

ALLASKA LITERATURE COMMISSION - 5884 8607/2

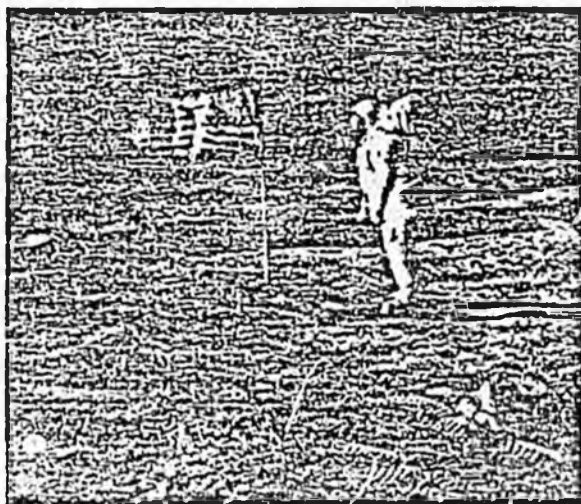
HJ 2481 HJR 72 - SB 133

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States to meddle in the problem of people and their localities.

It is commonly believed that the Federal Government owes its citizens help in every form, but it has no such authority. When the Federal Government gives to one person, it must take from someone else. If you are a taxpayer, it is your money that is being thus-misused. As a people, Americans are the first to rush to the aid of those less fortunate. If we could take home a full pay check, we would provide our local facilities and private charities with the means for handling all problems of the handicapped and needy.

29. "Will the Liberty Amendment force us to abandon such projects as space exploration and super-highways?"



Not necessarily. It will return to the people only those activities which the Federal Government has taken over without constitutional authority. A great highway system was built under local jurisdiction and paid for by local taxes or gasoline taxes at the pump. These expanded from country lanes to superhighways, and only recently has the Federal Government invaded this field, expanding the costs and producing not a single mile of road that could not have been done better within the local jurisdiction at far less cost.

The Federal Government has a valid interest in space from a military standpoint, but the assumption that only Government can carry through large projects is not correct. For example, Telstar was designed, built, and launched by American Telephone & Telegraph Co.

30. "Do you not believe that Federal aid to education is essential if every child is to have an equal opportunity?"

No one will disagree that every child should have a good education. The question is, whose responsibility is it?

"Education" *per se* is not mentioned in the Constitution, and consequently, under the 10th amendment, this activity is reserved to the States. Federal aid to education produces Federal control of education, and this has proved most detrimental.

31. "How will the Liberty Amendment affect civil rights for minority groups?"

When the Constitution is restored, everyone, regardless of race, will enjoy equity and equality before the law. The Liberty Amendment is a friend to all minority groups, for its purpose is to preserve and guarantee true civil rights to all people—equally. Some people have been encouraged by certain politicians to expect very unequal "civil rights," through the enactment of special interest laws and special subsidies.

32. "What effect will the Liberty Amendment have on veterans' benefits?"

Almost every family numbers a veteran among its members. Adding the Liberty Amendment to the Constitution would in no way nullify the obligation of Congress to recruit and provide for an armed force and to care for that force and everyone in it. Service-connected disabilities would be an obligation, as always, and the powers and obligations to care for the Armed Forces would be in no way affected. The abuses developed in this field will, of course, stop.

33. "How will the Liberty Amendment affect the Indians and their reservations?"

The Liberty Amendment will emancipate Indians, as the 13th amendment emancipated the slaves in 1863.

The Bureau of Indian Affairs controls those lands, and the Indians cannot improve their environment or themselves.

Indians must be elevated to the status of first-class citizens, rather than wards of the Government. Because the Liberty Amendment deals specifically with economic freedom for all people, the Indians will be set free—free to administer their own lands, to improve, develop, buy and sell—just the same as every other person in this country.

34. "If the Federal urban renewal program should end, how could we possibly modernize our cities?"

The modernization of cities must rest with the people, at the local level of government, for that responsibility is not given to the Federal Government under the Constitution.

The Federal urban renewal program has used our tax dollars to drive out property owners, often in the lower income group, and then turn them over to affluent and generally politically powerful persons for renewal devised by the bureaucrats.

Private citizens, unhampered by the horrendous burden of taxes, Government restrictions and regulations, would proudly invest their money and effort to keep their cities up to date.

35. "What will happen to farm subsidies? Can the American farmer survive without help from the Federal Government?"

The farm subsidy program is probably the most tragic example of what happens when government disregards the Constitution and intervenes in free enterprise.

Farm subsidies have raised the price of farm products and consequently increased the consumer's food bill. The bulk of the billions in subsidies go to the factory-type operations which have driven out the real farmers. And every farmer—big and small—has lost the freedom to plant the crops of his choice and sell the product of his toil at the best possible price in the free market.

John Scott of Gilby, N.C., states the case:

"We who remain on the farms and ranches of this nation are fighting for survival. We simply cannot endure a continuation of the restrictions, regulations, and meddling that beset us these forty years . . . We need an end to federal farm programs . . . We ask for a free market of supply and demand."

And we who pay the food bill, ask for the same.

36. "What about the social security system?"

Until recently there were few dissenting voices on the

subject of social security but it is now being given much scrutiny. The facts now being revealed show social security is: First, not insurance because the so-called premiums we are forced to pay are really a tax on wages, paid into a general fund. The Congress appropriates those funds to many Government agencies. The tax on wages and funds appropriated to Social Security are not necessarily similar. Second, the operation is not social, because it is compulsory. Third, it is not secure, as it is subject to any alteration at any time, and there is no contract. Neither is funding as required of insurance companies, and is therefore, hopelessly in debt with contingent liabilities of almost half a trillion dollars.

Unfortunately, Social Security is so many different things that its ultimate fate must be left to the Supreme Court for decision. If the Supreme Court decides it is not constitutional, benefits will stop instantly, which would be a tragic situation for many elder citizens.

The Liberty Amendment, on the other hand, provides 3 years in which to transfer the operation from unfunded political mismanagement to funded, economically sound, private management, controlled by law so that present and future beneficiaries will go right on receiving their checks.

37. "What about medicare? Will this be eliminated?"

The "medicare" program is similar to that of the Social Security system as a whole. With or without the Liberty Amendment the Supreme Court will some day have to settle the question. With the Liberty Amendment in force, the basic structure can be returned to private enterprise which has adequate medical and hospital plans working advantageously. The present system is unfunded and deeply in debt because of its contingent liabilities.

Actually, all our people will be in much better position with private insurers under a firm contract supervised by law.

38. "Is not the Federal Government responsible for seeing our air and water is not polluted?"

Polluted water and smog-filled air is of deepest concern to the people of the community. Only they can solve the problem. Absentee bureaucrats in Washington, D.C. can not. As an example, Pittsburgh was once our dirtiest city and politicians kept it that way. A Smoke

Committee was organized by private manufacturers and industrialists and whipped the problem, with the result that today it is a clean city. The same can be done elsewhere.

39. "Our entire transportation system is in terrible shape, particularly railroads and local rapid transit. If the Federal Government does not take over, who will?"

Once upon a time we had the most efficient transportation system the world ever knew, all built and operated by private enterprise. Over an interval of a great many years, our local and national systems have been destroyed by the strategy of freezing revenue while increasing costs and taxes to the point of bankruptcy.

The only solution is to confine the Government to constitutional limits and permit the people themselves to build the network of transportation needed by today's mobile millions.

40. "If the Liberty Amendment gets the Government out of business, what will prevent large companies and wealthy individuals from creating monopolies?"

Competition in a free market prevents monopolies, because the rewards for production, invention, development, and service are profits. Profits are dependent upon giving the customer what he needs or wants to survive. If one fails to serve the customer, he is out of business and his competition takes over.

The exception to this is when political pressure is applied, and politicians take over... The Liberty Amendment would tend to eliminate monopoly and open up a truly free market.

41. "How did the Federal Government get so much land? What will happen to all the 'public lands'?"

The Federal Government had no authority to hold back any public lands from the States as they were created, or to "take" any land in any State except as the Constitution provides.

The Constitution confirmed the terms of the Northwest Ordinance. All States were to come into the Union with

rights and powers equal to the original States—in which the Federal Government had no property rights whatsoever—except first, as land might be purchased, second, with the consent of the legislature of the State in which the same shall be, and third, for agreed upon and needful purposes, such as arsenals, magazines, forts dockyards, et cetera.

Now we find that only two-tenths of 1 percent of Alaska was originally subject to the jurisdiction of the State. In Nevada the Federal Government holds 87 percent of the land area, in Utah 66 percent, and in Oregon 52 percent, in Idaho 64 percent, and in California 45 percent of the land area. Under the Liberty Amendment the 40 percent of the land area now under Federal control will be restored to State jurisdiction.

42. "Much of the land under Federal control seems to be worthless desert or rugged mountains. Who would buy land like that?"

Land that appears worthless to one may be highly regarded by another. An example is the land just north of California-Mexico border which was the most barren area imaginable, but men of vision saw possibilities in the arid desert land well below sea level, and now the Imperial Valley is a garden without compare. There is no worthless land.

43. "If private land developers get control of this land, would not they destroy the natural beauties and add to the problem of ecology?"

Federally controlled lands, turned back to State jurisdiction, will be under the watchful eye of the people most concerned with preserving their beauty and usefulness. State and local authorities will make the laws regarding them. An absentee landlord in Washington is not as concerned with the future of the land as are the people of the community involved.

44. "What will happen to our national parks and forests?"

There is no reason to fear that parks and forests will be destroyed because they will be in State jurisdiction. There is nothing to indicate that Federal control has any merit. State, city, and county parks are generally better maintained than national parks, because the local interest is higher.

The same may be said of forests. Records show that the ravages of fire and disease in a national forest are far greater than in State forests, and greater in States forests than in private forests. The obvious reason is that trees in a private forest represent a salable crop, while in public hands they are an avenue to political power.

45. "Can the States be trusted to maintain their parks and monuments and preserve these for posterity?"

Under the Constitution each State was sovereign and held complete jurisdiction over the land and activities within its boundaries. As the Parks and Monuments are located within States, the States are naturally better stewards of their own property than any Federal agency could be.

The Constitution intended the state would hold exclusive jurisdiction over all land and activities within its own boundaries. The Liberty Amendment will restore that concept.

46. "What will be the effect on the Federal Trade Commission?"

According to the U.S. Government Organization Manual of 1971-72 (page 439), the Federal Trade Commission was established to "promote free and fair competition in interstate commerce through prevention of price-fixing agreements, boycotts, combinations in restraint of trade, and other unfair methods of competition." Nice words but this agency has become along with others, the proponent of price fixing, boycotts, and various restraints of trade that hamper private enterprise. This may well be an attempt to cripple private enterprise and clamp a tighter political grip on private affairs. Under the Liberty Amendment the Federal Trade Commission will hold limited regulatory powers.

47. "How will the application of the Liberty Amendment affect the Federal Communications Commission?"

The Federal Communication Commission holds some valid regulatory powers, but they have no constitutional authority to control, punish, or dismember any channels of communication. Like so many Government agencies, the Federal Communications Commission has assumed powers that it simply does not have. Media slanting is one

of these. The Liberty Amendment will stop the despotic control of broadcasting privileges of stations at odds with FCC bias.



48. "What about the effect of the Liberty Amendment on the Labor Relations Board?"

The National Labor Relations Act of 1935 authorized a National Labor Relations Board to investigate and settle labor disputes. It has no constitutional authority for existence, but it has wielded enormous power. We can assume the Liberty Amendment will stop the arbitrary control of labor, management, and industry by edicts that have no constitutional authority. Realistically, the only legitimate jurisdiction the Federal Government has over labor and management is within the ranks of Federal employees.

With the National Labor Relations confined to its proper sphere, the terrifying power of labor unions over workers will be drastically reduced. . . .

50. "How will Government be able to control labor and business monopolies if the Liberty Amendment removes or limits the regulatory powers of the Federal Government?"

It is ironic that so many people are worried about labor and business monopolies, and yet it apparently never occurs to them that the monopolist to fear most is Government itself. In Communist countries government has a monopoly on all activities, and the people have no

economic freedom. With our Federal Government controlling 40 percent of the land area and 20 percent of the industrial capacity of this Nation, we are facing the same disaster.

Free enterprise destroys monopolies faster than can government control.

51. "What is the value of the land and personal property held by the Federal bureaus?"

The Committee on Government Operations of the House of Representatives maintains a continuing inventory of the real and personal property held by the Government. Their June 30, 1970, report gives a figure of \$435 billion for the world wide holdings as of that date. The estimate is extremely low and some properties—such as the famous Presidio in San Francisco inventoried at \$1—are under valued in their appraisal. One thing is certain, if even half of these properties—the ones held without constitutional authorization—were sold at half of book value, the recovered amount will be well over \$100 billion.

52. "Supposing all these properties and facilities are not sold off as expected, or do not sell for the prices expected, then that happens?"

If the properties are not sold within 3 years, the Federal Government must relinquish them anyway, and anything left unsold will revert to State jurisdiction for disposal or retention, as the case may be. Prices may vary in the liquidation process, but the main point is that these properties will be removed from Federal hands and restored to State jurisdiction and private taxpaying ownership. The consequent saving from not maintaining these bureaucratic empires will exceed what we now pay in income taxes.

53. "Now that you have the activities of these agencies that are not authorized and listed, why not get Congress to eliminate them?"

Theoretically this sounds like a good idea, but do you know of anyone who has enough power in Congress to override the pressure of the Federal bureaucracy? The bureaucracy has billions of our tax dollars at their disposal every year, and their lobby keeps the pressure on Congress for more power and more appropriations, endlessly. The only way to remove their power is to dry

up the tax fountain with the Liberty Amendment.

54. "What effect would the Liberty Amendment have on the plan for regional government, which would concentrate all power in Washington?"

A concerted effort is being made to brainwash the American people into accepting not only regional government, but a new Constitution. Books advance the idea, articles in prominent magazines, TV programs and speeches by people who must be misinformed are outright enemies.

The Liberty Amendment will stop these attacks and restore the sovereignty of States. It will automatically outlaw all such designs for the concentration of power from either regional government or a Constitution other than the one we now have, which provides for individual freedom.

55. "Will the Liberty Amendment have any effect on unemployment?"

Unemployment is a tragic fact of life to many people. Surprisingly, the Liberty Amendment will solve much of the unemployment problem. Getting the Government out of business enterprises it operates without constitutional authority would eliminate the staggering losses. This would make possible the elimination of income tax. Workers would then receive about 20 percent more take home pay without any change in their rate of pay. This increased purchasing power would stimulate production and make the economy boom.

56. "Isn't the Liberty Amendment just a scheme to shift the load of responsibility from the Federal Government onto the back of the State government?"

Not at all. The idea is to get the responsibility back into the hands of each individual. When Government deprives the individual of self determination and individual responsibility, it tends toward a nation of slaves or robots. In a free society, a free man must be self-reliant and help maintain the society of which he is a part. Our Government was limited in power by the Constitution. The purpose of the Liberty Amendment is to stop the concentration of despotic power and redistribute it to the people.

57. "Does not Congress already have the power to sell such properties and repeal or reduce taxes?"

Yes, Congress has such power and used it on various occasions, sometimes very strangely. For example, Congress did abolish the Reconstruction Finance Corporation, after it had dissipated an estimated \$50 billions in tax dollars. While title I of the act abolished the Reconstruction Finance Corporation, title II of the same act created the Small Business Administration, enlarged the General Services Administration, and divided all the residuary powers of RFC between them. The name on the door changed, but now there were two doors instead of one.

The sale of the Synthetic Rubber Industry and General Aniline and Film Corp. was accomplished, but while these were being sold, other businesses were issuing from the prolific bureaucracy. Reinforcing the Constitution will stop this sleight-of-hand process.

58. "If Federal agencies are operating businesses without constitutional authority, why do not you take them to court?"

A good idea, and many persons have tried it; but there is a catch—there is no way to sue Government without the Government's permission, and this is rarely given. The Constitution provides that we, the people, shall be able to "petition the Government for redress of grievances," but the courts have repeatedly shut their eyes to the flagrant assaults against the constitutional rights and powers of the people, and have contended that they have no "jurisdiction" when a bureaucratic "regulation" is involved. The only real court available that can change this situation is the court of public opinion which can restore the Constitution by applying the Liberty Amendment.

59. "Do not you think it is necessary for our Government to keep ahead of Russia in the space race, or the arms race, or the merchant marine?"

The United States for a long time has been the first place in most fields. We should continue in that position. The question is, why are we lagging behind now? Is it possible our Government has been so busy playing the dangerous game of world power politics and trying to run

everyone else's affair, that they have neglected our safety and liberty? Now we are warned that we need to hurry to keep up, but we are increasingly being hampered in our efforts by regulations and directives and competition from tax-free governmental agencies that prevent it. The Liberty Amendment will release the vast resources of American inventive genius and production know-how and again give workers the incentive of a full paycheck.

So far as the space race is concerned, the Space Act strangled private incentive by declaring that all inventions dealing with space belong to the Government, instead of to the inventors, as the Constitution provides.

60. "Exactly what is the Federal Reserve System and what will the Liberty amendment do about it?"



There is probably more misinformation about the Federal Reserve System than about any other one thing. Some say it is a Federal agency; others say that it is privately owned. In 1913 an act of Congress created the FRS to provide us with what was defined as "an elastic currency." This has been done, and in the process our stable currency, based on silver and gold standards, has been replaced by printing press money. The Hoover report of 1955 declared the Federal Reserve to be the first of the 104 banking and lending organizations then being operated by Government. A recent U.S. Government organization Manual confirms this. The article "Who Gets The Plunder?" in Freedom magazine reproduced a page from the 57th Federal Reserve report to Congress, showing that in 1970 the U.S. Treasury received 98.9 percent of the earnings, while only 1.2 percent went to the banks compelled to own FRS bank stock. The Liberty Amendment will remove the Government from the banking business.

61. "Can the inflation we have experiencing for years be stopped by the Liberty Amendment?"

The spiral of inflation will be stopped when the Federal Reserve System's endless stream of printing press money is stopped. Webster's International Dictionary defines

"Inflation" as "an increase in the volume of money and credit relative to available goods resulting in a substantial and continuing rise in the general price level." In other words, when money is printed faster than actual production of goods and services, we have inflation.

Our president and Congress constantly spend more money than all the American people combined can funnel into Washington through taxes. Then they translate these deficits into unredeemable printing press money and we have inflation. In 1971, \$40 billion of new paper money was printed for the FRS to cover the Government's deficit—thus was created that much inflation.

Yes, the Liberty Amendment can stop inflation.

62. "Does the Government have anything to do with setting interest rates, and what will the Liberty Amendment do about it?"

Economists and the news media have a great deal to say about interest rates, although it is baffling to most ordinary individuals. These days our credit is at the mercy of the bureaucracy that controls money. Interest rates are manipulated by the politically appointed directors of the Federal Reserve System. This manipulation will stop when the Liberty Amendment is in operation. When the happy day comes, credit arrangements will be strictly between the borrower and the lender, based upon the borrower's integrity and ability to repay. Interest rates will become realistic, also, when they are no longer manipulated through political control. After all, it is on this basis America was built.

63. "How about all the tax money that is spent on wars. Will the Liberty Amendment change this?"

The sole function of the Defense Department is to defend this country from foreign aggression. The Liberty Amendment will not cut the obligations of Defense Department to carry out its specified duties, to defend this Nation on the ground, in the air, at sea, and even in space. The Constitution enforced by the Liberty Amendment, will not permit undeclared "no win" wars, and our defense posture will be improved enormously by getting our defense establishment back into the business of defending, rather than competing with us, as they do now, through thousands of business, industrial and commercial establishments.

64. "Will the Liberty Amendment have any effect on the present law regarding the draft?"

While there is no longer a draft in this country, every eligible male who attains the age of 18 years must register and carry a draft card, presumably to keep a record of eligible strength in case of emergency.

The 13th amendment very distinctly provides that:

"Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

If we have learned anything from history it is that no conscripted army has ever proved the equal of a free people defending themselves. Returning to the Constitution will prevent the draft, and increase our defense posture because we will be free to defend the most priceless possession of all—Liberty.

65. "Exactly what effect will the Liberty Amendment have on our membership in the United Nations?"

The United Nations building is located in New York City. This country contributes by far the largest amount of money in support to this organization. Some people believe that the United Nations Charter supersedes our Constitution, but this is not true. Nothing supersedes our Constitution as the supreme law, and certainly not the United Nations Charter. The Liberty Amendment will end the pretense that treaty law, the Genocide Treaty, or any other such device can have a valid impact on our domestic affairs, our industries, our lands, or our activities. It will reduce the United Nations Organization to a forum for the discussion of international affairs and international relations.

66. "Will the Liberty Amendment have any effect upon Communist countries?"

Time and again the wealth and resources of the United States have been diverted to the aid of Communist controlled countries. Apparently the Communist system is incapable of sustaining its own existence. When our Government is confined again to the terms of the Constitution, it can no longer bail out Communist countries

when their economy falters, and the enslaved people may be able to establish forms of government of their own free choice.

67. "Unless we have a hand in managing the affairs of some small nations, is there not danger that they will fall under Communist control?"

When the torch of freedom burns brighter in this country through the re-establishment of our Constitution, we will be in a better position to set an example for other nations. The Constitution does not permit this country to maintain the economy of other nations or control their political lives, yet that is what we have been doing. Foreign aid around the world cost the United States people, from 1946 through 1971, a total of \$212,880,797,000. The rulers of 3½ billion inhabitants of this world, have received aid from the United States. The Liberty Amendment will stop with this madness which is destroying us.

68. "Would it not be a good idea to continue foreign aid to help the more friendly countries?"

Foreign aid does not reach the people of any country, friendly or otherwise. It is a gift from the Chief of State elsewhere. It only enriches the tyrant. Our constitution protects us from this device for plunder. Our Government was empowered to gather taxes to protect this Nation from the avarice and cupidity of all the other nations of the Earth. It did not grant any administration the power to hand our tax dollars, or the production of our people, to any foreign power. The Liberty Amendment will stop this dissipation of our substance by Government, and will restore the right of people to assist whom ever they will around the world, as they once did.

69. "How will the Liberty Amendment affect such treaties and alliances as NATO, SEATO, and others like them?"



The Liberty Amendment will not alter the right and

power of the President, with the advice and consent of the Senate, to enter into any treaty that may be within the authority of the Constitution. A review of the Constitution shows that no treaty can be valid which in any way jeopardized the independence of the United States or any of the separate States or permits any foreign power or combination of foreign powers to exercise jurisdiction or control over the internal affairs of the United States or any of the individual States, whether it be with the U.N., NATO, SEATO, or any other.

70. "Will we be able to defend our country properly under the Liberty Amendment?"

We have already touched on this subject of defense, and should be reassured that the Liberty Amendment will accomplish miracles in this area. At the present time the Defense Department is involved in thousands of businesses without constitutional authority. Divorced from these activities, their total attention will be given to the defense of this Nation, and with the Constitution back in force and effect we will not be involved in undeclared wars. The Constitution wisely separated the power of declaring war from the power of waging war, to prevent its being declared for the sake of waging it.

71. "Will we still be able to have a strong economy in the fields of mining, agriculture, manufacturing and transportation with the Liberty Amendment?"

All of these activities will flourish incredibly well. Gold and silver production has been stifled, agriculture has been hampered; manufacturers have been in bureaucratic straightjackets; transportation has been strangled. There is no open market. We can expect spectacular new developments in all these fields and every other area of production when the Liberty Amendment is in force.

72. "If the Government does not finance or underwrite research and development, who will?"

The only research and development of Government has any right to be involved in is in the defense of this Nation. Even here, it has been individuals and companies that have researched and devised all methods of production. A man named Colt invented the revolver, and the Army was reluctant to adopt it. An American

invented the submarine, and our Navy would not even look at it. The airplane was invented here, and the U.S. was one of the last to adopt it to our defense. Gen. Billy Mitchell was discharged from the Armed Forces because he advocated air power. Government has curtailed real research and development, and our weaponry has suffered.

73. "Exactly what effect will the Liberty Amendment have on our local State and city governments?"

Federal aid to state and city governments sounds good, but the Federal government has manipulated the States into very dangerous financial situations through "sharing," "matching funds" and managed inflations.

Cities have been drained of vitality by the Federal individual income tax, which syphons away their potential resources, and federal agencies which inject themselves into essential municipal services and make them more costly. Both States and cities will be better off

under the Liberty Amendment.

74. "What will happen to the Government's revenue sharing plan?"

At first glance revenue sharing looks like a splended idea. The Federal Government gathers a wealth of taxes from the people and then dribbles a little money back to the States and local governments for their own use. Upon further examination, this new device proves to be a take-over of the states, for it is only a small subsidy, and when government subsidizes anything it exerts control.

There are already too many subsidies in existence that undermine our states' prerogatives. Now even their boundaries are being threatened by "regional government" which would replace the individual states with 10 regions.

Restoring the Constitution, as the Liberty Amendment is capable of doing, would take care of all of these questions—regional government included.

THE ALAN STANG REPORT

Tape 561, Week of February 14, 1983

Liberty Amendment
Is Income Tax Legal?
in Schiff's Offer
Corporate Tax
Watt Baiting

*Mail
File w/ Bill*

TAPE 561, No. 1

Liberty Amendment

This is Alan Stang. Congressman Ron Paul wants the federal income tax abolished. Details in a minute. Please stick around.

A few weeks ago, Congressman Ron Paul, of Texas, who is a member of the House Banking Committee, reintroduced the Liberty Amendment. This historic legislation would eliminate the need for the personal income tax, by abolishing agencies of the federal government that are doing business in direct competition with private enterprise. Congressman Paul points to such examples as the Commodity Credit Corporation, the Tennessee Valley Authority, the Synthetic Fuels Corporation, and various lending institutions.

The Commodity Credit Corporation is of course the bank of the Department of Agriculture. Regular listeners will remember that it is paying your tax money to the monster multinational banks, because Poland is broke. Those payments began last year, with the blessing of the Reagan Administration. Dr. Paul says that the Commodity Credit Corporation and other businesses "are not constitutionally authorized and should be eliminated. This would so radically reduce federal expenditures that the personal income tax — the 16th Amendment to the U.S. Constitution — could itself be repealed, which the Liberty Amendment would accomplish." Of course the Internal Revenue Service would be abolished too. That's right, friends, no more 1040s, no more withholding!

Dr. Paul explains that since income taxes do not supply the bulk of the federal government's revenues, the losses in revenues would be more than made up by the sale of government corporate operations — and the profits could then be used to balance the federal budget.

Congressman Paul says this: "This amendment would go

far toward restoring constitutional government in addressing our economic problems at their cause — excessive government spending — and by so doing eliminating the need for the personal income tax. The Liberty Amendment would leave the government with all revenue sources it ever had from the beginning until 1913 — corporate taxes, excises, imposts, duties and a host of miscellaneous taxes which have always been within the power of the federal government."

Nineteen thirteen is of course the year we got the income tax. Except for the Civil War years, we got along without one from the very beginning of our nation until well into the present century. Our government never collapsed, not once. It didn't need an income tax because it wasn't spending us into bankruptcy. Now, it is, and even with a tax approaching confiscation, the government says it needs still more of your money. I'll be back in a minute.

The Liberty Amendment has been endorsed by state legislatures around the country; most recently by Indiana and Arizona. It certainly has to be considered news, but your reporter can't remember ever hearing it mentioned by his colleagues in the national press. Be with me tomorrow when we'll see whether the income tax is legal.

This is Alan Stang. Think about it.

Tape 561, No. 2

Is Income Tax Legal?

This is Alan Stang. Is the income tax legal? A new discovery. Details in a minute. Please stick around.

Yesterday, as you will recall, we mentioned the proposed Liberty Amendment to the U.S. Constitution, which Texas Congressman Ron Paul recently reintroduced in the House. The Liberty Amendment would repeal the Sixteenth Amend-

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ment, which gives Congress the power to impose an income tax. If the income tax is legal, it applies only to a strictly limited, very small group of people and activities, such as corporations. If you are a regular listener to these broadcasts, you know that the paycheck you get for your work is not what the law means by income. It is not subject to the tax.

Is the income tax legal? A fascinating article on the subject appeared in the January issue of *The Justice Times*, which says that "the 16th Amendment cannot be valid law due to the fact that it was not signed by the President of the United States." The Sixteenth Amendment started out as a Joint Resolution of Congress. According to *Black's Law Dictionary*, a Joint Resolution must be approved by the President. But the Joint Resolution that gave us the income tax was signed by Vice President James Sherman, not President William Howard Taft. Does this mean that the law is defective?

There is also the interesting fact that the Sixteenth Amendment is listed in U.S. statutes as a private law, as opposed to public law. Private law governs relations between individuals, and applies only to particular groups. Public law brings the government into it, and applies to everyone, without exception. So, why would the income tax amendment turn out to be a private law, rather than a public one?

The Justice Times says, as follows: "The intent of the framers of the 16th Amendment, which is supported by any number of Supreme Court decisions, was that the income tax was an excise tax and must be limited to an indirect tax which was assessed on corporations in return for the privilege of doing business in a corporate capacity. Is this the reason the 16th Amendment was designated as a Private Law rather than a Public Law? Let the reader be the judge."

This fascinating question certainly deserves further investigation. It is one of the many mysteries of the income tax that research is bringing to the surface. It is important to note that Congress could get rid of the income tax any day of the week. The Sixteenth Amendment doesn't say there has to be an income tax. It just gives Congress the power to impose one, if it wants to. Congress could abolish the I.R.S. tomorrow. I'll be back in a minute.

Why not read the article for yourself. *The Justice Times* is published monthly in Clinton, Arkansas. A yearly subscription is twenty dollars. The address is Post Office Box 562, Clinton, Arkansas, 72031. Be with me tomorrow, when we'll take a look at a remarkable offer by author Irwin Schiff.

This is Alan Stang. Think about it.

Tape 561, No. 3

Irwin Schiff's Offer

This is Alan Stang. Author Irwin Schiff makes a remarkable

offer. Details in a minute. Please stick around.

Regular listeners to these broadcasts are familiar with Irwin Schiff. Mr. Schiff is the author of the book entitled, *How Anyone Can Stop Paying Income Taxes*, the national best seller distributed by Simon & Schuster. In it, Schiff shows that the payment of income tax is voluntary, a fact repeated by one Commissioner of Internal Revenue after another. Now, to use a cliché that fits perfectly, Irwin Schiff puts his money where his mouth is.

Irwin Schiff's Freedom League has launched the \$100,000 I.R.S. Treasure Hunt. Here's what the Treasure Hunt is all about, from the Freedom League's advertising copy: "One hundred thousand dollars will be awarded to anyone who can show any section of the Internal Revenue Code that 'requires' we the people, as individual citizens, to file a personal income tax return (popularly known as the 1040 form). The contest is open to all, including I.R.S. personnel! Let the I.R.S. help you win! If there is any section of the code which 'requires' one to file, then the I.R.S. should know. So call the I.R.S. Ask them if American citizens are 'required' to file income tax returns or if it is 'voluntary.' If the I.R.S. says you are 'required,' then ask them to send you the section of the Internal Revenue Code which states that you are 'required.'"

The ad says you should send the information you get from I.R.S. to Irwin Schiff. The earliest postmark wins. Everyone is eligible. In the event of a tie, the \$100,000 will be divided equally, and it is tax-free. Needless to say, the winner will be paid in Federal Reserve Notes, not in money, because the government has made money unavailable. Still, the Schiff offer sounds like an excellent deal. This is the Internal Revenue Service's chance to prove its case, and make Irwin Schiff look like a fool.

We suspect that I.R.S. is going to have trouble. There is a good reason that various Commissioners of Internal Revenue have said repeatedly that the income tax is voluntary. It has to be voluntary, because when you sign the return — under penalty of perjury — you are testifying against yourself just as certainly as if you were sitting on the witness chair in court. This is a well-settled fact in our system of law. The Fifth Amendment forbids the government to require an American to testify against himself. If the income tax required that, it would be illegal. That's why the Commissioners keep saying it is voluntary. I'll be back in a minute.

To win your \$100,000, send the pertinent section from the Internal Revenue Code to Irwin Schiff, Freedom Books, Post Office Box 5303, Hamden, Connecticut, 06518. For more information, call Irwin Schiff's Freedom League, at (714) 771-6520.

This is Alan Stang. Think about it.

Tape 561, No. 4

Corporate Tax

This is Alan Stang. Some thoughts on the President's remark about the corporate income tax. Details in a minute. Please stick around.

Three weeks ago, President Reagan said in Boston: "I realize that there'll be a great stirring and I'll probably kick myself for having said this but when are we all going to have the courage to point out that in our tax structure the corporate tax is very hard to justify?" The President said we ought to consider abolishing that tax. The theory behind abolition is that corporate profits are taxed twice: once when the corporation earns them; again when they are paid to the stockholders as dividends. Abolition would stop this double taxation.

Let's say a word in defense of the corporate income tax. A corporation is of course a creature of government. It is created by government and could not exist without it. Its existence is a favor granted by the government. Just as the God of most individual Americans is the Lord; the god of the corporation is government. If an income tax should be levied properly anywhere, it should hit the corporation, as a tribute paid to government in return for the favor of the corporation's existence.

The President got into substantial political trouble for suggesting the abolition of the corporate income tax. He would win the gratitude of tens of millions — and stand on much firmer constitutional ground — by calling for the abolition of the *personal* income tax. Indeed, the President could end one of the biggest hoaxes of all time — maybe the biggest — by stating that the personal income tax on individuals has been illegal all along.

We mentioned that the President drew political flak for his suggestion. The next day, he backed away from it quickly. The *Los Angeles Times* reports that his advisers told him he had said "the wrong thing at the wrong time." One White House official said that the President had been "fighting to stay awake" just before he made the suggestion, and just forgot that about three hundred reporters were there. The next day, White House spokesman Larry Speakes was reminded that the President of the United States had said the idea should be looked at. Speakes replied, "Well, it ain't gonna be looked at."

Remember, all these examples come from within the Administration, not from Tip O'Neill, and they certainly lend fuel to the accusations by the President's enemies that he lacks the political courage he talks about, and that he is someone else's tool. We don't pretend to know what is happening in the White House, but this latest fiasco proves something is wrong. I'll be back in a minute.

The monster multinational corporations are happy to pay

the corporate income tax. One of its effects has been to stifle competition, by making it difficult for new companies to challenge the biggies. To do that, the challenger must accumulate capital; but the corporate income tax takes that money away.

This is Alan Stang. Think about it.

Tape 561, No. 5

Watt Baiting

This is Alan Stang. A remarkable editorial about Socialism and James Watt. Details in a minute. Please stick around.

By now you know that a few weeks ago, Secretary of the Interior James Watt made a speech about the shocking problems of many American Indians. Watt said this: "Every social problem is exaggerated because of socialistic government policies on the Indian reservation. If you want an example of the failure of socialism don't go to Russia — come to America and go to the Indian reservations."

Our friends the liberals didn't like this. They don't like much of anything Secretary Watt has to say, but his statement about the reservations seems to have struck the proverbial sensitive nerve. The *Miami Herald*, one of the nation's major daily newspapers, put the following headline on its denunciation: "Red Baiting." We are certainly grateful to the *Herald* for acknowledging that Socialism is Red. Socialism is obviously the *Herald's* hot button. In its remarkable editorial, the *Miami* newspaper worries more than anything else about defending Socialism from Secretary Watt.

The *Herald* says this: "Socialism is that system of political economy that best describes the societies of most nations in Western Europe. Socialism is the Tennessee Valley Authority and Social Security and Medicare and Government subsidies for Lockheed and Chrysler." That's right, that's what the *Miami Herald* says, and, again, it has our gratitude. Social Security and those other things are Socialism, are Red, as the *Herald* says; but until now a man could be labelled an extremist for saying so. Now that the *Miami Herald* says so, presumably it's okay. It has always been okay to call government subsidies to Lockheed and Chrysler "Socialism for the rich." That what it is.

But, if the disaster on the Indian reservations isn't Socialism, what is it? The *Miami Herald* has the answer. "America's Indian reservations are not socialism. They are failures of something more properly understood as paternalism, and a cruel, uncaring paternalism indeed. The Government maintains them, but the Government does precious little for them."

In short, the *Herald* is angry because the government hasn't given as much to the reservations as it has to the corporations. Our friends the liberals don't want to change the reservation system; they made it. Their complaint is the fact that "Socialism for the poor" isn't luxurious enough. Would the *Miami Herald* please comment. The more that newspaper editorializes, the better we like it, and the more grateful we are. I'll be back in a minute.

The Miami Herald's problem is that paternalism and Socialism go together like two legs on the same bug. Indeed, paternalism is the *essence* of Socialism, which is impossible without it. British Socialist George Bernard Shaw once explained that you would live fairly well under Socialism if you did as you were told. If you didn't you would be shot. This is Alan Stang. Think about it.

S

B

13

LETTER OF INTENT

CSSB 13

HOUSE JUDICIARY COMMITTEE

May 9, 1983

The Committee does not intend that the mere presence at the scene of a fire of a firefighter or other emergency responder would be sufficient in all cases to constitute danger of serious physical injury necessary to establish the crime of arson in the first degree. The existence of the necessary danger will be an issue of fact which must be determined by the trier of fact in each individual case.

SENATE LETTER OF INTENT

(SENATE BILL 13)

The Judiciary Committee has had under consideration SB 13, relating to the crime of arson. The Committee recommends that SB 13 be replaced with Committee Substitute for SB 13 (CSSB 13), and that CSSB 13 do pass.

Under Alaska Statute 11.46.400, a person, under certain circumstances set forth in the section, is guilty of the crime of arson in the first degree if by starting a fire or explosion, such person recklessly places another "person" in danger of physical injury.

However, in the Superior Court at Fairbanks, a trial judge instructed a jury, in an arson prosecution under AS 11.46.400, that "a fireman is not a 'person' within the crime of first degree arson", i.e., that one who starts a fire or explosion, thereby placing a fireman in danger of physical injury, has not thereby put a "person" in danger of physical injury within the meaning of the section cited. (State v. Markland, case no. 4FA S82-100 Criminal).

The Alaska State Firefighters Association has sought an amendment to prevent such an instruction from being given again. The Committee Substitute for SB 13 would make clear that for purposes of AS 11.46.400, public safety personnel and public employees responding to emergencies are "person[s]" whose reckless endangerment by another who intentionally causes a fire or explosion could be the basis of a prosecution under the statute.

During the Judiciary Committee's consideration of SB 13, a representative of the Alaska Department of Law expressed concern lest the Legislature, by changing AS 11.46.400 only, could be viewed by a Court as having intended to exclude public safety personnel and/or public employees responding to emergencies from the meaning of the word "person" or "persons" where those words appear elsewhere in Title 11.

There is no such intention. Rather, the Committee wishes to cure a specific problem which arose in a specific setting under one section of Title 11. It is the view of the Committee, respectfully, and as part of the traditional legislative oversight of judicial interpretations of statutory law, that the exclusion of fire fighters from the purview of the term "person", in AS 11.46.400, in the instruction of the trial judge, was a misapprehension of legislative intent and was unsupportable as public policy. The Committee wishes to avoid any similar misapprehensions of the meaning of AS 11.46.400 in future. The report of the Committee and the enactment of CSSB 13 should not be construed to reflect any legislative intent to exclude fire fighters, police officers, or other public safety personnel or public employees from the purview of the term "person" in other sections of Title 11. On the

contrary, it is rather the view of the Committee that no such exclusion can be reasonably found or implied, and thus, no other statutory changes are required.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

Expenditure Type
 Revenue Type

I. REQUEST

Bill/Resolution No. SB 13
Title Arson/First Degree
Requested by Senate Rules Date _____

II. FISCAL DETAIL

Agency Affected Department of Public Safety
Program Category Affected Administration of Justice
BRU, Program, Or Subprogram(s) Affected Alaska State Troopers
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact is anticipated

Office of Management and Budget
Reviewed by: Mike Maltby Program Budget Analyst
Division of Budget Review

IV. DATE January 19, 1983

PREPARED BY Francis C. Allan Phone 269-5691

Original: Legislative Finance
cc: Budget and Management

DIVISION State Troopers Initials mck
DEPARTMENT OF PUBLIC SAFETY Initials [Signature] 1/24/83



ALASKA STATE FIREFIGHTERS ASSOCIATION

HOUSE JUDICIARY COMMITTEE

Hearing on Committee Substitute for Senate Bill SB-13, relating to Crime

March 18, 1983

Mr. Chairman:

My name is E. Robert Haag and I represent the Alaska State Firefighters Association and the Alaska Fire Chief Association.

We wish to speak in favor of CSSB-13 now before your Committee.

We appeared before the Senate Judiciary Committee in January and February in support of SB-13. We did suggest a minor wordage change to the definition of "another person" in the Bill. This was considered by the Senate Judiciary Committee. A Committee Substitute was drafted, discussed and subsequently passed by the Committee. The full Senate passed the Bill without objections.

Mr. Chairman, we know that you have all the information concerning this Bill. Also you have a very busy schedule. Therefore, our hope is that your Committee will give serious consideration to the passage of this Bill so that it may become law at the earliest date.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

Expenditure Type
 Revenue Type

I. REQUEST

Bill/Resolution No. SB 13

Title Arson/First Degree

Requested by Senate Rules

Date _____

II. FISCAL DETAIL

Agency Affected Department of Public Safety

Program Category Affected Administration of Justice

BRU, Program, Or Subprogram(s) Affected Alaska State Troopers

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact is anticipated

Office of Management and Budget

Reviewed by: Mike Mader Program Budget Analyst
Division of Budget Review

IV. DATE January 19, 1983

PREPARED BY Francis C. Allan Phone 269-5691

DIVISION State Troopers Initials mck

Original: Legislative Finance
cc: Budget and Management

DEPARTMENT OF PUBLIC SAFETY Initials [Signature]

1/24/83

SB 13 TITLE & SPONSOR SUMMARY

14:38 2/17/83 PAGE 1 OF 3

AMENDED TITLE: CSSB 13

AN ACT RELATING TO THE CRIME OF ARSON IN THE FIRST DEGREE

PRIME SPONSOR: ZIEGLER.

CO-SPONSORS:

CURRENT STATUS: 2/14/83 IN (H) JUDICIARY

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/18/83	01	0022	FIRST READING -- COMMITTEE REPORTS
02/01/83	02	0106	JUD -- CS04
02/01/83	03	0106	JUD CMTE LETTER OF INTENT
02/11/83	04	0169	RLS -- OTHER04 TAKEN UP IMMEDIATELY
02/11/83	05	0169	RLS CMTE ZERO F/NOTE
02/11/83	06	0171	SECOND READING
02/11/83	07	0171	JUD CS ADOPTED BY UNAN CONSENT
02/11/83	03	0171	SEN LETTER OF INTENT
02/11/83	09	0171	ADVANCED TO 3RD READING BY UNAN CONSENT
02/11/83	10	0171	THIRD READING
02/11/83	11	0171	PASSED BY DIV 19-00-01
****	**	**	*** ** *

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/14/83	12	0241	FIRST READING -- COMMITTEE REPORTS
02/14/83	13	0241	SEN LETTER OF INTENT
			JUDICIARY
			RULES
****	**	**	*** ** *

S

B

86

FROM SENATOR
KURTTLA

SB 86: BACKGROUND

State compensation for victims of violent crimes was a response to the growing concern that while an offender's rights were protected the rights of the victim were often overlooked. California was the first state to address this issue and in 1965 enacted a Victim Compensation Program. As of January 1, 1983, thirty-four states plus the District of Columbia had established similar programs.

AS 18.67, establishing a Violent Crimes Compensation Board, was adopted by the state legislature in 1972. The purpose of this legislation is:

to facilitate and permit the payment of compensation to innocent persons injured, to dependents of persons killed, and to certain other persons who by virtue of their relationship to the victim of a crime incur actual and reasonable expense as a result of certain serious crimes or in attempts to prevent the commission of crime or to apprehend suspected criminals. AS 18.67.010.

The Violent Crimes Compensation Board is in the Department of Public Safety. The Board is composed of three members appointed by the governor. It is the duty of the board to review and rule on all applications received. Payment of compensation can be ordered if personal injury or death resulted from:

(1) an attempt on the part of the applicant to prevent the commission of crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police officer to do so, or aiding a victim of a crime; or

(2) the commission or attempt on the part of one other than the applicant to commit any of the following offenses: murder in any degree, manslaughter, criminally negligent homicide, assault in the first or second degree, kidnapping, sexual assault in any degree, sexual abuse of a minor, robbery in any degree, contributing to the delinquency of a minor under AS 11.15.130(a)(4), or threats to do bodily harm. AS 18.67.101.

Victim compensation covers reasonable expenses incurred; loss of earnings power due to incapacibility; job retraining or employment - oriented rehabilitative services; pecuniary loss to the dependents of the deceased victim; and other reasonable loss determined by the board. AS 18.67.110.

Presently compensation is made payable to or for the benefit of the injured person; to a person responsible for the maintenance of the victim; or to the dependent of a deceased victim. AS 18.67.080. The total amount of compensation is limited to \$25,000 per victim per incident for losses and expenses not covered by collateral sources. Life insurance proceeds are not treated as a collateral source AS 18.67.090. However, in the case of the death of a victim who has more than one eligible dependent compensation may not exceed \$40,000. AS 18.67.130.

Additional limitations exist under the current state statute. No compensation may be awarded unless an application to the board for compensation was made within two years after the date of the incident and the incident was reported to the police within five days of its occurrence or within five days of the time when a report could reasonably have been made. AS 18.67.130.

Presently no compensation may be awarded if the victim:

- (1) is a relative of the offender;
- (2) is, at the time of the personal injury or at the time of the injury which results in the death of the victim living with the offender as a member of the same family or household, or maintaining a sexual relationship, whether illicit or not, with the offender or with a member of the offender's family;
- (3) violated a penal law of the state, which violation caused or contributed to his injuries or death; or
- (4) is injured as a result of the operation of a motor vehicle, boat or airplane unless the vehicle was used as a weapon in a deliberate attempt to injure or kill the victim.

The bill as introduced would revise the statutes affecting the Violent Crimes Compensation Board as follows:

- (1) AS 18.67.080 would be amended by adding a new paragraph, which would allow compensation to be paid directly to the provider of the service.

Result: The victim receives necessary services and the provider is ensured of payment with a minimal amount of red tape.

Argument for: In situations where the provider has given services to the victim without charge the board must make joint payment to the victim or his representative and the provider. Nola Capp, administration to the board, has encountered numerous cases where payment never reached the provider. With the addition of this new paragraph the administrative procedures will be reduced.

Argument against: The only possible argument against this addition might be the concern that victims who paid for the service would not be reimbursed. This can be countered with the administrative safeguard already in existence. The Board requires receipts of all expenses paid by the victim and also notifies the provider that if payment has already been made then the award of compensation is to be passed on to the victim.

- (2) The bill repeals AS 18.67.130(b) (1) and (2), which deny compensation to the victim if he or she is a relative of the offender, member of the offender's household, maintaining a sexual relationship with the offender or with a member of the offender's family.

Result: The purpose of AS 18.67.10 - AS 18.67.130, "to facilitate and permit the payment of compensation to innocent persons injured" will only be achieved if all "innocent victims" are treated equally.

Arguments for: The relation between the victim and the offender should not work as a financial disadvantage if the victim is innocent, reports the crime and cooperates with the local law enforcement officials. Each case that comes to the board is investigated completely and a determination is made as to whether or not compensation should be awarded. Thus we already have sufficient safeguards in existence to weed out any fabricated stories. Also, since compensation only covers those reasonable expenses incurred as a result of the personal injury nothing is to be gained. The present restriction primarily denies compensation for victims of domestic violence and incest. Rural Alaska presents another problem due to the fact that the population is sparse, housing is often limited and many people are distantly related.

Arguments against: If relatives are allowed to be

compensated for injuries sustained as a result of criminal activity the offender is benefiting from his/her misconduct. Counter: Only reasonable expenses incurred are compensated, thus no financial gain.

Victims of domestic violence will get compensated but might not file charges. Counter: the crime must now be reported under AS 18.67.130, and if this bill passes in its entirety, the victim would be required to aid in the apprehension and conviction of the offender. Once again, the board carefully scrutinizes each case.

Relatives or members of same household are more likely to conspire for financial gain. Counter: where is the gain if only expenses incurred are compensated?

(3) AS 18.67.130(b) would be amended by adding a new paragraph. No compensation may be awarded if the victim:

refuses to give reasonable cooperation to state or local law-enforcement agencies in their efforts to apprehend and convict the offender for the crime resulting in the personal injury, unless good cause for the refusal is shown the board.

Result: Although the victim must presently report the incident within five days of its occurrence, this would strengthen the amount of assistance imposed on the recipient of compensation.

Arguments for: This provides the local law enforcement agency with additional support in the apprehension and conviction of offenders. In many ways this is already required because of the reporting requirement. Even a hostile victim/witness can be subpoenaed by the prosecution. More importantly this additional requirement would counter the argument that relatives or members of a household, if eligible for compensation, would conspire to defraud the state through collusion.

Arguments against: Certain victims might argue that this is an unreasonable requirement, particularly if further mental anxiety would occur. However, each case is reviewed individually and the amendment gives the board the discretion to determine whether "good cause" is shown for noncompliance.

Defense attorneys might use this compensation/cooperation requirement to impeach the credibility of a victim/witness with a "bought" testimony argument. The counter argument is that the victim/witness only is reimbursed for reasonable expenses incurred as a result of the perpetrator's criminal conduct. No real financial gain.

Final Note

A victim is a victim and if innocent should be treated as such.

In 1982 the basic provisions of this bill were introduced in the House by Halford and Clocksin (HB 869) and in the Senate, by Bradley (SB 620).

SB 620 restricted compensation if at the time of application for compensation (the victim) was living with the offender as a member of the same family or household, or maintaining a sexual relationship, whether illicit or not, with the offender."

This provision only speaks to the time of making application and nothing prevents reconciliation, if that was the point to be made. Because of this I find this provision to be without real merit.

Supporters of the Bill

- *Council on Domestic Violence and Sexual Assault
- *Caren Robinson, speaking for the Network on Domestic Violence and Sexual Assault
- *Nola Capp, administrator of the Violent Crimes Compensation Board
- *Katie Hurley, speaking for the Commission on the Status of Women

Revised

NATIONAL CONFERENCE OF STATE LEGISLATURES

STATE PROFILES

STATE VICTIM COMPENSATION PROGRAMS

ALASKA.....Year Effective: 1972
Source of Revenue: General Tax
Maximum Award: \$25,000* Minimum Award: --
Financial Needs Test: No Police Rept. Req.: 5 days
File with Commission: 2 years Son of Sam Provision: Yes
Out of State Residents Covered: Yes

.....

CALIFORNIA...Year Effective: 1965
Source of Revenue: Penalty Assessments
Maximum Award: \$23,000 Minimum Award \$100
Financial Needs Test: Yes Police Rept. Req.: Yes
File with Commission: 1 year Son of Sam Provision: No
Out of State Residents Covered: No

.....

COLORADO.....Year Effective: 1982
Source of Revenue: Penalty Assessments
Maximum Award: \$1,500 Minimum Award: \$25
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 6 mos Son of Sam Provision: No
Out of State Residents Covered: No

.....

CONNECTICUT..Year Effective: 1979
Source of Revenue: Penalty Assessments
Maximum Award: \$10,000 Minimum Award: \$100
Financial Needs Test: No Police Rept. Req.: 5 days
File with Commission: 2 yrs Son of Sam Provision: No
Out of State Residents Covered: Yes**

.....

DELAWARE.....Year Effective: 1975
Source of Revenue: Penalty Assessments
Maximum Award: \$10,000 Minimum Award: \$25
Financial Needs Test: No Police Rept. Req.: Yes
File with Commission: 1 yr Son of Sam Provision: No
Out of State Residents Covered: Yes

.....

FLORIDA.....Year Effective: 1978
Source of Revenue: General Tax OR Penalty Assessments
Maximum Award: \$10,000 Minimum Award: --
Financial Needs Test: Yes Police Rept. Req.: 72 hrs
File with Commission: 1 yr Son of Sam Provision: No
Out of State Residents Covered: No

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HAWAII.....Year Effective: 1967
Source of Revenue: General Tax
Maximum Award: \$10,000 Minimum Award: --
Financial Needs Test: No Police Rept. Req.: Yes
File with Commission: 18 mos Son of Sam Provision: No

Out of State Residents Covered: Yes

.....
N DAKOTA.....Year Effective: 1975
Source of Revenue: General Tax
Maximum Award: \$25,000 Minimum Award: \$100
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 1 yr Son of Sam Provision: --
Out of State Residents Covered: Yes

.....
OHIO.....Year Effective: 1976
Source of Revenue: Penalty Assessments
Maximum Award: \$50,000 Minimum Award: --
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 1 yr Son of Sam Provision: No
Out of State Residents Covered: Yes

.....
OKLAHOMA.....Year Effective: 1981
Source of Revenue: Penalty Assessments
Maximum Award: \$10,000 Minimum Award: --
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 1 yr Son of Sam Provision: Yes
Out of State Residents Covered: Yes

.....
OREGON.....Year Effective: 1978
Source of Revenue: General Tax
Maximum Award: \$23,000 Minimum Award: \$250
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 6 mos Son of Sam Provision: No
Out of State Residents Covered: Yes

.....
PENNSYLVANIA...
Year Effective: 1977
Source of Revenue: Penalty Assessments
Maximum Award: \$25,000 Minimum Award: \$100
Financial Needs Test: No Police Rept. Req.: 72 hrs
File with Commission: 1 yr Son of Sam Provision: No
Out of State Residents Covered: Yes**

.....
TENNESSEE....Year Effective: 1976
Source of Revenue: Penalty Assessments
Maximum Award: \$10,000 Minimum Award: \$100
Financial Needs Test: No Police Rept. Req.: 48 hrs
File with Commission: 1 yr Son of Sam Provision: No
Out of State Residents Covered: Yes

.....
TEXAS.....Year Effective: 1980
Source of Revenue: Penalty Assessments
Maximum Award: \$50,000 Minimum Award: --
Financial Needs Test: Yes Police Rept. Req.: 72 hrs
File with Commission: 180 days Son of Sam Provision: Yes
Out of State Residents Covered: No

.....
VIRGINIA.....Year Effective: 1976
Source of Revenue: Penalty Assessments

Maximum Award: \$10,000 Minimum Award: \$100
 Financial Needs Test: Yes Police Rept. Req.: 48 hrs
 File with Commission: 6 mos Son of Sam Provision: No
 Out of State Residents Covered: Yes**

.....
 W VIRGINIA...Year Effective: 1981
 Source of Revenue: Penalty assessments
 Maximum Award: \$20,000 Minimum Award: --
 Financial Needs Test: No Police Rept. Req.: 72 hrs
 File with Commission: 2 yrs Son of Sam Provision: No
 Out of State Residents Covered: Yes

.....
 WISCONSIN...Year Effective: 1977
 Source of Revenue: General Tax
 Maximum Award: \$12,000 Minimum Award: --
 Financial Needs Test: No Police Rept. Req.: 5 days
 File with Commission: 2 yrs Son of Sam Provision: No
 Out of State Residents Covered: Yes

.....
 Maximum Award includes medical expenses, lost earnings, and funeral expenses.

** \$25,000 per victim; \$40,000 if there are 2 or more surviving dependents.
 * If victim is a resident of a state that compensates out-of-state residents

 * NCSL STAFF CONTACT: Mindy GAYNES *
 * 303/443-6600 *
 * REV. DATE: 01/15/82 292- *

***** ARTICLES *****

TITLE: ALTERNATIVE SENTENCING: A WAY OUT?
 AUTHOR: GREENHOUSE, L.
 PERIODICAL: STATE LEGISLATURES.
 VOLUME INFORMATION: VOL. 5, NO. 2
 DATE 02/01/79
 SCOPE
 CA DC FE GE IL MA MD TN VA
 ABSTRACT

 THIS ARTICLE PRESENTS THE NOTION THAT BOTH ECONOMY AND JUSTICE ARE WELL SERVED BY FORMS OF PUNISHMENT OTHER THAN PRISON. IT CONTENDS THAT POLICIES THAT INCREASE THE DURATION AND FREQUENCY OF PRISON SENTENCES ARE BY FAR THE MOST EXPENSIVE WAYS TO DEAL WITH THE CRIME PROBLEM, SO IT IS SURPRISING THAT NEW SENTENCING LAWS AND THE PRISON BUILDING BOOM HAVE SO FAR ESCAPED PROPOSITION 13 FEVER. THEIR IMMUNITY FROM THE FISCAL SCYTHE IS NOT DUE TO ANY GREAT PUBLIC OR LEGISLATIVE SATISFACTION WITH THE PRISON SYSTEM, WHICH MANY BELIEVE HAS FAILED MISERABLY TO REHABILITATE PRISONERS OR DETER CRIMES. ILL. INCLUDED.
 NCSL IDENTIFICATION NUMBER: ART7900041

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 06 Date on Bill: 1-27-83
 Title: An Act Relating To Compensation for Victims of Violent Crimes
 Sponsor: Senators Kertulla and Fischer
 Requestor: Senate Judiciary

1. Estimated fiscal impacts on:

a. Expenditures:

		(Thousands of Dollars)			
		FY 83	FY 84	FY 85	FY 86
Capital					
Operating			341.1	349.9	371.0
Total			341.1	349.9	371.0

b. Revenues:

Revenue					
---------	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

Not Identified by Sponsors of Bill.

3. Assumptions:

If the proposed legislation is enacted it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation, and we would receive 10 death claims and 5 would be awarded, including 2 claims with one dependent per incident and 3 claims with multiple dependents. There will be additional hearings as with the change in statute, the Board will want to be certain the offender will not receive any of the compensation.

4. Disclaimer:

This statement has not been reviewed by the CMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Nola K. Capp Phone: 465-3040
 Division: Violent Crime Compensation Board Date: _____

Approved by Commissioner: Robert J. Sundberg *RJS by TP/H* Date: 2/18/83
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to CMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

FISCAL NOTE DETAIL
 BILL NO. SB 86

EXPENDITURES

	FY 83	FY 84	FY 85	FY 86
100 Personal Services		26.6	28.2	29.9
200 Travel		7.9	8.4	8.9
300 Contractual		17.1	9.1	9.7
400 Commodities				
500 Equipment		2.5		
600 Land & Structures				
700 Grants, Claims, etc.		287.0	304.2	322.5
800 Miscellaneous				
TOTAL		341.1	349.9	371.0

FUNDING

General Fund		341.1	349.9	371.0
Federal Funds				
Program Receipts				
Inter-Agency Receipts				
Other				

POSITIONS

Full Time		1	1	1
Part Time/Seasonal				
Non-Perm				
Months				

ANALYSIS:

If the proposed legislation is enacted, it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation. The average award is \$4500.00 per claim so 26 claims would total \$117,000. It is estimated the program would receive 10 death claims and 5 would be awarded: 2 claims at one dependent per incident would be \$50,000 and 3 claims for multiple dependents would be \$120,000 for a total estimated grant money of \$287,000.

Because there will be an increase of claims, it is determined it will be necessary to have one more board meeting at a cost of \$1500.00. Because of the repeal of the statute it is anticipated there would be 8 hearings at \$200 for travel per hearing. The reason for more hearings is because of the change in the statute, the Board will want to be certain the offender will not receive any of the compensation and because of circumstances in some cases, they may order a hearing prior to a final determination by the Board.

The current staff for the Violent Crimes Compensation Board consists of two persons. This change in the statute would necessitate the addition of a clerk typist (range 8) and associated costs, including equipment.

(continued)

Under contractual services, there would be a need for a terminal only for the IBM displaywriter at \$3000.00 per year. There would be the cost of hearing officers' fees for 8 hearings at \$700 per hearing and a total cost of \$5600. Since this will be a major change in the statute, the public must be made aware through TV spots, radio and newspapers. Production of the TV spots will be a one time expense as will the radio spots. These spots should cost around \$6500 plus another \$1000 for public notices in newspapers around the state.

The costs are assumed to begin 7/1/83.

1.	POSITION TITLE Clerk-Typist III				RANGE/STEP 8B	BARC. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		19,176							
6.	Benefits		3,367							
7.	Supplemental Benefits		1,175							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		26,598					
10.	Travel		02							
11.	Contractual		03							
12.	Commodities		04							
13.	Equipment		05		2,484					
14.	Other									
15.	TOTAL COST				29,082					
	RECEIPT CODE		FUNDING SOURCE							
16.			Federal Receipts 1002							
17.			G.F. Match 1003							
18.			General Funds 1004		29,082					
19.			I-A Receipts 1005							
20.			Program Receipts 1028							
21.			Other							
FOR B&M USE ONLY										
4A KEY NUMBER _____										

The number of claims received annually by the Violent Crimes Compensation Board has doubled since 1976 and is projected to double again during the two-year period ending 6/30/84. Yet the program has only the same two-person staff it had in 1973.

It is anticipated the change in the statute will increase the number of claims by 50. This increase, on top of the existing understaffing, will necessitate the addition of a clerk-typist and associated costs, including equipment.

Since this is a major change in the statute, all the applications, brochures and posters will have to be redone. The public must be made aware of the changes through TV, radio and newspapers, again much clerical work. There will be an increase in hearings, which must be transcribed verbatim.

The equipment costs include a desk, chair, file cabinet, table, calculator and transcriber.

13 REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
PROGRAM Crime Identification & Apprehension
BRU Violent Crimes Compensation Board
COMPONENT _____

FY 84

Page 1 of 1

Revised Date 2/2/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSSB 86(FIN)
 Title: "Act Relating to Compensation for
 Sponsor: Sen. Kertulla
 Requestor House Judiciary

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Crime ID
 BRU, Program of Subprogram(s) Affected: Victims"
 Violent Crimes Compensation Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		26.6	28.2	29.9	31.7	33.6
200 TRAVEL		7.9	8.4	8.9	9.4	10.0
300 CONTRACTUAL		17.1	9.1	9.7	10.3	10.9
400 COMMODITIES						
500 EQUIPMENT		2.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		287.0	304.2	322.5	341.9	362.4
TOTAL OPERATING		341.1	545.9	371.0	393.3	416.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		341.1	349.9	371.0	393.3	416.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Source of funds not identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis See Attached

Prepared By: Nola K. Capp Phone: 465-3040
 Division: Violent Crimes' Compensation Board Date: 5-6-83

Approved by Commissioner: [Signature] Date: 5/9/83
 Department: Public Safety

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

ANALYSIS

If the proposed legislation is enacted, it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation. The average award is \$4500.00 per claim so 26 claims would total \$117,000. It is estimated the program would receive 10 death claims and 5 would be awarded; 2 claims at one dependent per incident would be \$50,000 and 3 claims for multiple dependents would be \$120,000 for a total estimated grant money of \$287,000.

Because there will be an increase of claims, it is determined it will be necessary to have one more board meeting at a cost of \$1500.00. Because of the repeal of the statute it is anticipated there would be 8 hearings at \$800 for travel per hearing. The reason for more hearings is because of the change in the statute, the Board will want to be certain the offender will not receive any of the compensation and because of circumstances in some cases, they may order a hearing prior to a final determination by the Board.

The current staff for the Violent Crimes Compensation Board consists of two persons. This change in the statute would necessitate the addition of a clerk typist (range 8) and associated costs, including equipment.

Under contractual services, there would be a need for a terminal only for the IBM displaywriter at \$3000.00 per year. There would be the cost of hearing officers' fees for 8 hearings at \$700 per hearing and a total cost of \$5600. Since this will be a major change in the statute, the public must be made aware through TV spots, radio and newspapers. Production of the TV spots will be a one time expense as will the radio spots. These spots should cost around \$6500 plus another \$1000 for public notices in newspapers around the State.

S

B

95

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 05

Title An Act requiring that certain legislative officers file statements of financial interests: e.d. Date 2-8-83

Requested by: Senate Judiciary Committee

II. FISCAL DETAIL

Agency Affected Legislature - Executive Branch - Municipalities

Program Category Affected General Government

BRU, Program, Or Subprogram(s) Affected Legislature - Executive Branch

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-				

FUNDING (Thousands of Dollars)

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

POSITIONS

None

FULL TIME						
PART TIME						
TEMPORARY						

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

It is estimated that no additional fiscal impact will result from this bill.

IV. DATE 2-8-83

PREPARED BY [Signature] Director, Admin. Svcs.
AGENCY Legislative Affairs Bureau

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

PHONE 445-1000

33-001 (Rev. 12/82)

SB 95 TITLE & SPONSOR SUMMARY 10:40 2/26/83 PAGE 1 OF 3
 AMENDED TITLE:
 AN ACT REQUIRING THAT CERTAIN LEGISLATIVE OFFICERS FILE
 STATEMENTS OF FINANCIAL INTERESTS;
 AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: BENNETT.
 CO-SPONSORS:
 CURRENT STATUS: 2/25/83 IN (H) JUDICIARY

SB 95 SENATE ACTION 10:40 2/26/83 PAGE 2 OF 3
 LEGISLATIVE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/31/83	01	0101	FIRST READING -- COMMITTEE REPORTS
02/15/83	02	0190	JUD -- DP05
02/15/83	03	0190	JUD CMTE ZERO F/NOTE
02/24/83	04	0251	RLS -- OTHER05 TAKEN UP IMMEDIATELY
02/24/83	05	0253	SECOND READING
02/24/83	06	0254	ADVANCED TO 3RD READING BY UNAN CONSENT
02/24/83	07	0254	THIRD READING
02/24/83	08	0254	PASSED BY DIV 20-00-00
02/24/83	09	0254	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** ** *

SB 95 HOUSE ACTION 10:40 2/26/83 PAGE 3 OF 3
 LEGISLATIVE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/25/83	10	0342	FIRST READING -- COMMITTEE REPORTS JUDICIARY RULES
****	**	**	*** ** *

S B

101

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 1, 1984

SUBJECT: Sectional analysis of CSSB 101 (Resources)

TO: Representative Charlie Bussell
Chairman House Judiciary Committee

FROM: Edward H. Hein *EHA*
Legislative Counsel

Section 1 adds a new section, AS 16.05.165, to the fish and game code that provides that a peace officer investigating a misdemeanor violation of the code or a regulation adopted under it may issue a citation as provided in AS 12.25.180, notwithstanding the provisions of AS 16.05.160, which requires a peace officer to arrest any person committing a code violation in the officer's presence. Note that SSHB 404 would amend AS 16.05.160 to make such arrests discretionary, but would expand the arrest authority to include violations of all of AS 16 except AS 16.51 and 16.52. Section 1 also directs the supreme court to establish a bail schedule for fish and game misdemeanor violations and provides for paying fines by mail, similar to what is done with traffic tickets.

Section 2 amends AS 16.05.410, which provides for revocation of licenses for conviction of sport fishing and hunting license violations. The amendment provides that the existing revocation provisions do not apply to violations for which a forfeitable bail amount is established under AS 16.05.165. Two convictions of such an offense, however, could result in a peace officer filing a civil action to have the person's license revoked. A non-jury court hearing is required. If the court finds that the person's actions demonstrate a disregard for the preservation of the state's fish or wildlife resources, the license may be revoked for a mandatory one-to-three year period.

Section 3 amends AS 12.25.190(c) to provide that a person receiving a citation under AS 16.05.165 is not required to

Representative Charlie Bussell
Page 2
February 1, 1984

give a written promise that he or she will appear in court
in response to the citation.

EHH:ojb
J3/037



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4990

Alaska State Legislature
HOUSE OF REPRESENTATIVES

REPRESENTATIVE
CHARLIE BUSSELL
CHAIRMAN

Committee on Judiciary

CSSB 101 (RES)
TABLE OF CONTENTS

- A. Committee Substitute for Senate Bill 101 (Resources)
"An act relating to the issuance of citations for fish and game violations."
- B. Sectional Analysis
Ed Hein, Legislative Counsel.
- C. Fiscal Note
Col. Robert J. Stickles, Director, Fish and Wildlife Protection,
Department of Public Safety.
- D. Letter of Intent
Senate Resources Committee
- E. Title and Sponsor Summary/Legislative Action.
- F. Letter of Support
Bill Sheffield, Governor.
- G. Letter of Support
Col. Robert J. Stickles, Director, Fish and Wildlife Protection,
Department of Public Safety.
- H. Letter of Support and Suggested Amendments
Stephanie J. Cole, Deputy Director for Services, Alaska Court System.

MEMBERS:
REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. RON WENDTE

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSSB 101 (Res)
 Title: "Act relating to issuance of ..."
 Sponsor: Senate Resource Committee
 Requestor: Senate Judiciary

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: F&WP
 BRU, Program of Subprogram(s) Affected: Fish & Wildlife Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis No fiscal impact anticipated

Prepared By: Col. Robert J. Stickles, Director Phone: 269-5532
 Division: Fish & Wildlife Protection Date: 3-22-83
 Approved by Commissioner: [Signature] Date: 3/25/83
 Department: Public Safety

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/2/83

SENATE RESOURCES COMMITTEE

LETTER OF INTENT

CSSB 101

It is the intent of the Resources Committee in passing out this bill that the Supreme Court shall specify certain fish and game violations for which bail amounts can be set and for which citations could be issued which would not require court appearances. It is intended that this procedure be similar to that currently employed under the motor vehicle code for traffic citations. Through implementation of this procedure it is intended that savings to the court system, enforcement agencies and violators in time would be realized.

However, the Committee recognizes that only some fish and game misdemeanors would be identified under this new statute because of their "minor" nature. Other misdemeanors would continue to require court appearances by the cited violators. In testimony before the Committee and in statements to the Committee the following misdemeanors were mentioned as examples of those violations for which the provisions of this bill might in all likelihood apply:

- 1) snagging or attempting to snag fish
- 2) failure to punch harvest tickets
- 3) failure to submit hunting permit reports
- 4) license not in possession

The following misdemeanors were mentioned as examples of those violations for which the provisions of this bill should probably not apply:

- 1) commercial fish
- 2) limited entry
- 3) guide-related
- 4) closed season
- 5) same-day airborne
- 6) waste

It is the intention of the Committee that the Supreme Court, in consultation with the Department of Public Safety, would identify misdemeanors under this bill consistent with the above lists.

CSSB 101 (Res) RELATING TO THE ISSUANCE OF CITATIONS FOR FISH
AND GAME VIOLATIONS.

ASK FOR UNANIMOUS CONSENT FOR ADOPTION OF THE RESOURCES COMMITTEE
SUBSTITUTE.

(SMALL CHANGES WERE MADE IN THE C.S : (ALL RECOMMENDED BY THE COURT SYSTEM)

.. REMOVED REFERENCES TO "MINOR MISDEMEANOR" AS IT HAS NO
LEGAL DEFINITION

.. ALLOWS THE DEFENDANT TO PAY BAIL IN THE COURT WHERE THE
OFFICER FILES THE CITATION RATHER THAN IN THE COURT OF
JURISDICTION

... MAKES AN ALLOWANCE FOR A PERSON WHO FORGETS TO SIGN HIS/HER
CITATION

.. AND SOME TECHNICAL CHANGES IN LINE WITH RECOMMENDATIONS FROM
THE ATTORNEY GENERAL'S OFFICE

LETTER OF INTENT

IN THIRD READING, PRIOR TO PASSAGE, ASK FOR UNANIMOUS CONSENT FOR
ADOPTION OF THE LETTER OF INTENT.

.. ASSURES THAT ONLY MINOR OFFENSES WOULD BE COVERED BY THIS
BILL

IN GENERAL

THIS BILL WOULD GIVE PEACE OFFICERS THE AUTHORITY TO ISSUE CITATIONS
FOR FISH AND GAME MISDEMEANORS UNDER A PROCEDURE SIMILAR TO THE ISSUANCE
OF TRAFFIC CITATIONS. THE INTENT IS TO EXPEDITE THE ENFORCEMENT
PROCEDURE BY REDUCING COURT LOADS. THE SUPREME COURT IS TO IDENTIFY
THE MISDEMEANORS APPROPRIATE FOR DISPOSITION WITHOUT COURT APPEARANCE -
CONSIDERABLE WORK WAS DONE IN COMMITTEE TO ASSURE THAT ONLY MINOR
OFFENSES WOULD BE COVERED BY THE TRAFFIC TICKETING SYSTEM. WE
ANTICIPATE A REDUCTION OF ABOUT 1,000 CASES A YEAR THAT WOULD NORMALLY
GO BEFORE THE COURTS.

FISCAL NOTE IS ZERO.

PROPOSED TITLE: CS05 101 (RES)

AN ACT RELATING TO THE ISSUANCE OF CITATIONS FOR FISH AND GAME VIOLATIONS

PRIME SPONSOR: SENATE RULES COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 5/19/83 IN (H) JUDICIARY

B 101 SENATE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
12/01/83	01	0109	FIRST READING -- COMMITTEE REPORTS
12/01/83	02	0109	F/NOTE EQUALS ZERO
12/01/83	03	0109	GOV TRANSMITTAL LETTER
03/18/83	04	0430	RES -- CS05, NR01
03/18/83	05	0430	RES LETTER OF INTENT
04/14/83	06	0693	JUD -- RES CS05
04/14/83	07	0693	JUD F/NOTE EQUALS ZERO
04/22/83	08	0785	RLS -- RES CS04, OTHER04 TAKEN UP IMMEDIATELY
04/22/83	09	0787	SECOND READING
04/22/83	10	0787	RES CS ADOPTED BY UNAN CONSENT
04/22/83	11	0787	SENATE LETTER OF INTENT ADOPTED
04/22/83	12	0787	ADVANCED TO 3RD READING BY UNAN CONSENT
04/22/83	13	0787	THIRD READING
04/22/83	14	0787	PASSED BY DIV 20-00-00

**** ** ** *** **

B 101 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/25/83	15	1015	FIRST READING -- COMMITTEE REPORTS
05/19/83	16	1425	RES -- DP06 JUDICIARY RULES

**** ** ** *** **



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 1, 1983

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will establish an expeditious procedure to dispose of minor uncontested misdemeanor fish and game violations.

Under existing law (AS 12.25.180), peace officers have the authority to issue citations for misdemeanors instead of arresting the offender. Once a citation is issued, however, the offender must ordinarily appear in court, even if he does not wish to contest the charge. Section 1 of the attached bill adopts a procedure similar to that found in the motor vehicle code (AS 28.05.151) which allows the offender to post and forfeit bail if he does not wish to contest the charge. The bill also authorizes the supreme court to establish a bail schedule for those minor misdemeanor offenses which are appropriate for disposition without court appearance.

As in the comparable motor vehicle code provision, this bill provides that when a person is convicted of a minor misdemeanor which is included in the bail schedule, the fine imposed may not exceed the bail amount, even though statutes or regulations may allow a higher maximum penalty level. This bail amount "ceiling" on fines is necessary to ensure that a person who contests a citation and goes to trial will not receive a more severe penalty upon conviction than the person who enters a no contest plea and forfeits the bail amount without appearance. To expose the person who contests a citation to a higher maximum possible sentence would penalize the exercise of the right to a trial, constituting a denial of equal protection of the law.

Section 2 of this bill generally exempts persons who have been convicted of two or more minor fish and game violations from the mandatory license forfeiture required by AS

16.05.410(a) -- (c). However, the bill also provides that, in specific appropriate situations the hunting or fishing licenses of frequent repeat minor offenders may be revoked following a district court hearing.

Passage of this bill will benefit law enforcement, the person cited for a relatively minor offense, and the judicial system. The person will avoid the time and expense associated with a court appearance, while law enforcement will be able to concentrate its resources on more serious offenses. We anticipate a reduction of approximately 1,000 cases per year that would normally go before the courts.

Sincerely,



Bill Sheffield
Governor

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

ROBERT J. SUNDBERG
COMMISSIONER

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FISH & WILDLIFE PROTECTION

P. O. BOX 6188, ANNEX
ANCHORAGE, ALASKA 99502

March 9, 1983

Representative Mitch Abood
Pouch V
Juneau, Alaska - 99801

Dear Representative Abood:

During the budget hearings on March 7th involving the Division of Fish and Wildlife Protection we discussed Senate Bill 101 and it's potential impact on the Division. Senate Bill 101 was introduced on February 1st, 1983 and is a bill entitled "An Act relating to the Issuance of Citations for Fish and Game Violations."

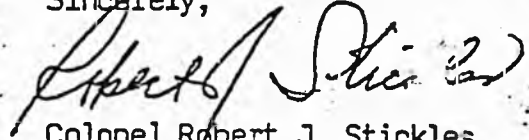
Should this Bill pass it will allow the Alaska Supreme Court to establish a bail system for minor fish and wildlife offenses. If that occurs we anticipate approximately twenty (20) of the most common and minor violations being placed on this bail system. A fine will be established by the Court System for the offenses and if an individual is caught in a violation he will have the option of mailing in a fine or appearing in court. We anticipate that this will have a significant impact on the Court System, the Division of Fish and Wildlife Protection and the District Attorneys Office and it will be a positive impact because we feel an overwhelming majority of people will elect to use the bail system.

In an era when the State's treasury is going down and operating funds for the Division are not going to be as great as they have been in the past this type of legislation will assist the Division in maintaining it's current posture while decreasing expenditures at the same time. Last year the Division spent nearly 6,000 hours in court in the prosecution of the violations that we apprehended in the field. We believe that at a minimum, one half of this time can be eliminated if this particular piece of legislation passes. I would like to note also that we believe this will be of tremendous benefit to the sportsmen of the State of Alaska. I say sportsmen because right now we do not envision commercial type violations being placed on the bail system. In many cases persons are traveling, for example from Anchorage to Kenai to participate in the sport fishery and are cited for a violation. In order to go to court the individual has to take at least one day off from work, go to court, plead guilty or innocent, pay his fine, and it's an inconvenience to the general public as well as a burden on the court system, my officer's time, and the District Attorney's time. We feel the passage of this Bill will help not only us, but also the citizen.

MARCH 9, 1983

Should this Bill come before the House State Affairs Committee of which you are the Chairman, I urge your support for this piece of legislation. If we can be of further assistance in explaining the benefits of this legislation or in answering any questions, please feel free to contact us.

Sincerely,



Colonel Robert J. Stickles
Director

RJS/rt

cc: Commissioner Robert J. Sundberg, Department of Public Safety

M E M O R A N D U M

TO: Senator Bettye Fahrenkamp, Chair, Senate Resources Committee

INFORMATION: Senator Robert H. Zielger, Sr., Vice-Chair
Senator Bob Mulcahy
Senator Richard I. Eliason
Senator Paul Fischer
Senator Arliss Sturgulewski
Senator Vic Fischer

FROM: Stephanie J. Cole
Deputy Director for Services
Alaska Court System

SUBJECT: SB 101

DATE: March 16, 1983

The Alaska Court System supports the passage of legislation enabling the development and adoption of a bail forfeiture schedule for minor fish and game offenses. Such a bail schedule could both reduce the court's workload and promote public convenience.

The following comments are offered about SB 101:

1. Section I, AS 16.05.165(a): We would suggest the addition of the phrase "as provided in AS 12.25.180" at the end of the sentence.

AS 12.25.180 (When peace officer has option to take person before judge or magistrate) sets forth the parameters of a peace officer's discretionary power to issue a citation to a defendant. It should be as applicable to fish and game misdemeanors as to other types of misdemeanors. The reference to AS 12.25.180 will make the incorporation clear.

2. Section I, AS 16.05.165(b): We would suggest the deletion of the word "minor" in the first sentence.

This first sentence refers to "minor misdemeanors." This term does not have any legal definition. The legislative intent that only minor types of cases be included in the bail schedule is already addressed by the language in this same sentence, "...misdemeanors that are appropriate for disposition without court appearance." More serious misdemeanors would not be appropriate for inclusion in the bail schedule. The inclusion of the term "minor misdemeanors" could be unnecessarily confusing.

3. Section I, AS 16.05.165(c): In the first sentence, we would delete "...having jurisdiction over the place where the violation occurred," and would substitute "...in which the citation is filed by the peace officer."

The defendant may have no knowledge about which court has jurisdiction over the place where the violation occurred. He must deal with the court where the peace officer files the citation. This court address would be indicated on the citation.

4. Section I, AS 16.05.165(c)(2): We would suggest that a final sentence be added to this subsection: "Bail shall be forfeited if the person cited returns the bail amount but fails to sign the citation."

Clerical problems will develop if (as frequently occurs with the traffic bail schedule receipts) persons mail in their bail money and omit, inadvertently or otherwise, to sign their citations. This provision would allow the court to treat the matter as if the person had signed the citation, thus expediting case processing.

5. Section I, AS 16.05.165(f): We would change the provision in the first sentence of "after trial" to "after plea or trial."

It sometimes happens that a person wants to plead guilty to this sort of offense while still wanting to go to court to tell the judge about the particular circumstances of his case. This minor addition will insure that he or she would not be penalized for doing so.

6. Section I, AS 16.05.410(g): This subsection raises the possibility of a number of problems and leaves a number of questions unanswered.

Among the issues raised are the following. Is this a criminal or civil proceeding? What standard of proof does the court use? If the license to be revoked is considered to be a "valuable license" by the court, the defendant has the right to a trial by jury. [See Baker v. City of Fairbanks, 471 P.2d 386 (Alaska 1970).] Then, how does the court treat the underlying prior misdemeanor offenses which support the case before the court, for which the defendant did not have the right to trial by jury? Is the defendant allowed to raise issues relating to his or her guilt in these closed cases before the jury? Different courts will probably decide these and other questions in varying ways.

• Senator Bettye Fahrenkamp
March 16, 1983
Page 3.

As an alternative method, the legislature may want to consider the implementation of an administrative point system as is presently in use in traffic matters. See AS 28.15.221 et. seq. Such a point system would avoid many of the procedural pitfalls created by the present subsection.

Thank you for the opportunity to comment on this proposed legislation.

SJC:jm

Stephanie J. Cole

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B

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Alaska State Legislature



POUCH V
JUNEAU, ALASKA 99811

P. O. BOX 9
KENAI, ALASKA 99611

REPRESENTATIVE HUGH MALONE

5/15/84

TO: CHARLIE BUSSELL

FROM: HUGH MALONE

Appreciate your scheduling SB 111 - relating to teleconferenced meetings under the administrative procedures act (by Gov.)

This bill codifies what is a reasonable approach to the use of teleconferencing for public meetings. I am not sure it is really necessary, but it would avoid arguments over what the rules are.

Thanks for your consideration.


A handwritten signature in cursive script, appearing to read "Hugh L".

S

B

1/16

WHILE YOU WERE AWAY

FOR OWNER DATE 3/24 TIME 9:10 A.M.
M TERRY KRAMER
OF _____
PHONE _____ TELEPHONED
AREA CODE 214 NUMBER 412 EXTENSION 412 RETURNED YOUR CALL
MESSAGE Bonus Ribbon PLEASE CALL
Commissioner WILL CALL AGAIN
Noting w/ SB 116 CAME TO SEE YOU
is scheduled (y) WANTS TO SEE YOU
SIGNED _____ TOPS  FORM 4002

Tops Form No. 4002



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

M E M O R A N D U M

March 25, 1983

TO: Members of the House Judiciary Committee

FROM: Teresa B. Cramer *Teresa B. Cramer*
Administrative Assistant

SUBJECT: CSSB 116(SA) - Placing Emergency Guards Employed by the
Department of Public Safety in the Partially Exempt Service

In 1979, the Blue Ribbon Commission sponsored legislation to place greater restraints on the employment of both nonpermanent and emergency classified state workers. These restrictions have created some difficulties for the Department of Public Safety because of the large number of emergency guards they hire. In 1982 the department hired 495 emergency guards. There were only 112 other emergency appointments in the state.

An emergency employee is defined as "an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest". AS 39.25.200(3). Departments are required to report the reason for hiring an emergency employee within 15 working days of the appointment. Personnel practices require that departments prepare Personnel Action forms at the beginning and ending of an emergency appointment. In addition, employment forms from the Division of Payroll and the Division of Retirement and Benefits must be prepared for each appointment.

For some communities with frequent need for emergency guards, the department employs the same individuals each time the need arises. There were 136 individuals who filled the 495 emergency guard appointments during 1982. These employees guard prisoners or seized property in rural areas where a one- or two-person post prevents a trooper from maintaining 24-hour per day watch. The period required for the emergency service is between arrest and either arraignment or transportation to a correctional facility or until other arrangements are made to maintain custody of the seized property. According to the Department of Public Safety, typical appointments last from two to four days.

Placing emergency guards in the partially exempt service will substantially reduce the paperwork burden placed on the Departments of Public Safety and Administration. Those employees who are repeatedly hired when an emergency occurs can remain on the payroll indefinitely, preparing time sheets for each period they actually work. Making the positions part of the partially exempt service means that the positions remain part of the state's classification plan and are paid according to the state's pay plan. This will insure pay equity for those employees.

The Blue Ribbon Commission recommends placing these positions in the partially exempt service. It will reduce the paperwork burden on the department with little effect on the employee. (The protections for emergency appointments in the classified service are not much greater, if at all, than for partially exempt employees.) The continuing need for these appointments has been adequately documented.

Bill Analysis

Line 10 Section 1 amends the section of the State Personnel Act which lists positions placed in the partially exempt service to include emergency guards.

Line 14 Section 2 amends the chapter which creates the Department of Public Safety by requiring the department to report to the Director of Personnel on the number and description of appointments of emergency guards. Departments are currently required to report the number of classified service emergency appointments they make. This will retain that requirement for emergency guards after they are moved to the partially exempt service.

TBC:lmk

SB 116 TITLE & SPONSOR SUMMARY 08:26 3/24/83 PAGE 1 OF 3
 AMENDED TITLE: CSSB 116(S.A.)
 AN ACT PLACING EMERGENCY GUARDS EMPLOYED BY THE DEPARTMENT
 OF PUBLIC SAFETY IN THE EXEMPT SERVICE

PRIME SPONSOR: SENATE RULES COMMITTEE.
 CO-SPONSORS:
 CURRENT STATUS: 3/23/83 IN (H) JUDICIARY

SB 116 SENATE ACTION 08:26 3/24/83 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/09/83	01	0155	FIRST READING -- COMMITTEE REPORTS
03/11/83	02	0371	S.A. -- CS04
03/11/83	03	0371	MOVED FROM JUD TO RLS BY UNAN CONSENT
03/21/83	04	0447	RLS -- NR01, OTHER03 TAKEN UP IMMEDIATELY
03/21/83	05	0449	SECOND READING
03/21/83	06	0449	S.A. CS ADOPTED BY UNAN CONSENT
03/21/83	07	0450	ADVANCED TO 3RD READING BY UNAN CONSENT
03/21/83	08	0450	THIRD READING
03/21/83	09	0450	PASSED BY DIV 18-00-02
****	**	**	*** ** *

SB 116 HOUSE ACTION 08:26 3/24/83 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/23/83	10	0590	FIRST READING -- COMMITTEE REPORTS JUDICIARY RULES
****	**	**	*** ** *

SB 24 TITLE & SPONSOR SUMMARY 08:23 3/24/83 PAGE 1 OF 3
 AMENDED TITLE: CSSB 24(JUD)AM
 AN ACT RELATING TO PENALTIES FOR ASSAULTING A PEACE OFFICER,
 FIRE FIGHTER, OR OTHER EMERGENCY RESPONDER

PRIME SPONSOR: RODEY.
 CO-SPONSORS: RAY, MOSS, PETTYJOHN, FERGUSON, JOSEPHSON, FISCHER, V. ,
 FISCHER, P. , STURGULEWSKI.
 CURRENT STATUS: 3/21/83 IN (H) JUDICIARY

SB 24 SENATE ACTION 08:24 3/24/83 PAGE 2 OF 3
 DATE SEQ PAGE LEGISLATIVE ACTION

01/18/83	01	0224	FIRST READING -- COMMITTEE REPORTS
03/02/83	02	0295	JUD -- CS04, NR01
03/18/83	03	0432	RLS -- JUD CS(AM)04, OTHER04 TAKEN UP IMMEDIATELY
03/18/83	04	0435	SECOND READING
03/18/83	05	0435	JUD CS ADOPTED BY UNAN CONSENT
03/18/83	06	0436	AM01 ADOPTED BY UNAN CONSENT
03/18/83	07	0436	AM02 NOT ADOPTED BY VOICE VOTE
03/18/83	08	0436	ADVANCED TO 3RD READING BY UNAN CONSENT
03/18/83	09	0436	THIRD READING
03/18/83	10	0437	PASSED BY DIV 16-00-04

**** ** ** *** ** *

SB 24 HOUSE ACTION 08:24 3/24/83 PAGE 3 OF 3
 DATE SEQ PAGE LEGISLATIVE ACTION

03/21/83	11	0570	FIRST READING -- COMMITTEE REPORTS JUDICIARY RULES
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131



THE ALASKA CHAPTER

ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC.



SKILL
RESPONSIBILITY
INTEGRITY

BOX 4-2500 • ANCHORAGE, ALASKA 99509
TELEPHONE (907) 276-3334
TELEX 25-304

3201 SPENARD ROAD
ANCHORAGE
RICHARD M. PITTENGER
MANAGER

February 24, 1983

The Honorable Bill Ray
Senate Judiciary Committee
Alaska Senate
Pouch V
M.S. 3100
Juneau, Alaska 99811

RE: Senate Bill 131

Dear Senator Ray:

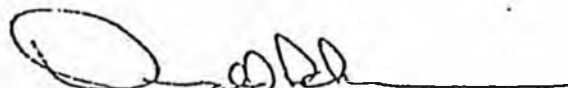
On behalf of the Alaska Chapter of Associated General Contractors of America, I offer support to the passage of SB 131. Similar statutes have been enacted by Michigan, Kansas, Oregon, Texas, Wisconsin, Hawaii, Idaho, Ohio, New Hampshire and Pennsylvania.

Obviously, Alaska has had its share of disasters -- from the 1964 earthquake to the 1967 flood in Fairbanks. As you are undoubtedly aware, most disaster assistance operations depend upon quick and effective mobilization of the communities' resources. Increasing litigation and the potential liability resulting therefrom, makes it extremely important to minimize the impact of any lawsuits arising out of any disaster assistance operation. Persons providing disaster assistance should not be held to the same standard of care as persons performing the same operations under normal circumstances. It would be a sorry state of affairs if a person failed to render disaster assistance when needed solely because of fear of legal liability.

We believe enactment of SB 131 will help preserve the natural tendency of persons to render assistance when necessary. I urge you and your fellow Senators to expeditiously move this bill through the Senate.

Sincerely,

ALASKA CHAPTER
ASSOCIATED GENERAL CONTRACTORS


Derald Schoon
President

cc: Senator Bettye Fahrenkamp ✓
Senator Pappy Moss
Senator Robert H. Ziegler, Sr.

/bj



SD 31 - Moss

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

1957 E Street, N.W. • Washington, D.C. 20006 • (202) 393-2040 • TWX: 710-822-9406 AGC WSH

H. C. HELDENFELS, *President* RICHARD S. PEPPER, *Senior Vice President* JAMES D. PITCOCK, JR., *Vice President*

A. A. BENINTEND, *Treasurer*

HUBERT BEATTY, *Executive Vice President*

Disaster Assistance Bulletin #82-2
June 18, 1982

TO: Chapter Managers
Disaster Assistance Committee

SUBJECT: HOLD HARMLESS STATUTES

The following states have been identified as having existing statutes which protect a contractor from liability for his actions during a disaster relief operation which are ordered by a government official or agent of the government:

Michigan
Kansas
Oregon
Texas
Wisconsin

Hawaii
Idaho
Ohio
New Hampshire
Pennsylvania

Although the language varies in each statute, an example of typical and effective language appears in the Wisconsin statute as follows:

Exemption from Liability - No person who provides equipment or services under the direction of the governor, the secretary or the head of emergency government services in any county, town or municipality during a state of emergency declared by the governor is liable for the death of or injury to any person or damage to any property caused by his or her actions, except where the trier of fact finds that the person acted intentionally or with gross negligence. This subsection does not affect the right of any person to receive benefits to which he or she would otherwise be entitled under the worker's compensation law or under any pension law, nor does it affect entitlement to any other benefits or compensation authorized by state or federal law.

- 2 -

The Disaster Assistance Committee has encouraged chapters to attempt to have hold-harmless, good samaritan or other similar legislation passed on the state level to protect contractors working in disaster relief operations. If you would like copies of the statutes from any of the above listed states, please let me know.

Sincerely,

Brian Deery

BRIAN DEERY
Secretary
Disaster Assistance Committee

BD:chh

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill No. 131 Date on Bill: 2/17/83
 Title: "An Act providing for immunity...(for) persons...(rendering)...disaster relief."
 Sponsor: Moss
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

Source of funds not identified by sponsor.

3. Assumptions:

No fiscal impact.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared by: Francis C. Allan *G.C.A.* Phone: 269-5691
 Division: Alaska State Troopers Date: 3-9-83

Approved by Commissioner: *[Signature]* Date: 3/10/83
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

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B

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3

STATE OF ALASKA
THE LEGISLATURE

Final

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

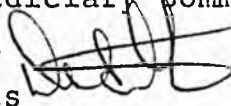
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 17, 1984

SUBJECT: House CS for CSSB 133 (Judiciary)

TO: Representative Charlie Bussell
Chairman, House Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

This bill was prepared by the revisor of statutes under AS 01.05.036 which provides, in part, that the revisor of statutes shall

". . . prepare for submission to the legislature legislation for the correction or removal of . . . deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of . . . the statute law of this state."

This memorandum discusses the House Committee Substitute for the bill.

SECTIONAL ANALYSIS

Sections 1-3, 80 and 127 amend statutory references to the Pacific time zone to reflect the change to Alaska time.

Section 4 improves the definition of "municipality" that was first enacted as a part of the Alaska Aeronautics Act of 1949, subsequently rewritten during the bulk formal revision of the Alaska Statutes and amended by the 1974 revisor's bill. The present definition excludes unified municipalities, which we do not believe was intended, and, if interpreted strictly, also excludes home rule cities or boroughs, as there are no classifications of home rule municipalities. The latter problem was the inadvertent result of an amendment made to the revisor's bill as it

Representative Charlie Bussell
Page 2
January 17, 1984

progressed through the legislature in 1974. The proposed new definition is identical to that which is contained in the revised municipal code (SB 1 and HB 272) and will be valid whether or not SB 1 or HB 272 are enacted.

Section 5 clarifies the term "director" in AS 03.10.-030(e). The term is not defined in AS 03.10 and appears only in this section.

Section 6 repeals all of AS 03.19. This chapter deals exclusively with the small grain incentive program, a program which ended with the crop year 1975. The division of agriculture has confirmed that this material is obsolete and that it is quite unlikely that a program of this type would ever be used in the future.

Sections 7 and 8 clarify responsibilities in the programs related to diseased livestock. When responsibilities in Title 3 were divided between the Departments of Natural Resources and Environmental Conservation by Executive Order in 1981, the sections immediately preceding and following the sections amended by secs. 7 and 8 of the revisor's bill were changed to place responsibility in the Department of Environmental Conservation. However, by virtue of the definitions applying to Title 3, the word "commissioner" in AS 03.45.060 and AS 03.45.070 must be read as "commissioner of natural resources". Since all sections in AS 03.45 are part of an integrated scheme, it is our opinion that the failure to change the references to commissioner in these two sections was an oversight.

Section 9 repeals references to the Board of Barbers, Board of Hairdressers, Board of Welding Examiners, and Collection Agency Board. The latter two boards were "sunsetting" and the first two were repealed by Chapter 159, SLA 1980.

Section 10 corrects an apparent oversight. When the Board of Hairdressers and Board of Barbers were repealed they were combined into the Board of Barbers and Hairdressers. However, the name of that board was not added to the list in AS 08.01.010, which sets forth the boards subject to AS 08.01.

Section 11 amends AS 08.02.010(a) to correct a reference to nurses and to make consistent the reference to other professions. The term "professional nurse" is no longer defined in AS 08.68.410 as a result of 1982 amendments. The

Representative Charlie Bussell
Page 3
January 17, 1984

section also contains two changes to remove gender indicating pronouns.

Sections 12 and 13 repeal obsolete references to the Collection Agency Board and the Board of Welding Examiners which are found in the section setting forth the schedules for the sunset of regulatory boards.

Section 14 repeals an obsolete requirement in the chapter on the licensing of public accountants. The paragraph repealed had application only for a period in the 1960's.

Section 15 corrects an error in tense which appears in AS 08.20.140.

Section 16 repeals those sections in AS 08.24 which established the Collections Agency Board and a paragraph which defined "board" for the chapter. The board was terminated by operation of the sunset statutes. The termination date was June 30, 1980.

Sections 17 - 23 amend provisions in the law licensing and regulating collection agents to delete references to the terminated Collection Agency Board.

Sections 24 and 25 correct internal references in AS 08.36. AS 08.36.310 was repealed and replaced by AS 08.36.315 in 1980.

Section 26 repeals an obsolete definition. The word defined ("resident") is not used in the chapter and has not been used since prior to the original bulk formal revision of the Alaska Statutes.

Sections 27 and 28 repeal and remove material which has become obsolete through the passage of time and is no longer necessary.

Section 29 amends AS 08.68.270(4) to reflect the changes in the drug laws which went into effect on January 1, 1983. The deleted sections of the Alaska Statutes which were referenced in this paragraph were repealed in the drug legislation passed last session.

Section 30 repeals AS 08.71.220 which is an obsolete portion of the chapter regulating dispensing opticians. The

Representative Charlie Bussell
Page 4
January 17, 1984

provisions of this section were in the nature of temporary transition provisions for licensing.

Section 31 repeals a subsection of AS 08.80.295 which is obsolete. The mandate of subsection (e) was to extend for a "period of two years following September 16, 1976".

Section 32 amends AS 08.88.201 by deleting the second sentence, which is now obsolete. AS 08.88.191(a) no longer provides for petitions for an additional examination.

Sections 33 and 34 amend provisions in AS 08.88 to reflect the 1980 repeal of AS 08.88.211 and substitute the current references.

Section 35 repeals all but one section of the chapter on the Board of Welding Examiners which was terminated under the sunset law. The retained section establishes the piping code of the state.

Section 36 corrects a reference to the federal bankruptcy act in the exemptions act passed by the last session of the legislature. Chapter "XIII" refers to the Wage Earner Plan of the old bankruptcy act of 1898. The amendment conforms the reference to the current bankruptcy law. We have also changed the citation to federal law to conform to our present style.

Section 37 makes another correction in the exemptions act. There is no consumer price index for the month of December. The Anchorage index is issued every other month. The index which would be used to establish December price relationships would, in fact, be the November consumer price index.

Section 38 corrects an internal reference by deleting a reference to statutes repealed in 1972 and inserting the proper current references.

Section 39 corrects internal references to reflect the 1982 legislative action repealing the referenced section in AS 09.35 and establishing AS 09.38, the Alaska Exemptions Act.

Section 40 repeals AS 11.71.120(d). That subsection should have been deleted from the 1982 bill when the legislature decided to make the Controlled Substances Advisory Committee a purely advisory committee and amended out of the bill its power to designate substances as controlled substances.

Representative Charlie Bussell
Page 5
January 17, 1984

Section 41 also deletes language to reflect the final form of the controlled substances legislation. In the version enacted, AS 11.71.120 does not provide for the designation of a substance as controlled.

Section 42 corrects an incorrect reference to the court rules. Rule 2(c) of the District Court Rules of Criminal Procedure has been repealed and replaced by Rule 603(b) of the Rules of Appellate Procedure.

Section 43 makes a change in AS 12.47.030(b) to reflect the fact that the assertion by a criminal defendant of evidence to establish that the defendant was guilty but mentally ill is not a defense to a criminal prosecution.

Section 44 amends AS 12.62.035(e) to more clearly reflect legislative intent. This is required by an attorney general's opinion of November 1, 1983, that stated that convictions of certain crimes under statutes repealed in 1980 were not within the definition of "sex crime." The amendment makes other minor form and style changes.

Section 45 amends AS 14.07.058(e) to clarify the meaning of the word "board". In AS 14.60, the word "board" is defined for AS 14 to mean the State Board of Education. Consequently, the use of the word with no further identification could be confusing.

Section 46 deletes a reference to a statute repealed in 1982.

Sections 47 and 48 consolidate definitions for AS 14.11.100 - 14.11.135 by repealing a subsection that contained a redundant definition and amending into the definition section the remaining definition that was in their repealed subsection.

Section 49 amends AS 14.17.080 to remove obsolete references. "Basic need" is no longer defined in AS 14.17.021 and there is no longer any matching under AS 14.17.071. As a matter of fact, AS 14.17.071 has been repealed.

Section 50 also deletes obsolete references that result from the changes in policy in the school foundation program. The second sentence of the amended section is also changed to conform the internal reference to our present style.

Section 51 repeals AS 14.17.225(d) because the underlying statute, AS 14.17.215, was repealed in 1980 by sec. 20, Chapter 26, SLA 1980.

Section 52 repeals provisions which set forth the minimum teachers' and administrators' salary scales and definitions. The salary scales are obsolete since salaries are set by negotiation. The definitions section is also obsolete by reason of successive reapportionments. The section which contains minimum salaries for teachers (AS 14.20.220) also contains some material still useful to the Department of Education and school districts and that portion of the section is not repealed.

Sections 53, 54 and 55 delete obsolete references to the old state-operated school system and substitute the regional educational attendance area. In sec. 54, the phrase "school board" is substituted for "district" because "district" is not defined in AS 14. "School board" is.

Section 56 deletes a reference in AS 14.42.015(a)(2) to the Alaska Methodist University and substitutes the successor school, Alaska Pacific University.

Sections 57 and 58 delete references to the old tuition grant program that was declared unconstitutional by the Alaska Supreme Court some time ago and repealed by Chapter 94, SLA 1980 and Chapter 59, SLA 1982.

Section 59 repeals the definition of a phrase that is not used in the scholarship loan program. The term "part-time student" is not used in the Alaska Statutes.

Section 60 repeals a chapter that is obsolete and inoperative. When the chapter was enacted in 1972 it was based on participation in "the federal child nutrition act of 1971". However, that federal legislation was never enacted. No programs have been implemented or regulations adopted under this chapter.

Section 61 deletes from AS 14.57.020(b), relating to the state museum collections advisory committee, a sentence which was necessary only during the initial year of operation of the committee.

Sections 62 and 63 correct references to the acknowledgement statute. AS 09.65.012 has been replaced by AS 09.63.020.

Representative Charlie Bussell
Page 7
January 17, 1984

Section 64 conforms the language used AS 15.60.101(30) to that found in the rest of the election laws.

Section 65 deletes material from the law on registration tags for shellfish pots or buoys to reflect the 1977 repeal of AS 16.05.630 and 16.05.670.

Section 66 amends AS 16.05.660 to make more specific the reference to 25 cent licenses. At the time this section was enacted, there was only one type of 25 cent license available (for certain heads of households or their dependents). Subsequent legislation has provided a 25 cent sport fishing license for blind residents, leading to the need to clarify the reference in this section.

Section 67 repeals AS 16.10.530 on the basis of the decision of the Supreme Court in State v. Alex, 646 P.2d 203 (1982). The case only invalidated AS 16.10.530.

Section 68 repeals the residency requirement on certain bounties. An identical change was made in AS 16.35.130 by chapter 67, SLA 1983 (the residency bill) and it appears that this section was inadvertently overlooked when the residency bill was put together.

Section 69 repeals a provision that applied only to permits issued for 1974.

Section 70 makes changes to reflect the 1977 repeal of the underlying statutes.

Sections 71 and 72 delete references to the adoption of regulations under AS 11.71.120(a). This conforms the language of the two amended sections to the enacted version of the controlled substances bill. See also sections 40 and 41 of the proposed committee substitute.

Section 73 substitutes the substantive provisions of repealed AS 11.05.010 for the obsolete reference to the repealed provision.

Section 74 repeals a reference made obsolete by changes in the school foundation program. "Local effort" is no longer a required part of the public school foundation law.

Section 75 substitutes a date certain for language referring to the end of the United States' involvement in Vietnam.

Similar changes have been made previously in other provisions of the statutes.

Section 76 corrects an incorrect internal reference in AS 21.60.010(d). The section currently referenced contains a definition of "insurance" rather than a penalty.

Section 77 repeals and reenacts AS 22.05.020 which establishes the composition and general powers of the Supreme Court. The repeal and reenactment deletes obsolete material relating to the number of justices and organizes the section into three subsections for clarity.

Section 78 is a repeal and reenactment of AS 22.10.020, which sets forth the jurisdiction of the superior courts. The sole purpose of the rewriting is to make the section more readable. There have been no substantive changes and it is not the purpose of this section to override differences, if any, between jurisdiction of the superior court set forth by statute and that set forth by court rule.

There are three minor changes which should be noted. In new subsection (a), the words "but not limited to" have been deleted following the word "including". Since the words "include" or "including" are not exclusive words, it is unnecessary to use the term "but not limited to" following such words in the Alaska Statutes. In new (h), the internal reference to the Alaska Native Claims Settlement Act has been changed to conform to present style. The other change is the deletion of a reference to AS 23.10.192 in new subsection (i). That section was repealed in 1980 and the provisions of AS 18.80, which are still referenced, have picked up the provisions of the repealed section.

Section 79 corrects a problem of tense in AS 22.10.040(4).

Section 81 deletes a reference to the legislative board of retirement benefits. That board was repealed in 1980.

Section 82 repeals a provision in the Surface Coal Mining Control and Reclamation Act that was intended to provide regulation in the event the Alaska program was disapproved by the Secretary of Interior. The program was approved on May 2, 1983, so the repealed provision is not required.

Representative Charlie Bussell
Page 9
January 17, 1984

Section 83 repeals an obsolete provision in the motor vehicle code. AS 28.10.105(c) was applicable only during 1979.

Section 84 corrects a drafting error made during the first session by restoring to AS 28.10.201(b) certain internal references that were mistakenly deleted when the final version of SCS CSHB 184 (Rules) (chapter 99, SLA 1983) was prepared.

Section 85 amends AS 28.10.411(b) by deleting a reference to repealed AS 42.15.

Section 86 clarifies a reference to the commissioner of natural resources.

Sections 87, 88, and 89 delete references to a statute which was repealed when the new criminal code was enacted in 1978. The proper references to the provisions on unlawful evasion have been substituted.

Section 90 revises a definition in the Agreement on Detainers. The term defined, "state" was changed to "party state" through amendments to the original bill. However, the definition was not changed. "State" needs to be defined in this law, as the term is used to include the jurisdictions of the United States which are not states, e.g., Puerto Rico and the District of Columbia. "Party state" does not need to be defined, as it is clear from a reading of the Agreement on Detainers that a party state is a state (as defined) which is a party to the agreement. Without some change, some confusing results occur in reading the law to which the definitions apply.

Section 91 repeals a subsection that is redundant to the provisions of AS 09.38 referenced in the subsection. The rights and liabilities purportedly established by this subsection are more clearly established in AS 09.38. If this subsection is repealed, a cross reference note to the appropriate provisions in AS 09.38 will be added to the annotations for AS 34.15.140.

Section 92 deletes references to AS 14.08.161 which has been repealed.

Section 93 deletes a reference in AS 38.04.065(a) to a statute repealed in 1981 and substitutes a reference to the present notice provisions.

Section 94 deletes from AS 38.04.900(a) provisions which were of a temporary nature and are now obsolete.

Section 95 rewrites the paragraph in AS 38.04.910 which defines "state park" for AS 38.04. The old definition contained specific references to some of the laws designating areas which fall within the definition of state parks, but has not been kept up to date as new areas have been designated. It is our opinion that it would be better to enact a definition such as that proposed in this section and maintain a current list of laws designating the various areas in a note to the section.

Section 96 amends a reference in AS 38.05.057 to the notice provisions of AS 38.05.345. Note that there is still an AS 38.05.345(e), but that the section was substantially rewritten after AS 38.05.057(e)(3) was enacted, resulting in the repeal of the notice provisions of former AS 38.05.-345(e). The present provisions are irrelevant in the context of the reference found in AS 38.05.057(e)(3).

Section 97 deletes the last sentence of AS 38.05.057(g), as the sentence is no longer necessary. AS 38.05.055, referenced in the sentence, has been rewritten and no longer contains any requirements for contracts. AS 38.05.065 now establishes certain terms required for contracts under this section. The deletion of "or his representative" is consistent with the law requiring the deletion of gender indicating pronouns, and is not required in this provision, since other provisions authorize the director to act through designated representatives. See AS 38.05.035.

Section 98 amends AS 38.05.079(a) to reflect the repeal of two sections referenced in the subsection. In the case of AS 38.05.047, the reference is retained, but the reader will know that the section is no longer operative. In the case of AS 38.05.305, a reference to AS 38.05.345 was substituted. That section now contains all of the notice procedures.

Section 99 updates an obsolete internal reference.

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Section 100 also updates an obsolete internal reference. A review of the legislative history of AS 38.05.102 (amended by this section) indicates that the spanned reference should be to the entire article on leasing. In any event, AS 38.-05.100 has been repealed.

Section 101 substitutes a reference to AS 38.05.345 for the obsolete reference to repealed AS 38.05.305.

Section 102 makes a number of minor style changes and substitutes a reference to AS 46.15 for an obsolete reference to repealed law.

Section 103 clarifies an internal reference to reflect 1980 amendments to the referenced section.

Section 104 makes the same change to AS 38.08.020 that was made to AS 38.05.057(e)(3) by section 96 of the bill.

Section 105 deletes obsolete language relating to initial (1960) appointments to the personnel board.

Section 106 corrects an error in the internal references in AS 39.25.120(b) which were created by the repeal and re-enactment, with some renumbering, of AS 39.25.150.

Section 107 adds the Alaska Power Authority and the Alaska Resources Corporation to the list of agencies included in the definition of "state commission or board" for purposes of the conflict of interest laws. These boards are subject to AS 39.50 by the terms of the laws establishing them, but they were not added to the list in AS 39.50.200. This oversight was brought to our attention by the staff of the Alaska Public Offices Commission.

Section 108 repeals two subsections that set out duties to be performed on December 31, 1980. They are now obsolete.

Section 109 repeals obsolete material that applied only during 1980.

Section 110 harmonizes the language used in AS 42.06.280 by substituting commission for commissioner in two places.

Section 111 corrects an internal reference to reflect other legislative action and makes a minor word change to conform to proper statutory drafting.

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Section 112 repeals a provision made obsolete by the enactment of the criminal code. The material repealed is now covered by AS 11.46.210.

Section 113 makes a minor technical change to clarify the language of the statute.

Section 114 repeals a provision made partially obsolete by the repeal of AS 43.20.170 in 1980 and adequately dealt with elsewhere in AS 43.05.290.

Section 115 deletes a reference to AS 43.21, which was repealed in 1981.

Section 116 makes changes in internal references required by the enactment of the Alaska Exemptions Act in 1982.

Section 117 corrects an internal reference.

Section 118 changes a three year residency requirement that was overlooked last session to a one year requirement. The one year provision was suggested by the Department of Law.

Section 119 corrects an internal reference.

Section 120 repeals AS 43.58. The tax established by this chapter terminated in 1977 under the provisions of AS 43.58.170 and the chapter is now obsolete.

Section 121 corrects the reference to the head of the Department of Community and Regional Affairs by substituting "commissioner" for "director".

Section 122 corrects the reference in the Alaska Statutes to the United States Board on Geographic Names.

Section 123 corrects an internal reference to reflect 1982 legislation affecting the referenced section.

Section 124 changes a reference to the licensing of embalmers to reflect other legislative changes.

Section 125 supplies the words necessary to make a complete sentence out of the last sentence in AS 44.83.398(f).

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Section 126 repeals a reference made obsolete by changes in the school foundation program. See secs. 50 and 74 of this memo.

Section 128 amends the Alaska Securities Act to clarify the time that is available to take an appeal from an administrative order. The Alaska Court Rules of Appellate Procedure allow only 30 days for an appeal from an administrative decision. However, this section of the securities act currently allows 60 days. This is a direct conflict and should be resolved. The applicable appellate rule is Rule 602(a)(2). Other minor word changes are made in the subsection.

Sections 129, 130, and 131 delete obsolete material from three sections of AS 46.30. All of the deleted material is dated and no longer necessary.

Section 132 corrects an internal reference in AS 47.10.-230(f).

Section 133 repeals a definition in the child support enforcement chapter that is not used in the chapter. The term defined is "disposable earnings".

Section 134 makes changes in internal references required by the new exemptions statute.

Section 135 corrects an internal reference.

Section 136 provides for an immediate effective date.

DRD:ojb
SB133/010

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
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KETCHIKAN, ALASKA 99901

While in Juneau
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Senate

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SENATE RESOURCES COMMITTEE
MEMBER
SENATE JUDICIARY COMMITTEE
WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE
WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

May 16, 1983

All Members of the
Alaska State Senate
Juneau, Alaska

Dear Senators:

At Senator Ray's request, I have attached the following hereto: (1) the most recent proposed CSSB 133; (2) the Revisor's letters of February 15, 1983, March 23, 1983 and May 4, 1983; and (3) my subcommittee letter of April 14, 1983.

Senator Faiks has indicated the bill will probably be calendared in the near future.

It is the hope of the Judiciary Committee Chairman that you will review this material prior to the date it is calendared in order that if you have any questions concerning the legislation you can contact me, my A.A. Guy Van Doren, Counsel for the Judiciary Committee, John Gabrielli, and David Dierdorff, Revisor of Statutes.

Once you start to pick a bill of this nature apart on the floor, you will encounter complex problems.

If any Senator has amendments to propose, we would appreciate your submitting them to Mr. Gabrielli.

Very truly yours,

A handwritten signature in black ink, appearing to be 'RHZ' followed by a horizontal line.

Robert H. Ziegler, Sr.

RHZ:lk

Enclosures