10 HJ: FILE NO. 3 - FILE NO. 4

Items A.2., A.3., A.4. and A.5. refer to exemptions of other personal property. If the writ of execution specifies any of these items, check the appropriate places on the form.

Item B. is for exemption of money paid to you as child support under a court order. If the writ of execution is against any money you have recieved for child support, under a court order, whether you have the money or it is in a bank, this item should be checked.

Item D. is your homestead exemption. If the writ of exeuction states that the place where you live, and which you or a member of your family owns, is to be attached, this item should be checked.

Item E. should be checked if the writ of execution is directed to any money you have received as unemployment benefits in Alaska. This may only be used if the money has been kept separate from your other money.

Item F. should be checked if the writ of execution is directed to money you have received as an award for Workmen's Compensation in Alaska, even if you have put it in the bank.

Item G. includes various exemptions you are allowed under Federal law. If the writ of execution states that any money is to be attached and you got the money from a Federal pension, soldier's bonus, railroad retirement or soldier's savings, this item should be checked.

ATTORNEY FOR PLAINTIFF

SAMPLE EXEMPTION FORM

IN THE ______________ COURT OF THE STATE OF ALASKA

_____________________JUDICIAL DISTRICT

Plaintiff,

v.

Defendant.

No. __________

ASSERTION OF EXEMPTION

Notice of execution was received by me _______________ _____________________________on ______________________ _______________, 19__. Of the property specified in the notice for which execution is sought, exemption is claimed to the following extent, and by the following authority:

A. A.S. 9.35.080

( ) 1. In the past 30 days I have earned $_____________, after taxes, from all sources. I therefore claim as exempt the sum of $_________. (In a thirty day period, you are entitled to $200 as a single person, $350 as head of a household. It doesn't matter if you haven't been paid yet.)

( ) 2. Books, pictures and musical instruments up to $300.00 in value.

( ) 3. Clothing for the use of the family, or watches and jewelry to $200.00 in value.

( ) 4. Tools, equipment or vehicles used in earning a living, up to $1800.00 in value.

( ) 5. Furniture, household goods, utensils or animals used by family, to $12000.00 in value.

B. A.S. 9.35.085

( ) The sum of $__________ which was paid to me under order of court as child support. The child support case is No. ______________.

C. A.S. 9.35.087

( ) A liquor license owned by me.

D. A.S. 9.35.090

( ) The home owned by a member of the family, to the value of $8000.00, consisting of up to 160 acres if outside a city or town, or up to 1/4 acre if within a city or town.

E. A.S. 23.20.405

( ) The sum of $_____________ received by me as a benefit under the Alaska Employment Security Act, (unemployment payments), which sum has been kept separate from any other funds.

F. A.S. 23.30.160

( ) The sum of $_____________ received by me as a payment of Compensation under the Alaska Workmen's Compensation Act.

G. Federal exemptions.

( ) Under Federal law, the sum of $____________,
exempt as __________________________________.
(Exemptions allowed are <u>pension money</u> - 38 USC 454a; <u>soldier's bonus</u> - 38 USC 618, 686c; <u>homestead</u> 43 USC 175; <u>railroad retirement</u> - 45 USC 228 a-y; <u>soldier's savings</u> - 10 USC 906.)

The claim which gave rise to this execution notice is not based on the purchase price of any property claimed as exempt under Items A(2), A(3), A(4) or A(5).

The above statements of indicated exemptions are correct and valid to the best of my knowledge.

DATED at ________________________________, Alaska, this _______ day of ____________________________, 19____.

____

Return to ~~~ HB 373

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S—JUNEAU 99801

April 20, 1970

The Honorable Barry Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Juneau, Alaska 99801

Re: CSHB 373 - An Act Relating to Political Campaigns

Dear Representative Jackson:

Pursuant to a request by Commissioner Tom Downes, Department of Administration, I am setting forth below a fiscal note concerning the cost to the state treasury of CSHB 373.

We are unable to ascertain exactly the cost on the state treasury of CSHB 373. However, it is our opinion that it could cost the state $3,193,000 during the fiscal year 1970-71, and the cost could be much larger. The figure of $3,193,000 is arrived at by multiplying the estimated 127,720 returns by $25.

We wish to point out the following problems raised by section 4 of CSHB 373 beginning on line 21 of page 9 of the bill.

1. The bill provides that contributions to political candidates will be credited against one's taxes. They would not be an itemized deduction. A person who receives a credit against the tax for taxes withheld from wages results in dollars taken from the state treasury. Since the bill does not provide that the credit is limited by the amount of tax one might owe, we assume that the person will be entitled to a refund of $25 regardless of whether there is any tax due. For example, a person may have income of $10,000 but exemptions and credits totaling $11,000. Accordingly he would have no tax liability even though taxes might have been withheld. However, section 4 of CSHB 373 provides that he will have a credit if he makes a political contribution. Accordingly, the taxpayer would look for a refund of the $25 along with any tax that might have been withheld to which he might be entitled to have refunded.

2. AS 43.20.030(e) provides in part as follows:

> "When a refund is allowed to a taxpayer, it shall be paid out of the general fund by a warrant issued under a voucher approved by the department."

It is one thing to refund an overpayment of tax and another thing to make a payment out of the state treasury of $25 per person which is not a refund of tax. The latter payment would appear to be a payment which must be appropriated by the legislature and such expenditures would have to be for a public purpose. Is a candidate's expenditures a public purpose?

3. The estimated cost to the state of $3,193,000 is based upon the estimated number of returns that will be filed for the calendar year 1970. Over half of these returns are joint returns. Section 4 of CSHB 373 does not indicate whether only one spouse could take a credit. We assume that both spouses would be entitled to take the credit. If so the cost to the treasury would be $4,789,500 if all taxpayers having a return took a credit of $25 each for contributions made.

4. There is some question from section 4 of CSHB 373 whether the person filing a return is limited to a credit of only $25 regardless of the amount contributed and the number of candidates to whom contributions were made. This should be made clear. (For instance a taxpayer could make $25 contribution to each of 50 candidates. Is he limited to a credit of $25 or is he entitled to a credit of $1,500?)

5. Although the intent of the drafters of CSHB 373 may have been to provide a taxpayer with a credit for contributions made, we wish to point out that the bill provides a method whereby a large contributor can contribute to several candidates and at the expense of the state treasury rather than his own. This could be done by a person loaning funds to many of his friends to contribute to candidates. The friends could claim a refund through the credit and pay him back part or all of the amounts advanced when the refunds are recieved.

If section 4 of CSHB 373 is to remain in the bill it is suggested that it be revised to make clear the following factors.

a. The total amount of credit which may be received by a taxpayer.

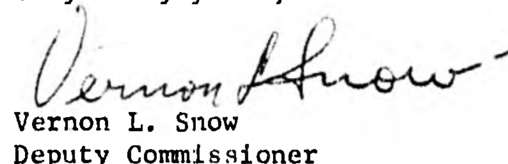
b. Whether a taxpayer is entitled to a refund of the credit even though he owes the state no taxes for the year. That is would the funds come out of the state treasury.

c. Whether taxpayers filing joint returns are limited to the same credit as a single taxpayer or married taxpayers filing separate returns receive or whether they are entitled to twice that amount.

d. It is suggested that section 4 of CSHB 373 be set up as a separate section or a subsection of AS 43.20.180 rather than be mixed with the withholding of taxes from wages as it now is.

If you have any questions please advise.

Very truly yours,



Vernon L. Snow
Deputy Commissioner

VLS/ge
Enclosure: Copy of CSHB 373
cc: Commissioner Tom Downes w/enclosure
John Beard w/enclosure
Vance Phillips w/enclosure
Bill Ray w/enclosure
Charles Pyles; R. D. Stevenson w/enclosure

FORM SA-1B

MEMORANDUM

State of Alaska

TO:

Representative Barry Jackson
House Judiciary Committee
Alaska State Legislature

DATE: April 14, 1970

FROM:

Thelma Cutler
Director of Elections

SUBJECT: CS for HB 373

Enclosed is a copy of a memo and the fiscal note which I had prepared for the CS for HB 373.

I would be happy to appear before your committee to answer any additional questions that you may have.

FORM SA-1B
125.5M 8/67

MEMORANDUM

State of Alaska

TO:

Robert W. Ward
Secretary of State

DATE : March 4, 1970

FROM:

Thelma Cutler
Director of Elections

SUBJECT: Voter Pamphlet

Yesterday you requested that I develop some information and cost estimates on the preparation of a voter pamphlet as outlined in CSHB 373. The following figures are very rough estimates, made with the help of Jack Cucker, Miner Publishing Company and Bill James of the Southeast Alaska Empire:

The Empire has given us a figure of $50,000.00 per 100M copies including stitching and turning based on approximately 70 pages (7" x 10-1/2"). Additional costs would be postage on a bulk mailing approximately $4,000.00. Machine time and materials for labels, $1,000.00 and rental of a label application machine (if at all available), $500.00.

Possible return to the state on cost per page assuming all candidates pick the minimum of one page would be $4,400.00.

The following outlines the minimum quantity per district necessary plus combines districts so that five variations of the pamphlet could be mailed statewide:

District	Pamphlet	Quantity
1	1	5,000
2		2.500
3		3,000
4		6,000
5		1,750
6	2	2,250
7		2,750
9		1,200
10		4,750
11		2,500
12		1,100
8	3	35,000

District	Pamphlet	Quantity
13	4	1,500
14		2,500
15		2,500
17		2,000
18		2,250
19		1,250
16	5	15,000

Estimates of pages to be included in the pamphlet:

Amount	Candidates
6	3 each political parties
4	2 measures
16	Bonding
1	Table of contents and index
2	Governor
2	Secretary of State
2	U. S. Senators
2	U. S. Representatives
4-6	State Senator
10-14	Representative
2	Cover
10	Pages of measures text and voter information (election district map and absentee voting information and request form).

SA-13
State of Alaska
Dept. of Administration
Budget & Management Div.
(Rev. 8/69)

DETAIL OF PERSONAL SERVICES

For the Fiscal Year Ending June 30, 1971

Department ____________
Division ____________
Program ____________

	68-69	69-70 Auth.			1970-1971 ESTIMATED													
					Dept. Request				Gov. Allowance			Legis. Allow.						
CLASSIFICATION TITLE (1)	PCN (2)	Pay Rge (3)	Mo. Sal. (4)	Annual Amount (5)	No. Pos (6)	No. Mo. (7)	Annual Amount (8)	No. Pos. (9)	No. Mo. (10)	Annual Amount (11)	Increase (Decrease) (12)	No. Pos. (13)	No. Mo. (14)	Annual Amount (15)	No. Pos. (16)	No. Mo. (17)	Annual Amount (18)
1 Juneau - Anch.																	
2 Clerk IV		11	680					1	3	2040	2040						
3																	
4 Benefits																	
5 6%											12[illegible]						
6																	
7																	
8																	
9											216[illegible]						
10																	
11																	
12																	
13																	
14																	
15																	
16																	
17																	
18																	
19																	
20																	
21																	
22																	
23																	
24																	
25																	
26																	
Outstanding Enc. (Col. 5)																	
SUMMARY																	
Permanent-Full-time Positions																	
Permanent-Part-time Positions																	
Temporary (Full Time Equivalent)																	
No. Man Months																	
TOTAL ANNUAL AMOUNT																	

The Legislature of the State of Alaska
FISCAL NOTE

COPIES: ___THE CHAIRMAN OF THE COMMITTEE MAKING THE REQUEST
___THE HOUSE FINANCE COMMITTEE STAFF
___THE SENATE FINANCE COMMITTEE STAFF
___THE DIVISION OF BUDGET & MANAGEMENT
___RETAIN A COPY FOR YOUR FILES

Subject CS HB 373 SB ______
requested by Judiciary committee
referred to ______ date of request ______
completion date requested ______ date received ______

EXPENDITURE DETAIL	FY 1971	FY	FY
100 PERSONAL SERVICES	$ 2,162.00	$	$
200 TRAVEL			
300 CONTRACTUAL SERVICES	55,000.00		
400 COMMODITIES			
500 EQUIPMENT	~~500.00~~		
600 LAND AND STRUCTURES			
700 GRANTS, CLAIMS & SHARED REVENUE			
TOTAL	$ 57,662.00	$	$

FUNDING DETAIL			
FEDERAL RECEIPTS	$	$	$
SPECIAL FUNDS			
UNRESTRICTED GENERAL FUND RECEIPTS	5,000.00		
Man Months			
Permanent Positions			
Temporary Positions	Three		

FISCAL ANALYSIS

The cost analysis on CSHB 373 is for the Division of Elections, Office of the Governor, and does not contain any estimates for loss of revenue to the state or additional man hours required by the Department of Revenue.

1 Clerk V for 3 months (temporary)	$ 2,162.00
100M printing (voter pamphlet)	50,000,00
Postage	4,000.00
Machine time & materials for labels	1,000.00
Rental of label application machine (if available)	500.00

Judiciary Committee Report

on

CS for HOUSE BILL NO. 373

This bill represents an effort to reduce and equalise the cost of conducting a campaign for the legislature in Alaska. A subsidiary aim is to reduce the influence of special interest groups.

The first area of the bill limits the amount a candidate can spend for media advertising and limits the amount of a contribution from any one person to less than $500.

The next portion of the bill provides for the publication, at State expense, of a Candidate Pamphlet, in which each candidate for office is allocated a page to tell his story. Each voter would receive a copy of the pamphlet at no cost, and this should substantially eliminate the necessity for the publication of brochures, position papers, and similar material. The bill also provides for the publication of a voter pamphlet, which may be combined with the candidate pamphlet, giving the pros and cons on each initiative, referendum, or other issue to be voted on at the particular election.

Finally, the bill provides that each state income tax payer may take a tax credit for any amount up to $25 contributed to candidates for office in Alaska. The intention here is to encourage widespread small contributions to political campaigns, rather than leaving the candidate dependent upon a few "fat cats". Various provisions of the bill have been modeled on similar provisions of federal law, or the laws of other states.

Barry W. Jackson
Chairman
House Judiciary Committee

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

JUNEAU
ALASKA 99801

March 3, 1970

Barry,

The CS for HB 373 is attached. On the first page, I made that first section applicable to special elections, too. (They would only be held for a senate vacancy; see AS 15.40.380.) On the last page, sec. 4 does not apply to judicial office; I seem to recall that this was the committee's wish, but I'm not sure why (other than the fact that the judges don't usually "campaign" for themselves).

A.
Art

File
HB 406

939 Riverview Drive
Fairbanks, Alaska
February 6, 1970

Senator Barry Jackson
Juneau, Alaska

Dear Mr. Jackson,

Since drinking alcohol, and voting, and being pharmacist, or a State Trooper are such different activities, they have very different implications and requirements of preparation, and judgment.

It therefore does not seem logical to assume that 19 is the best age to choose for all these. Reference is made particularly to State Troopers being 19. It would seem very unlikely that they would have sufficient experience by that time to back up the good judgment and finesse expected as prerequisite of a Trooper.

I would appreciate your forwarding copy of proposed bill if available.

Thanking you, I am

Sincerely,

Louise C. Hollister

(Mrs.) Louise Hollister

Certain catchy phrases in the language sometimes seem to demand more attention than their logic deserves.

HB 406

ALASKA
STATE LEGISLATURE

LEGISLATIVE COUNCIL

BOX 2199-JUNEAU

File

March 10, 1970

Barry,

The final draft of the Jud. CS for HB 406 is attached, as is a committee report and sectional analysis. A review of the "Law and Age" study shows the following points not covered in the bill:

District judges and magistrates (21) -- AS 22.15.160;

Alaska Employment Security Act -- def. of "employment " (21) -- AS 23.20.525(c)(10);

Real Estate Commission (26) -- AS 08.88.041;

Fraternal benefit society benefits (21) -- AS 21.84.210.

You may or may not wish to include amendment of these provisions in the bill.

I do not
Brw

A.
Art

P. S. You will also find attached a work copy of the bill showing changes the Jud. CS makes in the H, W & E CS.

3/10/70

JUDICIARY COMMITTEE REPORT

ON

CS FOR HOUSE BILL NO. 406

This bill emanates from the December 1966 report prepared by the Legislative Affairs Agency, entitled "The Law and Age in Alaska". In suggesting a review and revision of many of the laws relating to age, the author of that report states: "Special attention should be given to the areas where a distinction is made between a minor and an adult. One glaring oversight recurs in those laws which simply overlook the fact that in Alaska the age of majority is age 19 (AS 25.20.010) and that the state constitution (Art. V, Sec. 1) establishes age 19 as the voting age. AS 25.20.010 is derived from Sec. 20-1-1, ACLA 1949, as amended in 1959. Prior to 1959 the legal age was age 21. Consequently, the pre-1959 legislation which has not been revised to reflect the new standard is inconsistent with it. Moreover, some of the post-1959 legislation appears to be based on the erroneous assumption that age 21 was still the determining age."

The bill attempts to remove the legal uncertainties and inconsistencies leading to anomalies such as the following one mentioned by the author of that report: "In Alaska, a 20-year old borough assemblyman or city councilman who may incorporate a cooperative, devise by will, convey land, and donate his eyes to a hospital, must have the written consent of his parents to get married." The bill attempts to accomplish this clarification by making all specifications of age which appear to be based on the adult/minor distinction a consistent 19, and by deleting age specifications considered to be unnecessary. The age requirements for the governor (Alaska Constitution, Art. III, Sec. 2), the secretary of state (Ak. Const., Art. III, Sec. 7), legislators (Ak. Const., Art. II, Sec. 2; AS 24.05.030), and district judges and magistrates (AS 22.15.160) are not changed by the bill. The differences between the committee substitute proposed by the Judiciary Committee and the one proposed by the Health, Welfare and Education Committee are set out below.

Sectional analysis.

Sections 1 and 2 deal with the citizen consent required for the issuance of a liquor license. Since 19-year olds may vote and sign petitions for initiative and referendum, etc., it is appropriate that they be permitted to register their opinion as to the issuance of a liquor license.

Section 3 provides for persons 19 and 20 years old to share in the responsibility of jury duty.

Section 4 allows persons 19 and 20 years old to incorporate business corporations. They are presently allowed to incorporate cooperatives (see AS 10.15.335).

Sections 5, 6, 7 and 8 lower the age requirement for, respectively, special police officers who meet other requirements, insurance brokers and agents, insurance adjusters, and persons authorized to serve subpoenas.

Section 9 allows men who have reached the age of majority to get married without their parents' consent. The Judiciary Committee substitute provides equal treatment for women on this point, by raising the age from 18 to 19.

Sections 10 and 11 make the poll tax provisions in the chapters dealing, respectively, with first and second class cities apply to persons 19 and 20 years old as well as older persons.

Sections 12 - 17 correct provisions relating to the handling of minors by the court and the Department of Health and Welfare. These provisions presently contain phrases such as "the day the minor becomes 21", which are ambiguous. Under existing law a person is no longer a "minor" when he reaches 19 years of age, and the statutes being amended in these sections could be simply overlooking that fact; however, the statutes could mean that supervision over the person who was a minor when originally dealt with by the court may continue for two years after he reaches his adulthood. The bill removes this ambiguity by specifying age 19 and providing for an additional year of supervision when approved by the court for persons who have not responded to treatment during their minority. Section 12 of the Judiciary Committee substitute corrects a typographical error which occurred in the earlier substitute: on page 3, line 14, the "19" should be underlined. In Section 17, a reference to "a child in need of supervision" has been included to take into account the provisions of FCCSSB 76, which was adopted by the Senate on February 26, 1970 and by the House on March 6, 1970.

Sections 18 - 24 deal with the sale of alcoholic beverages by and to persons 19 and 20 years old, thus bringing these statutes in line with the duties and responsibilities imposed upon and assumed by persons of that age. The Judiciary Committee substitute changes sections 20 and 24 to make them conform to CSHB 586, which passed the House on March 5, 1970, as well as to other amendments in this CSHB 406.

Section 25 repeals minimum occupational age requirements which are unnecessary, as follows: law (AS 08.08.130(2)), basic sciences (AS 08.-16.140(1)), chiropractic (AS 08.20.120(1)), dentistry (AS 08.36.110(1)), physical therapy (AS 08.84.030(1)), real estate brokers and associate brokers (AS 08.88.211(a)(3)), and veterinary medicine (AS 08.98.170(2)). The Judiciary Committee substitute adds a repealer of three subsections (AS 21.42.080(b), (c) and (d)) dealing with insurance contracts; these three subsections refer to "a minor of the age of 19 years or more": since there are no minors over age 19, these three subsections should not have been enacted (as they were, in the 1966 revision of AS 21).

Barry W. Jackson, Chairman

HB-398

March 11, 1970

Mr. Nissel A. Rose
Attorney at Law
913 West Sixth Avenue
Anchorage, Alaska 99501

Dear Mr. Rose:

Thank you for your letter of March 4 regarding HB-398 (administrative adjudication hearings).

Upon consideration of that letter, the House Judiciary Committee has decided to defer action on HB-398 and is asking the Legislative Affairs Agency to correspond with you and the Department of Law in the preparation of a somewhat more comprehensive revision of the adjudication provisions of the APA.

The staff work on this will have to be done between legislative sessions. Presumably, a new bill could be ready for introduction next session.

Sincerely,

Barry W. Jackson, Chairman
House Judiciary Committee

cc: John M. Elliott, Exec. Dir.
Legislative Affairs Agency

Thomas M. Wardell
Deputy Attorney General

BWJ/mm

NISSEL A. ROSE
ATTORNEY AT LAW

913 W. 6TH AVENUE
ANCHORAGE, ALASKA 99501
PHONE: 272-1181

Xerox 10 copies for Mar 7

March 4, 1970

Honorable Barry W. Jackson, Chairman
House Judiciary Committee
Box 5
Juneau, Alaska 99801

Dear Mr. Jackson:

Thank you for your letter of February 25, 1970, concerning House Bill No. 398 "An Act relating to administrative adjudication hearings under the Administrative Procedure Act". As of the time of this writing, neither the Administrative Law Committee of the Alaska Bar Association or a member of it has prepared to take on the task of research and preparation of the bill as suggested by your letter. You indicate that neither the members of the Judiciary Committee nor the committee's staff counsel would have the time to research and prepare such a bill. The problem of time is just as much a pressing one for the members of the Alaska Bar Association who must attend to their law practice. Our Administrative Law Committee has expressed a willingness to cooperate with the Lesiglature, or any of its committees, or the Legislative Affairs Agency, but not to undertake the task of actually drafting the legislation. Our committee met on various occasions in 1969 and submitted reports which were forwarded to the Bar Association and to the Legislature and, again on January 24, 1970, relative to House Bill 398. Every member present had read HB 398 and over a half hour of discussion was taken up at the outset of that meeting before it was finally decided simply to set HB 398 aside and make positive recommendations for action.

AS 44.62.360 provides for verification whereas this outmoded and cumbersome tool has been discarded in nearly all of our court practice. Counsel is guided by the cannons of ethics concerning the filing of any pleadings on behalf of a client, and there ought to be no requirement for having the client come into the office for the purpose of signing a verification. The accusation may be filed by a third party, but under (3), may be by a public officer acting in his official capacity or by an employee of the agency. The memorandum of March 17, 1969, states that the bill proposes distinction based upon who initiates the proceedings, but AS 44.62.360(3) still provides for a public officer or an

employee of the agency making an accusation. That is not too different from the statement of issues provided by AS 44.62.370 inasmuchas an agency cannot act except through a public officer or an employee.

HB 398 provides for a hearing requested by the applicant under AS 44.62.375. That hearing appears to be in the nature of an appeal from a denial or a determination, revocation, suspension, limitation or condition. The procedure apparently ignores proceedings such as those held before the Public Service Commission or the Alaska Transportation Commission where notice to interested parties and hearing precede action by the agency.

The accusation prosecuted by a third party is remindful of private prosecution in a criminal matter when the District Attorney's Office refuses or is unable to act. The difference appears to be that when a third party feels that action ought to be taken against an applicant or the holder of some authority or right, the expense and responsibility of prosecuting the action seems to be placed upon the third party rather than upon the agency charged with enforcement. It seems that once an agency has been made aware of violations or irregularities, perhaps under sworn statement, it should then be incumbent upon the agency to initiate either investigation or prosecution, otherwise, the prosecution and enforcement become the job and responsibility of the public and not of the agency charged with it.

The service of process provided by AS 44.62.380(c) is vague and dangerous for the protection of the rights of persons affected in that it provides that the accusation and all accompanying information may be sent to the respondent by any means selected by the agency.

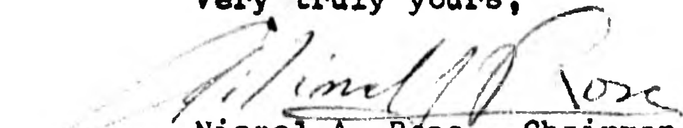
When summary action is contemplated under AS 44.62.385 it ought to be in the nature of a Temporary Restraining Order accompanied with an Order to Show Cause why the action should not be continued in effect, as provided by the rules of Civil Procedure for Temporary Restraining Orders.

AS 44.62.390(a) should make it possible for the agency to grant additional time for good cause shown.

The above are not in any way exhaustive comments on the contents of HB 398, but are merely some of the comments raised in the Administrative Law Committee meeting which led to the conclusion that passage of HB 398 would result in an unsatisfactory patch-up job. Instead, it was the committee's unanimous feeling that a comprehensive revamping of the statute must be undertaken.

I regret that the press of business does not permit me to expend the time for a more detailed analysis and commentary of HB 398 at this time.

Very truly yours,



Nissel A. Rose, Chairman
Administrative Law Committee
Alaska Bar Association

NAR:ct
cc: Warren Christianson, President
Mrs. LaFollette, Executive Director
Alaska Bar Association
Tom Wardell, Deputy Attorney General
Shirle Debenham
Members of Administrative Law Committee

February 25, 1970

Mr. Nissel A. Rose
Attorney at Law
913 West Sixth Avenue
Anchorage, Alaska 99501

Dear Mr. Rose:

Your January 29 letter to Stanley Cornelius, with the accompanying report of the January 24, 1970 meeting of the Administrative Law Committee of the Alaska Bar Association, has been distributed to the members of the House Judiciary Committee. The report indicates that your committee considered House Bill No. 398, "An Act relating to administrative adjudication hearings under the Administrative Procedure Act," as not being sufficient revamping of the APA.

While your point is well taken, House Bill 398 deals with a problem that seems to be especially acute. This Bill proposes technical changes that appear to be one reasonable solution to the confusion surrounding and the inadequacy of the APA provisions for "accusations" and "statements of issues". We invite your analytical and critical remarks concerning the various provisions of this Bill.

With regard to the comprehensive revamping you suggest, we have noted the 23 points mentioned in your report and we would suggest that your Administrative Law Committee prepare a bill embodying your suggestions, submitting ti to me or to the Legislative Affairs Agency. Neither the members of the Judiciary Committee, nor the committee's staff counsel would have time to research and prepare such a bill during the legislative session. That is the sort of project that is best accomplished between sessions. As you know, certain members of the staff of the Legislative Affairs Agency have been working on a long-term project revising the Alaska Administrative Code and the Administrative Procedure Act; I know that they would welcome your comments and suggestions regarding any aspect of that project. Hopefully, an appropriate bill can be introduced in the First Session of the Seventh State Legislature.

We appreciate the assistance of you and your committee. Thank you.

Sincerely,

Barry W. Jackson, Chairman
House Judiciary Committee

BWJ:mm

NISSEL A. ROSE
ATTORNEY AT LAW

file

Re HB 398

913 W. 6TH AVENUE
ANCHORAGE, ALASKA 99501
PHONE: 272-1181

29 January 1970

The Honorable Stanley Cornelius
House of Representatives
Juneau, Alaska 99801

Dear Stan:

The enclosed report of the Administrative Law Committee includes our recommendations concerning the adjudicatory aspects of a revised A.P.A. You had asked me for suggested changes to be made. Now you have them. May I hear from you at your earliest convenience?

Sincerely,

Nissel A. Rose

NAR:sfc

Enclosure

REPORT OF THE CHAIRMAN OF THE
ADMINISTRATIVE LAW COMMITTEE

The Administrative Law Committee met regularly on call at the Harbor House on Saturday, January 24, 1970, at 10:00 a.m. The meeting was adjourned at 12:50 p.m. Present were the following: Nissel A. Rose, Chairman, Robert A. Hahn Jr., Andrew E. Hoge and Herbert A. Ross. Mr. Pree had previously advised that he would be unable to attend.

The committee members had been previously furnished by correspondence with the January 2 letter from Thomas M. Wardell, copy of the December 24, 1969 letter from Arthur H. Peterson to Thomas M. Wardell, copy of the March 17, 1969 memorandum from Arthur H. Peterson and Joel F. Bennett to the Legislative Council, and House Bill 398 "An Act Relating to Administrative Adjudication Hearings Under the Administrative Procedure Act."

The committee members were all of the impression or belief that House Bill 398 amounted basically to patching up the existing Administrative Procedures Act instead of revamping it. After a number of analytical, critical remarks concerning various provisions and aspects of House Bill 398, the committee preferred to recommend action along the lines discussed in our previous meetings and reports of 1969 and in the resolution adopted by the Alaska Bar Association Convention at Nome in 1969. The following are recommendations of the committee for items to be included in a revised APA to be adopted in the future:

1. All agencies should be brought under provisions of the Administrative Procedures Act as revised, inasmuch as possible without exception. In this respect, procedures should be established to provide for the various types of administrative matters coming before the panoply of agencies. The present and past tendency of exempting more and more agencies from the applicability of the APA creates a multiplicity of procedures, a lack of uniformity of policies and defeats the original purpose of adopting an APA.

2. All adversary hearings should be presided over by a hearing officer duly qualified as an attorney admitted to practice in Alaska, even when a matter is to be considered by agency head or heads in the first instance, unless the agency member, or one of them, qualifies in all respects as a hearing officer, that is to say an attorney admitted to practice in Alaska, with expertise in the particular administrative field involved.

3. Hearing officers should be removed physically and jurisdictionally from the agencies at whose hearings they

will preside. This feature is similar to the California Plan. For administrative purposes, the hearing officers could be housed under an administrative procedures division of the Department of Revenue since that agency does not hold administrative hearings.

4. Agency staff (as opposed to agency heads such as commissioners) should be made a party to all adversary hearings, participating therein to the extent deemed necessary by the staff. When so participating, the staff would be represented by counsel.

5. Staff counsel who has advised the staff relative to a pending matter or participated therein in any manner must not advise the agency or participate in agency deliberations concerning such matters. When the agency requires legal advise, such should be provided by other counsel appointed for the purpose.

6. Jurisdiction and authority of hearing officers should be clearly delineated, particularly authority to issue subpoenae and subpoenae duces tecum, and means to enforce his lawful orders.

7. A hearing officer should be required to render proposed decisions within a stated limited time such as 90 days from the time a matter is ripe for decision, failure to comply being enforceable by mandatory injunctive proceedings in court.

8. Hearing officers' proposed decisions should become agency actions if not opposed or appealed by a party or changed by the agency, sua sponte, within 30 days from the date of promulgation.

9. For good cause shown, either on application by a party, or because the agency considers it necessary, an agency may consider a matter directly in the first instance, the hearing thereon to be presided over by a hearing officer or qualified member of the agency as provided above.

10. No ex-parte communications should be allowed concerning any pending adversary matter with either the hearing officer or with any agency member without prior notice to the other parties.

11. Throughout these recommendations, the term "agency member" refers to a person such as the head of an agency or a commissioner, in other words, any person who is required to participate in the final decision making.

12. Final administrative determination of any pending adversary matter must be rendered by an agency not later than 6 months from the time when the matter is ripe

for decision making; failure to comply being cause for suspension of pay of the agency members concerned.

13. For those agencies which may be required to issue emergency permits, such should be issuable for not more than 10 days, and renewable for not more than an additional 10 days, for a maximum of 20 days. Such emergency permits should be issued only to meet actual emergencies such as fires, disasters, or the like, emergency permits being distinguished from temporary authority.

14. Temporary authority (such as permit, license, certificate of public convenience and necessity, or any other means of obtaining a right) may be granted without hearing in the first instance, provided that public notice, including notice to interested parties, be provided within 10 days from the date of such application and that opportunity for hearing, even on short notice if necessary, be provided.

15. Hearing officers and agencies should have a choice of a number of means to enforce their orders such as the following:

A. Imposition of Civil sanctions up to $100.00.
B. Consider adversely against the party concerned evidentiary matter which has been ordered produced but has not been so produced.
C. Dismissal of the party's case.
D. Enforcement of orders through mandatory injunctive proceedings and contempt in court.

16. Grant agencies and hearing officers the power to assess costs in limited instances. An example of such an instance is as follows: Applicant appeared at hearing but is not adequately prepared and seeks continuance of the matter so as to make a better presentation. Other parties are present and ready to go. The grant of applicant's request for continuance could be made subject to his payment of costs to the other parties for the wasted appearance. Such could include witness fees, travel costs for witnesses, and the like. It would then be up to the party seeking the continuance to decide between dismissal on the one hand and continuance with payment of costs on the other hand.

17. All proceedings should be recorded magnetically or through any other means adequate for the purpose, so that a transcript can be made therefrom. Transcripts should be provided at the request of any party, the requesting party to pay for the costs of the original to be provided to the agency and of his own copy. Other parties may obtain copies at their cost.

18. Interlocutory appeal or review from any hearing officer action may be had by any party on application within 10 days from such action. Such matters should receive

priority, with agency action thereon to be on the record only and without oral argument and agency determination being made not later than 20 days from the date of the action appealed from, unless additional time is granted by the agency, total time elapsed not to exceed 30 days in any event. Failure to so appeal or seek review should not prevent the raising of the issue before the agency upon conclusion of the case before the hearing officer.

19. Rules of administrative procedure, to include administrative rules of evidence such as the uniform rules or the model code, should be adopted to be applicable to all agencies. Additional implementing procedures may be promulgated by an agency where necessary in the manner provided for the adoption of rules by the APA.

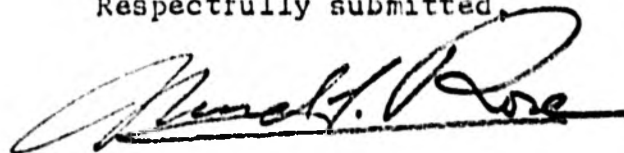
20. Liberal discovery should be allowed.

21. A form of modified procedure should be allowed whereby direct testimony would be provided in writing, distributed to the parties and filed in the record, subject to cross examination at the time of the hearing. This procedure could shorten hearing time considerably.

22. An agency may proceed to a hearing on an Order of Investigation in a manner consistant with these rules and in a manner consistent with this chapter. As with the rules of civil procedure, rules and procedures provided hereunder may be relaxed or dispensed with by a hearing officer or agency where it shall be manifest that a strict adherence to them will work injustice.

In addition to the foregoing, the committee considered the advisability of less formal proceedings in the initial consideration of rates and tariffs handled through a duly qualified rate specialist rather than a hearing officer. No conclusions were reached on this subject, but further recommendations will be made at a future time.

Respectfully submitted,



Nissel A. Rose

cc: All Committee Members

Alaska Bar Association

Warren Christianson

STATE OF ALASKA
THE LEGISLATURE

Jackson work copy

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

March 17, 1969

M E M O R A N D U M

TO: The Legislative Council

FROM: Arthur H. Peterson, Revisor of Statutes
and
Joel F. Bennett, Legislative Counsel

SUBJECT: An Act relating to administrative adjudication hearings under the Administrative Procedure Act. — HB 398

Section 3 is the heart of this bill. It provides clearly for an administrative hearing when requested by an applicant whose application for a right, etc., is denied, or whose existing right, etc., is revoked or suspended. Sections 1 and 2 are the basic companion provisions, and most of the other changes proposed by the bill merely conform the rest of the APA to the new provisions in sections 1 - 3.

Presently the sections of the APA relating to the initiation of hearings are awkward and confusing. There is a distinction between an "accusation" (AS 44.62.360) and a "statement of issues" (AS - 44.62.370) on the basis that the former deals with revoking, suspending, limiting or conditioning a right, etc., while the latter deals with granting, issuing or renewing a right, etc. This distinction is not realistic (in addition to being confusing) because an "accusation" is as appropriate to issuance as it is to revocation, and a "statement of issues" is as appropriate to revocation as it is to issuance. So the bill proposes a distinction based upon who initiates the proceeding (with a third party filing an accusation, and an agency serving a statement of issues) rather than upon the results of the agency action.

In addition, the existing AS 44.62.370(c) allows for a hearing to be requested by the person applying for a right, etc., but does so only in a backhanded manner which is further confused by referring to him as the "respondent". This term and the statement of issues may be appropriate in some cases but are not in others. The bill clarifies this

Section 5 proposes a new provision to protect a person while he is pursuing his administrative and judicial remedies. Section 7 is partly clean-up and partly a change giving a person the opportunity to file an answer to a new charge against him. The first part of section 9 seeks to broaden the APA administrative adjudication notice provision in order to more appropriately handle the variety of proceedings required to be conducted in accordance with the APA.

NO. 4

HB

To Gal
1-23-70

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 414

The present penalty for simple assault and battery is a fine of not more than $500 or imprisonment for not more than six months or both. Recognizing that in the lawful performance of their duties peace officers subject themselves, on behalf of the public, to greater dangers than other citizens, and thus need the protection of a somewhat greater statutory deterrent, this bill increases the penalty for assault and battery on a peace officer to a maximum fine of $1,000 (with a minimum of $100) or maximum imprisonment of one year or both fine and imprisonment. This modification of the penalty for the lesser included offense of simple assault and battery applies, however, only when the officer is acting in the line of duty and gives evidence that he is a peace officer; the bill states that a badge, identification card or uniform is sufficient evidence to identify a peace officer for the purpose of this statute.

Barry W. Jackson, Chairman

FORM SA-1B

HB-430

MEMORANDUM State of Alaska

TO: Honorable Barry Jackson, Chairman
House Judiciary Committee

THRU: Mel J. Personett, Commissioner
Department of Public Safety

DATE : January 21, 1970

FROM: Captain R. L. Burton RLB
Commander, Southeast Region
Alaska State Troopers

SUBJECT: Legislation
House Bill 430
Our File - 150

I have been asked to comment on House Bill 430 which would transfer the responsibility for Search and Rescue to the Department of Public Safety from the District Court System.

From a practical standpoint, I feel this is the only way to proceed.

This is more necessarily a police function due to the investigation required to determine the circumstances surrounding a disappearance and the deaths which often occur in cases of this type. Inquiry by the courts should be done as a judiciary proceeding based upon the investigation by the police. The way it is presently done requires the courts to participate in a non-judicial function and they have to take action in a matter that should be a responsibility of the executive branch.

This I feel creates a conflict of executive and judicial functions, i.e., when a case results into an inquiry by the use of a coroner's jury.

From an investigative standpoint, this present system quite often creates obstacles. As an example, a disappearance is reported to a magistrate in one of the outlying villages and the magistrate orders a local group of volunteers to conduct the search. This group may search for several days and in the end find either that there is no trace of the victim or recover the body.

At this time, it has happened that the police are required to start an investigation which has at best left a cold set of facts, or the police are never notified except when we read about the case in the newspaper.

This has happened particularly with the Coast Guard who have conducted searches, canceled the search, did not notify the police, and did not file a copy of their investigation with the court. There are actual cases of people who are missing and presumed dead of whom the court nor vital statistics have any record. What this does to the relatives and estates left by the deceased is certainly something that should not occur in today's society.

don't worry about this

I feel that Section 120 should be amended to require that all persons and agencies should be required to report the need for a search and the findings of their search efforts to the Commissioner even though this agency does not actively participate in the search.

Note

The State Troopers do not have the equipment or manpower to physically conduct every search nor do I feel is this the intent of the law. However, I do feel that we should receive this information from agencies such as the Coast Guard. I feel that although their searches often take place in large open areas of water that this is still in the State of Alaska and the people are our citizens and we have a responsibility to take care of these matters and at least see that some record is made of a person's disappearance.

Presently we are attempting to operate along these guidelines but due to the rotation of personnel in the Coast Guard verbal agreements with one commander are quickly forgotten when he leaves.

We are presently responsible for payment of rescue funds to civilian groups but have very little control of the money expended or the equipment purchased.

I would also like to see a section added to the Bill which would give the Commissioner power to promulgate rules and regulations necessary to carry out the functions required in search and rescue (i.e. all non-expendable property purchased during a rescue mission would become the property of the state, property is to be inventoried and warehoused for use on future searches, etc.).

The rules and regulations should be under the Alaska Administrative Code and have the effect of law with appropriate penalty provisions.

cc: Honorable Bruce Monroe
Residing District Judge

Honorable Bill Ray
Representative

JUDICIARY COMMITTEE REPORT

ON

CS HOUSE BILL NO. 430

This bill simply transfers the responsibility for relief and rescue operations from the district court to the Department of Public Safety. (Section 5 makes an additional, minor change in order to conform to this basic change.) It is believed that the existing statute unnecessarily imposes a non-judicial burden on the court, and that conflicts between administrative and judicial functions would be removed by this transfer of responsibility. The present system also poses problems for the police when a person's disappearance and death necessitate an investigation. Moreover, the Department of Public Safety has the staff and facilities to conduct these operations, which the court does not.

The Judiciary Committee amendment gives the department authority to promulgate regulations reasonably necessary to handle the relief and rescue responsibility, and declares that the violation of one of these regulations is a misdemeanor. It is anticipated that these regulations will be somewhat broader in scope than the ones promulgated under AS 18.60.130 for the guidance of the commissioner's designee in authorizing rescue parties and their expenses.

Barry Jackson, Chairman

1/28/70

[handwritten initials]

AMENDMENT

IN THE HOUSE BY THE JUDICIARY COMMITTEE

TO: HOUSE BILL NO. 430

Page 2, between lines 23 and 24: Insert

* Sec. 5. AS 18.60.160 is amended to read:

Sec. 18.60.160. VIOLATION [FAILURE TO REPORT] A MISDEMEANOR. A person who fails to report a disappearance under sec. 150 of this chapter, or who violates a regulation promulgated under sec. 175 of this chapter, is guilty of a misdemeanor.

Page 2, Line 24: Change "Sec. 5" to read "Sec. 6"

Page 3, Line 9: Insert

* Sec. 7. AS 18.60 is amended by adding a new subsection to read:

Sec. 18.60.175. REGULATIONS. The Department of Public Safety shall promulgate regulations necessary to carry out the duties assigned by secs. 120 - 170 of this chapter, specifically including regulations dealing with the handling of nonexpendable property purchased during a search or rescue mission. These regulations shall be promulgated in accordance with the Administrative Procedure Act (AS 44.62).

File
HB 432

Alaska Court System

State of Alaska

ROBERT H. REYNOLDS
ADMINISTRATIVE DIRECTOR
RAYMOND W. GREGORY
ASSISTANT ADMINISTRATIVE DIRECTOR
ERNEST Z. REHBOCK
LEGAL ASSISTANT

OFFICE OF ADMINISTRATIVE DIRECTOR
941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501

March 6, 1969

The Honorable Barry W. Jackson
Chairman, House Judiciary Committee
House of Representatives
Capitol Building
Juneau, Alaska 99801

Dear Representative Jackson:

When District Judge Bruce Monroe was in Anchorage last week he indicated to Chief Justice Nesbett that he had been requested to testify before the House Judiciary Committee concerning various proposals affecting the district courts, among which was that of increasing the civil jurisdiction of these courts from $3,000 to $10,000. The Chief Justice has requested that I state his position on the latter.

I enclose herewith a copy of a letter from Chief Justice Nesbett to Senator Ted Stevens, who was House Majority Leader last session. The various statistics and other comments made at that time are just as appropriate today.

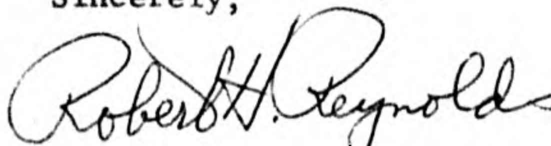
In the closing paragraph of the Chief Justice's letter he pointed out that the present program of improving the caliber of our district judges has not been fulfilled. This is also true today, as the Judicial Council and the Governor were unable to secure sufficient qualified applicants to fill all of the vacant positions on January 1, the date when such would have otherwise been possible.

It should be pointed out that the caseloads of the presently constituted district courts are misleading as a gauge of the amount of work they do. In addition to cases filed in their courts, they serve as coroners and public administrators. They are also charged with the responsibility of supervising or actually performing the duties of recorder of public records. They are

further charged with maintaining and supervising vital statistics for the state of Alaska, and most of them from time to time hear Superior Court cases of all types in the capacities of special and standing masters of the Superior Court. The aforesaid administrative and judicial functions are not readily apparent in the statistical reports.

On the other hand, the case records of the Superior Court reflect almost all of the volume of work they perform. As the Chief Justice pointed out, it would therefore seem that if the object of raising the jurisdictional limits of the district courts was for the purpose of relieving the Superior Courts, it would be well to consider whether it is not a better policy to allot the more important jurisdictions to the more capable and experienced judges, and to increase the number of Superior Court judges where appropriate and where the caseload statistically demonstrates the need.

Sincerely,



Robert H. Reynolds
Administrative Director

RHR:pga

Supreme Court

State of Alaska

941 FOURTH AVENUE

ANCHORAGE, ALASKA

99501

BUELL A. NESBETT, CHIEF JUSTICE

JOHN H. DIMOND, ASSOCIATE JUSTICE

JAY A. RABINOWITZ, ASSOCIATE JUSTICE

January 19, 1968

Hon. Ted Stevens
House Majority Leader
Alaska State House of Representatives
Capitol Bldg.
Juneau, Alaska 995801

Dear Representative Stevens:

This is a follow-up on our telephone conversation concerning HB 229 which would increase the jurisdiction of district judges from $3,000 to $10,000.

In order to determine the impact this legislation would have on district court calendars, a detailed analysis of the prayers of all complaints filed in the superior court in Anchorage for the months of January, June and November of 1967 was made. These figures were then related to the total filings in that court for 1967 to obtain approximately representative figures for that year.

The final figures obtained indicate that if HB 229 were enacted it would result in an annual increase in the case load of the district court at Anchorage of 448 cases. If the cases involving less than $3,000 which are annually filed in the superior court, even though they might have been filed in the district court instead, are added, the above figure would be increased by 136 cases to 584 cases.

As of December 1, 1967 the total of the cases pending in the district court in Anchorage was 1490. The total of pending cases on January 31, 1967 was 1536. While it is obvious that the total of pending cases has been reduced by 46 over the period of a year, what is not obvious is the increased calendaring and trial effort made in that court throughout the year in order to cope with the backlog and keep the rate of disposition even with the rate of filing. Adding an additional 558 more important and difficult cases to the present backlog of the district court would appear to aggravate rather than alleviate the overall court calendaring problem for it would

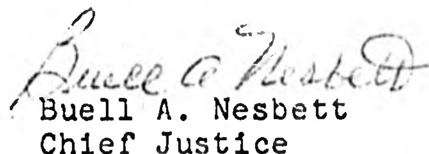
increase the number of pending cases per judge in the district court to approximately 500 per judge (there are only 4 available judges since 1 judge spends full time in city court) and at the same time decrease the number of pending cases per judge in the superior court to approximately 450. It is believed that approximately the same ratio would hold for Fairbanks.

Also to be considered is the fact that the superior courts of Ketchikan, Juneau and Nome are not in need of additional judicial assistance. The district courts in those cities are already far busier than the superior courts since they handle all minor cases for the city, borough and the state as well as arraignments, coroner duties, recording, etc. etc.

Another factor to be considered is the fact that, by and large our district court judges, outside of Anchorage and Fairbanks, are not suited because of a lack of either education or experience, or both, to handle the more important and complicated civil cases. For example, three of our district judges have had no formal legal training (Nome, Juneau and Bethel), four, including those just mentioned, are not members of the Alaska Bar. Many others are still very inexperienced (Ketchikan, Juneau, Sitka and Kodiak).

I strongly urge that HB 229 not be given serious consideration, at least until the present program of improving the calibre of our district judges has been fulfilled. Even then it would be well to consider whether it is not a better policy to allot the more important jurisdictions to the more capable and experienced judges and increase the number of superior court judges where appropriate.

Sincerely yours,



Buell A. Nesbett
Chief Justice

cc: Rep. Tom Fink
Rep. Gene Guess
Robert H. Reynolds

HB-432

Alaska Judicial Council
941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501

February 4, 1970

The Honorable Barry W. Jackson
Chairman, House Judiciary Committee
Alaska House of Representatives
Pouch V, State Capitol
Juneau, Alaska 99801

RE: House Bill No. 432, An Act Relating to Jurisdictional Amount in the District Court ($7,500)

Dear Representative Jackson:

Pursuant to your request of Thursday, January 29, 1970, I am hereby outlining the Alaska Judicial Council's position on the above numbered House bill.

At the morning meeting of the Judicial Council on January 29, 1970, the Alaska Judicial Council passed the following motion:

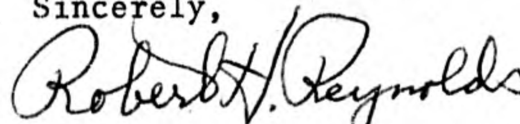
> The Alaska Judicial Council hereby endorses, in principle, the proposition of raising the monetary jurisdiction of the District Court in Alaska from $3,000 to $7,500, as provided in House Bill No. 432 now pending in the Legislature of the State of Alaska; provided, that such jurisdiction should be concurrent with that of the Superior Court.

It was brought to the Council's attention that there was support in some quarters for exclusive jurisdiction of amounts up to $7,500 in the District Court. If an exclusive jurisdictional feature were incorporated into the law, such would tend to diminish the flexibility necessary for the Alaska Court System because of the remote Court locations.

The Council considered that, with the necessary addition of Superior Court Judges now being considered by the Legislature, some such Judges might be located in areas not served by resident District Court Judges. In such situations, it is believed in the public interest that the Superior Court Judges might entertain cases involving less than $7,500.

Furthermore, it was the Council's opinion that the Superior Court should have the authority to transfer such cases between the Courts, either up or down, whenever such might appear expeditious and in the interest of the administration of justice.

Sincerely,



Robert H. Reynolds
Secretary
Alaska Judicial Council

RHR/grg

cc: The Honorable Terry Miller,
Chairman, Senate Judiciary Committee

The Honorable John H. Dimond,
Acting Chief Justice, Supreme Court

All Members, Alaska Judicial Council

Barry Jackson

or

W. Kay

Judiciary

District Court

State of Alaska

FOURTH JUDICIAL DISTRICT

604 BARNETTE STREET, ROOM 313

FAIRBANKS, ALASKA

99701

January 29, 1970

Mr. Edmund Orbeck
House of Representatives
Alaska State Legislature
Juneau, Alaska 99801

Re: HB 432

Dear Ed:

The action proposed in HB 432 seems to be a substantial step in a positive direction. Whether the jurisdictional amount should be $7,500.00 or $10,000.00 (thus letting the normal whiplash auto injury case be tried in the district court), is a policy best left to the Bar Association and the Legislature.

Because of the tremendous number of cases that bounce from the district court to superior court and back again, sometimes five or six times, it occurs to me that the wording in section 22.15.030 could be cleared up quite a bit. Assuming for the moment a $7,500.00 jurisdictional limit, might I suggest that section 22.15.030, except for subsections 5 and 7, and section 22.15.050 be eliminated and substitute in their place wording to the following effect:

> "(1) All proceedings at law or in equity where the amount in controvery or value of any specific item sought to be recovered does not exceed $7,500.00. In a forcible detainer case the total sum alleged to be due as rental and damages shall be deemed to be the amount in controversy."

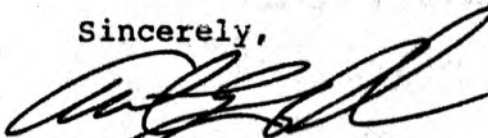
Mr. Edmund Orbeck
House of Representatives
January 29, 1970

Page Two

I would hope that a proposal such as this would greatly simplify our jurisdictional problems. In any event, I forward same in case it is of any use.

Many thanks for taking the time to consider my thoughts.

Sincerely,



Arthur Lyle Robson
District Judge

ALR/bls

AB 442

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S—JUNEAU 99801

February 2, 1970

The Honorable Barry Jackson, Chairman House Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Re: Inheritance Tax -

Dear Representative Jackson:

Pursuant to your request I am setting forth below a few of the problems involved in the existing Alaska State Inheritance Tax Act.

The existing inheritance and transfer tax statute (AS 43.30) was passed in 1919 and has had very little change since that date. At the time it was passed there were very few inheritance or estate taxes on the books of governments in the United States. This probably accounts for some of the vagueness and indefiniteness of the act. The act's vagueness makes the tax inequitable in its application and a nightmare to both the Department of Revenue and to attorneys and accountants who try to understand it.

The Act as it has been administered in past years has been applied prinicpally to property probated in court. However, the literal reading of the statute would apply to almost all types of transfers. Applying it to probate proceedings while allowing revocable trusts, insurance and joint tenancy property to escape the tax causes gross inequities. Attempts to apply it to other types of transfers causes an endless number of administrative problems and can result in harsh results since the state exemption is only a maximum of $10,000 as compared to a $60,000 or larger exclusion under the Federal estate tax law.

At the present time there is a case pending in the Superior Court in Anchorage which if decided adversely to the State would result in exclusion from the inheritance tax base of real property sold under contracts of sale. The effect of this would be to reduce the small amount of tax presently collected.

During the fiscal year ended June 30, 1969 only the sum of $106,633.11 was collected from the inheritance and transfer tax.

The Department of Revenue has been under strong pressure from attorneys and accountants to change our law or set out more definite guidelines. Because of the indefiniteness of the law we do not feel that it is practicable to attempt to lay out any significant regulations which will bring stability in the area.

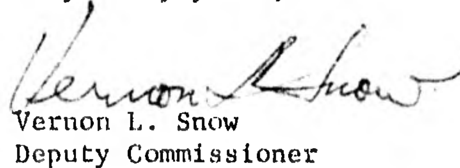
The existing law should either be completely repealed as was recommended in House Bill 442 or an entire new Act should be adopted.

If a new act is passed in lieu of the present law, it is recommended that the approach used by the State of Florida be used. The State of Florida has adopted the Federal estate tax concept with the amount of tax being equal to the Federal estate tax credit. If this act were adopted the State would have received during the fiscal year ending June 30, 1969 approximately $6,969. This would have resulted in a decrease of State revenues of approximately $100,000.

If the Florida approach is adopted practictioners would then file with the Department of Revenue a copy of the Federal estate tax return and pay to the estate the amount of the estate tax credit allowed under the Federal return.

By way of summary it is imperative that the present Inheritance and Transfer Tax chapter be repealed and a new Act adopted.

Very truly yours,



Vernon L. Snow
Deputy Commissioner

VLS/gc

Form SA-2
100M 7/67

STATE OF ALASKA

Inter-Department Route Slip

TO:
DEPT: House Representatives

ATTN: Barry Jackson

- [ ] Approval
- [ ] Signature
- [ ] Comment
- [ ] Contact Me
- [ ] Prepare Reply
- [ ] For Your File
- [ ] Note & Return
- [ ] Initial & Return
- [ ] Return As Requested
- [ ] Return For Approval
- [ ] Necessary Action
- [ ] Your Information

Remarks:

From:
Dept: Revenue Date 2-23-70

By: [signature]

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S—JUNEAU 99801

February 23, 1970

The Honorable Barry Jackson
Chairman, House Judiciary Committee
Alaska State Senate
Juneau, Alaska 99801

Re: House Bill 442

Dear Mr. Jackson:

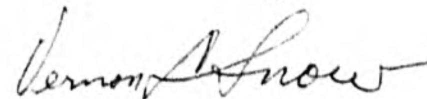
Enclosed herewith is a copy of a letter from Lewis J. Conrad, District Director, Internal Revenue Service dated February 4, 1970. It states that in 1968 and 1969 the Federal estate taxes in Alaska were $291,000 and $284,000, respectively. By the records of the Anchorage District Office the returns filed run from 10 to 20 per year.

Using the 1968 collections of $291,000 in Federal estate tax and an average of 15 returns per year the average size of the taxable estate is $95,500 with an average tax of approximately $19,400.

The allowable estate tax credit for taxes paid to a state having an inheritance or estate tax on a taxable estate of $95,500 is $488. Multiplying that figure by 15 returns equals $7,320. This figure approximates the figure of $6,969 computed by our inheritance tax section from actual returns filed for the fiscal year ending June 30, 1969.

Based on the attached Federal estate tax schedule a taxable estate of $1,040,000 would result in a Federal estate tax credit of $38,800. (It should be noted that this is based upon a taxable estate of $1,040,000 and any marital deductions or other deductions would have been taken).

Very truly yours,



Vernon L. Snow
Deputy Commissioner

VLS/ge
Enclosure as noted
cc: Representative Bill Ray
John Beard

US Treasury Department

District Director
Internal Revenue Service
P. O. Box 1500, Anchorage, Alaska 99501

February 4, 1970

RECEIVED
FEB 5 1970
DEPARTMENT OF REVENUE
STATE OF ALASKA
JUNEAU

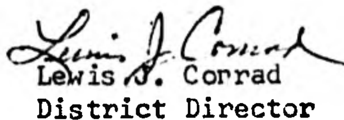
Mr. Vernon Snow
Deputy Commissioner
State Department of Revenue
Pouch SA
Juneau, Alaska

Dear Mr. Snow:

The Commissioner's Annual Report shows that for 1968 $231,000 was collected in Federal estate taxes in Alaska. Comparative figure for 1969 was $284,000. By our records the number of returns filed will run from ten to twenty a year.

I hope this information is of some benefit to you.

Very truly yours,



Lewis J. Conrad
District Director

TABLE A

COMPUTATION OF GROSS ESTATE TAX			
Taxable estate equal to or more than— (1)	Taxable estate less than— (2)	Tax on amount in column (1) (3)	Rate of tax on excess over amount in column (1) (4)
			(Percent)
0	$5, 000	0	3
$5, 000	10, 000	$150	7
10, 000	20, 000	500	11
20, 000	30, 000	1, 600	14
30, 000	40, 000	3, 000	18
40, 000	50, 000	4, 800	22
50, 000	60, 000	7, 000	25
60, 000	100, 000	9, 500	28
100, 000	250, 000	20, 700	30
250, 000	500, 000	65, 700	32
500, 000	750, 000	145, 700	35
750, 000	1, 000, 000	233, 200	37
1, 000, 000	1, 250, 000	325, 700	39
1, 250, 000	1, 500, 000	423, 200	42
1, 500, 000	2, 000, 000	528, 200	45
2, 000, 000	2, 500, 000	753, 200	49
2, 500, 000	3, 000, 000	998, 200	53
3, 000, 000	3, 500, 000	1, 263, 200	56
3, 500, 000	4, 000, 000	1, 543, 200	59
4, 000, 000	5, 000, 000	1, 838, 200	63
5, 000, 000	6, 000, 000	2, 468, 200	67
6, 000, 000	7, 000, 000	3, 138, 200	70
7, 000, 000	8, 000, 000	3, 838, 200	73
8, 000, 000	10, 000, 000	4, 568, 200	76
10, 000, 000	....	6, 088, 200	77

TABLE B

COMPUTATION OF MAXIMUM CREDIT FOR STATE DEATH TAXES			
Taxable estate equal to or more than— (1)	Taxable estate less than— (2)	Credit on amount in column (1) (3)	Rate of credit on excess over amount in column (1) (4)
			(Percent)
0	$40, 000	0	None
$40, 000	90, 000	0	0. 8
90, 000	140, 000	$400	1. 6
140, 000	240, 000	1, 200	2. 4
240, 000	440, 000	3, 600	3. 2
440, 000	640, 000	10, 000	4. 0
640, 000	840, 000	18, 000	4. 8
840, 000	1, 040, 000	27, 600	5. 6
1, 040, 000	1, 540, 000	38, 800	6. 4
1, 540, 000	2, 040, 000	70, 800	7. 2
2, 040, 000	2, 540, 000	106, 800	8. 0
2, 540, 000	3, 040, 000	146, 800	8. 8
3, 040, 000	3, 540, 000	190, 800	9. 6
3, 540, 000	4, 040, 000	238, 800	10. 4
4, 040, 000	5, 040, 000	290, 800	11. 2
5, 040, 000	6, 040, 000	402, 800	12. 0
6, 040, 000	7, 040, 000	522, 800	12. 8
7, 040, 000	8, 040, 000	650, 800	13. 6
8, 040, 000	9, 040, 000	786, 800	14. 4
9, 040, 000	10, 040, 000	930, 800	15. 2
10, 040, 000	....	1, 082, 800	16. 0

ESTATE OF ....

U.S. GOVERNMENT PRINTING OFFICE

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S—JUNEAU 99801

February 27, 1970

The Honorable Barry Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Juneau, Alaska 99801

Re: CSHB 442 - Inheritance Tax

Dear Representative Jackson:

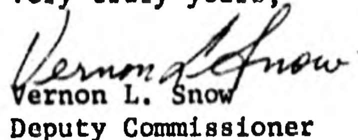
It is understood that some consideration is being given to deleting Section 2 (page 22, lines 3-9) of CSHB 442. Our views and reasons why that section is needed are set forth below.

It is important in repealing a law imposing an inheritance tax or estate tax that it is clear what the effective date is and how the estates of persons already deceased are to be taxed. For example, decedents A and B may both die on January 1, 1965. A's estate is probated and an inheritance tax of $10,000 is paid to the state in 1965. The probate of B's estate was not started for several years and it is not yet closed and the inheritance tax has not been paid. Under CSHB 442 the Federal estate tax credit (the new tax) might be $1,000. Is B's estate to benefit $9,000 because of tardiness in probating and paying the estate tax? Using the date of death rather than diligence or tardiness in closing the estate is generally considered the fairest method.

Section 2 on page 22 of CSHB 442 also removes a second related question by removing any doubt whether the new act applies to estates of decedents who died before the effective date of the new act, but have not paid the inheritance tax. Are those estates completely exempt from tax? Since the point of incidence of an estate tax is the time of death, a strong argument could be made that since the old act is repealed it does apply and that the new act applies only to cases where the person dies after its effective date. Unless section 2 is included that group of cases may escape taxation completely.

The legislature may have definite reasons for using a particular effective date and may exclude certain periods from the tax. Whatever is decided in this regard it is suggested that the legislature's desire be made clear in order that the State and the taxpayer know what the law is.

Very truly yours,



Vernon L. Snow
Deputy Commissioner

VLS/ge
Enclosure: Copy of page 22 of CSHB 442
cc: John Beard

Sec. 43.30.430. SHORT TITLE. This chapter may be cited as the Estate Tax Law of Alaska.

* Sec. 3. The provisions of this chapter apply to estates of decedents dying after 12:01 a.m., Pacific Standard time, on the day after the effective date of this Act, and estates of decedents dying before 12:01 a.m., Pacific Standard time on the day after the effective date of this Act shall be taxed in accordance with the statutes and laws of this state in force before that date, which statutes and laws shall remain in force after the effective date of this Act for this purpose.

* Sec. 4. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

HB-458

FISHER & HORNADAY
ATTORNEYS AT LAW
KENAI PROFESSIONAL BUILDING - P. O. BOX 397
KENAI, ALASKA 99611

JAMES E. FISHER
JAMES C. HORNADAY

TELEPHONE
283-7565

13 February, 1969

Senator Terry Miller
Chairman, Senate Judiciary Committee
Pouch V
Juneau, Alaska 99801

Representative Barry W. Jackson
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99801

RE: Public Defender Legislation

Dear Senator Miller and Representative Jackson:

This is to advise you that the Kenai Peninsula Bar Association has designated as its official representatives the following persons who may have an opportunity to appear before your respective or joint committees on the subject of the "Public Defender" legislation:

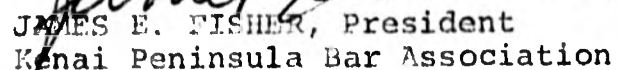
James C. Hornaday — week commencing 17th day of February

J. D. Nordale — week commencing 24th day of February

This is to advise you that the designated members are representatives of the Kenai Peninsula Bar Association and authorized to act in our behalf as they deem appropriate at any committee hearings or other conferences held by the Alaska State Legislature.

Thank you for any consideration you may be able to extend to Mr. Hornaday and Mr. Nordale.

Yours truly,



JAMES E. FISHER, President
Kenai Peninsula Bar Association

cc: Executive Director, Alaska Bar Association
President Peter LaBate, Anchorage Bar Association

A M E N D M E N T

IN THE HOUSE BY THE JUDICIARY COMMITTEE

TO: House Bill No. 458

Page 1, Line 10: Change "$46,100" to read "$51,100".

HB 478

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER / POUCH M—JUNEAU 99801

March 16, 1970

The Honorable Jalmar M. Kerttula
Speaker
House of Representatives

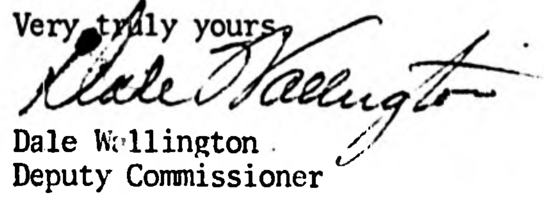
Dear Mr. Speaker:

House Bill 478, "an Act relating to mining leases", we believe is a good bill and should be strongly supported by those people interested in the State of Alaska. As the law now stands we have practically no means of preventing a mining leasee from setting on lease property forever without making a serious attempt to develop it. House Bill 478 would therefore serve to stimulate development on mining leases which is what we need to cure a rather sick industry in the State.

As background material, our present regulations require payment of $100 per year or equivalent development work for a mining leasehold as an annual rental. A mining lease is of a maximum of 40 acres. Therefore a minimum rental or work is $2.50 per acre. Work credits can be applied on one leasehold against a group of contiguous leases, therefore for a very small and yearly investment considerable acreage can be retained. If the period of a lease is for a ten year period, a leaseholder, if a lease were of any significance to him, would plan his exploration activity to bring it into production prior to his termination. We feel the new wording in the law would adequately protect a leasee from unreasonable termination of the lease once it was in production.

Under the present law one operator, for a minimum investment of $1.00 per acre, can corner the market on off-shore mining leases and thus cut down the competition to a point where there would be no development unless he considered it of a benefit to himself.

Very truly yours,



Dale Wellington
Deputy Commissioner

STATE OF ALASKA
KEITH H. MILLER, GOVERNOR
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER / POUCH M—JUNEAU 99801

March 31, 1970

Representative Barry W. Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Juneau, Alaska 99801

Dear Mr. Jackson:

Prior to discussing the Department't support for House Bill 478 entitled "An Act relating to mining leasing", I would like to clarify for the benefit of the Committee several terms which may come up during the discussion of this bill. Section 38.05.205 concerns itself with the leasing of State lands on which locatable minerals are found. Locatable minerals in contrast to leasable minerals are primarily the metallic ores. Leasable minerals as spelled out in Title 38 are coal, phosphates, oil shale, sodium, sulphur, potassium and oil and gas.

Mining claims in contrast to a mining lease permits the rights to deposit of minerals on State land by discovery location and filing on State lands which, on January 3, 1959, were subject to location under the Mining Laws of the United States. A mining claim may be converted to a mining lease at any time the claimant desires by simply making an application to the Department for a mining lease. Mining leases on State lands for locatable minerals are similar to mining claims in that prior discovery, location, and filing initiates a prior right to the mineral deposits.

In contrast to claims and leases, mining permits are at the present time issued only on submerged lands of the State on the basis of the first qualified applicant. Such a permit gives the applicant the exclusive right to prospect for deposits of minerals on the tide and submerged lands of the State. Permits on submerged land may be converted to a noncompetitive mining lease following discovery.

The Department favors the amendment to Section 38.05.205 because we believe it will encourage development on State mining leases. As the statutes now

read, we have practically no means of preventing a mining lessee from holding lease property forever without making a serious attempt to develop it. However, the Department does feel that ten years may be too short a time for the development of a mining lease because of the many intangible factors involved in producing these natural resources. In our opinion, a period of twenty years for mining leases on locatable minerals would be much more feasible.

Very truly yours,

Dale Wallington

Dale Wallington
Deputy Commissioner

STATE OF ALASKA
KEITH H. MILLER, GOVERNOR
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER / POUCH M—JUNEAU 99801

April 13, 1970

The Hon. Barry Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Juneau, Alaska 99801

Dear Mr. Jackson:

After doing additional research, I do not feel that HB-478 is worthy of your time and attention. The amount of acreage affected by the mining leasing law under the present statutes or under HB-478 is so minor that it presents no problem under the present law.

The State has selected very little land in the higher elevations where minerals normally occur and, therefore, these areas have not been classified for surface use. The mineral leasing law only affects those lands which have been classified for a surface use such as agriculture, forestry, public recreation, etc. The great majority of the State lands in the locatable mineral areas can be staked as claims and the rights, therefore, are protected without patent or lease. Only after the claim was brought into the advanced stages of production would it be feasible to go to the leasing system.

Very truly yours,

Dale Wallington

Dale Wallington
Deputy Commissioner

FORM SA-2
100M 6-66

STATE OF ALASKA
Inter-Department Route Slip

TO:
DEPT.: Legislative Affairs

ATTN.: House Judiciary Comm.

- [ ] Approval
- [ ] Signature
- [ ] Comment
- [ ] Contact Me
- [ ] Prepare Reply
- [ ] For Your File
- [ ] Note & Return
- [ ] Initial & Return
- [ ] Return As Requested
- [ ] Return For Approval
- [ ] Necessary Action
- [ ] Your Information

Remarks:

From: Office of the Commissioner
Health and Welfare Bldg.
Pouch "H"
Dept.: Juneau, Alaska 99801 Date 2/10/70

By: [signature]

To File HB48[illegible]
[illegible] Kay

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF HEALTH AND WELFARE

OFFICE OF THE COMMISSIONER / POUCH H — JUNEAU 99801

MEMORANDUM

TO: Chairman, House Judiciary Committee
Chairman, House State Affairs Committee
Chairman, House Finance Committee

FROM: J. W. Betit, Commissioner
Department of Health and Welfare

SUBJECT: House Bill 483 - Fiscal Note

DATE: February 9, 1970

Attached is Fiscal Note relating to House Bill 483.

JWB/JFM/cyb
Attachment
cc: Chairman, Senate Finance Committee
Budget Mgt., Dept. of Admin.

The Legislature of the State of Alaska
FISCAL NOTE
First Session - Sixth State Legislature

COPIES: ___THE CHAIRMAN OF THE COMMITTEE MAKING THE REQUEST, POUCH V
___THE LEGISLATIVE FINANCE COMMITTEES' STAFF, POUCH Y
___THE DIVISION OF BUDGET & MANAGEMENT, POUCH C
___RETAIN A COPY FOR YOUR FILES

subject HB 483 SB
requested by Bronson
referred to Judiciary date of request 1-19-70
completion date requested date received

EXPENDITURE DETAIL	FY	FY	FY
100 PERSONAL SERVICES	$602,000	$	$
200 TRAVEL	6,800		
300 CONTRACTUAL SERVICES	101,200		
400 COMMODITIES	160,000		
500 EQUIPMENT	10,000		
600 LAND AND STRUCTURES			
700 GRANTS, CLAIMS & SHARED REVENUE	15,000		
900	5,000		
TOTAL	$900,000	$	$

FUNDING DETAIL			
FEDERAL RECEIPTS	$	$	$
SPECIAL FUNDS			
UNRESTRICTED GENERAL FUND RECEIPTS	900,000		
Man Months	408		
Permanent Positions	34		
Temporary Positions			

FISCAL ANALYSIS The proposed facility is envisioned as containing approximately 45,000 square feet of floor area. Such a facility should provide adequate housing for approximately 125 prisoners.

The personnel services required to staff such a facility would be based on the need to have 4.8 staff for each security post within the facility. A security post is defined as that post which requires staffing on 7 day a week 24 hour a day basis. This would require a minimum of 15 Correctional Officer I male and 7 Correctional Officer I female. These persons would be supervised by 5 Correctional Officer II's acting as shift supervisors. The administration segment of the institution would require a Superintendent and an Assistant Superintendent. The housekeeping functions would be supervised by a Cook and a Maintenance Mechanic III. A Secretary would provide necessary clerical support within the institution. Program would be handled by a Probation Officer II and an Education Specialist. Such a compliment would provide a facility similar to the regional facilities now operated by the State in Fairbanks and Juneau.

The remaining figures presented in the budget are extracted from known operating cost of the facility as envisioned and represent an approximate 10% increase over operating costs of the similar type facility in the Fairbanks area. No note is made as to the possiblity of debt retirement connected with the capitalization of such a facility. Past experience indicates $250,000 per year would be a realistic figure for debt retirement of a $3,000,000 plant.

DATE 1-29-70 SIGNATURE [signature]

NAME & TITLE Thomas R. Branton, Administrative Officer

HB 485

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY
Pouch AE, Juneau, Alaska
99801

January 26, 1970

The Honorable Barry W. Jackson
Alaska House of Representatives
Juneau, Alaska 99801

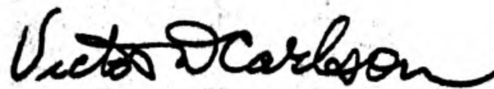
Re: House Bill No. 485

Dear Representative Jackson:

House Bill No. 485 is an act creating an Alaska Commission on Judicial, Legislative and Executive Remuneration. Proposed AS 44.19.895 states that among the duties of the commission are determining the appropriate salary levels for Legislators; Justices and Judges of all courts; and the Governor, Secretary of State, Commissioners and Deputy Commissioners of the principal administrative departments, and Directors of the major divisions of these departments. The question arises if the commission should not be empowered to determine the appropriate salary level for the Public Defender.

The Public Defender Agency is within the office of the Governor, however it is not a principal department nor is the Public Defender a director of a major division of a principal department. Your consideration of including the Public Defender as one of the state officials whose salary is determined by the commission is requested.

Very truly yours,



VICTOR D. CARLSON
Public Defender

VDC:rj

Pub defender

March 5, 1969

Hon. Chancy Croft, Member
House of Representatives
State Capitol Building
Juneau, Alaska 99801

Dear Representative Croft:

Your letter of March 1, 1969 was received, and in it you referred to a proposed budget for public defender legislation which I prepared at the request of Senator Terry Miller, Chairman of the Senate Judiciary Committee.

Before answering your specific questions, I must explain that the budget which I prepared for Senator Miller was a very rough estimate, prepared in haste due to immediately pending committee hearings. Since that time I have done a more detailed analysis of the various cost factors of the bill and can more adequately answer your questions and those of the respective judiciary and finance committees.

In my original program for personnel, which was not completely arbitrary, I estimated that nine attorneys would be required. They were to be located as follows: 2 in Juneau, 1 in Ketchikan, 3 in Anchorage, 2 in Fairbanks and one, the Chief Public Defender, not located in the submitted draft.

This was based upon the number of court appointed attorneys in the various locations during the calendar year 1968. They

were as follows:

Anchorage District and Superior	184 appointments
Juneau District and Superior	74 appointments
Fairbanks District and Superior	83 appointments
Nome District and Superior	19 appointments
Ketchikan District and Superior	39 appointments

The above represents a total of 418 appointments of counsel for indigent defendants. It is estimated that this will increase with the caseload at an average of 22% per annum, and should cover only those types of cases in which court now appoints counsel. By that we mean that the court appoints counsel normally in felony cases both for preliminary hearings and trials. Occasionally the court will appoint counsel in serious misdemeanor cases but this constitutes less than 5% of the total appointments.

In answer to your question as to whether the recovery factor of the bill would be important, we can only say that our experience in recovery has been almost nonexistent. The National Legal Aid and Defenders Program has also reported that this feature in public defender acts has been most ineffective.

As I intend to send a copy of this letter to both Senator Miller and Representative Barry Jackson, I might as well further clarify my estimate of rental of facilities for these agencies, inasmuch as I apparently overestimated this cost figure by a substantial amount.

Assuming that the Chief Public Defender's Office will require 700 square feet and that a maximum rental should be no more than 55¢ per square foot, his space should come to $4,600.00 rather than the $8,500.00 estimated. Assuming that the Anchorage office will need 1,000 square feet at 55¢ per square foot, this figure will come to $6,600.00 as opposed to the $16,000.00 estimate. Assuming that the Juneau office will require 750 square feet at 45¢ per square foot this facility should cost $4,000.00 as opposed to the $9,000.00 estimate. Assuming that the Ketchikan office will require 350 square feet at 45¢ per square foot, this item would be approximately $2,000.00 as opposed to the estimated $6,000.00. If the Fairbanks facility were to require 750 square feet at 55¢ per square foot, this cost would be approximately $5,000.00 as opposed to the $10,000.00 estimate. If it is necessary to have a facility at Nome then it should be figured roughly at the same cost rate as Ketchikan. It would, therefore, seem that I had overestimated the rental items in the proposed budget by some $22,500.00. I would point out however, that if the office were expanded to provide representation to indigent misdemeanor defendants, then for every additional attorney and secretary there would be required an additional 250 square feet.

Hon. Chancy Croft
March 5, 1969
Page three

The aforesaid items are my own opinions gathered from my own somewhat limited research. However, I would not believe that they are very far off.

It is hoped that these additional figures will be of some benefit to you and the appropriate committees studying the public defender bills.

Sincerely,

Robert H. Reynolds
Administrative Director

RHR:np

cc: Senator Terry Miller
Representative Barry Jackson
Senator Vance Phillips
Representative Bill Ray

HB 485

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY

Pouch AE, Juneau, Alaska
99801

January 23, 1970

The Honorable Barry W. Jacksor
Chairman, Judiciary Committee
Alaska House of Representatives
Juneau, Alaska 99801

Re: Public Defender Agency,
Supplemental appropriation.

Dear Representative Jackson:

This letter is the report your committee requested January 22, 1970, concerning the bills for compensation of court appointed attorneys which are obligations of the agency pursuant to AS 18.85.130. The agency has requested a supplemental appropriation of $46,100, $15,000 of which is designated to pay court appointed counsel. The agency submitted its request for a supplemental appropriation on November 5, 1969.

On the enclosure is the list of outstanding bills, amounts, and to the best of my ability a listing of the dates the bills were received.

From the $260,000 appropriation to the agency in the 1969-70 budget the following amounts for court appointed counsel have been paid: $10,931.94 for appointments before July 1, 1969 and $9,466.02 for appointments after July 1, 1969, for a total of $20,397.96.

To date bills have been received but not paid in the amount of $10,268.90 for appointments before July 1, 1969, and in the amount of $5,744.50 for appointments after July 1, 1969 for a total amount owed of $16,013.40.

The total of the bills which had been received but not paid when the request for a supplemental appropriation was submitted was $3,343.93.

There are bills which have not been submitted, and it is impossible to estimate the exact amount which is outstanding.

If there is additional information which you or the members of your committee request, I shall try to furnish it promptly.

Very truly yours,

Victor D. Carlson

VICTOR D. CARLSON
Public Defender

VDC:rj
Enc.

UNPAID BILLS FROM COURT APPOINTED COUNSEL
AS OF JANUARY 23, 1970
Public Defender Agency

Date Rec'd	Attorney	Date Appt'd*	Client	Place**	Amount
10/30	Doogan	b	Ritter	J	$ 250.00
10/30	Rice, et al	b	Bargas	F	312.50
10/30	Rowland	b	Seal	A	680.00
11/4	McVeigh	b	Brown	A	237.50
11/4	Benkert	b	Wedermyre	A	283.50
11/4	Wohlforth	b	Hentges	A	295.43
11/7	Buckalew	b	Kalmakoff	A	54.17
11/7	R. Erwin	b	Fields	A	1,077.58
11/7	Fenton	b	Born	F	130.00
11/20	Reasor	b	Lyon	A	55.00
11/20	Yeager	b	Malcolm	F	75.00
11/20	R. Cole	b	Youmans	F	100.50
11/20	Merdes	b	Bickers	F	95.00
11/21	Johnston	b	Mead	A	180.00
11/21	Christie	b	James	A	69.00
11/21	Christie	b	Scott	A	136.50
11/21	Burr	b	Bushey	A	20.00
11/21	Johnston	b	Balaguer #1	A	25.00
11/28	Biss	b	Lawrence	A	121.67
11/28	Hagans	b	Foster	A	21.25
12/4	Kennelly	b	Nichols	N	220.00
12/4	Walton	b	Kogler	A	970.00
12/10	Phillips	b	Grant	F	52.50
12/10	Johnston	b	Balaguer #2	A	72.50
12/13	Thorsness	b	Lokanin	A	540.75
12/23	Whiting	b	Nukapigak #1	F	100.00
12/26	Josephson	b	Andrews	A	290.00
12/29	Dickson	b	McAvoy	A	55.05
12/29	Wilson	b	Ramer	A	1,057.50
12/29	Johnston	b	Taylor	A	887.50
12/31	Houston	b	Outlaw	A	136.25
12/31	Moore	b	Roberts	A	286.75
12/31	Biss	b	Philo	A	28.75
12/31	Simpson	b	Alexander	A	30.00
1/8	Smith	b	Quick	K	18.30
1/8	Smith	b	Kahklen	K	148.33
1/8	Smith	b	Blackburn	K	101.66
1/8	Reasor	b	Lyon	A	55.00
1/8	Brundin	b	Wilson	A	450.94
1/14	Ellis	b	Bednar	K	12.91
1/14	Ellis	b	Brown	K	201.00
1/14	Ellis	b	Parrish	K	12.91
1/14	Ellis	b	Bernhard	K	164.90
1/19	Ziegler	b	Williams	K	85.00
1/19	Ziegler	b	Wiles	K	70.80
			TOTAL BEFORE JULY 1		$10,268.90

UNPAID BILLS FROM COURT APPOINTED COUNSEL
AS OF JANUARY 23, 1970
Public Defender Agency

Approx. Date Rec'd	Attorney	Date Appt'd*	Client	Place**	Amount
9/15	Stahla	a	Butler	K	$ 1,285.00
12/4	Kennally	a	Ezukameow	N	280.00
12/7	Stahla	a	Melton	K	1,041.25
12/11	Friedman	a	Paquette	A	288.75
12/20	Bradley	a	McKee	J	280.00
12/22	Blanton	a	Martinez	J	787.50
12/23	Whiting	a	Nukapigak #2	F	320.00
1/8	Faulkneretal	a	Hollen	J	200.00
1/14	Ellis	a	Wardel	K	24.50
1/10	E. Williams	a	Kittrell	A	472.50
1/15	Gross	a	Chilton	J	472.50
1/19	Ziegler	a	DeWitt	K	292.50
			TOTAL AFTER JULY 1		$5,744.50
			TOTAL UMPAID		$16,013.40

* "a" Means appointed after July 1, 1969
"b" Means appointed before July 1, 1969

** "K" is Ketchikan
"J" is Juneau
"N" is Nome
"F" is Fairbanks
"A" is Anchorage

JUDICIARY COMMITTEE REPORT

ON

CS HOUSE BILL NO. 485

This bill establishes a nine-man commission whose members are appointed by the executive, legislative, and judicial bodies to review and recommend the salaries for the top officials in each of the three branches of government. The bill calls for the nine-man commission to be appointed within thirty days of the enactment of this bill and that said commission is to report to the Governor by November 10. The Governor may then make changes in the recommendation but the final recommendation shall be made public twenty days after receipt of the commission's report. The salary recommendations of the commission become law unless the House and Senate by a concurrent resolution turn down the commission's report within the first thirty days of the session.

This bill sets up a commission similar to and largely modeled upon the federal commission on federal pay scales.

In addition to this report, the commission shall make a report to the Governor and the Legislature as to its recommendations for pension and retirement programs for legislative, executive, and judicial officers. The pension and retirement recommendations are only advisory and would require action on the part of the Legislature and Governor to become law.

Barry W. Jackson, Chairman

4/2/70

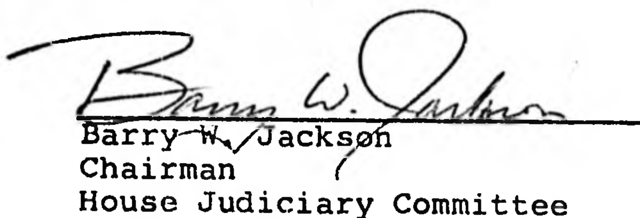
HOUSE JOURNAL

Judiciary Committee Report

on

HOUSE BILL NO. 493

As required by the U. S. Supreme Court's decision in Shapiro v. Thompson, 394 US 618, 89 S Ct 1322, 22 L ed 2d 600 (1969), this bill deletes in five welfare provisions the requirement that the recipient must have resided in the state for a period of time before applying for assistance. The bill inserts in its place a requirement that the applicant intend to continue residing in the state.



Barry W. Jackson
Chairman
House Judiciary Committee

2/20/70

JUDICIARY COMMITTEE REPORT

ON

CS FOR HOUSE BILL NO. 494

This bill seeks to fill a gap in the existing law. There is presently a section dealing with simple assault and battery, and a section dealing with assault with a dangerous weapon, but no provision for the type of assault committed with extreme force but without what would usually be considered a dangerous weapon, such as shoes on a person's feet.

The original bill added the word "instrument" in the assault-with-a-dangerous-weapon section, and put the aggravated-assault provision in that section. The committee substitute leaves the word "instrument" in that section, deletes some language (distinguishing between jails and penitentiaries) which is inappropriate in the Alaska Statutes, leaves in that section the provision for a maximum penalty of 10 years imprisonment, deletes the minimum sentence, and proposes a new and separate section dealing with aggravated assault. The new section makes aggravated assault a felony, and, following traditional legal concepts, provides for a maximum penalty somewhat less than that for the more serious offense of assault with a dangerous weapon -- five years. Simple assault will still be a misdemeanor.

Barry W. Jackson, Chairman

#B 496

Judiciary Committee Report

on

CS HOUSE BILL NO. 496

The committee substitute provides that if any death, accidental or otherwise, occurs while perpetrating or attempting to perpetrate any of the crimes enumerated in Section B of the bill, any person involved in the perpetration of or in the attempt to perpetrate the crime will be guilty of first degree murder.

The original bill is more restrictive in that the death must have been caused by the person charged with first degree murder.

Harry W. Jackson
Chairman
House Judiciary Committee

Cleaning
Glazing
Repairing

Largest Resident
Raw Fur Buyers

Alaska
Parkas

File
HB497

DAVID GREEN & SONS, INC.
Furs
OF DISTINCTION
130 FOURTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE: BR 5-4774

March 5th, 1970

Representative Genie Chance
Juneau,
Alaska

Dear Genie:

Enclosed is a bill and letter which are self-explanatory. What is our country coming to when people who have a conflict of interest, which is so obvious in this case, have the temerity to introduce laws of this sort? I really think it's scandalous. I think Mr. Borer, if anything, should be recalled. No wonder, the young people are creating havoc in our country today. They want a new deal and an honest deal. I know and trust that you will take this matter and consider it in a fair and judicious manner and see that this bill should not even get of the ground, let alon be even considered. Several hundred business people in this city alone, have already contracted for this credit card. Not only do they carry Bankamericard, but American Express, Standard Oil, Texaco and many others. You name them, everyone has credit cards. Who is this brilliant Statesman of the twentieth century introducing such an irresponsible bill? No wonder our country is in ferment and in some respects in rebellion, when people of Mr. Borer's character can introduce such obvious conflict of interest bills. By the tone of this letter, you can see I am really angered and in some ways saddend, that this man is permitted to legislate.

I hope that you will pass this around to several good thinking people who are fair minded as well.

Best regards and keep up the good work.

Regards, Dave

David Green

P.S. By the way, I am disappointed that the abortion

BEAUTIFUL FUR COATS · STOLES · PARKAS · SPECIAL CUSTOM FURS
SERVING ALASKANS SINCE 1922 IF YOU DON'T KNOW FURS, KNOW YOUR FURRIER

bill did not pass. At least they should have left it up to the judgement of the people. No wonder Mr. Begich did not get elected to the Congress. Remind me not to vote for him in the future and or support him. I did not realize until now, who Mr. Begich really was (very little).

February 11, 1970

CENTER, INC.
P. O. Box 4-U, Anchorage, Alaska 99503 - Phone 279-5544

TO: All Alaska BankAmericard Merchant Members

FROM: E. O. Hansen

I am sending you a copy of House Bill # 497, introduced by Representative Richard Borer, of Cordova. Representative Borer is the Chairman of the Board and President of the First Bank of Cordova. Regrettably, the First Bank of Cordova is not on the BankAmericard plan, although they had certainly been invited to join. In any event, particular note should be made of the discriminatory bill, which, if passed, would be detrimental to every retailer in Alaska wanting to offer a charge account plan to his customers. The bill just recently left the committee after deleting the word "bank" as a facility advancing funds or discounting against merchant's accumulated receivables. This bill, while it is probably designed to reduce the competitive pressures by those offering strong charge account programs for the benefit of their own retailing establishments or member merchants, would put credit out of your business reach. Credit has become an inseparable part of our merchandising economy--the consumer needs it now more than ever, considering the credit crunch. For the number of benefactors of this special interest bill, probably fewer institutions then you can count on the fingers of one hand, they want to reduce, through such a proposal, the level of the economy down to their own low competitive level; they have struck out at any kind of credit or credit facility available to the Alaska consumer public through its local merchants.

I showed the unamended bill to several bankers and local retailers, after having received my copy. Their immediate and unanimous reaction was "ridiculous", "discriminatory", and even "ludicrous". Regardless of whatever you choose to term it, it actually got out of one committee with a "do pass", with one minor amendment designed to affect every credit grantor, be it a retailer, a national or local card plan, a bank accepting a pledge of your receivables. But most adversly effected will be the retailer, the Alaska retailer, and the Alaska consumer, both in serious need of credit. Every kind of credit has its price, be it called a discount, interest rate, a service charge, or a fee. Those rates are changed by the local, national, and world wide competitive forces of supply and demand. If the available rate is legislated against, the supply simply diminishes.

We urge that you contact your legislators in Juneau and emphasize that this bill and bills of its type are not in the interests of Alaska business or the consumer public.

K9-8

HB522

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY

Pouch AE, Juneau, Alaska

January 26, 1970

PERSONAL

The Honorable Barry W. Jackson
Chairman, House Judiciary Committee
Alaska House of Representatives
Juneau, Alaska 99801

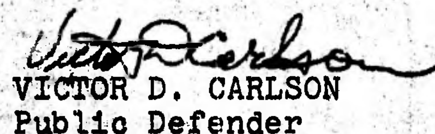
Re: House Bill No. 522

Dear Representative Jackson:

The subject bill would expand the composition of the Governor's Planning Council in the administration of Criminal Justice to include a justice of the supreme court or a judge of the superior court. Among the components of the system which administers criminal justice is defense counsel. Your consideration of amending AS 44.19.738(b) to include the Public Defender is requested.

Than'ing for your consideration of this matter, I am

Very truly yours,



VICTOR D. CARLSON
Public Defender

VDC:rj

HB 533

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

February 26, 1970

M E M O R A N D U M

TO: House Judiciary Committee

FROM: Hayden Kaden, Legislative Counsel HK

SUBJECT: Constitutionality of HB 533

It is my opinion, based on a very limited amount of research, that there are possible constitutional problems which could be raised in regard to this bill. The issue here is whether the effect of this bill is to place qualifications on the holding of legislative office in addition to those qualifications provided for under Art.II of the Alaska Constitution.

"The holding of public office is a privilege which is extended upon such conditions as the people in their sovereign capacity may decide. Ordinarily, holding public office is not an inalienable right guaranteed by the United States or Alaska Constitutions. However, the state legislature may not change the qualifications for a public office where the state constitution has not specifically provided that the legislature has the power to change or add to the qualifications. In such cases eligibility for these offices is a constitutional right." (1963 Opinions of the Attorney General No. 6.) There is no authority in the Alaska Constitution for the legislature to change the qualifications for holding legislative office.

The cases researched seem to give effect to the legal maxim: "expressio unius est exclusio alterius." (The mention of one thing implies the exclusion of another thing.)

Although I came across no cases directly in point with the statutory provisions in HB 533, there is one case which dealt with a similar statutory provision. In Burroughs et al. v. Lyles, 181 SW 2d 570, the court determined that a statute providing that no person elected or appointed to an executive or administrative public office for a term of more than two years may be eligible for nomination or election to another office the term of which begins before the expiration of the term of the original office unless he first resigns was void as imposing an additional test of eligibility than is prescribed by the constitution.

The Burroughs case like all of those researched deals with the qualifications to hold office. "Qualification" seems to mean the same as and

is used interchangeably with "eligibility". The implication being that all that is spoken to is the seeking of office and not the qualification or eligibility to continue to hold office. However, it is doubtful that this implication is one which would distinguish the situation under HB 533 from that under Burroughs.

Art. II, sec. 2 of the Alaska Constitution sets out the qualifications for a legislator: "A member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office. A senator shall be at least twenty-five years of age and a representative at least twenty-one years of age." Sec. 5 of the same article sets out disqualifications for legislative office: "No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention."

Because the Constitution has set out the qualifications and disqualifications of legislators and has not provided for legislative change or addition to these qualifications and disqualifications, none may be made by the legislature. The issue then revolves around whether providing for the automatic resignation of a legislator who files for statewide office is an additional qualification or disqualification. Because I found no cases directly in point, I could not resolve this issue satisfactorily. It is my personal opinion that this is an additional qualification, i.e., in order to serve a complete term a legislator may not be a statewide candidate; or it is an additional disqualification, i.e., a legislator is disqualified from continuing to hold office by filing for statewide office.

Under the present operation of the constitution, no legislator may hold any other office or position of profit under the United States or State. Therefore if elected to a statewide office, a legislator must resign his legislative seat. Sec. 5, art. II provides further that sec. 5 does not prevent any person from seeking or holding a statewide office. The implication is that a legislator may seek statewide office while holding his legislative office without having to resign if he loses the statewide election.

Another approach to a resolution of the issue is to determine the intent of the Constitutional Convention in drafting sec. 5, art. II of the Alaska Constitution. The original language for sec. 5, relevant to the issue at hand, as proposed by the Legislative Branch Committee was as follows: "No legislator or other elective or appointive officer of this state shall file or run for election to any other state office until his services have been terminated, but a member of one house of the legislature may be nominated and elected to the other house."

(Part 6, Alaska Constitutional Convention Proceedings, Committee Proposal No. 5, p. 2.) This language clearly provides that a legislator must resign before he can run for any other state office. On the floor of the convention, the sentence was further amended to add "or the Congress of the United States" after the word "office". The discussion on the floor on the section showed clearly that the intent of the body was to prohibit a legislator from retaining his seat while running for statewide office. (pp. 1581 - 1587, Alaska Constitutional Convention Proceedings)

Unfortunately, the language quoted above, which would have disposed of the issue at hand, was left out of the final draft of the Constitution. We are left to conjecture as to the reason for this. I could find no discussion on the deletion of the wording. This could mean several things, including the following: (1) an oversight occurred on the part of the convention; (2) the language was removed by the style and drafting committee because it was felt that the language as it presently reads does the same thing as the original proposed language; or (3) it was intentionally deleted because the convention had second thoughts on the whole matter and decided to allow legislators to run for statewide office while holding their legislative seats. I believe that (2) could not have been what happened since no reasonable reading of sec. 5 could be held to prohibit a legislator from running for statewide office and retaining his seat.

Therefore, in regard to the constitutional issues raised in this memorandum, I have been unable to resolve them satisfactorily either way. Without more extensive research, I feel unable to either conjecture or speculate on a satisfactory disposition of the constitutional issues raised by HB 533.

HK:ic

Court ____________________, room ________,

________________________________, Alaska.

3. Mail or deliver copies of the form to the plaintiff or his attorney. (See above).

4. Mail or deliver a copy of the form to any person having possession of any property you claim as exempt. For instance, your employer, if you claim that your wages are exempt.

If these steps are followed within fifteen (15) days of the date you received this notice, the property you claim as exempt will not be disposed of. You will then be notified that a hearing will be held to determine whether the property is exempt.

Explanation of Exemptions:

The form is used only to claim an exemption as to property stated in the Writ of Execution.

If the property stated in the writ of execution includes any of the following items, fill out the forms and deliver or mail copies as explained above.

The first item on the form, A.1., should be checked and filled in if the writ of execution states that your wages, or other money owed to you, is to be attached. A single person may keep $200 after taxes, in any thirty (30) day period, the head of household may keep $350 after taxes. Therefore, add all the money you have earned, even if you haven't been paid, from all sources in the last thirty (30) days.