

1068

SJ

SB 367

-

SB 511

Hackney

December 27, 1979

Honorable Glenn Hackney
1136 Sunset Drive
Fairbanks, Alaska 99701

Re: (1) Budget For Division Of Banking, Securities and Corporations, (2) Changes In Chapter 30 (Savings Association Code), and (3) Recodification Of Banking And Savings Association Acts

Dear Sir:

I am Gerald E. Stinson, Chairman of the Board of Directors of Frontier Savings and Loan Association (in organization), a state-chartered stock savings and loan association. I will treat the captioned topics in sequential order after giving a brief background sketch of Frontier Savings and Loan which will establish our interest in seeking the relief (largely remedial) here sought.

Frontier was begun by twenty incorporators, all from Fairbanks. Its stock subscribed to date is subscribed to by approximately 80% Fairbanksans who, counting joint tenants, number over 200 individuals, and that number is growing. It is the first and (to-date) the only state-chartered stock association in Interior Alaska.

(1) You are probably no more eagle-eyed than I when it comes to increasing budget and personnel slots for a division or department of state government, but however biased against paying out more money we may be, I trust that we will guard against knee-jerk negative reaction in a given instance and instead study the supposed need with an open mind and have the courage and responsibility to spend more money if fairly warranted. For the past several months there have been severe shortages of both staff and budget in the Division of Banking brought about by increases in regulatory duties associated with the increasing number of newly filed applications for banking and savings association charters. The division has had to train some of its staff for new and expanded auditing responsibilities. The division has neither sufficient staff nor budget with which to do the job it was statutorily enjoined to do. I suggest that you review the situation with Mr. Brecht, Director of the Division of Banking, Securities and Corporations, when you go to Juneau in the next few weeks. He can detail the situation to you with more precision than I. From the point of view of Frontier and its shareholders, there is no more important division or department of state government than this division, and we are vitally interested in its funding and efficient operation. I therefore trust that you will find time to check this situation out with Mr. Brecht either before or early in the next session.

(2) As you know, Title 06, Chapter 30 (the savings association act) was amended session before last to permit the formation of state-chartered stock savings and loan associations. Hitherto all had been mutuals. The amendment was good, but as are many amendments engrafted on old statutes, the old and the new parts don't always mesh well, but whether they do or not, frequently

an unintended incidental injustice will occur. Thus the savings association act (Chapter 30) does not contain language which would permit state-chartered stocks to involve themselves in NOW (negotiable orders of withdrawal) accounts. Such language does exist in the mutual banking code (Title 06, Chapter 15), however, and thus state-chartered associations such as Frontier are (though I'm sure it was unintended) at a severe competitive disadvantage in attracting savings when a mutual savings bank (in our case - Mt. McKinley Mutual) is doing business in the same Alaskan community. I am told that this could be corrected by using the counterpart language of the mutual bank code found at AS 06.15.360 to amend the savings association act, or perhaps by other language of amendment designed to serve as a base for a more liberal regulation which would allow savings associations to be competitive with mutual savings banks in attracting savings dollars. I recommend that this matter of concern to us be likewise addressed to Mr. Brecht when you go to Juneau next month.

(3) The last item above captioned would involve a substantial expenditure of legislative time and effort, particularly in committee(s), but needs to be done. Band-aid amendments such as I propose above, though absolutely necessary to prevent injustice, have their limitations. With some exceptions, the provisions of the acts are financial horse and buggy vehicles in a jet age, of poor design and integration, and in need of major overhaul or replacement. Perhaps some model act could serve as a starting point from which committee hearings would tailor it to Alaska's specific situation. Recodification is necessary as the current statutory language, unlike wine, will not improve with age, and since it must be done sometime, I suggest we initiate the process next session. As with the other two items, I believe Mr. Brecht can be very helpful to you in selection of a model code (and appropriate amendments thereto for introduction) and accordingly suggest that you discuss this matter with him prior to or early in the next session.

The suggestions set forth to you in this letter are essentially housekeeping matters not susceptible to partisan points of view. I trust that each of you can and will support and implement such suggestions into concrete legislative action.

If you have any questions pertaining to this letter, please feel free to write or call me (456-6617) at any time.

Very truly yours,

Gerald E. Stinson

Gerald E. Stinson, Chairman
FRONTIER SAVINGS AND LOAN ASSOCIATION

cc: Julius J. Brecht, Director
Division of Banking and Securities
Charles Parr, Representative
L. W. Stinson, Director
Robert Bettisworth, Representative
William Gordon, Director

*Explanation of why
similar to mutual
banking code*

06.15.010

plus 0015 200

SB

377

COMMITTEE REPORT
SENATE

FURTHER Finance

2/1/80

Date: 2/26/80

Mr. President:

The Committee on JUDICIARY has had SB 377
highway safety

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 SB 377 same title
 new title
- and recommends ALL SSB 377 D. Pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO ASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
CHAIRMAN

POSITION PAPER

SENATE BILL NO. 377

"An Act relating to highway safety."

Senate Bill 377 provides for the creation of a Highway Safety Commission in the Office of the Governor to encourage coordination and joint planning among state agencies assigned responsibilities with regard to highway safety. The Commission would provide planning assistance, including research of needs and potential sources of funding for highway safety programs.

The Department of Health and Social Services recognizes the need for increased coordination of highway safety efforts, since many state agencies (Courts; Department of Public Safety; Department of Law; Department of Transportation and Public Facilities; and Department of Health and Social Services) are presently involved in the administration of such programs.

We were pleased to be included as a member of the Commission, in that the Department has many programs which have a special interest in highway safety and the prevention of traffic accidents. These programs include alcoholism and drug abuse, emergency medical services, public health education, and corrections.

Some areas of potential discussion are:

1. The Bill places the Highway Safety Commission in the Office of the Governor. The Governor has recently, by executive order, transferred many special offices and commissions directly from under his office to various departments of state government. That transfer was implemented as a result of the Governor's Management and Efficiency Study. Therefore, it may be appropriate to explore placement in another agency, such as the Department of Public Safety, rather than in the Office of the Governor.
2. There is no provision for coverage of a slot on the Commission if a member (such as a Commissioner) is traveling or otherwise unable to attend a meeting. It may be worthwhile to consider allowing members to designate persons to represent them in their absence.

Department Position

The Department of Health and Social Services recognizes the need for increased coordination of state programs and planning processes for highway safety. We therefore recommend passage of SB 377.

Approved by: *Helen D. Beirne*
Helen D. Beirne
Commissioner

Date: 2 - 25 - 80

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 377
 Title "An Act relating to highway safety."
 Requested by Commissioner's Office Date 2/25/80

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
 Program Category Affected Health/Division of Public Health
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURE (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

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

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

Original: Legislative Finance
 cc: Budget and Management

Prepared by: M. Deaver Date: 2/25/80
 Division/Office: P.H. Admin. PH: 3090
 Department of Health & Social Services

Prime Sponsor (First Legislator Named)

Approval DHSS Mgt. & Bdgt: M. Hebbard Date: 2/25/80

33-001 (Rev. 12/79)
 Modify by DHSS (11-28-79)

Introduced: 2/1/80
Referred: Judiciary and
Finance

1 IN THE SENATE

BY RAY, COLLETTA AND KERTTULA

2 SENATE BILL NO. 377

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL *transportation system*

6 For an Act entitled: "An Act relating to highway safety."

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

8 * Section 1. AS 44.19.025 is amended to read:

9 Sec. 44.19.025. ADMINISTRATION OF HIGHWAY SAFETY PROGRAM. The
10 governor may contract and do all other things necessary on behalf of
11 this state under the Federal Highway Safety Act of 1966, and may co-
12 operate with interested persons and agencies [FEDERAL AND STATE
13 AGENCIES, PRIVATE AND CORPORATE AGENCIES, INTERESTED CORPORATIONS, AND
14 INDIVIDUALS,] to effect ~~[EFFECTUATE]~~ the purposes of that Act. The
15 governor may designate a person to serve as his highway safety represen-
16 tative; however, the governor is the official in this state having the
17 ultimate responsibility for dealing with the federal government with
18 respect to programs and activities under the Federal Highway Safety Act
19 of 1966. He shall coordinate the activities relating to highway safety
20 of state departments, agencies and subdivisions and of the Highway
21 Safety Commission established in AS 44.19.801.

22 * Sec. 2. AS 44.19 is amended by adding new sections to read:

23 ARTICLE 10A. HIGHWAY SAFETY COMMISSION.

24 Sec. 44.19.801. HIGHWAY SAFETY COMMISSION. (a) There is estab-
25 lished in the Office of the Governor the Highway Safety Commission.

26 (b) The Highway Safety Commission is composed of 15 members, who
27 shall include:

28 (1) the attorney general and the commissioners of public
29 safety, transportation and public facilities, and health and social

1 services;

2 (2) one superior court or district court judge who is ex-
3 perenced in the adjudication of traffic cases selected by the chief
4 justice of the supreme court;

5 (3) three members of the house of representatives selected by
6 the speaker of the house;

7 (4) three members of the senate selected by the president of
8 the senate;

9 (5) four residents of the state selected by the governor
10 based on geographic representation and population distribution.

11 (c) Members of the Highway Safety Commission ^{staff} serve at the pleasure
12 of the governor. Members of the commission receive no salary for their
13 service on the commission, but are entitled to receive the same per diem
14 and travel expenses authorized by law for boards and commissions.

15 Sec. 44.19.811. POWERS AND DUTIES. (a) The Highway Safety Com-
16 mission acts as the state planning agency and assists the governor in
17 the exercise of his powers and duties under AS 44.19.025. The commis-
18 sion may apply for, receive, and utilize grants, gifts and other forms
19 of assistance from the federal government and from other public and
20 private sources for the execution of its programs.

21 (b) The Highway Safety Commission may investigate state and local
22 highway safety needs and seek funding for the development of more effec-
23 tive programs and techniques to

24 (1) alleviate and prevent traffic accidents;

25 (2) aid the court system in the adjudication of traffic
26 cases;

27 (3) aid peace officers in the enforcement of traffic laws;
28 and

29 (4) rehabilitate traffic offenders and prevent recidivism.

1 (c) The Highway Safety Commission shall provide planning and
2 coordination assistance to state agencies with responsibilities related
3 to highway safety to encourage the most efficient allocation, utiliza-
4 tion, and coordination of highway safety and related personnel at the
5 state and local level and to determine reasonable qualifications for the
6 employment of the personnel.

7 (d) The court system and the state departments and agencies with
8 responsibilities related to highway safety shall assist the Highway
9 Safety Commission in the performance of its duties.

10 (e) In order to facilitate communication and cooperation the
11 Highway Safety Commission shall conduct conferences to discuss and plan
12 highway safety, traffic enforcement and adjudication, and offender
13 rehabilitation programs and personnel for the court system and the state
14 departments and agencies.

15 Sec. 44.19.821. STAFF. (a) The governor, or the person desig-
16 nated under AS 44.19.025, with the approval of the governor, may select
17 a director to administer the governor's programs under AS 44.19.025 and
18 the programs of the Highway Safety Commission under AS 44.19.801 -
19 44.19.811.

20 (b) The director may employ personnel as necessary to carry out
21 the functions assigned under this chapter. Personnel employed under
22 this subsection are in the classified service under AS 39.20.100.
23
24
25
26
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28
29

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

POUCH N - JUNEAU 99811

February 26, 1980

Honorable Bill Ray
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Ray:

Senate Bill 377 is intended to create a highway safety commission that will provide a central coordinating group for all highway safety related programs.

In the past various agencies have been conducting individual highway safety programs with little or no communication between agencies. This has caused repetition in some areas as well as being highly inefficient in statewide efforts towards the reduction of highway deaths.

This commission will provide coordination and communications with all agencies involved with highway safety and will allow the crossover of departmental lines in its efforts towards the improvement of highway safety programs. The commission should have the authority to establish policy in all areas of highway safety.

Senate Bill 377 establishes the responsibilities of the commission as providing planning and coordination assistance to concerned agencies and that these agencies will act in kind. It is intended to improve the highway safety programs by coordinating the efforts of all agencies involved.

Sincerely yours,

Charles A. Smith, Director
Highway Safety Planning Agency



T. Michael Lewis
Field Training Officer

STATE
of ALASKA

MEMORANDUM

TO: Ron Lehr, Director
Division of Budget & Management
Office of the Governor

DATE: February 20, 1980

FILE NO:

FROM: Robert J. Stickles, Director *RJS*
Division of Administrative Services
Department of Public Safety

TELEPHONE NO:

SUBJECT: Highway Safety Planning Agency
Budget Amendment

The Department of Public Safety, Highway Safety Planning Agency, requests that the Division's budget, affecting both Federal and General Funds, be amended as follows. In either case, no additional funds are involved. The request is only to realign the funds by transfer from 700 object group to other line items as explained in the attached budget forms. Earlier, the FY 81 budget was revised to include one (1) Federally funded position under the special classification of Program Assessment and Systems Officer.

a. Establish two (2) new PFT positions and one (1) new Project Employee using Federal funds.

1. Highway Safety Project Administrator - PFT
2. Highway Safety Field Monitor - PFT
3. System Analyst II - Project Employee

b. Establish four (4) new positions (3 PFT and 1 PPT) using General Funds. These positions are presently established and operating under the Court System under PCN's 41-6601, 41-6602, 41-6603 and 41-6604 via a General Fund grant issued to the Agency but, effective 7-1-80, the program will come under the direct administration of the Agency.

1. Administrative Officer - PCN 41-6603 - PFT
2. Screener - PCN 41-6602 - PFT
3. Secretary - PCN 41-6601 - PFT
4. Assistant Clerk - PCN 41-6604 - PPT

The critical need of this budget amendment will be evident by a review of the following attachments.

1. Memorandum from U.S. DOT Regional Administrator to the Division Director.
2. Memorandum from Commissioner Nix to Commissioner Hudson regarding the Division reorganization.

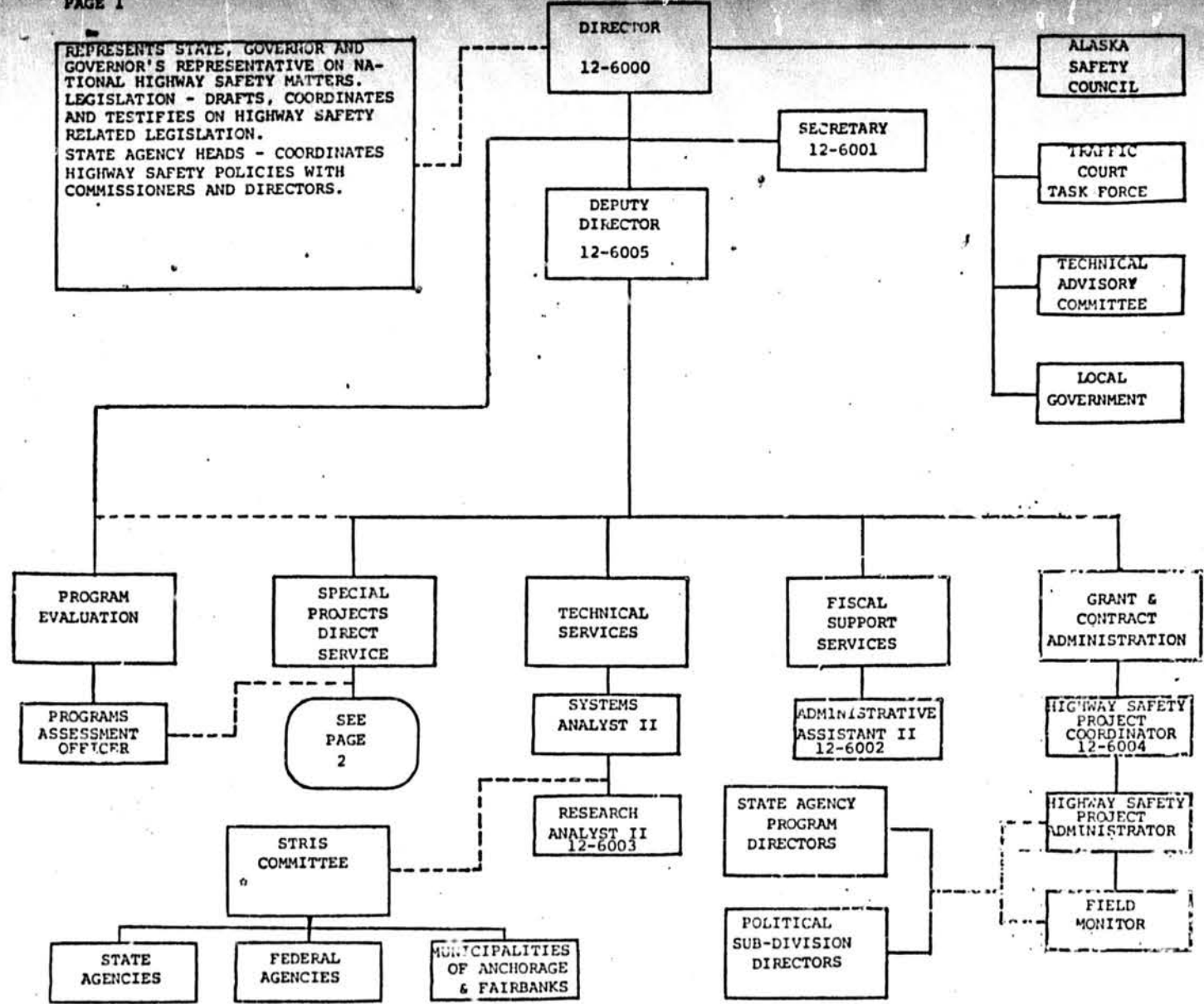
Necessary budget forms are attached detailing the new positions and line-item transfer.

As a part of the reorganization, certain reclassifications of existing positions are being proposed which will be submitted for your action in the form of a revised program shortly.

Attachments

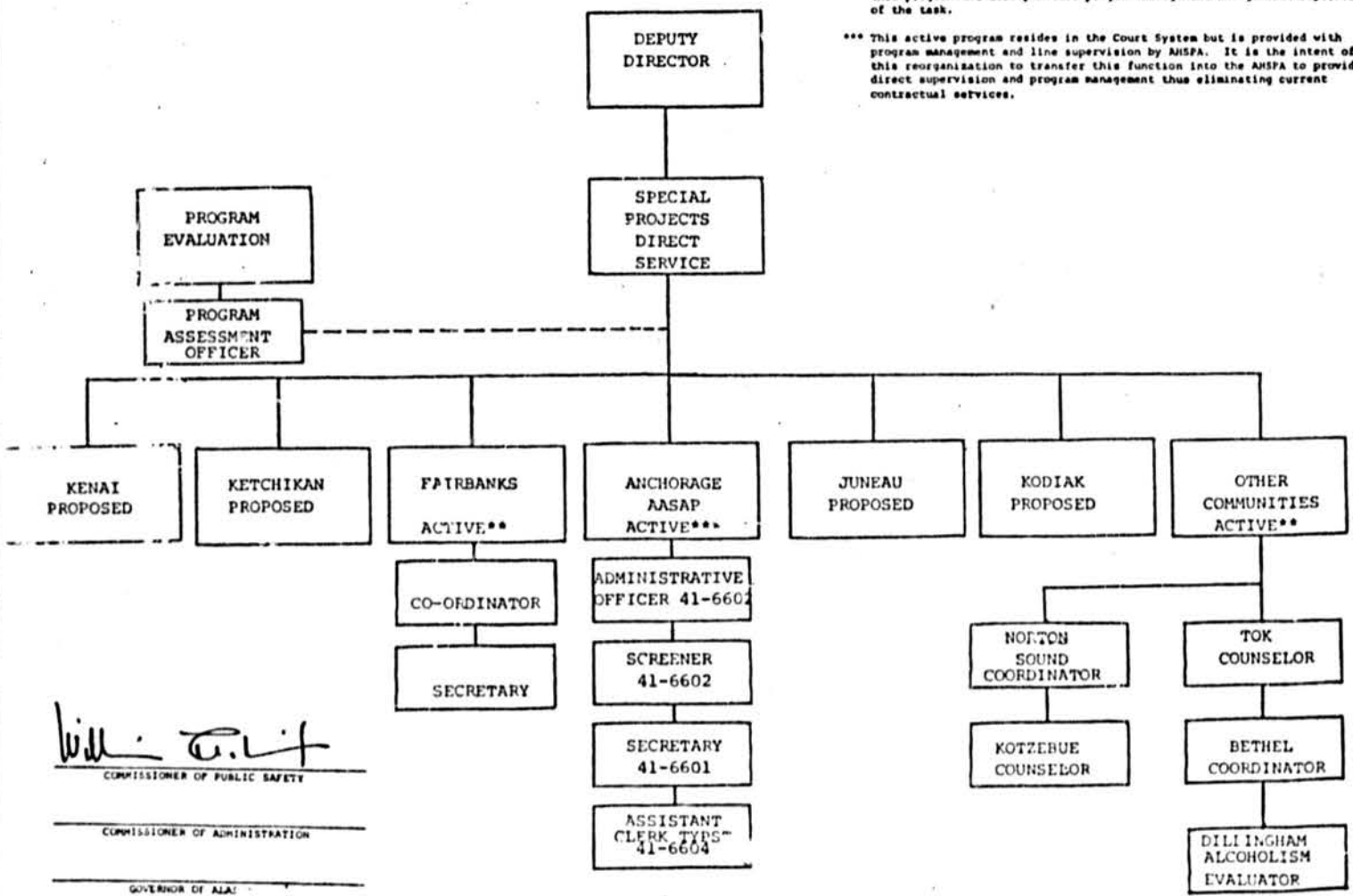
cc: Charles Smith, Director, HSPA
Joe Harriman, Finance Officer

REPRESENTS STATE, GOVERNOR AND GOVERNOR'S REPRESENTATIVE ON NATIONAL HIGHWAY SAFETY MATTERS. LEGISLATION - DRAFTS, COORDINATES AND TESTIFIES ON HIGHWAY SAFETY RELATED LEGISLATION. STATE AGENCY HEADS - COORDINATES HIGHWAY SAFETY POLICIES WITH COMMISSIONERS AND DIRECTORS.



ALCOHOL SAFETY ACTION PROGRAM

- * The STRIS Committee will be set up to control the design and implementation of the State Traffic Records Information System. The Systems Analyst II will take the initial steps to form this committee and will provide the leadership necessary to the completion of the project.
- ** These active Alcohol Safety Action Programs are currently being conducted by various local associations in conjunction with the Alaska Highway Safety Planning Agency (AHSFA). The AHSFA provides funding to this association for this program and also provides program management and general supervision of the task.
- *** This active program resides in the Court System but is provided with program management and line supervision by AHSFA. It is the intent of this reorganization to transfer this function into the AHSFA to provide direct supervision and program management thus eliminating current contractual services.



William A. ...
 COMMISSIONER OF PUBLIC SAFETY

 COMMISSIONER OF ADMINISTRATION

 GOVERNOR OF ALASKA

SB

406

COMMITTEE REPORT
SENATE

FURTHER: None

3/31/80

Date: 4/1/80

Mr. President:

The Committee on JUDICIARY has had SB 406
relating to age limits under Title 4, Alcoholic Beverages

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

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

STATE OF ALASKA
Inter-Department Route Slip

TO:
MAIL STATION NUMBER _____

DEPARTMENT _____

ATTENTION Director Ziegler

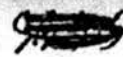
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| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <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 type="checkbox"/> Your Information |

Remarks:

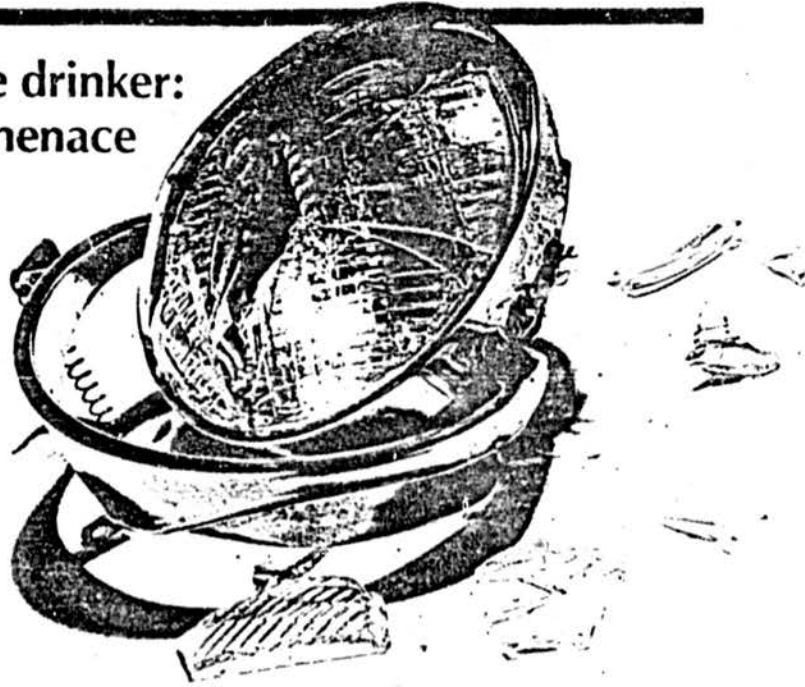
FROM:
MAIL STATION NUMBER _____

DEPARTMENT Barad Bradley

BY _____ DATE _____



The teen-age drinker: A highway menace



The teen-age drinker-driver is the nation's number one highway menace.

The combination of driver inexperience and alcohol has made the under-20 motorist the leading highway killer.

Even without the presence of alcohol, the under-20 driver poses a significant threat on our highways and streets. This age group has the smallest percentage of the driving population, yet has more accidents than any other age group.

In 1976, for example, the under-20 driver was only 8.9 percent of the driving population, yet was involved in 18.1 percent of all traffic accidents and 18.3 percent of all traffic accidents involving a fatality, according to a study by National Highway Traffic Safety Administration (NHTSA).

The same study ranks automobile accidents as sixth in the list of causes of deaths among Americans as a whole, but the leading cause of death in the 15 to 19-year-old age group. (See chart, page 3). Nearly 40 percent of all deaths in this age category are caused by motor vehicle accidents.

In the 18 and 19-year-old age groups, 42 per every 100,000 population have been involved in an auto accident where alcohol was a factor. For the driving population as a whole, the ratio was 28 per 100,000 population, according to the U.S. Department of Transportation (DOT).

Nationally, since 1970, there has been a 28 percent increase in the number of alcohol-related traffic accidents involving the under-20 driver, the DOT reports.

The DOT — along with the National Safety Council and the NHTSA — unanimously attribute the steadily worsening under-20 driving record to the national trend towards lower legal drinking ages. Since 1970, 26 states have reduced the drinking age limit. Currently, only 11 states require a person to be 21 years of age before allowing the legal purchase and consumption of alcohol. (See state by state chart).

PUBLIC AFFAIRS NEWSLETTER

... a digest of
current events,
topical
legislation
and media reports
about insurance

Long Grove,
Illinois 60049
Volume 7 No. 1
September 1978

While a state-by-state comparison is virtually impossible, due to differences in reporting and record keeping procedures, enough statistics are available from states which have lowered the drinking age recently to show a definite upward trend in the number of auto accidents involving teen-age drivers and alcohol.

For example, *Arizona*, which reduced the legal drinking age to 19 in 1971, reported that the number of drinking teen-agers involved in highway accident fatalities jumped from 8.3 percent in 1971 to 13.2 percent in 1975.

In *Illinois*, which lowered the legal drinking age to 19 in 1973, the number of traffic accidents involving teen-agers and alcohol rose 33 percent in three years.

Connecticut, which lowered the legal drinking age to 18 in 1972, reported the percentage of drinking teen-agers involved in all of the state's traffic accidents jumped from 13 percent in 1972, to 24.2 percent in 1975. During the same time frame, the number of teen-agers arrested for driving while intoxicated increased 50 percent.

In *Iowa* — which lowered the legal drinking age to 18 in 1973 — there was a significant increase in the number of teen-agers killed in accidents involving alcohol. For the four years 1970-1973, 124 teen-agers died in accidents in which alcohol was a contributing factor. For the four years 1974-1977, the number rose to 194. This statistic played a major role in the state's returning the legal drinking age to 19 in June of this year.

Michigan, which lowered its drinking age in 1971, reported that alcohol related accidents involving 18 and 19-year-old drivers increased by 119 percent in the three years following the law change.

In *New Jersey*, the percentage of 18 to 20-year-old drivers involved in fatal accidents while drinking rose from 8.9 percent in 1972 (the year before the age limit was lowered) to 16.3 percent in 1973 and up to 29.2 percent in 1975.

Such statistical experience over the last few years has led to interest in many states for returning the legal drinking age to the pre-1970 levels.

Only *Iowa*, however, has actually taken action. Several other states are awaiting more complete statistical data before attempting to push legislation through their respective state governments. The NHTSA reports it has been contacted by a number of state legislators seeking information on the teen drinking-driving problem. But, the NHTSA also reports that many of these same legislators said that efforts to raise the legal drinking age "would come slowly" because the 18-year-old voter today constitutes a major voting block; one that state legislators are reluctant to alienate.

Joseph E. Luecke, Senior Executive Vice President of the Kemper Insurance and Financial Companies, testifying before a state legislative committee said: "The driving age must be raised to 18, and the drinking age for beer and wine must be brought back to 21. We think it's time to bite the bullet. If we're serious about this; if we really believe we want to stop injuries and wanton deaths, some of these unpleasant things have to occur."

Teen-agers and alcohol: How involved are they?

To understand why the under-20 driver who drinks is such a menace, one needs to understand just how involved that age group has become with alcohol.

According to a survey of high school students conducted by the National Highway Traffic Safety Administration in 1975:

- 93 percent of the males and 87 percent of the females have experimented with alcohol by their senior year of high school.
- in grades 9-12, 95 percent of the high school students are in an unsupervised situation where alcohol is served at least once a month.
- half of all those in high school drink at least once a week.

40 percent of this group report they had at least four drinks in any one day during a given week.

- 61 percent claim to have been drunk at least once a month.
- 32 percent said they have been in a car in the last month where the driver was drinking heavily.
- half of the licensed drivers in the study group said they have driven while drunk at least once.
- 67 percent of the group said they felt a young person could drink five beers in a two-hour period and still remain within the legal limit.
- 28 percent believe they drive as well or better while under the influence of alcohol.

Editor's note:

Additional copies of the Public Affairs Newsletter may be obtained by writing Public Relations D-1, Kemper Insurance and Financial Companies, Long Grove, Illinois 60049.

Legal age of purchase of alcohol state-by-state

	18	19	20	21
Alabama				
Alaska				
Arizona				
Arkansas				
California				
Colorado				
Connecticut				
Delaware				
Florida				
Georgia				
Hawaii				
Idaho				
Illinois				
Indiana				
Iowa				
Kansas				
Kentucky				
Louisiana				
Maine				
Maryland				
Massachusetts				
Michigan				
Minnesota				
Mississippi				
Missouri				
Montana				
Nebraska				
Nevada				
New Hampshire				
New Jersey				
New Mexico				
New York				
North Carolina				
North Dakota				
Ohio				
Oklahoma				
Oregon				
Pennsylvania				
Rhode Island				
South Carolina				
South Dakota				
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Utah				
Vermont				
Virginia				
Washington				
West Virginia				
Wisconsin				
Wyoming				

Commissioner, Department of
Public Safety
Pouch H
Juneau, Alaska 99801

P-2

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Anatomy of a teen-ager's accident

More than 8,000 teen-agers died in alcohol related automobile accidents last year.

According to a grim scenario pieced together by the U.S. Department of Transportation after a three-year study, in most cases the accident:

- happened on a Friday or Saturday night between the hours of 10 p.m. and 1 a.m.
- involved a vehicle carrying an average of three or more persons.
- happened while the young people were not enroute to a particular destination, but rather were just "cruising around".
- involved a combination of speed and alcohol.
- happened within an hour after the participants had been drinking heavily or moderately.
- happened within 10 miles of the driver's home.

Leading causes of death 15-19 Age group

Rank	Cause of death	Number killed	Percent of total
1	Motor vehicle accidents	8,401	38.2%
2	Other accidents	4,083	18.6
3	Homicide	2,024	9.2
4	Suicide	1,489	6.8
5	Cancer	1,285	5.8

Source: Department of Transportation 1977 report.



The Anchorage Times

THE
Anchorage Times

COMPLIMENTARY COPY
from the
ANCHORAGE TIMES
for
MEMBERS OF THE LEGISLATURE
Flown to Juneau courtesy of
ALASKA AIRLINES

Inside today...A-2

'The human
angle' comes
to The Times

Cloudy Saturday;
weather, page A-2

56 pages

FRIDAY EVENING



25

Senators ask boost in drinking age

by Dave Carpenter
Times Juneau Bureau

Juneau — Legislation to raise Alaska's minimum drinking age from 19 to 21 received the unanimous support of a Senate committee Thursday despite an Anchorage member's concern that it wouldn't make much difference.

"It would be naive for us to expect this bill to handle much of the problem," said Sen. Arliss Sturgulewski, R-Anchorage. "This might help, but . . . liquor is readily available in our society and that's a great deal of the problem."

The Senate Commerce Committee passed the bill on to the Judiciary Committee, one step from a floor vote. And an administration official who testified Thursday said Gov. Jay Hammond would sign the bill if it is approved by the Legislature.

Several states have raised the legal drinking age recently, reversing the trend of the 1960s and early 1970s.

Clay Shelton of Anchorage, a representative of the Rev. Jerry Provo, told the committee by teleconference that more states now have a minimum age of 20 or 21 than 18 or 19.

And Commerce Committee Chairman Brad Bradley, R-Anchorage, said that in the three states which have recently raised the age, there has been a drastic drop in the number of insurance claims filed, suggesting a similar decrease in the number of drinking-related accidents.

"Most of our automobile accidents are caused by motorists between the ages of 16 and 21," said Bradley, who has pushed for the age change. "I used to think they were old drunks, but they're just kids — young drunks."

Sturgulewski suggested that another solution might be more programs encouraging youths not to drink and giving them alternatives.

And the state's director of alcohol and drug abuse, Bob Cole, echoed her comments that raising the drink-

ing age is only one approach to the alcohol abuse problem.

"The proposed bill in and of itself would not be a panacea for the alcohol abuse problem but it would be a step in the right direction of limiting availability," he said.

Anchorage Democrat Sen. Terry Stimson, a high school counselor, said teen-agers he has talked with don't care what the drinking age is because liquor is readily available to them at any age.

"I find the question of whether young people are not as responsible at 19 as they are at 21 almost moot on this issue," said Stimson. "What's important is the problem of the

availability of alcohol to young children."

Lois Holm of Anchorage also testified by teleconference in support of the bill. Mrs. Holm, a mother of eight children, said 19- and 20-year-olds would find better use of their time if they were not allowed to drink in bars.

"We're putting undue pressure on our young people by giving them the option of entering these establishments," she said.

Besides Bradley, Stimson and Sturgulewski, members of the Commerce Committee are Frank Ferguson, D-Kotzebue, and Tim Kelly, R-Anchorage.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811

March 14, 1980

The Honorable W. E. Bradley
Chairman
Senate Commerce Committee
Room 303 - Assembly Building
Juneau, AK 99811

Dear Senator Bradley:

SENATE BILL NO. 406

Senate Bill No. 406, an Act relating to age limits under Title 4, Alcoholic Beverages, was introduced in the Senate on February 7, 1980 and was referred to the Senate Commerce Committee. On February 8, 1980 the bill was given an additional referral to the Senate Judiciary Committee.

For the consideration of the Senate Commerce Committee, I am enclosing a copy of a Fiscal Note prepared by Patrick Sharrock, Director, Alcoholic Beverage Control Board, Department of Revenue, Anchorage concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant
(907) 465-2397

cc: The Honorable Robert H. Ziegler, Sr.
Chairman
Senate Commerce Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Patrick Sharrock, Director
Alcoholic Beverage Control Board
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB406

Title Age limits under AS Title 4, Alcoholic Beverages

Requested by Senate Commerce Committee by request Date 2/7/80

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Alcoholic Beverage Control Board

(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	-0-	10.0	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	2.0	-0-	-0-	-0-	-0-
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	12.0	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

NOTE: AS 04.15.020(H) should also be amended to accommodate the age change consistent with other amendments proposed in the bill. Suggest that the effective date be after July 1, 1980 to allow for adequate notice to the public of the change in the law.

It is assumed that with passage of this legislation, over the long term, incidents of violation of liquor laws involving younger "minors" will tend to decrease even though the number of minors increases as a result of this bill. Initially additional enforcement personnel would be desirable until public awareness of the change in law was assured.

Costs noted for FY81 are estimated for media information announcements to the public to be coordinated with state and local law enforcement agencies and notices to liquor licensees and school districts.

IV. DATE March 12, 1980

PREPARED BY Patrick L. Sharrock, Director

AGENCY Alcoholic Beverage Control Board

Original: Legislative Finance

PHONE 277-8638

cc: Budget and Management

Prime Sponsor (First Legislator Named)

SB

438

COMMITTEE REPORT
SENATE

2/14/80

FURTHER: None

Date: 3/4/80

Mr. President:

The Committee on JUDICIARY has had SB 438
exempting certain sales of energy from regulation by the Alaska Public
Utilities Commission

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 SB 438 same title
 new title
- and recommends SB 438
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]
CHAIRMAN



ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

801 W. FIREWEED LANE • SUITE 101 • ANCHORAGE, ALASKA 99503 • (907) 276-3235

February 28, 1980

Honorable Robert H. Ziegler, Chairman
Senate Judiciary Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Ziegler:

I regret very much that I must be out of state on March 4th, the date that has been set for consideration of Senate Bill 438. Please accept this letter as testimony which I wish to submit on behalf of our association.

We very strongly support SB 438 as a measure which will reduce the amount of energy being wasted and make that reclaimed energy available to consumers at a lower cost than they would otherwise have to pay for energy from conventional sources. The opportunity for this result comes from the fact that waste energy is now available from industrial operations, and utilities serving nearby areas would like to buy this waste energy.

There are two very good examples of this within our association. Golden Valley Electric Association of Fairbanks has been negotiating with Alyeska Pipeline Company for some time to buy the waste heat from four pumpstations. The Alaska Power Authority has agreed to finance the necessary waste heat recapture facilities, and legislation is now pending (SJR 46, HJR 68 and HJR 72) which would authorize the APA to issue \$110 million of revenue bonds for that purpose. Copper Valley Electric Association of Glennallen is also quite interested in installing a pressure reducing turbine on the pipeline between Thompson Pass and Valdez to recapture this energy which is not now being used.

The sale of waste energy is invariably a very small item in comparison with the industrial operation which produces it. It is so small, in fact, that the potential sellers of this waste energy find that it makes economic sense for them to let this energy go unused rather than going to the expense and aggravation of subjecting themselves to regulation on those sales by the Alaska Public Utilities Commission.

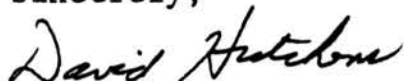
DEMOCRACY IN ACTION

Honorable Robert H. Ziegler
February 28, 1980
Page Two

Senate Bill 438 exempts from regulation sales to a certified utility of waste heat, electricity, or other energy which is available as a by-product of an industrial operation. The sponsor's substitute is carefully drafted so that nothing new is exempted except these specific sales. It also takes care that utility is maintained as the entity solely responsible for providing the utility service to the public.

We think this legislation is clearly in the public interest, and we respectfully request your support for SB 438.

Sincerely,



David Hutchins
Executive Director

cc: Senator Fahrenkamp

NEED:

Presently there are numerous opportunities for energy which is now being wasted to be recovered and used economically. This waste energy is a byproduct of industrial or pipeline operations. It may come from burning wood chips, the heat from pump stations or the flow of oil between Thompson Pass and Valdez. In each instance, the sale of this waste energy would be a very small item to the prospective seller. Because this small sale could subject them to additional state regulation, and because they would have to deal with a whole new set of state regulations, these companies find it makes economic sense for them to let the energy go to waste rather than sell it.

EFFECT:

This bill exempts sales of economy energy to an electric utility from regulation by the APUC. However, the bill is drafted so as to limit this exemption only to those sales which do not create a utility obligation on the part of the seller. If the seller were to contract to provide firm energy rather than economy energy to a buyer, he would be subject to APUC jurisdiction.



SKILL
RESPONSIBILITY
INTEGRITY

THE ALASKA CHAPTER
**ASSOCIATED GENERAL CONTRACTORS
OF AMERICA, INC.**

BOX 4-2500 • ANCHORAGE, ALASKA 99509
TELEPHONE (907) 276-5354



3201 SPENARD ROAD
ANCHORAGE
H. GLENZER, JR.
MANAGER

February 28, 1980

The Honorable Robert H. Ziegler
Chairman, Senate Judiciary Committee
Alaska State Senate
Juneau, Alaska 99811

Dear Senator Ziegler:

At its duly constituted February Board of Directors meeting held in Juneau, Alaska on February 27 and 28, 1980, the members of the Board of Directors of the Alaska Chapter Associated General Contractors of America passed the following resolution in support of Committee Substitute for Senate Bill 340.

BE IT RESOLVED that the Board of Directors of the Alaska Chapter of the Associated General Contractors of America wish their testimony to become a matter of record in support of Committee Substitute for Senate Bill 340.

FURTHER BE IT RESOLVED that no member of the Board of Directors of the Alaska Chapter A.G.C. can recall that any present elected member of the State of Alaska Legislature can be identified as having sought election to office who espoused the increased regulation of the lives or businesses of the citizens of the State of Alaska, and that quite the contrary, to the best of our knowledge all the present elected Senators and Representatives of the State of Alaska had as one of their campaign promises the stopping of quasi-legislative law being promulgated by the regulation writers who form such a substantive portion of the employees of various State agencies and departments.

FURTHER BE IT RESOLVED that the Board of Directors of the Alaska Chapter A.G.C. of America is desirous of seeing the responsibility of the laws enacted by the State of Alaska legislature returned totally to their rightful location, which is the legislature itself, and removed from the various regulation writers within the State agencies and commissions.

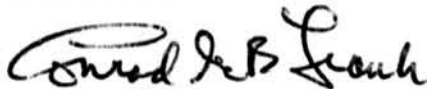
FURTHER BE IT RESOLVED that it is the opinion of the Board of Directors of the Alaska Chapter A.G.C. of America, acting as spokesman for the over 500 general, associate and sub-contractor members from throughout the entire State of Alaska, that the legislature should concern itself to a much greater degree with the elimination of existing regulations that stifle the freedom of the individual, and which are used as a tool of the radical element of the environmental community to delay, impede or stop the economic development of the State of Alaska.

Senator Robert H. Ziegler
February 28, 1980
Page 2

FURTHER BE IT RESOLVED and noted that it is the opinion of the Board of Directors of the Alaska Chapter A.G.C. of America that the problem addressed by Committee Substitute for Senate Bill 340 is not localized to the State of Alaska but is of national concern and is a root cause of the extremely high inflationary burden being placed upon the citizens of the entire United States by bureaucrats dedicated to the proposition that they alone know what is best for the citizenry in America.

We therefore unanimously have passed this resolution with the hope and intent that the laws of the State of Alaska and the regulations related thereto be returned to the people's elected representatives and removed from the bureaucratic bastions within the various agencies and commissions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Con Frank".

Con Frank, President
Alaska Chapter Associated General Contractors of America

NEED:

Presently there are numerous opportunities for energy which is now being wasted to be recovered and used economically. This waste energy is a byproduct of industrial or pipeline operations. It may come from burning wood chips, the heat from pump stations or the flow of oil between Thompson Pass and Valdez. In each instance, the sale of this waste energy would be a very small item to the prospective seller. Because this small sale could subject them to additional state regulation, and because they would have to deal with a whole new set of state regulations, these companies find it makes economic sense for them to let the energy go to waste rather than sell it.

EFFECT:

This bill exempts sales of economy energy to an electric utility from regulation by the APUC. However, the bill is drafted so as to limit this exemption only to those sales which do not create a utility obligation on the part of the seller. If the seller were to contract to provide firm energy rather than economy energy to a buyer, he would be subject to APUC jurisdiction.

SB

468

COMMITTEE REPORT
SENATE

FURTHER: None

4/2/80

Date: 4/10/80

Mr. President:

The Committee on JUDICIARY has had SB 468
relating to foreign trade zones

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

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 468

Title An Act relating to foreign trade zones; eff. date.

Requested by _____ Date February 25, 1980

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development

Program Category Affected Development

BRU, Program, or Subprogram(s) Affected Division of Economic Enterprise

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

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

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

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

There is no fiscal impact associated with passage of this bill.

IV. DATE 2-25-80

PREPARED BY Fred Muller, Deputy Director

AGENCY Division of Economic Enterprise

PHONE 465-2018

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Fred Muller

FOREIGN TRADE ZONES

One of the bright possibilities for enhancing Alaska's role as a processing and transshipping center is the establishment of a series of foreign trade zones. First, a set of definite users must be identified. We are holding active discussions with ocean and air carriers presently and plan to initiate talks with foreign fish processors.

"Each port of entry in the U.S. is entitled to at least one Foreign Trade Zone." "Before a grant is made an economic survey must demonstrate to the satisfaction of the (FTZ) Board that the anticipated commerce, benefits and returns, both direct and indirect, will justify its construction to expediate and encourage foreign commerce." "The ability of the applicant adequately to finance and conduct the undertaking must be demonstrated..." The board will also review the availability of all the necessary infrastructure. Additionally, "where harbor facilities of any port of entry in the State are owned and controlled by the State, and where harbor facilities of any port of entry in the State are owned and controlled by the municipality, grants to public corporations will not be approved by the board unless such applications have been authorized by an act of the State Legislature..."

"Grants to private corporations will not be approved by the board unless such corporations have been authorized by an act of the State Legislature..."

The application must include: "Evidence satisfactory to the board that permits for construction have been obtained from federal, State or municipal authorities."

The above information is taken from a paper by Mr. Ron walt of the Division of Economic Enterprise.

The Anchorage Economic Development Commission has requested enabling legislation.

The Anchorage Assembly has authorized the filing of an application with the U.S. Department of Commerce for establishing a FTZ.

The Anchorage Chamber of Commerce has formed a Free Trade Zone Committee in an effort to gain public and private support for the project.

The Anchorage Marketing and Development Study is currently making a feasibility study on the establishment of a FTZ in Anchorage.

The Economic Enterprise Division, of the State Department of Commerce and Economic Development, has been looking for possible users for the FTZ.

Foreign Trade Zone: Foreign or "Free" Trade Zones are secured areas legally outside a nation's customs territory. Their purpose is to attract and promote international trade and commerce.

user: Company or companies that can guarantee consistent use of the FTZ.

grant: The "grant" is a grant of authority.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND
GOVERNOR

POUCH D — JUNEAU 99811

February 27, 1980

Honorable M.E. "Ed" Dankworth
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: SB 468

Dear Senator Dankworth:

Marie of your staff recently stated the comments of this department on the above referenced bill.


Foreign trade zones are one of the bright possibilities for enhancing Alaska's role as a processing and transshipping center and, as such, we support the bill. Generally, such zones are not profit making enterprises but must be regarded as an added incentive to doing business in the State. Benefits are derived from secondary activities generated around and related to the zone.

Each zone requires enabling legislation, state and local, a sponsor, an operator, a user, identified benefits and operating capital. Unless a public or private agency is willing to provide the start-up capital, the capital usually comes from the potential user. In either case, a user or a group of users must be identified. In Alaska, this has proven to be a difficult task.

All indications are that Alaska is ready for the establishment of a foreign trade zone. This piece of enabling legislation helps bring the Alaska statutes into compliance with the minimum requirements of the federal statutes and we support this approach.

If you find you are in need of further information with respect to this bill, please feel free to call upon us again.

Sincerely,


Bertram L. Wagnon
Deputy Commissioner

SB

487

A M E N D M E N T

OFFERED IN THE SENATE:

By: Senate Judiciary Committee

To: Amended SENATE BILL No. SB 487

HOUSE BILL No. _____

PAGE: 1

LINE: 27

Delete "(1) (inserted)"

Insert "As 2 a. 15. 7 30 (a) (1) is repeated"

*Technical correction
Should be brackets
around subsection 7
on line 27*

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

1 IN THE SENATE

BY HOHMAN

2 SENATE BILL NO. 487

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 jurisdiction of the district
7 court; and providing for an effective date."

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

9 * Section 1. AS 22.15.030(a) is amended to read:

10 (a) The district court has jurisdiction of civil cases and pro-
11 ceedings as follows:

12 (1) for the recovery of money or damages when the amount
13 claimed exclusive of costs, interest and attorney fees does not exceed
14 \$20,000 [\$10,000, EXCEPT AS PROVIDED IN (10) OF THIS SUBSECTION];

15 (2) for the recovery of specific personal property, when the
16 value of the property claimed and the damages for the detention do not
17 exceed \$20,000 [\$10,000];

18 (3) for the recovery of a penalty or forfeiture, whether
19 given by statute or arising out of contract, not exceeding \$20,000
20 [\$10,000];

21 (4) to give judgment without action upon the confession of
22 the defendant for any of the cases specified in this section, except for
23 a penalty or forfeiture imposed by statute;

24 (5) for establishing the fact of death of any person in the
25 manner prescribed in AS 09.55.020 - 09.55.060;

26 (6) (repealed); JAN 1, 1968

27 (7) [repealed]; for proceedings under the Village
incorporation Act of 1957 AS 29 25

28 (8) for the recovery of the possession of premises in the
29 manner provided under AS 09.45.070 - 09.45.160 when the value of the

1 property or of the arrears and damage to the property does not exceed
2 \$20,000 [\$10,000];

3 (9) for the foreclosure of a lien when the amount in contro-
4 versy does not exceed \$20,000 [\$10,000];

5 (10) for the recovery of money or damages in motor vehicle
6 tort cases when the amount claimed exclusive of costs, interest and
7 attorney fees does not exceed \$20,000 [\$15,000].

8 * Sec. 2. This Act takes effect July 1, 1980.
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Alaska State Legislature

Senate

Pouch V
JUNEAU, ALASKA
99811

PHONE: (907) 465-3880

Senator George H. Hohman, Jr.

MEMORANDUM

TO: Senator Bob Ziegler

DATE: April 16, 1980

FROM: Senator George Hohman

SB 487 is presently in your committee. This bill will increase district court jurisdiction from \$10,000 to \$20,000 for personal injury damage claims.

I believe this bill is important and should be scheduled for hearing as soon as possible. The following is a summary of my reasons for encouraging the passage of this bill:

1. The current jurisdictional limit of \$10,000 needs to be increased to reflect inflation and the increase in damages being sought by Plaintiffs.
2. The bill will help reduce the existing back log of cases in Superior Court.
3. If the Supreme Court adopts mandatory arbitration rules for district court cases as requested in SCR 47, (which was passed out of Senate Judiciary several weeks ago), there will be a reduction of trials in district court.

The increased jurisdictional limit will help balance this reduction of district court trials. It is hoped that with mandatory arbitration and increased jurisdiction the fiscal impact on the district court will be minimal.

4. The Alaska Court Administration supports the bill.

Thank you.

SB

498

COMMITTEE REPORT
SENATE

FURTHER: None

2/22/80

Date: 5/1/80

Mr. President:

The Committee on JUDICIARY has had SB 498
amending the motor vehicle code

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 498 same title
 new title
- and recommends CS SB 498 Be repealed out of follows.
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Joe Ray No Rec

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Joe Ray No Rec

Joe Ray No Rec

Joe Ray No Rec

CHAIRMAN

SENATE BILL 498
AMENDING THE MOTOR VEHICLE CODE AND
CSSB 498

The original bill contained only sections 1 and 4 of the Committee Substitute. The Committee Substitute added two sections and changed Section one slightly.

- Section 1. Under the section setting out the grounds for refusing registration, the bill changes the language so that if an applicant fails to comply with any regulations adopted under the chapter, rather than just the section, he can be refused registration.
- Section 2. This section adds a new paragraph which will allow the Department to refuse registration to a person who owns a vehicle which violates a statute or regulation relating to color of the vehicle, emblems, or lights which a vehicle may display. Both this section and section 1, are written to eliminate persons or companies from driving school busses with the "chrome yellow" coloring. People become used to seeing yellow busses and do not stop for them. If only busses which transport children are yellow, motorists will recognize them for what they are and use caution.
- Section 3. As presently written, there is no time limitations for accumulating points (good ones), thus driving records must be maintained indefinitely. This proposition is costly, plus records are available for dissemination long past their usefulness by the Division of Motor Vehicles, criminal justice agencies, or insurance companies.
- As presently written, the intent of the point system could be nullified in some instances, again, mainly due to no time limitations. A person could easily accumulate 40 credit points or more by the age of 75, become an extremely bad driver, and the point accumulation would not identify him as a problem driver.
- Section 4. This section would exempt school busses from the dates vehicles are required to remove studded tires or chains on state roads. In most cases we are talking about approximately two (2) weeks on either side of the school year when school busses will have studded tires and the public will not use them. It saves the buss companies from having to purchase a totally new set of tires. Also, although low areas may be snow free, some hilly areas of the state have snow earlier and the snow stays later.

SB

511

COMMITTEE REPORT
SENATE

FURTHER:

3/6/80

Date: 4/17/80

Mr. President:

The Committee on JUDICIARY has had SB 511

relating to criminal laws of the state

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 SB 511 same title
 new title
- and recommends CS SB 511 Do pass with the Judiciary Committee
- 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:

[Handwritten Signature]

[Handwritten Signature]

[Handwritten Signature]

CHAIRMAN

SENATE AMENDMENT

By The Senate Judiciary Committee

To: Amend SENATE BILL No. CS SB 511

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

10

4

After the word "material" add "or the use of drugs"

After the word [] after the word "material"

SENATE AMENDMENT

By The Senate Judiciary Committee

To: Amend SENATE BILL No. CSSB 511

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

10

4

Delete the period [.] after the word "alcohol"
After the word "alcohol" add "or the use
of drugs"

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

POUCH KC - STATE CAPITOL
JUNEAU, ALASKA 99811

March 11, 1980

The Honorable Robert H. Ziegler, Sr.
Chairman, Senate Judiciary Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 511

Dear Senator Ziegler:

Attached is a copy of the letter which we have sent to judges, bar associations and other interested individuals along with copies of the referenced bill requesting that comments be forwarded to your committee by April 1. I've also attached a copy of the distribution list for the letter. If you notice anyone we may have inadvertently omitted, please let us know.

Also attached are ten copies of a draft commentary for the bill which explains it section by section in much the same way as the original commentary to the code. I've asked Barry to assume responsibility for committee presentations on the bill. I will, of course, be available myself on relatively short notice should you think it advisable. Many thanks for your assistance.

Very truly yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Dan Hickey
Daniel W. Hickey
Chief Prosecutor

DWH:gm

Enclosures

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

POUCH KC - STATE CAPITOL
JUNEAU, ALASKA 99811

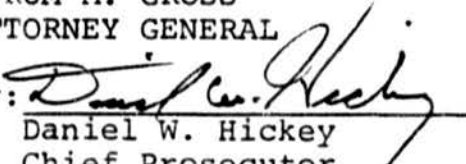
March 7, 1980

SB 511, "An Act relating to the criminal laws of the state" was introduced in the Senate on March 5, 1980, by the Senate Judiciary Committee. The Act makes 39 amendments to the revised criminal code which became effective January 1, 1980. The overwhelming majority of the amendments clear up drafting errors and unintended gaps in coverage in the code which were identified through the training sessions we recently conducted. The number of substantive changes have been kept to a minimum. The bill also reflects suggestions for amendments requested by a number of individual judges and the Advisory Committee on Minority Judicial Sentencing Practices.

Though the bill currently indicates referrals to the Senate State Affairs and Judiciary committees, it is our understanding that the State Affairs referral will be waived and the bill will only be considered in Senate Judiciary. Senator Robert H. Ziegler, Sr. the chairman of the Senate Judiciary Committee, has informed us that he plans to hold hearings on the bill in early April. He has asked us to request that you review the bill and forward any comments you might have about any of its provisions to him at Pouch V, State Capitol, Juneau, Alaska 99811 by April 1.

Very truly yours,

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DRAFT
COMMENTARY AND SECTIONAL ANALYSIS
FOR THE PROPOSED 1980 AMENDMENTS TO
ALASKA'S REVISED CRIMINAL CODE
Senate Bill 511

INTRODUCTION

In 1978 the Alaska Legislature enacted a comprehensive revision of the state's criminal law. (Ch. 166 SLA 1978). The bill adopting the revised criminal code provided for an eighteen month delayed effective date and became law on January 1, 1980.

During this eighteen month period the code was reviewed in conjunction with a comprehensive training program to identify possible problem areas so that any necessary corrective amendments could be made during the 1980 legislative session. SB 511 contains a total of 39 amendments. Three categories of amendments are included.

The overwhelming majority of the amendments proposed in the bill clarify particular provisions to more adequately reflect legislative intent. Included in this category are sections that correct drafting errors and oversights.

The second category includes two amendments, one to the homicide statutes and one to the assault statutes, which are designed to conform code provisions with decisions of the Supreme Court of Alaska announced simultaneously with or since adoption of the code.

The third category includes amendments which make substantive changes in the law. These amendments have been kept to a minimum and have been proposed through this bill only when particularly compelling reasons exist for the amendment.

The following material is a section by section analysis of the bill including a discussion of the effect of each amendment and why it is felt to be necessary. The analysis is organized in accordance with each chapter and article set out in the revised criminal code. Where no amendment has been proposed with respect to a particular chapter or article, a notation to that effect is included.

CHAPTER 16. PARTIES TO CRIME

No amendment proposed.

CHAPTER 31. ATTEMPT AND SOLICITATION

Section 1. AS 11.31.100. Attempt.

Section 2. AS 11.31.110. Solicitation.

Section 1 and section 2 of the bill contain identical amendments which provide that the Code's general attempt and solicitation statutes are to apply to unclassified crimes defined outside Title 11. Through an oversight, the Code's present attempt and solicitation statutes now only apply to crimes defined in Title 11 and classified crimes defined outside Title 11.

The amendments provide that the maximum penalty for an attempt or solicitation to commit a crime outside Title 11 will ordinarily be one-half the maximum punishment for the crime that is attempted or solicited. This penalty structure is identical to the punishment provided for attempts under the repealed attempt statute, AS 11.05.020.

CHAPTER 41. OFFENSES AGAINST THE PERSON

ARTICLE 1. HOMICIDE

Section 3. AS 11.41.115. Defenses to Murder.

This section constitutes a conforming amendment to subsection (e) of AS 11.41.115 and is discussed in conjunction with Section 39 of the bill which repeals AS 11.41.115(d).

ARTICLE 2. ASSAULT AND RECKLESS ENDANGERMENT.

Section 4. AS 11.41.210. Assault in the Second Degree.

This amendment makes two changes to the Assault in the Second Degree statute in order to conform those sections pertaining to assaults with a dangerous instrument to conduct included under the former law. Amended paragraph (1) covers the situation when a person intentionally causes physical injury by means of a dangerous instrument. Under the old law this conduct was the felony crime of Assault with a Dangerous Weapon, a felony. Under the new code, however, this conduct would only be included under Assault in the Third Degree, a misdemeanor, absent the presence of an intent to cause serious physical injury. The proposed amendment closes this obvious gap in coverage.

The amendment also provides that Assault in the Second Degree under new paragraph (3) can be committed "recklessly", "knowingly" and "intentionally" (See AS 11.81.610(c)) instead of only "intentionally". The effect of this amendment is to restore what is commonly referred to as "ADW" (Assault with a Dangerous Weapon) to a general intent crime from a specific intent crime.

Providing specifically that an assault with a dangerous instrument is a general intent crime is consistent with Menard v. State, 578 P.2d 996 (Alaska 1978), a decision published by the Supreme Court during the final days of the legislature's consideration of the Code. In Menard, the court held that a "jury did not have to find any specific intent to do any particular kind or degree of harm to the victim in order to find [the defendant] guilty of assault with a dangerous weapon." Id. at 970. With the additio. of the word "recklessly" the Code provision would be consistent with the court's prior interpretation of the repealed "ADW" statute in Menard and would restore "ADW" to a general intent crime.

Section 5. AS 11.41.230(a)(1). Assault in the Third Degree.

Because of the general rule regarding proof of higher forms of culpable mental states in AS 11.81.610(c) (proof of a higher form of culpability establishes a lower form) this amendment deleting the unnecessary words "intentionally or" has been made.

ARTICLE 3. KIDNAPPING AND RELATED OFFENSES.

Section 6. AS 11.41.300(a)(1). Kidnapping

This amend clarifies that "restraint" (defined in AS 11.41.370(3)) of a victim with intent to commit a

sexual assault is kidnapping. While such conduct is already generally covered under AS 11.41.300(a)(1)(E), it is preferable to specifically prohibit this particularly serious form of conduct in the kidnapping statute.

It should be noted that this amendment would not turn a restraint that was merely incidental to a sexual assault into kidnapping. For example, a defendant who forces a victim who is jogging along a bike path into woods a few feet from the bike path in order to commit a sexual assault has not committed kidnapping. The "restraint" of the victim was too closely related to the sexual assault, both in time and the degree of movement, to qualify as a separate crime. However, if the victim was forced into the defendant's car and then driven a block to a nearby deserted house and sexually assaulted, or sexually assaulted while his accomplice was driving the car, kidnapping has occurred. In this situation the restraint was specifically done to facilitate the commission of the felony and there was significant confinement or movement of the victim beyond that necessary to commit the sexual assault. (See generally Levshakoff v. State, 565 P.2d 504 (Alaska 1977)).

Section 7. AS 11.41.410. Sexual Assault in the First Degree.

Section 8. AS 11.41.440. Sexual Abuse of a Minor.

Section 7 amends the Sexual Assault in the First Degree statute to provide that causing or inducing a child

under 13 to engage in sexual penetration with another person (regardless of age) is prohibited in the same manner as actually engaging in sexual penetration with the child.

Similarly, section 8 amends the statute on Sexual Abuse of a Minor to cover causing or inducing children under 16 and 13 to engage in acts of sexual penetration and contact, respectively. Also prohibited is causing or inducing a child to engage in conduct described in paragraphs (2)-(6) of the Unlawful Exploitation of a Minor statute (AS 11.41.455(a)), even though no commercial purpose can be established. Paragraph (1) of AS 11.41.455(a), covering sexual penetration, is not included since this conduct has already been covered either in section 7 if the child is under 13, or under paragraphs (1) and (2) of section 8.

ARTICLE 5. ROBBERY

No amendment proposed.

CHAPTER 46. OFFENSES AGAINST PROPERTY

ARTICLE 1. THEFT AND RELATED OFFENSES

Section 9. AS 11.46.210. Theft By Failure to Make Required
Disposition of Funds Received or Held.

This amendment makes no substantive change in this statute but conforms language in subsection (b) to the

Code's consolidated theft statute. The amendment clarifies that a person who engages in conduct described in AS 11.46.210 is prosecuted for "Theft" under AS 11.46.120-150 and not for "Theft by Failure to Make Required Disposition of Funds Received or Held" (See AS 11.46.110).

Section 10. AS 11.46.220. Concealment of Merchandise.

This amendment makes two changes to the Concealment of Merchandise statute. The first is a technical one and clarifies the intent element in language that more closely parallels the general theft provisions. See AS 11.46.100(1). While the definition of "intent to deprive" (AS 11.46.990(2)) is broad enough to include conduct included within the definition of "intent to appropriate" (AS 11.46.990(1)), it is preferable to closely parallel the general language of the theft statutes in the Concealment of Merchandise statute.

The second change is to provide that the concealment of any firearm, regardless of value, is a class C felony. This amendment is intended to conform the Concealment of Merchandise statute with the general theft statutes which provide that the theft of any firearm is a class C felony. See, AS 11.46.130(a)(2).

ARTICLE 2. BURGLARY AND CRIMINAL TRESPASS

Section 11. AS 11.46.320. Criminal Trespass in the First Degree.

This amendment clarifies that a trespass on land with intent to commit a crime is covered specifically as a class A misdemeanor. While this section of the trespass statute was intended by the legislature to only apply to trespasses on land, the term "real property" has traditionally included both land and buildings. (However, note the definition of "premises" in AS 11.81.900(b)(42) which treats "building" and "real property" as distinct categories). To avoid potential overlapping coverage with the Burglary in the Second Degree statute, which specifically covers an unlawful entry into a building with intent to commit a crime, this technical amendment is required.

ARTICLE 3. ARSON, CRIMINAL
MISCHIEF, AND RELATED OFFENSES

Section 12. AS 11.46.482. Criminal Mischief in the Second
Degree.

The legislature adopted an approach to "joyriding" that aggravates the misdemeanor crime to a felony when the vehicle taken was damaged or the owner incurred expenses in an amount of \$500 or more. As drafted, the statute seems to require that either \$500 in damage or \$500 in expenses result. The situation, for example, where the vehicle is damaged in an amount of \$300 and the owner incurs \$300 in rental expense would not appear to be a felony since even though the total loss was in excess of \$500, neither the damages or the expenses exceeded \$500. Although this particular

question was not specifically considered by the legislature in 1978, it would seem consistent with the overall statutory scheme to impose felony penalties under these circumstances. Additionally, this amendment clarifies that strict liability is imposed on the defendant as to the element of causing damage to the car or expenses for the owner.

ARTICLE 4. FORGERY AND RELATED OFFENSES

No amendment proposed.

ARTICLE 5. BUSINESS AND COMMERCIAL OFFENSES

Section 13. AS 11.46.600. Scheme to Defraud.

Because of a drafting error, a scheme to obtain \$10,000 from one or more persons was made a class B felony regardless of whether criminal intent was present. This amendment corrects this problem by specifying the applicable intent requirement.

Section 14. AS 11.46.620. Misapplication of Property.

This amendment allows for the possibility of felony prosecution when the value of the property misapplied is \$500 or more. Currently, all cases involving the misapplication of property (usually by a fiduciary) are classified as class A misdemeanors regardless of whether the value of the property misapplied was \$25 or \$25,000. Because of the

possibility of significant pecuniary losses caused by misapplication of property, higher penalties should be authorized. In providing for felony penalties when the property involved is \$500 or more, the statutory scheme is consistent with the penalty structure applicable to theft offenses.

CHAPTER 51. OFFENSES AGAINST THE FAMILY

Section 15. AS 11.51.130. Contributing to the Delinquency
of a Minor.

The Alaska Bar Association Criminal Law Committee has noted that the code's contributing statute is overbroad because of the inclusion of the word "permits". This amendment strikes the word "permits" from paragraphs (1)-(4) of the statute and uses the uniform language "aids, induces, causes or encourages" in describing the acts sufficient to constitute the crime. Additionally, a new paragraph (5) has been added which covers aiding, inducing, causing or encouraging a child under 16 to absent himself from the lawful custody of his parents or from school. This conduct was included under the former contributing statute. See, AS 11.40.130 and AS 11.40.130(4). It should be noted, however, that the offense does not occur when the child has "just cause" to be absent from custody.

CHAPTER 56. OFFENSES AGAINST PUBLIC ADMINISTRATION

ARTICLE 1. BRIBERY AND RELATED OFFENSES

No amendment proposed.

ARTICLE 2. PERJURY AND RELATED OFFENSES

No amendment proposed.

ARTICLE 3. ESCAPE AND RELATED OFFENSES

Section 16. AS 11.56.310. Escape in the Second Degree.

Section 17. AS 11.56.320. Escape in the Third Degree.

Section 18. AS 11.56.330. Escape in the Fourth Degree.

Section 19. AS 11.56.370. Permitting an Escape.

Sections 17 and 18 provide that if a person commits an Unlawful Evasion (failure to return to a correctional facility following temporary leave) and leaves or attempts to leave the state the crime is Escape in the Third Degree, a class C felony and not Escape in the Fourth Degree, a class A misdemeanor. The penalties for escape under the new code were intended to closely parallel the penalties for escape provided in former AS 11.30.095, the escape statute enacted in 1976. Because of an oversight in drafting, the penalty for the conduct described in AS 11.56.320(a)(2) was

reduced from a felony to a misdemeanor. This change is inconsistent with the remainder of the statutory scheme on escape which provides that an unlawful evasion without leaving the state is itself a class A misdemeanor.

Additionally, sections 16-19 replace the words on "a charge of" with the word "for". This amendment is required to make clear that escape and permitting an escape can occur when a person has been arrested for a crime, though not necessarily formally charged with a crime by way of complaint, indictment or information.

ARTICLE 4. OFFENSES RELATING
TO JUDICIAL AND OTHER PROCEEDINGS

No amendment proposed.

ARTICLE 5. OBSTRUCTION OF PUBLIC ADMINISTRATION

No amendment proposed.

CHAPTER 61. OFFENSES AGAINST PUBLIC ORDER

ARTICLE 1. RIOT, DISORDERLY
CONDUCT, AND RELATED OFFENSES

No amendment proposed.

ARTICLE 2. WEAPONS AND EXPLOSIVES

Section 20. AS 11.61.210. Misconduct Involving Weapons in
the Second Degree.

This amendment provides that the standard for determining whether a person's possession of a firearm while intoxicated is unlawful is whether the defendant was "under the influence" and not whether he was "substantially impaired". The "substantially impaired" language was included in the Commission's draft of the code because the statute applied to all deadly weapons (such as knives and explosives) and not only to firearms. Because of the expanded range of instruments covered by the statute, it was felt that the test for determining impairment should be made more restrictive. In the legislature the statute was amended to apply only to firearms. However, the standard for determining impairment was not specifically addressed.

The "under the influence" standard is identical to the test under the former statute, AS 11.55.070, and has the benefit of previously accepted jury instructions which define when a person is "under the influence". Additionally, the "substantially impaired" standard is not defined by the code.

Section 21. AS 11.61.220(b)(1). Misconduct Involving Weapons
in the Third Degree.

This amendment clarifies that a defendant has an affirmative defense to the carrying a concealed weapon prohibition of the weapons statute if he is in his dwelling or on land owned or leased by him which is appurtenant to his dwelling. As drafted, the defense applied when the defendant was in his dwelling or on "property" appurtenant to his dwelling. The proposed amendment clarifies the provision consistent with the legislative intent expressed at the time the Code was enacted.

The proposed amendment makes it clear that the defense should only apply to situations where the person is in his back yard or on any other land owned or leased by him directly attached to his dwelling. Additionally, it avoids the possibility that a bar owner or other merchant will claim that possession of a concealed weapon while on business premises attached to his dwelling was authorized by this provision.

CHAPTER 66. OFFENSES AGAINST
PUBLIC HEALTH AND DECENCY

No amendment proposed.

CHAPTER 76. MISCELLANEOUS OFFENSES

No amendments proposed.

CHAPTER 81. GENERAL PROVISIONS

ARTICLE 1. GENERAL PURPOSES

No amendments proposed.

ARTICLE 2. APPLICABILITY OF CRIMINAL STATUTES

No amendments proposed.

ARTICLE 3. CLASSIFICATION OF OFFENSES

No amendments proposed.

ARTICLE 4. GENERAL PRINCIPLES OF JUSTIFICATION

Section 22. AS 11.81.300. Justification: Defense.

Because of the specification of AS 11.81.400(a)(2) as an affirmative defense (discussed in conjunction with sec. 23, infra) this conforming amendment is required.

Section 23. AS 11.81.400. Justification: Use of Force in
Resisting Arrest.

This amendment makes two changes to the statute describing when a person may resist an unlawful arrest. Subsection (c) makes the defense an affirmative one which the defendant must prove by a preponderance of the evidence. The defense provided for is one that should be appropriately made an affirmative defense consistent with other provisions of the code because it exists only as a matter of legislative policy and involves a matter that is subjectively in the possession of the defendant. Additionally, because this defense expands the current rule of law with respect to the circumstances when resistance is allowed, shifting the burden of proof on the issue is clearly permissible.

Subsection (d) provides that the issue of whether there was probable cause to arrest is a question of law that is to be determined by the court. While the current provision would undoubtedly be interpreted to include this provision consistent with other similar provisions in the criminal law, it is preferable to specifically set out this procedure.

ARTICLE 5. GENERAL PRINCIPLES OF CRIMINAL LIABILITY

Section 24. AS 11.81.600. General Requirements of Culpability.

This amendment makes two changes regarding the

code's general rules on culpability. The first is to clarify the general rule concerning culpability and to make clear that, with certain specified exceptions, a culpable mental state must be proven for every crime. For example, to commit Burglary in the Second Degree the state must establish that the defendant entered or remained unlawfully in a building with intent to commit a crime. The culpable mental state in this case is the intent to commit a crime. If the state establishes a voluntary act by the defendant in entering or remaining in a building, and in addition shows he acted with the intent to commit a crime, the crime of Burglary in the Second Degree has been established.

The second change provides that culpability need not be established if a legislative intent to dispense with the culpability requirement appears. While the decision to eliminate the culpable mental state requirement must comport with constitutional due process guarantees, the courts should be specifically authorized to consider the legislature's intent (and most importantly, the commentary accompanying passage of the code) in determining whether the legislature intended to dispense with the culpability requirement.

Section 25. AS 11.81.620. Effect of Ignorance or Mistake
Upon Liability.

This amendment emphasizes that in order for a

defendant's mistake of fact to constitute a defense to a crime the mistake must be a reasonable one. While the reasonableness requirement is probably already included in this statute, this amendment is desirable to avoid potential litigation in the area.

ARTICLE 6. DEFINITIONS

Section 26. AS 11.81.900(b)(11). Definition of "dangerous instrument."

This amendment is required in order to make it specifically clear that all "deadly weapons" (including unloaded firearms) are "dangerous instruments" consistent with the legislative intent expressed with enactment of the code.

Section 27. AS 11.81.900(b)(12), Definition of "deadly force".

During the legislature's consideration of the justifiable use of force, the issue whether deadly force could be threatened in situations when its actual use would be improper was frequently discussed. Because of the possibility that such threats could tragically escalate a conflict, the legislature concluded that only peace officers making an arrest should have the authority to threaten deadly force in situations where the actual use of deadly force was not justified. See AS 11.81.370.

While making this specific change in AS 11.81.370 no corresponding change was made in the definition of "deadly force". While it can be argued that because of the express inclusion in AS 11.81.370 of the phrase "a peace officer may use nondeadly force and may threaten to use deadly force" nondeadly force does not include a threat of deadly force, the definition of deadly force appears to provide otherwise. This amendment provides that pointing a firearm in the direction of another person as well as intentionally placing another person in fear of imminent serious physical injury by means of a dangerous instrument constitutes deadly force.

Section 28. AS 11.81.900(b)(21). Definition of "Firearm".

This amendment is included to correct a potential drafting oversight and clarifies that an inoperable firearm is included within the definition of firearm. While it would seem to be the case that inoperable firearms are already included within paragraph (B) of the current definition of firearm ("any weapon, whether loaded or unloaded, designed for discharging a shot capable of causing death or serious physical injury"), it is preferable to specifically state that inoperable firearms are included in order to avoid unnecessary issues being raised during trials.

Section 29. AS 11.81.900(b)(49). Definition of "Serious
Physical Injury".

This amendment provides that serious injury to a body member as well as a body organ will specifically qualify as serious physical injury. This amendment is identical to the definition of "great bodily injury" appearing in the former aggravated assault statute, AS 11.15.225, which was enacted in 1976 and which the legislature intended to parallel in the definition of "serious physical injury". However, because of a drafting oversight, the word body member did not appear in the definition of "serious physical injury".

Section 30. AS 12.25.180. When Peace Officer has Option to Take
Person Before Judge or Magistrate.

Though the criminal code provided for noncriminal offenses called violations (e.g., littering) it did not provide a specific enforcement mechanism for dealing with a suspect who has committed a violation. This amendment authorizes the use of citations and provides that a peace officer will ordinarily issue a suspect a citation for a violation consistent with the provisions in existing AS 12.25.190 -- AS 12.25.220. However, if the suspect refuses to identify himself or refuses to accept the citation, authority is given to the officer to bring the suspect directly before a judge or magistrate.

Section 31. AS 12.30.040. Release After Conviction.

This amendment makes conforming amendments in the statute prohibiting bail upon conviction for four specified crimes. The names of the four crimes have been changed to reflect the corresponding new names for the crimes under the Code.

Section 32. AS 12.55.015. Authorized Sentences.

AS 12.55.015(b) lists three circumstances when a judge is required to impose imprisonment in situations where a nonincarcerative alternative is not otherwise precluded. Because the presumptive sentencing scheme will usually require the imposition of some period of imprisonment for repeat felons, absent mitigating factors or extraordinary circumstances, this section is of particular importance in the sentencing of misdemeanants and first time felons.

The amendment changes paragraph (3) to more narrowly define the circumstances when imprisonment is required. The amendment addresses the specific concerns expressed by the Advisory Committee on Minority Judicial Sentencing Practices and eliminates the possibility that imprisonment will be required whenever a court on a single occasion in the past has imposed a sentence of lesser severity on the defendant. The amendment additionally conforms this provision to the underlying legislative intent that accompanied enactment of

presumptive sentencing.

Section 33. AS 12.55.045. Restitution.

As presently drafted, the code requires that before a court may order restitution the victim of the crime must be notified. Several judges have criticized this provision as unduly burdensome since in many cases the location of the victim will not be known by the court. This amendment eliminates the necessity of notifying the victim every time restitution is ordered. While notification will occur as a matter of course in most cases, the failure to provide notification should not prevent the court from imposing a sentence of restitution.

Section 34. AS 12.55.155(c)(8). Modification of Aggravating
Factor.

In response to a further suggestion by the Advisory Committee on Minority Judicial Sentencing Practices, this amendment more narrowly describes the aggravating factor that the defendant has a prior criminal history of assaultive behavior, including misdemeanor convictions.

Section 35. AS 12.55.155(c). Aggravating Factors Added.

This amendment adds three aggravating factors that a judge may consider in imposing a presumptive sentence.

The first treats the presence of three or more prior felony convictions as an aggravating factor. This amendment is required since the Code recognizes that two or more prior felony convictions will place the defendant in the most serious category for purposes of presumptive sentencing. However, no provision specifically allows the judge to consider the fact that the defendant may have, for example, six prior felonies as opposed to only two. This amendment allows the judge to consider prior felonies beyond those necessary to place the defendant in the most serious category of presumptive sentencing as an aggravating factor.

The second and third proposed additional factors are intended to be applicable in the sentencing of "white-collar" criminals. These include the fact that the defendant intended to obtain substantial gain under circumstances where the risk of prosecution and subsequent punishment were minimal and the fact that a defendant's crime was part of a continuing series of offenses in furtherance of an illegal business from which the defendant derives substantial income.

Section 36. AS 12.55.155(d). Mitigating Factor Added.

This section adds an additional factor that can be used to reduce a presumptive sentence. This mitigating factor allows the judge to consider that the aggregate harm caused by the defendant's criminal conduct, including his