

908

HJ

HB

6

-

HB

45

80

AMENDMENT

#3

OFFERED IN THE HOUSE:

By: RANDOLPH

To: _____ HOUSE BILL No. CS HB 6 (Feed)

SENATE BILL No. _____

PAGE: 1

LINE: 21 & 22

Line 21 after ^{word} "period" delete ~~to~~ ^{"to"} & insert ~~of~~ ^{Must}

Line 22 after "on" insert "ALL"

AMENDMENT

#4

OFFERED IN THE HOUSE:

BY: MACON E

TO: C5 HOUSE BILL No. 6 (JUD)

SENATE BILL No. _____

PAGE: 1

LINE: 21

delete "for a six day
organizational period"

Page 2 - delete all
material

Page 3 - line 1

delete the word "sections"

re-number subsequent
sections accordingly

COMMITTEE REPORT

HOUSE

FURTHER:

*Roller
Return to
Rolls 4/5*

1/30/79

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 6

*P 1545
S.N. 426*

"An Act establishing time schedules for the orderly organization and operation of the legislature."

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB Judiciary same title new title
and recommends _____
- AND attaches a "Letter of Intent" ~~New~~ Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Terry Masten

Walter D. Anderson Jr.

H. Males

Richard L. ...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Roller No Rec

Patricia De O'Connell - Do Not Pass

Richard L. ...

CHAIRMAN

COMMITTEE REPORT

HOUSE

1/24/79

FURTHER: JUDICIARY

Date: Jan. 30, 1979

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 6 ^{P 100}

"An Act establishing time schedules for the orderly organization and operation of the legislature."

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

do pass [] do not pass

[] do pass with attached amendments(s)

replace with CS for HB 6 ^{[X] same title} _{[] new title}
and recommends Do Pass

[] AND attaches a "Letter of Intent" [] New Fiscal Note

[] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

W. Kelly
John Fuller
Bin Parker
Do Pass Ray McKeage
Terry Masten
Robb
Lenny Gooding - No Rec

W. Kelly
CHAIRMAN

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 6
 Title Establishing Time Schedules for the Orderly Organization and
Operation of the Legislature Date 1/24/79

Requested by: Representative Brian Rogers

II. FISCAL DETAIL

Agency Affected Legislative Affairs
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected Session Expenses

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL			20.6		24.1	
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND			20.6		24.1	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY 79 cost would be 17.7. FY 80-84 calculated at 8% inflation.

Additional costs consist of one extra round trip per legislator with one day per diem allowed each way. No allowance for excess baggage.

It is assumed the session length would not be any longer.

IV. DATE 2/4/79 PREPARED BY Warren W. Endicott, Director
 AGENCY Legislative Affairs
 PHONE 465-3850
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 6 (Judiciary)
 Title Establishing Time Schedules for the orderly organization and
 Requested by Operation of the Legislature; and Date 3/10/79
providing for an effective date."
 Requested by: House Judiciary Committee

II. FISCAL DETAIL
 Agency Affected Legislative Affairs
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected Session Expenses
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL	0	58.7	84.0	68.5	98.0	79.9
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		58.7	84.0	68.5	98.0	79.9

FUNDING (Thousands of Dollars)

GENERAL FUND		58.7	84.0	68.5	98.0	79.9
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		0				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY 79 cost would be 54.4. FY 80 calculated at 8% inflation.

Additional costs consist of one extra round trip per legislator with one day per diem allowed each way in December of odd numbered years. No allowance for excess baggage. It is assumed the session length would not be increased due to the December session.

July and October sessions allow an extra round trip plus one day per diem allowed each way for each session along with per diem costs for each 3 day session.

IV. DATE 3/10/79 PREPARED BY *William W. Erickson* Director
 AGENCY Legislative Affairs
 PHONE 465-8850
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

ALASKA STATE LEGISLATURE

ELEVENTH Legislature FIRST Session

HOUSE BILL NO. 6

By ROGERS

"AN ACT establishing time schedules for the orderly organization and operation of the legislature."

Time scheds. org. of legislatr.

Introduced in the House 1-24, 1979

HISTORY IN THE HOUSE

19 79

Jan. 24

Jan 30

Mar 12

Read first time and referred to Committee on

State Affairs and Judiciary

Reported back with recommendation that

state affairs - CS-6 do pass, 170 rec. To Judiciary

Judiciary - CS, 1st 4 do pass & no rec. 1 do not pass To Rules

Read second time and

Read third time and

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reconsideration

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused
Reported correctly engrossed
Signed by Speaker
Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reconsideration

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused
Reported correctly engrossed
Signed by President
Returned to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Received from Senate

Concurred in Senate amendment thus adopting:
VOTE

Failed to concur in Senate amendment; asked Senate to recede
VOTE

Senate receded from amendment
VOTE

Senate failed to recede from amendment
VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House
VOTE

CC adopted by Senate
VOTE

To enrolling
Reported correctly enrolled
Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

5810
Rogers

DNM 3/7/79

Rogers-Parr bill would ask for special legislative sessions

By CHARLIE SPENCER
News-Miner Bureau

JUNEAU—A bill being forged from proposals of two Fairbanks legislators would bring the Legislature back to Juneau twice during the off-session as well as in December after elections every two years.

House Bill 6, offered by Rep. Brian Rogers, D-Fairbanks, would create a special six-day session beginning the first Monday in December of even-numbered years.

The session would allow the legislators to organize and choose leadership and committee assignments, then go home until January.

The Legislature presently organizes after election years during the regular session. All normal business is put off until organization is accomplished. There is no set limit.

This year the Senate was effectively organized before it came to Juneau, but the House took 10 days

The advantages of the proposal run beyond getting the maneuvering out of the regular session, Rogers told the House Judiciary Committee Tuesday. It would allow the legislators, assuming the short session was successful, to go home and hire appropriate staffs and get ready to dig in come January.

The committee decided to add a proposal offered by chairman Rep. Charlie Parr, D-Fairbanks. He suggested three, three-day sessions spaced through the interim period.

During these sessions the Legislature would be restricted to considering:

- Budget and fiscal matters;
- Emergencies;
- Bills vetoed;
- And legislative citations.

The combination bill drew fire from Rep. Randy Phillips, R-Anchorage, who said the public would see it as creating full-time legislators.

Rep. Patrick O'Connell said he could see the Rules Committee, which hires

personnel and assigns office space once organization is completed, hanging around in Juneau acting as a "mini-Legislature" after the short session.

The committee, however, kept the six-day limit on the December session, which had been removed earlier by the State Affairs Committee.

And it shortened Parr's proposal to two three-day sessions, one in July and one in September.

According to Parr, the legislators would be better able to keep track of state spending by coming back to Juneau, and might reconsider the controversial line-item vetoes handed out by the governor—usually after the legislators have left for the summer.

Under existing law, vetoes registered in odd-numbered years can be overridden by the Legislature only during the first few days of the second session of that Legislature, which convenes the next January.

If the governor vetoes a bill after the

end of the second session of a Legislature, the Legislature can only override the veto by meeting in special session.

The Legislature has also been hampered by a court ruling that said its Budget and Audit Committee could not approve certain types of budget transfers while the rest of the Legislature is not in session.

The voters had a chance last November to re-instate the committee's authority to make such transfers, but turned it down.

The lawmakers could meet to handle such transfers, and also could watch overspending by state agencies—some of which come back in January and request after-the-fact appropriation. Parr said he is not excited about making the two extra trips, but added, "I don't know of any way to handle the problem except this."

The committee may pass the bill out later this week.

Draft CS

Original sponsor: Rogers

Offered: 1/30/79
Referred: Judiciary

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 6

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing time schedules for the orderly
7 organization and operation of the legislature."

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

9 * Section 1. AS 24.05.080 is repealed and re-enacted to read:

10 Sec. 24.05.080. TERMS. The term of each member of the legislature
11 begins on the first Monday in December following the general election.
12 The term of representatives is two years and the term of senators is
13 four years. One-half of the senators are elected every two years.

14 * Sec. 2. AS 24.05.090 is repealed and re-enacted to read:

15 Sec. 24.05.090. REGULAR SESSIONS. (a) A legislature is of two
16 years duration and consists of a first regular session, a second regular
17 session, and any special session or sessions convened during that
18 period.

19 (b) The first regular session shall convene at the capital at 2:00
20 p.m. local time on the first Monday in December of each even-numbered
21 year for a ^{6-day} organizational period to elect officers, select chairmen and
22 members of standing committees, consider and act on other matters re-
23 lating to organization, participate in orientation programs, and then
24 recess until 10:00 a.m. on the second Monday in January. ~~The rules~~
25 ~~committees may meet separately or jointly during or immediately after~~
26 ~~the organizational period to review and make preliminary or final deci-~~
27 ~~sions on member and committee space and staff requests and take other~~
28 ~~administrative action consistent with law, rule and the legislative~~
29 ~~budget.~~ ~~The introduction of bills and the formal receipt of~~

1 the annual report of the governor and reports from agencies will be in
2 order upon the reconvening of the session in January. The days of the
3 organizational period are considered days in session for the purpose of
4 paying members the per diem authorized by law.

5 (c) The second regular session convenes at the capital at 10:00
6 a.m. on the second Monday in January in the odd-numbered year unless the
7 legislature approves a different date by the adoption of a concurrent
8 resolution by a vote of the majority of the members of each house during
9 the preceding regular or special session.

10 * Sec. 3. AS 37.07.060(b) is amended to read:

11 (b) The governor shall present the proposed comprehensive program
12 and financial plan in a message to a joint session of the legislature
13 before the fourth legislative day following the convening or reconvening
14 of the legislature in regular session in January of each year. A
15 governor presenting the budget for the first time after his first elec-
16 tion will present his message before the 10th day of the reconvened
17 regular session. The message shall be accompanied by an explanatory
18 report which summarizes recommended goals, plans, and appropriations.
19 The report shall contain

20 (1) the coordinated program goals and objectives which the
21 governor recommends to guide the decisions on the proposed program plans
22 and budget appropriations;

23 (2) his program and budget recommendations for the succeeding
24 fiscal year;

25 (3) a summary of state receipts in the last fiscal year, a
26 revised estimate for the current fiscal year, and an estimate for the
27 succeeding fiscal year;

28 (4) a summary of expenditures during the last fiscal year,
29 those authorized for the current fiscal year, and those recommended by

1 the governor for the succeeding fiscal year; and

2 (5) any additional information which will facilitate under-
3 standing of the governor's proposed program and financial plan by the
4 legislature and the public.

5 * ~~Sec. 4. AS 24.30 is amended by adding a new section to read:~~

6 Sec. 24.30.065. TIME LIMIT FOR REQUESTING AND INTRODUCING BILLS.

7 (a) The following time limits govern submission of requests for and the
8 introduction of bills in the second regular session of the legislature
9 unless by concurrent resolution an earlier or later date is adopted by
10 ~~an affirmative vote of two-thirds of the membership of each house:~~

11 (1) Personal requests for research and for drafting of bills
12 may be submitted no later than seven calendar days before the deadline
13 for introduction of personal bills.

14 (2) No personal bill may be introduced after the 40th day of
15 the second regular session.

16 (b) ~~The governor shall have his legislative program introduced~~
17 *(the Leg. may refuse to. bills)*
18 through either rules committee as authorized by AS 24.30.060(b) no later
19 than the 50th day of either regular session unless by a letter to the
20 presiding officers he asserts that the introduction of a bill is a
21 matter of urgency which was not contemplated when he submitted his
22 program.

23 (c) ~~Bills introduced after the personal bill deadline by a stand-~~
24 ~~ing, special or interim committee "By Request" may be introduced only if~~
25 accompanied by a signed statement from the chairman that a majority of
26 the membership approves the introduction "By Request".

27 (d) After the personal bill deadline, the legislative research and
28 legal staffs will give priority attention to the needs of committees for
29 information, analysis, amendments, opinions and substitute bills. This
work will take precedence over any personal requests for resolutions and

other services.

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6408
Vassar

1 IN THE HOUSE

BY PARR

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to regular sessions of the
7 legislature; and providing for an effective date."

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

9 * Section 1. AS 24.05.090 is amended by adding new subsections to read:

10 (b) A regular session of the legislature shall be reconvened
11 annually at 10:00 a.m. Pacific Standard Time on the following dates:12 (1) the first ~~Monday~~ ^{Friday} after July 4th;13 ~~(2) the second Monday in September;~~14 ⁽²⁾(3) the first ~~Monday~~ ^{Friday} in ~~the~~ ^{the} ~~month~~ ^{month} of October15 (c) A session reconvened in accordance with (b) of this section
16 may not exceed three consecutive calendar days in length, except that a
17 session convened in accordance with (b)(3) of this section is not
18 limited as to duration. During that part of a regular session which is
19 reconvened in accordance with (b) of this section, legislation shall be
20 limited to the following subjects:21 (1) budget and fiscal matters, including, but not limited to,
22 budget transfers and receipt of federal appropriations;23 (2) emergency matters, including but not limited to, matters
24 relating to natural disasters in the state;

25 (3) bills vetoed by the governor;

26 (4) legislative citations.

27 (d) By an affirmative vote of two-thirds of the membership of each
28 house, the legislature may change the time or date for reconvening
29 regular sessions under (b) of this section or may vote to adjourn with-

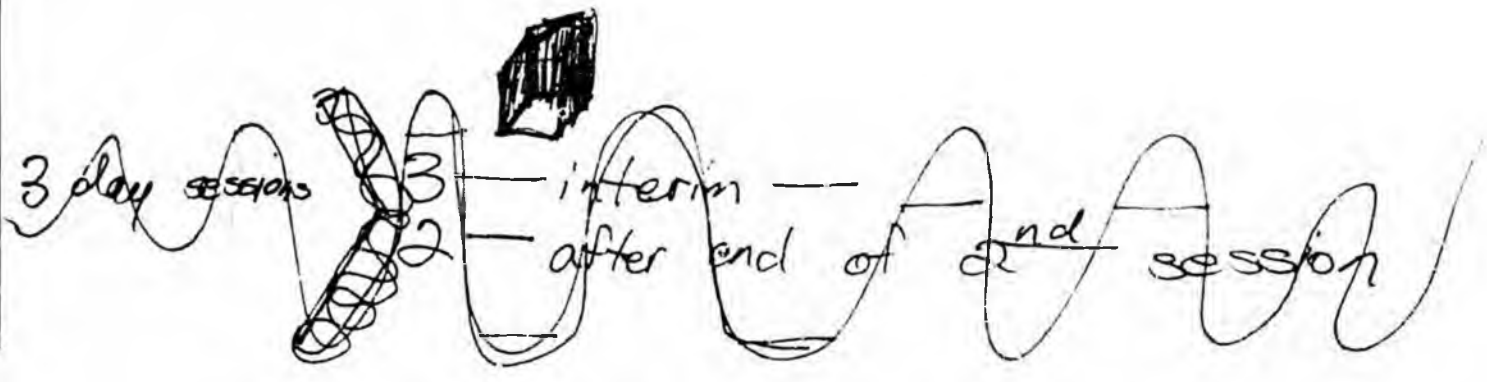
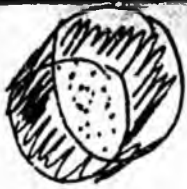
1 out reconvening.

2 2. (e) Except as provided in (d) of this section, the regular session
3 of the legislature ends upon adjournment of the legislature following
4 convening in November of each year in accordance with (b)(3) of this
5 section.

6 ~~* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.~~

7 070(c): — NO — Keep effective date —
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16 *Benny Vassar*
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18 *Draft - \$ note*
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2 mini-sessions after each session
July - 1st Monday after July 4
Sept.

@ 18,000 + each mini-session

**THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE**

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 6
 Title Establishing Time Schedules for the Orderly Organization and
Operation of the Legislature Date 1/24/79

Requested by: Representative Brian Rogers

II. FISCAL DETAIL

Agency Affected Legislative Affairs
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected Session Expenses

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL			20.6		24.1	
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND			20.6		24.1	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY 79 cost would be 17.7. FY 80-84 calculated at 8% inflation.

Additional costs consist of one extra round trip per legislator with one day per diem allowed each way. No allowance for excess baggage.

It is assumed the session length would not be any longer.

IV. DATE 2/4/79 PREPARED BY Warren W. Endicott, Director
 AGENCY Legislative Affairs
 PHONE 465-3850
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

HB 4

Melcalf's concern

29. 68. 010

HB

20

COMMITTEE REPORT

HOUSE

FURTHER:

March 12, 1979

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 20

"An Act relating to commercial fishing loans; eff. date."

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis;

(27) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

(am § 12 ch 105 SLA 1977; am §§ 14, 15 ch 151 SLA 1978)

Effect of amendments.

The 1977 amendment, effective January 1, 1978, deleted "or to the spouse of a commercial fisherman who does not receive income separate and distinct from that of the commercial fisherman spouse as a result of the spouse's participation" following "directly or indirectly participate in the taking" in paragraph (2).

The 1978 amendment substituted "subsistence uses" for "personal use and not for sale or barter" in paragraph (17) and added paragraphs (26) and (27).

As the rest of the section was not affected by the amendments, it is not set out.

Editor's note.

As to legislative intent, see § 1, ch. 151, SLA 1978, in the 1978 Temporary and Special Acts and Resolutions in Binder 9.

Legislative history report. — For report on ch. 151, S1 A 1978 (SB 960), see 1978 House Journal, p. 1154.

Chapter 10. Fisheries and Fishing Regulations.

Article 2. Fish Traps and Other Illegal Fishing Devices.

Section

130. Penalties for violation of §§ 120--125 of this chapter

Sec. 16.10.130. Penalties for violation of §§ 120--125 of this chapter. A person who violates §§ 120--125 of this chapter is guilty of a misdemeanor, and upon conviction is punishable by imprisonment for not more than six months, or by a fine of not more than \$1,000, or by both. (§ 2 ch 26 SLA 1959; am § 4 ch 103 SLA 1977)

Effect of amendment. -- The 1977 amendment, effective August 1, 1978, substituted "§§ 120 -- 125" for "§ 120" near the beginning of the section.

Article 7. Commercial Fishing Loan Act.

Section

- 310. Powers of the department
- 320. Limitations on loans
- 333. Loans for purchase of Alaska limited entry permits
- 335. Default and foreclosure

Section

- 327. Deficiencies and transfer of entry permits after foreclosure
- 339. Regulations
- 342. Special account established
- 360. Definitions

Sec. 16.10.310. Powers of the department. (a) The department may (1) make loans to

HB 20

(A)

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§§ 300

(1) i

(A) individual commercial fishermen who have been state residents for a continuous period of five years immediately preceding the date of application for a loan under §§ 300—370 of this chapter and have had a crewmember or commercial fishing license under AS 16.05.480 or a permit under ch. 43 of this title for any one of the past five years, and who actively participated in the fishery during that period, for the repair, restoration or upgrading of existing vessels and gear, for the purchase of entry permits and gear, and for the construction and purchase of vessels; and

(B) Repealed by § 2 ch 190 SLA 1976.

(C) corporations, partnerships, or joint ventures, 100 per cent of which are owned by individual commercial fishermen who have been state residents for a continuous period of five years immediately preceding the date of application for a loan under §§ 300—370 of this chapter and have had a crewmember or commercial fishing license under AS 16.05.480 or a permit under ch. 43 of this title for any three of the past five years, and who actively participated in the fishery during that period, for the repair, restoration or upgrading of existing vessels and gear, for the purchase of gear, and for the construction and purchase of vessels.

(2) designate agents and delegate its powers to them as necessary;

(3) adopt rules and regulations necessary to carry out its functions;

(4) establish amortization plans for repayment of loans, which may include extensions for poor fishing seasons;

(5) enter into agreements with private lending institutions, other state agencies or agencies of the federal government, to carry out the purposes of §§ 300—370 of this chapter.

(b) The department shall consult with the Department of Fish and Game on regulations and procedures established under this chapter. (§ 1 ch 134 SLA 1972; am § 2 ch 54 SLA 1973; am § 2 ch 128 SLA 1975; am § 2 ch 190 SLA 1976; am § 13 ch 105 SLA 1977; am §§ 1, 2 ch 83 SLA 1978)

Effect of amendments.

The 1977 amendment, effective January 1, 1978, in paragraph (1)(A) of subsection (a), substituted "crewmember or commercial fishing license under AS 16.05.480 or a permit under ch. 43 of this title" for "commercial fishing license," inserted commas following "three years," "existing vessels and gear," and "entry permits and gear," deleted "and" following "existing vessels and gear," and inserted

"for" preceding "the construction and purchase of vessels."

The 1978 amendment, effective July 1, 1978, in paragraph (1) of subsection (a), inserted "immediately preceding the date of application for a loan under §§ 300—370 of this chapter" and substituted "any one of the past five years, and who actively participated in the fishery during that period" for "three years" in subparagraph (A) and added subparagraph (C).

Sec. 16.10.320. Limitations on loans. (a) Except as provided in (b), (c), (d), and (e) of this section, commercial fishing loans granted under §§ 300—370 of this chapter

(1) may not exceed \$500,000;

- (2) may not exceed a term of 15 years;
- (3) may not bear interest exceeding seven per cent;
- (4) shall be secured by a first priority lien and appropriate security agreement; and
- (5) may not exceed 75 per cent of the appraised value of the collateral used to secure the loan.

(b) A lien in favor of the state is not required for loans guaranteed fully by the federal government under the Federal Ship Financing Act of 1972 (46 U.S.C. secs. 1271-1279(b); 86 Stat. 909), as amended. In the case of a security agreement given to secure a loan made under §§ 300—370 of this chapter and covering a vessel documented under the laws of the United States and so long as the Ship Mortgage Act of 1920 (46 U.S.C. secs. 911-984; 41 Stat. 1000), as amended, and the Shipping Act of 1916 (46 U.S.C. secs. 801-842; 39 Stat. 728), as amended, remain ambiguous with respect to whether or not a state or state agency qualifies as a citizen of the United States for purposes of those Acts, the first lien requirement of this section may be satisfied by the recordation and endorsement of a first preferred ship mortgage under the Ship Mortgage Act of 1920, and by perfection of a security interest under the Uniform Commercial Code — Secured Transactions (AS 45.05.690—45.05.794), if the approval of the Secretary of Commerce is obtained under 46 U.S.C. sec. 839 for the transfer to the department of the interest in a vessel documented under the laws of the United States. In the case of a security agreement given to secure a loan made under §§ 300—370 of this chapter and covering a vessel documented under the laws of the United States, the first lien requirement of this section may also be satisfied by use of a trust deed and bond issue under it, if the trustee is a citizen of the United States and obtains a first preferred ship mortgage on the vessel under the Ship Mortgage Act of 1920, and the approval of the Secretary of Commerce is obtained under 46 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds of the department if the trustee is not a trustee approved by the Secretary of Commerce under 46 U.S.C. secs. 808, 835 and 961.

(c) A commercial fishing loan for the construction of a new fishing vessel or the purchase of an existing fishing vessel may be secured by a second priority lien or mortgage which is subordinate to a valid first priority lien or mortgage in favor of a private lending institution if the total financing does not exceed 75 per cent of the appraised value of the collateral used to secure the loan. A loan granted under this subsection

- (1) shall be to an obligor who has previously obtained a commitment for a commercial fishing loan from a private lending institution;
- (2) may not exceed \$1,000,000 or 35 per cent of the total purchase price of the fishing vessel, whichever amount is less;
- (3) may not exceed a term of 15 years;
- (4) may not bear interest exceeding seven per cent, except that loans granted under this subsection may bear interest at a rate not to exceed

eight per cent if the commissioner determines that an increase in the interest rate is necessary for the security of the loan.

(d) Except as provided in (e) of this section, no more than one commercial fishing loan may be made to a person for the purchase, construction, repair or upgrading of a fishing vessel or its gear. A loan to an associate of the borrower is considered to be a loan to the borrower. For the purposes of this section, "associate of the borrower" means

(1) a corporation or other organization of which the borrower is an officer, director or partner, or is, directly or indirectly, the beneficial owner of 10 per cent or more of any class of equity securities;

(2) a person who is, directly or indirectly, the beneficial owner of 10 per cent or more of any class of equity securities of the borrower;

(3) a trust or other estate in which the borrower has a substantial beneficial interest or as to which the borrower serves as trustee or in a similar fiduciary capacity;

(4) a relative or spouse of the borrower or a relative of the spouse, who has the same home as the borrower;

(5) a person directly or indirectly controlling, controlled by, or under common control with, the borrower.

(e) Two or more individual commercial fishermen who each satisfy the requirements specified in § 310(a)(1)(A) of this chapter may jointly obtain a commercial fishing loan for the construction of a fishing vessel or the purchase of an existing fishing vessel. Loans granted under this subsection

(1) may not exceed the amount specified in (a)(1) of this section multiplied by the number of qualified commercial fishermen applying for the loan;

(2) may not exceed a term of 15 years;

(3) shall be secured by a first priority lien and appropriate security agreement;

(4) may not bear interest exceeding seven per cent; and

(5) may not exceed 75 per cent of the appraised value of the collateral used to secure the loan. (§ 1 ch 134 SLA 1972; am § 3 ch 54 SLA 1973; am § 3 ch 128 SLA 1975; am § 1 ch 154 SLA 1977; am § 3 ch 83 SLA 1978)

Effect of amendments.

The 1978 amendment, effective July 1, 1978, rewrote this section.

Sec. 16.10.333. Loans for purchase of Alaska limited entry permits.

(a) Loans under § 320(a) of this chapter may be made to an individual commercial fisherman for the purchase of a limited entry permit upon certification by the commission that the fisherman is a person who qualifies as a transferee for the permit under ch. 43 of this title and the regulations adopted by the commission.

(b) Upon approval by the commissioner, the permit to be purchased may be pledged as security for a loan under (a) of this section, if

(1) the certificate for the pledged permit lists the commissioner as the legal owner of the permit;

(2) the certificate for the pledged permit lists the debtor as the equitable owner of the permit;

(3) all annual permit cards issued under the pledged permit list the name of the debtor;

(4) all obligations and responsibilities of a permit owner are assumed by the debtor;

(5) co-signers or other sureties for performance under the note are not vested with any rights in the pledged permit and their obligation is limited to satisfaction of the note and payment of costs directly incurred by the department in administering the loan.

(c) The commissioner is not liable for any act or omission resulting from permit ownership nor will that act or omission affect his title to the permit or his rights under it.

(d) Upon satisfaction of the note by the debtor, the commissioner shall certify to the commissioner that the note has been satisfied.

(e) Upon certification as provided in (d) of this section, the commission shall amend the permit certificate to list the debtor as the legal owner. (§ 4 ch 83 SLA 1978)

Effective date. — Section 8, ch. 83, SLA 1978, provides: "This Act takes effect July 1, 1978."

Sec. 16.10.335. Default and foreclosure. (a) If the debtor defaults upon a note for which a limited entry permit has been pledged as security under § 333 of this chapter, the commissioner shall provide the debtor, by registered or certified mail sent to his last known address on file with the commissioner, with a notice of default which includes

(1) a description of the security given for the note including the number assigned to the pledged permit by the commission;

(2) the date upon which the default occurred;

(3) the amount of arrearages as of the date of the notice, the total amount remaining on the note less unearned interest, and the amount of daily interest;

(4) a statement that the debtor may, within 15 days of the postmark date of the notice, request a hearing at which he may submit evidence showing he has not defaulted;

(5) a statement that the note may be reinstated if brought current within 60 days from the postmark date of the notice;

(6) a statement that the note may be paid in full less unearned interest within 30 days from the postmark date of the notice;

(7) the place where reinstatement or payment in full may be made; and

(8) a notice in at least 10-point bold type stating: "IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

(b) Upon the debtor's failure to reinstate or satisfy the note within the time specified in (a) of this section, his equitable interest is terminated by operation of law without further notice. Any entry permit cards issued to him under the permit shall be cancelled immediately upon receipt by the commission of a certificate of termination containing a copy of the notice required by (a) of this section issued by the commissioner. (§ 4 ch 83 SLA 1978)

Effective date. — Section 8, ch. 83, SLA 1978, provides: "This Act takes effect July 1, 1978."

Sec. 16.10.337. Deficiencies and transfer of entry permits after foreclosure. (a) Upon a foreclosure on an entry permit as provided in § 335 of this chapter, the commissioner shall offer the commission a right of first refusal if the permit is subject to a buy-back program under AS 16.43.290 — 16.43.330 at a price equal to the amount outstanding on the note plus any costs the department directly incurred in administering the loan.

(b) If the commission does not exercise its right of first refusal within 30 days after it receives the offer, or if the permit is not subject to a buy-back program under AS 16.43.290 — 16.43.330, the department shall promptly notify the debtor of this fact. The debtor has 30 days from the postmark date of the notice to nominate a person qualified to assume the note. The person nominated must qualify under the requirements of § 333(a) of this chapter. If qualified, he may assume all rights and liabilities of the original debtor.

(c) If the debtor is unable to nominate a qualified person to assume the note under (b) of this section, the permit must be made available to a qualified person, chosen as provided in this section, who must assume the note subject to all rights and liabilities of the original debtor. The commission shall provide the commissioner with a list of persons chosen by lottery who qualify as transferees of entry permits under ch. 43 of this title and regulations adopted by the commission and who have met the residency and commercial fishing participation requirements of § 310(a) of this chapter. The commissioner then shall determine, in order of presentation, any remaining qualifications. The commissioner shall allow the first applicant meeting all qualifications to assume the note.

(d) Nothing in this section affects the right of the commissioner to institute legal action for a deficiency resulting from a default on a note given under § 323 of this chapter. In addition to any deficiency, the

debtor is liable for the costs of administering the note and for costs and attorney fees. (§ 4 ch 83 SLA 1978)

Effective date. — Section 8, ch. 83, SLA 1978, provides: "This Act takes effect July 1, 1978."

Sec. 16.10.339. Regulations. The commission, with the approval of the department, shall adopt regulations to implement §§ 333 — 337 of this chapter. (§ 4 ch 83 SLA 1978)

Effective date. — Section 8, ch. 83, SLA 1978, provides: "This Act takes effect July 1, 1978."

Sec. 16.10.342. Special account established. (a) There is established as a special account within the commercial fishing revolving loan fund the foreclosure expense account.

(b) The commissioner may credit the foreclosure expense account with money earned as a result of an increased interest rate on a commercial fishing loan granted under § 320(c) of this chapter.

(c) The commissioner may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans granted under §§ 300 — 370 of this chapter or to defray expenses incurred during foreclosure proceedings after a default by an obligor. (§ 4 ch 83 SLA 1978)

Effective date. — Section 8, ch. 83, SLA 1978, provides: "This Act takes effect July 1, 1978."

Sec. 16.10.360. Definitions. In §§ 300 — 370 of this chapter

(1) "commissioner" means the commissioner of commerce;

(2) "department" means the Department of Commerce;

(3) "commission" means the Alaska Commercial Fisheries Entry Commission;

(4) "debtor" means an individual commercial fisherman who either initially contracts for a loan under §§ 333 — 337 of this chapter or assumes a loan as provided in those sections. (§ 1 ch 134 SLA 1972; am § 5 ch 83 SLA 1978)

Effect of amendment. — The 1978 amendment, effective July 1, 1978, added paragraphs (3) and (4).

fishery resource in intrastate, interstate, or foreign commerce. (§ 2 ch 102 SLA 1977)

Article 7. Commercial Fishing Loan Act.

Section	Section
300. Declaration of policy	340. Creation of fund
310. Powers of the department	350. Administration of fund
320. Limitations on loans	360. Definitions
330. Sale or transfer of mortgages, bonds and notes	370. Short title

Legislative committee report. — For am FCC), see 1971 House Journal, p. 399; report on ch. 134, SLA 1972 (SCS CSHB 102 1972 House Journal, p. 554.

Sec. 16.10.300. Declaration of policy. It is the policy of the state, under §§ 300 — 370 of this chapter, to promote the rehabilitation of the state's fisheries, the development of a predominantly resident fishery, and the continued maintenance of commercial fishing gear and vessels throughout the state by means of long-term low interest loans. (§ 1 ch 134 SLA 1972; am § 1 ch 54 SLA 1973; am § 1 ch 128 SLA 1975)

Effect of amendments. — The 1973 amendment inserted "of a predominantly resident fishery." also inserted "the" preceding "continued maintenance."

The 1975 amendment inserted "the rehabilitation of the state's fisheries" and

Sec. 16.10.310. Powers of the department. (a) The department may

(1) make loans to

(A) individual commercial fishermen who have been state residents for a continuous period of five years and have had a commercial fishing license for three years for the repair, restoration or upgrading of existing vessels and gear and for the purchase of entry permits and gear and the construction and purchase of vessels; and

(B) Repealed by § 2 ch 190 SLA 1976.

(2) designate agents and delegate its powers to them as necessary;

(3) adopt rules and regulations necessary to carry out its functions;

(4) establish amortization plans for repayment of loans, which may include extensions for poor fishing seasons;

(5) enter into agreements with private lending institutions, other state agencies or agencies of the federal government, to carry out the purposes of §§ 300 — 370 of this chapter.

(b) The department shall consult with the Department of Fish and Game on regulations and procedures established under this chapter. (§ 1

Effect of amendments. — The 1973 amendment substituted "fishing" for "gear" preceding "license" in paragraph (1) and added "and for the purchase of entry permits and gear and the construction and purchase of vessels" to the end of that paragraph of subsection (a).

The 1975 amendment designated the provisions of paragraph (1) of subsection (a) as present subparagraph (A) of that paragraph, and added subparagraph (B).

The 1976 amendment in subsection (a), repealed paragraph (1)(B), which read "permit holders under §§ 400 — 470 of this chapter, for the construction of hatchery facilities."

Editor's note. — Section 13, ch. 105, SLA 1977, effective January 1, 1978 amended paragraph (1)(A) of subsection (a) to read as follows: "(A) individual commercial fishermen who have been state residents for a continuous period of five years and have been state residents for a continuous period of five years and have had a crewmember or commercial fishing license under AS 16.05.480 or a permit under ch. 43 of this title for three years, for the repair, restoration or upgrading of existing vessels and gear, for the purchase of entry permits and gear, and for the construction and purchase of vessels; and"

Sec. 16.10.320. Limitations on loans. A commercial fishing loan may not exceed \$150,000. A loan may not run longer than 15 years or bear interest exceeding seven per cent, and it shall be secured by a first lien and appropriate security agreements, except that a lien in favor of the state is not required for loans guaranteed fully by the federal government under the Federal Ship Financing Act of 1972 (46 U.S.C. secs. 1271 — 1279b; 86 Stat. 909), as amended. In the case of a security agreement given to secure a loan made under secs. 300 — 370 of this chapter and covering a vessel documented under the laws of the United States and so long as the Ship Mortgage Act of 1920 (46 U.S.C. secs. 911 — 984; 41 Stat. 1000), as amended, and the Shipping Act of 1916 (46 U.S.C. secs. 861 — 842; 39 Stat. 728), as amended, remain ambiguous with respect to whether or not a state or state agency qualifies as a citizen of the United States for purposes of those Acts, the first lien requirement of this section may be satisfied by the recordation and endorsement of a first preferred ship mortgage under the Ship Mortgage Act of 1920, and by perfection of a security interest under the Uniform Commercial Code — Secured Transactions (AS 45.05.690 — 45.05.794), if the approval of the Secretary of Commerce is obtained under 46 U.S.C. sec. 839 for the transfer to the department of the interest in a vessel documented under the laws of the United States. In the case of a security agreement given to secure a loan made under secs. 300 — 370 of this chapter and covering a vessel documented under the laws of the United States, the first lien requirement of this section may also be satisfied by use of a trust deed and bond issue under it, if the trustee is a citizen of the United States and obtains a first preferred ship mortgage on the vessel under the Ship Mortgage Act of 1920, and the approval of the Secretary of Commerce is obtained under 46 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the department if the trustee is not a trustee approved by the Secretary of Commerce

ch 134 SLA 1972; am § 3 ch 54 SLA 1973; am § 3 ch 128 SLA 1975; am § 1 ch 154 SLA 1977)

Effect of amendments. — The 1973 amendment added the language beginning "except that" to the end of the second sentence and added the present third and fourth sentences.

The 1975 amendment added the language beginning "and loans granted under § 310(a)(1)(B)" to the end of the second sentence and "Except for loans granted under § 310(a)(1)(B) of this chapter" to the beginning of the fifth sentence.

The 1977 amendment substituted "\$150,000" for "\$100,000" in the first sentence, deleted language relating to collateral for loans granted under § 310(a)(1)(B) of this chapter from the end of the second sentence, and deleted "Except for loans granted under § 310(a)(1)(B) of this chapter" from the beginning of the last sentence.

Sec. 16.10.330. Sale or transfer of mortgages, bonds and notes. (a) The commissioner of commerce may sell or transfer at par value or at a premium or discount to any bank or other private purchaser for cash or other consideration the mortgages, bonds and notes held by the Department of Commerce as security for loans made under this chapter.

(b) The commissioner of commerce and economic development may sell or transfer at par value to the Department of Revenue the mortgages, bonds and notes held by the Department of Commerce and Economic Development as security for loans made under this chapter. However, the commissioner of commerce and economic development may not transfer an interest in a vessel documented under the laws of the United States to the Department of Revenue, except as permitted by the Ship Mortgage Act of 1920 (46 U.S.C. secs. 911 -- 984; 41 Stat. 1090), as amended, and the Shipping Act of 1916 (46 U.S.C. secs. 801 -- 842; 39 Stat. 728), as amended, so long as those two Acts remain ambiguous with respect to whether or not a state or state agency qualifies as a citizen of the United States for purposes of those two Acts. The Department of Revenue, for the fiscal year ending June 30, 1976, shall purchase all the mortgages, bonds and notes offered until the current principal amount of all the mortgages, bonds and notes purchased and held by the Department of Revenue equals \$7,000,000. The Department of Revenue, for the fiscal year ending June 30, 1977, shall purchase all the mortgages, bonds and notes offered until the current principal amount of all the mortgages, bonds and notes purchased and held by the Department of Revenue equals \$9,000,000. After June 30, 1977, the Department of Revenue shall purchase all the mortgages, bonds and notes offered. (§ 1 ch 134 SLA 1972; am § 4 ch 54 SLA 1973; am § 1 ch 177 SLA 1976)

Effect of amendments. The 1973 amendment inserted "bonds" in subsection (a) and in the first sentence of subsection (b), added the present second and third

sentences of that subsection, and deleted the former second sentence of that subsection.

The 1976 amendment inserted "for the fiscal year ending June 30, 1976" in the third sentence of subsection (b), substituted "\$7,000,000" for "\$5,000,000" at the end of that sentence, and added the fourth and fifth sentences of that subsection.

Sec. 16.10.340. Creation of fund. There is a commercial fishing revolving loan fund to carry out the purpose of §§ 300 — 370 of this chapter. (§ 1 ch 134 SLA 1972; am § 2 ch 177 SLA 1976)

Effect of amendment. — The 1976 amendment deleted "which shall not exceed \$1,000,000" following "revolving loan fund."

Sec. 16.10.350. Administration of fund. The commissioner shall administer the loan fund. (§ 1 ch 134 SLA 1972)

Sec. 16.10.360. Definitions. In §§ 300 — 370 of this chapter
 (1) "commissioner" means the commissioner of commerce;
 (2) "department" means the Department of Commerce. (§ 1 ch 134 SLA 1972)

Sec. 16.10.370. Short title. Sections 300 — 370 of this chapter may be cited as the Commercial Fishing Loan Act. (§ 1 ch 134 SLA 1972)

Article 8. Salmon Hatcheries.

Section	Section
375. Regional salmon plan	443. Department assistance and cooperation
380. Regional associations	445. Egg sources
400. Permits for salmon hatcheries	450. Sale of salmon and salmon eggs by hatchery
410. Hearings before permit issuance	460. Inspection of hatchery
420. Conditions of a permit	470. Annual report
430. Alteration, suspension or revocation of permit	475. Definitions
440. Regulation	

Editor's note. — Section 1, ch 111 SLA 1974, provides: "It is the intent of this Act to authorize the private ownership of salmon hatcheries by qualified nonprofit corporations for the purpose of contributing, by artificial means, to the rehabilitation of the state's depleted and depressed salmon fishery. The program shall be operated without adversely affecting natural stocks of fish in the state and under a policy of management which allows reasonable segregation of returning hatchery-reared salmon from naturally occurring stocks."

Sec. 16.10.375. Regional salmon plan. The commissioner shall designate regions of the state for the purpose of salmon production and have developed and amend as necessary a comprehensive salmon plan for each region, including provisions for both public and private nonprofit hatchery systems. Subject to plan approval by the commissioner, comprehensive salmon plans shall be developed by regional planning teams consisting of department personnel and representatives of the appropriate qualified regional associations

HB

28

Rocky -
call elections
Thursday

fiscal note attached

15.25.220 - 15.25.270
Repeated

I. REQUEST

Bill/Resolution No. House Bill No. 28

Title "An Act providing for preferential presidential party primary election: and

Requested by providing for an effective date."

Date 2/23/79

Miller

II. FISCAL DETAIL

Agency Affected Office of the Governor-Division of Elections

Program Category Affected _____

BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		17.0				
200 TRAVEL		7.0				
300 CONTRACTUAL		250.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		274.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		274.0				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		1				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Personal Services: Some additional help will be required in each of 4 regional election supervisors' offices and the Director's office. By budgeting for one temporary, help can be hired for approximately 2 months in each office. In addition, overtime for election supervisors and their staff is necessary.

(12.2 for a Clerk III and \$4.8 for overtime)

Travel: These funds are for the election supervisors to travel to train election board members.

Contractual: This area includes payments to election boards, counters, absentee canvass boards, state canvass boards, printing (ballots, tally books, registers, absentee affidavit envelopes, etc.), postage, advertising, communications, etc.

IV. DATE 2/23/79

PREPARED BY PAP Patty Ann Polley, Director

AGENCY Division of Elections

PHONE 586-6181

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

PROJECTED DATES FOR 1980 PRIMARIES

TUESDAYS

February 26 * * * * *	New Hampshire
March 4	Massachusetts Vermont
March 11	Georgia Florida
March 18	Illinois
March 25 * * * * *	North Carolina
April 1	New York Wisconsin
April 8	
April 15	
April 22	Pennsylvania
April 29 * * * * *	
May 3 (Saturday)	Texas
May 6	Indiana Tennessee Washington D.C.
May 13	Nebraska West Virginia
May 20	Maryland Michigan
May 27 * * * * *	Arkansas Oregon Idaho Nevada Kentucky
June 3	Montana California Rhode Island South Dakota Ohio New Jersey New Mexico

Alabama, Georgia - not determined.

2-26-79

I spoke with Elaine Karmack at the Democratic National Committee, Washington D.C. (202-797-5900) regarding the exact dates of presidential primaries in 1980.

---AT THIS TIME THOSE DATES ARE NOT AVAILABLE, ALL STATE LEGISLATURES ARE CURRENTLY IN SESSION AND WILL NOT HAVE ANY CHANGES FINALIZ UNTIL APRIL 15.

----THE FOLLOWING STATES ARE CONSIDERING CHANGING THEIR PRIMARY DATES, BUT AS OF THIS TIME HAVE MADE NO FINAL DECISION:

Washington
New Hampshire
Maine
New York
Puerto Rico

----ALL PRIMARIES MUST BE HELD BETWEEN THE 2nd TUESDAY IN MARCH AND THE 2nd TUESDAY IN JUNE. A STATE THAT HELD IT'S PRIMARY IN 76 OUTSIDE OF THAT TIME FRAME MAY ASK FOR A WAIVER TO CONTINUE TO HOLD IT OUTSIDE OF THAT TIME FRAME. STATES THAT HELD THEIR PRIMARY WITHIN THAT TIME FRAME IN 76 MAY NOT CHANGE OUTSIDE THOSE DATES.

--- THE EXACT DATES WILL NOT BE KNOWN UNTIL APRIL 15, 1979, THAT IS THE DATE THEY MUST BE SUBMITTED TO DEMOCRATIC NATIONAL HEADQUARTERS.

DS

HB

30

HB 20 - HB 30

John Williams
Terry S.
J

Pete jeans

HB

35

January 15, 1979

Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill which would transfer the responsibility for prescribing uniform filing fees under art. 9 (secured transactions) of the Uniform Commercial Code (U.C.C.) from the administrative director of the courts to the Department of Commerce and Economic Development. This transfer has the approval of the administrative director of courts.

This bill is offered in conjunction with an executive order transferring the recording function and the U.C.C. filing function from the Department of Administration to the Department of Commerce and Economic Development.

Historically, the real property records have been maintained by the court system in this state, and the Uniform Commercial Code filing system for secured transactions has been administered by the Department of Administration. In 1976, the responsibility for maintaining the real property records was transferred to the Department of Administration by ch. 118 SLA 1976. The Department of Administration in 1978 transferred the handling of U.C.C. filing to the Department of Commerce and Economic Development, Division of Banking and Securities, under a reimbursable services agreement. It is the view of the Department of Administration and the Department of Commerce and Economic Development that these record-keeping functions more logically come within the latter's area of responsibility for supervising and regulating commercial activities in this state. The executive order I am also submitting accomplishes this transfer of functions.

It is felt that the agency supervising and administering the U.C.C. should be able to prescribe the appropriate fees for the various U.C.C. filings. It is also felt that, because the administrative director of the courts

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 35
 Title Recording Functions and UCC Filing Functions
 Requested by Governor's Office Date 12/13/78

II. FISCAL DETAIL

Agency Affected Administration and Commerce
 Program Category Affected Public Protection
 Budget Request Unit(s) Affected State Recorder/ Banking and Securities

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 1/3/79

PREPARED BY Kellus N. Seweli / Lois Cook
 AGENCY Administration / Commerce
 PHONE 465-2200 / 2501

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Governor Hammond (Atten. Carla)
 Commissioner Allen
 33-001 (Rev. 10/78)

Kellus N. Seweli *Lois Cook*

ALASKA STATE LEGISLATURE

ELEVENTH Legislature FIRST Session

HOUSE BILL NO. 35.....

By THE RULES COMMITTEE BY.....
REQUEST OF THE GOVERNOR.

"An Act relating to filing fees and miscellaneous amendments to the Uniform Commercial Code; and providing for an effective date."

Uniform Commercial Code

Introduced in the House 1-24-1979.....

HISTORY IN THE HOUSE

1979

Jan. 24

Read first time and referred to Committee on Commerce and Judiciary

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by Speaker
Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by President
Returned to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Received from Senate

Concurred in Senate amendment thus adopting:
VOTE

Failed to concur in Senate amendment; asked Senate to recede
VOTE

Senate receded from amendment
VOTE

Senate failed to recede from amendment
VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House
VOTE

CC adopted by Senate
VOTE

To enrolling
Reported correctly enrolled
Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

HB 39

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

February 12, 1979

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 39

"An Act making a special appropriation to the office of the ombudsman; eff. date."

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

5880
Lambert

ALASKA STATE LEGISLATURE

ELEVENTH Legislature FIRST Session

HOUSE BILL NO. 39

By THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Interim Committee on Bottomfish)

"An Act making a special appropriation to the office of the ombudsman; and providing for an effective date."

Ombudsman

Introduced in the House ... 1-24-1979.

HISTORY IN THE HOUSE

19 79

Jan. 24
22 12

Read first time and referred to Committee on Resources and Finance
Resources, wages, to industry & finance
Reported back with recommendation that

Read second time and

Read third time and

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reconsideration
PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused
Reported correctly engrossed
Signed by Speaker
Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reconsideration
PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused
Reported correctly engrossed
Signed by President
Returned to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Received from Senate

Concurred in Senate amendment thus adopting:
VOTE

Failed to concur in Senate amendment; asked Senate to recede
VOTE

Senate receded from amendment
VOTE

Senate failed to recede from amendment
VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House
VOTE

CC adopted by Senate
VOTE

To enrolling
Reported correctly enrolled
Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

HB

43

COMMITTEE REPORT

HOUSE

FURTHER:

1-24-79

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 43

"An Act relating to the Alaska Code Revision Commission; eff. date."

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN



House Judiciary, Comte
Re: HB 43
F4I

COMMISSIONER
 JOHN W. ABBOTT, CHAIRMAN
 ARTHUR M. PETERSON, VICE CHAIRMAN
 PATRICK M. RODEY
 FRED E. BROWN
 SUSAN A. BURKE
 L. S. KURTZ, JR.

ALASKA STATE LEGISLATURE
 POUCH Y - STATE CAPITOL
 JUNEAU, ALASKA 99811
 (907) 465-4678

EXECUTIVE SECRETARY
 BILLY G. BERRIER

January 5, 1979

MEMORANDUM

SUBJECT: Legislation regarding organization and structure of the Alaska Code Revision Commission

TO: Representative Mike Miller, Chairman
 Alaska Legislative Council

FROM: John W. Abbott, Chairman
 Alaska Code Revision Commission

Under AS 24.20.075(c), the Alaska Code Revision Commission has prepared a revised version of last legislature's HB 852 dealing with the structure and membership of the commission.

As you requested, we have deleted the provisions dealing with (1) the commission directing the Legislative Affairs Agency to contract with or hire other agencies or persons, (2) providing for the commission to introduce legislation directly by means of the Rules Committee, and (3) the provision that would have given the senate member a four-year term. The commission voted not to propose a change in the membership. We hope that the bill in its current form will now receive the enthusiastic support of the Legislative Council.

Section 1 makes the heading of the section and the text consistent in specifying the name of the commission. This should remove any confusion as to its name.

Section 2 clarifies the terms of office of the various members, establishes a \$200 honorarium for the public member and the board of governors' designee, and clarifies the language for all members with regard to per diem and travel allowance.

Section 3 merely states the way in which the term provisions in section 1 will effect the current public member and board of governors' designee.

JWA/ep/jms
 Attachment

Introduced: 1/24/79
Referred: Judiciary

Judiciary
Committee
Substitute

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Code
Revision Commission)

1 IN THE HOUSE

2 HOUSE BILL NO. 43

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Code Revision Commis-
7 sion; and providing for an effective date."

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

9 * Section 1. AS 24.20.075(a) is amended to read:

10 Sec. 24.20.075. ALASKA CODE REVISION COMMISSION. (a) The Alaska
11 Code Revision Commission is established as a permanent commission of the
12 legislature.

13 * Sec. 2. AS 24.20.075(b) is amended to read:

14 (b) The commission consists of two legislators, one from each
15 house, appointed by the presiding officer; one public member, who is not
16 an employee of the state government, appointed by the governor; a desig-
17 nee of the governor, who is an attorney employed by the executive branch
18 of the state government; a designee of the chief justice of the supreme
19 court; and a designee of the Alaska Bar Association appointed by the
20 board of governors of the association. Legislative members serve for
21 the duration of the legislature in which they are appointed; the desig-
22 nee of the governor and the designee of the chief justice serve at the
23 pleasure of the governor and chief justice, respectively; and the
24 public member and designee of the board of governors serve terms of six
25 years each, beginning July 1 and ending on June 30 six years later.
26 Members may be reappointed or redesignated. A vacancy in the member-
27 ship of the commission occurring other than by expiration of term shall
28 be filled in the same manner as the original appointment but, with
29 regard to the legislative members, the public member, and the board of

1 governors' designee, for the unexpired term only [AT THE PLEASURE OF THE
2 PRESIDING OFFICER, AND APPOINTED MEMBERS SERVE AT THE PLEASURE OF THE
3 APPOINTING AUTHORITY]. Members who are not state employees o' legis-
4 lators are entitled to receive ~~the standard per diem and travel allowance provided for~~
5 ~~members of independent boards and commissions.~~ Legislative members are
6 entitled to receive the regular legislative per diem and travel allow-
7 ance for days spent on commission business, and members who are state
8 employees are entitled to receive the regular state employees per diem
9 and travel allowance [RECEIVE THE STANDARD PER DIEM FOR BOARD MEMBERS,
10 OR THE REGULAR LEGISLATIVE PER DIEM IF THEY ARE LEGISLATORS,] for days
11 spent on commission business. The commission selects its chairman and
12 vice-chairman. The director of legal services for the Legislative
13 Affairs Agency, or his designee, serves as executive secretary for the
14 commission.

15
16 * Sec. 3. The public member and the designee of the board of governors,
17 serving on the Alaska Code Revision Commission as of the effective date of
18 this Act, shall determine the length of their terms of drawing lots. The
19 term of one of those members ends June 30, 1980 and the term of the other
20 ends June 30, 1982. After these initial termination dates, the six-year-term
21 provisions of AS 24.20.075(b) apply.

22 * Sec. 4. This Act takes effect July 1, 1979.

23 *Sec. 5. Sunset - July 1, 1982*
24
25
26
27
28
29

Code Revision Commission

ALASKA
STATE LEGISLATURE
MEMORANDUM

March 31, 1980

Fred,

Last Thursday the House Finance Comte. considered the original version of the bill (by mistake) and reported a fiscal note of 14.4. The bill, as amended by the H. Judic. Comte, deleted the provision which necessitated a fiscal note -- so CSHB 43 has a 0 fiscal note. As I understand it, Rep. Meekins will clear up this matter this morning. Rep. Parr has been informed of the mistake.

Joyce

Fred: COMMISSION ACTIVITIES PAST, PRESENT AND FUTURE

Introduced six bills last session--

HB 43--Code Revision Commission CONSIDERING TODAY
HB 56--Exemptions Act (H. Judic. Comte.)
SB 54--International Wills Act (UPC) (S. Finance Comte.
for fiscal note)
SB 55--Uniform Commercial Code-Articles 8 and 9 (S. Commerce Comte.)
SB 56--Effect of Homicide (UPC) ENACTED INTO LAW
SB 58--Uni. Disposition of Community Property Rights at Death
Act (S. Rules Comte.)

Title 4--Commission submitted tentative draft to Legislative
Council and House Commerce Committee last year for
further referral and consideration by committees
dealing with other alcoholic beverage control bills

HB 47--not drafted by Commission but reviewed by comsn. at
request of Senate (comsn. recommended do-pass) Bill
regarded sale of alcoholic beverages

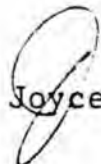
Two bills have been transmitted to Legislative Council for intro-
duction this month:

- (1) Oath, affirmation, acknowledgment, notarization and
verification. Re: clarifies definitions and provides
forms in statute.
- (2) Recording and Recorded Documents. Re: clarifies provi-
sions on recording that are scattered throughout AK statutes
and lays a suitable framework for future use of technological
advances in a centralized recording system.

Under current consideration:

- (1) Security interests in real property. Re: effort to
bring into secured real property transactions the same
principles that govern secured personal property trans-
actions under the Uniform Commercial Code. Among other
things, it covers the broad area of relationship, rights
and remedies of debtor and creditor; and, foreclosure
under a power of sale. Commission currently in drafting
process.
- (2) Revision of AS 10--Corporations and Associations. Re:
review of analyses and comparisons of AK law with Model
Act and other states' laws, and comparison of notable
approaches to state regulatory control of corporations.
Commission in initial stage of deciding policy issues of
various approaches.

- (3) Revised Uniform Limited Partnership Act--reviewing first draft
- (4) "Alaska hire"--requested by House to review various proposals and draft legislation (Gardiner, Hayes, Parr)
- (5) Model Product Liability Act--requested by House (Parr)
- (6) Domestic Violence (HB 392)--requested by Senate (Ziegler)
- (7) Guardians and Conservators (HB 572/SB 339)--requested by Senate (Ziegler) [Parr has committed himself to getting the House version out of his comte.]


Joyce

STATE OF ALASKA

ALASKA CODE
REVISION COMMISSION



ANNUAL REPORT FOR 1979

-- FEBRUARY 1980 --

ALASKA CODE REVISION COMMISSION
Pouch Y -- State Capitol
Juneau, Alaska 99811

ALASKA CODE REVISION COMMISSION

Commission Members
and Appointing Authority

JOHN W. ABBOTT
Chairman
Governor -- Public Member

L. S. KURTZ, JR.
Board of Governors
Alaska Bar Association

SUSAN A. BURKE
Vice-Chairman
Governor -- Executive
Branch

FRED E. BROWN
Member of the House of
Representatives
Alaska State Legislature

PATRICK M. RODEY
Member of the Senate
Alaska State Legislature

WM. GRANT CALLOW
Chief Justice --
Judicial Branch

ARTHUR H. PETERSON
served as representative of the
Governor--Executive Branch until
his resignation (September 1, 1979)

BILLY G. BERRIER
Executive Secretary
Director, Legal Services
Legislative Affairs Agency

110 Seward Street, #5
Phone: 907-465-4878

Pouch Y -- State Capitol
Juneau, Alaska 99811

CODE REVISION COMMISSION



COMMISSIONERS
JOHN W. ABBOTT - CHAIRMAN
SUSAN A. BURKE - VICE CHAIRMAN
PATRICK M. RODEY
FRED E. BROWN
L. B. KURTZ, JR.
WM. GRANT CALLOW

ALASKA STATE LEGISLATURE
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878

EXECUTIVE SECRETARY
BILLY G. BERRIER

February 21, 1980

Senator George H. Hohman
Chairman, Alaska Legislative Council
Pouch Y -- State Capitol
Juneau, Alaska 99811

Dear Senator Hohman:

In conformity with AS 24.20.075(f), the Alaska Code Revision Commission herewith submits this report of its activities during 1979.

Sincerely,

John W. Abbott
John W. Abbott, Chairman
Code Revision Commission

JWA/ jms r

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SUMMARY OF WORK OF COMMISSION

As the result of work performed since its inception in 1976, the Alaska Code Revision Commission recommended six bills for introduction into the Eleventh Legislature -- First Session (1979), via the Legislative Council.

In 1978, the commission undertook a major revision of AS 4 -- Alcoholic Beverages. As the Legislature had established an interim committee specifically for this purpose, the commission forwarded its tentative draft and extensive commentary to the Legislative Council for appropriate referral to appropriate committee(s) for further consideration.

During 1978, the commission began its review of the real property conveyancing laws. In 1979, the commission divided this major project into two areas: (1) recording and recorded documents; and (2) security interests. The commission has prepared draft legislation on each topic and plans to submit its proposed bill on recording and recorded documents early in the Second Session of the Eleventh Legislature. This draft bill has incorporated the Uniform Federal Lien Registration Act, as amended by the commission.

The commission began another major project revising AS 10 -- Corporations and Associations. This revision, still underway, involves the analysis of existing law and comparisons of Alaska law with other states' laws and the Model Act. A proposed bill will be drafted during 1980 for submission to Legislative Council for subsequent introduction in the Twelfth Legislature.

During 1979, the commission held ten separate meetings, consisting of 19 working sessions.

ANNUAL REPORT FOR THE YEAR 1978

INTRODUCTION

The primary objective of the Alaska Code Revision Commission, as established by AS 24.20.075, is to review and consider proposed changes in the law recommended by the National Law Institute, the National Conference of Commissioners on Uniform State Laws, the Alaska Judicial Council, the supreme court, the state or local bar associations, principal departments, agencies, boards and commissions of the executive or judicial branch, and committees of the legislative branch. The commission also receives and considers suggestions as to areas of law needed to eliminate antiquated and inadequate rules of law, and to bring the law into harmony with current needs and conditions.

The commission consists of (1) two legislators, one from each house, appointed by the respective presiding officers; (2) one public member who is not an employee of the executive branch, appointed by the governor; and one member who is an employee of the executive branch, appointed by the governor; (3) a designee of the chief justice of the supreme court; and (4) a designee of the Alaska Bar Association, appointed by the board of governors of the association. The director of legal services for the Legislative Affairs Agency, or his designee, serves as the executive secretary for the commission.

The commission assists the legislature by carefully studying complex subjects, identifying major policy questions for legislative attention, gathering the views of interested persons and organizations, and drafting legislation for legislative consideration.

The efforts of the commission are intended to assist the legislature in concentrating on significant policy questions in areas considered by the commission and in dealing with the technical problems in preparing background studies, working out intricate legal problems, and drafting the needed legislation. The commission thus assists the legislature in accomplishing needed reforms that otherwise might not be made because of the heavy demands on legislative time. The commission, by its composition, has proven to be an effective vehicle for ascertaining various points of view by having actual involvement and expertise in the areas of law under consideration.

STATUS OF PENDING LEGISLATION

The status of pending legislation proposed by the commission, as detailed in its Annual Report of 1978, is as follows:

Alaska Exemptions Act

HB 56, introduced on January 24, 1979, is currently pending in the House Judiciary Committee. The committee scheduled hearings on this bill during the interim period; however, no testimony was received at that time.

Uniform Commercial Code -- Articles 8 and 9

SB 55, introduced on January 17, 1979, is currently pending in the Senate Commerce Committee. Following action by that committee, it is scheduled to be referred to the Senate Judiciary Committee for further consideration. No action was taken on this bill in 1979.

Uniform Probate Code -- International Wills Act

SB 54, introduced on January 17, 1979, was referred to the Senate Judiciary Committee. No action was taken on this bill in 1979.

Uniform Disposition of Community Property Rights at Death Act

SB 58, introduced on January 17, 1979, was referred to the Senate Judiciary Committee. No action was taken on this bill during 1979.

Alaska Code Revision Commission

HB 43, introduced on January 24, 1979, was referred to the House Judiciary Committee. On March 16, the committee considered the bill and reported an amended version (CSHB 43). The bill was subsequently referred to the House Rules Committee for action. No action was taken by that committee during 1979.

Other

HB 47, relating to the sale of alcoholic beverages, repealing AS 04.15.090, was not introduced at the request of the commission. At the request of the Senate, the commission reviewed the amended version (CSHB 47 am) as passed by the House. On March 16, 1979, the commission unanimously recommended do-pass and the bill was returned for subsequent referral to the Senate Judiciary Committee. This bill is currently pending in that committee.

LEGISLATION ENACTED INTO LAW

Uniform Probate Code -- Effect of Homicide

SB 56, introduced on January 17, 1979, was referred to the Senate Judiciary Committee. The bill was favorably reported from the commission and subsequently passed by both House and Senate. The Governor signed the bill into law on May 4, 1979 (Chapter 0036 SLA '79).

CALENDAR OF TOPICS FOR STUDY

The commission has on its calendar of topics the topics listed below.

Topics Under Active Consideration

(1) Revision of Real Property Conveyancing Laws.

This major project was initiated in April 1978. The broad scope of this revision necessitated a further division of work. The commission, after reviewing background materials and drafts, divided the project into two areas: (a) recording and recorded documents; and (b) security interests.

(a) Recording and recorded documents. During its deliberations on the conveyancing laws of the state, the commission found a need for a clear and complete understanding of the requirement and effect of recordation, due to legal ramifications in the area of transferring and securing interests in real property.

The commission solicited comments from title companies, banks and other lending institutions, and local and state bar associations on this subject. It worked in close association with the State Recorder and Department of Commerce and Economic Development in drafting a comprehensive bill to consolidate recording law in one place, eliminate inadequacies in the current system and provide a statutory structure that makes possible the use of technological advances in this area. The commission held numerous hearings, including a field hearing in Seattle, Washington, to secure the views of counsel who determine policy in Alaska.

In its proposed bill, the commission has classified documents into two categories -- Class A and Class B documents. Class A includes those documents specifically made recordable by law, mainly those that effect interests in real property. Recording a class A document (1) provides constructive notice of the contents of the document to subsequent purchasers and holders of a security interest in the same property; (2) makes the document admissible in evidence; and (3) creates presumptions as enumerated. The draft provides that copies of documents recorded in the BLM and the state division of forest, land and water management are entitled to recordation as Class A documents and also authorizes recording of certified copies of conveyances as Class A documents in the records of districts where the land

conveyed is located. Class B documents which do not effect interests in real property may be recorded; however, recordation merely serves to provide the public with a repository for these miscellaneous documents.

The bill incorporates parts of the Uniform Simplification of Land Transfers Act. Among these are provisions for simplifying land records and search by recording of short form lease summaries and master forms that need not be rerecorded with each successive use.

Much consideration was given to including provisions for complete indexing of class A documents by tract in addition to indexing by the names of grantors and grantees in the chain of title. It was concluded that in some recording districts it would discourage recording of documents if the detailed information needed for complete tract indexing was required. Because regulations can be readily changed, indexing of class A documents was finally left to the flexibility of regulation. Indexing of Class B documents is specifically limited in the bill, one of the ways it is emphasized that class B will not be searched in a search of title.

In a departure from current law, the commission's draft bill deletes acknowledgment as a required part of the conveyance form.

After reviewing the Uniform Federal Lien Registration Act, the commission revised the Act and incorporated it into the recording bill. Several features of the Uniform Act were found to be objectionable or unnecessary and were changed or deleted by the commission. The commission's bill (1) provides for recording federal liens in lieu of filing them -- the distinction being that filing requires the recorder to retain paper liens and releases, a procedure inconsistent with the photocopying system in use; (2) provides for a single method of recording all federal liens with the recorder; and (3) does not set fees or provide for billing, leaving this matter to departmental regulation.

The commission plans to submit its proposed bill and commentary to Legislative Council early in 1980 for subsequent introduction in the Legislature.

(b) Security interests in real property. The proposed bill under consideration is an effort to bring into secured real property transactions the same principles that govern secured personal property transactions under the Uniform Commercial Code. The bill covers the broad area of

relationship, rights and remedies of debtor and secured creditor. The state law on deeds of trust would be superceded. In cases where foreclosure under a power of sale is required, the bill makes possible a commercially reasonable resale by listing and sale through a real estate agent, in order to avoid the disastrous forced-sale prices often received at public auction. Work on the bill should be completed by early summer of 1980.

(2) Revision of AS 10 -- Corporations and Associations. In April, the commission discussed the possible need for revision of the state's law on corporations and associations. The commission appointed two of its members to conduct an initial overview of specific areas in which problems were encountered. In June, the commission discussed these concerns and requested that an expert in the area of corporations be contacted for a comprehensive study of Title 10 and to provide the commission with suggestions as to whether to proceed with a major revision.

In September, the consultant met with the commission to discuss notable approaches to state regulatory control of corporations. The commission then decided to enter into a contract with the consultant for preparation of analyses, summaries and comparisons of existing law, other states' laws and the Model Act, with recommendations as to suitable changes in Alaska law. In December, the commission received the first installment of research on this project for review.

The commission will continue its review of background materials and comments and proceed to draft proposed legislation in 1980.

(3) Oath, Affirmation, Acknowledgment, Notarization and Verification. During the commission's consideration of the state's recording law, the need for statutory treatment of these subjects became apparent. The commission determined that while the terms are frequently encountered in Alaska Statutes, neither a clear definition nor recommended forms are provided. The bill rectifies these inadequacies in existing law.

Much of the draft bill is the Uniform Recognition of Acknowledgments Act, drafted by the National Conference of Commissioners on Uniform State Laws.

The commission adopted the final draft, as amended, at its December meeting. The bill and commentary will be submitted to Legislative Council early in 1980 for subsequent introduction into the Legislature.

(4) Revised Uniform Limited Partnership Act. In April 1978, the commission requested the staff to prepare a report and draft bill on this uniform Act as drafted by the National Conference of Commissioners on Uniform State Laws. In October, the commission reviewed the draft bill and memoranda. In December, the commission began its formal deliberations on the draft. The commission will continue its review of this bill during 1980.

(5) Uniform Federal Lien Registration Act. In April 1978, the commission requested the staff to prepare a report on this uniform Act, as drafted by the National Conference of Commissioners on Uniform State Laws. In October, the commission adopted the draft for submission. However, further review of the bill and comments received on the draft and the revision of the recording laws necessitated withdrawing the Act for submission. The commission made major changes in the draft and incorporated it into the bill on recording and recorded documents. [See Revision of Real Property Conveyancing Laws, p. 5 of this Report.]

Topics For Future Consideration

The commission has made no determinations as to which topics will be revised or under consideration. The commission will schedule its future activities early in 1980.

Other

(1) Revision of AS 4 -- Alcoholic Beverages. After reviewing extensive memoranda, the commission, in February 1978, contracted with a consultant to do a proposed revision of Title 4. The commission held numerous hearings and received extensive comments on this proposed revision. As the Legislature had established the Title 4 Code Revision Committee to review and revise the same subject matter, the commission made its materials available to that legislative committee. The House Commerce Committee was also considering several of the sunset provisions regarding state boards and

commissions, one of which was the Alcoholic Beverage Control Board. The commission met with the House Commerce Committee in a joint session on March 16 to discuss alcohol laws and control.

In April, the commission submitted its tentative draft to the Legislative Council for further referral and to the House Commerce Committee for consideration. It was the commission's intent that the draft be submitted for informational purposes only and did not represent a final product. The extensive commentary that accompanied the tentative draft was forwarded to the Council and Committee in July.

(2) Uniform Marriage and Divorce Act. In September 1978, the commission reviewed extensive memoranda on the proposed uniform Act as drafted by the National Conference of Commissioners on Uniform State Laws. In January and April 1979, the commission held hearings in which testimony from attorneys practicing in the field of domestic relations was received. Following the April hearing, the commission decided not to recommend legislation.

(3) Uniform Brain Death Act. In December 1978, the commission requested staff to prepare a report on this uniform Act, as drafted by the National Conference of Commissioners on Uniform State Laws. After reviewing this material the commission, in October 1979, decided not to recommend legislation.

ENABLING ACT

The law establishing the Alaska Code Revision Commission and stating its duties follows:

Sec. 24.20.075. Alaska code commission. (a) The Code Revision Commission is established as a permanent commission of the legislature.

(b) The commission consists of two legislators, one from each house, appointed by the presiding officer; one public member, who is not an employee of the state government, appointed by the governor; a designee of the governor, who is an attorney employed by the executive branch of the

state government; a designee of the chief justice of the supreme court; and a designee of the Alaska Bar Association appointed by the board of governors of the association. Legislative members serve at the pleasure of the presiding officer, and appointed members serve at the pleasure of the appointing authority. Members receive the standard per diem for board members, or the regular legislative per diem if they are legislators, for days spent on commission business. The commission selects its chairman and vice-chairman. The director of legal services for the Legislative Affairs Agency, or his designee, serves as executive secretary for the commission.
(am § 1 ch 57 SLA 1977)

(c) The commission shall

(1) examine the statutes of the state and judicial decisions to discover defects and anachronisms in the law;

(2) review and consider proposed changes in the law recommended by the National Law Institute, the National Conference of Commissioners on Uniform State Laws, the Alaska Judicial Council, the supreme court, the state or local bar associations, principal departments, agencies, boards and commissions of the executive or judicial branch, and committees of the legislative branch;

(3) receive and consider suggestions from the Alaska bench and bar, public officials, organizations, and individuals as to areas of law needing review and remedy;

(4) recommend changes in law needed to eliminate antiquated and inadequate rules of law and to bring the law into harmony with current needs and conditions.

(d) The commission may

(1) hold public hearings and other meetings as necessary throughout the state and shall determine an appropriate quorum for conducting business;

(2) establish one or more subcommissions to assist it in the performance of its duties.

(e) The staff of the Legislative Affairs Agency serves as staff for the commission. Subject to appropriation for the purpose, the commission may request the agency to contract with other agencies or persons for the performance of necessary services.

(f) The commission shall submit its reports and recommendations, and draft legislation as to revision of law, to the Legislative Council and shall distribute them to the governor, members of the legislature, and the chief justice of the supreme court.

(g) All branches of state government shall provide information and documents requested by the commission necessary to the accomplishment of its work.

(h) The commission shall make a formal request to the Legislative Council for funds it considers necessary for the per diem, travel, and contractual expenses of the commission. Funds appropriated to the commission are to be disbursed and accounted for under procedures required by the Legislative Affairs Agency. The commission chairman shall approve all expenditure documents. (§ 1 ch 114 SLA 1976)

I. REQUEST
 Bill/Resolution No. HB 43 (Revised)
 Title Relating to the Alaska Code Revision Commission
 Requested by House Finance Committee Date March 27, 1980

II. FISCAL DETAIL
 Agency Affected Legislative Affairs Agency
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		14.4				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		14.4				

FUNDING (Thousands of Dollars)

GENERAL FUND		14.4				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Commission members who are not state employees are entitled to receive \$200 for each day spent on commission business. Two members twelve two-day meetings per year, plus one day travel per meeting = \$14,400

Handwritten notes:
 3/27/80
 CS 145

Signature: Russ Meekins
 Russ Meekins, Chairman

IV. DATE 3/27/80 PREPARED BY _____
 AGENCY House Finance Committee
 PHONE _____
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HOUSE BILL NO. 43
 Title An Act relating to the Alaska Code Revision Commission
 Requested by Rep. Charles Parr Date 3/16/79

II. FISCAL DETAIL
 Agency Affected Legislative Affairs Agency
 Program Category Affected General Government
 Budget Request Unit(s) Affected _____

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		19.2	19.2	19.2	19.2	19.2
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		19.2	19.2	19.2	19.2	19.2

FUNDING (Thousands of Dollars)

GENERAL FUND		19.2	19.2	19.2	19.2	19.2
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Commission members who are not state employees are entitled to receive \$200 for each day spent on commission business. Two members, twelve 2-day meetings per year, plus two days' travel per meeting = \$19,200.00.

IV. DATE 3/16/79 PREPARED BY Warren W. Endicott, Director
 AGENCY Legislative Affairs Agency
 PHONE 465-3850
 Original Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

HB

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For an Act entitled:

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

* Section 1. AS 24.20.060 is amended by adding a new paragraph to read:

(8) to litigate in behalf of the legislature during the interim between sessions, if authorized by a majority vote of the full membership of the council, as follows:

- (A) initiate civil action to enforce legislative subpoenas;
- (B) intervene or appear as amicus curiae in any case in which the power or responsibility of the legislature is placed in issue;
- (C) defend legislators, legislative officers or employees, and legislative agencies in actions brought against them in which the validity of their official acts or proceedings are placed in issue.

Legal Services for Congress

Congress now depends on the executive branch's Justice Department for its legal services. Both branches would be better served if Congress had its own legal counsel.

By Dorothy Sellers

THE NEED OF Congress for legal services is beyond question. It is evident from both the volume and substance of present-day litigation involving members, officers, and committees of Congress. The Joint Committee on Congressional Operations in its final report for the Ninety-fourth Congress (December 31, 1976) identified more than forty pending cases "of vital interest to the Congress." The report lists ninety-eight senators and representatives who had assumed litigative as well as legislative responsibilities.

These cases frequently raise core governmental and constitutional issues. Three from the United States Court of Appeals for the District of Columbia Circuit illustrate the point:

1. In *United States v. American Telephone and Telegraph Company*, 551 F. 2d 384 (1976), a congressional subcommittee investigating the scope of warrantless wiretapping for alleged national security reasons subpoenaed from A.T.&T. all wire-tap request letters sent to it or its subsidiaries by the Federal Bureau of Investigation. Because the White House feared public disclosure of the subpoenaed documents, the United States, represented by the Department of Justice, sued A.T.&T. to enjoin compliance with the subpoena. Rep. John Moss, through private counsel, intervened for himself and on behalf of the committee and the House of Representatives. On appeal from a district court decision largely favorable to the plaintiff, the court, characterizing the action as "a

portentous clash between the executive and legislative branches," remanded without decision in December of 1976 in the hope that the parties might settle the case. But those negotiations failed, and the court reheard the case in June of 1977.

2. In *Clark v. Valeo*, 559 F. 2d 642 (1977), Ramsey Clark, an unsuccessful candidate for the Democratic party's senatorial nomination in New York, challenged the constitutionality of the provisions of the Federal Election Campaign Act under which a single house of Congress may disapprove regulations promulgated by the Federal Election Commission. The secretary of the Senate and the clerk of the House of Representatives were named defendants. Each was represented by private counsel. Over their objection, the United States, represented by the Department of Justice, intervened on the side of plaintiff on behalf of the president and executive branch. Five constitutional questions were certified to the court of appeals en banc pursuant to the unique judicial review provisions of the act. In January of 1977 the court dismissed the case for lack of a ripe case or controversy within the meaning of Article III of the Constitution. The Supreme Court affirmed the judgment in *Clark v. Kimmitt* in June (97 S.Ct. 2667).

3. *Dellums v. Powell*, 561 F. 2d 242 (1977), arose from the 1971 May Week demonstrations in the District of Columbia. On May 5 approximately twelve hundred people assembled on the steps of the Capitol to hear speeches by members of the House of Representa-

tives and to present them with a "peoples' peace treaty." The District of Columbia police and the Capitol police dissolved the assemblage by arresting the participants. A district court jury awarded Rep. Ronald Dellums, a scheduled speaker at the disrupted meeting, \$7,500 for the invasion of his First Amendment rights. Representative Dellums had private counsel. The Capitol police chief, who was found jointly and severally liable for the award with the District of Columbia police chief, was represented by the Justice Department. The court of appeals affirmed the jury's findings of liability but remanded for a reduction of damages.

Congress Depends on the Justice Department

At present legal services for Congress are provided *ad hoc*, primarily by the Department of Justice and to a lesser extent by private counsel. During the period 1971-75 the Department of Justice defended members, officers, employees, or agencies of Congress in approximately sixty cases. The cases above illustrate the inexpedience of congressional reliance on the Department of Justice. In each the department not only failed to represent a recognizable congressional interest but appeared in opposition to it.

The department's representation of Congress is founded more in custom than statute. 2 U.S.C. §118 empowers the department to defend the officers of Congress against claims relating to their official duties. There is no comparable statutory authority for the department's representation of congressional members and committees. Former Attorney General Edward H. Levi characterized that representation as a matter of comity rather than as an absolute obligation.

The department may have discretion to represent Congress under 28 U.S.C. §§ 517 and 518, which authorize the attorney general to conduct litigation in which the "United States" has an interest, but the definition of "United States" has proved elusive. In *United States v. A.T.&T.* and *Clark v. Valeo* the department appeared as plaintiff or intervenor-plaintiff "United States" solely on behalf of the executive branch in opposition to the legislative. Yet, in defending the executive branch, Justice has argued with perfect inconsistency that an action which pits the legislative branch against the executive cannot present a case or controversy because the "United States" appears on both sides of the issue. (*Statts v. Lynn*, D.D.C. No. 75-0551, dismissed by stipulation November 26, 1975.)

The occasions on which the department does not represent or actively opposes congressional interests reflect the indisputable fact that its primary responsibilities and loyalties run to the executive branch. This raises a question as to the appropriateness of the present attorney-client relationship between the department and Congress under the doctrine of separation of powers. The effective operation of the doctrine requires, if not eternal vigilance, at least continuing attention on the part of each branch toward the others.

The present system of providing legal services for Congress primarily through the executive branch cannot be reconciled with the doctrine of separation of powers: it leaves Congress perpetually unprepared for the increasingly frequent and inestimably important occasions when it must judicially protect its prerogatives from executive branch inroads.

The situation is equally uncommendable from the department's viewpoint. Its sometimes congressional client is assured a second-class status in relation to its principal client, the executive branch.

Congress Needs Its Own Counsel

The objective should be to assure the uninterrupted availability of legal services for Congress, regardless of the nature of the case. To expand the role of private counsel is to perpetuate a makeshift solution to an unremitting problem. In addition, private counsel are expensive and, when retained case by case, necessarily lack a comprehensive perspective of the problems and policies of congressional litigation.

Recent Congresses have considered proposals for establishing a source of representation within the Congress. The principal measures have been S. 2731, which would have established an Office of Congressional Legal Counsel and was passed in the Ninety-fourth Congress by the Senate but not acted on by the House, and, in the Ninety-fifth Congress, Title II ("Congressional Legal Counsel") of S. 555, the Public Officials Integrity Act of 1977, which passed the Senate on June 27 and is now under consideration in the House.

These proposals would establish within Congress a permanent Office of Congressional Legal Counsel. The legal counsel would be appointed jointly by the Speaker of the House and the president *pro tempore* of the Senate without regard to political affiliation and solely on the basis of fitness to perform the duties of office. The counsel, in turn, would appoint necessary assistants on the same merit basis.

A professional law office serving the entire Congress would have benefits beyond providing needed representation for litigation purposes. Ideally, litigation is the last step in the process of providing legal services. The earlier part of the process—giving advice and counsel—is aimed at avoiding litigation and formulating positions that are legally as well as politically sound. The sources of advisory and litigative services to Congress now are bifurcated: the advisory function is distributed among the various committee counsel (with a consequent unevenness of quality from committee to committee); the litigative function is jointly discharged by the Department of Justice and private counsel. The establishment of an Office of Congressional Legal Counsel would provide a unitary, nonpartisan source for advisory and litigative legal services. But the congressional legal counsel would not displace existing committee counsel. Rather he would be authorized to advise, consult, and co-operate with any

committees or subcommittee regarding the use of congressional investigative powers.

In litigation the proposals would empower the congressional legal counsel on direction from Congress (1) to initiate civil actions to enforce congressional subpoenas, (2) to defend congressional individuals or entities in pending actions in which the validity of their official acts or proceedings was placed in issue, and (3) to intervene or appear as *amicus curiae* in any case in which the powers and responsibilities of Congress are placed in issue. In addition, S. 555 authorizes the counsel to represent Congress in proceedings involving use immunity for persons who testify before Congress pursuant to 18 U.S.C. §§ 6002 and 6005.

The primary substantive difference between S. 555 and S. 2731 is that the former would not allow the congressional legal counsel to commence legal actions—other than those against nongovernmental parties to enforce congressional subpoenas—while the latter would authorize him to bring suit to “require an officer or employee of the executive branch of the government to act in accordance with the Constitution and laws of the United States.”

Supreme Court Draws Distinction

In *Buckley v. Valeo*, 424 U.S. 1 (1976), the Court held that the Federal Election Commission could not constitutionally exercise the enforcement powers conferred on it because of the exclusion of the president from participation in the appointment of a majority of its members. The Court drew a distinction between a power “essentially of an investigative and informative nature, falling in the same category as those powers which Congress might delegate to one of its own committees” and the power to seek judicial enforcement of a law of the United States. The former may be exercised by persons appointed without presidential participation; the latter may not.

The Court stated: “The commission’s enforcement power, exemplified by its discretionary power to seek judicial relief, is authority that cannot possibly be regarded as merely in aid of the legislative function of Congress. A lawsuit is the ultimate remedy for a breach of the law and it is to the president, and not to the Congress, that the Constitution entrusts the responsibility to ‘take Care that the Laws be faithfully executed.’”

This distinction affects the proposals for establishing a congressional legal counsel. Both S. 2731 and S. 555 would authorize the counsel to bring civil actions to enforce congressional subpoenas and orders. Congress now has two methods for handling contempt of Congress cases. It may refer them to the United States attorney for criminal prosecution as a misdemeanor pursuant to 2 U.S.C. §§ 192, 194, or it may bring the contemnor to trial before Congress, although this procedure has not been used since 1945.

The congressional contempt cases inevitably arise

from the use of the congressional investigative power. For this reason it appears that a congressionally appointed legal officer may constitutionally bring a civil action in support of that power, and this could be “regarded as merely in aid of the legislative functions of Congress.”

The proposals would empower the congressional legal counsel to undertake the defense of congressional committees and personnel in cases in which the validity of their official actions was placed in issue. As this would be in a previously filed action, the counsel would not be involved in the discretionary decision to institute legal proceedings.

Because the counsel’s responsibility would be limited to the defense of pending challenges to official congressional actions, it may be construed as supportive of the legislative function of Congress rather than as an invasion of the presidential power. This conclusion is fortified by the practicalities of the situation—exemplified by *Clark v. Valeo*—in which the Department of Justice declined to represent a congressional defendant. Surely Congress may appoint a replacement counsel in that situation.

Counsel Also May Be Friend of the Court

Both proposals would allow the congressional legal counsel to intervene or appear as *amicus curiae* in cases challenging the constitutionality of any law of the United States in which the United States is a party. Intervening and appearing as *amicus curiae* are totally different undertakings. An *amicus curiae* is not a party to the litigation and independently cannot request any form of relief. Thus an appearance *amicus curiae* could not infringe on the executive’s power to seek judicial relief.

In contrast, an intervenor is a party to the action and able to request any appropriate relief and to be bound by the ultimate judgment. There is no way of predicting whether a constitutional challenge to an act of Congress will come from a plaintiff seeking declaratory relief or from a defendant charged with violating the act. The right to intervene in support of the constitutionality of a law of the United States may carry with it the discretionary power to appear as plaintiff seeking judicial relief.

The provisions by which the congressional legal counsel may be directed to intervene or appear as *amicus curiae* are clear attempts to protect Congress against the exceedingly rare situation when the executive branch chooses not to defend all or part of the constitutionality of a statute. This situation in fact occurred in *Buckley v. Valeo*. The Department of Justice filed two briefs in the Supreme Court, one on behalf of the defendant attorney general and a second *amicus* brief that argued against the constitutionality of the grant of enforcement powers to the Federal Election Commission. The congressional interest in that case could have been protected without infringing on

executive responsibilities of counsel. App-
amicus curiae rather than as an intervenor.

But provisions like that in S. 2731 that would authorize the congressional legal counsel to institute actions against the executive branch to compel it to act in accordance with the Constitution and laws of the United States would appear to be unsalvageable in light of *Buckley v. Valeo*.

Challenges by Individual Members of Congress

Buckley v. Valeo does not foreclose the possibility that an individual member of Congress may bring suit against the executive branch. Members of Congress, although officers of the United States, are outside the scope of the appointments clause because the Constitution expressly provides the method for their selection. The Supreme Court has never addressed the question of the standing of individual members of the legislative branch to seek judicial relief from actions taken by members of the executive branch. Circuit court decisions, however, hold the member-plaintiff to the standing requirements applicable to all other plaintiffs—the member must demonstrate a specific nonspeculative personal injury in fact. *Harrington v. Bush*, 553 F. 2d 190 (D.C. Cir. 1977); *Harrington v. Schlesinger*, 528 F. 2d 455 (4th Cir. 1975); *Holtzman v. Schlesinger*, 484 F. 2d 1307 (2d Cir. 1974).

The narrow area in which members of Congress do have standing to challenge executive branch action is illustrated by two cases, again from the District of Columbia Circuit. In *Kennedy v. Sampson*, 511 F. 2d 430 (1974), Sen. Edward Kennedy sought a declaratory judgment that the Family Practice of Medicine Act was validly enacted despite a purported pocket veto. The court found the requisite injury—and therefore standing to sue—in the nullification of Kennedy's specific vote and of the congressional power to override a veto.

In *Pressler v. Simon*, 428 F.Supp. 302 (D.D.C. 1976), the three-judge court, although finding for the defendants on the merits, upheld the standing of the plaintiff, Rep. Larry Pressler, to challenge the Postal Revenue and Salary Act of 1967 and the Executive Salary Cost-of-Living Adjustment Act of 1975 as violative of Article I, Section 6, of the Constitution. Citing *Kennedy v. Sampson*, the Court stated, "a Congressman has standing to sue by reason of his office where executive action has impaired the efficacy of his vote. . . ."

Litigation Must Be Directed by Congress

The proposals for establishing an Office of Congressional Legal Counsel would not allow litigation other than as directed or consented to by Congress. Because the individual members of Congress are beyond the pale of the appointments clause, the question is why cannot the actual lawyering on behalf of Congress be delegated without violating the appointments clause. The answer is twofold.

First, as noted earlier, Congress cannot appoint any-



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one to perform duties other than in aid of those functions Congress may itself carry out. A nonlegislative function—for example, enforcement of the laws—cannot properly be delegated because it is not a proper congressional function. Second, even if an individual member of Congress demonstrates standing to sue on his own behalf, that showing is not automatically transferable to Congress as an institution. And a practical problem with assigning a congressionally appointed legal officer to represent an individual member of Congress is that the decision on standing is frequently—as in *Kennedy v. Sampson*—insuperable from the decision on the merits and, therefore, simply comes too late for assignment to a congressionally appointed legal officer.

At present the legislative branch is dependent on the executive branch for legal services. The arrangement is inexpedient for both, particularly Congress. It has no reliable source of representation for judicial confrontations with the executive branch. Proposals for establishing an Office of Congressional Legal Counsel are likely to recur as the quantity and importance of litigation involving congressional interests continue to increase.

While it is probable that a statute conferring on a congressionally appointed legal officer the authority to sue an executive branch member for alleged errors of omission or commission in enforcing the laws would be struck down under the appointments clause, there is nevertheless a large area in which the litigative responsibilities of a congressional counsel could be regarded as incidental to the legislative function and outside the appointments clause.

An additional benefit to Congress would be that of merging the advisory and litigative sides of the legal services available to it and of providing a central source for analyzing court and administrative rulings and recommending legislative responses.

While a proposal for establishing a legal office in Congress, where more than half the members are lawyers, may have the superficial appearance of carrying coals to Newcastle, in reality it could provide necessary and now unavailable legal services to Congress. A

from joining or supporting any partisan political organization, faction or activity which would tend to undermine the essential nonpartisan nature of their functions and services. However, this section does not restrict the executive director or members of the professional staff from expressing private opinion, registering or voting. (§ 5 ch 17 SLA 1960; am § 4 ch 126 SLA 1966)

Sec. 24.20.060. Powers. The legislative council has the following powers:

- (1) to organize and adopt rules for the conduct of its business;
- (2) to hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents, and testimony, and to have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions when consistent with the powers and duties assigned to the council by §§ 10 — 140 of this chapter;
- (3) to call upon all state officials, agencies and institutions to give full cooperation to the council and its executive director by collecting and furnishing information, conducting studies and making recommendations;
- (4) in addition to providing the administrative services required for the operation of the legislative branch:
 - (A) provide the technical staff assistance in research, reporting, drafting and counselling requested by standing, interim and special committees and spot research and drafting services for individual members in conformity with law and legislative rules;
 - (B) conduct a continuing program for the revision and publication of the acts of the legislature;
 - (C) execute a program for the oversight of the administration and construction of laws by state agencies and the courts through regulations, opinions and rulings;
 - (D) Repealed by § 6 ch 95 SLA 1971.
 - (E) operate and maintain the state legislative reference library;
 - (F) do all things necessary to carry out legislative directives and law, and the duties set out in the uniform rules of the legislature;
- (5) to exercise control and direction over all legislative space, supplies, and equipment and permanent legislative help between legislative sessions;
- (6) to produce, publish, distribute and to contract for the printing of reports, memoranda and other materials it finds necessary to the accomplishment of its work; and
- (7) to take appropriate action for the pre-convening and post-session work of each legislative session including the employment one week in advance of each session of not more than 10 temporary legislative employees. The continuing employment of the temporary legislative employees is subject to legislative approval when the session convenes. (§ 6 ch 17 SLA 1960; am § 5 ch 126 SLA 1966; am § 6 ch 95 SLA 1971)

per diem allowance paid to other members of the legislature. (§ 2 ch 95 SLA 1971)

Sec. 24 20.201. Powers. (a) The Legislative Budget and Audit Committee has the power to:

(1) organize, adopt rules for the conduct of its business and prescribe procedures for the comprehensive fiscal analysis, budget review and post-audit functions;

(2) hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents and testimony, and have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions;

(3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information;

(4) review revenue projections, state agency appropriation requests, the expenditure of state funds, including the relationship between state agency program accomplishments and legislative intent, and the fiscal policies and procedures of state government;

(5) review and approve proposed changes to agency authorized budgets as provided in the Executive Budget Act (AS 37.07);

(6) make recommendations concerning appropriations, their expenditure and the fiscal policies and procedures of state government to the governor when appropriate, and to the legislature;

(7) prepare and distribute reports, memoranda or other necessary materials.

(b) Nothing in this chapter authorizes the referral by the presiding officer of legislation to the committee at regular or special sessions of the legislature. (§ 2 ch 95 SLA 1971; am § 1 ch 74 SLA 1977)

Effect of amendment. — The 1977 amendment rewrote paragraph (5) of subsection (a).

Editor's note. — Section 4, ch. 74, SLA 1977 provides: "The requirement of approval by both the governor and the Legislative Budget and Audit Committee of revision of appropriations to the extent permitted in AS 37.07.080(h) is intended to provide a degree of flexibility in administration of the budget provided both required approvals are obtained. It is not intended that these revisions may be made with the sole approval of the governor. If a court of competent jurisdiction

invalidates the requirement of approval by the Legislative Budget and Audit Committee for revision as authorized in AS 37.07.080(h) (1), (2) or (3), the entire paragraph or paragraphs for which that requirement was invalidated shall be totally void and of no effect whatsoever. If that requirement is invalidated for the entire subsection AS 37.07.080(h), that entire subsection shall be totally void and of no effect whatsoever."

Section 5, ch. 74, SLA 1977 provides: "Executive Order No. 20 dated June, 1962 is repealed."

Sec. 24.20.211. Legislative finance division. The legislative finance division is established as a permanent staff agency responsible to the Legislative Budget and Audit Committee for performance of fiscal analysis and budget review functions. (§ 2 ch 95 SLA 1971)