 3% above the federal discount rate. The proposed legislation gives insurance companies an incentive to delay litigation and to delay paying valid claims. After all, interest is owed only on claims a court and jury have determined are meritorious. Delays are particularly unfair to injured plaintiffs who usually do not have great resources and often must wait years to be compensated for their injuries. This legislation makes it pay for insurance companies to delay settling litigation. As a consequence, the proposed change will tend to increase and delay, rather than decrease and shorten, litigation.

A floating interest rate is not in itself unfair, although it may cause additional administrative burdens. But the rate proposed in HB 158 is plainly unfair. The State of Alaska receives interest for delinquent taxes at a rate set 5% above the Federal Reserve rate or 11%, whichever is higher. AS 43.05.225. The state pays interest on tax overpayments at the same rate. AS 43.05.280. Injured plaintiffs should be treated comparably.

c:\hb158\sec18

Fed Reserve - 5.25 as of  
5.00  
10.25 March 2.

Amendments

- ① 5% above <sup>Fed</sup> Reserve Rate or 11%,  
whichever is higher
- ② ~~Leave at 10.5% a year~~  
as statute currently stands

The bill gives defendants every incentive to accuse peripherally involved people. Reputations will be smeared in court by defendants, with no chance for the person behind the empty chair to respond. The average duration of jury trials will increase, as the truth finding quality of those trials degrades.

Alaskan workers will be especially disadvantaged by this change. Now, the workers' compensation law gives employers immunity from civil suit, and no fault can be allocated to them. The bill maintains employer immunity, but burdens the worker with the employer's fault. In every case where a worker is hurt, the defense will criticize the employer in absentia, alleging inadequate safety rules, insufficient procedural manuals, lack of inspection and supervision, failure to buy modern equipment, to train employees, and the like. The employer will have no reason to defend its conduct since the employer is immune and is not obligated to pay its share of the fault. Yet, every bit of fault the jury ascribes to the absent and unrepresented employer will directly diminish the injured worker's verdict.

These provisions are the real sleepers of the bill. Wrapped in dry, technical prose is a radical transformation of jury trials, so that much of the trial is about people and companies who are not present in the courtroom. Not only victims will be hurt; taxpayers will pay for longer trials. Individuals and companies will be publicly pilloried and defamed without a chance to respond. Much of the fairness built into our system as we have known it since statehood will be abandoned.

#### A REWARD FOR STALLING SECTION 16

Section 16 deals with a partial settlement of a case between a victim and one of several wrongdoers. It is poorly drafted. If it is interpreted to mean that a partial settlement is deducted from the jury award, and that the remaining defendant's percentage of fault is then applied to that reduced number, it becomes mathematically impossible for the plaintiff to fully recover, unless the jury finds the remaining defendant 100% at fault.

Under current law, a defendant who goes to trial pays his percentage of the fault as

found by the jury. It may be that the muddled drafting of this section seeks to change that by crediting to such a defendant any overpayment by a settling defendant. Such a provision allocates to victims all of the risks, and none of the benefits, of pretrial settlements. A victim can only break even or lose by a partial pretrial settlement. A defendant can only break even or win by failing to settle. Settlement is discouraged, and stalling is encouraged. This proposal will increase the cost of litigation by discouraging pretrial settlement.

CONFISCATION OF THE HOMES  
AND SAVINGS OF VICTIMS  
SECTION 17

The current "Offer of Judgment" rule is a procedural device to encourage pretrial settlement by giving a moderate reward to one who makes an offer, and after rejection does better at trial. House Bill 158 raises the stakes exponentially, by increasing the price of misjudgment to an intolerable level: full costs and attorney fees to the person making the offer.

This provision is breathtaking in its scope and ferocity. Not only will the victim who loses at trial pay the defendant's entire attorney fee and all costs. Also, the victim who wins at trial, but guesses wrong about the size of the verdict, will pay just as if he had lost. The victim pays if he loses; the victim pays if he wins.

Suppose an accident victim suffers a broken back, is in the hospital a long time, and has one hundred thousand dollars in medical bills. His lawyer researches other jury verdicts, and concludes the case is worth two hundred fifty thousand dollars. The defendant made an early offer of judgment of \$125,000, only twenty five thousand above the medical bills. The jury awards \$120,000. Now the victim must pay attorney fees and costs, which could easily wipe out the entire judgment. The defendant, proven guilty before a jury, goes scott free. The accident victim is stuck with \$100,000 in medical bills he can't pay. Doctors, hospitals and the State of Alaska will therefore have to subsidize this benefit to the wrongdoer.

This example is a simple one. A case may have multiple defendants, each making an offer of judgment. If the plaintiff guesses wrong on any of the offers, he can be wiped out,

Sections 21-22, 31-32

Medical Expert Witnesses

Section 21 actually amends Alaska Rule of Evidence 702 which embodies our Frve Rule. This will more than likely be interpreted by the Alaska Supreme Court as being modified to accommodate the Daubert decision recently cited by the Supreme Court of the United States. The rule is foundational in nature and allows the court to make a preliminary finding as to the qualifications and scope of testimony of an expert witness. What is important is that it apparently preempts the traditional role of the trial court regarding foundational acceptability of an expert witness and usurps the rule's intent by specifically limiting the court's ability to determine whether or not an expert witness can testify on a given issue. This is extremely problematic and invasive. While there are questions as to the constitutionality of this section, to pass it (at least 9.55.551) should require a 2/3 vote by the Legislature. Moreover, it allows the Medical Board the ultimate decision in permitting expert witnesses to testify. This will invite significant litigation.

Section 21, 9.55.551

Medical Expert Witness Qualification

Regarding specific provisions of proposed 9.55.551, it is obvious that the Legislature is attempting to sharply limit the witness pool available to plaintiff malpractice litigants.

(1) This has traditionally been left to the court on a foundational basis to determine whether or not a particular doctor can testify as to a particular area of practice. The court routinely disqualifies medical experts who have not practiced in a given area, or even if qualified, have not sufficiently demonstrated a causative link between a disease process and an alleged negligent act, be it exposure or otherwise. This provision, if passed, would prohibit (to a large extent) family practitioners (for instance) from testifying against a cardiologist even if a cardiologist's negligence involves an area well known to the family practitioner. There are countless other examples where the courts have traditionally allowed cross-over testimony in other areas of expertise which overlapped or where it is demonstrated foundationally that the doctor in question (be it general practitioner or otherwise) is otherwise qualified to render an opinion regarding standard of care on a particular issue. This section will sharply curtail the ability of plaintiff's attorneys to retain qualified experts in even the most routine of matters unless they are certified in the same discipline or school of the offending doctor.

In actual practice, from the cases I have reviewed, this is totally unnecessary. As stated above, the courts generally handle this

matter by excluding testimony on a foundational basis if the testifying expert is not qualified to render the opinion in the first place. Second, most experienced litigants will attempt to match up (to the extent possible) board certifications with similar experts. The point is, however, that some types of negligence are in areas of basic medical science which do not require retaining the services of an orthopedic surgeon, cardiologist or oncologist, etc. Example, some cases, a G.P. can render an opinion on basic issues involving failure to diagnose cancer, heart disease, etc. although ordinarily involving the expertise of a board certified physician.

(2) This somewhat overlaps but basically allows the state medical board rather than the court to determine whether or not an individual expert witness possesses the requisite expertise and training related to the subject matter before the court.

(3) From a practice stand point, this is the most problematic section. Not only does it substantially alter evidentiary rule 702 from a foundational stand point, it effectively eliminates the most significant pool of expert witnesses available to plaintiff litigants. That is, it eliminates retired professors of medicine and practitioners for absolutely no reason whatsoever. Medical doctors in this category have traditionally been the most accessible source of expert witnesses on behalf of plaintiffs. Given the tremendous peer pressure brought to bear on physicians who testify on behalf of plaintiffs, it is this pool of experts who are less likely to be intimidated by medical professionals engaged in active practice.

This section is absolutely ludicrous and there is no scientific basis for precluding these witnesses or setting an arbitrary period of one year from the date of retirement. It is seriously questionable whether or not this section could withstand Constitutional scrutiny and it would be interesting to compare this provision with the Supreme Court of the United States foundational decision in Daubert.

Section 21, 9.55.552

#### Medical Board Oversight of Medical Expert Witnesses

Section 9.55.552 could have the effect of eliminating any medical doctor from testifying in a medical malpractice case in Alaska. It effectively places an out-of-state doctor in the hands of the state medical board. That is, he would be subject to disciplinary actions under 8.64.326 by board sensitive to local medical practitioners. Section 8.64, along with its licensing and regulatory powers, could be used to effectively intimidate any expert witness from testifying against a local doctor. Once again, the purpose of this section is to sharply limit the pool of available experts and in this case, to intimidate expert witnesses from testifying by subjecting them to disciplinary sanctions under the board authority. A cursory review of 8.64 by a prospective