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P. O. Box 1260
Anchorage, AK 99510
November 12, 1978

Rep Joe McKinnon
3071 Lois Drive
Anchorage, AK 99503

Dear Mr. McKinnon:

Congratulations on your reelection. District 9 can certainly use your help. I hope you will lend your assistance in changing a provision of Chapter 136 SLA 1978. No significant cost is involved.

Chapter 136 affects only State employees outside of the various bargaining units. It caused 40% of their accrued sick leave to be added to their annual (now "personal") leave and the other 60% to be put in a sick leave bank. There is now no limit to the accrual of personal leave for these employees. The problem which I hope can be corrected is that the unused personal leave must be paid for in one payment at the time of termination or retirement. The Administration has followed up with regulations which include the same language, "....a lump sum payment....upon separation....".

With the addition of the former sick leave and no accrual limit, some of us older-timers are likely to have a lot of leave (like 6 or 8 months) accrued. Consider the huge loss in income taxes we will suffer if it should be necessary to quit or retire late in the year. For example, we might have to terminate in the 10th month and have 6 months of leave accrued. This would force us to pay taxes on 16 months' pay in one year. We would have to pay out 54 to 60% of the lump sum in federal and state taxes, compared to perhaps half that much in later years if we could collect it when on retirement pay only.

What I am asking you to do, please, is introduce and/or help pass a bill to allow for the lump sum terminal leave payment to be delayed or made in installments at the employee's discretion to allow maximum tax savings. This will require some extra bookkeeping by the state, of course, but it should cost very little considering the few employees affected. And, too, a precedent is set by the State's institution some years ago of a program of deferred compensation to allow employees to save on taxes.

An amendment as follows to the first sentence of Sec. 7 of Chapter 136 would probably accomplish the needed change: "Terminal leave for unused personal leave shall be allowed as a lump sum payment upon separation from service or in one or more later payments as agreed upon by the employee and the Department of Administration."

May I hear from you on this? Thanks very much.

Sincerely,

James A. Williams
James A. Williams

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

The Alaska Industrial Development Authority is a public corporation of the state and a subdivision within the Department of Commerce and Economic Development, with a separate and independent legal existence.

Membership includes the Commissioner of Commerce and Economic Development (Chairman), the Commissioner of Revenue and the Commissioner of Natural Resources (ex-officio). The local government of an area in which an authority project is located may appoint three members to the authority only for that project with the following exceptions: projects having to do with tourism, industrial parks, parking facilities, air pollution, waste control, air or water transportation or local furnishing of electric energy or gas.

The states purpose of the authority is to promote, develop and advance the general prosperity and economic welfare of the people of Alaska, to relieve problems of unemployment and to create additional employment by providing a means of financing industrial and manufacturing plant construction, conversion or expansion within the state, including the acquisition of real property for lease or sale to business enterprises for industrial or manufacturing purposes.

POWERS: Usual corporate powers

May acquire, improve and equip projects in the state

May lease acquired projects upon their own terms with provisions for options to purchase or renew

May issue bonds to pay the cost of acquiring or improving and equipping projects

May sell, exchange, donate, convey, encumber real or personal property owned by it if in best interest of corporation

May accept gifts, loans, federal grants or state or municipal agencies or private concerns

May deposit or invest funds subject to agreement of bondholders

May enter into contracts or agreements and do all things necessary to carry out corporate purpose

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 139

Title "An Act relating to the Alaska Industrial Development Authority"

Requested by Senator Ray Date March 12, 1979

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development

Program Category Affected _____

Budget Request Unit(s) Affected _____

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

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

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
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)

IV. DATE March 12, 1979 PREPARED BY Bert Wagon, Deputy Commissioner
AGENCY Commerce & Economic Development
PHONE 465-2500

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

HB

102

CSHB 102

Pertaining to works of fine art

Sponsor's

{ Eliason,
Gurman,
Miller, Parr.

Kelly was chairman when this passed with three "do passes"
(Kelly, Zeigler, Bradely)

This bill will protect works of fine art from being con-
fiscated by creditors of the art dealers.

- Attached:
- 1) Bill
 - 2) Back up
 - 3) Minutes

House Vote: 38 to 0 2 excused.

38
38 to 0
2 excused
2 excused was sponsor of bill

Bob

You probably should ask the C.S.M.B. be adopted:
The only difference in it than original is that
definition of Fine Art includes photograph. Sponsor
has this added ^{this} because he received ~~it~~ a letter
from a ~~the~~ constituent who is a professional photographer

Original sponsors: Eliason, Duncan,
Miller and Parr

Offered: 2/12/79
Referred: Rules

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 102

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL.

6 For an Act entitled: "An Act relating to rights in works of fine art."

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

8 * Section 1. AS 45.05.120 is amended by adding a new subsection to read:

9 (e) Whenever an artist delivers or causes to be delivered a work
10 of fine art of his own creation to an art dealer for the purpose of
11 sale, or exhibition and sale to the public on a commission or fee or
12 other basis of compensation, the work of fine art is not subject to the
13 claims of the art dealer's creditors. For the purposes of this sub-
14 section

15 (1) "art dealer" means a person other than a public auc-
16 tioneer engaged in the business of selling works of fine art;

17 (2) "artist" means the creator of a work of fine art;

18 (3) "fine art" includes a painting, sculpture, drawing,
19 photograph, or work of graphic art.
20
21
22

that a bank or attorney would charge makes it scarcely worthwhile to set up a trust of less than \$10,000. If you elect to establish one of these special personal trusts, your attorney must draw up a standard trust document and should review your will.

Currently only two institutions offer these special trusts, but more are expected to follow, and we'll keep you informed:

Home Federal Trust, P.O. Box 1401, San Diego, CA 92112 (714-238-7241).

City Trust Services, 1141 E. Jersey St., Elizabeth, NJ 07201 (201-527-8813).

Check with the institutions for the tax implications of setting up a trust in your state and what assets they will accept for inclusion.

Marketing

ARTISTS' AGENTS: WHO ARE THEY?

Not a week goes by that we don't get a letter from one of you asking for the names of artists' agents or representatives. We don't know of any, but we thought this might have something to do with the fact that artists' agents aren't a New York phenomenon. So we asked Calvin Goodman, West Los Angeles-based consultant to artists, if he knew who they were.

Said Goodman, "The only artists' agents I know are either related to the artist or close friends. They are in the business not for the money, but because they have a deep personal commitment to the artist and his work."

The reason for this is economics, Goodman continues. Unlike agents who represent entertainers or writers, where there's a lot of money involved, artists' agents can't really make a living selling art after travel, entertainment, and other expenses have been deducted. An artist's agent's role is to build a reputation and find collectors for the artist. Once this has been accomplished, the artist will usually go with a gallery, at which time the agent must bow out. Or, if the artist wishes to be represented by many galleries in a wide geographic area, the agent can continue to represent the artist and make contacts across the country with various galleries. But look at the commission he will get. Most galleries take a 40% commission. This means that the agent's commission must come out of the other 60% that would ordinarily go to the artist, reducing the agent's commission to perhaps 10% to 25%, just not enough for a profitable

business. Nor is it likely that the artist will want to give up this much of his income.

Therefore, the only people who go into the business, aside from those with a vested interest in the artist, are fools who haven't figured out the economics yet, or scoundrels who are out to fleece you. These are people who will represent you for a fee, usually paid in advance. So, Goodman concludes, if you should be contacted by an artist's representative and decide anyway to give him a try, never pay him until after he produces sales.

Galleries

WHEN A GALLERY GOES BANKRUPT, WHAT HAPPENS TO THE ART?

One of the questions on our readership survey was, "What kind of legal problems have you encountered?" A not insignificant number responded, "Paintings held when a gallery went bankrupt," an all too familiar story to many artists who consign work to galleries. Just take the case of what happened in Omni, Florida, earlier this year, as reported in the *Miami Herald*.

Galeria Art Gallery opened its doors on June 8 with ambitious plans for showings, only to surprise suppliers and landlord alike by closing down on July 24. Gone was the owner, Richard Fox, a man described by most involved as a reputable businessman. His home phone was disconnected and he moved from his apartment, leaving no forwarding address. Few knew of his impending departure; even the Gallery Director was stunned.

But the Central National Bank in Miami knew. According to the bank's attorney, it had received a letter from Fox's corporation—Motif Gallery Art, Inc.—advising it of the shutdown. He added that the corporation owed the bank a substantial sum."

Another bank attorney, when asked what was happening to the art consigned by artists to the gallery, explained: "It's my understanding that the inventory of the Galeria was pledged to the bank as collateral. Sure, we've been besieged by phone calls from artists and other interested parties. . . . But the bank is a lender and has to protect its interests." Bank officials went on to say that they were in the process of making an inventory and in due time the artists would get to see what it had. In the meantime, they were left wondering whether the bank had their work, whether Fox had taken it with them when he disappeared, or what had happened to it.

The problem here revolves around the issue of consignment. So let's take a closer look at the term and how you may be able to protect your work when you consign it. The following is taken from *This Business of Art*, by Diane Cochrane (Watson-Guptill Publications, 1515 Broadway, New York, NY 10036, \$12.50. AABL subscribers may request a 20% discount on the book).

"What exactly does the term 'consignment' mean? When you consign work to a dealer, you set up an agency relationship with him. Under the law, as an agent, he must take care of your work and pay for any loss or damage suffered while work is in his possession if he hasn't exercised reasonable care to protect it. In other words, if work is stolen from an unattended, unlocked gallery, the dealer would have to repay you for the work.

"Consignment also means that while your dealer has the power to sell your work, you own it until you have been paid in full for it.

"Now, this sounds good, but in actuality a dealer-agency relationship is fraught with a certain amount of danger. If the dealer goes bankrupt, consigned work may be seized to satisfy the claims of his creditors.

"How can I prevent my work from being seized by creditors? It's difficult unless you live in New York or California (see below for what happens in these two states). About the only recourse you have is to fill out UCC Form No. 1, which guarantees your rights to your work under the Code.

What does a UCC Form No. 1 do? It prevents consigned work from being subject to the claims of creditors. In essence, it allows you to place a lien against the work. This means you have first claim on it and will get it back if and when creditors descend on the dealer.

What's wrong with filing this form? It's a cumbersome procedure and one which most dealers are reluctant to agree to. When you file UCC Form No. 1, your dealer cannot sell the work until the lien is removed by you. This means he has to contact you, and you have to remove the lien on the work in writing, a process not designed to expedite sales. Nevertheless, if you consign a number of works, each worth hundreds of dollars, you can't risk not asking your dealer to allow you to file a UCC form on the work.

Where do I get and file this form? Most legal stationery stores carry them or can get them for you. To file the form, check with either your County Clerk's office or the Secretary of State for the proper procedure; they'll tell you where to file the form and how

much it will cost to file—usually a few dollars.

Why is it unnecessary to file this in New York or California? These two states have enacted laws automatically guaranteeing the rights the filed form provides, so you don't have to worry about work being claimed by creditors."

Contracts

MODEL CONTRACT FOR ILLUSTRATORS

by Tad Crawford

© Tad Crawford 1978

The new copyright law (effective January 1, 1978) requires the use of written contracts for the purchase of exclusive reproduction rights in artwork. For this reason, many publishers and other users of commercial art are now demanding that artists sign written contracts instead of following the more casual procedures that were often in effect prior to January 1, 1978. Commercial artists are having to learn more about what rights can be sold in their art and how contracts for the sale of reproduction rights can be negotiated. The model contract shown here is intended to aid commercial artists by drawing their attention to the issues that are likely to become troublesome in selling reproduction rights in their art. It is drafted as if written by the purchaser, but an artist can easily modify the contract and place the needed provisions on the artist's own stationery.

The most important points the contracts makes are:

- The contract clearly shows that only limited rights of usage are transferred, so that additional payments will have to be made for additional uses of material.
- It provides for the payment of cancellation fees.
- It calls for copyright notice to appear in the artist's name. This is desirable because the copyright law allows a group registration for one \$10 fee for all artwork appearing in magazines during a twelve month period, but only if copyright notice in the artist's name appeared with the artwork. By letting the artist register inexpensively, the benefits of copyright registration can be obtained. Also, it's important to keep in mind that the magazine's registration does not register the artist's copyright in his or her contribution. This is explained in more detail in Copyright Office Circular #60a, which can be obtained free by writing to the Copyright Office, Library of Congress,

DONALD PIATT KOCH

P.O. BOX 2114

JUNEAU, ALASKA 99805

Res. 907.789.9497

Office 907.463.2515

February 6, 1979

The Honorable Richard I. Eliason
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Eliason

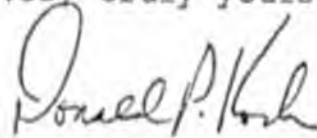
Re: HB 102

"An Act relating to rights in works
of fine art"

Your proposal introduced on January 31, 1979 is most welcome and will hopefully receive favorable consideration by the Legislature.

I am and have been a professional photographer for about 6 years, albeit, on a part-time basis. I and others like me do place work on consignment and are thus exposed to the same problems HB 102 is intended to remedy. Photographers have for years been fighting to have their work viewed as an art form with varying degrees of success. Many have had their work on consignment with art dealers. I personally have had such on several occasions. I urge that you consider extension of the protection of this proposal to photographic works by inserting the word "photograph" on line 18 following the word "drawing,". Thank you.

Very truly yours,



Donald P. Koch

cc: Rep. Duncan
Rep. Miller
Rep. Parr
House State Affairs Committee

HB

147

SUMMARY

This bill amends statutes concerning the motor vehicle code.

SECTIONAL ANALYSIS

AS 28.10.011 VEHICLES SUBJECT TO REGISTRATION. This section is amended only by the addition of the words: every vehicle driven, moved or parked upon a highway or other parking place in the state shall be registered under this chapter. The statute goes on to list exceptions. ^(S) FINANCE CS JUST ADDS ONE NEW EXCEPTION TO LIST (MAKING

Existing statute states that with certain specific exceptions, every vehicle in this State is subject to registration and thus would be subject to title requirements. Under this law the way it currently reads places undue hardship upon a certain percentage of vehicle owners in the State, that is, owners of vehicles that have not been subject to vehicle registration in the past. Example: trail bikes, dune buggies, and other off highway type vehicles, etc.

Also, vehicles owned or possessed by people in the bush and non-urban areas who have come by their vehicles in the past through methods that are neither legal or illegal but have no way to prove their ownership to the vehicles in a manner prescribed by law. When these people become subject to registration, that is, subject to title requirements, they will be forced by statute to provide the same documentation as any other vehicle owner in order for them to comply to the law. They will be unable to do so. They will also in most cases be unable to provide proper bonding procedures because of lack of insurance agencies in these areas.

11 EXCEPTIONS
RATHER
THAN 10.

AS 28.10.181 - REGISTRATION OF UNIQUE AND SPECIAL VEHICLES AND VEHICLES USED FOR SPECIAL PURPOSES.

(K) This statute basically lists the kinds of vehicles that are considered by law to be "special" or "unique" (example-vehicles used by handicapped people, etc. historical vehicles). This bill would add to the list vehicles which are only occasionally used on the highway. It provides that the owner must show to the satisfaction of the department that the vehicle will travel upon state highways less than 5% of its total hours of operation. Provides that no more than two licenses of this kind may be issued to an individual.

AS 28.10 is further amended by adding new sections;

AS 28.10.216 - INADEQUATE EVIDENCE OF OWNERSHIP. This section provides for steps to be taken when the department is not satisfied as to the ownership of a vehicle or believes there may be undisclosed security interests in it. ^{THEY MAY REGISTER THE VEHICLE} The department may withhold the certificate of title until the applicant presents documents proving ownership and that there are no undisclosed security interests in the vehicle. The department may require the applicant, as a condition of issuance of title certificate, to file a bond or a deposit of cash.. Provides for type and size of bond or deposit and also provides for return of bond or deposit upon certain conditions.

AS 28.10.493 - MISDEMEANORS RELATING TO TRANSFERS. Provides that a vehicle owner or dealer who transfers a vehicle and fails to comply with transfer requirements is guilty of a Class B Misdemeanor.

AS 28.10.421(d)(2)-SPECIAL REGISTRATION FEES. Special Request Plates. Existing statutes state that special registration fees are imposed annually unless otherwise specified and the fee for special request plates is \$20.00; plus the fee required for that vehicle under (b)(1) or (2) of this section. This bill would amend this paragraph by adding that the \$20.00 fee shall be collected only on the first issuance and on the replacement of special request plates.

Existing law for an annual payment of \$20.00 in addition to regular registration fees for specialized plates is repugnant to the general public and has been mandated that it be repealed. The new law will now state, if passed, that the individual applicant for a specialized plate shall pay \$20.00 initially for the application and privilege of using the personalized plate, the same as in prior years, and will pay \$20.00 every time the plate is replaced due to loss, damage or replacement for a new license plate year.

AS 28,10.421(d) -SPECIAL REGISTRATION FEES. Sets fees for special registration vehicles and lists fee schedule as statute now reads. This bill would add a new paragraph (12) which includes occasional use vehicles and provides a \$15.00 registration fee.

STATE AFFAIRS COMMITTEE

March 19, 1979

147
minutes
for Bob's file

The meeting was called to order by chairman, Bob Mulcahy.

The first bill to be considered was CSHB 34. Representative Rogers, bill sponsor, testified on its behalf. He said it was simple legislation that requires a summary of the budget for the public for the next three years. He noted that there was a sunset clause in the bill so that in three years it would again come before the legislature to see if it was a good idea - if not it would automatically die.

The bill would add six pages to the income tax booklet - it would entail printing costs only since the information is already being compiled.

Senator Kelly made a motion the bill be moved out of committee, no objections.

The second bill up for consideration was HB 207. Dale Chief, Director of the Wage and Hour Division of the Department of Labor testified.

He asked the committee to amend the bill to clarify the language and to more clearly define 1) family of employees - so family of employees could also be moved unless there is a written agreement 2) he asked that the per diem rate be the same as the state instead of the existing \$35.00.

For the protection of the employer regulations under 20.010 sets out certain conditions in which employers would not be entitled to pay.

Senator Mulcahy said he understood that the dept. had met with processors on the bill.

Chief said yes and that there had been no disagreement. He said he had no reason to believe that processors had not cleared up their problems and that they were complying.

Senator Kelly wanted to know if under any conditions the state paid transportation for employees.

Chief said yes, however there was no obligation to pay a return trip.

Rodey pointed out that several years ago there was a similar law called the Blue Ticket Law.

Chief said this bill does about the same. The original bill was in 1949, however, he had not researched its history. The new bill results from the problems from the oil industry, fast food industry, etc.

Rodey asked if the employer doesn't have money who pays? Under the Blue Ticket Law it was felt that a place ticket outside cost less than the taxpayers expenses of unemployment.

STATE AFFAIRS COMMITTEE

March 28, 1979

The meeting was brought to order by the Chairman, Bob Mulcahy.

Rick Lauber of the Pacific Seafood Processors testified first on HD 207. He said the bill does what "we" think the original act would do.

"We have no objection to the bill whatsoever, it seems it does only what it should do anyway."

Ziegler asked if anyone had received the letter from the University. He pointed out that the question had been raised that the university does not want to pay for return trips.

Lauber said that processors had had similar situations where someone did not want to complete their contracts but that was covered by the department of labor. He said the only exceptions would be if the contract was really unreasonable.

Kelly said the president wants to be excluded from the bill.

As there were questions and Sen. Ziegler's office was looking for a copy of the letter to share with the committee the chairman addressed the next bill on the agenda.

Jay Hogan, Director of Legislative Finance testified on behalf of HB 45.

Hogan passed out a document compiled by Budget & Audit. The first page contained the act passed in 1977. The second page contained the Governor's veto message. The bill was vetoed then overruled by a unanimous vote of the legislature and put on the books.

The Attorney General's office advised that governor that the act was unconstitutional and the Governor failed to comply with the act.

In January the Governor ceased making transfers but at that time the value of the transfers was about \$2.5 million.

The up shoot is that Budget & Audit found themselves wishing to have no transfers or to have them in accordance to the law passed by the legislature. The legislature went to court knowing they had no power to sue. Without the power to sue the legislature has no power at all during the interim. If the legislature came in after Budget and Audit had filed a suit and said go ahead made Budget & Audit feel that the legal problems on power had been solved.

The committee realized the governor was ignoring the law in August and tried to get a private suit or former legislator but without success. Finally Ramona Kelly sued as a private citizen.

Kelly wanted to know how the legislature goes about suing - if it must be done during the session.

Hogan said there are limited rights. He said the legislature was trying to enforce the law and Budget & Audit was trying to get the law adhered to. It appears that a legislative resolve is necessary to continue the suit. The only other vehicle the legislature would have would be to anticipate problems ahead of time and instruct Budget & Audit what to do before they adjourn and that would be nearly impossible to do.

Rodger Pegues from the Attorney General's office testified next. He said that the AG's office opposes the legislation but does not oppose legislation on the subject. Congress resorts to resolution of the house or both houses and gets counsel to present their feelings. The U.S. Attorney General ruled it unconstitutional to bring actions to court. The United States Supreme Court ruled 9-0 that it was unconstitutional.

Surely the legislature could have representation when there is no legal interest at stake. Having house counsel with standing authority would bring in another body of expertise. I don't see a reason for both bodies to have counsel since most issues would be based on constitutional law. He said the bill probably violates the constitution since ours is not that different from the United States Constitution. He also said that the law that the Governor is not complying with is not the transfer law. He described contests where this had been tested.

He said this program would allow any suit. "I think it is a bad idea - I would rather get issues resolved before committees like this. There is more sophistication than in the Supreme Court. I think the bill is an invitation to trouble."

Billy Berrier, Director of Legal Services testified next.

He again passed out copies of the Governor's veto.

He said that it is true that many of the questions that would be involved in this bill such as questions of ballot propositions, questions on a mandate to spend, etc. are resolved in other ways.

The ballot proposition for the constitutional amendment was worded such that the legislature felt it would change the outcome of the election. After the legislature adjourned they didn't want a special session so the Legislative Council brought a suit. The judge did not decide the constitutionality question. In Pennsylvania the legislature does have the power. The Attorney General has asked for the decision to be dismissed but there hasn't been a decision yet. Berrier said he hadn't attended the Budget and Audit meeting but both bodies felt it was an important piece of legislation.

Rodey said it was a complex legal problem. The question is when the Governor refuses to comply with the law who will carry it out - the legislature or the public. Because of the checks and balances set up within our government he feels the legislature should. To require a private citizen seems undesirable. The Legislature being able to sue carries out the intent of the constitution.

Most cases would deal with constitutional issues and the court is the proper place to deal with constitutional issues.

Berrier said the type of questions that come up are constitutional, not dealing with something easy that can be solved politically.

Ziegler said he has great reservations but is inclined to vote "do pass".

Kelly wanted to know if the legislature could sue during session.

Berrier said if a resolution is passed.

There was discussion on the reapportionment case.

Ziegler received the letter from the University and said the statutes state that the University is exempt so that should solve his question.

Hogan requested an alternative membership to call on to make up a quorum during the interim for meetings and explained past problems.

Ziegler said it was a worthwhile amendment.

Bradley made a motion it be accepted.

Rodey made a motion the bill be moved out of committee.

Representative Randolph testified on HJR 12. He said it was a very simple resolution making a request on Congress. He said it would be hard to pass in Washington but he felt it was worthwhile for the people of Alaska to ask. He said it would have no affect on the state income tax.

Mulcahy asked for a motion to move the bill out of committee. Bradley made the motion.

Mulcahy asked if SB 207 was resolved to everyones satisfaction.

Kelly made a motion to move the bill with individual recommendations.

Mulcahy said as a matter of housekeeping he would ask for acceptance of the substitute for HB 147.

Kelly made a motion to accept the substitute.

Vern Roberts from the Dept. of Motor Vehicles was present to answer questions.

Ziegler asked if the \$20.00 fee was reasonable.

Roberts said the fee was best to be left in the hands of the legislature.

Rodey said the cost of plates today is \$60.00 - he wasn't advocating an increase but said down the road the cost could create a problem.

Rodey said he didn't know if we should try to make money with the plates since there was other sources of state revenue.

Roberts said it didn't matter to him that it doesn't cost anymore to try to collect \$50 or \$150. He said the cost for plates hadn't risen for a number of years.

Mulcahy said an increase would touch most families these days two or three times.

Rodey said OPEC touches them a lot more.

More discussion arose concerning legislative license plates.

The chairman asked for a motion to move the bill.

Rodey moved that it be passed out for individual recommendation.

HB 147

Original sponsors: Malone, Cotten,
Phillips, et al

Offered: 4/12/79
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 147 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the motor vehicle code; and providing
7 for an effective date."

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

9 * Section 1. AS 28.10.011 is amended to read:

10 Sec. 28.10.011. VEHICLES SUBJECT TO REGISTRATION. Every vehicle
11 driven, moved, or parked upon a highway or other public parking place in
12 the state shall be registered under this chapter except when the vehicle
13 is

14 (1) driven or moved on a highway only for the purpose of
15 crossing the highway from one private property to another, including an
16 implement of husbandry as defined by regulation;

17 (2) driven or moved on a highway under a dealer's plate or
18 temporary permit as provided for in AS 28.10.031 and 28.10.181(j);

19 (3) special mobile equipment as defined by regulation;

20 (4) owned by the United States;

21 (5) moved by human or animal power;

22 (6) exempt under the Soldier's and Sailor's Civil Relief Act
23 (50 U.S.C. App. [U.S.C.A. APPR.] 501 et seq.);

24 (7) driven or parked only on private property;

25 (8) the vehicle of a nonresident as provided under AS 28.10.-

26 121.

27 (9) a commercial interstate vehicle under AS 28.10.141; or

28 (10) transported under a special permit under AS 28.10.151;

29 (11) driven or moved on a highway or vehicular way not

* Sec 2. AS 28:10.182 is amended by adding a new subsection to read

1 connected to the state highway system established under AS 19.10.020.

2 (k) Occasional users of highways. The department may issue a
3 license to the owner of a vehicle which is only occasionally used on a
4 highway. The applicant must show to the satisfaction of the department
5 that the vehicle to be licensed under this subsection will travel upon
6 state highways less than five per cent of its total hours of operation.
7 The department may not issue more than two licenses under this subsec-
8 tion to a single person.

9 * Sec. 3. AS 28.10 is amended by adding new sections to read:

10 Sec. 28.10.216. INADEQUATE EVIDENCE OF OWNERSHIP. (a) When the
11 department is not satisfied as to the ownership of a vehicle or believes
12 that there may be undisclosed security interests in it, the department
13 may register the vehicle but shall either

14 (1) withhold issuance of a certificate of title until the
15 applicant presents documents sufficient to satisfy the department

16 (A) as to the ownership of the vehicle by applicant, and

17 (B) that there are no undisclosed security interests in

18 the vehicle; or

19 (2) require the applicant, as a condition of the issuance of
20 a certificate of title, to file with the department either

21 (A) a bond in the form prescribed by the department and
22 executed by the applicant, or

23 (B) a deposit of cash.

24 (b) A bond or cash deposit filed under (a)(2) of this section
25 shall be equal in amount to one and one-half times the value of the
26 vehicle as determined by the department and be conditioned to indemnify
27 former owners, secured parties, and subsequent purchasers of the vehicle
28 and their successors against loss resulting from a defect in or undis-
29 closed security interest on the title of the applicant. An injured

1 party may sue on the bond for a breach of its conditions, but the lia-
2 bility of the surety or the department may not exceed the amount of the
3 bond or deposit.

4 (1) The bond or deposit shall be returned (A) at the end of three
5 years from its filing, or (B) when the vehicle is no longer registered
6 in the state, if (b) is earlier and if the certificate of title is
7 surrendered to the department. Service on the department of notice that
8 action is pending to recover on the bond or the deposit extends the
9 periods established in this subsection until 45 days after a final
10 decision in the action on the bond or on the deposit.

11 Sec. 28.10.493. MISDEMEANORS RELATING TO TRANSFERS. (a) The
12 owner of a vehicle who transfers a vehicle and fails to comply with the
13 requirements of AS 28.10.271 is guilty of a class B misdemeanor.

14 (b) A vehicle dealer who transfers a vehicle and fails to comply
15 with the requirements of AS 28.10.291 is guilty of a class B misde-
16 meanor.

17 * Sec. 4. AS 28.10.421(d)(2) is amended to read:

18 (2) special request plates.....\$20,
19 plus the fee required for that vehicle under (b)(1) or (2) of this
20 section; the fee required by this paragraph shall be collected only on
21 the first issuance and on the replacement of special request plates;

22 * Sec. 5. AS 28.10.421(d) is amended by adding a new paragraph to read:

23 (2) an occasional use vehicle under AS 28.10.181(k)...\$15.

24 * Sec. 6. AS 28.10.491(a) is amended by adding a new paragraph to read:

25 (9) makes a false statement or otherwise conceals or with-
26 holds a material fact in an application for registration or certificate
27 of title or falsely affirms with respect to a matter required to be
28 sworn to, affirmed, or furnished under AS 28.10 or regulations adopted
29 under AS 28.10.

1 * Sec. 7. AS 28.35.225 is amended to read:

2 Sec. 28.35.225. ENFORCEMENT. All law enforcement officers in this
3 state and employees of the department designated by the commissioner
4 shall enforce this title and regulations promulgated under this title.
5 The state troopers shall advise and instruct all other law enforcement
6 officers in the state concerning the requirements of this title and
7 regulations promulgated under this title.

8 * Sec. 8. Section 1 of this Act takes effect immediately in accordance
9 with AS 01.10.070(c) and is retroactive to October 18, 1978. Sections 2 - 7
10 of this Act take effect January 1, 1980.

SENATE STATE AFFAIRS

March 19, 1979

CSHB 147 An Act relating to Registration fees for Special request, personalized license plates; and providing for an effective date:"

Original Sponsor: Malone, Cotten, Phillips
By the Finance Committee

SUMMARY

This bill will state that the current special request plate fee may be collected only when plates are issued or replaced by the department. Sec. 2 states that a person who paid the fee in 1979 for special request plates, where plates were not issued or replaced are entitled to a refund.

FISCAL

A fiscal note is attached. Approximately \$80,000 (4,000 plates times \$20.00 fee) will be lost in all years except when plates are issued or replaced. The department of public safety estimates that \$80,000 will have to be refunded according to Section 2 this year.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 147
 Title An act relative to motor vehicle registration fees
 Requested by Malone Date 02/08/79

II. FISCAL DETAIL

Agency Affected Public Safety
 Program Category Affected Public Protection
 Budget Request Unit(s) Affected Driver/Vehicle Services

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

This bill will create a decrease in revenue in all years except those years when new license plates are issued. The next scheduled new plate year is 1981. The decrease in revenue for FY80 is approximately 80.0.

4000 plates X 20 = 80.0 (decrease in revenue in all years except plate years)

IV. DATE 02/08/79 PREPARED BY Robert J. Stickles AJS
 AGENCY Public Safety
 Original: Legislative Finance PHONE 455-4310
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

CSHB 147

Penelope J. Cornelius
P. O. Box 2668
Fairbanks, Alaska 99707
(907) 488-2912

March 13, 1979

Representative Sally Smith
Alaska State Legislature
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Smith:

SB 96 - Senjud
CSHB 147
CS 125

Thank you so much for your recent correspondence of February, 1979 concerning the Senate Bill 471, or SLA 178 and its recent passage in the House.

It is my understanding that this bill is now sitting in the Senate sub-committee because of the Galena residents not wishing to pay for vehicle licenses and registrations. According to the Fairbanks Daily News Miner these residents feel that they should not be required to purchase licenses and registrations because their roads are not State maintained. Under Alaska Statute 28.20.011 it says:

See...
←

Vehicles subject to registration. Every vehicle in the state shall be registered under this chapter except when the vehicle is

No where in that statute does it say that the roads must be maintained by the State to be exempt under subsection (7) "driven or parked only on private property". From the article in the News Miner I gathered that the Galena residents were up in arms because the roads are maintained by the FAA in Galena and they apparently feel subsection 7 should apply.

My question to you is this, why should this bill be held up in the Senate because of these residents? Are the Galena residents trying to ask the State to change the Statute governing vehicle registration with this SLA 178?

Please let me know who I may write to for more information and/or to urge them to pass this bill before May 31, 1979. *Wherever the thing is signed all members.*

Page Two

I would like to save my \$20.00 special request plate fee under AS 28.10.421 (d)(2) and I cannot do this unless this bill passes before May 31, 1979. It is not the money that bothers me, but I am sure that you are aware, the principle of the entire thing.

Again, my sincere thanks in all of your efforts toward this and especially your continued correspondence with me.

Sincerely yours,

Penelope J. Cornelius
Penelope J. Cornelius

PJC

P.S.: The Legislative Affairs Office telephoned me on March 12, 1979 to inform me of the passage of the bill in the House, per your instructions. Apparently they did not have my work telephone number and had a terrible time trying to reach me. In case the need arises again, my work telephone is 452-1305.

PJC

Mulcahy asked if the word "persons" meant that people could come up in a group at the expense of the employer.

Chief said no "persons" refers to families.

Rodey said he didn't want to delay the passage of the bill out of committee but he would like to look at past legislation.

The bill was held over until it could be more thoroughly reviewed.

The last bill was CSHB 147.

Ziegler explained that Bradley had constructed the original bill but the HB passed the House first so it was being considered.

"The bill before you is \$20.00 for the special license plate. Senator Kelly and I have misgivings about that figure but if the public says it an O.K. fee."

Bradely's bill, SB 96 and Dankworth's bill SB 117 should be looked at and possibly combined. I suggest a substitute bill be put together.

Mulcahy said he would hold the bill and resolve the problem.

Kelly said he didn't think \$20.00 was enough - it should cost more.

Ziegler said he didn't disagree but he had asked for a departmental viewpoint and the department said it was happy with the figure.

Kelly said he'd seen the fiscal note and there was a possibility of losing \$80,000.

Ziegler said he'd gladly work with Mike and give him all of the stuff he had.

Bradley said he would also be willing to work with Mike.

Jim Rhodes, from Representative Malones office said he was concerned about the date for the refunds. He said there was an understanding with the dept. to have the refunds out by May 31. The department said they would make a good faith effort if given until May 21 to get the refunds out.

Kelly said he'd like the staff to look into the cost in other states.

The meeting was adjourned.

AS 28.10.491(a)-FELONIES RELATING TO TITLE, REGISTRATION, IDENTIFI-
CATION NUMBER AND REMOVAL AND REPRESENTATION OF VEHICLE.

9 This statute, as it now reads, lists under what conditions a person is guilty of this type of felony. This bill would add a new paragraph to include a person who makes a false statement or otherwise conceals or withholds material fact in an application for registration or certificate of title or falsely affirms with respect to a matter required to be sworn to, affirmed, or furnished under AS 28.10 or regulations adopted under AS 28.10., as guilty of a felony.

AS 28.35.225-MISCELLANEOUS PROVISIONS-Enforcement. Statute now states that all law enforcement officers in thi state shall enforce this title and regulations promulgated under this title. The state troopers shall advise and instruct all other law enforcement officers in the state concerning the requirements of this title and regulations promulgated under this title. The bill would add to this section employees of the department designated by the commissioner as also eligible to enforce this title (Motor Vehicle Regulations.

AS 28.10.181 - REGISTRATION OF UNIQUE AND SPECIAL VEHICLES AND VEHICLES USED FOR SPECIAL PURPOSES.

(K) This statute basically lists the kinds of vehicles that are considered by law to be "special" or "unique" (example-vehicles used by handicapped people, etc. historical vehicles). This bill would add to the list vehicles which are only occasionally used on the highway. It provides that the owner must show to the satisfaction of the department that the vehicle will travel upon state highways less than 5% of its total hours of operation. Provides that no more than two licenses of this kind may be issued to an individual.

What

AS 28.10 is further amended by adding new sections;

AS 28 10.216 - INADEQUATE EVIDENCE OF OWNERSHIP. This section provides for steps to be taken when the department is not satisfied as to the ownership of a vehicle or believes there may be undisclosed security interests in it. The department may withhold the certificate of title until the applicant presents documents proving ownership and that there are no undisclosed security interests in the vehicle. The department may require the applicant, as a condition of issuance of title certificate, to file a bond or a deposit of cash.. Provides for type and size of bond or deposit and also provides for return of bond or deposit upon certain conditions.

AS 28.10.493 - MISDEMEANORS RELATING TO TRANSFERS. Provides that a vehicle owner or dealer who transfers a vehicle and fails to comply with transfer requirements is guilty of a Class B Misdemeanor.

AS 28.10.421(d)(2)-SPECIAL REGISTRATION FEES. Special Request Plates. Existing statutes state that special registration fees are imposed annually unless otherwise specified and the fee for special request plates is \$20.00; plus the fee required for that vehicle under (b)(1) or (2) of this section. This bill would amend this paragraph by adding that the \$20.00 fee shall be collected only on the first issuance and on the replacement of special request plates.

Existing law for an annual payment of \$20.00 in addition to regular registration fees for specialized plates is repugnant to the general public and has been mandated that it be repealed. The new law will now state, if passed, that the individual applicant for a specialized plate shall pay \$20.00 initially for the application and privilege of using the personalized plate, the same as in prior years, and will pay \$20.00 every time the plate is replaced due to loss, damage or replacement for a new license plate year.

AS 28,10.421(d) -SPECIAL REGISTRATION FEES. Sets fees for special registration vehicles and lists fee schedule as statute now reads. This bill would add a new paragraph (12) which includes occasional use vehicles and provides a \$15.00 registration fee.

SUMMARY

This bill amends statutes concerning the motor vehicle code.

SECTIONAL ANALYSIS

AS 28.10.011 VEHICLES SUBJECT TO REGISTRATION. This section is amended only by the addition of the words: every vehicle driven, moved or parked upon a highway or other parking place in the state shall be registered under this chapter. The statute goes on to list exceptions. ^(S) FINNELL CS JUST ADDS ONE NEW EXCEPTION TO LIST (MARKING

Existing statute states that with certain specific exceptions, every vehicle in this State is subject to registration and thus would be subject to title requirements. Under this law the way it currently reads places undue hardship upon a certain percentage of vehicle owners in the State, that is, owners of vehicles that have not been subject to vehicle registration in the past. Example: trail bikes, dune buggies, and other off highway type vehicles, etc.

Also, vehicles owned or possessed by people in the bush and non-urban areas who have come by their vehicles in the past through methods that are neither legal or illegal but have no way to prove their ownership to the vehicles in a manner prescribed by law. When these people become subject to registration, that is, subject to title requirements, they will be forced by statute to provide the same documentation as any other vehicle owner in order for them to comply to the law. They will be unable to do so. They will also in most cases be unable to provide proper bonding procedures because of lack of insurance agencies in these areas.

11 EXCEPTIONS
RATHER
THAN 10.

Work Draft

Original sponsors: Malone, Cotton,
Phillips, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 147 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the motor vehicle code; and providing
7 for an effective date."

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

9 * Section 1. AS 28.10.011 is amended to read:

10 Sec. 28.10.011. VEHICLES SUBJECT TO REGISTRATION. Every vehicle
11 driven, moved, or parked upon a highway or other public parking place in
12 the state shall be registered under this chapter except when the vehicle
13 is

14 (1) driven or moved on a highway only for the purpose of
15 crossing the highway from one private property to another, including an
16 implement of husbandry as defined by regulation;

17 (2) driven or moved on a highway under a dealer's plate or
18 temporary permit as provided for in AS 28.10.031 and 28.10.181(j);

19 (3) special mobile equipment as defined by regulation;

20 (4) owned by the United States;

21 (5) moved by human or animal power;

22 (6) exempt under the Soldier's and Sailor's Civil Relief Act
23 (50 U.S.C. App. (U.S.C.A. APPR.) 501 et seq.);

24 (7) driven or parked only on private property;

25 (8) the vehicle of a nonresident as provided under AS 28.10.-

26 121;

27 (9) a commercial interstate vehicle under AS 28.10.141; or

28 (10) transported under a special permit under AS 28.10.151;

29 (11) driven or moved on a highway or vehicular way not

AS 28.10.181 IS AMENDED BY
BY ADDING NEW
SUB TO REIN

1 connected to the state highway system established under AS 19.10.020.

2 ^{28.10.181}
3 (1) Occasional users of highways. The department may issue a
4 license to the owner of a vehicle which is only occasionally used on a
5 highway. The applicant must show to the satisfaction of the department
6 that the vehicle to be licensed under this subsection will travel upon
7 state highways less than five per cent of its total hours of operation.
8 The department may not issue more than two licenses under this subsec-
9 tion to a single person.

10 * Sec. 3. AS 28.10 is amended by adding new sections to read:

11 Sec. 28.10.216. INADEQUATE EVIDENCE OF OWNERSHIP. (a) When the
12 department is not satisfied as to the ownership of a vehicle or believes
13 that there may be undisclosed security interests in it, the department
14 may register the vehicle but shall either

15 (1) withhold issuance of a certificate of title until the
16 applicant presents documents sufficient to satisfy the department

17 (A) as to the ownership of the vehicle by applicant, and

18 (B) that there are no undisclosed security interests in
19 the vehicle; or

20 (2) require the applicant, as a condition of the issuance of
21 a certificate of title, to file with the department either

22 (A) a bond in the form prescribed by the department and
23 executed by the applicant, or

24 (B) a deposit of cash.

25 (b) A bond or cash deposit filed under (a)(2) of this section
26 shall be equal in amount to one and one-half times the value of the
27 vehicle as determined by the department and be conditioned to indemnify
28 former owners, secured parties, and subsequent purchasers of the vehicle
29 and their successors against loss resulting from a defect in or undis-
30 closed security interest on the title of the applicant. An injured

1 party may sue on the bond for a breach of its conditions, but the lia-
2 bility of the surety or the department may not exceed the amount of the
3 bond or deposit.

4 (c) The bond or deposit shall be returned (A) at the end of three
5 years from its filing, or (B) when the vehicle is no longer registered
6 in the state, if (B) is earlier and if the certificate of title is
7 surrendered to the department. Service on the department of notice that
8 action is pending to recover on the bond or the deposit extends the
9 periods established in this subsection until 45 days after a final
10 decision in the action on the bond or on the deposit.

11 Sec. 28.10.493. MISDEMEANORS RELATING TO TRANSFERS. (a) The
12 owner of a vehicle who transfers a vehicle and fails to comply with the
13 requirements of AS 28.10.271 is guilty of a class B misdemeanor.

14 (b) A vehicle dealer who transfers a vehicle and fails to comply
15 with the requirements of AS 28.10.291 is guilty of a class B misde-
16 meanor

17 * Sec. 4. AS 28.10.421(d)(2) is amended to read:

18 (2) special request plates.....\$20;
19 plus the fee required for that vehicle under (b)(1) or (2) of this
20 section; the fee required by this paragraph shall be collected only on
21 the first issuance and on the replacement of special request plates;

22 * Sec. 5. AS 28.10.421(d) is amended by adding a new paragraph to read:

23 (12) as occasional use vehicle under AS 28.10.181(k)...\$15.

24 * Sec. 6. AS 28.10.491(e) is amended by adding a new paragraph to read:

25 (9) makes a false statement or otherwise conceals or with-
26 holds a material fact in an application for registration or certificate
27 of title or falsely affirms with respect to a matter required to be
28 sworn to, affirmed, or furnished under AS 28.10 or regulations adopted
29 under AS 28.10.

1 * Sec. 7. AS 28.35.225 is amended to read:

2 Sec. 28.35.225. ENFORCEMENT. All law enforcement officers in this
3 state and employees of the department designated by the commissioner
4 shall enforce this title and regulations promulgated under this title.
5 The state troopers shall advise and instruct all other law enforcement
6 officers in the state concerning the requirements of this title and
7 regulations promulgated under this title.

8 * Sec. 8. Section 1 of this Act takes effect immediately in accordance
9 with AS 01.10.070(c) and is retroactive to October 18, 1978. Sections 2 - 7
10 of this Act take effect January 1, 1980.

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1 bar, suspend, or otherwise affect any right to or liability for damages,
2 penalty, forfeiture, or other remedy authorized by law to be recovered
3 or enforced in a civil action, regardless of whether the conduct in-
4 volved in the proceeding constitutes an offense defined in this title.

5 Sec. 11.81.220. ALL OFFENSES DEFINED BY STATUTE. No conduct
6 constitutes an offense unless it is made an offense

- 7 (1) by this title;
8 (2) by a statute outside this title; or
9 (3) by a regulation authorized by and lawfully adopted under
10 a statute.

11 ARTICLE 3. CLASSIFICATION OF OFFENSES.

12 Sec. 11.81.250. CLASSIFICATION OF OFFENSES. (a) For purposes of
13 sentencing under AS 12.55, all offenses defined in this title, except
14 murder in the first and second degree and kidnapping, are classified on
15 the basis of their seriousness, according to the type of injury charac-
16 teristically caused or risked by commission of the offense and the
17 culpability of the offender. Except for murder in the first and second
18 degree and kidnapping, the offenses in this title are classified into
19 the following categories:

20 (1) class A felonies, which characteristically involve con-
21 duct resulting in serious physical injury or a substantial risk of
22 serious physical injury to a person;

23 (2) class B felonies, which characteristically involve con-
24 duct resulting in less severe violence against a person than class A
25 felonies, aggravated offenses against property interests, or aggravated
26 offenses against public administration or order;

27 (3) class C felonies, which characteristically involve con-
28 duct serious enough to deserve felony classification but not serious
29 enough to be classified as A or B felonies;

1 (4) class A misdemeanors, which characteristically involve
2 less severe violence against a person, less serious offenses against
3 property interests, less serious offenses against public administration
4 or order, or less serious offenses against public health and decency
5 than felonies;

6 (5) class B misdemeanors, which characteristically involve a
7 minor risk of physical injury to a person, minor offenses against pro-
8 perty interests, minor offenses against public administration or order,
9 or minor offenses against public health and decency;

10 (6) violations, which characteristically involve conduct in-
11 appropriate to an orderly society but which do not denote criminality in
12 their commission.

13 (b) The classification of each felony defined in this title, ex-
14 cept murder in the first and second degree and kidnapping, is designated
15 in the section defining it. A felony under Alaska law defined outside
16 this title for which no penalty is specifically provided is a class C
17 felony.

18 (c) The classification of each misdemeanor defined in this title
19 is designated in the section defining it. A misdemeanor under Alaska
20 law defined outside this title for which no penalty is provided is a
21 class A misdemeanor.

22 ARTICLE 4. GENERAL PRINCIPLES OF JUSTIFICATION.

23 Sec. 11.81.300. JUSTIFICATION: DEFENSE. In any prosecution for
24 an offense, justification as provided in secs. 320 - 430 of this chapter
25 is a defense.

26 Sec. 11.81.320. JUSTIFICATION: NECESSITY. Conduct which would
27 otherwise be an offense is justified by reason of necessity to the
28 extent permitted by common law when

29 (1) neither this title nor any other statute defining the

Section 28.10.011 is amended to read VEHICLES SUBJECT TO REGISTRATION. Every vehicle [in the State] when driven or moved or parked upon a highway or in a public parking place in the State shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulations;

(2) driven or moved on a highway under a dealer's plate or temporary permit as provided in Sec. 31 and 181 (k) of this chapter;

(3) special mobile equipment as defined by regulation;

(4) owned by the United States;

(5) moved by human or animal power;

(6) exempt under the Soldiers and Sailors Civil Release Act (50 U.S.C.A. Appr. 501 et seq.);

(7) driven or parked only on private property;

(8) a vehicle of a nonresident as provided under Section 121 of this chapter;

(9) a commercial inter-state vehicle under Sec.
141 of this chapter; or

(10) transported under a special permit under Sec.
151 of this chapter.

REASON

AS 28.10 is amended by adding a new section to read:
WHEN NO SUPPORTING EVIDENCE OF OWNERSHIP.

(a) In addition to the other requirements of this chapter, an applicant for title and registration who has no supporting evidence of ownership, as stipulated in this chapter must:

(1) submit an affidavit affirming that he is the owner of the vehicle and that no liens or encumbrances exist on it;

(2) submit a surety bond, executed by a corporate surety, approved by the Department, posted with the State and held by it for at least two years, in the amount of the retail value of the vehicle as determined from a departmental listing, and

(3) submit a statement signed by the applicant holding the State harmless in all suits concerning questions of title and ownership to the vehicle and promising to indemnify the State for all judgements against it arising out of these actions.

(b) The applicant, in lieu of a surety bond, may file suit in district or magistrate court to mandate the Department to issue title in his name. The court may accept evidence including but not limited to affidavits, bills of sale, and oral testimony. The court, when satisfied that

the applicant is the rightful possessor and that there are no liens or encumbrances on the vehicle, may order the Department to issue title showing that the applicant is the registered and legal owner of vehicle title.

Section 28.10.491 (a) is amended by adding a new sub-section

(9) makes a false statement or who otherwise conceals or withholds a material fact in an application for registration or certificate of title or who affirms falsely with respect to a matter required to be sworn to, affirmed or furnished under this chapter, or regulations adopted under this chapter.

Section 28.10 is amended by adding a new section Failure to Deliver Title.

(a) A seller of a vehicle who fails to comply to Secs. 271 and 291 of this chapter is guilty of a misdemeanor.

(b) A seller of a vehicle who with intent to defraud fails to comply to Secs. 271 and 291 of this chapter is guilty of a felony, and upon conviction is punishable by imprisonment of not less than 1 year nor more than 2 years or by a fine of not more than \$2,000 or both.

Section 28.10 is amended by adding a new section, Unlawful To Park or Operate Unregistered Vehicle. No person may

drive or move or park upon a highway or in a public parking place, nor may an owner permit to be driven or parked, upon a highway or in a public parking place a vehicle which has not been registered under this chapter.

Section 28.05 is amended by adding a new section. Enforcement of Title. Peace officers and employees of the Department designated by the Commissioner shall enforce this title.

Section 28.10 is amended by adding the new section LICENSES FOR OCCASIONAL USERS OF HIGHWAYS.

(a) Upon application by the owner and under regulations adopted by the Commissioner of Public Safety, the Department shall issue a license to the owner of a vehicle used in relation to the operation of commercial fishing, mining, hunting, or farming operations and used only occasionally on the highway.

(b) In addition to the other requirements in this chapter, an applicant for occasional use registration must submit an affidavit affirming that the vehicle is used in relation to commercial fishing, mining, hunting or farming operations and travels upon the State highways are less than 5% of its total hours of operation.

(c) No person may transfer an occasional use registration license plate to another vehicle. Upon transfer or assignment of title to an occasional use vehicle, the registration plates remain with the vehicle if it continues to be an occasional use vehicle or must otherwise be returned to the Department by the new owner.

(d) The license shall be valid for 12 months.

(e) No person or company may possess more than 2 licenses at one time.

(f) The Department shall charge the owner an annual registration fee of \$15.00.

SENATE STATE AFFAIRS

March 19, 1979

CSHB 147 An Act relating to Registration fees for Special request, personalized license plates; and providing for an effective date:"

Original Sponsor: Malone, Cotten, Phillips
By the Finance Committee

SUMMARY

This bill will state that the current special request plate fee may be collected only when plates are issued or replaced by the department. Sec. 2 states that a person who paid the fee in 1979 for special request plates, where plates were not issued or replaced are entitled to a refund.

FISCAL

A fiscal note is attached. Approximately \$80,000 (4,000 plates times \$20.00 fee) will be lost in all years except when plates are issued or replaced. The department of public safety estimates that \$80,000 will have to be refunded according to Section 2 this year.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 147
 Title An act relative to motor vehicle registration fees
 Requested by Malone Date 02/08/79

II. FISCAL DETAIL
 Agency Affected Public Safety
 Program Category Affected Public Protection
 Budget Request Unit(s) Affected Driver/Vehicle Services

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill will create a decrease in revenue in all years except those years when new license plates are issued. The next scheduled new plate year is 1981. The decrease in revenue for FY80 is approximately 80.0.

4000 plates X 20 = 80.0 (decrease in revenue in all years except plate years)

IV. DATE 02/08/79 PREPARED BY Robert J. Sticklen
 AGENCY Public Safety
 PHONE 465-4330
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Original sponsors: Malone, Cotten,
Phillips, et al

Offered: 2/26/79
Referred; Rules

Hooking at 11:00

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IN THE HOUSE BY THE FINANCE COMMITTEE
CS FOR HOUSE BILL NO. 147

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

A BILL

For an Act entitled: "An Act relating to registration fees for special request, personalized license plates; and providing for an effective date."

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

* Section 1. AS 28.10.421(d)(2) is amended to read:

(2) special request plates..... \$20;
plus the fee required for that vehicle under (b)(1) or (2) of this section; the special request plate fee established under this paragraph may be collected only when plates are issued or replaced by the department;

* Sec. 2. A person who paid a fee in 1979 for special request plates other than the fee authorized under AS 28.10.42(d)(2) in sec. 1 of this Act is entitled to a refund of the amount collected in excess of the fee authorized under that section.

* Sec. 3. Refunds due under sec. 2 of this Act shall be paid on or before May 31, 1979.

* Sec. 4. This Act is retroactive to January 1, 1979.

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

Malone

SENATE STATE AFFAIRS

March 19, 1979

CSHB 147 An Act relating to Registration fees for Special request, personalized license plates; and providing for an effective date:"

Original Sponsor: Malone, Cotten, Phillips

By the Finance Committee

SUMMARY

This bill will state that the current special request plate fee may be collected only when plates are issued or replaced by the department. Sec. 2 states that a person who paid the fee in 1979 for special request plates, where plates were not issued or replaced are entitled to a refund.

FISCAL

A fiscal note is attached. Approximately \$80,000 (4,000 plates times \$20.00 fee) will be lost in all years except when plates are issued or replaced. The department of public safety estimates that \$80,000 will have to be refunded according to Section 2 this year.

QUESTION (For Senator Mulcahy)

1. Would the committee consider completely deleting Sec. 2 entitling a refund for those who paid the fee in 1979?
2. Changing fee to \$35.00 plus fee required for that vehicle if collected only when plates are issued or replaced?

*What is cost of special plate to the state?
Special handling?*

NOTE: Related Legislation *Loss \$240.0 m revenue per 711*

There is SB 95 in Rules with similar addressal of special license plates.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 147
 Title An act relative to motor vehicle registration fees
 Requested by Malone Date 02/08/79

HB 147

II. FISCAL DETAIL

Agency Affected Public Safety
 Program Category Affected Public Protection
 Budget Request Unit(s) Affected Driver/Vehicle Services

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill will create a decrease in revenue in all years except those years when new license plates are issued. The next scheduled new plate year is 1981. The decrease in revenue for FY80 is approximately 80.0.

4000 plates X 20 = 80.0 (decrease in revenue in all years except plate year.)

IV. DATE 02/08/79 PREPARED BY Robert J. Stickles
 AGENCY Public Safety
 PHONE 465-4330
 Original Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

*GOOD Backup
Supporting
Case*

Section 28.10.181 (c) is amended to read Special Request
Plates. Upon application and payment of \$20.00 by the
owner of a passenger vehicle, non-commercial van or pick-
up truck, or motor home the Department may design and issue
registration plates containing a series of not more than
six letters or numbers or combination of letters and
numbers as requested by the owner. The Department may
in its discretion, disapprove the issuance of registra-
tion plates under this sub-section when the requested
symbols are a duplication of an existing registration
or when the symbols are considered unacceptable by the
Department. An additional payment of \$20.00 shall be
paid for each replacement of such plates.

Section 28.10.421 (d)(2) is repealed.

REASON

Existing law for an annual payment of \$20.00 in addition
to regular registration fees for specialized plates is
repugnant to the general public and has been mandated that
it be repealed. The new law will now state, if passed,
that the individual applicant for a specialized plate
shall pay \$20.00 initially for the application and privilege
of using the personalized plate, the same as in prior years,
and will pay \$20.00 every time the plate is replaced due
to loss, damage or replacement for a new license plate year.

Section 28.10.011 is amended to read VEHICLES SUBJECT TO REGISTRATION. Every vehicle [in the State] when driven or moved or parked upon a highway or in a public parking place in the State shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulations;

(2) driven or moved on a highway under a dealer's plate or temporary permit as provided in Sec. 31 and 181 (k) of this chapter;

(3) special mobile equipment as defined by regulation;

(4) owned by the United States;

(5) moved by human or animal power;

(6) exempt under the Soldiers and Sailors Civil Release Act (50 U.S.C.A. Appr. 501 et seq.);

(7) driven or parked only on private property;

(8) a vehicle of a nonresident as provided under Section 121 of this chapter;

(9) a commercial inter-state vehicle under Sec. 141 of this chapter; or

(10) transported under a special permit under Sec. 151 of this chapter.

REASON

Existing statute states that with certain specific exceptions, every vehicle in this State is subject to registration and thus would be subject to title requirements. Under this law the way it currently reads places undue hardship upon a certain percentage of vehicle owners in the State, that is, owners of vehicles that have not been subject to vehicle registration in the past. Example: trail bikes, dune buggies, and other off highway type vehicles, etc. Also, vehicles owned or possessed by people in the bush and non-urban areas who have come by their vehicles in the past through methods that are neither legal or illegal but have no way to prove their ownership to the vehicles in a manner prescribed by law. When these people become subject to registration, that is, subject to title requirements, they will be forced by statute to provide the same documentation as any other vehicle owner in order for them to comply to the law. They will be unable to do so. They will also in most cases be unable to provide proper bonding procedures because of lack of insurance agencies in these areas.

AS 28.10 is amended by adding a new section to read:

WHEN NO SUPPORTING EVIDENCE OF OWNERSHIP.

(a) In addition to the other requirements of this chapter, an applicant for title and registration who has no supporting evidence of ownership, as stipulated in this chapter must:

(1) submit an affidavit affirming that he is the owner of the vehicle and that no liens or encumbrances exist on it;

(2) submit a surety bond, executed by a corporate surety, approved by the Department, posted with the State and held by it for at least two years, in the amount of the retail value of the vehicle as determined from a departmental listing, and

(3) submit a statement signed by the applicant holding the State harmless in all suits concerning questions of title and ownership to the vehicle and promising to indemnify the State for all judgements against it arising out of these actions.

(b) The applicant, in lieu of a surety bond, may file suit in district or magistrate court to mandate the Department to issue title in his name. The court may accept evidence including but not limited to affidavits, bills of sale, and oral testimony. The court, when satisfied that

the applicant is the rightful possessor and that there are no liens or encumbrances on the vehicle, may order the Department to issue title showing that the applicant is the registered and legal owner of vehicle title.

Section 28.10.491 (a) is amended by adding a new sub-section

(1) makes a false statement or who otherwise conceals or withholds a material fact in an application for registration or certificate of title or who affirms falsely with respect to a matter required to be sworn to, affirmed or furnished under this chapter, or regulations adopted under this chapter.

Section 28.10 is amended by adding a new section Failure to Deliver Title.

(a) A seller of a vehicle who fails to comply to Secs. 271 and 291 of this chapter is guilty of a misdemeanor.

(b) A seller of a vehicle who with intent to defraud fails to comply to Secs. 271 and 291 of this chapter is guilty of a felony, and upon conviction is punishable by imprisonment of not less than 1 year nor more than 2 years or by a fine of not more than \$2,000 or both.

Section 28.10 is amended by adding a new section, Unlawful To Park or Operate Unregistered Vehicle. No person may

drive or move or park upon a highway or in a public parking place, nor may an owner permit to be driven or parked, upon a highway or in a public parking place a vehicle which has not been registered under this chapter.

Section 28.05 is amended by adding a new section. Enforcement of Title. Peace officers and employees of the Department designated by the Commissioner shall enforce this title.

Section 28.10 is amended by adding the new section LICENSES FOR OCCASIONAL USERS OF HIGHWAYS.

(a) Upon application by the owner and under regulations adopted by the Commissioner of Public Safety, the Department shall issue a license to the owner of a vehicle used in relation to the operation of commercial fishing, mining, hunting, or farming operations and used only occasionally on the highway.

(b) In addition to the other requirements in this chapter, an applicant for occasional use registration must submit an affidavit affirming that the vehicle is used in relation to commercial fishing, mining, hunting or farming operations and travels upon the State highways are less than 5% of its total hours of operation.

(c) No person may transfer an occasional use registration license plate to another vehicle. Upon transfer or assignment of title to an occasional use vehicle, the registration plates remain with the vehicle if it continues to be an occasional use vehicle or must otherwise be returned to the Department by the new owner.

(d) The license shall be valid for 12 months.

(e) No person or company may possess more than 2 licenses at one time.

(f) The Department shall charge the owner an annual registration fee of \$15.00.

SUMMARY

This bill amends statutes concerning the motor vehicle code. Amends the section entitled VEHICLES SUBJECT TO REGISTRATION by providing that every vehicle driven, moved or parked upon a highway or other public parking place in the state shall be registered and further provides for exceptions to this regulation.

Amends statutes concerning REGISTRATION OF UNIQUE AND SPECIAL VEHICLES AND VEHICLES USED FOR SPECIAL PURPOSES by adding a new subsection to include vehicles which are only occasionally used on a highway. Provides that owner must show to the satisfaction of the department that the vehicle will travel upon state highways less than 5% of its total hours of operation. No more than two licenses of this kind will be issued to a person.

Amends by adding new sections:

INADEQUATE EVIDENCE OF OWNERSHIP. This section provides for steps to be taken when the department is not satisfied as to the ownership of a vehicle or believes there may be undisclosed security interests in it.

MISDEMEANORS RELATING TO TRANSFERS. Provides that a vehicle owner or dealer who transfers a vehicle and fails to comply with transfer requirements is guilty of a Class B misdemeanor.

Amends section relating to registration fee rates to add that the fee required for special request plates (\$20) shall be collected only on the first issuance and on the replacement of special request plates. Provides a \$15.00 registration fee for occasional use vehicles.

Adds a new paragraph to the section relating to vehicle felonies to include persons upon conviction guilty of a felony if they have provided false statements or have withheld facts concerning application for registration or certificate of title.

Amends section concerning ENFORCEMENT to add those employees of the department designated by the commissioner as eligible to enforce motor vehicle regulations.

Bob- This is info that Kelly requested
IF he asks for it we have - I have extra copies.
Charles Hosack-Division of Motor Vehicles, Anch. (264-5565)

Special plates were first issued in Alaska in 1964 with the same \$20.00 fee as today.

47 states now issue personalized plates

36 of these states charge an annual fee averaging \$16.46 with a low of \$5.00 and a high of \$50.00.

The other 11 states charge an initial fee only with an average of \$34.26. The low is \$3.00 and the high is \$100.00

[only once] no charge when ^{new} plates are issued

Section 28.10.181 (c) is amended to read Special Request Plates. Upon application and payment of \$20.00 by the owner of a passenger vehicle, non-commercial van or pick-up truck, or motor home the Department may design and issue registration plates containing a series of not more than six letters or numbers or combination of letters and numbers as requested by the owner. The Department may in its discretion, disapprove the issuance of registration plates under this sub-section when the requested symbols are a duplication of an existing registration or when the symbols are considered unacceptable by the Department. An additional payment of \$20.00 shall be paid for each replacement of such plates.

Section 28.10.421 (d)(2) is repealed.

REASON

Existing law for an annual payment of \$20.00 in addition to regular registration fees for specialized plates is repugnant to the general public and has been mandated that it be repealed. The new law will now state, if passed, that the individual applicant for a specialized plate shall pay \$20.00 initially for the application and privilege of using the personalized plate, the same as in prior years, and will pay \$20.00 every time the plate is replaced due to loss, damage or replacement for a new license plate, or.

Section 28.10.011 is amended to read VEHICLES SUBJECT TO REGISTRATION. Every vehicle [in the State] when driven or moved or parked upon a highway or in a public parking place in the State shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulations;

(2) driven or moved on a highway under a dealer's plate or temporary permit as provided in Sec. 31 and 181 (k) of this chapter;

(3) special mobile equipment as defined by regulation;

(4) owned by the United States;

(5) moved by human or animal power;

(6) exempt under the Soldiers and Sailors Civil Release Act (50 U.S.C.A. Appr. 501 et seq.);

(7) driven or parked only on private property;

(8) a vehicle of a nonresident as provided under Section 121 of this chapter;

(9) a commercial inter-state vehicle under Sec. 141 of this chapter; or

(10) transported under a special permit under Sec. 151 of this chapter.

REASON

Existing statute states that with certain specific exceptions, every vehicle in this State is subject to registration and thus would be subject to title requirements. Under this law the way it currently reads places undue hardship upon a certain percentage of vehicle owners in the State, that is, owners of vehicles that have not been subject to vehicle registration in the past. Example: trail bikes, dune buggies, and other off highway type vehicles, etc. Also, vehicles owned or possessed by people in the bush and non-urban areas who have come by their vehicles in the past through methods that are neither legal or illegal but have no way to prove their ownership to the vehicles in a manner prescribed by law. When these people become subject to registration, that is, subject to title requirements, they will be forced by statute to provide the same documentation as any other vehicle owner in order for them to comply to the law. They will be unable to do so. They will also in most cases be unable to provide proper bonding procedures because of lack of insurance agencies in these areas.

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(3) submit a statement signed by the applicant holding the State harmless in all suits concerning questions of title and ownership to the vehicle and promising to indemnify the State for all judgments against it arising out of these actions.

(b) The applicant, in lieu of a surety bond, may file suit in district or magistrate court to mandate the Department to issue title in his name. The court may accept evidence including but not limited to affidavits, bills of sale, and oral testimony. The court, when satisfied that

the applicant is the rightful possessor and that there are no liens or encumbrances on the vehicle, may order the Department to issue title showing that the applicant is the registered and legal owner of vehicle title.

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(c) No person may transfer an occasional use registration license plate to another vehicle. Upon transfer or assignment of title to an occasional use vehicle, the registration plates remain with the vehicle if it continues to be an occasional use vehicle or must otherwise be returned to the Department by the new owner.

(d) The license shall be valid for 12 months.

(e) No person or company may possess more than 2 licenses at one time.

(f) The Department shall charge the owner an annual registration fee of \$15.00.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 147

Title An act relative to motor vehicle registration fees

Requested by Malone

Date 02/08/79

II. FISCAL DETAIL

Public Safety

Agency Affected

Program Category Affected Public Protection

Budget Request Unit(s) Affected Driver/Vehicle Services

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

This bill will create a decrease in revenue in all years except those years when new license plates are issued. The next scheduled new plate year is 1981. The decrease in revenue for FY80 is approximately 80.0.

4000 plates X 20 = 80.0 (decrease in revenue in all years except plate years)

IV. DATE 02/08/79

PREPARED BY Robert J. Stickles *AGS*

AGENCY Public Safety

PHONE 465-4330

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

HB

195

COMMITTEE REPORT
SENATE

FURTHER: State Affairs and
Finance

3/8/79

Date: 3/13/79

Mr. President:

The Committee on JUDICIARY has had HB 19, an
providing for an advisory committee on judicial sentencing practices

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

 1 Melend
 1 Connett

MEMBERS HAVING
OTHER RECOMMENDATIONS:

2 Danburth - No Rec
 2 Bill Ray NO REC

1 Zeigler
CHAIRMAN

Bob's file.

The \$5,000 was ~~not~~ ^{deleted} addressed in HB 196 because finance committee thought that it was foolish to make appropriations for a bill that might not make it even to their committee.

According to Finance A. P. Gary Paske when HB 195 reaches their committee they will tack a \$5,000 fiscal note to it.

- 1. Change in recent years
74-74

→ 2. Courts have appointed a
sentencing guidelines Com.

780.012

1173 ~~310~~ 396

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
165 SOUTH FRANKLIN STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-6425

M E M O R A N D U M

TO: Representative Anderson
FROM: Don Clocksin *DC*
DATE: February 16, 1979
SUBJECT: Sentencing Studies

1. Summary of Findings

In April, 1977, the Alaska Judicial Council issued a Preliminary Report analyzing felony sentencing patterns in Alaska from 1974 to 1976. On September 6, 1978, the Council issued a follow-up report documenting one finding from their studies - that race affected the length of a sentence. In October, the Alaska Court System prepared their own analysis of the Judicial Council data, and on October 30, the Judicial Council submitted a response to the Court System critique.

Though the statistical battle rages, a couple facts seem to be accepted by both the Council and the Court System. This memo addresses only the questions regarding Natives, not Blacks.

- a. Particularly in Fairbanks, Natives convicted of felonies receive jail time much more often than whites.
- b. Natives convicted of misdemeanors receive longer sentences than whites.

2. Discussion

The Court System has rejected the Judicial Council study as incomplete and inaccurate.

If racial disparity in sentencing does indeed exist in Alaska, the Judicial Council study has not proven it to what we would consider an acceptable degree.

However, when one reads the Court System analysis and compares it with the study, it is clear that both agree a disparity exists and that it is based on race. This general rejection of the Judicial Council's efforts is contradicted by the following, quoted from the Court System analysis.

"The Black and Native races have significantly lower probation rates."

"Natives receive higher sentences across the board . . ."

". . . the finding of potential racial disparity appears probable for Natives on misdemeanor sentences . . ."

Page Two
Representative Anderson
February 16, 1979

Once we conclude that a disparity exists, the next step is to look at all other explanations for the disparity. A number are mentioned in the two reports, while some others are not adequately considered. First, the findings indicate that a greater percentage of Natives are unemployed. The Court System concludes from that fact that more Natives get jail time because more of them are unemployed and thus cannot be put on probation.

Second, a substantially larger percentage of crimes by Natives are alcohol-related. The implication is that a greater sentence was imposed because alcohol was involved, not because a Native was involved.

Third, indications are that Natives have fewer ties to the community (Anchorage or Fairbanks) and that it is this "instability" which results in no probation, not the fact a Native is involved.

Fourth, a factor which seems to have been missed by all parties to this dispute is what kind of lawyer was available. Natives are much more likely to be represented by the Public Defender and much more likely to get jail time and longer sentences. The data seems to indicate that representation by appointed counsel has much more effect on length of sentence than most other factors. Since Public Defender defendants get longer sentences, and Natives more often must use the P.D., this factor should be looked at more carefully.

Fifth, another factor all but ignored by the studies is the demeanor of the defendant in open court. We may hypothesize that bush Natives, with different language and cultural backgrounds, handle themselves poorly when talking with the judge. We may also assume that, despite all the talk of objective sentencing criteria, the way a person behaves in front of a judge substantially affects the judge's sentence.

The important point to make about all these other "explanations" for the disparity in sentencing is that they tend to prove the racism rather than disprove it. Natives who 1) come from the bush; 2) cannot find jobs there; 3) have alcohol problems because of dramatic socio-cultural changes; 4) are poorer; 5) have no choice as to their lawyer; and 6) are forced into a foreign justice system, are suffering from those characteristics. Since they are uniquely Native characteristics in Alaska, heavier sentences based upon those characteristics are racist.

The difficulty with the Court System response is that it agrees with the data but rejects the hypothesis. Their attitude does not seem particularly constructive. A few examples: 1) Neither the Court System nor the Judicial Council lend any significance to the greater presence of alcohol in Native crimes or the almost non-existent role of drugs in Native crimes; 2) The Court System spends 10 pages

Page Three
Representative Anderson
February 16, 1979

critiquing the findings on felony sentencing but only 3 pages on the misdemeanor sentences, when the latter clearly shows a racial disparity; and 3) The Court System discusses variables which absolve them of responsibility (e.g., unemployment) but do not discuss other explanations which place more responsibility on the justice system (e.g., demeanor in court; the pre-sentence report). By arguing that racial disparity has not been proven, the Court System unnecessarily delays any study of solutions.

3. Recommended Actions

Further study is clearly needed. The resolutions and bills on the subject are correct in their assumption that the disparity exists and methods for addressing it must be looked at. The study should look at the following:

- a. comparison of alcohol-related crimes by Natives with alcohol-related crimes by whites;
- b. comparison of crimes by unemployed Natives with crimes by unemployed whites;
- c. comparison of sentencing patterns of rural courts with those of urban courts;
- d. comparison of pre-sentencing reports on Natives with those on whites;
- e. the importance of demeanor and visual and oral communication between probation officer and defendant and between judge and defendant in sentencing decisions;
- f. the correlation between representation by a public defender and by private counsel and whether lower quality representation, if it occurs, affects Natives more than whites; and
- g. the effect of alcohol on charges filed by the police and prosecutor and whether any such variable affects Natives more than whites.

Two general points to be made: First, it is likely, based upon any comparison between rural and urban courts, that Natives receive fairer sentences if they are sentenced close to home. If the lack of ties to the community is relevant to the sentencing decision, then sentencing by a court closer to the defendant's home is likely to be less harsh. We should consider making an effort of getting community-based correction facilities in rural areas and more effort at returning the defendant to his or her home for sentencing.

A second but related point is that, if a person is sentenced to jail time, he or she often is sent outside the state to do time. This hurts Natives particularly since their language and cultural differences make them an oddity in the lower 48. Rehabilitation is very difficult the further a person is taken from their home and relatives. Without family contact and assistance in finding

Page Four
Representative Anderson
February 16, 1979

jobs, the ability to readjust to society becomes overwhelmingly difficult. If you are interested in the state's practice of shipping prisoners out of the state to serve their time, you may want to look at SB 32 which makes it easier to do so. It would adopt the Interstate Corrections Compact to facilitate out-of-state transfers and allow the Division of Corrections to avoid its obligation to encourage rehabilitation.

DC:vtb

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.



Alaska Judicial Council

103 A STREET
ANCHORAGE ALASKA
99501

LAY MEMBERS
KENNETH L. BRADY
JOHN E. LONGWORTH
ROBERT W. MOSS

LAY MEMBERS
MARCUS R. CLAPP
MICHAEL M. HOLMES
JOSEPH L. YOUNG

CHAIRMAN EX OFFICIO
JAY A. RABINOWITZ
CHIEF JUSTICE
SUPREME COURT

EXECUTIVE DIRECTOR
MICHAEL L. RUBINSTEIN

February 13, 1979

Pat Berck
House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Pat:

Enclosed are copies of additional materials on race disparities in sentencing. Sorry for the delay-- printing took awhile.

Please let me know if you'd like more explanation or other information.

Sincerely,

Teresa J. White
Research Supervisor

Enclosure



Alaska Judicial Council

3034 STREET
ANCHORAGE ALASKA
99501

EXECUTIVE DIRECTOR
MICHAEL L. RUBINSTEIN

LAW MEMBERS
KENNETH L. BRADY
JOHN E. LONGWORTH
ROBERT W. HOSS

LAW MEMBERS
MARCUS A. CLAPP
M. PAUL M. HOLMES
JOSEPH L. YOUNG

CHAIRMAN EX OFFICIO
JAY S. RABINOWITZ
CHIEF JUSTICE
SUPREME COURT

October 30, 1978

MEMORANDUM

TO: MICHAEL L. RUBINSTEIN
FROM: STEVENS H. CLARKE
RE: RELATIONSHIP BETWEEN RACE AND SENTENCING

In this memo I want to summarize the statistical findings of the Judicial Council's plea bargaining study with respect to race and sentencing, and also to reply to the report of Merle P. Martin (October 1978). What I have to say here draws not only from my own thinking, but also from discussions with your consultant Professor Gary Koch of the UNC Biostatistics Department (a professional statistician). I would like to begin with some general comments on the controversy surrounding our study.

Scope of the plea bargaining study: As you know, the purpose of the Judicial Council's plea bargaining study was to measure the effects of the official prohibition of plea bargaining; more specifically, the Council's study sought to compare criminal case dispositions in Year One (the year before the prohibition went into effect) with those in Year

Two (the first year when the prohibition was in force), adjusting for other important factors that might change from one year to the next. In analyzing sentencing patterns to compare Year One and Year Two, we felt compelled to take into account a number of factors, including race, that might affect sentencing, in order to compare Year One and Year Two validly. Thus, in a sense, our findings on race and sentencing were a by-product of the plea bargaining study; we did not set out to analyze race as such.

However, I feel that our findings are quite reliable to establish certain facts about the relationship between race and sentencing. The main thing we have established is that the study data show a relationship between race and sentencing that should not be ignored. It suggests that further study may be needed as well as efforts to improve the sentencing process. (I have some ideas about future research in this area but will discuss them with you separately.) It is interesting that Merle Martin, although he disagrees with our methods (and we with his), seems to agree with our general conclusion that the evidence of possible race discrimination should not be ignored.

Sentencing must be placed in context. Writers on sentencing reform sometimes give the impression that sentencing is an independent judicial decision, from which it follows that if anything is wrong with the sentence, the judge is to blame. In fact, we know that this is untrue. The sentence is the result of a number of decisions by the police, prosecutor, defense counsel, and others, as well as the sentencing judge. Being a minority group member may mean a disadvantage

: at each of these decision points. I
lata you have recently been collecting will
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on the blame on certain judges. I would
hat the Judicial Council's plea bargaining
used to try to confine the race-sentence
ertain individual judges. One reason is
not the only actor in the process that
ence. Another reason is that the plea
was not designed for an analysis of indi-
titudes and practices; that sort of analysis
ery different design.

of Analysis in Plea Bargaining Study

bargaining study, we chose as the unit of
e"--a single charge against a single de-
the relevant information on both the
t charge. This was a logical choice and
our findings regarding race and sentencing.
had several charges, we chose to analyze
information plus defendant information)
e we were interested in the response of the
lleged criminal acts and in the effect of
he evidence, which could be different for
o we were concerned not only with sentencing
entire spectrum of court processing of
luding post-arrest screening, court dispo-
, plea to reduced charge, plea to original
ad the overall probability that a felony