

941

HJ

HD

012

- HB

903

903

1 (5) investigate, report on, and make recommendations at least
2 annually, to improve the justice process, assure timely resolution of cases,
3 simplify procedures, assure reasonable costs, and particularly to assure
4 equal access by and equal treatment of all people in Alaska; all reports
5 and recommendations shall be submitted to the judicial council, the governor
6 the chief justice of the supreme court, the presiding officer of each house
7 of the legislature, and the public; all reports shall include minority
8 reports of those members of the commission who may not be in agreement with
9 the majority;

10 (6) prepare an annual budget to be submitted to the legislature
11 for approval of appropriations from the general fund to cover expenses.

12 (b) The final report of the commission shall be submitted by April 1,
13 1985 to the judicial council, the governor, the chief justice of the state
14 supreme court, and the presiding officer of each house of the legislature.

15 * Sec. 6. POWERS. (a) The commission may

16 (1) hire staff needed to assist the commission in the performance
17 of its duties under this Act;

18 (2) select a chairman and other officers as needed from members
19 of the commission;

20 (3) within the limits of legislative appropriations for the
21 purpose, contract for services needed to carry out the duties of the
22 commission with recognized legal scholars and others.

23 * Sec. 7. DEFINITION. In this Act

24 (1) "commission" means the Advisory Commission on Justice;

25 (2) "justice system" shall include the court system, the executive
26 branch, and local government entities.

27 * Sec. 8. TERMINATION. The commission terminates May 1, 1985.

28 * Sec. 9. EFFECTIVE DATE. This Act takes effect immediately in accord-
29 ance with AS 01.10.070(c).

MASTER COPY

2nd work draft

1 IN THE HOUSE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an Advisory Commission on
7 Justice; and providing for an effective date."

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

9 * Section 1. ADVISORY COMMISSION ON JUSTICE. There is established as
10 a temporary commission the Advisory Commission on Justice.

11 * Sec. 2. MEMBERSHIP. (a) The commission consists of eleven members
12 as follows:

13 (1) the chairman of the senate judiciary committee or his designee
14 and the chairman of the house judiciary committee or his designee;

15 (2) three members, appointed by the Judicial Council, who shall be
16 broadly representative of criminal justice agencies;

17 (3) three Alaska Natives, one appointed by the governor, and one
18 by the presiding officer of each house of the legislature;

19 (4) two Blacks, one appointed by the presiding officer of each
20 house of the legislature; and

21 (5) one member from another minority, appointed by the governor.

22 (b) The chairman of the senate judiciary committee and the chairman
23 of the house judiciary committee serve ex-officio.

24 (c) Members of the commission serve at the pleasure of the appointing
25 authority.

26 (d) Appointments shall be made within one month of the effective date
27 of this Act, or of the effective date of a vacancy on the commission.

28 * Sec. 3. COMPENSATION AND EXPENSES FOR COMMISSION MEMBERS. Members
29 of the commission who are public officials serve without compensation but

1 are entitled to per diem and travel expenses provided by law for state
2 boards and commissions. Members who are not public officials shall receive
3 \$150 for each day they devote to work of the commission and are entitled
4 to per diem and travel expenses provided by law for state boards and
5 commissions.

6 * Sec. 4. MEETINGS. The commission shall meet as often as necessary
7 in order to perform its duties. The first meeting of the commission shall
8 be convened at the call of the governor not later than twenty days following
9 appointment of the members of the commission.

0 * Sec. 5. DUTIES. (a) The commission shall

1 (1) prepare a written analysis of the implementation of the
2 recommendations contained in the report made by the Advisory Committee on
3 Minority Sentencing Practices, mandated by the Eleventh Legislature, First
4 Session, under Chapter 42 SLA 1979, as well as review and make recommendations
5 on other subjects contained in that report;

6 (2) investigate and report on practices within the justice
7 system which may violate the civil rights or unfairly disadvantage rural
8 residents, minorities or the poor;

9 (3) hold public hearings in all regions of the state for the
0 purpose of receiving testimony on complaints with the present justice system
1 and recommendations for improvement of the current processes;

2 (4) investigate, report on, and make recommendations at least
3 annually, in order to effect equal access by and equal treatment of all
4 people in Alaska; all reports and recommendations shall be submitted to
5 the judicial council, the governor, the chief justice of the supreme court,
6 the presiding officer of each house of the legislature, and the public; all
7 reports shall include minority reports of those members of the commission
8 who may not be in agreement with the majority;

9 (5) prepare an annual budget to be submitted to the legislature

1 for approval of appropriations from the general fund to cover expenses.

2 (b) The final report of the commission shall be submitted by April 1,
3 1985 to the judicial council, the governor, the chief justice of the state
4 supreme court, and the presiding officer of each house of the legislature.

5 * Sec. 6. POWERS. (a) The commission may

6 (1) hire staff needed to assist the commission in the performance
7 of its duties under this Act;

8 (2) select a chairman and other officers as needed from members
9 of the commission;

10 (3) within the limits of legislative appropriations for the
11 purpose, contract for services needed to carry out the duties of the
12 commission.

13 * Sec. 7. COOPERATION FROM OTHER STATE AGENCIES AND INSTRUMENTALITIES.

14 All state agencies, boards and commissions, and political subdivisions
15 shall cooperate and provide, without charge, information as requested by
16 the commission in the performance of its duties.

17 * Sec. 8. DEFINITION. In this Act

18 (1) "commission" means the Advisory Commission on Justice;

19 (2) "justice system" shall include the court system, the executive
20 branch, and local government entities.

21 * Sec. 9. TERMINATION. The commission terminates May 1, 1985.

22 * Sec. 10. EFFECTIVE DATE. This Act takes effect immediately in accord-
23 ance with AS 01.10.070(c).

24
25
26
27
28
29

- Lay persons as board members.
- Officials as ex-officio only

Situation

Poor people, disadvantaged persons of all ethnic backgrounds

Victims =

16
P 17

START P 3 - recommendation

P 4

P 11 - item C

P 15

16 - 17

P 21

P 23

24

P 27 V. 28

Jud Comm p 31000

V p 3 line 4-6 of bill

P ~~44~~ P 44, 45

unable to respond
(can't respond without resources)

oversight

functions
is necessary

legislator
now on
recommendation

Barry Stearn /
Question // Judicial Council?

- o Dept of Law rep.?
- o P.D.

Judge, ~~Deputy~~ }
}

Grammar
syntax

Judicial Council
staff time & money

! Will require increase
in Council's budget.



Supreme Court
State of Alaska

CHIEF JUSTICE
JAY A. RABINOWITZ

April 14, 1980

P. O. BOX 850
FAIRBANKS, ALASKA
99707
907-452-1539
907-456-5201

JUSTICES
ROGER G. CONNOR
ROBERT BOOCHEVER
EDMOND W. BURKE
WARREN W. MATTHEWS, JR.

Honorable Hugh Malone
House of Representatives
Pouch V
Juneau, Alaska
99811

Re: Proposed House Judiciary Committee Substitute
for HB 812

Dear Representative Malone:

I am writing as ex officio Chairman of the Alaska Judicial Council to clarify the council's position on the question of the creation, by statute, of a board or commission concerned with the status of minorities within in the criminal justice system.

At page 3 of the February 1980 report of the Advisory Committee on Minority Judicial Sentencing Practices, the following recommendation is made:

We . . . recommend the creation of a board, commission, or other instrumentality whose full-time and exclusive mandate would be to assure that concrete actions follow from these general recommendations. Experience has shown that implementation cannot be left the exclusive province of the operating justice agencies themselves. Each agency has its own limited resources, its own list of priorities and problems, and its own strategies. Many of the solutions to the problem of assuring equality of treatment required the coordinated

Hon. Hugh Malone
House of Representatives
Page 2

efforts of more than one agency for their resolution. An implementing and coordinating commission could lend assistance to the agencies, supply extra energy where needed, and act as a liaison between the agencies and the Legislature with regard to specific issues involved in racial equity--issues which are the proper concern of all Alaskans of all ethnic backgrounds and cultures.

The above language was the subject of extensive discussion at our council meeting on March 19-20. Following the discussion, the judicial council decided to support the position of the Minority Committee on this point in substance. Council did suggest a somewhat different structure for the proposed board or commission, in essence preferring one which was organized more on the lines of the judicial council itself. However, the central aspect of the Minority Committee's recommendation was approved, and still has the council's strong approval.

Alaska is a state rich in the diversity of its cultures; accordingly, there is a need for our institutions of justice to provide means for the expression of more than one voice. As the Minority Advisory Committee observed, the existing agencies have their own agendas and priorities. The creation of a separate instrumentality vigilant in identifying and asserting the minority perspective within the justice process is certainly a worthwhile legislative goal.

Two items of proposed legislation intended to achieve this goal were recently called to our attention. The first, HB 812, was discussed at the March 19 judicial council meeting. However, the council decided to voice no view on HB 812 since this bill was not recommended by the Minority Advisory Committee, and since it did not necessarily affect the judicial council's functions. Therefore, there was no need for comment. More recently, we have become aware of the proposed House Judiciary Committee's substitute for HB 812, now still a working draft. Since this draft does seem to raise some serious problems in its present form, the council would like to bring these to your attention.

Hon. Hugh Malone
House of Representatives
Page 3

Pursuant to Article IV, section 9 of the Alaska Constitution, the judicial council possesses the following mandate:

The judicial council shall conduct studies for improvement of the administration of justice, and make reports and recommendations to the supreme court and to the legislature at intervals of not more than two years. The judicial council shall perform other duties assigned by law.

The above language evidences the intent of the framers of the Alaska Constitution that the legislature and judiciary look to the judicial council for investigation and research into the justice process, and that both branches seek the council's recommendation on matters relating to improvement of the administration of justice. I think the judicial council has carried out this constitutional mandate vigorously and with integrity.

Under Section 1 of the working draft for a committee substitute for HB 812, an Advisory Committee on Justice is created and given the following purposes:

To review the entire justice system of the state, consider alternatives, and make recommendations to the legislature, the executive, and the judiciary for statutory, court rule, and procedural changes designed to improve and simplify the justice system.

* * *

A comparison of the judicial council's constitutional mandate with the proposed language of the committee substitute reveals a substantial redundancy. In short, under the working draft, the functions of the Advisory Committee on Justice would encroach upon the constitutionally mandated functions of the Alaska Judicial Council. The creation by the legislature of a body with a mandate duplicating the constitutional mandate of the judicial council raises the potential for future conflicts of a legal nature between the two.


Hon. Hugh Malone
House of Representatives
Page 4

I appreciate and understand your wish to broaden the definition of "minority" in order to encompass economically disadvantaged persons, and all those who, for any reason, may find it more difficult than others to obtain equal access to the justice system, or to secure complete equality, regardless of race or culture. This is a realistic approach. We would, however, not like to see the minority rights focus become excessively diluted, weakened, and lost among the other considerations.

It should be entirely possible to develop legislation which avoids duplicating functions of the judicial council, yet still advances our shared concerns for improvement of the justice process by providing an effective voice for minorities. Perhaps in future meetings with the council's executive director, draft legislation could be developed cooperatively.

I wish to thank you for your courtesy in affording the opportunity to comment on this draft legislation.

Sincerely,


Jay A. Rabinowitz
Chairman, Ex Officio
Judicial Council

JAR:dw

cc: Hon. Nels A. Anderson



Alaska Native Brotherhood

Camp Number 2

510 West Willoughby Avenue

Juneau, Alaska 99801

March 25, 1980

The Honorable Charles H. Parr
House of Representatives
Pouch V - Mail Station 3100
Juneau, Alaska 99811

Dear Mr. Chairman:

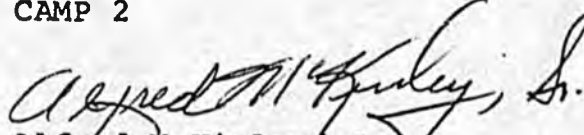
The Judiciary Committee has before it, House Bill 812, an "Act establishing a Commission to Secure equality of Justice;" We have reviewed the bill and now offer the endorsement of the Alaska Native Brotherhood and the Alaska Native Sisterhood.

You should be aware that we represent ANB & ANS Camps from throughout Alaska and Seattle, Washington. I have been requested to inform you that we will support the bill if it remains intact. In other words, any amendments that would "water it down" so to speak, would, ~~see~~ in our opinion, defeat the purpose of the bill.

We will be prepared to appear before your committee to reiterate our position, if necessary.

Respectfully,

ALASKA NATIVE BROTHERHOOD
CAMP 2


Alfred McKinley, Sr.
Corresponding Secretary

AMS:in

NOTE :

PAGE 3 FOR MORE
RECENT WORK

THE ALASKA JUDICIAL COUNCIL

A Summary of Programs and Recommendations Undertaken
Since Statehood: 1959 - 1980

Article 4, Section 2 of Alaska's Constitution states:

"The judicial council shall conduct studies for the improvement of the administration of justice, and make reports and recommendations to the supreme court and to the legislature at intervals of not more than two years."

The topics studied by the Council at the request of the legislature and supreme court have been as broad as the constitutional language mandating these studies. The following lists summarize some of the more important contributions of the Judicial Council.

A. Recommendations Relating to the Judiciary and Courts

1. Evaluation of judges standing for retention elections, and recommendations to the public
2. Creation of Judicial Qualifications Commission.
3. Legislation relating to judicial salaries and retirement plans.
4. Increased jurisdictions of district court judges.
5. Court facilities and court management programs.
6. Jury size and length of service.
7. Authority of magistrates.
8. Supervision of the procedure of revising rules of court (1959-1961).
9. Waiver of juvenile jurisdiction in minor traffic cases (Ch.76, SLA 1961).
10. Establishment of Family Court (Ch. 110, SLA 1967).
11. Appellate review of sentences (Ch. 117, SLA 1969).
12. Coroner-Public Administrator office (Ch. 216, SLA 1970).
13. Constitutional amendment rotating the office of Chief Justice (approved by electorate in 1970).

The scope of this listing suggests the comprehensive role that the Council has played in structuring the shape and work of the court system, through Court Rules or administrative changes, legislative changes, and constitutional amendments.

B. Recommendations Relating to Other Aspects of the Administration of Justice

1. Recommendations to the legislature on proposed legislation affecting the courts (1960 - 1980).
2. Compilation of the records of the constitutional convention.
3. Adoption of Rule 40(e) of the uniform rules of the legislature (requires 2/3 vote of the legislature to change rules of court).
4. Establishment of Public Defender Agency (Ch. 109, SLA 1969).
5. Parole Board autonomy (granted in 1972).
6. Modernization of the state recording system (1966).
7. Various recommendations regarding probation and parole services, including administration of probation by courts.
8. Recommendations regarding juvenile services.
9. Extensive analysis of Bush Justice needs, and recommendations.
10. Monthly statistical reporting system on sentences (established by courts and corrections in 1962).
11. Recommendation for presentence reports in all felonies (enacted by court rule in 1974).
12. Reclassification of minor traffic offenses as non-criminal.

The Judicial Council was requested to consider all of the above matters by the courts, the legislature, or by public request. Most of its recommendations have been adopted, although some have taken several years before enabling legislative or rules changes were enacted.

C. Conferences and Consultancies

1. Sponsorship of first sentencing conference in Sitka, 1968.
2. Consultant to Legislative Council (1959-1961).
3. Sponsorship of first Bush Justice Conference (Alyeska, 1970).
4. Consultant to Courts Standards and Goals Task Force (1975-76).
5. Consultants to Criminal Code Revision Commission (1975 - 1979).

C. Consultancies and Conferences (cont.)

6. Magistrate's Advisory Committee (1977).
7. Consultant to Sentencing Guidelines Commission (1978 to present).
8. Consultant to Minority Advisory Committee on Judicial Sentencing Practices (created by legislature, 1979-1980).
9. Consultant to Pre-sentence Report Revision Committee at request of Supreme Court and Dept. of Health and Social Services (1979 to present).

D. Studies and Reports

1. The Alaska Public Defender Agency in Perspective. (Jan., 1974)
An analysis of the law, finances, and administration from 1969 to 1974 which resulted in amendments to Title 18, improving Public Defender services.
2. Report on Policy Considerations for Court Fee Structures. (Feb., 1974)
Resulted in changes to court system policies regarding fees collected for adoptions, recording services, and child support.
3. Evaluation of Courts of Limited Jurisdiction. (1974, unpublished)
Resulted in establishment of superior court judgeship in Kodiak and Sitka.
4. Judicial Districting. (Jan., 1975)
Resulted in creation of Barrow and Bethel service areas by court.
5. Sentencing in Alaska. (March, 1975)
First data available for use by Criminal Code Revision Commission, attorneys, and courts.
6. The Grand Jury in Alaska. (Feb., 1975)
Resulted in preliminary hearing pilot project in Anchorage, and experimental rules change by supreme court.
7. Bail in Anchorage. (March, 1975)
First information available about operation of bail system.
8. 1973 Sentences of Five Years or Longer. (April, 1975)
Analysis of factors contributing to lengthy sentences and impact of appellate review of sentencing.
9. Report on Repeat Bail Recidivists in 1973. (April, 1975)
Analysis on case-by-case basis of defendants violating bail conditions by committing more than one new crime while on bail.

D. Studies and Reports (cont.)

10. Alaska Felony Sentencing Patterns: A Multivariate Statistical Analysis - 1974-1976. (April, 1977)

Study requested by legislature and used to structure presumptive sentencing provisions of new criminal code. Also resulted in creation of Sentencing Guidelines Commission.

11. Interim Report on the Elimination of Plea Bargaining. (May, 1977)

Summarized effects of the Attorney General's 1975 ban on plea bargaining as reported by attorneys, judges, and defendants.

12. The Anchorage Citizens Dispute Center: A Needs Assessment and Feasibility Report. (1977)

Analysis of dispositions of minor disputes reported to Anchorage Police Department; recommended establishment of alternative dispute resolution procedures for certain types of situations.

13. A Look Inside: A Pilot Project in Citizen Involvement with the Judicial System. (October, 1978)

Contributed to citizen participation in all aspects of the justice system, and to revised procedures for evaluation of judges.

14. Interim Report of the Alaska Judicial Council on Findings of Apparent Racial Disparity in Sentencing. (Oct., 1978)

Summary of data accumulated on felony case disposition and sentencing patterns from Anchorage, Fairbanks, and Juneau (1974-1976) giving evidence of racial and other disparities in sentencing for certain types of offense. Resulted in legislative creation of Minority Advisory Committee on Judicial Sentencing Practices, and funding of follow-up Judicial Council studies of felonies and misdemeanors. Also resulted in cultural awareness and sensitivity training for all Alaska judges (June, 1979), Presentence Report Revision Committee, and suggested revisions to Criminal Code.

15. The Effect of the Official Prohibition of Plea Bargaining on the Disposition of Felony Cases in the Alaska Criminal Courts. (Dec., 1978)

Evaluated the effectiveness and consequences of the Attorney General's 1975 ban on plea bargaining. Over 1500 copies have been requested by Alaskan groups and persons in other states and countries; the report is being reprinted by the Government Printing Office in Washington, D.C.

16. Statistical Analysis of Misdemeanor Sentences in Anchorage and Fairbanks. (November, 1979)

Study requested by legislature as follow-up report on racial disparities in misdemeanor sentences. Shows strong disparities for most categories of misdemeanors.

President Bert Campbell
Vice Pres. Pat Anderson
Secretary Myron Igtanloc
Treasurer Jackie Guzalek
Sgt-at-Arms Gary Bader

Master Copy
ANCHORAGE NATIVE CAUCUS

P.O. Box 476
Anchorage, Alaska 99510
02/10/80

Dear Legislator:

The Anchorage Native Caucus fully supports and endorses House Bill 812 and we urge your support for the passage of this bill.

The overwhelming evidence of racial discrimination occurring in the criminal justice system of the State of Alaska cannot be denied.

The Advisory Committee on Minority Sentencing Practices has put forth the premise that the racial disparity was caused by a systematic skew at all levels of the criminal justice system, and whether it was an unconscious or conscious racial bias is not the question. The question is, what steps should be taken to insure equality and equal protection under the law? It seems very evident that the system is either incapable or unwilling to evaluate itself and to make any significant changes as evidenced by the countless reports written about the criminal justice system and the numerous complaints and allegations of racial discrimination that are occurring. If the State of Alaska is serious about correcting some obvious problems, it must take some very dramatic and forceful steps to evaluate and critically analyze the entire criminal justice system.

We believe that this can only be accomplished by establishing a Commission to Secure Equality of Justice to act as a watchdog and to build automatic safeguards into the entire system to insure that a crisis situation does not develop again. Must we be in a crisis situation before it gains the notice of the public? Is justice and equality a political issue in which one must round up votes and campaign vigorously to achieve? Do we put it on the ballot and call for a referendum? We think the constitution is quite explicit in guaranteeing equality.

We have a chance to make a model justice system. Let us not put equality and justice on a par with a library or a road appropriation.

If EQUALITY and JUSTICE is denied for one group, the entire population is in jeopardy.

Bert Campbell
Bert Campbell
President

Morrison -

Out of work of Minority Sentencing Comm.
Would include juveniles -

~~Andy~~ Ebona -

16,000 Tlingit-Haida in SE

Norman Staton - Minority Sent Comm -
favors full-time comm -

Hickey -

CJPA now doing study on bias in system
- full-time commission premature

Malone -

low-income people

Anderson -

HB 195 - narrow focus

Favors Malone's approach

Doesn't support paid commission

Rubenstein wants to testify

*
reform
protect
deterrent

Knighon - ~~for~~ CJPA - pre-sentence reports

~~minority~~
rights of victims
ethnicity

LA11 1042 09.41 JA01 0009 09.41 06/02/80

TO ALL LEGISLATORS

FROM: THOMAS ROGERS, 2401 LEE STREET, ANCHORAGE 99504 337-7393

I RECOMMEND VOTING AGAINST HB 687 UNTIL FURTHER STUDY CAN BE MADE. BE VERY CAREFUL OF INCREASED SPENDING. BASIC ASSUMPTION SHOULD BE THAT ANY MORE SPENDING IS NOT NEEDED AND THAT EFFORTS SHOULD BE MADE TO REDUCE EXISTING SPENDING.

LA11 3001 14.08 JA01 0040 14.08 06/02/80

TO ALL LEGISLATORS

FROM: KEITH KLEMME, BOX 20, MONTE ROAD, EAGLE RIVER 99577 694-4016

I WOULD LIKE TO KNOW WHEN THE STATE IS GOING TO HOLD ANOTHER VETERANS PREFERENCE LAND SALE UNDER AS 38.05.067. I WOULD LIKE A REPLY FROM YOU.

TO ALL LEGISLATORS

FROM: WILLIAM B. MORRIS, BOX 1477, EAGLE RIVER 99577 694-3295

I STRONGLY URGE THAT THE FCCS ON SB 1 BE REJECTED. THE FCC LIMITATION OF THE PROGRAM TO MORTGAGE APPLICATIONS OF \$90,000 OR LESS WILL EXCLUDE PERHAPS AS MUCH AS 40 PERCENT OF ALASKAN HOME BUYERS. SUGGEST EXTENSION OF 10 PERCENT TO MORTGAGE APPLICATION TO AT LEAST \$110,000.

3/25/80

(P)

hold proposed CS
til Rep. Malone
gives release.

3/26 Royce
said Hugh
does not want
released til at
least mid-day today -
check later . . .

1 (b) Appointments to the commission shall be made with consideration of

2 (1) the availability and willingness of an appointee to devote
3 the time and effort necessary to permit the commission to function
4 effectively; and

5 (2) the degree of commitment of an appointee to the principle
6 of equal justice under law for all people.

7 (c) Members of the commission serve at the pleasure of the appointing
8 authority.

9 (d) Appointments shall be made within one month of the effective date
10 of this Act, or of the effective date of a vacancy on the commission.

11 * Sec. 3. COMPENSATION AND EXPENSES FOR COMMISSION MEMBERS. Members
12 of the commission, except those appointed by the governor, serve without
13 compensation but are entitled to per diem and travel expenses provided by
14 law for state boards and commissions. Members appointed by the governor
15 shall receive \$150 for each day they devote to work of the commission and
16 are entitled to per diem and travel expenses provided by law for state boards
17 and commissions.

18 * Sec. 4. DUTIES. (a) The commission shall

19 (1) investigate and report on any part of the justice system under
20 which persons who are minorities, who live in rural areas, or who have low-
21 incomes suffer violations of their civil rights or are unfairly disadvantaged
22 in their involvement with the civil, criminal or juvenile justice system;

23 (2) investigate and report on trial court procedures, both civil
24 and criminal, with the aim of simplifying those procedures and reducing costs;

25 (3) investigate and report on alternatives to the formal justice
26 system for dispute resolution;

27 (4) hold public hearings in all regions of the state for the
28 purpose of receiving testimony on complaints with the present justice system
29 and recommendations for improvement of the current processes;

1 (5) investigate, report on, and make recommendations at least
2 annually, to improve the justice process, assure timely resolution of cases,
3 simplify procedures, assure reasonable costs, and particularly to assure
4 equal access by and equal treatment of all people in Alaska; all reports
5 and recommendations shall be submitted to the judicial council, the governor
6 the chief justice of the supreme court, the presiding officer of each house
7 of the legislature, and the public; all reports shall include minority
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16 (1) hire staff needed to assist the commission in the performance
17 of its duties under this Act;

18 (2) select a chairman and other officers as needed from members
19 of the commission;

20 (3) within the limits of legislative appropriations for the
21 purpose, contract for services needed to carry out the duties of the
22 commission with recognized legal scholars and others.

23 * Sec. 7. DEFINITION. In this Act

24 (1) "commission" means the Advisory Commission on Justice;

25 (2) "justice system" shall include the court system, the executive
26 branch, and local government entities.

27 * Sec. 8. TERMINATION. The commission terminates May 1, 1985.

28 * Sec. 9. EFFECTIVE DATE. This Act takes effect immediately in accord-
29 ance with AS 01.10.070(c).

Sandra

Introduced: 2/18/80
Referred: Judiciary and
Finance

1 IN THE HOUSE

BY OSTERBACK, ANDERSON AND
HURLBERT

2 HOUSE BILL NO. 812

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a Commission to Secure Equality of
7 Justice, and providing for an effective date."

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

9 * Section 1. COMMISSION TO SECURE EQUALITY OF JUSTICE. There is estab-
10 lished as a temporary commission the Commission to Secure Equality of Jus-
11 tice. The purpose of the commission is to review, investigate, and formulate
12 responses to instances of apparent discrimination against members of minori-
13 ties by the justice system of the state.

14 * Sec. 2. MEMBERSHIP. (a) The commission is composed of (five members
15 appointed as follows:

16 (1) Two members shall be appointed by the speaker of the house of
17 representatives. Of the two members appointed by the speaker, one shall be
18 an Alaska Native and one shall be an attorney admitted to practice in the
19 state whose practice includes representation of members of minorities in
20 criminal matters.

21 (2) Two members shall be appointed by the president of the senate.
22 One of the two members appointed by the president shall be an Alaska Native,
23 and one shall be a Black person.

24 (3) One member shall be appointed by the governor.

25 (b) Appointments to the commission shall be made with consideration of

26 (1) the availability and willingness of an appointee to devote the
27 time and effort necessary to permit the commission to function effectively;
28 and

29 (2) the degree of commitment of an appointee to the principle of

1 equal justice under law for all people.

2 (c) Appointments to the commission shall be without regard to political
3 affiliation, and shall be made, if possible, within 20 days of the effective
4 date of this Act, or of the effective date of a vacancy on the commission.

5 (d) Vacancies on the commission shall be filled by the governor so as
6 to maintain the racial and professional balance required by (a) of this
7 section.

8 * Sec. 3. COMPENSATION. Members of the commission are in the exempt
9 service and shall receive an annual salary equal to the salary paid to the
10 heads of principal executive departments. Members are entitled to the same
11 travel pay and per diem as state officials and employees.

12 * Sec. 4. OFFICERS. The commission shall elect a chairman and vice-
13 chairman from its membership.

14 * Sec. 5. MEETINGS. The commission shall meet at least once every two
15 months to carry out its duties under this Act. The first meeting of the
16 commission shall be convened at the call of the governor not later than 20
17 days following appointment of the members of the commission.

18 * Sec. 6. DUTIES. (a) The commission shall

19 (1) investigate and report on any part of the justice system under
20 which individuals who are members of racial minorities suffer violations of
21 their civil rights or are unfairly disadvantaged in their involvement with
22 the civil, criminal or juvenile justice system;

23 (2) receive and review reports concerning arrest, admission to
24 bail, prosecution, sentencing, correction, probation, parole practices and
25 procedures, and other facets of the criminal justice system, with particular
26 regard to the treatment of individuals who are members of racial minorities;

27 (3) recommend to the judicial council and to the supreme court

28 (A) procedures by which members of racial minorities may be
29 recruited for appointment to or employment by the judicial system;

1 (B) a program by which persons concerned with the adminis-
2 tration of justice may become more sensitive to attitudes and manner of
3 personal expression and communication of members of racial minorities;

4 (C) a program for development and distribution of a statewide
5 comprehensive sentencing report, collecting and publishing information
6 about disposition of criminal cases on a monthly basis; and

7 (D) changes in post-conviction procedures by which to improve
8 the opportunity of members of racial minorities to secure review of
9 sentences and reduction of sentences when circumstances warrant;

10 (4) hold public hearings and meetings to determine whether members
11 of racial minorities are being unfairly disadvantaged in their involvement
12 with the justice system; and

13 (5) complete interim reports and a final report with recommenda-
14 tions for the correction of abuses and violations of the civil rights of
15 members of racial minorities that may be found to exist in the justice
16 system, and submit all reports to the judicial council, the governor, and the
17 presiding officer of each house of the legislature.

18 (b) The final report of the commission shall be submitted by
19 February 1, 1985.

20 * Sec. 7. POWERS. (a) The commission may

21 (1) hire staff which may be necessary to assist the commission in
22 the performance of its duties under this Act; and

23 (2) contract for services necessary to carry out the duties of the
24 commission.

25 (b) Subject to the privileges which witnesses have in state court, the
26 commission may

27 (1) compel by subpoena, at a specified time and place, the appear-
28 ance and sworn testimony of a person who the commission reasonably believes
29 may be able to give information relating to a matter under investigation; and

1 (2) compel a person, by subpoena, to produce documents, papers, or
2 objects which the commission reasonably believes may relate to the matter
3 under investigation.

4 (c) If a person refuses to comply with a subpoena issued under (b) of
5 this section, the superior court may, on application of the commission,
6 compel obedience by proceedings for contempt in the same manner as in the
7 case of disobedience to the requirements of a subpoena issued by the court or
8 refusal to testify in the court.

9 * Sec. 8. DEFINITION. In this Act "commission" means the Commission to
10 Secure Equality of Justice.

11 * Sec. 9. TERMINATION. The commission terminates February 28, 1985.

12 * Sec. 10. EFFECTIVE DATE. This Act takes effect immediately in accord-
13 ance with AS 01.10.070(c).

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Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

TO: Legislative Affairs Agency

FROM: Margaret W. Berck, Staff

Date: April 18, 1980

Please rat the attached work draft in final version form. This is a House Judiciary

CS for HB 812.

2nd work draft House
by Judiciary

IN THE HOUSE

CS HOUSE BILL NO. 812

IN THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing an Advisory Commission on
Justice; and providing for an effective date."

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

* Section 1. ADVISORY COMMISSION ON JUSTICE. There is established^{in the judicial branch} as
a temporary commission the Advisory Commission on Justice.

* Sec. 2. MEMBERSHIP. (a) The commission consists of eleven members
as follows:

(1) the chairman of the senate judiciary committee or his designee
and the chairman of the house judiciary committee or his designee;

(2) three members, appointed by the Judicial Council, who shall be
broadly representative of criminal justice agencies;

(3) three Alaska Natives, one appointed by the governor, and one
by the presiding officer of each house of the legislature;

(4) two Blacks, one appointed by the presiding officer of each
house of the legislature; and

(5) one member from another minority, appointed by the governor.

(b) The chairman of the senate judiciary committee^{or his designee} and the chairman
of the house judiciary committee^{or his designee} serve ex-officio and may not vote.

(c) Members of the commission serve at the pleasure of the appointing
authority.

(d) Appointments shall be made within one month of the effective date
of this Act, or of the effective date of a vacancy on the commission.

* Sec. 3. COMPENSATION AND EXPENSES FOR COMMISSION MEMBERS. Members
of the commission who are public officials^{or state employees} serve without compensation but

1 are entitled to per diem and travel expenses provided by law for state
2 boards and commissions. Members who are not public officials shall receive
3 \$150 for each day they devote to work of the commission and are entitled
4 to per diem and travel expenses provided by law for state boards and
5 commissions.

6 * Sec. 4. MEETINGS. The commission shall meet as often as necessary
7 in order to perform its duties. The first meeting of the commission shall
8 be convened at the call of the governor not later than twenty days following
9 appointment of the members of the commission.

0 * Sec. 5. DUTIES. (a) The commission shall

1 (1) prepare a written analysis of the implementation of the
2 recommendations contained in the report made by the Advisory Committee on
3 Minority Sentencing Practices, mandated by the Eleventh Legislature, First
4 Session, under Chapter 42 SLA 1979, as well as review and make recommendations
5 on other subjects contained in that report;

6 (2) investigate and report on practices within the justice
7 system which may violate the civil rights ^{of} or unfairly disadvantage ^{urban or} rural
8 residents, minorities or the poor;

9 (3) hold public hearings in all regions of the state for the
0 purpose of receiving testimony on complaints with the present justice system
1 and recommendations for improvement of the current processes;

2 (4) investigate, report on, and make recommendations at least
3 annually, in order to effect equal access ^{to justice} ~~by~~ and equal treatment of all
4 people in Alaska; all reports and recommendations shall be submitted to
5 the judicial council, the governor, the chief justice of the supreme court,
6 the presiding officer of each house of the legislature, and the public; all
7 reports shall include minority reports of those members of the commission
8 who may not be in agreement with the majority;

9 (5) prepare an annual budget to be submitted to the legislature

1 for approval of appropriations from the general fund to cover expenses.

2 (b) The final report of the commission shall be submitted by April 1,
3 1985 to the judicial council, the governor, the chief justice of the state
4 supreme court, and the presiding officer of each house of the legislature.

5 * Sec. 6. POWERS. (a) The commission may

6 (1) hire staff needed to assist the commission in the performance
7 of its duties under this Act;

8 (2) select a chairman and other officers as needed from members
9 of the commission;

10 (3) within the limits of legislative appropriations for the
11 purpose, contract for services needed to carry out the duties of the
12 commission.

13 * Sec. 7. COOPERATION FROM OTHER STATE AGENCIES AND INSTRUMENTALITIES.

14 All state agencies, boards and commissions, and political subdivisions
15 shall cooperate and provide, without charge, information as requested by
16 the commission in the performance of its duties. *The Commission may*

17 * Sec. 8. DEFINITION. In this Act *pay the actual cost of*
research projects it requests.

18 (1) "commission" means the Advisory Commission on Justice;

19 (2) "justice system" shall include the court system, the executive
20 branch, and local government entities.

21 * Sec. 9. TERMINATION. The commission terminates May 1, 1985.

22 * Sec. 10. EFFECTIVE DATE. This Act takes effect immediately in accord
23 ance with AS 01.10.070(c).

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HB

860

WO 7996 ✓
Bradley

Original sponsor: Munson

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 860

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to snow skiing; and providing for an
7 effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that
10 the sport of snow skiing is practiced by a large number of residents of the
11 state and attracts a large number of nonresidents, significantly contributing
12 to the economy of the state. It further finds that insurance carriers are
13 increasingly reluctant to provide liability insurance protection to ski area
14 operators and that the premiums by insurance carriers have risen sharply in
15 recent years due to confusion as to whether a skier assumes the risks in-
16herent in the sport of snow skiing. It is the intent of the legislature in
17enacting this Act to clarify the law in relation to snow skiing injuries and
18the risks inherent in that sport and to provide that, as a matter of public
19policy, a person engaged in that sport may not recover from a ski area opera-
20tor for injuries resulting from those inherent risks.

21 * Sec. 2. AS 09.10 is amended by adding new sections to read:

22 ARTICLE 2. LIMITATIONS ON CLAIMS ARISING FROM
23 INHERENT RISKS OF SNOW SKIING.

24 Sec. 09.10.300. LIMITATIONS ON CLAIMS. A skier may not recover
25 from a ski area operator for injury resulting from an inherent risk of
26 snow skiing unless the injury occurred when the ski area operator was not
27 providing the information required by AS 09.10.310.

28 Sec. 09.10.310. INFORMATION FOR SKIERS. A ski area operator shall
29 post trail signs at prominent locations within a ski area which shall

1 include a list of the inherent risks of snow skiing and the limitation
2 on liability of the ski area operator provided by AS 09.10.300.

3 Sec. 09.10.320. DEFINITIONS. In AS 09.10.300 - 09.10.320

4 (1) "inherent risk of snow skiing" means a danger or con-
5 dition which is an integral part of the sport of snow skiing, including,
6 but not limited to a

7 (A) changing weather condition;

8 (B) variation or steepness in terrain;

9 (C) snow or ice condition unless the proximate cause of
10 an injury is the result of negligent snow grooming practices by the
11 ski area operator;

12 (D) surface or subsurface condition such as bare spots,
13 forest growth, and rocks;

14 (E) collision with lift towers, other structures, and
15 their components unless the collision occurs while the skier is on
16 the lift;

17 (F) collision with other skiers unless the proximate
18 cause of the collision is the result of the failure of the ski
19 operator to post cautionary signs where primary trails merge or
20 where congested areas exist;

21 (G) failure of a skier to ski within his own ability;

22 (2) "injury" means personal injury or property damage or
23 loss;

24 (3) "ski area" means a ski slope or trail or other place
25 under the control of a ski area operator and administered as a single
26 enterprise in the state;

27 (4) "ski area operator"

28 (A) means a person having operational responsibility for
29 a ski area; and

1 (B) includes an agency of the state or of a municipality
2 of the state;

3 (5) "ski slope or trail"

4 (A) means an area designated by the ski area operator by
5 signs or other information to a skier for a use described in (3) of
6 this section by a skier;

7 (B) does not mean an area restricted by the ski area
8 operator to use by certain equipment or closed to skiing by the ski
9 area operator by signs or other information to a skier;

10 (6) "snow skiing" means the use of a ski area for sliding
11 downhill on snow or ice on skis, a tobaggan, a sled, a tube, a ski-bob,
12 or other device.

13 * Sec. 3. AS 18 is amended by adding a new chapter to read:

14 CHAPTER 76. SNOW SAFETY.

15 Sec. 18.76.010. SNOW SAFETY AND OPERATION PLAN. (a) A ski area
16 may not be operated except under a snow safety and operation plan ap-
17 proved by the commissioner of public safety under regulations adopted by
18 him.

19 (b) A ski area operated on land owned by the United States shall
20 comply with a snow safety and operation plan required by the agency of
21 the United States that manages the land on which the ski area operates.

22 (c) The responsibilities of a ski area operator for snow safety
23 shall conform to the recognized standards and usages of the snow skiing
24 industry.

25 (d) A snow safety and operation plan adopted under this section
26 shall specify the risks and hazards of the particular ski area other
27 than those which constitute the inherent risks of snow skiing under
28 AS 09.10.300 - 09.10.320. The snow safety and operation plan shall
29 specify the preventive and corrective measures to be undertaken by the

1 ski area operator for the safety of skiers using the ski area.

2 (e) As used in this section

3 (1) "ski area" means a ski slope or trail or other place
4 under the control of a ski area operator and administered as a single
5 enterprise in the state;

6 (2) "ski area operator"

7 (A) means a person having operational responsibility for
8 a ski area; and

9 (B) includes an agency of the state or of a municipality
10 of the state;

11 * Sec. 4. AS 05.20.012 is repealed.

12 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
13 070(c).

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Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Legislative Affairs Agency

FROM: Margaret W. Berck, Staff

DATE: April 25, 1980

Please put the attached CS for HB 860 by the House Judiciary Committee
in final version form.

Thank you.

Introduced: 2/18/80
Referred: Judiciary

1 IN THE HOUSE

BY MUNSON

2 HOUSE BILL NO. 860

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the inherent risks of^{SNOW} skiing; and
7 providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that
10 the sport of^{SNOW} skiing is practiced by a large number of residents of the state
11 and attracts a large number of nonresidents, significantly contributing to
12 the economy of the state. It further finds that insurance carriers are
13 increasingly reluctant to provide liability insurance protection to ski area
14 operators and that the premiums by insurance carriers have risen sharply in
15 recent years due to confusion as to whether a skier assumes the risks in-
16 herent in the sport of skiing. It is the intent of the legislature in enact-
17 ing this Act to clarify the law in relation to^{SNOW} skiing injuries and the risks
18 inherent in that sport and to provide that, as a matter of public policy, a
19 person engaged in that sport may not recover from a ski area operator for
20 injuries resulting from those inherent risks.

21 * Sec. 2. AS 09.10 is amended by adding new sections to read:

22 ARTICLE 2. LIMITATIONS ON CLAIMS ARISING FROM
23 INHERENT RISKS OF SKIING.

24 Sec. 09.10.300. LIMITATIONS ON CLAIMS. ~~(a)~~ ^{SNOW} A skier may not
25 recover from a ski area operator for injury resulting from an inherent
26 risk of skiing *provided that the ski AREA operator has complied*
27 *with section 09.10.310.*
28 ~~(b) A claim against a ski area operator arising out of an injury~~
29 ~~to a skier is barred unless the ski area operator is notified of the~~
~~injury within 90 days of its occurrence or within 90 days after the~~

1 ~~skier discovers or through the use of reasonable diligence should have~~
2 ~~discovered the injury~~

3 Sec. 09.10.310. INFORMATION FOR SKIERS. A ski area operator shall
4 post trail signs at prominent locations within a ski area which shall
5 include a list of the inherent risks of skiing and the limitation on
6 liability of the ski area operator provided by AS 09.10.300.

7 *(Insert new section here - see attached)*
8 Sec. 09.10.320. DEFINITIONS. In AS 09.10.300 - 09.10.320

9 (1) "inherent risks of ^{SNOW}skiing" means the dangers or condi-
10 tions which are an integral part of the sport of ^{SNOW}skiing, including, but
11 not limited to,

12 (A) changing weather conditions;

13 (B) variations or steepness in terrain;

14 (C) snow or ice conditions, ^{when} except [^] the proximate cause
15 of an injury is the result of negligent grooming practices

16 (D) surface or subsurface conditions such as bare spots,
17 forest growth, ^{and} rocks, ~~and stumps~~

18 (E) collisions with lift towers, other structures, and
19 their components, ^{except when the collision occurs while the}
20 skier is riding the lift;

21 (F) collisions with other skiers, and, ^{except when the}
22 proximate cause of the collision is the result of the ski area operator's

23 (G) a skier's failure to ski within his own ability;

24 (2) "injury" means a personal injury or property damage or
25 loss; ^{post cautionary} signs where
26 primary trails merge or where
27 congested areas ^{near} lift or base
28 facilities exist;

29 (3) "skier" means ~~a person in a ski area engaged in the sport~~
30 ~~of skiing~~; any person utilizing a ski area for the purpose
31 sliding downhill on snow or ice on skis, a toboggan, a sled
32 a tube, a ski-bob or other device;

33 (4) "ski area" means ~~an area designated by a ski area opera-~~
34 ~~tor to be used for skiing~~; all ski slopes or trails and other places
35 under the control of a ski area operator and
36 administered as a single enterprise within this
37 state;

38 (5) "ski area operator" means ~~the operator of a ski area~~ state;

39 * Sec. 3. AS 05.20.012 is repealed (see attached definition)
40 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10.- #6)

41 070(c).

- (5) "ski area operator" means any person, partnership, corporation, or other commercial entity having operational responsibility for any ski areas, including an agency of this state or a political subdivision of this state;
- (6) "ski slopes or trails" means those areas designated by the ski area operator to be used by skiers for any of the purposes enumerated in subsection (3) of this section. Such designation shall be set forth on trail maps, if provided, and designated by signs indicating to the skiing public the intent that such areas be used by skiers for the purpose of skiing. Nothing in this subsection or in subsection (3) of this section, however, shall imply that ski slopes or trails may not be restricted for use by persons using skis only or for use by persons using any other device described in subsection (3) of this section.

Sec. 09.10.315. SNOW SAFETY PLAN. A ski area operator shall adopt a snow safety plan, approved by the appropriate land owner or manager. The snow safety plan shall specify ^{the} ~~those~~ risks and hazards ~~which are~~ ^{of} ~~not an integral part of the sport of skiing for~~ that particular ski area ^{other than those constituting the inherent risks of skiing.} and shall specify the preventive and corrective measures to be assumed by the ski area operator regarding these risks and hazards. The responsibilities of the ski area operator shall conform to the generally recognized standards and usages of the ^{snow skiing} industry or trade.

Alaska RESORT



P.O. BOX 249

GIRDWOOD, ALASKA 99587

April 26, 1980

Representative Charles Parr
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Parr:

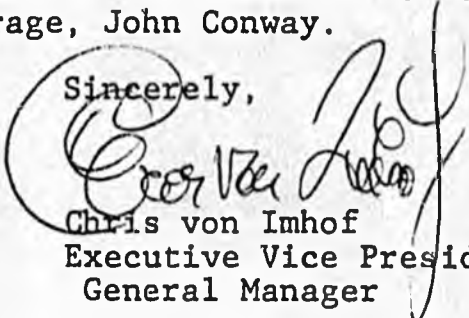
Thank you for scheduling a committee meeting on H.B. 860. I know some of the members of your committee have reservations on the intent of the bill; however, I hope the rewording of this will will satisfy all concerns.

Many states have adopted similar legislation, and we are just trying to get similar protection from unwarranted lawsuits. I hope your committee will tackle the reworded bill soon and recommend a "dc pass" to the House floor.

Attached are two letters of support I did not have with me for my presentation, one from Martin Sherman of the Sourdough Ski Patrol, a member patrol of the National Ski Patrol System; and the other from Duane Luedke, Operator, Arctic Valley Ski Area. I can assure you that this bill has the support of all facets of the ski industry.

Please thank your staff members for me for all their help. Let me know if and when the bill comes up on the floor. If you have any further questions, please do not hesitate to call either myself or our attorney in Anchorage, John Conway.

Sincerely,


Chris von Imhof
Executive Vice President and
General Manager

CVI/bbp
Attachments 2

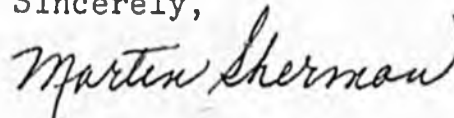
ALASKA'S LARGEST YEAR-ROUND RESORT & SKI FACILITY

(907) 783-2222

April 22, 1980

We of the Sourdough Ski Patrol fully support Senate Bill No. 470 and House Bill No. 860. We also feel that this legislation is long overdue and is necessary for the well being of the financial structure of the ski area. The inherent risk of skiing should be the responsibility of the skier. Without this legislation we feel it is becoming increasingly difficult for the ski areas to continue in their operations due to financial stress.

Sincerely,

A handwritten signature in cursive script that reads "Martin Sherman". The signature is written in dark ink and is positioned to the right of the typed name.

Martin Sherman
Patrol Leader
Sourdough Ski Patrol

To; Senate State Affairs and House Judiciary Committees

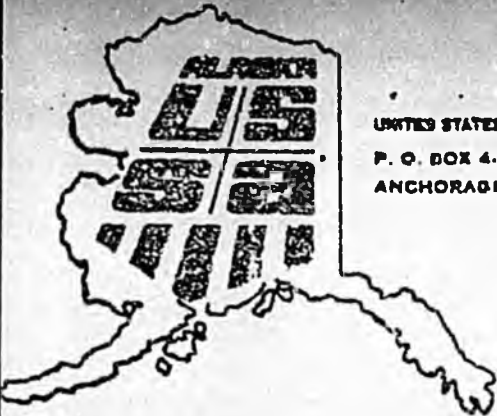
Ski areas nationwide have and are being sued for injuries which are inherent to the sport of skiing and all too often these injuries involve no negligence on the part of the ski areas. Consequently, liability insurance rates have steadily risen to where these costs now make up a significant portion of the cost of skiing. Only two major ski area liability insurance firms remain in the United States.

Several of the States have already passed legislation which sets out the responsibility of the skier towards himself and others. Proper legislation can help control unnecessary and unwarranted law suits and keep insurance rates at a reasonable level. Ski areas, through engineering standards, lift-codes and safe practices have made skiing a reasonably safe sport.

I support Senate Bill 470 and House Bill 860 and urge you to give favorable consideration to these bills.

Duane C. Luedke

Duane C. Luedke
Operator
Anchorage Ski Club
Arctic Valley
2710 Juneau St.,
Anchorage, Ak. 99504
4-22-80



UNITED STATES SKI ASSOCIATION - ALASKA DIVISION
P. O. BOX 4-2126
ANCHORAGE, ALASKA 99509

April 22, 1980

Alaska State Legislator
Juneau, Alaska

Dear Alaska State Legislator:

I am writing this letter and basing my request for action both as President of the Alaska Division, U.S. Ski Association and having been on the National Board of Directors of the U.S. SKI Association for the past two years.

Ski areas across the United States are forced with skyrocketing insurance costs which contributes to price increase in lift tickets. Both locally and nationally the ski clubs and associations have seen a need for years for some type of protective legislation to help stem the rise of unwarranted and ridiculous liability suits against ski areas. There is inherent risk in skiing and is it not time we all recognize this?

While I support in concept SB 470 and HB 860, I must add there should also be a requirement on ski areas to maintain their equipment and train their personnel to operate said equipment in a safe and sane manner.

As I said, I could support this type of legislation limiting ski area responsibility if areas were also required to have approved "Snow Safety Plans" in operation; speaking to avalanche control, personnel training, emergency evacuation, and other common sense type of safety precautions. The ski areas should also be required to operate their lifts in compliance with the National Lift and Tramway Code as regulated by the American National Standards Institute.

In conclusion, I urge consideration for legislation speaking to the inherent risk of skiing.

Sincerely,

Sam Hayes

Sam Hayes, President
U.S. Ski Association - Alaska Division

SH/mg

3. (F). THE INTENT OF THIS PROVISION IS PROBABLY TO RECOGNIZE THAT ANY SKIER IS RESPONSIBLE FOR HIS OR HER OWN RECKLESSNESS; HOWEVER, THERE ARE RECOGNIZED DANGEROUS LOCATIONS ON SLOPES THAT SKI AREA OPERATORS SHOULD BE RESPONSIBLE TO SIGN FOR CAUTIONARY PURPOSES. THESE INCLUDE WHERE PRIMARY TRAILS MERGE, CONGESTED AREAS NEAR BASE FACILITIES, ETC. THE DETAILS COULD BE SPECIFIED IN AN APPROVED SNOW SAFETY PLAN FOR THE AREA.

4. ADD AN ITEM PERTAINING TO SNOW AVALANCHES, WITH WORDING SUCH AS "SNOW AVALANCHES WHERE CONTROL MEASURES HAVE BEEN TAKEN IN ACCORDANCE WITH AN APPROVED SNOW SAFETY PLAN FOR THE AREA".

LASTLY, WE SUGGEST ADDING A NEW SECTION, AS FOLLOWS: SEC. 09.10.330 SNOW SAFETY PLAN. "FOR THE PROTECTION OF SKIERS, A SKI AREA OPERATOR SHALL ADOPT A SNOW SAFETY PLAN THAT CONSIDERS THOSE RISKS AND HAZARDS WHICH ARE NOT AN INTEGRAL PART OF THE SPORT OF SKIING FOR THAT PARTICULAR AREA. THE PLAN WILL SPECIFY PREVENTION AND/OR CORRECTIVE MEASURES TO DEAL WITH SUCH RISKS AND HAZARDS".

WITH THE ABOVE SUGGESTED CHANGES IN MIND, WE URGE EARLY PASSAGE OF THIS IMPORTANT PROPOSED LEGISLATION.


.....

HB

865

COMMITTEE REPORT

HOUSE

2/18/80

FURTHER:

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 865

"An Act relating to civil liability for personal injuries or death occurring on unimproved land."

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:**

R. D. E. N. C. D. P.
Tommy Hunter
[Signature]
Richard H. Powell
TPuchholt
W. A. Anderson J.
[Signature]
Thomas H. Pan

[Signature]

CHAIRMAN

LAW OFFICES

BIRCH, HORTON, BITTNER, MONROE
PESTINGER AND ANDERSON

A PROFESSIONAL CORPORATION

130 SEWARD STREET, SUITE 411

JUNEAU, ALASKA 99801

(907) 588-2890

March 26, 1980

HAND-DELIVERED

1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 276-1550
TELEX 25-356

711 GAFFNEY ROAD
FAIRBANKS, ALASKA 99701
(907) 452-1666

4400 JENIFER ST., N. W., SUITE 300
WASHINGTON, D. C. 20015
(202) 244-4250
TELEX 9-89-2591

RONALD G. BIRCH
HAL R. HORTON
WILLIAM H. BITTNER
SUZANNE C. PESTINGER
LLOYD V. ANDERSON
W. BRUCE MONROE
GREGORY C. TAYLOR
RODNEY B. CARMAN
MICHAEL R. SPAAN
JOSEPH M. CHOMSKI
GORDON F. SCHMIDT
CAROL A. JOHNSON
GERALD D. STOLTZ*
RONALD E. NOEL
JOSEPH W. EVANS
WINSTON S. BURBANK
E. BUDD SIMPSON
J. SAMUEL OSTROVSKY
CONSTANCE E. BROOKS*
DOUGLAS J. SERDAHELY
NANCY J. SHAW
JACK D. CLARK
GARY J. FINNELL
PAUL H. GRANT
PATRICK H. OWEN
PERCY R. LUNEY*
DANIEL W. WESTERBURG

*NOT ADMITTED IN ALASKA

Mr. Clarence Antioquia
Sealaska Corporation
One Sealaska Plaza
Juneau, Alaska 99801

Re: H. B. 865

Dear Clay:

Enclosed for your information is a copy of H. B. 865, entitled "An Act relating to civil liability for personal injuries or death occurring on unimproved land." The bill as introduced would amend AS 09.45 by adding the new section as set forth.

The bill, if enacted, would seem to be advantageous to Sealaska Corporation as a major owner of unimproved land. As I read it, the intention is to reduce the circumstances which, under common law, would give rise to liability on the part of a landowner for injuries occurring to trespassers, licensees or invitees on the land. For example, under common law the owner of land who is aware that individuals may be entering upon the land may have certain duties with regard to warning them of potential hazards, even of dangerous natural conditions, under certain circumstances. This bill would eliminate liability in those cases so long as the user had no responsibility to "compensate" Sealaska as a result of the entry.

I do see at least two areas which could easily give rise to litigation if the act were ever to be invoked. First, the question of what land would fall into the classification of "unimproved land." The problem here would be to what extent a nearby improvement might take the property out of that classification. We have analyzed this question for Sealaska before as it relates to the taxability of unimproved lands belonging to the Corporation. However, no analysis can be complete until the question, which is one of first impression in this context, is tested in the courts.

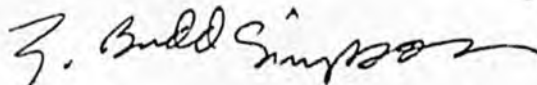
Mr. Clarence Antioquia
March 26, 1980
Page Two

The second potential area of question is the definition of "responsibility to compensate." The intent is certainly to exclude trespassers, but the applicability to parties on the land with Sealaska's consent, and for an economic purpose, is somewhat less clear. By economic purpose, I mean a situation where Sealaska may derive some indirect benefit from the party's presence on the land, such as a timber survey crew or geological exploration of some sort, but which has no direct obligation to provide monetary compensation to the Corporation. Again, this is a question which will probably have to be litigated before it is finally resolved, but at least the general intent is clear, if not the scope.

On the whole, this legislation would benefit Sealaska and should probably be supported by the Corporation. If possible, the concerns addressed above might be expressed prior to passage so as to provide definitions as applicable. If you would like us to do anything to follow up in this area, such as providing suggested language, please feel free to give me a call.

Very truly yours,

BIRCH, HORTON, BITTNER, MONROE,
PESTINGER & ANDERSON



E. Budd Simpson

EBS:ac
Enclosure

cc: Michael Chittick
Byron Mallott
Chris McNeil
Robert Loescher

HB

869

COMMITTEE REPORT

HOUSE

3/19

2/18/80

FURTHER: *Refer*

Date: _____

Mr. Speaker: ✓

The Committee on JUDICIARY has had HB 869
"An Act relating to claims of the state; and providing for an effective 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 ^{and} recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

John A. Anderson J.

W. J. ...

Charles H. ...

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

Richard ... (No Rec.)

... (No Rec.)

Charles H. ...

CHAIRMAN

13% 3 mo

21.46% no payments
in over year

26.11 never made payments

1845/6657 mother OS
father IS

1131 court order pay
AFDC mother

12,000 working on

Fred Smith
CSEB

See Jim - Perf Budget
Comm Ch Sen about
amendments
Int Comm?

Fed funding - attached to bill Sen Long didn't like, he tacked it on to one Ullman didn't like = HB 3434 passed

After new system in, Fed funding in, estimates 60-65% case load work will be AFDC. Barbara Henderson (ex Fed of Seattle) will give 95% of AFDC funding

Going to admin court order for child support, worked out with father, he can always fight in court

Problem w/ garnishee pay - need separate order for each pay check - would like consent of father for withholding until arrearage paid AS 47.23.250

82% delinquent

65% AFDC parent outside state - 1000 month, 650
 130-140 out of state to us per month (65% AFDC other state)

Will Fed regs inhibit looking at labor files (FICA)
 40-45% success rate in other states
 15%-20% move before acted on - URSA both ways

1/3 AFDC cases need establish paternity

20% - max return against AFDC payments

Fantail Graphics - 22407 1st P/ce Was + Bothe!!
Lynne (Printers) 6105 NE 194th Place 486-2689
church of Redeemer
Joey Jack
Von Wrangel 14630 SE 267th St, Kent 98031
631-1506
Bill + Ellen Case - 842-7271

3/07/80

STATE OF ALASKA
 DEPARTMENT OF HEALTH AND SOCIAL SERVICES
 NUMBER OF CHILDREN AFFECTED BY DIVORCES-1979(JAN THRU OCT)

PAGE

	CENSUS	TOTAL CHILDREN	# DIVORCES <i>w/children</i>	AVERAGE CHILDREN
<i>Anchorage</i>	02	2,511	1,393	1
<i>Barru</i>	04	24	11	2
<i>Bethel</i>	05	33	18	1
<i>Bristol Bay</i>	07	1	1	1
<i>Fairbanks</i>	09	875	488	1
<i>Gumaiw</i>	11	316	163	1
<i>Kenai</i>	12	210	114	1
<i>Ketchikan</i>	13	205	122	1
<i>Kodiak</i>	15	123	77	1
<i>Nome</i>	18	67	31	2
<i>Sitka</i>	22	117	68	1
<i>Valdez-Christina-Whittier</i>	26	53	32	1
FINAL T		4,535	2,518	1

Judy
 I gave
 a copy of
 this to
 Ser. Hocking

2,518 RECORDS TOTALED

STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
NUMBER OF CHILDREN AFFECTED BY DIVORCES-1978

	CENSUS	TOTAL CHILDREN	# DIVORCES <i>w/ children</i>	AVERAGE CHILDREN
<i>Archangel</i>	02	1,823	1,020	1
<i>Ennami</i>	04	13	6	2
<i>Bethel</i>	05	26	14	1
<i>Fairbanks</i>	09	581	320	1
<i>Healy</i>	11	217	110	1
<i>Kenai</i>	12	152	82	1
<i>Ketchikan</i>	13	134	83	1
<i>Kodiak</i>	15	104	56	1
<i>Nome</i>	18	66	28	2
<i>Sitka</i>	22	76	45	1
<i>Waldley - (Sitka) - (Sitka)</i>	26	42	26	1
FINAL T		3,234	1,790	1

1,790 RECORDS TOTALED

STATE OF ALASKA
Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3100
DEPARTMENT Legislature - House
ATTENTION Rep. Charlie Farr

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input checked="" type="checkbox"/> Your Information |

Remarks:

FROM:
MAIL STATION NUMBER 0600
DEPARTMENT DASS
BY J. Rodriguez DATE 3/26/80

POSITION PAPER

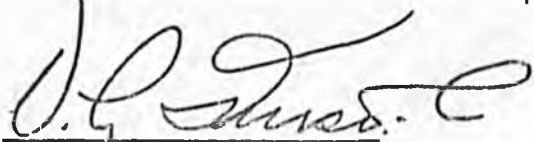
HOUSE BILL NO. 869

"An Act relating to claims of the state; and providing for an effective date."

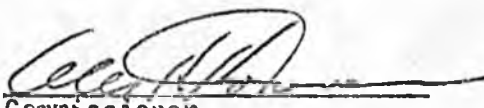
The passage of House Bill No. 869 would be of significant benefit to the Department of Health and Social Services.

Present debts owed Department of Health and Social Services are chiefly the result of assistance programs for which comprehensive, federally mandated remedies exist.

This bill would relieve the DHSS of collection responsibility and place it in an organized collection system. This should be more efficient and cost effective statewide. We recommend support of House Bill No. 869.

Recommended By: 
V. L. Iverson, Director
Division of Administrative Services

Date: 3/1/80

Approved By: 
Commissioner
Department of Health and
Social Services

Date: 3/24/80

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 869
 Title An Act relating to claims of the state; and providing for an effective date
 Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected N/A

BRU, Program, or Subprogram(s) Affected N/A

(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						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0					

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

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

There is no fiscal impact to this department.

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Department of Health & Social Services

Prepared by: Goldbach
 Division/Office: DAS/Fiscal
 Date: 2/26/80
 PH: 465-3012

901 (Rev. 12/79)
 DHSS (11-28-79)

Approval DHSS Mgt. & Bdgt: Mike Quintero Date: 2/29/80

NOTES ON CHILD SUPPORT ENFORCEMENT

Judy Brakel Feb. 28, 1980
phone 586-6561 or 586-3456

Alaska law says that the Child Support Enforcement Agency (CSEA) will serve both families on welfare (AFDC) and families not on welfare. When federal funding was cut out in 1979 for non-AFDC cases, the Alaska agency ceased enforcement activities on those cases, in violation of Alaska law.

At present the Alaska CSEA is not benefiting any family in Alaska except through the operation of a bluff. When CSEA collects child support for families on welfare, the state & federal govts. keep the money to reimburse welfare costs. Some of the agency's clients who are not on AFDC are still benefiting from the "bluff" that exists because enforcement for those cases was a reality for a while and there has been no publicity about the fact that enforcement is no longer available.

Needed immediately:

- (1) a supplemental appropriation for FY 1980
- (2) a regular appropriation for FY 1981, which could be written to come into effect only if federal funding, now contained in HR3434 (sitting in free conference committee since November) is not passed. Last year a federal funding bill was expected to pass and did not. The same may happen this year.

The Alaska Dept. of Revenue has suggested \$260,000 for FY 1981 to take care of the federal shortfall, but the administration did not put it in their budget. This is extremely shortsighted (aside from being inhumane). Three years of effort by CSEA to make "believers" out of the people who owe support money will be lost soon and the agency will have to start from scratch again if the program is ever refunded. The lack of child support is also a pivotal factor which drives families onto welfare and other types of aid.

Question: should the agency get additional funding, over and above making up the Federal shortfall, so that this program can be made truly effective?

During the early part of 1979, while federal funding was still in effect, only 44 % of the families on CSEA's caseload were receiving any child support at all, and only 18% of the families showed full support payments with no arrears. The total arrears on CSEA's caseload of 5,900 families was \$17,000,000.

A new orientation is needed: non-payment of child support needs to be regarded as seriously as non-payment of income taxes. Let's get our priorities straight!

Some possibilities for improving enforcement:

- (1) Simplifying wage garnishment procedures for CSEA only
- (2) Charging interest on arrears
- (3) Intercepting state income tax refunds. Oregon presently does this by matching Soc. Sec. numbers. Get this into effect before proposed new income tax rebates go into effect.
- (4) When numerous attempts at collection are required, the penalties should become more serious.

(5) Penalties for deliberate avoidance of work to escape payment.

Some of these options have been tried by other states. Other measures are also being tried.

Problems caused by inflation:

To begin with the support settlement is usually less than 1/2 of what it costs to raise a child. Current inflation can then reduce the value of the settlement amount by 50% in 4 years. Going through the courts to get the settlement raised is an expensive (\$1,000 to \$3,000) process whose cost is usually born by the mother. She has to wait several years between filing each adjustment and many months for the court to act on it. The payor is usually antagonized in the process, which may have repercussions on child visitation and custody problems.

If every single parent in Alaska who should be going to court to get their settlement modified due to inflation were actually to do so the courts would be flooded. Court calendars are already over-full.

Needed: legislation which would enable CSEA to make an administrative modification of the support level on the basis of inflation even when there is a court order on the books. Appeal to the courts from the administrative decision would be possible.

This could be done annually for all the cases administered by CSEA. The agency presently has legal authority to do this for those cases that originated with CSEA's own administrative determination of a support obligation. But for the majority of cases, since a court order originally determined the support settlement, CSEA needs new legal authority to allow it to do an administrative modification on the basis of cost of living increases without going back to court. The laws of 10 states now provide such authority -- Washington, Utah and Virginia are examples.

Recognizing that all parties are probably losing real spendable income as a result of inflation, the child support increases could be set to lag behind the CPI or be based upon some other Bureau of Labor Statistics index, such as the index that relates to wages.

*Assuming
only 12 1/2%
inflation!*

OF ALASKA

INVESTIGATION

515780

Called 3:20 p.m.

TO: Kristine Harder
House State Affairs Committee
Pouch V
Juneau, Alaska 99811

DATE: March 3, 1980

FILE NO:

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Possible changes in
child support laws.

By: *Elizabeth Page Kennedy*
Elizabeth Page Kennedy
Assistant Attorney General
Anchorage

The Child Support Enforcement Agency staff and I would like to thank you for the opportunity to have input into possible changes in the Statutes to make child support enforcement more viable in this state without increasing costs. The suggestions below come mostly from Agency staff with concurrence of myself. I would note that I have not, because of time constraints, researched any constitutional issues which may affect these suggestions. Many of them are done in other states at the present. We suggest the following:

1. As a preliminary matter, we suggest that the definition of "state" in AS 25.25.010(1) be expanded to include foreign countries or states, which would allow us to establish support procedures with places such as Canada and West Germany, which have similar laws. Right now we cannot locate obligors in foreign jurisdictions.
2. One of our biggest problems is the fact that we must garnishee every thirty days on judgments. We suggest that the Agency's withhold and deliver orders for executions on child support arrearage judgments be made continuous until satisfied. This could be done by making the orders exempt from the 30 day requirement of satisfaction in AS 47.23.250, perhaps by adding language that would force those persons accruing continuous debts to the obligor, such as employers, to continue to pay every thirty days until the judgment is satisfied.
3. In the State of California, child support arrearages become judgments once they are due and owing. It is not clear whether that is true in this state or not.

Kristine Harder
March 3, 1980
Page 2.

(We would urge a disclaimer on any legislation to say that it appears to be the law in this state.) An addition to the law which would aid us would be to turn child support arrearages into judgments at the time they become due and owing by law, and authorize execution in the form of a withhold and deliver order upon a certified statement of arrears prepared by the Agency. This appears to be the intention of AS 47.23.150, but it is not clearly stated.

4. The Agency may establish support orders under AS 47.23.160 et seq. However, AS 47.23.020(1) and some of the other language speaks to enforcement of orders. The Agency feels that it needs, in order to effectively administer child support obligations set through administrative channels, a method to have the court summarily certify, and make into an order, subject to contempt proceedings, the administrative determinations of the Agency.
5. In the same vein, we often get child support orders from other states which are adequate orders. A simple process would be to file that order under AS 25.25.254 and begin to enforce here. However, we do not do that for one simple reason: it appears that such a registration opens the obligee to the jurisdiction of our courts, and would allow the obligor to bring up questions of visitation (see the civil and criminal sanctions in AS 9.55.238 and AS 11.51.125) and custody. Since the Agency cannot defend the obligee on those questions, and would not want to because of cost and lack of time and information, it means indigent obligees would be subject to court suits in our jurisdiction, far from home. We suggest some sort of change to allow us to register the foreign judgments for the purposes of support only. This would also protect the obligor, since currently, if a support order lower than the one in the other state is entered here, the excess in the out of state order continues to accrue as arrearages, even if he makes all the payments in our state.
6. We suggest that a 20% rise in the cost of living over any period of time from the time of the entry of the order be made sufficient "change of circumstance" to justify consideration of a

Kristine Harder
March 3, 1980
Page 3.

modification of the support amount.

7. Currently, AS 47.23.120 makes the obligor liable for public assistance amounts up to the amount ordered in a child support order if one has been entered. However, AS 47.23.130 limits the amount the state may set out in an administrative support order to the amount of welfare received. Where the welfare is low, say \$150.00, and the obligor is wealthy enough to pay a higher amount, we are still prohibited from entering a higher order. That makes it difficult for the woman to later get a higher order and get out of the poverty class. We suggest that upon application by the obligee, the state may pursue at the same time the rights of the obligee to payments in excess of the welfare amount, with said excess to go to the obligee.

We like the idea of authorizing collection on potential state income tax refunds, and the idea of interest on arrears. The question of penalties is an interesting one. Presently we use the process for contempt proceedings, which includes potential jail time. We also have the criminal non-support section in AS 11.51.120, which we don't usually use. When faced with a person who continually fails to support, many judges in this state are fairly good about using jail time as a threat. That is somewhat of a problem because we'd rather have the money: when the obligor is in jail no money is coming in. If you can find a solution to that problem, we would be the first in the nation to do so.

Thank you again for your interest. I'm sorry this information is somewhat scattered, but we did the best we could in the time we had. I certainly wish you luck in your endeavors to improve the system. I might note that some of these enforcement provisions might work if set up for private enforcement provisions also, such as #3. That would encourage more private remedies and cut some of the costs to the state.

If you have any further questions. Please feel free to contact me.

EPK:nw

cc: Dan Copeland
Fred Smith

STATE OF ALASKA

file copy
JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S - JUNEAU 99811

March 6, 1980

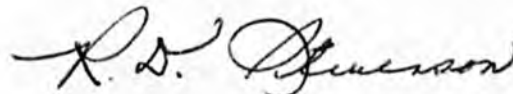
The Honorable Charles Parr
Chairman
House Judiciary Committee
Room 124 - Capitol Building
Juneau, Alaska 99811

Dear Mr. Parr:

House Bill No. 869, an Act relating to claims of the state, was introduced in the House on February 18, 1980 and was referred to the House Judiciary Committee.

For the consideration of the House Judiciary Committee, I am enclosing copies of Fiscal Notes prepared by P. A. Wall, Director, Administrative Services Division and Fred Boetsch, Director, Enforcement Division of the Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

cc: Joseph K. Donohue
Deputy Commissioner
Department of Revenue

P. A. Wall, Director
Administrative Services Division
Department of Revenue

Fred Boetsch, Director
Enforcement Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB869
 Title Claims of the State
 Requested by Parr Date _____

II. FISCAL DETAIL
 Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected Enforcement Division
 (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		22.7	22.7	22.7	22.7	22.7
200 TRAVEL						
300 CONTRACTUAL		4.7	4.7	4.7	4.7	4.7
400 COMMODITIES		.5	.5	.5	.5	.5
500 EQUIPMENT		1.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		28.9	27.9	27.9	27.9	27.9

FUNDING (Thousands of Dollars)

GENERAL FUND		28.9	27.9	27.9	27.9	27.9
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

The Enforcement Division would require the services of one Tax Collection Specialist to implement its portion of the administration of this bill. Our part of the procedure would be to prepare a short audit in order to apply the proposed refund to the claimed debt. This would require a CRT terminal to access the refund and agency claims files and appropriate forms for handling the short audits. In the initial year a desk, chair, calculator and files storage would be purchased.

We do not have specific information as to the probable volume of claims. However, since the new procedure would be functionally differentiated from other procedures, an appropriate organizational module would have to be created to implement the program. It is possible that the volume would be come great enough to require additional personnel and/or equipment in subsequent years.

IV. DATE 2-28-80 PREPARED BY Fred Boetsch
 AGENCY Department of Revenue
 PHONE 465-2366
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

1	POSITION TITLE Tax Collection Specialist I				RANGE/STEP 10A	BARG. UNIT. G	LOCATION Juneau	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No. NEW	PRIORITY	FORM 12 PAGE/LINE		LEG.		
3	TYPE OF EXPENDITURE			AMOUNT	JUSTIFICATION:					
	1	2	3							
4	PERSONAL SERVICES: SALARY 1,440/mo.		17,280							
5	BENEFITS		3,059							
6	FICA		1,059							
7	HEALTH INS.		1,272							
8	TOTAL PERSONAL SERVICES			22,570						
9	TRAVEL									
10	CONTRACTUAL			4,700						
11	COMMODITIES			500						
12	EQUIPMENT			1,000						
13	OTHER									
14	TOTAL COST			28,870						
	CODE	FUNDING SOURCE								
15		FED RCPTS.								
16		GF MATCH.								
17		GEN. FUND		28,870						
18		I-A RCPTS.								
19		PGM RCPTS								
20		OTHER								
21	CONTINUATION									
22	ADDITION	FOR R&M USE ONLY								
4A KEY NUMBER		COLDIAN NO.								

AGENCY Department of Revenue PROGRAM AREA Revenue Collection & Management

BRU Enforcement

FY 81

13 REQUEST FOR NEW POSITION.

COMPONENT _____

Page _____ of _____

REVISED DATE _____

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 869
 Title Claim of the State
 Requested by _____ Date 2-26-80

II. FISCAL DETAIL
 Agency Affected _____ Revenue _____
 Program Category Affected _____ General Government _____
 BRU, Program, or Subprogram(s) Affected Administration & Support, Management Services
 (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		29.5	31.6	33.8	36.1	38.7
200 TRAVEL						
300 CONTRACTUAL		4.0	4.3	4.6	4.9	5.2
400 COMMODITIES		.3	.3	.3	.4	.4
500 EQUIPMENT		.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		34.3	36.2	38.7	41.4	44.3

FUNDING (Thousands of Dollars)

GENERAL FUND		34.3	36.2	38.7	41.4	44.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1/12mm	1/12mm	1/12mm	1/12mm	1/12mm
PART TIME		1/3mm	1/3mm	1/3mm	1/3mm	1/3mm
TEMPORARY						

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

HB 869 would allow all State agencies to offset certain debt claims against individual income tax refunds. The procedure in the Bill should be changed by four considerations:

1. Most refunds held because of claimed debt will exceed the 30 days contained in AS 43.20.215 and result in interest penalties. The action to be taken should be defined.
2. There is no provision for early release of the held refund should the debtor pay the claimant agency directly. An early release feature by the claimant agency would be helpful.

(continued on next page.)

IV. DATE 3-5-80 PREPARED BY *P. A. Wall*
 AGENCY Revenue
 PHONE 465-2313
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

HB 869 Analysis (continued)

3. Most important, Sec. 44.78.070 does not provide for notifying Revenue should a hearing be requested by the debtor. This is necessary to insure the refund is held to determination of the hearing and through the 20-day certification period in Sec. 44.78.080. A subsection 44.78.070(c) could say, "The department shall hold action upon the refund until Sec. 44.78.080 is complete."
4. It appears that AS 44.78.060 should be corrected to 050(c) under Sec. 44.78.060 (page 2, line 28).

Assumptions

An estimate of the number of debt claims is not possible. Claims from the student, veterans and agriculture loan, motor vehicle and other programs which serve large numbers of individuals are assumed. The promulgation of regulations, design and distribution of a debt claim form and the procedure to establish and control debt claim offsets is assumed to constitute one additional employee's work load.

Positions

1 PFT Accounting Clerk II, Range 8 A	
\$1,277 per mo. X 12 months	= 15.3
Benefits - 2.3, FICA - 1.0, H.I. - 1.5	= 4.8
1 PPT Systems Analyst, Range 18 A	
\$2,465 per mo, X 3 months	= 7.4
Benefits - 1.1, FICA - .5, H.I. - .4	= 2.0

Other Expenditures

Contractual	= 4.0
Forms - 1.0	
Postage, Phone - 1.5	
DP Chargeback - 1.0	
Miscellaneous - .5	
Commodities	= .3
Equipment	= .5

This debt offset concept would be even more effective if the control was placed on the Daily Warrant Process in the Department of Administration where the warrants which make all State payments, including the refund warrants, are written each day.

file copy

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB869
 Title Claims of the State
 Requested by Parr Date _____

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected Enforcement Division
 (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		22.7	22.7	22.7	22.7	22.7
200 TRAVEL						
300 CONTRACTUAL		4.7	4.7	4.7	4.7	4.7
400 COMMODITIES		.5	.5	.5	.5	.5
500 EQUIPMENT		1.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		28.9	27.9	27.9	27.9	27.9

FUNDING (Thousands of Dollars)

GENERAL FUND		28.9	27.9	27.9	27.9	27.9
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

The Enforcement Division would require the services of one Tax Collection Specialist to implement its portion of the administration of this bill. Our part of the procedure would be to prepare a short audit in order to apply the proposed refund to the claimed debt. This would require a CRT terminal to access the refund and agency claims files and appropriate forms for handling the short audits. In the initial year a desk, chair, calculator and files storage would be purchased.

We do not have specific information as to the probable volume of claims. However, since the new procedure would be functionally differentiated from other procedures, an appropriate organizational module would have to be created to implement the program. It is possible that the volume would be come great enough to require additional personnel and/or equipment in subsequent years.

IV. DATE 2-28-80 PREPARED BY Fred Boetsch
 AGENCY Department of Revenue
 PHONE 465-2366
 Original: Legislative Finance
 cc: Budget and Management
Prime Sponsor (First Legislator Named)

1	POSITION TITLE Tax Collection Specialist I			RANGE/STEP 10A	BARG. UNIT. G	LOCATION Juneau	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No. NEW	PRIORITY	FORM 12	PAGE/LINE	LEG.	
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:			
	1	2	3						
4	PERSONAL SERVICES: SALARY 1,440/mo.		17,280						
5	BENEFITS		3,059						
6	FICA		1,059						
7	HEALTH INS.		1,272						
8	TOTAL PERSONAL SERVICES		22,670						
9	TRAVEL								
10	CONTRACTUAL		4,700						
11	COMMODITIES		500						
12	EQUIPMENT		1,000						
13	OTHER								
14	TOTAL COST		28,870						
	CODE	FUNDING SOURCE							
15		FED RCPTS.							
16		GF MATCH.							
17		GEN. FUND		28,870					
18		I-A RCPTS.							
19		PGM RCPTS							
20		OTHER							
21	CONTINUATION								
22	ADDITION			FOR B&M USE ONLY					
4A. KEY NUMBER		COLDIAN NO.							

AGENCY Department of Revenue PROGRAM AREA Revenue Collection & Management

BRU Enforcement

FY 81

13 REQUEST FOR NEW POSITION.

COMPONENT _____

Page _____ of _____

REVISED DATE _____

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST HB 869
 Bill/Resolution No. _____
 Title Claim of the State
 Requested by _____ Date 2-26-80

II. FISCAL DETAIL
 Agency Affected _____ Revenue _____
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected Administration & Support, Management Services
 (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		29.5	31.6	33.8	36.1	38.7
200 TRAVEL						
300 CONTRACTUAL		4.0	4.3	4.6	4.9	5.2
400 COMMODITIES		.3	.3	.3	.4	.4
500 EQUIPMENT		.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		34.3	36.2	38.7	41.4	44.3

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		34.3	36.2	38.7	41.4	44.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

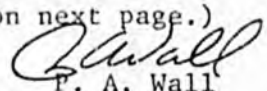
	1/12mm	1/12mm	1/12mm	1/12mm	1/12mm
FULL TIME					
PART TIME					
TEMPORARY					

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

HB 869 would allow all State agencies to offset certain debt claims against individual income tax refunds. The procedure in the Bill should be changed by four considerations:

1. Most refunds held because of claimed debt will exceed the 30 days contained in AS 43.20.215 and result in interest penalties. The action to be taken should be defined.
2. There is no provision for early release of the held refund should the debtor pay the claimant agency directly. An early release feature by the claimant agency would be helpful.

(continued on next page.)

IV. DATE 3-5-80 PREPARED BY 
P. A. Wall
 AGENCY Revenue
 PHONE 465-2313
 Original: Legislative Finance
 cc: Budget and Management
Prime Sponsor (First Legislator Named)

HB 869 Analysis (continued)

3. Most important, Sec. 44.78.070 does not provide for notifying Revenue should a hearing be requested by the debtor. This is necessary to insure the refund is held to determination of the hearing and through the 20-day certification period in Sec. 44.78.080. A subsection 44.78.070(c) could say, "The department shall hold action upon the refund until Sec. 44.78.080 is complete."
4. It appears that AS 44.78.060 should be corrected to 050(c) under Sec. 44.78.060 (page 2, line 28).

Assumptions

An estimate of the number of debt claims is not possible. Claims from the student, veterans and agriculture loan, motor vehicle and other programs which serve large numbers of individuals are assumed. The promulgation of regulations, design and distribution of a debt claim form and the procedure to establish and control debt claim offsets is assumed to constitute one additional employee's work load.

Positions

1 PFT Accounting Clerk II, Range 8 A	
\$1,277 per mo. X 12 months	= 15.3
Benefits - 2.3, FICA - 1.0, H.I. - 1.5	= 4.8
1 PPT Systems Analyst, Range 18 A	
\$2,465 per mo, X 3 months	= 7.4
Benefits - 1.1, FICA - .5, H.I. - .4	= 2.0

Other Expenditures

Contractual	= 4.0
Forms - 1.0	
Postage, Phone - 1.5	
DP Chargeback - 1.0	
Miscellaneous - .5	
Commodities	= .3
Equipment	= .5

This debt offset concept would be even more effective if the control was placed on the Daily Warrant Process in the Department of Administration where the warrants which make all State payments, including the refund warrants, are written each day.

HB

903

AB903



Alaska Court System
State of Alaska

303 K STREET
ANCHORAGE, ALASKA 99501

RICHARD P. BARRIER
DEPUTY ADMINISTRATIVE DIRECTOR

OFFICE OF ADMINISTRATIVE DIRECTOR

(907) 274-8611

March 13, 1980

Hon. Charles H. Parr
Chairman
House Judiciary Committee
Pouch V
Juneau, AK 99811

Dear Representative Parr:

During testimony on March 3rd before the House Judiciary Committee, I was requested by members of the Committee to provide additional information related to the capital budget request of the Alaska Court System. I have now gathered this information and am answering the questions raised.

- 1. How were the cost figures in the capital budget for the new Anchorage court facility derived?

The square foot cost of construction as presented to the Judiciary Committee amounted to \$145 per square foot for office space and \$228 per square foot for court and detention space. These cost figures were developed by staff of the Administrative Office, based on the study performed by Space Management Consultants Inc. I am enclosing a copy of pages 89 and 90 of the Space Management Consultant's report which gives a detailed description of how they arrived at the specific base cost for the construction project. You will note that their construction estimates were based upon the 1978 Building Construction Cost Data by R. S. Means Company Inc., which provides a range of average cost information on various types of building throughout the U. S. The Space Management Consultants have adjusted these figures for the differential in construction costs and materials in Anchorage as well as their estimation of contingency, site-work and administrative cost related to the project. The figures developed in the report are \$97 per square foot for office space, and \$152 for court space, in 1980 dollars.

In preparing the capital budget request for the Legislature, our office has adjusted the estimates from the Space Management report in the following manner:

- a. Due to an estimated two year time period required for the process of planning, budgeting and design of the new building through the Department of Transportation prior to the letting of a bid, the 1980 figures are adjusted by a two year adjustment at an average of 15 percent inflation per year. This appears to be a fairly conservative estimate of actual cost increases in the construction area.
- b. An additional 20 percent adjustment factor was added to accommodate for the anticipated cost above the normal cost of private construction due to the project being a State project. The experience of the Court System in dealing with State projects would indicate that a minimum of 20 percent above the projected cost of performing the work in the private sector is necessary in all State projects. Our latest example of this is in the Kotzebue addition project in which the total cost of the project has exceeded by approximately 50 percent the budgeted amount as originally projected by the Department of Transportation. As a point of comparison, the construction cost for this small addition to the Kotzebue court building will run approximately \$400 per foot.

As I testified before the Committee last week, if the Court is allowed to supervise this construction project from its beginning in the design phases through the construction process, it is our opinion that the project would be expedited and the cost would be less. For example, we estimate that the project would be to bid within a one year period rather than an estimated two year period if the Department of Transportation were utilized. This in itself would cut an estimated 15 percent off the project cost. There may also be additional savings in the construction cost if the contractors who bid on the construction phase of the project are aware that they will not be working through the Department of Transportation. The amount of savings due to this factor is difficult to estimate.

I realize that the prices quoted in our budget appear to be very high. However, assuming that the project were to proceed through the Department of Transportation, I do not feel that the figures were overstated. If you have any specific questions about our calculations related to these costs I would be glad answer those as fully as possible.

2. Has the Court System investigated the use of other sites for court facilities outside of the downtown Anchorage locations?

The Court System has examined at least two alternatives in the past three years for locating part of the court functions away from the immediate areas surrounding the court building. We have examined the feasibility of using the old Providence Hospital building (which has since been demolished) and are still negotiating with the General Services Administration concerning the use of the old Federal Court Building in Anchorage. However, it does not appear that the GSA will be providing the Court System with space on a long-term basis in the Federal Court Building.

The Court has considered the possibility of moving portions of the court outside of the central core area of Anchorage but has determined for the immediate future it is a better policy to keep the various court functions reasonably close together in location. The plans we have developed will result in facilities that will satisfy the Court in one location at least until the year 2000. At that time, it would be necessary for the Court to look elsewhere for space since there is no other space available in this immediate area for court expansion. After the year 2000 a number of court functions would probably be moved to another area. This eventual move, however, will be considered in the design of the new facility so that when it is necessary to move portions of court out of this location, the utilization of the total remaining complex will be maximized with a minimal amount of remodeling.

3. Will the expansion of the court facility lead to a parking problem in downtown Anchorage?

We have discussed the parking situation with the Municipal Planning Section, and were informed that in the downtown core area there are no specific requirements specifying a particular number of parking spots for new facilities. However, the Court System plans in the design of the new facility to provide parking on the bottom level which would at least equal the present parking in the parking lot space. Additionally, the City Planning personnel are working in conjunction with State planners to initiate the project of adding two additional floors of parking space on the State parking garage directly adjacent to the court building. The net impact of the additional building on the downtown parking should therefore be minimal. As an alternate to State parking space, there is always parking available in the Captain Cook parking garage directly across the street from the court building. Between this and possible expansion of the State parking structure, it is not foreseen that parking would be a major problem in this immediate area.

Hon. Charles H. Parr
Page 4
March 13, 1980

4. Can the Court provide the Judiciary Committee with statutory language necessary to permit the Court System to construct the new Anchorage facility independent of the Department of Transportation?

The following statutory addition and amendment would vest the Supreme Court with full authority over Alaska Court System building and facilities.

AS 22.05.025. Court buildings and facilities. The supreme court is vested with power and authority over all matters relating to the planning, design, construction, maintenance, occupancy, and operation of all buildings and facilities of the Alaska Court System.

AS 35.05.010. Planning and construction. The department is responsible for the planning and construction of public works except as provided in AS 22.05.020.

If you have other questions related to the Court System capital budget request, please let me know as soon as possible.

Sincerely,



Richard P. Carrier
Deputy Administrative Director

PRELIMINARY COST ESTIMATES BASED ON PRELIMINARY FACILITY PROGRAM

Because this project is in its preliminary planning and programming stage, it is not possible to derive cost estimates other than by a preliminary gross square foot building area basis. For this purpose, SMC uses the unit cost figures contained in the Building Construction Cost Data 1978 by R.S. Means Co., Inc., which provides a range of average cost information on various types of buildings throughout the U.S. Since building construction costs are exceptionally higher in Alaska than in any other states, the higher unit cost figure within each range is used for cost estimating. For office buildings, the high average unit construction cost is \$49.05 per square foot of gross building area; and for court buildings, the corresponding figure is \$77.20. Since these figures are adjusted to January 1, 1978, costs, SMC suggests adding a 20 percent increase in order to adjust these cost figures to 1980 when documentation of this building is likely to be ready for bidding, at the earliest.

The next step in the calculation is to assess the difference in unit construction costs between Anchorage and the average national figures. The city cost indexes contained in the Means publication show that cost of building materials in Anchorage is 28.4 percent higher than the national average, cost of labor is 48.4 percent higher, and combined materials and labor is 39.4 percent higher than the national average. Consequently, the unit construction costs must be adjusted according to these cost differentials

In addition, preliminary cost estimates for a building of this magnitude should also include the following additional cost factors:

Contingency and movable furniture:	8 percent of construction costs
Site work:	10 percent of construction costs
Administrative costs including fees:	20 percent of construction costs

For an office building, the unit project cost is:

$$\begin{aligned}
 &49.05 + (49.05 \times 0.20) + (49.05 \times .294) + (49.05 \times .38) \\
 &= 49.05 + 9.81 + 19.33 + 18.64 \\
 &= \$96.83 \text{ per sq. ft. of gross building area}
 \end{aligned}$$

For a court building, the unit cost is:

$$\begin{aligned}
 &77.20 + (77.2 \times 0.20) + (77.2 \times .394) + (77.2 \times .38) \\
 &= 77.20 + 15.44 + 30.42 + 29.34 \\
 &= \$152.40 \text{ per sq. ft. of gross building area}
 \end{aligned}$$