

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 80/2

2462 HJ HB 668 - HB 698 2462

H B

668

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST

Bill/Resolution No: HB 668
 Title: An act relating to child support enforcement & providing effective date
 Sponsor: Rules Committee
 Requestor: Governor
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: Revenue Collection and Management
 BRU, Program of Subprogram(s) Affected: Child Support Enforcement Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRAN 3, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: See attached.

Prepared By: Dan R Copeland
 Division: Child Support Enforcement

Phone: 276-3441
 Date: 2/3/84

Approved by Commissioner: [Signature]
 Agency: Revenue

Date: 2/10/84

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Child Support Enforcement

Analysis:

One of the most difficult type of child support delinquency problems involves the self-employed. There are many legal enforcement techniques that may be used in this type of case, but the nature of the self-employed individual makes each of them expensive and subject to frequent delays. This bill provides payment information on delinquent payors to the credit bureaus and various lending institutions. This will create one of the most effective ways to deal with a particularly difficult part of the delinquent child support payor group.



STATE OF ALASKA

OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION
3601 C STREET - SUITE 742
ANCHORAGE, ALASKA 99503



March 23, 1984

Legislator Charlie Bussell
Chair, Judiciary Committee
State Capitol
Pouch V
Juneau, AK 99811

Dear Representative Bussell:

The Alaska Women's Commission strongly supports HB 667 and 668 which deal with Child Support Enforcement. As the legislation points out "the harmful effects of unpaid child support touch not only the poor but reach far beyond to diminish the overall quality of life for all Alaskans." We urge you to take action on these two bills as soon as possible.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Marshall".

Kathy Marshall
Executive Director

KM:ms f



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 1984

The Honorable Joe Hayes
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Hayes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to child support enforcement. This bill authorizes the Department of Revenue's child support enforcement agency, organized as a division within the department, to release to credit bureaus or lending institutions payment history information concerning persons who are delinquent in their court-ordered child support payments.

Existing statutes provide the authority to order an employer to withhold and deliver part of a delinquent employee's earnings. This tool is obviously not effective against a self-employed parent who owes child support. The new tool provided in sec. 2 of the bill is both a deterrent and a collection tool against those who are self-employed. The knowledge that delinquency in paying child support could be reflected in a person's credit history should serve as a deterrent to becoming delinquent and as a powerful incentive to those who are delinquent to bring their child support payments current.

The language of new AS 47.23.273(a) will ensure that the information provided by the division to credit bureaus and lending institutions will be only payment history information, without any reference to the personal characteristics or the reputation of the obligor. New AS 47.23.273(b) provides for immediate notification to credit bureaus and lending institutions when an obligor ceases to be delinquent in his payments.

- 2 -

As proposed, new AS 47.23.273 is in compliance with the Fair Credit Reporting Act, 15 U.S.C. sec. 1681. Under that Act, specific information regarding transactions or experiences between the division and an individual may be released without requiring that the division be considered a "consumer reporting agency."

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

H

B

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 27, 1984

SUBJECT: Sectional Analysis of HB 671 (Crimes
committed against a dependent person)

TO: Representative Charlie Bussell
Chairman, House Judiciary Committee

FROM:  Russ Josephson
Legislative Counsel

You have asked for a sectional analysis of HB 671. The analysis and related comments follow.

AS 12.55.155(c) is a listing of 26 factors that may be considered in aggravating a presumptive sentence under AS 12.55.125. This bill consists of a single section that amends AS 12.55.155(c) by adding a new paragraph containing a new aggravating factor: the victim of the crime is a dependent person, as described in the bill.

It is my understanding that you may want to change the penalties for a number of theft offenses, including embezzlement, if the victim of the crime is a dependent person. If you wish to do this, another approach may be taken. Each provision in the statutes that describes a theft offense and sets out the penalties for its commission would be amended. In order to give you a "vehicle" for that approach just before the personal bill introduction deadline, and not knowing what penalties you would like for each of the several theft offenses, I drafted the general provision described above.

I would note, too, that at this time there are several aggravating factors in AS 12.55.155(c) that might accomplish the purposes behind your request. The possible penalties that had been proposed with your request, incidentally, were actually less harsh than those existing in this state now for the theft offenses involved. Accordingly, being unable to reach you to consult further about your wishes under those circumstances, I used my best judgment. If I know

Representative Charlie Bussell

Page 2

February 27, 1984

what penalties you would propose for the various theft offenses, I can draft a sponsor substitute. Or, you may decide that the present penalties and available aggravating factors are sufficient.

If I may be of further service please do not hesitate to call.

RJ:lmb
L3/063

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
Bill/Resolution No.: HB 671
Title: An Act relating to crimes
against a denendant person
Sponsor: Cowdery
Requestor: _____
Date of Request: 2/13/84

FISCAL DETAIL Department of Health
Agency Affected: and Social Services
Program Category Affected: Division of Mental Heal
and Developmental Disabilities
~~BRU, Program or Subprogram(s) Affected:~~

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANECUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: James L. Scoles Phone: 465-3370
Division: Mental Health and Developmental Date: 2/16/84
Disabilities
Approved by Commissioner: [Signature] Date: 2/20/84
Agency: [Signature]

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

POSITION PAPER

House Bill No. 671

"An Act relating to crimes against a dependant person."

This bill would include crimes committed against mentally disabled persons (disabled by reason of birth defect, physical disorder, or advanced age) as an aggravating factor for purposes of sentencing criminal defendants under A.S. 12.55.125 (c) (1), (c) (2), (c) (3), (d) (1), (d) (2), (e) (1), or (e) (2).

The purpose of this bill is to authorize the imposition of additional criminal sanctions for defendants who prey upon persons who are disabled as defined above. We believe this to be an appropriate additional safeguard for our disabled citizens, many of whom are unable to protect themselves and their property.

We do, however, recommend that all substantially developmentally disabled persons as well as chronically mentally ill persons be included under this proposed amendment. The following language is offered for possible inclusion in the bill in order to further protect these equally disabled or equally helpless individuals:

Beginning on line 13 add the following underlined language, "...a mental or physical disability attributable to a chronic emotional disorder, developmental disability, a birth defect, physical disorder, or advanced age,..."

In our opinion, the addition of this language will more adequately define those individuals that should be guarded against exploitation by criminals under this section of the Alaska Statutes.

The purpose of expanding the definition of "mentally disabled" under House Bill 671 is to offer additional protection for the substantially developmentally disabled and chronically mentally ill that are able and willing to reside in the community rather than in our institutions. As our policy has been to develop programs offering community alternatives to institutionalization for these handicapped citizens, this bill, with our proposed amendments, will further that endeavor by adding more criminal sanctions and increased protection for those who perpetrate crimes against these handicapped citizens.

The Division of Mental Health and Developmental Disabilities, in the Department of Health and Social Services, supports the passage of House Bill 671 with the addition of the language proposed above.

Recommended by: *Philip Shapiro*
Philip Shapiro, M.D., Director
Division of Mental Health and
Developmental Disabilities

Date: _____

Approved by: *R. L. Smith*
Robert London Smith, Ph.D.
Commissioner

Date: *acty* *2/24/84*

H B

678

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3733

DISTRICT 15
STAR ROUTE BOX 421
EAGLE RIVER, ALASKA 99577
(907) 688-2526



VICE-CHAIRMAN
Judiciary
Legislative Regulations Review

MEMBER
Resources
Rules
Finance — Sub. Com. Labor

Representative John J. Liska

April 11, 1984

M E M O R A N D U M

FROM: Rep. John J. Liska

REFERENCE: HB 678, "An act prohibiting removal of WW II artifacts from State land."

The purpose of this bill is to insure World War II artifacts are included in the State Statutes under the Alaska Historic Preservation Act.

Presently, we have a major problem in the State of Alaska with the removal of World War II artifacts. These historical items are being removed either in tact, for museums in the lower 48, or disassembled to supply a very lucrative demand for spare parts for these vintage planes.

Your packet contains:

- A. Pages 30, 31 and 32 from a publication entitled "The Historical "Battle of Alaska" remains." These pages refer to various types of aircraft that crashed in Alaska and where they have been removed to:
1. Douglas - O - 38F - removed to Air Force Base Museum in Dayton Ohio in 1968.
 2. Stinson - A Trimotor - to Wisconsin in 1972 by J.D. Berry.
 3. P - 51H and P - 40 - Steve Myers, Washington.
 4. U.S. Navy Vought OS 2U King Fisher - removed to the Smithsonian Institute.
 5. P - 39 Airacobras, on display in Seattle.

Additionally, page 73 shows Japanese artifacts from World War II.

Page two
HJR 66

In addition in your packets, but not nearly as interesting, are letters from CAVPAC supporting HJR 66 and HB 678 and a copy of a letter from General Talley who was involved in the Alutian Campaign.

Another piece of back up material has been submitted by the North Star Chapter Pearl Harbor Survivors Association. I have made copies of the first three pages - which may or may not be the same artifacts as previously submitted in your packet.

JJL/tm

Besides the public museums such as the Smithsonian Institute and the Anchorage Historical and Fine Arts Museums, there are many small or private collections which display items of Alaskan history. Unfortunately, in many cases, Alaskans have no say in how the collections are handled.

History is repeating itself in the area of aviation history. It is seen in many examples of aircraft downed during World War II which are leaving the state.

A Douglas O-38F had engine problems and crashed in 1941. It was removed to the Air Force Museum in Dayton, Ohio in 1968.

In 1972 a Stinson 'A' Trimotor which crashed in 1947 was removed to Wisconsin by J.D. Berry. Berry wrote to Wien Air Alaska and followed it up with a phone call to try and get the airline to purchase the plane for the cost of its removal, but there was no interest, so it was sent Outside in order to pay the costs for its removal.

Two P-51H's were pulled out near Stevens Village. Two more were found near Kotzebue, and three were removed from across Cook Inlet. One P-40 was removed from Amchitka Island in the Aleutians. All of these aircraft were removed by Steve Myers of Washington.

Another P-40 was removed from a site near Fairbanks in 1977 and was sold to a buyer at an unknown Lower 48 destination.

A United States Navy Vought OS2U Kingfisher which crashed during WW II on one of the small islands near Kodiak, was removed in the early summer months of 1979 for removal to the Smithsonian.

There have been numerous other cases. An ad in Flying Magazine's June '80 issue states that sale of "P-39 Airacobras. Recently recovered from a fresh water lake in the Alaskan Peninsula. Russian armament, 117 hour totals hours each. Make offer, would like aviation museum or same to purchase...Yakima, Washington..." A call from the United States Historical Aircraft Preservation Museum in Anchorage brought no response.

Three B-25 Mitchell bombers have left the state in the past two years, in flyable condition, headed for the Outside.

The United States Historical Aircraft Preservation Museum has been trying for several years to open a museum facility located at Merrill Field, but has been blocked from doing so because it has no planes to put into the facility. At the same time, the Planes of Fame Museum from Chino, California has been soliciting donations of Alaska aircraft on a promise of opening an Alaskan branch museum at some undetermined later date.

It has successfully acquired an A-26 from Dr. Donald Rogers, an H-21 helicopter from Bill Swift to help in removing aircraft downed in Alaska, a B-25 from Fairbanks. A wing insignia was donated to the Air Force Museum by Ted Spencer - the insignia coming from the wing on an

aircraft downed at Nome which was to have been used in reconstructing a P-63 Airacobra.

The Committee contends that Planes of Fame has an established reputation for flying, crashing and destroying one-of-a-kind aircraft, and of selling aircraft and aircraft parts in the Lower 48 and abroad in order to keep itself solvent.

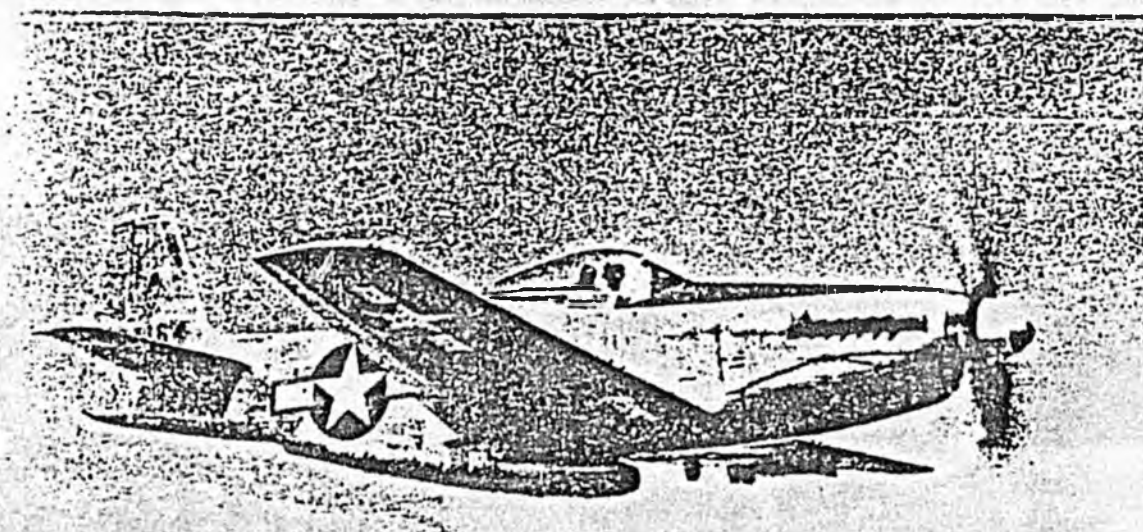
Flying in races and demonstrations for trophies and prize money has taken its toll on the vintage military aircraft.

The Committee feels that if it can adhere to those goals, Alaska will have one of the finest aviation museums in the U.S., preserving that part of Alaskan history.

The United States Historical Aircraft Preservation Museum is currently conducting negotiations for several planes of significant historical value, as well as parts and planes to be retrieved from bush areas.

Access to battlefields in the Aleutians is difficult because of the expense and weather conditions involved, but the area promises to be a fertile area to search.

If the museum has had a difficult time collecting actual aircraft for its displays, there has been no shortage of donations of other treasures. Photographs, blue prints from the Bell Factory which

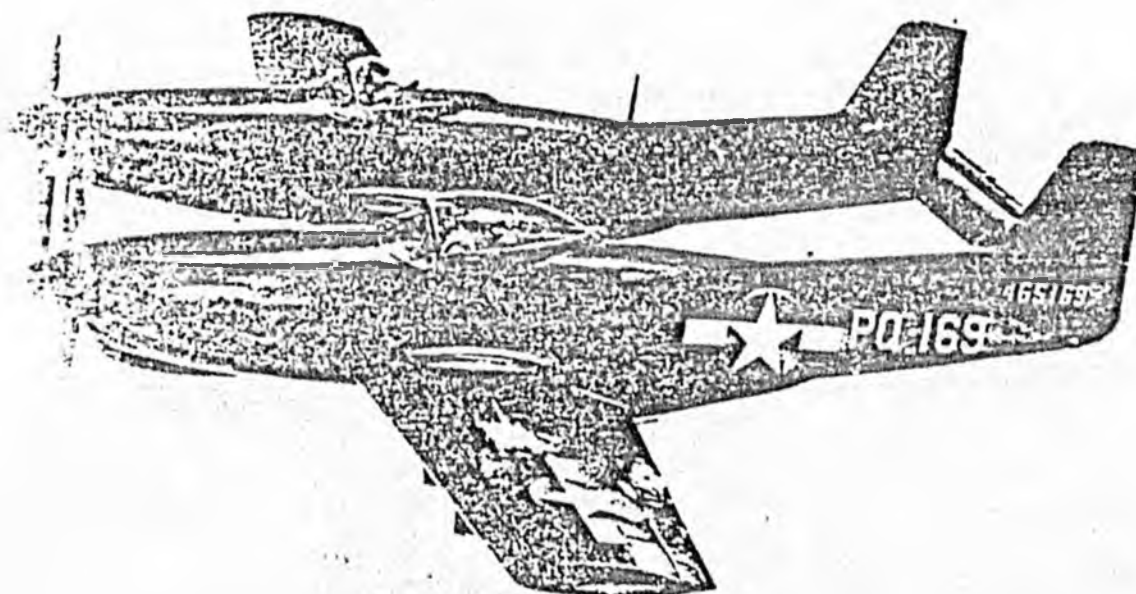


These fighters, P-51's Mustang, were used toward the end of WW II in Alaska. They did not see combat in the Aleutian Campaign. Three downed P-51's were located.

AAHS

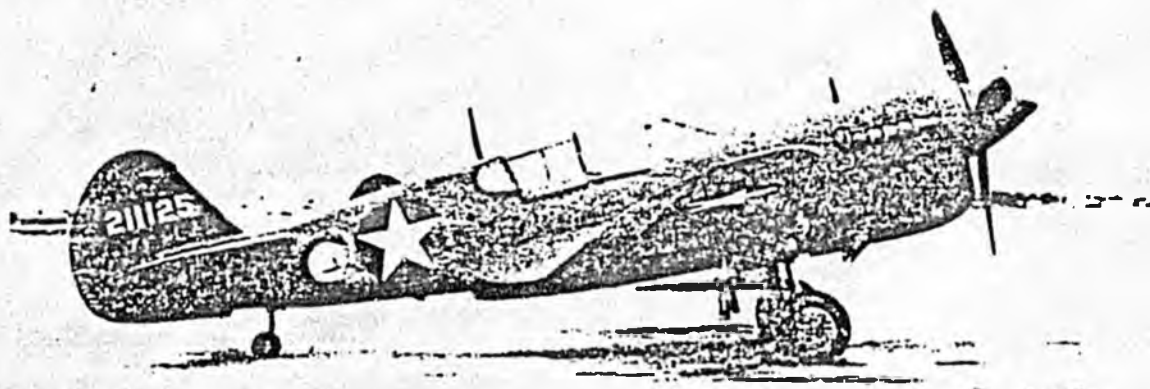
The P-82 Twin Mustang was based in Alaska after WW II. One was located that bellied in and is intact in the Interior.

USAF



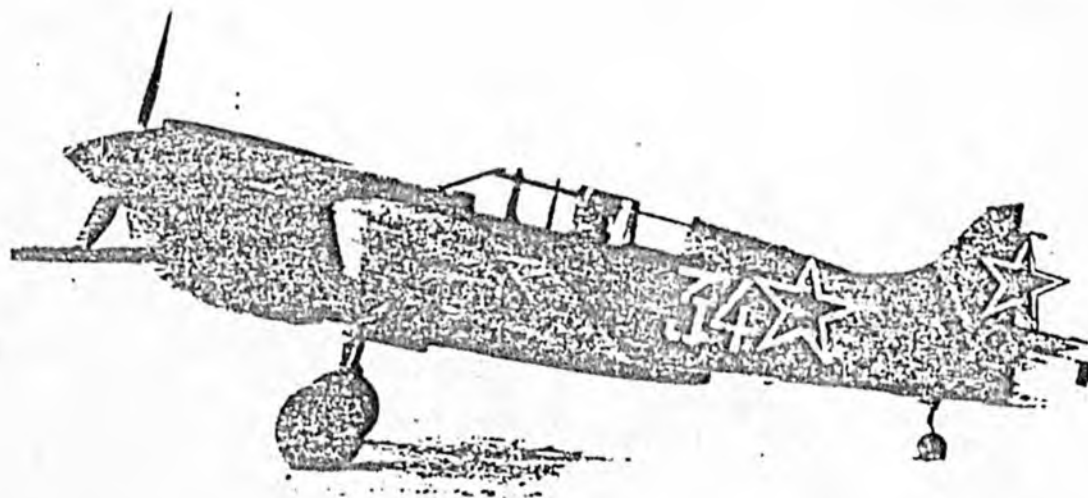
Curtiss P-40 was used by the USAF during the Aleutian Campaign. Eight P-40's were located: Five of them were abandoned, two were downed, and one is in the bottom of a fresh water lake. Also several brand new P-40's were buried in crates in the Aleutians.

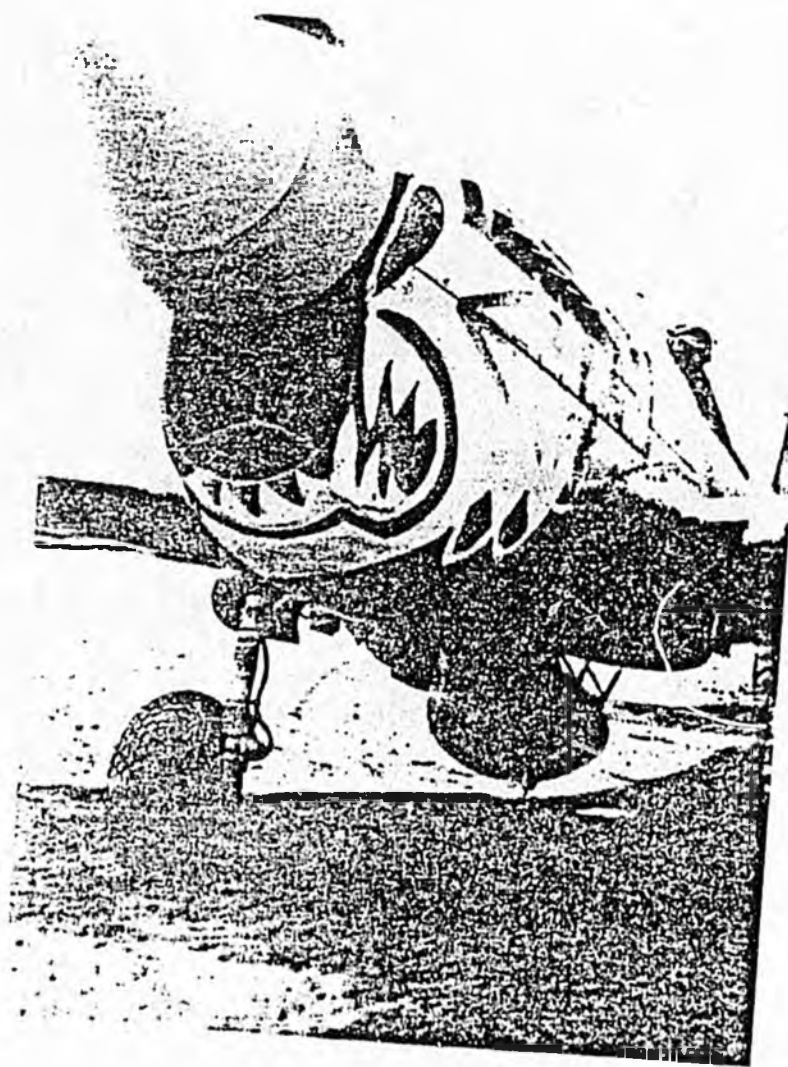
RWT



Approximately 48 Lend Lease P-40's came through Alaska on their way to Siberia. At present Moscow is the only place in the world that has one of the Lend Lease P-40's. Two more were located in the Interior.

GFP





This is a Curtiss P-40 called the "Aleutian Tiger." It was used in combat by the United States during the Aleutian Campaign. Four of them were located.

USAF

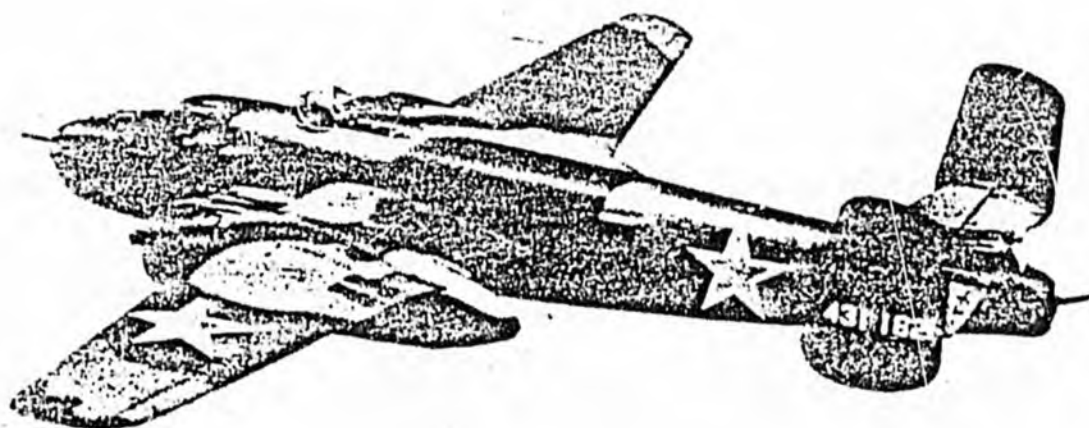


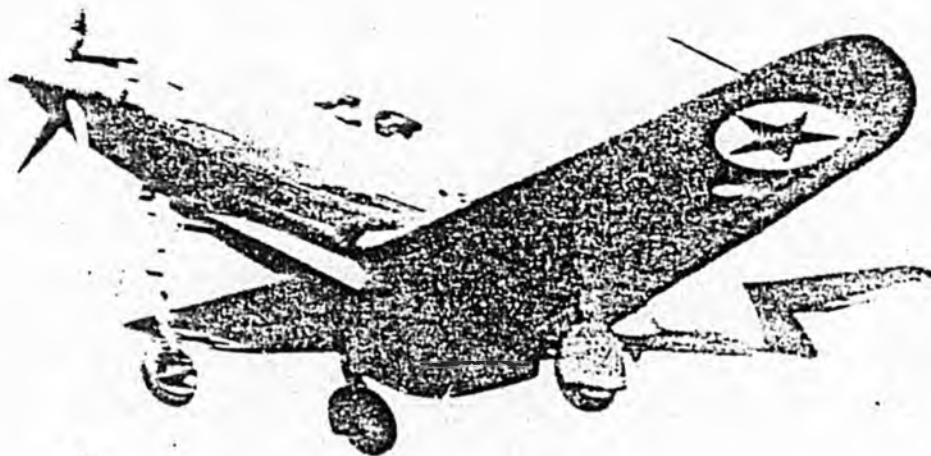
Two of these B-25 Medium Bombers went down in the Aleutians during the Aleutian Campaign.

USAF

Approximately 732 of these Lend Lease B-25 Mitchell Bombers were ferried from Great Falls, Montana, Whitehorse to Fairbanks to Siberia, Russia to be used against the Germans during WW II. Three of these aircraft went down in the Interior Alaska.

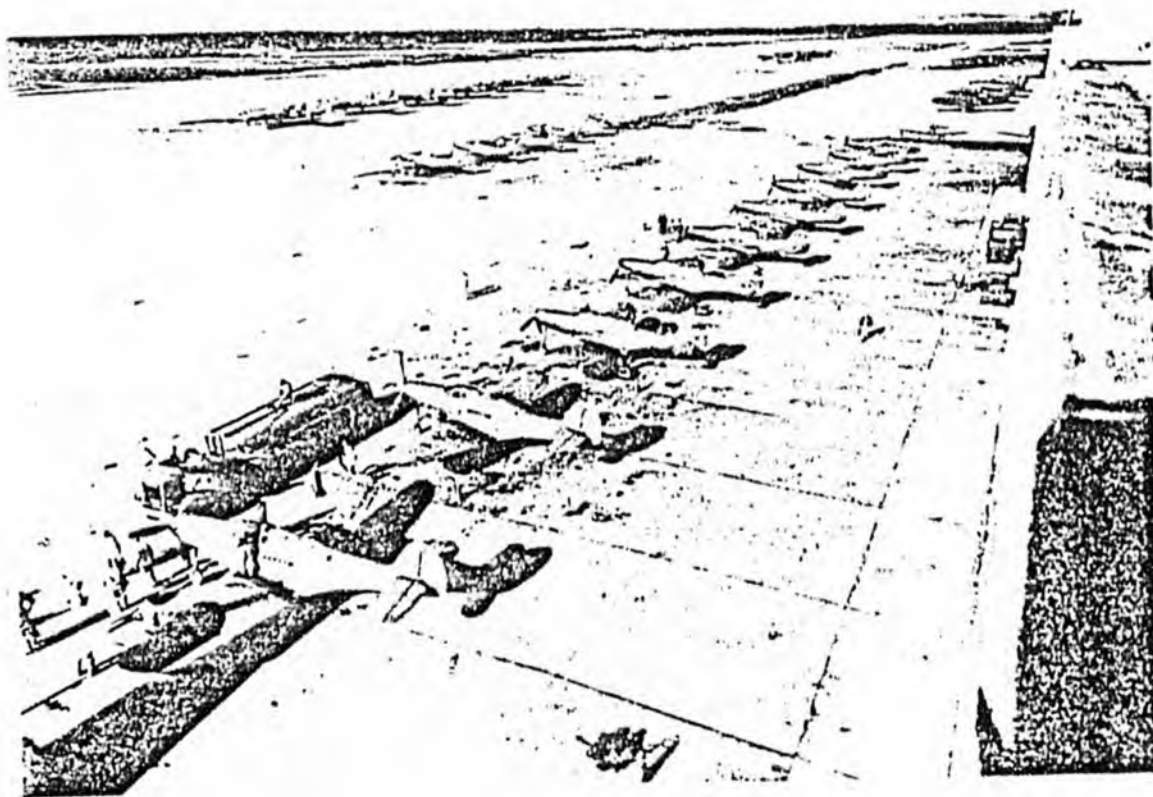
NAA

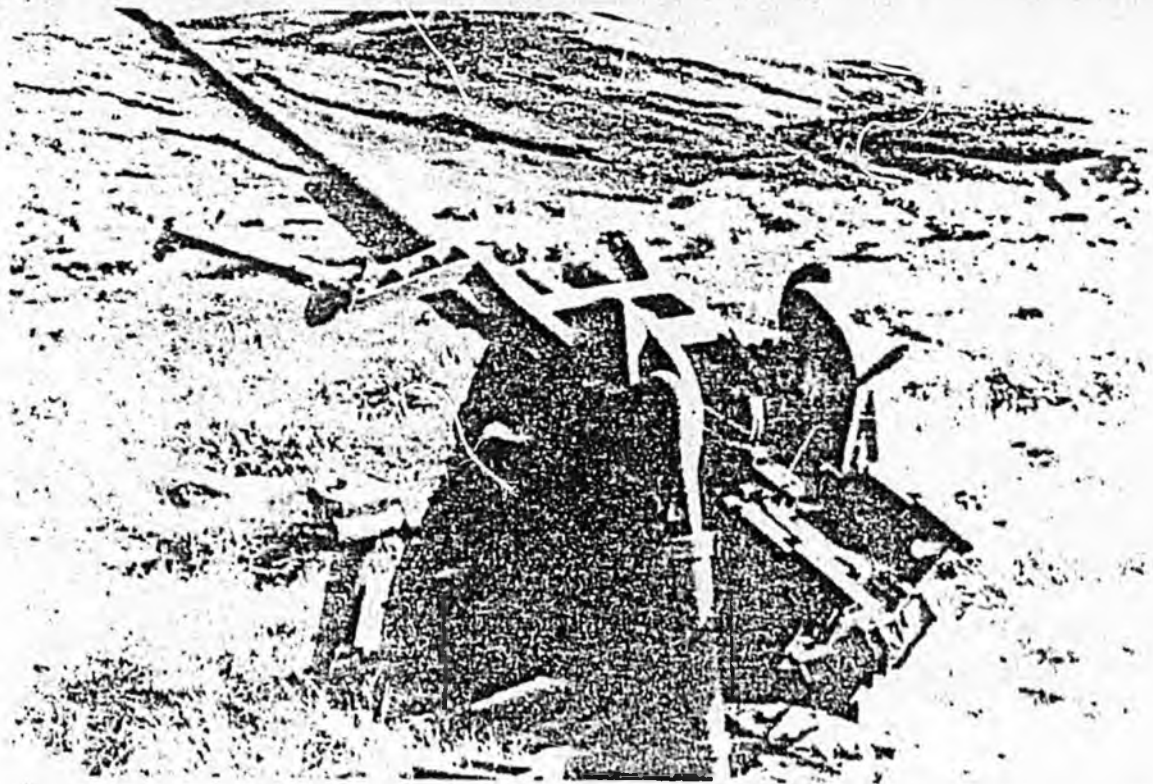




Approximately 2,618 P-39 Airacobra came through Alaska on their way to Siberia under the Lend Lease Program. Eleven of the P-39's went down in the Interior, and six of these are in fresh water lakes.

USAF

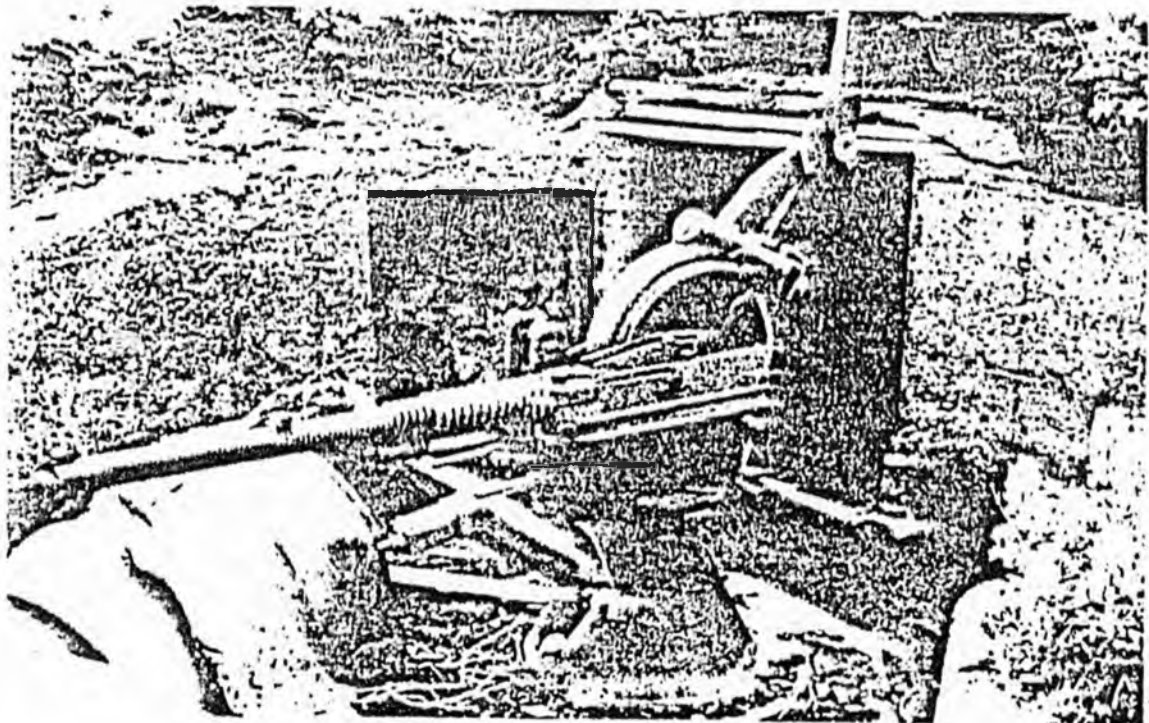




Japanese Model 96 (1936), Type 2, 25 mm Anti-aircraft Gun and Mount. This gun is very rare and was not extensively used by the Japanese.

COE

Japanese Model 93 Heavy Machine Gun, 13.3 mm on an Anti-Aircraft Mount. USFWS



CAVPAC, P.O. Box 8-901

Anchorage, Alaska 99508



HJR66 and HB678 BACKUP INFORMATION

The Alaska Historical and Transportation Museum and other interested non-government organizations are focusing on long range planning, development, and preservation of pioneer, transportation and military history throughout the State and especially on the Aleutian Island Chain.

The projects of the organizing committees are to: (1) Survey and inventory significant relics, artifacts, and related historical material pertaining to transportation (surface, maritime, and with major emphasis on aviation); (2) Develop plans for the historic preservation and interpretation of these artifacts; (3) Recommend an appropriate museum site(s); (4) Coordinate with other public and private sector museums to insure that all groups interested in aircraft recovery can participate in recovery and restoration of aircraft, and that the restored aircraft will remain in Alaska; and (5) Prepare a presentation for submittal to the Governor and the Legislature in 1985 on a statewide program of cultural and historical preservation, including programs on pioneer, transportation, military, and the historically related areas, which are either not currently included in existing museum services or are inadequate in scope.

These projects and assessments will supplement the existing Statewide Museum Plan and will include recommendations for future museum development in the State of Alaska.

There has been no comprehensive statewide assessment or inventory of Alaska's historical artifacts that are constantly being removed from the State. Although many agencies have worked with each other on various aspects of preservation, an overall coordinated appraisal of the most critical needs in this area has never been possible.

Alaska's military history covers a wide range of topics: the Alaska Purchase to World War II era, aviation, maritime, World War II Aleutian campaign, DEW Line, and post-WW II history, etc. A number of agencies have shown an interest and have done limited statewide planning to locate historical Alaskan artifacts, but have discovered that big money in the lower 48 is stealing many of our WW II aircraft from federal and state land without any interference and are selling them to museums and making a fortune. It's big business. Many of these U.S. and Japanese aircraft have been salvaged almost intact.

It is hoped that HJR66 and HB678 will assist, when implemented, to retain valuable artifacts in Alaska and in 1985 some funds can be made available to improve our historical museums. The Army, Air Force, and National Guard have already assisted in salvaging and restoring some of these artifacts.

CAV Needs You And You Need CAV
for

VETERAN POWER

Army Navy Air Force Marines Coast Guard National Guard Reserves

Paid for by CAVPAC, P.O. Box 8-901 Anchorage Alaska 99508

The historically significant relics, artifacts and other materials are part of Alaska's history and should be preserved before it is too late. Many WWII aircraft, both friendly and enemy, have been literally stolen from the Aleutian Chain and are now in museums in the States of Ohio, Tennessee, Washington and California that we know of. They are a part of Alaska's wartime history and should remain here. They will also be of tourist interest.

Draft prepared by B. B. Talley
with contribution by
Col. Evan J. Griffith, USAF

BACKGROUND MATERIAL IN SUPPORT OF HB _____
APPROPRIATING FUNDS FOR A COMPREHENSIVE DOCUMENTARY FILM
OF WWII IN ALASKA

There exist several books and papers, some official, which purport to document the history of WWII in Alaska. In addition, the military services have extensive motion pictures of their operations in Alaska. In recent years there has been a rebirth of interest on the part of individuals and organizations, particularly veterans organizations, in this part of Alaska's history. These individuals and groups have many important visual records which can be obtained for a comprehensive documentary film of WWII in Alaska.

In 1980, on the 40th anniversary of its arrival in Alaska, the veterans of the 11th US AF held a reunion in Alaska. It included a visit to the Aleutians as far out as Shemya. Weather prohibited their going to Attu. Extensive motion pictures and video tapes were made of this celebration, including interviews and oral history from many of the veterans present.

In 1982 extensive motion pictures and video tapes were made by individuals, organizations and by TV stations of the ceremony in dedication of a memorial on Unalaska Island to all those who lost their lives in the Aleutians during WWII. This included the Armed Forces of the United States and Canada, the Aleuts, and the Japanese Armed Forces. The two Japanese officers, now retired, who led the first and second waves of bombers in the attack on Dutch Harbor on 4 June 1942 participated in this dedication. The dedication was preceded by a flight from Unalaska Island to the Umnak Air Base, and to the position of the Japanese carrier from which the attack was launched, thence following the course of the planes to the rendezvous point and returning to Dutch Harbor. The plane was piloted by the Japanese officer who led the attack, flying

in reverse the course flown in the attack. From the rendezvous point, the plane flew the course at the same altitude flown in the actual attack. In the plane were Admiral James S. Russell, USN-Ret. who commanded the US Navy Catalinas in Alaska during WWII, BG B. B. Talley, Corps of Engineers, retired, who was responsible for building the secret air base on Umnak Island from which the US AF P-40s broke up the Japanese aerial attack on Dutch Harbor, and Admiral Hiroichi Samejima, JMSDF (Ret.) who led the first wave of Japanese bombers, and Colonel Zenji Abe, JMSDF (Ret.) who led the second wave which consisted of dive bombers. (Then Lieutenant Commander Abe later transferred to the army, as the reconstituted Naval defense force did not have dive bombers.) Also in the plane were Mr. Ted Spencer who arranged the dedication ceremony and the aerial flight here described. There was also a motion picture camera crew aboard who recorded the flight on film.

In view of the advancing age of the still living participants in WWII in Alaska, delay in the production of this visual history might preclude their participation in this important chapter in Alaska's history.

Inasmuch as the State of Alaska would be the primary beneficiary, the State should be the primary sponsor of the project. Such a project is within the purview of the Alaska Historical Commission of the Department of Education.

The project would include, but not necessarily be limited to, bringing together into a single compilation the best of the existing film, editing it into a single comprehensive historical document. There should be included in this compilation such additional footage as may be appropriate, with commentary by selected veterans who took part in the action.

Upon being instructed to carry out this project and being provided with the necessary funds for its accomplishment, the Alaska Historical Commission formed by AS Title 44, Article 3,

would have power to prepare or to authorize and coordinate the preparation and production by others of a documentary film covering this important portion of Alaska's history. Such a history should include but not be limited to the stills and motion pictures already in existence, but should include additional visual components as may be appropriate. Such a project should be completed by June 30, 1986.

A conceptual organizational structure for executing this project is shown in Figure 1.

C O N T E N T S

Part I. Facts of Aircraft and Aircraft Parts, Flyable and Non-Flyable, that Left the State of Alaska.

- Page 1. Douglas C-38F Aircraft that left the state of Alaska in 1968.
- Page 2. Flying Magazine add in June 1980 regarding the removal of two P-30 Airacobras from Alaska. Six years ago two P-30 Airacobras were located at Minchumina Lake. In 1982 approximately \$10,000 were spent by a company to retrieve these aircraft. The group found out these were no longer there. We suspected that the aircraft mentioned in the Flying Magazine add are the same ones that were in Minchumina Lake.
- Page 3. A letter to Mr. Aldrich in California who sells vintage airplane parts. He sent to the USHAFM the original letter of Mr. Steve Matthews of Fairbanks who illegally removed airplane parts from state land and was attempting to sell them. The present whereabouts of the parts are unknown.
- Page 4. Photographs of two P-30 Airacobras on state land near Fairbanks. For the past four years illegal salvagings had been done to these.
- Page 5. Alaska Magazine Jan. 1981 two articles about a Stinson aircraft that was removed from the dump at Merrill Field, Anchorage and which is now on display at Seattle. The man who removed the aircraft, J. Berry, also removed in the early 1970's a P-40 aircraft from the Alaskan bush which was later transported to the Lower 48.
- Page 6 and 7. An article from a vintage/WW II aircraft book regarding the removal of a P-40 from the Aleutians.
- Page 8 thru 12. A Flying Magazine article regarding the removal of one P-40, four P-51 Mustangs, and three other P-50 Mustangs that were just removed for parts out of the state of Alaska.
- Page 13. Photographs of the P-40 that was removed from the Aleutians.
- Page 14. Oct. 1978 Alaska Magazine article on donation of a P-30 Airacobra's wing portion to the Lower 48.
- Page 15. Air Classics Magazine 1979 article with photographs of mutilation of a Lend Lease Russian aircraft's wing which is now in Ohio.
- Page 16. A letter from Dept. of Interior regarding the unlawful removal of aircraft parts from Amchitka Island. The two individuals who were involved in this unlawful act were fined \$500 each.
- Page 17 and 18. A letter from the Smithsonian Institution about the removal of a Navy CSRU Kingfisher from Afognak Island. The aircraft is now on loan from Smithsonian to Bradley Museum in Connecticut.

C O N T E N T S

Part I. Continued

- Page 19. A Douglas S3D-5 Dauntless wing which was in the Aleutian but is now in California.
- Page 20. Four photographs of helicopter parts and aircraft parts being shipped by Sealard from Anchorage to California.
- Page 21. B-25 aircraft engines that were donated to an aviation group in Alaska and are now in California.
- Page 22. A letter to Paul Caulkett regarding two B-25 aircraft that were to be used as static display within the state of Alaska.
- Page 23 and 24. A letter from the Alaska Department of Transportation in Fairbanks showing that one of the B-25 aircraft (paragraph 4) was sold to Mr. John C. Morgan by one of the aviation societies in Anchorage.
- Page 25. Two photographs of the B-25 that one of them was sold to Calif.
- Page 26. Alaska Magazine Dec. 1980 article on a Stearman that was in Alaska and is now in the Lower 48. (If interested, a copy of the article can be provided.)
- Page 27. Three photographs of P-38 Lightning which was removed from Alaska and is now in California.
- Page 28. A letter from State of Alaska, Dept. of Natural Resources regarding the attempts of Castle AFB in California to remove the remains of a P-38 from the Aleutians.
- Page 29. Air Classics Magazine April 1981 article on A-26 Invader that was given to California as a donation.
- Page 30. Two photos of the A-26 flyable aircraft that ^{was} donated to Calif.
- Page 31. Top - photo of the three B-25's which two of them left the state of Alaska. Destination unknown. Bottom - another photo of the A-26 that was donated to California.
- Page 32. Picture of a B-25 flyable aircraft that is now in California.
- Page 33. A Lockheed Constellation that was donated to City of Kenai, later was sold for \$30,000 and is now in Florida.

Part II. Aircraft and artifacts that had left the state of Alaska which cannot be stated as illegally been salvaged. Records at the Air Force Rescue Coordination Center at Elmendorf AFB show these WW II aircraft are no longer in their crash sites, there are no indication of their present whereabouts, or who retrieved them. Reports from bush pilots, who spotted the aircraft earlier, show that the same aircraft are no longer in their crash sites.

C O N T E N T S

Part II. Continued

1. Bulken Island in the Aleutians: The crashed P-38 Lightning's complete booms (two) and vertical stabilizer were removed two years ago. Can be verified thru Dept. of Fish and Wildlife.
2. A Lend Lease P-40, which crashed in 1944 in Nome area, was found in 1978. The aircraft was no longer there in 1952. Verified through bush pilots.
3. A Canadian P-40 that was located in 1968 was not there in 1976. The aircraft was completely removed. Only a few remaining parts are there. Verified through bush pilots.
4. P-51 Mustang, which crashed in 1944 at Broad Pass, was removed in early 1970's by an Anchorage resident couple and was shipped to the Lower 48. Also the husband removed P-40 parts of four aircraft that are on Unalaska in the Aleutians. This can be verified through U.S. Hist. Aircraft Preservation Museum.
5. WW II aircraft parts from Nome, Fairbanks and Northway that were removed three years ago and are now in Lower 48. Can be verified through USHAFM.
6. A vintage aircraft that crashed in Ketchikan: Its parts were removed for souvenir and are still in Alaska. Can be verified through USHAFM.
7. There are numerous stories told by state agencies, the local military, bush pilots and individuals that know, had seen, and have been involved in the removal of WW II aircraft, aircraft parts, and artifacts out of the state of Alaska.

If at the present time there were laws protecting the WW II aircraft and artifacts, these individuals and groups of people in the state of Alaska can be checked out and their residences be searched to prove the statements. The USHAFM knows several of these people.

It is difficult to prove that there is illegal salvaging of WW II aircraft, aircraft parts, and artifacts because the individuals who are involved are never caught. The only way we can prove that such a thing is happening is when these aircraft and aircraft parts come to surface in private hands and/or in the Lower 48 when the serial numbers and tail numbers can be verified that they came out of the state of Alaska. This takes time of hours and years. Alaska is slowly being stripped of its WW II aircraft, aircraft parts and materials that the average persons do not realize it till they are actually involved in the research of the WW II artifacts and materials in the state and in the Aleutians.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 678
Title: "An act relating to
World War II artifacts"
Sponsor: Representative Liska
Requestor: House State Affairs
Date of Request: March 3, 1984

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

FILE COPY

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan ^{FAC} Phone: 269-5691
Division: Alaska State Troopers Date: 03/02/84
Approved by Commissioner: Robert J. Sundberg Date: 3/6/84
Agency: Public Safety

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

MEMORANDUM

State of Alaska

TO: Honorable Esther Wunnicke
Commissioner
Department of Natural Resources

DATE: April 3, 1984

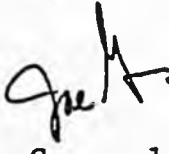
FILE NO: 366-544-83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Ownership of abandoned airplanes located on state land

By: Joseph W. Geldhof
Assistant Attorney General



You have requested our counsel with respect to the disposal of property located on state land. This inquiry arose because of competing ownership claims to a Consolidated PBY/OA-10 "Catalina" flying boat (PBY) of World War II vintage abandoned at Dago Lake approximately 30 flying minutes south of King Salmon, Alaska. The PBY has remained at Dago Lake since 1947. During the intermittent years the PBY has been stripped of the engines, certain components and slightly vandalized. The plane is located on land which belongs to the State of Alaska. Several organizations claim title to the aircraft and seek removal of the aircraft from state property. The aircraft is listed on the Alaska Heritage Resource Survey (#UGA-037).

The essential question in this situation is who owns the aircraft. A secondary question is answered involving the means by which the state may dispose of the aircraft assuming the state owns the aircraft and elects to pursue a disposal of the plane.

We believe the State of Alaska, through the Department of Natural Resources, has a colorable claim of ownership to the PBY located on state property near Dago Lake. The source of this ownership claim is found at AS 41.35.020(a) which states in relevant part that:

The state reserves to itself title to all historic, prehistoric and archaeological resources situated on land owned or controlled by the state

....

While the PBY is neither a prehistoric nor an archaeological resource, the aircraft is probably a historic resource according to AS 41.35.230(4) which defines "historic resources" as including:

deposits, structures, ruins, sites, buildings, graves, artifacts, fossils or other objects of antiquity which provide information pertaining to

the historical or prehistorical culture of people in the state as well as to the natural history of the state.

(Emphasis added.) The PBY is probably a historic resource because it is an artifact or ruin located on state property which provides information pertaining to the historical culture of the people in the state. The plane is a type used during the Second World War during the Aleutian campaign, a campaign which saw the only land battles fought on North American soil during that war and which made extensive use of PBY's.

In the alternative, the aircraft is probably a historic resource because it is an object of antiquity which provides information pertaining to the historical culture of the people in the state. There can be no specific definite time limit as to when an object becomes an "antiquity." United States v. Diaz, 368 F. Supp. 856, 858 (D.C. Ariz. 1973). The Diaz case is instructive for the antiquity analysis. In that case, a Magistrate made a finding pursuant to a prosecution for appropriation of Indian artifacts on government land. The Magistrate ruled that artifacts less than five years old were objects of "antiquity." In light of testimony as to the significance and the importance of the artifacts to the Indian culture and heritage, as well as the uniqueness of such artifacts, and the fact that the case was one of first impression, the court held that the findings of the Magistrate were not clearly erroneous. Id. at 857.

Our inquiry on the question of ownership does not rest with the determination that the state has a legitimate claim to the aircraft in question. Because the state was not the original owner of the PBY, the possibility exists that a superior claim may be asserted with respect to the aircraft.

While in possession of the aircraft, the state has certain rights, including the right to continue possession against everyone except those who have a better right; the right to recover the plane if it is wrongly taken; and the right to recover for damages to the aircraft. See generally, C. Smith & R. Boyer, Survey of the Law of Property (2d ed. 1971). In addition, the state may elect to bring criminal charges against an individual that removes, destroys or injures the PBY or other historic, prehistoric or archaeological resources in the state's possession based on AS 41.35.200.

At common law, property for which an owner was not known, was classified in the following ways:

a) lost property; b) treasure trove; c) mislaid goods.

The characterization of lost property, treasure trove or mislaid property is dependent on the situation or location of the property in question. Lost property is property unintentionally lost by the true owner. Treasure trove consist of coin, money or other precious commodities concealed in the earth or other private place. A finder of lost property acquires title to the found property against all but the true owner. Generally, in the United States treasure trove is treated as lost property and belong to the finder in the absence a superior claim by the true owner. Mislaid goods are those which were intentionally placed by the owner where they were found, and then forgotten or left there. The finder of misplaced or mislaid goods does not obtain title to right to possession of the property. The owner of the property on which misplaced goods are found is deemed to hold the goods for the true owner. See generally, id. at 456-457; see also, 1 Am.Jur.2d Abandoned, Lost, Etc., Property §§ 18-26 (1962). In Alaska, unclaimed property is governed by AS 34.45.010, et seq., a statutory provision which is not particularly helpful for our analysis.

The PBY in question does not have any of the characteristics of lost property or misplaced goods. The PBY is certainly not treasure trove within the classic definition, although some of the competing aviation groups seeking possession of the plane treat the plane as a "treasure."

Because one of the organizations seeking possession of the aircraft has a certificate of title filed with the United States Government which gives them a claim against the PBY, we have reviewed the doctrine of abandonment in order to ascertain whether that organizations claim of title to the aircraft is still valid. Abandonment divests a former owner of title to property, as if the owner never had any right or interest in the property. The burden of proof is upon one alleging abandonment and the evidence in support of a charge of abandonment must be clear and convincing. Burr v. House, 3 Alaska 641 (Alaska 1909). Abandonment is a matter of intention. Harkrader v. Carroll, 76 F. 474 (D.C. Alaska 1896). Accord Loeser v. Gardiner, 1 Alaska 641 (Alaska 1902), and Whites Guardian v. Martin, 2 Alaska 495 (Alaska 1905). But cf. Gurgel v. Nichol, 429 P.2d 47, 48 (Utah 1967), for the proposition that nonuse and lapse of time are proper considerations for determining abandonment.

In the current situation, the actual act of relinquishment accompanied by an intention to abandon the PBY by the true owner has not been shown. Absent intention to abandon and given the difficulty of convincing a jury that the planes circumstantial neglect constituted abandonment, the interest asserted by the individual with the certificate of title is probably superior to the state's general claim based on legislation found at AS 41.35.020. This of course assumes the deed of title to the PBY is valid. A claim supported by a valid title is also superior to a general claim of ownership based on a previous owners letter of disinterest in the property or a quit claim to the property in question exercised subsequent to a valid conveyance.

Once the determination of who has a superior ownership claim to the PBY is sorted out, the state may be faced with a question of how the Department of Natural Resources might dispose of aircraft or other personal property located on state lands. 1/

Under article IX, section 6, of the Alaska Constitution, public property can only be transferred to promote a public purpose. 2/ Consequently, the Department of Natural Resources may not make a gift of state property to any entity absent showing that it would promote a public purpose. See 1983 Op. Att'y Gen. (Nov. 2). Ac cord 1980 Op. Att'y Gen. (May 28).

Assuming there is a legitimate public purpose for disposing of historic, prehistoric or archaeological resources, statutory authority must exist for a particular department to dispose of property. See generally 1969 Op. Att'y Gen. (Mar. 27). As it happens, the Department of Natural Resources, Division of Lands has such authority in AS 38.05.035(14) which provides in relevant part that the director of the Division of Lands may:

1/ In passing we note that if the state ever locates or attempts to dispose of historic, prehistoric or archaeological resources on state land, caution should be exercised to comply with provisions of AS 41.35.020 which protect aboriginal Alaskan interests in historic, prehistoric and archaeological resources.

2/ Alaska Constitution article 9, section 6, provides that "[n]o tax shall be levied or appropriation of public money made or public property transferred, nor shall the public credit be used except for a public purpose."

with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available lands, resources, property or interest in them, and in addition to the condition and limitations imposed by law, [the director] may impose additional conditions or limitations in the contracts ... [which] will best serve the interest of the state

(Emphasis added.)

There is no constitutional requirement for a competitive sale in a situation like this. Such requirements as exist are to be found in the statute. Cf. Libby v. City of Dillingham, 612 P.2d 33, 40-41 (Alaska 1980).

In this situation, it is the best interest of the state which must be served. If the Department of Natural Resources finds that it owns a resource like the PBV and finds that disposal to an entity would best serve the public, we would recommend that the department make a formal written finding and commence work on a transfer agreement in conjunction with the Department of Law and the individual or the entity which seeks possession of the resource. Transfer of an aircraft or other valuable cultural resources owned by the state should be conditioned upon completion of an agreement which adequately protects the state and public interest. At a minimum this agreement should contain a provision for display and access to the resource for the citizens of the state. In addition, any agreement transferring property like an airplane should allocate responsibility for damages to persons or property associated with the movement, storage or display of the aircraft.

In conclusion, we believe the state has a legitimate ownership claim to the aircraft now resting near Dago Lake. This ownership claim is not absolute however, and is probably inferior to the assertion of ownership claimed by the Alaskan Historical Aircraft Society (AHAS). If, after inspection of the title documents presented by the AHAS, it appears that AHAS has an unbroken chain of title following the original conveyance from the United States Government to the first private citizen owner via a surplus sale in 1948, then we would recommend that you accede to the request of the AHAS and allow that organization access to the PBV for purposes of removal. If you are at all concerned about the AHAS's chain of title, a title search by any firm conducting such reviews may be warranted. The Department of Law is available to inspect or otherwise assist your agency in a

Hon. Esther Wunnicke, Commissioner
Department of Natural Resources
366-544-83

April 3, 1984
Page #6

review of any title documents pertaining to the various ownership claims.

Please call if we can be of additional assistance on this matter.

JWG:eer

cc: Ty L. Dilliplane
Chief, Office of History and
Archaeology
Alaska State Parks

HB

692

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 692
 Title: "An Act relating to attorney fees."
 Sponsor: House Judiciary
 Requestor: _____
 Date of Request: 3.02.84

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: _____
General Government
 BRU, Program or Subprogram(s) Affected: _____
Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: House Judiciary Phone: 465-4990
 Division: [Signature] Date: 3.02.84

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Dick Pegues, Director of Administrative Services, Department of Law,
confirmed the zero fiscal impact of this bill.

H B

6 9 3

Law Offices of
Kemppel, Huffman & Ginder

255 E. Fireweed Lane, Suite 200
Anchorage, Alaska 99503

Roger R. Kemppel
Richard R. Huffman
Peter C. Ginder
Ronald L. Baird
Darrel J. Gardner

March 27, 1984



Telephone
(907) 277-1604
(907) 276-1605

The Honorable Charlie Bussell
Pouch V
Juneau, AK 99811

Dear Mr. Bussell:

I write to solicit your support for the passage of the following pieces of legislation:

	<u>House</u>	<u>Senate</u>
1. Renunciation of Rights in Decedent's Estates	HB 695	SB 513
2. Administration of Decedent's Estates	HB 694	SB 512
3. Uniform Disposition of Community Property Rights at Death	HR 697	SB 515
4. Married Person's Rights in the Family Home	HB 696	SB 514
5. Uniform Principal and Income Act	HB 693	SB 511

I am an attorney practicing in Anchorage, Alaska. My practice is largely devoted to estate planning, estate and gift tax analysis, and probate and trust administration. I am therefore quite familiar with the contents of each of the proposed measures. None of the proposed bills have the glamour associated with larger issues dealt with by your Committee. Nonetheless, I would encourage you to give active consideration to passing each of these measures. The enactment into law of each of these measures will result in a far higher degree of certainty in various areas covered by the proposed legislation than is now the case. It is also my opinion that any lingering uncertainty in these areas can only result in additional expense to our clients.

The Honorable Charlie Bussell
March 27, 1984
Page 2

Thank you very much for your consideration. Please do not hesitate to call or write if you have any questions.

Very truly yours,

KEMPPED, HUFFMAN, & GINDER

A handwritten signature in cursive script that reads "Peter C. Ginder".

Peter C. Ginder

PCG:pls

cc: John Liska
Ramona Barnes
Don Clocksin
Joe Hayes
Hugh Malone
Ron Wendte

FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 693
 Title: "...relating to principal and income of trusts..."
 Sponsor: House Rules/Code Rev. Comm.
 Requestor: House Judiciary
 Date of Request: 3/13/84

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Government
 Program or Subprogram(s) Affected: Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 3-13-84
 Approved by Commissioner: Norman C. Gorsuch Date: 3-13-84
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Fiscal Note
Analysis
HB 693

March 13, 1984

This bill was requested by the Code Revision Commission so that the state may adopt the Uniform Principal and Income Act. The act has been adopted by 37 other states, making it one of the more widely accepted uniform acts. The proposed act codifies rules a trustee shall follow when the document that established the trust does not provide instructions to cover all circumstances, which frequently is the case. It directs how the trustee shall credit a receipt or charge an expenditure in a variety of fact situations. Because this bill only deals with private sector financial transactions, it will not have a fiscal impact on state government operations.

HOUSE AND SENATE JOINT
JOURNAL SUPPLEMENT

March 1, 1984

No. 21

ALASKA CODE REVISION COMMISSION



COMMISSIONERS
JOHN W. ABBOTT - CHAIRMAN
JAMES L. BALDWIN - VICE CHAIRMAN
PATRICK M. RODEY
CHARLIE BUSSELL
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ALASKA STATE LEGISLATURE
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878

EXECUTIVE SECRETARY
BILLY G. BARRIER

March 1, 1984

Senator Bill Ray, Chairman
Alaska Legislative Council
Pouch V, State Capitol
Juneau, Alaska 99811

- RE: (1) a bill relating to principal and (HB 693/SB 511)
income of trusts;
(2) a bill relating to administration (HB 694/SB 512)
of decedents' estates;
(3) a bill relating to renunciation of (HB 695/SB 513)
of rights in decedents' estates;
(4) a bill relating to married persons' (HB 696/SB 514)
rights in a family home; and
(5) a bill relating to the uniform dis- (HB 697/SB 515)
position of certain property rights
at death

Dear Senator Ray:

Pursuant to AS 24.20, the Alaska Code Revision Commission has prepared the enclosed bills and respectfully asks that they be introduced in the legislature.

They are technical bills the commission has been working on with the probate committee of the Alaska Bar Association. They relate generally to rights at death and to property arrangements that usually have their inception in death.

At its last meeting, the Legislative Council agreed to introduce the bills.

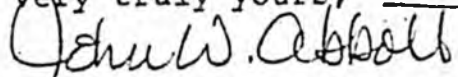
One of the bills, the bill on disposition of certain property rights at death, was previously in the legislature but received little notice. It is revived at the request of the probate committee of the Alaska Bar Association, and that

Page 2

committee has advised the commission that it will actively support the bill.

A commentary on each bill is enclosed.

Very truly yours,



John W. Abbott, Chairman
Alaska Code Revision Commission

JWA:chw

Enclosures

cc: Hon. Bill Sheffield
Hon. Edmond W. Burke, Chief Justice
Myrton R. Charney, Executive Director
Legislative Affairs Agency

-- COVERS IDENTICAL BILLS: HE 693 & SB 511 --

ALASKA CODE REVISION COMMISSION
COMMENTARY TO ACCOMPANY BILL TO ADOPT
THE UNIFORM PRINCIPAL AND INCOME ACT

Many private trusts now are being established in Alaska, both by living persons and pursuant to the last will and testaments of deceased Alaskans.

The Uniform Principal and Income Act codifies rules a trustee shall follow when the document that established the trust does not provide instructions to cover all circumstances, which frequently is the case. It directs how the trustee shall credit a receipt or charge an expenditure in a variety of fact situations.

Thirty-seven states have adopted either the 1931 or 1962 version of the Uniform Principal and Income Act. Therefore, what is proposed for adoption is one of the more widely accepted uniform acts.

A trustee may be a sophisticated trust department of a bank or a wholly unsophisticated family member or friend. There are many trustees in each of these categories and others. They all have a need for the guidance this Act provides.

Customarily, a trustee has duties to someone who receives income from the trust and corresponding duties to someone else who will receive the principal assets of the trust (the principal) at some future time, often at a time far in the future. From day to day the trust has expenses and receipts. The trust document seldom if ever tries to answer all the questions the trustee must decide about how to allocate between principal and income.

The Act sets the rules that apply in the absence of rules in the trust instrument. The Act does not supersede directions to the trustee that are set out in the trust instrument. The intent of the person who established the trust is to control when that intent can be determined. The Act will fill in only when the trust instrument is silent.

Nor does the Act supersede a provision in a trust instrument that gives a trustee absolute discretion in how to allocate. Even in that case, however, the Act is a ready source of guidance to a trustee on the choices that must be made.

The Act follows the so-called "Massachusetts Rule" of awarding cash dividends on corporate stock to income and stock

dividends to principal, thereby rejecting the Pennsylvania Rule or some variation of it requiring apportionment between the two funds. Provision is made for corporate distributions pursuant to a court decree such as a divestiture order in an antitrust suit. Provision is also made for treatment of the distributions of a regulated investment company or real estate investment trust. In recent years, the discount type of bond such as the Series E bond of the United States government and the zero coupon bond have become common. Provision has been made in the Act for allocating the increment in value between principal and income.

Because of the difficulty of apportioning receipts from extraction of natural resources among the income and principal beneficiaries it is provided in the Act that an arbitrary allocation should occur, that is, 27-1/2% of the gross receipts shall be added to principal as a "depletion reserve," and the balance is payable to the income beneficiary. Attempts to apportion the receipts on the relation of the amount of minerals extracted to the amount of minerals remaining in the ground have proved difficult of calculation and this method of allocation was accordingly rejected in favor of simplicity.

The Act contains a "catch-all" providing for disposition of receipts where there is no specific section in the Act dealing with the allocation. A form of "prudent man" rule has been adopted to handle this situation. Receipts from cutting of timber are covered only by this "prudent man" rule since the effect cutting of timber has on the value of land varies too much to apply the general rule on "depletion reserve."

The form of the Act is straightforward. The initial section, AS 13.38.010, establishes the relationship between the trust instrument and rules in the Act: As noted above, the trust instrument (that is, the creator's intent as expressed in the trust instrument) always prevails if it conflicts with the rules in the Act.

The second section, AS 13.38.020, defines the terms "principal" and "income" and contains cross references to the sections where the definitions are refined in the balance of the Act.

In a practical sense, the entire bill is a refinement of the definitions of principal and income set out in proposed AS 13.38.020.

The first two sections, therefore, are the key to the Act. The remainder of the Act is accounting principles applied to the listed kinds of property, kinds of receipts and expenditures and times of receipts and expenditures, as set out in the section headings of the Act:

- AS 13.38.010. Duty of Trustee as to Receipts and Expenditures.
- AS 13.38.020. Income and Principal Defined.
- AS 13.38.030. When Right to Income Arises; Apportionment of Income.
- AS 13.38.040. Income Earned During Administration of a Decedent's Estate.
- AS 13.38.050. Corporate Distributions.
- AS 13.38.060. Bond Premium and Discount.
- AS 13.38.070. Business and Farming Operations.
- AS 13.38.080. Disposition of Natural Resources.
- AS 13.38.090. Timber.
- AS 13.38.100. Other Property Subject to Depletion.
- AS 13.38.110. Underproductive Property.
- AS 13.38.120. Charges Against Income and Principal.
- AS 13.38.130. General Definitions.
- AS 13.38.140. Application of Chapter.

Various small substantive departures from the uniform act were considered by the code revision commission in the drafting process. However, after review with the Alaska Bar Association's Probate and Trust Committee and after unofficial but careful review by the leadership of the Alaska Association of Certified Public Accountants, the bill is almost verbatim the uniform act.

The only substantive changes from the Uniform Principal and Income Act are two relatively minor changes in section AS 13.38.110 on Underproductive Property.

The main aim of the Act is simplicity and convenience of administration of the estate. A second aim, of course, is fairness to all beneficiaries both present and future. Because simplicity and convenience are a primary aim of the Act, the Act is made applicable to all trusts and estates whether in existence at the time the Act becomes law or not.

Because the rules in the Act dictate choices that are standard in accounting practice, there is little reason to believe the rules in the Act will differ, in significant ways, from the present practices of most trustees. Therefore, no problems of transition are anticipated.

In brief, the Act, therefore, sets forth simple and workable rules of administration which are believed to be consistent with the wishes of creators of trusts upon the subject treated unless the creator specifically provides for a different treatment in the trust instrument.

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FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 694
 Title: "...relating to administration of decedents' estates..."
 Sponsor: House Rules/Code Rev. Comm.
 Requestor: House Judiciary
 Date of Request: 3/13/84

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Government
 Program or Subprogram(s) Affected: Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 85	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues Phone: 465 3672
 Division: Administrative Services Division Date: 3-13-84
 Approved by Commissioner: Norman C. Gorsuch Date: 3-13-84
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Fiscal Note
Analysis
HB 694

March 13, 1984

This bill was requested by the Code Revision Commission to adjust for inflation the dollar amounts in certain neglected sections of the Uniform Probate Code. This is the first such adjustment since the Code was adopted in 1972. It is estimated that the CPI will have risen 146% from 1972 until the bill would take effect in January 1, 1985. Because this bill only deals with private financial transactions, it will not have a fiscal impact on state government operations.

HOUSE AND SENATE JOINT
JOURNAL SUPPLEMENT

March 1, 1984

No. 21

ALASKA CODE REVISION COMMISSION



COMMISSIONERS
JOHN W. ABBOTT - CHAIRMAN
JAMES L. BALDWIN - VICE CHAIRMAN
PATRICK M. RORBY
CHARLIE BUSHNELL
L. E. KURTZ, JR.
JUDGE (RET.) THOMAS B. STEWART
FREDERIC E. BROWN

ALASKA STATE LEGISLATURE
POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4870

EXECUTIVE SECRETARY
BILLY G. BERRIER

March 1, 1984

Senator Bill Ray, Chairman
Alaska Legislative Council
Pouch V, State Capitol
Juneau, Alaska 99811

- RE: (1) a bill relating to principal and (HB 693/SB 511)
income of trusts;
(2) a bill relating to administration (HB 694/SB 512)
of decedents' estates;
(3) a bill relating to renunciation of (HB 695/SB 513)
of rights in decedents' estates;
(4) a bill relating to married persons' (HB 696/SB 514)
rights in a family home; and
(5) a bill relating to the uniform dis- (HB 697/SB 515)
position of certain property rights
at death

Dear Senator Ray:

Pursuant to AS 24.20, the Alaska Code Revision Commission has prepared the enclosed bills and respectfully asks that they be introduced in the legislature.

They are technical bills the Commission has been working on with the probate committee of the Alaska Bar Association. They relate generally to rights at death and to property arrangements that usually have their inception in death.

At its last meeting, the Legislative Council agreed to introduce the bills.

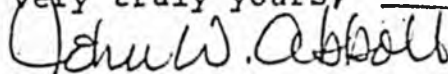
One of the bills, the bill on disposition of certain property rights at death, was previously in the legislature but received little notice. It is revived at the request of the probate committee of the Alaska Bar Association, and that

Page 2

committee has advised the commission that it will actively support the bill.

A commentary on each bill is enclosed.

Very truly yours,



John W. Abbott, Chairman
Alaska Code Revision Commission

JWA:chw

Enclosures

cc: Hon. Bill Sheffield
Hon. Edmond W. Burke, Chief Justice
Myrton R. Charney, Executive Director
Legislative Affairs Agency

-- COVERS IDENTICAL BILLS: HB 694 & SB 512 --

ALASKA CODE REVISION COMMISSION
COMMENTARY TO ACCOMPANY BILL ON
ADMINISTRATION OF DECEDENTS' ESTATES

This bill has a single purpose--to adjust for inflation the dollar amounts in certain neglected sections of the Uniform Probate Code.

The code was enacted in Alaska in 1972. From July, 1972 to November, 1983 the "Consumer Price Index for All Urban Consumers for the Anchorage Metropolitan Area" moved from 1.159 to 2.704. The CPI has been erratic the past several months. However, a reasonable guess is that the CPI on January 1, 1985, the effective date set in the bill, will be 2.856, an increase of 146% over 1972. The dollar figures in the bill are adjusted roughly consistent with that percentage. Broadly rounded figures are used.

In the first section of the bill, the figures used for the homestead allowance are those of the homestead exemption in the Alaska Exemptions Act, AS 09.38. That is a recent Act, ch. 62, SLA 1982. It is desirable, but not necessary, that the homestead allowance in the Probate Code and the homestead exemption in the Exemptions Act be the same.

The other changed figures in the bill are tied to nothing but changes in the cost of living that have already occurred.

An alternative to setting fixed figures would be indexing figures to the consumer price index, such as is provided in section 09.38.115 of the Alaska Exemptions Act. If that approach were taken, the Revisor of Statutes could be required to change figures under the formula adopted. The formula could be adjusted so a figure would be determined a year in advance of its effective date, and the change would appear in the supplement to Alaska Statutes. The indexing alternative could readily be adopted for this bill. It is not adopted, however, since it may be advisable to let the indexing provisions in the Exemptions Act be tested before they are adopted elsewhere.

HB

695

FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 695
 Title: "...renunciation of rights in decedents' estates."
 Sponsor: House Rules/Code Rev. Comm.
 Requestor: House Judiciary
 Date of Request: 3/13/84

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Government
 Program or Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
-00 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 3-13-84
 Approved by Commissioner: Richard I. Pegues (for Norman C. Gorsuch) Date: 3-13-84
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

This bill was requested by the Code Revision Commission to amend the Uniform Probate Code to provide that:

(1) the right to renounce would survive the death of the person having it;

(2) the permissible disclaimer period would be extended from six to nine months after a death; and

(3) accepting one interest in property would not prevent renouncing another interest in the same property.

Renunciation of rights in decedents' estates is a valuable option for estate planning to avoid the taxable transfer of estates. Because this measure deals only with an individual's right to renounce an estate interest, it will not have a fiscal impact on state government operations.

HOUSE AND SENATE JOINT
JOURNAL SUPPLEMENT

March 1, 1984

No. 21

ALASKA CODE REVISION COMMISSION



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(907) 465-4878

EXECUTIVE SECRETARY
BILLY G. BERRIER

March 1, 1984

Senator Bill Ray, Chairman
Alaska Legislative Council
Pouch V, State Capitol
Juneau, Alaska 99811

- RE: (1) a bill relating to principal and income of trusts; (HB 603/SB 511)
(2) a bill relating to administration of decedents' estates; (HB 694/SB 512)
(3) a bill relating to renunciation of rights in decedents' estates; (HB 695/SB 513)
(4) a bill relating to married persons' rights in a family home; and (HB 696/SB 514)
(5) a bill relating to the uniform disposition of certain property rights at death (HB 697/SB 515)

Dear Senator Ray:

Pursuant to AS 24.20, the Alaska Code Revision Commission has prepared the enclosed bills and respectfully asks that they be introduced in the legislature.

They are technical bills the commission has been working on with the probate committee of the Alaska Bar Association. They relate generally to rights at death and to property arrangements that usually have their inception in death.

At its last meeting, the Legislative Council agreed to introduce the bills.

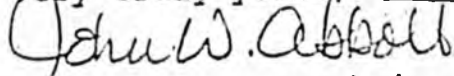
One of the bills, the bill on disposition of certain property rights at death, was previously in the legislature but received little notice. It is revived at the request of the probate committee of the Alaska Bar Association, and that

Page 2

committee has advised the commission that it will actively support the bill.

A commentary on each bill is enclosed.

Very truly yours,



John W. Abbott, Chairman
Alaska Code Revision Commission

JWA:chw

Enclosures

cc: Hon. Bill Sheffield
Hon. Edmond W. Burke, Chief Justice
Myrton R. Charney, Executive Director
Legislative Affairs Agency

-- COVERS IDENTICAL BILLS: HB 695 & SB 513 --

ALASKA CODE REVISION COMMISSION
COMMENTARY TO ACCOMPANY BILL ON
RENUNCIATION OF RIGHTS IN DECEDENTS' ESTATES

This bill deals with refusal to accept property or an interest in property from a decedent's estate. Referred to as "renunciation" or "disclaimer", it is a valuable option for estate planning to avoid a taxable transfer.

The right to renounce is provided for in AS 13.11.295 (Section 2-801 of the Uniform Probate Code). This bill would make three changes to facilitate estate planning:

(1) The right to renounce would survive the death of the person having it;

(2) The permissible disclaimer period would be extended from six to nine months after a death; and

(3) Accepting one interest in property would not prevent renouncing another interest in the same property.

The concept of the changes proposed by this bill is in the Uniform Disclaimer of Transfers by Will, Intestacy or Appointment Act (1978). Because Alaska has already adopted the Uniform Probate Code contained in AS 13, minimal changes to AS 13.11.295 will give Alaska the main benefits of the uniform disclaimer statute. The bill does not extend beyond disclaimer of transfers resulting from death. Disclaimer of other kinds of transfers could be the subject of another bill.

The changes in (b) extend the time for renunciation to the nine months period in which renunciation is permitted under the Internal Revenue Code, 26 U.S.C., Sec. 2518. The current version of the Uniform Probate Code recommends that states conform their laws to the nine month period. Failure to do so may deny to Alaskans the full period the federal law permits for taking advantage of a tax planning tool.

Sometimes an heir with a right to disclaim will die within this nine month period. For example, an elderly husband and wife may not outlive each other by nine months. In that situation, a disclaimer would avoid an extra taxable transfer before property is inherited by their children. The changes in (a) would allow a personal representative (executor of the estate

of the second to die) to exercise the right of disclaimer. However, the period for disclaimer would not be extended: the personal representative of the second to die would have to act within nine months of the first death.

The changes in (d) would permit disclaiming one interest in property without forfeiting the right to accept another interest in the same property. Under federal Internal Revenue law, it is possible for a beneficiary to refuse to accept an income interest in property while accepting transfer of the principal asset, or to refuse a transfer of a principal asset while accepting an income interest in the asset. The change in (d) would delete language that infers that the acceptance of any interest in property would totally bar a renunciation of any other interest in the same property.

AS 13.11.295(f) is deleted as obsolete law. A similar section is not needed as temporary law in this bill because the changes in AS 13.11.295 liberalize renunciation, do not restrict it.

HB

696

FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 696
 Title: "...married persons' rights in a family home."
 Sponsor: House Rules/Code Rev. Comm.
 Requestor: House Judiciary
 Date of Request: 3/13/84

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Government
 Program or Subprogram(s) Affected: Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard L. Pegues Phone: 465-3672
 Division: Administrative Services Division Date: 3-13-84
 Approved by Commissioner: Richard L. Pegues/for Date: 3-13-84
 Agency: Department of Law Date: 3-13-84

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Fiscal Note
Analysis
HB 696

March 13, 1984

This bill was requested by the Code Revision Commission to remove certain anachronisms and would repeal certain statutory provisions that cause uncertainty in titles to Alaska real property. The protections afforded a widow by the right of dower are now afforded by various options under the Uniform Probate Code, as are the protections afforded a widower under the related "curtesy" right. This bill would repeal some of the protections once afforded a married person under common law dower and curtesy. Because the bill only deals with private property rights, it will not have a fiscal impact on state government operations.

HOUSE AND SENATE JOINT
JOURNAL SUPPLEMENT

March 1, 1984

No. 21

ALASKA CODE REVISION COMMISSION



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JAMES L. BALDWIN - VICE CHAIRMAN
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ALASKA STATE LEGISLATURE
POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878

EXECUTIVE SECRETARY
BILLY G. BERRIER

March 1, 1984

Senator Bill Ray, Chairman
Alaska Legislative Council
Pouch V, State Capitol
Juneau, Alaska 99811

- RE: (1) a bill relating to principal and (HB 693/SB 511)
income of trusts;
(2) a bill relating to administration (HB 694/SB 512)
of decedents' estates;
(3) a bill relating to renunciation of (HB 695/SB 513)
of rights in decedents' estates;
(4) a bill relating to married persons' (HB 696/SB 514)
rights in a family home; and
(5) a bill relating to the uniform dis- (HB 697/SB 515)
position of certain property rights
at death

Dear Senator Ray:

Pursuant to AS 24.20, the Alaska Code Revision Commission has prepared the enclosed bills and respectfully asks that they be introduced in the legislature.

They are technical bills the commission has been working on with the probate committee of the Alaska Bar Association. They relate generally to rights at death and to property arrangements that usually have their inception in death.

At its last meeting, the Legislative Council agreed to introduce the bills.

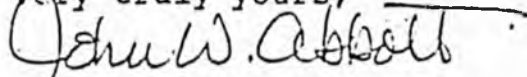
One of the bills, the bill on disposition of certain property rights at death, was previously in the legislature but received little notice. It is revived at the request of the probate committee of the Alaska Bar Association, and that

Page 2

committee has advised the commission that it will actively support the bill.

A commentary on each bill is enclosed.

Very truly yours,



John W. Abbott, Chairman
Alaska Code Revision Commission

JWA:chw

Enclosures

cc: Hon. Bill Sheffield
Hon. Edmond W. Burke, Chief Justice
Myrton R. Charney, Executive Director
Legislative Affairs Agency

-- COVERS IDENTICAL BILLS: HB 696 & SB 514 --

ALASKA CODE REVISION COMMISSION
COMMENTARY TO ACCOMPANY BILL RELATING TO
MARRIED PERSONS' RIGHTS IN A FAMILY HOME

This bill would remove certain anachronisms and would repeal certain statutory provisions that cause uncertainty in titles to Alaska real property. The principal provisions to be repealed are AS 34.15.010(b), (c) and (d), subsections that deal with conveyances of "the family home or homestead".

The other two sections to be repealed by the bill deal with dower, a common law concept that has not been recognized in Alaska in its pure form since 1900 (Bechtol v. Bechtol, 2 Alaska 397 (1905)). Its altered, statutory form was removed from Alaska law in 1963 (sec. 30, ch. 38, SLA 1963). The protections once afforded a widow by the right of dower are now afforded by various options under the Uniform Probate Code adopted in Alaska in 1972, as are the protections afforded a widower under the related "curtesy" right. The official comment to the Uniform Probate Code includes:

"The provisions of this Code replace the common law concepts of dower and curtesy and their statutory counterparts."

The main subjects of this bill, AS 34.15.010(b), (c) and (d), are subsections enacted over a period of time, apparently in a patchwork effort to approach some of the protections once afforded a married person under common law dower and curtesy.

Common law dower was a life estate given a widow in one-third of the lands her husband owned at any time during the marriage. Her husband could not transfer away her right. But Alaska's statutory dower only applied to real property owned by the husband at the husband's death. Common law curtesy was similar to dower but was a right given a husband in lands of his wife. In its statutory form (sec. 482, Compiled Laws of Alaska 1913, since repealed) it applied only to lands owned by the wife at the wife's death.

To compensate for the lesser protection afforded in the statutory forms of dower and curtesy, the legislature required the signature of both spouses on every deed to "a family home or homestead" (ch. 107, SLA 1933; now AS 34.15.010(b)).

Unless both spouses' names appear on the title

documents, a purchaser down the chain of title usually will have no way of knowing whether a predecessor was married and usually will have no way of knowing whether real property was a married couple's "home or homestead". Therefore, the 1953 legislature (ch. 145, SLA 1953) engrafted further provisions on the statute in an effort to clear titles clouded by what now is AS 34.15.010(b).

The confused and contradictory state of these subsections of AS 34.15.010 can best be shown by setting them out in full:

(b) In a deed or conveyance of the family home or homestead by a married man or a married woman, the husband and wife shall join in the deed or conveyance.

(c) The requirement that a spouse of a married person join in a deed or conveyance of the family home or homestead does not create a proprietary right, title or interest in the spouse not otherwise vested in the spouse.

(d) Failure of the spouse to join in the deed or conveyance does not affect the validity of the deed or conveyance, unless the spouse appears on the title. The deed or conveyance is sufficient in law to convey the legal title to the premises described in it from the grantor to the grantee when the deed or conveyance is otherwise sufficient, and (1) no suit is filed in a court of record in the judicial district in which the land is located within one year from the date of recording of the deed or conveyance by the spouse who failed to join in the deed or conveyance to have the deed or conveyance set aside, altered, changed, or reformed, or (2) the spouse whose interest in the property is affected does not file, within one year in the office of the recorder for the recording district where the property is situated, a notice of his interest in the property.

Inconsistencies in the subsections make them extremely difficult to interpret. All that is clear is that there are title problems whenever only one person is record owner of real property, and that person conveys an interest in the property by a document that does not show whether he or she is a single person. At best, the title is clouded during the year of limbo provided under AS 34.15.010(c) and (d).

By proposing this bill, the code revision commission is suggesting (1) that any worthwhile purpose there may be in retaining AS 34.15.010(b), (c) and (d) in the law is far outweighed by the uncertainty in land titles the subsections cause, and (2) that the options afforded a married person under the Uniform Probate Code provide adequate protection.

AS 09.45.480(a)(1) relates to determining value of an "estate in dower". AS 09.45.720 relates to "actions to recover possession by a tenant in dower". The sections should be repealed because the dower right no longer exists in Alaska, as noted above.

H B

697

FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 697
 Title: "...disposition of certain property rights at death."
 Sponsor: House Rules/Code Rev. Comm
 Requestor: House Judiciary
 Date of Request: 3/13/84

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Government
 Program or Subprogram(s) Affected: Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 3-13-84
 Approved by Commissioner: Norman C. Gorsuch Date: 3-13-84
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

12/1/83

This bill was requested to prescribe the rights, at death, of a married person who has community property acquired prior to a change in domicile to Alaska, or which is traceable to community property, where the spouses have not indicated an intention that their community rights be severed.

The Act codifies what the Code Revision Commission believes is now common law in Alaska. The Act should help eliminate the necessity of stating that common law through litigation, thus saving private parties some litigation expense and reducing court costs. Because the bill deals only with private estate interests, it will not have a fiscal impact on state government operations, other than slightly reducing crowded court calendars.

HOUSE AND SENATE JOINT
JOURNAL SUPPLEMENT

March 1, 1984

No. 21

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EXECUTIVE SECRETARY
BILLY G. BERRIER

March 1, 1984

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Alaska Legislative Council
Pouch V, State Capitol
Juneau, Alaska 99811

- RE: (1) a bill relating to principal and (HB 693/SB 511)
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rights in a family home; and
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position of certain property rights
at death

Dear Senator Ray:

Pursuant to AS 24.20, the Alaska Code Revision Commission has prepared the enclosed bills and respectfully asks that they be introduced in the legislature.

They are technical bills the commission has been working on with the probate committee of the Alaska Bar Association. They relate generally to rights at death and to property arrangements that usually have their inception in death.

At its last meeting, the Legislative Council agreed to introduce the bills.

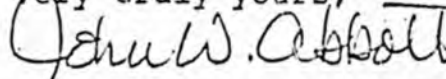
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committee has advised the commission that it will actively support the bill.

A commentary on each bill is enclosed.

Very truly yours,



John W. Abbott, Chairman
Alaska Code Revision Commission

JWA:chw

Enclosures

cc: Hon. Bill Sheffield
Hon. Edmond W. Burke, Chief Justice
Myrton R. Charney, Executive Director
Legislative Affairs Agency

-- COVERS IDENTICAL BILLS: HB 697 & SB 515 --

ALASKA CODE REVISION COMMISSION
COMMENTARY TO ACCOMPANY BILL ON
UNIFORM DISPOSITION OF CERTAIN PROPERTY RIGHTS AT DEATH ACT

The Act is intended to prescribe the rights, at death, of a married person who has community property acquired prior to a change in domicile to Alaska, or which is traceable to community property, where the spouses have not indicated an intention that their community rights be severed.

The Act codifies what the code revision commission believes is now the common law in Alaska. The Act is intended to eliminate the necessity of stating that common law through litigation.

AS 13.41.005 defines the property which is subject to disposition under chapter 41. Subsection (1) covers all personal property acquired by the spouses while domiciled in a community property state to the extent that property would have been treated as community property at the time of acquisition under the laws of that state and in which the spouses have expressed no intent to sever their community rights. Also included would be property which the spouses have agreed to treat as community property. Subsection (2) covers real property in the state (real property located in other states would be treated under the laws of those states) to the extent that it can be traced to a community source (e.g., was purchased with the proceeds of community property).

AS 13.41.010 establishes rebuttable presumptions intended to assist a court in applying the definitions of sec. 5. The presumptions are that (1) property acquired by a married person while domiciled in a community property state is and remains community property, and (2) property acquired by a married person while domiciled in a common law state, title to which included a right of survivorship, is not community property.

AS 13.41.015 requires that one-half of a deceased married person's property to which the chapter applies, i.e., community property or property traceable to it, becomes the property of the surviving spouse and is not subject to testamentary or intestate disposition. The other half is subject to the applicable manner of disposition. The one-half of the property to which the chapter applies is made not subject to the surviving spouse's elective share.

AS 13.41.020 provides a method for the perfection, by means of a court order, of the title to property passing to the surviving spouse under the provisions of this chapter. It is intended to protect the personal representative from liability for failing to search the decedent's estate for property to which the chapter applies. The personal representative's duty may be reinstated by written demand of the surviving spouse or that spouse's successor in interest.

AS 13.41.025 provides a method whereby the personal representative, heir, or devisee may institute an action to perfect the surviving spouse's title to property to which the chapter applies. It is a corollary to sec. 20.

AS 13.41.030 protects purchasers and lenders taking a security interest, who acquire such interest for value, after the spouse's death, from liability to a person who appears to have title to property to which the chapter applies. It is intended to permit reliance upon apparent title and to facilitate both ascertainment of title and disposition of assets where adequate consideration is paid.

AS 13.41.035 merely states that the rights of creditors in property to which the chapter applies is not affected.

AS 13.41.040 makes clear that the rights of spouses to sever their community property interests or to create a form of ownership not subject to this chapter are in no way limited by the chapter.

AS 13.41.045 provides that the chapter does not authorize the testamentary disposition of property which is otherwise prevented from such disposition.

AS 13.41.050 and 13.41.055 provide for uniform construction and application and for citation for short title, respectively.

Nine states have adopted the 1971 uniform Act.

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Drug Abuse Newsletter

Issue No. 15
January 1984

LOOK-ALIKE DRUGS

A NEW PROBLEM

Historically, abusers of illicit substances have been faced with the possibility that what they bought may contain various kinds and quantities of adulterants, contaminants, and substitutes. For example, quinine and other substances have traditionally been used to "cut" or adulterate heroin and cocaine. Oregano and catnip have been used to dilute street-level quantities of marijuana.

In recent years, however, new products (the legality of which is still to be determined) have entered the market. Their easy availability as well as their potential health dangers pose a unique and significant problem to health and enforcement agencies as well as to the users and their parents.

WHAT ARE LOOK-ALIKE DRUGS?

Look-alike drugs are pills (tablets and capsules) and powders containing non-controlled, over-the-counter ingredients whose physical appearance mimics various prescription drug products which contain popular substances of abuse and are regulated under the provisions of the Controlled Substances Act.

Look-alike drugs are available in a variety of forms: powders, various colored or speckled capsules, as well as various forms of tablets. Their users and street-level sellers give these drugs the same street names as their controlled counterparts. Look-alikes usually contain varying mixtures of caffeine (the equivalent of about two cups of coffee per pill), and two other non-prescription chemicals: ephedrine sulphate (a nasal decongestant), and phenylpropanolamine hydrochloride (an appetite suppressant). It has also been noted that on occasion the contents of a given kind of capsule has varied, indicating that some manufacturers may use whatever ingredients are available at the time of production.

There are a number of different white granular substances similar to cocaine being sold as a substitute for cocaine. Some dealers will tell the buyer that it is a substitute. However, in the case of naive buyers the substance is pawned off as the real thing and is sold at very high prices. This deception can be the cause of many problems for the users.

WHAT ARE ACT-ALIKE DRUGS?

Act-alike drugs are those not manufactured to closely resemble controlled substances, but which are promoted in the same way and contain the same ingredients as look-alike drugs.

INFORMATION FROM THE FOOD AND DRUG ADMINISTRATION (FDA)

The principle ingredients commonly found in look-alike drugs are caffeine, ephedrine sulfate and phenylpropanolamine hydrochloride. These chemicals are found in many legitimate drug preparations and are safe when used in accordance with approved labeling. In August of 1982, FDA decided that while the individual ingredients were approved for over-the-counter marketing, triple combinations of the three ingredients were not. Such combinations were then made subject to the FDA approval process, subjecting manufacturers of such combinations to much greater FDA regulation and monitoring than that to which most over-the-counter manufacturers are subjected. This enabled FDA to take various actions against violative manufacturers and their products. In November 1983, FDA took the same action with respect to double combinations. This latest action will even affect such legitimate over-the-counter products as "Dietac." It will, of course, also cut off the escape route taken by the shady manufacturers who changed their formulations from three ingredients to two in response to the earlier FDA action.

People having information on continued violations of the FDA Act and regulations should bring such information to the attention of:

The Associate Commissioner for Regulatory Affairs
Food & Drug Administration
5600 Fishers Lane
Rockville, Maryland 20857

LOOK-ALIKE DRUGS AS A MEDICAL AND SOCIAL HEALTH PROBLEM

Although the ingredients used in look-alike drugs are legitimately used as decongestants, analgesics, cold, allergy, or asthma relief medications and as appetite suppressants, these same ingredients may also produce mild stimulant or depressant side effects. When taken for their intended, legitimate medical purpose (in recommended doses and in accordance with FDA labeling), these look-alike ingredients are generally safe and produce only minor side effects. However, through deceptive advertising or because the substance is represented as a controlled substance, the user of look-alikes may be deceived into believing that the pills he or she has purchased will produce effects equal to those of the controlled substance that they imitate.

Equally serious adverse physiological reactions are possible and have occurred when look-alike drugs have been taken in large quantities. This generally occurs when the user wants a high or wants to come down from one and takes several dosage units. These reactions may range from episodes of acute nervousness and irritability, periods of sleep disorder, general drowsiness, temporary hypertensive episode, cerebral hemorrhage, stroke and even death.

A related but perhaps greater health hazard is the extreme danger that those who have become accustomed to ingesting look-alikes may one day knowingly or unknowingly ingest an apparently equal quantity of an actual controlled substance. The risk of adverse physical reactions increases greatly, especially when depressant substances are involved. An overdose can result in death.

The FDA has received reports of twelve deaths associated with injecting or sniffing these substitute white powders, many of which contain local anesthetics

such as lidocaine, procaine and tetracaine. The main dangers of these substitutes, according to the FDA, are that they can collapse blood vessels, depress heart muscle strength and cause low blood pressure.

The FDA has advised that the diversion and misuse of these cocaine substitutes is an emerging public health problem with deadly consequences. The FDA has asked "all manufacturers and distributors to help stop this diversion to these relatives of cocaine."

We are advising all parents and others involved in our battle against drug abuse to become informed about these look-alikes and to be on the lookout for their use among our teenagers. Tell everyone about the existence and dangers of these look-alike drugs.

Note: Portions of this paper are copies from a document that is a joint publication of the Air Force Office of Special Investigations (AFOSI) and the Air Force Office of Drug and Alcohol Abuse Control (AF/MPXHD).

WHAT IS BEING DONE

The Subcommittee on Alcoholism and Drug Abuse (Senator Gordon Humphrey (R-NH), Chairman) held a hearing on July 14, 1983, to hear testimony on look-alike drugs regarding Federal, state and local efforts to ban them through regulation, legislation, community programs and school policies. Witnesses described the way in which the problem is changing to include "act-alike" drugs and discussed the need for Federal legislation.

Senator Humphrey has introduced two bills in the 98th Congress:

S-503 - Bans the manufacture, distribution and advertisement of look-alike drugs and act-alike drugs.

S-497 - Amends the Postal Statute to make drug abuse-oriented advertisements and shipments in response to these ads non-mailable.

WHAT YOU CAN DO

Write your legislators.

Ask them to support Look-Alike Legislation Bills S-503 and S-497.

RESOURCE REFERENCES FOR ADDITIONAL INFORMATION

Publication Department
Senate Labor & Human Resources
Hart Senate Office Building
Washington, D.C. 20510

Hearing - Look-Alike Drugs July 14, 1983

Publication Department
Select Committee on
Narcotics Abuse & Control
H2-234 H.O.B. Annex 2
Washington, D.C. 20515

Hearing - Look-Alike Drugs #97-1-8 (1981)

Hearing - Further Investigation of
Look-Alike Drugs #97-2-4 (1982)

MISCELLANEOUS INFORMATION

The Committees is still operating on a yearly subscription basis, renewals due in January. The National Federation of Parents for Drug-Free Youth (NFP) Newsletter, Vol. 2, #3, erroneously stated that we were not going to be a subscription operation. We will plan to do four newsletters per year on specific drug-abuse subjects and then provide additional mailings on current issues that need letter-writing action.

Cindy Cleary has joined our staff as Administrative Assistant. Office hours are Monday through Friday, 9 a.m. to 3 p.m. The answering machine is on at other times. In order to keep bookkeeping and typing at a minimum, we request that all orders for material be PREPAID. Emergency situations are different.

A new King Features syndicated column called STRIKING BACK, written by Sue Rusche, on the subject of drug and alcohol abuse and featured twice a week will begin on February 1, 1984.

Write a letter to the Managing Editor of your local newspaper stating that you would like to read this column in your newspaper and would they subscribe to have it. If you need further support or information, contact:

Jim Head, Executive Editor
King Features
235 East 45th Street
New York, NY 10017
212/682-5600

Sue Rusche
Families in Action
3845 N. Druid Hills Rd., #300
Decatur, GA 30033
404/325-5799

NEWS UPDATE ON MODEL DRUG PARAPHERNALIA LAW

The United States Supreme Court has clearly indicated that the Model Law is constitutional. The Court issued guidelines favorable to all drug paraphernalia laws. The Model Law can be enforced. It has been enforced.

Many headshop owners have been arrested and convicted, and many headshops have been seized. The first, and one of the best handled prosecutions, occurred in Webster Groves, Missouri. The prosecutor, Thomas Newmark, has agreed to provide advice to any prosecutor who has never handled a Model Act Case.

Thomas Newmark
Railway Exchange Building, Suite 1400
611 Olive Street
St. Louis, Missouri 63101
314/231-5833

The Drug Enforcement Administration is ready to help in any way that it can. If you know of any drug paraphernalia being sold in your state, send the name and location of the shop to Harry Myers and he will pass on this information to the right officials for action.

Harry Myers
Associate Chief Counsel
Drug Enforcement Administration
1405 I Street, N.W.
Washington, D.C. 20537
202/633-1340

Drug Abuse Issue of the Month



Vol. 1 No. 3

DRUG PARAPHERNALIA

Concerned parents all over the country are banding together to put a stop to the sale of drug paraphernalia -- the toys, gadgets, tools, and devices sold to enhance the use of illicit drugs. Paraphernalia is most often sold in head shops, described as "little learning centers for drug abusers" by the director of the nation's largest residential drug treatment center, Dr. Mitchell Rosenthal.

Since 1975, the number of high school seniors who smoke marijuana daily has doubled. Today, 1 in 10 seniors smokes an average of 3 1/2 marijuana cigarettes a day; and 13% of these smoke more than 7 joints a day. Moreover, nearly one-third (31 percent) of the nation's 12 to 17 year old children have now tried pot -- up from 14 percent in 1972, the year the drug paraphernalia industry first emerged on a national scale.

During the same period of time, cocaine use among youngsters nearly quadrupled and the number of kids who tried inhalants and hallucinogens -- two additional kinds of drugs "pushed" by paraphernalia products and publications -- also increased dramatically. At paraphernalia hearings conducted by the U. S. Select Committee on Narcotics Abuse and Control last fall, Dr. Rosenthal said: "There is no question in my mind that the great increase in adolescent drug abuse can be blamed on the proliferation of head

shops. And so can the nature of that abuse, the sophistication kids have about how and what to smoke or sniff or swallow."

At the same hearing Sue Rusche, President of Families in Action, (a Georgia-based parents' group whose community education efforts resulted in the nation's first statewide drug paraphernalia laws), added: "What we are seeing is the emergence of an industry that glamorizes and promotes the use of illicit drugs, an industry that, in the time-honored tradition of American free enterprise, is developing a new market of drug users -- our 12 to 17 year old children."

With products like "Star Wars" space guns and pirated "frisbee" pot pipes, "Candy Quaaludes," cocaine comic books, and "Practice Grass" kits for fifth graders, it is little wonder that children exposed to such materials come away thinking that drugs are normal. In the words of one youngster, "Marijuana isn't a drug; it's just around--like blue jeans." And children's exposure to drug paraphernalia is now virtually unavoidable in most communities. Head shops have now spread from adults-only zones to far more lucrative locations in suburban shopping malls, in record stores, and, as some community surveys show, in clusters around high schools, middle schools and even elementary schools.!

HISTORY OF THE PARAPHERNALIA INDUSTRY

The growth of the drug paraphernalia industry parallels the growth of drug use among college students of the 1960's.

As the use of drugs spread from the "counterculture" to the "mainstream" of university students and American G.I.'s in Vietnam, a sizeable market of drug users emerged. The economic power of this market steadily increased as the students of the 60's became the wage earners of the 70's.

The first paraphernalia product evolved from cigarette rolling papers. The U.S. Tobacco Company's Zig Zag Papers, for example, is one of many brands which had been sold for years in drug stores and tobacco shops. By the mid-1960's, however, rolling papers found their way into "hippie" boutiques which offered counterculture clothing, wood-carved pipes, and cigarette papers for "rolling your own" marijuana. In 1972 Burt Rubin of Robert Burton Associates, capitalized on his observation that pot smokers often stuck two papers together to accommodate enough marijuana to make a good-sized joint. He developed double-wide paper ("E-Z Wider") which revolutionized the rolling paper industry. Rubin's company parlayed an initial investment of \$6,000 into a \$9,000,000 conglomerate with an annual advertising budget of half a million dollars in just six years. Other paper manufacturers followed suit, developing

variations of the double-wide concept and enjoying corresponding sales increases. Not only has the number of brands mushroomed, but also the distribution -- rolling papers designed specifically for marijuana has expanded out of boutiques and into 24-hour convenience stores, most major drug store chains, supermarkets, and even cigarette vending machines. When confronted with attempts to regulate rolling papers, manufacturers insist the papers are for tobacco. Advertisements they place in drug magazines, however, make clear that the reverse is true. "Careful not to offend any constituent, Rubin calls his wrappers 'cigarette papers' to the business establishment while winking at potheads who turn them into joints." (Circus Weekly, 12/19/78).

The phenomenal success of rolling papers adapted for marijuana led both new and established companies like Rubin's to diversify, inventing other products to enhance drug use. One such diversification centered around a "bong," a verticle bamboo device brought back from Vietnam by U.S. veterans. A hole in the bong enables cold air to be drawn in on top of hot smoke, pressing a volume of concentrated marijuana smoke into the lungs and producing a quicker, more intense high. A variety of bongs soon

Continued from page 1

entered the market, as well as other products to facilitate marijuana use. As cocaine became available in this country and as its use became more frequent, the paraphernalia industry developed and sold cocaine accessories as well -- from measuring scales and cocaine testing kits to "cute" cocaine spoons, earrings and necklaces displayed in many posh boutiques and department stores.

By 1974, organized distribution of paraphernalia remained a problem for manufacturers -- and this fact had a great deal to do with the birth of **High Times**, the first of the drug magazines. **High Times**, according to Andrew Kowal, the magazine's original publisher, came about because, as he pointed out, although a lot of people were smoking and getting high, and rolling papers and pipes were being sold, -- there was still no way for this paraphernalia industry to market its products to the public. (emphasis added) (**Hustler**, 12/77). **High Times** did not have an easy start. Many printers refused to print it and no distributor would touch it, forcing **High Times** to develop its own distribution network. This began, according to Kowal, by offering the first issue "to marijuana dealers who bought hundreds and distributed it to clients. (**The Journal**, Addiction Research Foundation of Ontario, 2/1/77). **High Times** currently claims 4,000,000 readers. Like the paraphernalia industry, **High Times** has also diversified and presently publishes a line of drug

pamphlets, the **High Times Encyclopedia Recreational Drugs**, a magazine index, and the "High Times Newsflash," a monthly summary of the magazine's contents which is distributed as a "wire service" to college newspapers and AM/FM radio stations throughout the nation.

Soon after the publication of **High Times** in 1974, other drug magazines appeared on the market including **Head, Flash, and Rush**. In 1977, the publishers of **High Times** brought out a second magazine oriented to the trade called **Dealer** and in January, 1979, two more mass audience drug magazines appeared: **Hi Life** and **Stone Age**. By connecting paraphernalia manufacturers, distributors, and retailers with consumers, these magazines have greatly stimulated the industry. This can be seen in the proliferation of head shops in major cities over the past few years (estimates range as high as 30,000), their shift in location to urban commercial districts to suburban shopping centers, and the sale of paraphernalia in other retail outlets such as record stores, supermarkets, 24-hour convenience stores, book stores and gift shops. Furthermore, the success of the drug magazines has stimulated the publication of a number of drug books and pamphlets. **The Whole Drug Manufacturers Catalogue, The Anarchist Cookbook, and The Cocaine Consumer's Handbook** are a few examples.

INDUSTRY TRENDS

1. MORE DRUGS

Several disturbing trends in the drug paraphernalia industry can be identified. First is the expansion of the concept of "recreational drugs." Initially, the industry focused on marijuana and cocaine. As paraphernalia sales escalated, however, so did the number of drugs the industry deemed acceptable enough to design products around and to promote in the drug magazines. These fall into general categories such as "legal" drugs (isobutyl nitrite, nitrous oxide, psilocybin mushroom spores, and others); prescription drugs (Valium, Quaaludes); and "kiddie practice drugs" such as lettuce opium; practice grass (alfalfa, etc.); "Candy Quaaludes" and "Hash" Oil, a fake product sold to kids as the real thing.

2. FALSE INFORMATION

A second trend is to falsely "debunk" medical research that indicates harmful effects from drug use. **High Times**, for example, replied to a letter from a reader worried about pot damaging his lungs that "seriously, you don't have to worry about tars in grass, top doctors at the National Institute on Drug Abuse and the American Cancer Society have privately assured us." (Emphasis added.) The directors of both agencies sent letters to the editor strenuously objecting to such false statements and the blatant misuse of their agencies' names, but **High Times** ignored their letters.

3. PRODUCTS FOR KIDS

A third trend is the sale of products specifically designed for children. These include bongos "for Tots who Toke", "Baby Toker T-Shirts" in infant and toddler sizes, and fake I.D. Cards, all advertised in **High Times**. There are also Christmas stockings designed by their designer, Jeff Kaplan of Adams Apple, as containing a "pipe, **Everything You Always Wanted to Know About Marijuana**, a rolling machine,

papers, clips, incense, screens, and Zots candy, so you know, if somebody's parents should see it, they'll say, 'Oh, it's a candy-filled stocking'" (**Rolling Stones**, 1/27/77)

4. GLAMORIZING DRUG DEALING AND SMUGGLING

A fourth trend is the industry's attempt to equate the "right" to use drugs with constitutionally guaranteed rights and its insistence that the government therefore has no right to regulate or control the use of any drug. This leads, logically enough, to a tendency to ridicule drug laws and law enforcement efforts. Illustrations of this trend range from **High Times'** full page feature **Trans-High Market Quotations**, (monthly listings of the current cost of illicit drugs from nations around the world) to advertisements for "Night Vision Goggles, ideal for driving vehicles, piloting airplanes, helicopters and boats without lights." Ad carried in both **High Times** and **Hi-Life Magazines**.



One of the many magazines and books published for drug users, dealers, and promoters. Every type of ad can be found including the above source for fake I.D.'s. More examples of ads and features can be found on page 7.