

ALASKA LEGISLATURE COMMITTEES, 2003-2004 HOUSE

2523 SJ SB 384 - SB 418

2523

465-3600

June 30, 1980

The Honorable Jay S. Hammond  
Governor  
State of Alaska  
Pouch A  
Juneau, Alaska 99811

Re: SCS CSHB 686 am S  
(limiting liability of  
donors of food)  
Our File: J-83-146-80

Dear Governor Hammond:

This office has reviewed SCS CSHB 686 am S, the principal thrust of which relieves a person donating food to a nonprofit organization of any civil or criminal liability flowing from any adulteration or misbranding of the food, unless the alteration is the result of intentional or grossly negligent conduct on the part of the donor.

"Grossly negligent conduct" is defined as "the intentional failure to perform a duty with reckless disregard of consequences that affect the life or property of another." (The legislature forgot the comma after "duty," thus changing the literal meaning, but we assume that we know what was intended.) A donee may ask the commissioner of health and social services to inspect the food to determine if it is adulterated or misbranded.

The commissioner may delegate this inspection duty, and a broad range of other enforcement and inspection duties, to the Department of Environmental Conservation.

This bill is apparently well intentioned; it is designed to encourage the donation of food to nonprofit

organizations for their use or distribution--presumably to needy persons. However, it exacts too great a price from prospective donees as a reward for the eleemosynary conduct.

The bill's failure to distinguish between donors who are manufacturers, packers, or bottlers and those who are not is, we think, a fatal flaw. It is a well-established principle of law that manufacturers, bottlers, and packers are liable for damages resulting from a failure to exercise that degree of care required to insure that the product is fit for use and is free from taint. See 32A C.J.S. Food, sections 59-60. This bill would relieve those manufacturers from liability for negligence for illness caused by unfit food when they give away rather than sell their products. While it is admirable to encourage the donation of food to needy causes, it is unwise to eliminate the ordinary standard of care and its attendant liability. [We can, for example, imagine a manufacturer whose warehouse is laden with food of marginal fitness who would like to donate it for a tax deduction.] We do not think it proper to eliminate this person's liability for negligence should one of the donees become ill from adulterated or unfit food. Poor people receiving donated food should have no less protection than people who buy food from the donor.

} IS THIS  
"GROSS"  
NEGLIGENCE  
CAN IT HAP

The class of persons who manufacture food should be held to a uniform standard of care regardless of whether the food is sold or given away. To do otherwise would be to encourage socially irresponsible conduct disguised as beneficent bounty. We would suggest that you veto this bill.

Sincerely,

Wilson L. Condon  
Attorney General

WLC:ml:MPL

TO: HOUSE HESS COMMITTEE  
FROM: REPRESENTATIVE NILO KOPONEN  
DATE: January 27, 1984

## Waste not, want not

How are America's poor to eat when their unemployment pay runs out, or when they can no longer make do on food stamps and welfare? The recession has provided an answer: a jerry-built, but enviably efficient, system of emergency food centres. This network stretches across the nation, using food that would otherwise go to waste, and shunts it quickly and in large quantities from grower or manufacturer to the various centres that feed the hungry. It is a charitable operation which employs only a few hundred people and is completely decentralised. It has grown with such speed that it has already left the agriculture department's much criticised surplus commodity programme, ensnared in red tape, far behind.

The emergency food system has its origins in the soup kitchens of the depression and before, but its growth in the past few years has been startling. Although all involved would like to consider it a temporary institution, there is a growing belief that it is here to stay and, if anything, will grow much larger.

Sixty-one regional food banks are the system's backbone. Each consists of a large warehouse equipped with freezers and usually manned by a small, paid staff supplemented by volunteers. These food banks are connected through Second Harvest, a non-profit-seeking organisation, which acts as a food broker. From its base in Phoenix, Arizona, Second Harvest approaches farmers and food manufacturers for donations and then shunts this food through three regional offices out to its members. The member food banks, either individually or through pools, pay the cost of transport, which is also sometimes donated. Once the food reaches a food bank, it is then given out to hundreds of the bank's members: churches, day centres for infants and the elderly, soup kitchens and various other organisations.

The member groups, which would previously have bought food on the open market, now support their food bank by paying a tax of between five and 12.5 cents a pound for the food they take. In this way the budget of the food bank,

usually running anywhere from \$100,000-250,000 a year, is covered. In some instances food banks are paid for by small donations. In Oklahoma, 600 people send in cheques of from \$5 to \$25 a month to keep the major local food banks going.

The entire system is private and non-profit seeking. To make sure it stays that way for tax purposes, Second Harvest certifies its member banks, inspects their operations, ensures that they charge no



No shortage of takers

more than 12.5 cents a pound in taxes, and satisfies itself that the bank members in turn are charitable organisations as defined under the tax laws.

Second Harvest began as an experimental arm of the now defunct Community Services Administration in the Carter era. Last year it handled 60m lb of food. This year the volume is expected to exceed 100m lb. Much of the food consists of products that would otherwise be thrown out by the manufacturer, not because they are bad, but because they cannot be sold for other reasons:

for example, discolouration or misspelled labels. When a Middle Eastern food broker went out of business, a trailer of macaroni with Arabic labelling was given to a food bank in New Jersey. Second Harvest dispensed 32 train carloads of a cereal which its manufacturer thought too oddly-flavoured to sell. The companies can deduct cost and half the unrealised profit from their taxes when they make such donations.

Some food banks rely heavily on farm surpluses. In northern California, where there are five large food banks, the banks collaborate to find out what crops are in surplus and to carry out exchanges between different areas. The bank in Watsonville, for example, supplies tons of artichokes and lettuce and gets, in exchange, peaches from the bank in Santa Clara and tomatoes from the bank in Sacramento. Farmers give food that would otherwise go to waste. What is left in the fields after harvest is also, in many cases, gathered in by teams of volunteer gleaners who take their pickings to the banks for sorting, cleaning and packing.

A report by a research group in Washington noted a dramatic increase in people coming to programmes served by the food banks. More than half the 181 programmes surveyed said that provision of free meals or food baskets had increased by more than half between February, 1982, and February, 1983. The Community Food Bank of New Jersey in Newark provides a good indication of the trend. Last autumn the bank was handling 10,000 lb of food a month. Now it distributes 200,000 lb a month across the state to 300 different groups which provide food to 30,000 people every day.

Some food banks in the Second Harvest system also distribute federal surplus foods under the government's programme. For the most part these consist of butter, cheese and non-fat dry milk from the government's huge surplus. But some food banks refuse to handle federal foods on the ground that it involves too much paper work. In certain states food banks say they have been deliberately denied federal food shipments, which instead have been handed out through local politicians as patronage.

WASHINGTON, DC

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COMMITTEE REPORT  
SENATE

FURTHER: FINANCE

Date \_\_\_\_\_

Mr. President

The Committee on JUDICIARY considered S3 385

relating to the Alaska Commission on Postsecondary education, et al.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SA 345 (2)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

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Chairman

\_\_\_\_\_  
Chairman recommendation

Senator Fritz Pettyjohn

PROPOSED AMENDMENT TO  
CS FOR SENATE BILL NO. 385 (HESS)

page 3, line 10, insert a new subsection (4)

- (4) has not failed to register with the Selective Service Administration as may be required by Federal law.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1984

SUBJECT: Scholarship loan eligibility  
(CSSB 385 (Judiciary))

TO: Senator Bill Ray  
Chairman, Senate Judiciary Committee

FROM: Keith B. Levy *KBL*  
Legislative Counsel

You have requested an amendment to CSSB 385 (Jud) that would make registration for the military draft an eligibility requirement for the scholarship loan program. A federal court recently held that a similar eligibility requirement for federal financial assistance is probably unconstitutional as a bill of attainder and a violation of the Fifth Amendment privilege against self incrimination. Your amendment probably violates these constitutional provisions as well as the equal protection clause of the state constitution.

In Doe v. Selective Service System, 557 F. Supp 937 (D.Minn 1983), a number of students challenged sec. 1113 of the Department of Defense Authorization Act of 1983 (50 U.S.C.App. 462(f)). That case has been appealed and is now pending before the United States Supreme Court. Section 1113 provides that a student who fails to register for the draft as required by 50 U.S.C.App. 453 is ineligible to receive federal assistance under Title IV of the Higher Education Act of 1965. The court granted the students a preliminary injunction prohibiting enforcement of sec. 1113, ruling that the students have a high probability of succeeding in their challenge of the section as unconstitutional. The reasoning the court used in reaching this conclusion applies equally to your amendment.

The first argument raised by the students is that the bill is an unconstitutional bill of attainder. Bills of attainder are prohibited by Article I, section 9, clause 3 of the United States Constitution and Article I, section 15

of the Constitution of the State of Alaska. The court in Doe noted

A bill of attainder is a law that legislatively determines guilt and inflicts punishment upon an identifiable group without the protections of a judicial trial.

Doe, supra, at 941. The purpose of the proscription against bills of attainder is to prevent legislative exercise of the judicial function. The court concluded that sec. 1113 determines the guilt of those students unable to prove that they have registered for the draft and punishes them by denying them access to financial aid. The court noted that the bill punishes those who have intentionally neglected to register and those who have inadvertently failed to register without distinguishing between the two groups. This amounts to a determination of guilt under the registration law without the safeguards of a trial. Accordingly, the court concluded, sec. 1113 is a bill of attainder and therefore unconstitutional.

Your amendment is open to the same challenge. It makes the determination that students who have failed to register for the draft are guilty of violating the federal law and punishes them summarily, without the right to a fair trial. It fails to take into account the possibility that a student may be unable to provide evidence of registration and yet may not be guilty of violating the law, because the failure to register was not intentional. Thus, the amendment is probably unconstitutional as a bill of attainder.

The students also challenged the draft registration requirement as a violation of the Fifth Amendment privilege against self incrimination. Article I, section 9 of the Constitution of the State of Alaska also provides for the privilege against self incrimination. The court in Doe concluded that sec. 1113 is unconstitutional because it compels the students to act as witnesses against themselves. Doe, supra, at 950. The bill punishes those who assert the privilege by choosing not to supply the required registration information, since it denies them financial aid on this basis. Accordingly, the court said,

. . . students who need financial assistance are forced to participate in an administrative process, perhaps even a hearing, where they are asked to assist the

government in its investigation of their registration status.

Doe, supra, at 949. Compelling students to provide this potential link in the chain of evidence in a possible prosecution against them violates the privilege against self incrimination. Since your amendment would have the same effect as sec. 1113, it too is probably unconstitutional.

In addition to the constitutional problems raised in the Doe case, the amendment may also violate the equal protection clauses of the state and federal constitutions. The Alaska Supreme Court has stated that if legislation creates an identifiable class to be treated differently from others not in the class, under the equal protection clause, the classification

. . . must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.

Isakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976). Moreover, the object of the legislation must be a legitimate governmental purpose.

Your amendment creates a class of loan applicants who have failed to register for the military draft and denies them student loans on that basis. The object of the legislation is apparently to encourage compliance with the federal draft laws and to punish those who fail to comply. The means used to achieve this object is the denial of student financial aid. The necessary fair and substantial relationship between the means used and the goal of the legislation is lacking. There is virtually no rational connection between compliance with federal draft laws and the denial of state financial aid to students. Accordingly, the amendment probably violates the state equal protection clause.

Even if there were some connection between state financial aid and the military draft laws, the state would also have to show that encouraging compliance with the draft laws is a legitimate state governmental purpose. Since the federal government already provides sanctions for violation of the draft laws and the state has no power in regard to federal military affairs, the legitimacy of the purpose of the

Senator Bill Ray  
Page 4  
March 27, 1984

amendment is doubtful. Thus, the amendment probably violates the equal protection clause.

In conclusion, the constitutional validity of this amendment to CSSB 385 (Jud) is doubtful. Under the reasoning of the federal court in Doe, supra, the amendment violates the constitutional proscription against bills of attainder and the privilege against self incrimination. Since the Doe case is now before the United States Supreme Court on appeal, the federal constitutional issues are as yet unresolved. However, even if the Court finds the draft registration requirement valid under the federal constitution, your amendment may violate the equal protection clause of the state constitution.

I will refrain from adding this amendment to CSSB 385(Jud) until I hear from your office. If I may answer any questions on this issue, please feel free to contact me.

KBL:ojb  
J5/016

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(b) Making a false report is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Statements prohibited. — Defendant's statements concerning his oral accusation that a police officer had taken \$250 from the glove compartment of his truck, which the police officer authorized to be towed without operating lights or current regis-

tration, were prohibited by former AS 11.30.215, which made it a misdemeanor to give a false report of a crime to a peace officer. *Gottschalk v. State*, Sup. Ct. Op. No. 1566 (File No. 2916), 575 P.2d 289 (1978).

**Sec. 11.56.810. Terroristic threatening.** (a) A person commits the crime of terroristic threatening if the person knowingly makes a false report that a circumstance dangerous to human life exists or is about to exist and

- (1) places a person in fear of physical injury to any person;
- (2) causes evacuation of a building; or
- (3) causes serious public inconvenience.

(b) Terroristic threatening is a class C felony. (§ 6 ch 166 SLA 1978)

Collateral references. -- Criminal offense of bomb hoax or making false report as to planting of explosive, 63 ALR2d 304. Possession of bomb, Molotov cocktail, or

similar device as criminal offense, 42 ALP5d 1230. Validity and construction of "terroristic threat" statutes, 58 ALR3d 533.

**Sec. 11.56.820. Tampering with public records.** (a) A person commits the crime of tampering with public records if the person knowingly

- (1) makes a false entry in or falsely alters a public record; or
- (2) destroys, mutilates, suppresses, conceals, removes, or otherwise impairs the verity, legibility, or availability of a public record, knowing that the person lacks the authority to do so.

(b) Tampering with public records is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

For case construing former AS 11.30.210 — 11.30.260, relating to mishandling of public records, see *Larson v. State*, Sup. Ct. Op. No. 1430 (File No. 2433), 564 P.2d 365 (1977).

**Sec. 11.56.830. Impersonating a public servant.** (a) A person commits the crime of impersonating a public servant if the person pretends to be a public servant and does any act in that capacity

(b) It is not a defense to a prosecution under this section that

- (1) the office the defendant pretended to hold did not in fact exist; or

nt of offense of  
r impeding federal

e to charge of rape,  
sault with intent to  
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s or deadly weapon.

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ng of or injury to  
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d 620.

to charge of criminal  
§ ALR3d 662.

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patron assaulted by  
LR3d 441.

or assault to commit  
y intent to collect or  
88 ALR3d 1309.

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LR3d 1026.

r or operator of  
r business housed  
patron on premises  
by third party, 93

bility for physical  
t in connection with  
y disordered patient.

de as deadly or dan-  
purposes of statute  
s such as assault,  
100 ALR3d 287.

uction of penal stat-  
abuse, 1 ALR4th 38.

f assault and battery  
ction of females only  
reater penalties for  
es, 5 ALR4th 708.

dangerous weapon for  
aggravating offenses  
robbery, 7 ALR4th

deadly or dangerous  
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such as assault and  
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multiple victims as  
e assaults or homi-

on body, other than  
ngerous weapons for  
aggravating offenses  
robbery, 8 ALR4th

Admissibility of expert or opinion testi-  
mony on battered wife or battered woman  
syndrome, 18 ALR4th 1153.

**Sec. 11.41.200. Assault in the first degree.** (a) A person commits the crime of assault in the first degree if

(1) that person recklessly causes serious physical injury to another by means of a dangerous instrument;

(2) with intent to cause serious physical injury to another, the person causes serious physical injury to any person; or

(3) the person intentionally performs an act that results in serious physical injury to another under circumstances manifesting extreme indifference to the value of human life.

(b) Assault in the first degree is a class A felony. (§ 3 ch 166 SLA 1978; am § 2 ch 143 SLA 1982)

**Effect of amendments.** — The 1982 amendment, in paragraph (1) of subsection (a), substituted "that person recklessly

causes" for "with intent to cause" and deleted "he causes physical injury to any person" following "another person."

#### NOTES TO DECISIONS

- I. General Consideration.
- II. Subsection (a)(1).
- III. Former law.

#### I. GENERAL CONSIDERATION.

**Quoted in** *Smith v. State*, Sup. Ct. Op. No. 2121 (File No. 4228), 614 P.2d 300 (1980); *Blackburn v. State*, Ct. App. Op. No. 243 (File No. 7224), 661 P.2d 1100 (1983).

**Stated in** *State v. Silas*, Sup. Ct. Op. No. 1851 (File No. 4237), 595 P.2d 651 (1979); *Coleman v. State*, Sup. Ct. Op. No. 2190 (File No. 4416), 621 P.2d 869 (1980).

**Cited in** *Handley v. State*, Sup. Ct. Op. No. 2155 (File Nos. 3946, 4935), 615 P.2d 627 (1980); *Folger v. State*, Ct. App. Op. No. 105 (File No. 5585), 648 P.2d 111 (1982).

#### II. SUBSECTION (a)(1).

**Mens rea and result.** — Subsection (a)(1) of this section requires intent to cause serious physical injury as the mens rea, and physical injury as the result. *Wettanen v. State*, Ct. App. Op. No. 200 (File No. 6352), 656 P.2d 1213 (1983).

**Dangerous instrument.** — The requirement of a "dangerous instrument" in subsection (a)(1) of this section serves to

define the surrounding circumstances from which intent is normally inferred. *Wettanen v. State*, Ct. App. Op. No. 200 (File No. 6352), 656 P.2d 1213 (1983).

The requirement of a dangerous instrument in subsection (a)(1) of this section serves to shift the focus of the trier of fact's attention from the result (physical injuries), which in any given case may have been unforseeable to the defendant at the time the assault was committed, to the manner in which the assault was committed. Thus, the defendant is protected against a finding of first-degree assault in which the jury determines guilt solely by finding serious physical injury and then inferring an intent to cause that serious physical injury from the injuries alone. *Wettanen v. State*, Ct. App. Op. No. 200 (File No. 6352), 656 P.2d 1213 (1983).

While feet are not dangerous instruments per se, they may become so, however they are shod, if used in such a way as to be capable of causing death or serious physical injury. *Wettanen v. State*, Ct. App. Op. No. 200 (File No. 6352), 656 P.2d 1213 (1983).

e No. 4383), 616 P.2d 884  
 struing former statute  
 ult while armed, see  
 up. Ct. Op. No. 1611 (File  
 2d 946 (1978); Sevier v.  
 Op. No. 2134 (File No.  
 91 (1980).  
 struing former statute  
 ess use of firearms, see  
 p. Ct. Op. No. 1625 (File  
 2d 14 (1978); Christie v.  
 p. No. 1644 (File No.  
 110 (1978); Elisovsky v.  
 p. No. 1816 (File Nos.  
 2d 1221 (1979); Loesche  
 Op. No. 2202 (File No.  
 16 (1980).  
 struing former statute  
 ult with a dangerous  
 v. United States, 147 F.  
 9, Johnston v. United  
 145 (9th Cir. 1907);  
 States, 12 Alaska 213,  
 Cir. 1949; Randall v.  
 Alaska 135, 215 F.2d  
 Soper v. United States,  
 90 F.2d 158 (9th Cir.),  
 S. 828, 765 Ct. 58, 100  
 Burke v. United States,  
 Cir. 1960; Hobbs v.  
 36 46 (File No. 63), 363  
 acey v. State, Sup. Ct.  
 50, 373), 391 P.2d 732  
 v. State, Sup. Ct. Op.  
 907), 444 P.2d 171  
 late, Sup. Ct. Op. No.  
 449 P.2d 674 (1969);  
 Ct. Op. No. 629 (File  
 1633 (1970); State v.  
 Op. No. 686 (File No.  
 96 (1971); Nielsen v.  
 a 760 (File No. 1503),  
 Thomas v. State, Sup.  
 e No. 1889), 524 P.2d  
 ate, Sup. Ct. Op. No.  
 542 P.2d 159 (1975);  
 Ct. Op. No. 1256 (File  
 373 (1976); Else v.  
 No. 1332 (File No.  
 0 (1976); Dawson v.  
 No. 1346 (File No.  
 (1976); Mutschler v.  
 No. 1376 (File No.  
 7 (1977); State v.  
 p. No. 1405 (File No.  
 (1977); Nukapigak v.  
 No. 1410 (File No.  
 7 (1977); "H'd on  
 82 (1978); State v.  
 No. 1457 (File No.  
 7 (1977); Walton v.  
 No. 1488 (File No.

2736), 568 P.2d 981 (1977); Larson v.  
 State, Sup. Ct. Op. No. 1502 (File No.  
 2882), 569 P.2d 783 (1977); White v. State,  
 Sup. Ct. Op. No. 1605 (File No. 29 52), 577  
 P.2d 1056 (1978); Rivett v. State, Sup. Ct.  
 Op. No. 1611 (File No. 3097), 578 P.2d 946  
 (1978); Menard v. State, Sup. Ct. Op. No.  
 1623 (File No. 2865), 578 P.2d 966 (1978);  
 State v. Wassilie, Sup. Ct. Op. No. 1630  
 (File No. 3691), 578 P.2d 971 (1978);  
 Christie v. State, Sup. Ct. Op. No. 1644  
 (File No. 2841), 580 P.2d 310 (1978);  
 Johnson v. State, Sup. Ct. Op. No. 1656  
 (File No. 3424), 580 P.2d 700 (1978);  
 Sielak v. State, Sup. Ct. Op. No. 1667 (File  
 No. 3954), 581 P.2d 226 (1978); Mill v.  
 State, Sup. Ct. Op. No. 1751 (File No.  
 2692), 585 P.2d 546 (1978), cert. denied,  
 444 U.S. 827, 100 S. Ct. 51, 62 L. Ed. 2d 34  
 (1979); Marsden v. State, Sup. Ct. Op. No.  
 1784 (File No. 3957), 589 P.2d 863 (1979);  
 Ferguson v. State, Sup. Ct. Op. No. 1791  
 (File No. 3890), 590 P.2d 43 (1979); Price v.  
 State, Sup. Ct. Op. No. 1794 (File No.  
 3524), 590 P.2d 419 (1979); Elisovsky v.  
 State, Sup. Ct. Op. No. 1816 (File Nos.  
 3440, 3467), 592 P.2d 1221 (1979); State v.  
 Silas, Sup. Ct. Op. No. 1851 (File No.  
 4237), 595 P.2d 651 (1979); Cooper v.  
 State, Sup. Ct. Op. No. 1852 (File No.  
 3588), 595 P.2d 648 (1979); Gilbert v.  
 State, Sup. Ct. Op. No. 1889 (File No.  
 3406), 598 P.2d 87 (1979); Creer v. State,  
 Sup. Ct. Op. No. 1941 (File No. 4180), 600  
 P.2d 1095 (1979); Kraus v. State, Sup. Ct.  
 Op. No. 1989 (File No. 4669), 604 P.2d 12  
 (1979); Holmes v. State, Sup. Ct. Op. No.  
 2000 (File No. 4532), 604 P.2d 248 (1979);  
 Lacy v. State, Sup. Ct. Op. No. 2039 (File

No. 3741), 608 P.2d 19 (1980); Cochrane v.  
 State, Sup. Ct. Op. No. 2086 (File No.  
 4531), 611 P.2d 61 (1980); Sevier v. State,  
 Sup. Ct. Op. No. 2134 (File No. 4632), 614  
 P.2d 791 (1980); Loesche v. State, Sup. Ct.  
 Op. No. 2202 (File No. 4443), 620 P.2d 646  
 (1980); Calder v. State, Sup. Ct. Op. No.  
 2224 (File No. 4293), 619 P.2d 1026 (1980);  
 Grant v. State, Sup. Ct. Op. No. 2261 (File  
 No. 3750), 621 P.2d 1338 (1981); Kagak v.  
 State, Sup. Ct. Op. No. 2311 (File No.  
 5228), 624 P.2d 818 (1981); Neal v. State,  
 Sup. Ct. Op. No. 2341 (File No. 4787), 628  
 P.2d 19 (1981); Wire v. State, Ct. App. Op.  
 No. 2 (File No. 5189), 621 P.2d 18 (1980);  
 Schroff v. State, Ct. App. Op. No. 016 (File  
 No. 4835), 627 P.2d 653 (1981); State v.  
 Ahwinona, Ct. App. Op. No. 037 (File No.  
 5373), 635 P.2d 488 (1981); Davidson v.  
 State, Ct. App. Op. No. 78 (File No. 4351),  
 642 P.2d 1383 (1982); Sheakley v. State,  
 Ct. App. Op. No. 87 (File No. 4936), 644  
 P.2d 864 (1982); Dyer v. State, Ct. App.  
 Op. No. 268 (File No. 6133), P.2d  
 (1983).

For cases construing former statute  
 relating to assault and assault and  
 battery, see Niebia v. United States, 72  
 F.2d 1000 (9th Cir. 1934); State v. Spencer,  
 Sup. Ct. Op. No. 935 (File No. 1742), 514  
 P.2d 14 (1973); Peter v. State, Sup. Ct. Op.  
 No. 1543 (File No. 3617), 572 P.2d 1179  
 (1978); Rivett v. State, Sup. Ct. Op. No.  
 1611 (File No. 3097), 578 P.2d 946 (1978);  
 Penn v. State, Sup. Ct. Op. No. 1774 (File  
 No. 3873), 588 P.2d 288 (1978); Nix v.  
 State, Ct. App. Op. No. 007 (File No. 5060),  
 624 P.2d 823 (1981).

**Sec. 11.41.210. Assault in the second degree.** (a) A person  
 commits the crime of assault in the second degree if

(1) with intent to cause physical injury to another person, that person  
 causes physical injury to another person by means of a dangerous  
 instrument; or

(2) that person recklessly causes serious physical injury to another  
 person.

(b) Assault in the second degree is a class B felony. (§ 3 ch 166 SLA  
 1978; am § 4 ch 102 SLA 1980; am § 3 ch 143 SLA 1982)

**Effect of amendments.** — The 1980  
 amendment, in subsection (a),  
 redesignated former paragraph (1) as  
 paragraph (2), added "or" to the end of that  
 paragraph, added present paragraph (1),  
 and deleted the previous paragraph (2),  
 which read: "he intentionally places an-  
 other person in fear of imminent serious

physical injury by means of a dangerous  
 instrument; or."

The 1982 amendment, in subsection (a),  
 substituted "that person" for "he"  
 preceding "causes" and "another person"  
 for "any person" preceding "by means of"  
 in paragraph (1), added "or" to the end of  
 paragraph (1), repealed former paragraph

(2), which read: "with intent to cause physical injury to another person, he causes serious physical injury to any person; or," redesignated former paragraph (3) as paragraph (2), and substituted "that person" for "he" and deleted "by means of a dangerous instrument" from the end.

both in present paragraph (2).

**Legislative history reports.** — For a report on Chapter 102, SLA 1980 (HCS CSSB 511), see 1980 Senate Journal Supplement, No. 44, May 29, 1980, or 1980 House Journal Supplement, No. 79, May 28, 1980.

#### NOTES TO DECISIONS

**Former law.** — See notes to AS 11.41.200 under analysis line III.

**Sentence upheld.** — See *Williams v. State*, Ct. App. Op. No. 139 (File No. 5676), 652 P.2d 478 (1982).

A 10-year total sentence with five years suspended for assault in the second degree was not excessive even though defendant was a first felony offender and the sentence exceeded the presumptive term for a second offender. *Neakok v. State*, Ct. App. Op. No. 163 (File No. 6418), 653 P.2d 658 (1982).

**Applied in** *State v. Silas*, Sup. Ct. Op. No. 1851 (File No. 4237), 595 P.2d 651 (1979); *Kimbrell v. State*, Ct. App. Op. No. 101 (File No. 5944), 647 P.2d 618 (1982).

**Stated in** *Coleman v. State*, Sup. Ct. Op. No. 2190 (File No. 4416), 621 P.2d 869 (1980).

**Cited in** *State v. Ahwinona*, Ct. App. Op. No. 037 (File No. 5373), 635 P.2d 488 (1981); *Larson v. State*, Ct. App. Op. No. 177 (File No. 6179), 656 P.2d 571 (1982).

**Sec. 11.41.220. Assault in the third degree.** (a) A person commits the crime of assault in the third degree if that person recklessly

(1) places another person in fear of imminent serious physical injury by means of a dangerous instrument; or

(2) causes physical injury to another person by means of a dangerous instrument.

(b) Assault in the third degree is a class C felony. (§ 5 ch 102 SLA 1980; am § 4 ch 143 SLA 1982)

**Effect of amendments.** — The 1982 amendment, in subsection (a), added the paragraph (1) designation, substituted "that person" for "he" in the introductory language, added "or" to the end of paragraph (1), and added paragraph (2).

**Legislative history reports.** — For a report on Chapter 102, SLA 1980 (HCS CSSB 511) see 1980 Senate Journal Supplement, No. 44, May 29, 1980, or 1980 House Journal Supplement, No. 79, May 28, 1980.

#### NOTES TO DECISIONS

**"Dangerous instrument" defined.** — Since "dangerous instrument" includes "deadly weapon," and "deadly weapon" includes "any firearm," which in turn is defined to include unloaded rifles, simple substitution yields an unambiguous statute that prohibits the use of an unloaded rifle to place another in fear of imminent serious physical injury. *Siggelkow v. State*, Ct. App. Op. No. 110 (File No. 5532), 648 P.2d 611 (1982).

Former AS 11.41.210(a)(2) (prior to 1980 amendment) and 11.41.900(b)(1) were not so ambiguous as to deprive defendant

of fair warning that placing another in fear by means of an unloaded firearm, from any distance, was prohibited. *Siggelkow v. State*, Ct. App. Op. No. 110 (File No. 5532), 648 P.2d 611 (1982).

**Applied in** *Wolf v. State*, Ct. App. Op. No. 99 (File No. 5882), 647 P.2d 609 (1982); *McManners v. State*, Ct. App. Op. No. 123 (File No. 6055), 650 P.2d 414 (1982); *Bidwell v. State*, Ct. App. Op. No. 199 (File No. 6290), 653 P.2d 592 (1983); *Wright v. State*, Ct. App. Op. No. 204 (File No. 6569), 656 P.2d 1226 (1983).

graph (2).  
v reports. — For a  
2. SLA 1980 (HCS  
50 Senate Journal  
lay 29, 1980, or 1980  
ment, No. 79, May

Silas, Sup. Ct. Op.  
237), 595 P.2d 651  
te. Ct. App. Op. No.  
47 P.2d 618 (1982).  
State, Sup. Ct. Op.  
416), 321 P.2d 869

winona, Ct. App.  
373), 635 P.2d 488  
Ct. App. Op. No.  
6 P.2d 571 (1982).

person commits  
recklessly  
physical injury

of a dangerous

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reports. — For a  
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1, 650 P.2d 414  
Ct. App. Op. No.  
P.2d 592 (1983);  
Op. No. 201 (File  
(1983).

Stated in *Maynard v. State*, Ct. App.  
Op. No. 136 (File No. 5501), 652 P.2d 489  
(1982).

**Sec. 11.41.230. Assault in the fourth degree.** (a) A person commits the crime of assault in the fourth degree if

- (1) that person recklessly causes physical injury to another person;
- (2) with criminal negligence that person causes physical injury to another person by means of a dangerous instrument; or
- (3) by words or other conduct that person recklessly places another person in fear of imminent physical injury.

(b) Assault in the fourth degree is a class A misdemeanor. (§ 3 ch 166 SLA 1978; am § 6 ch 102 SLA 1980; am § 5 ch 143 SLA 1982)

**Effect of amendments.** — The 1980 amendment substituted "fourth" for "third" preceding "degree" in the introductory paragraph in subsection (a), and in subsection (b), and deleted "intentionally or" near the beginning of paragraph (1) in subsection (a).

The 1982 amendment, in subsection (a),

substituted "that person recklessly" for "he intentionally" in paragraph (3).

**Legislative history reports.** — For a report on Chapter P2, SLA 1980 (HCS CSSB 511), see 1980 Senate Journal Supplement, No. 44, May 29, 1980, or 1980 House Journal Supplement, No. 79, May 28, 1980.

NOTES TO DECISIONS

**Applied in** *Bidwell v. State*, Ct. App. Op. No. 199 (File No. 6290), 656 P.2d 592 (1983); *Jackson v. State*, Ct. App. Op. No. 211 (File No. 6664), 657 P.2d 405 (1983).

**Quoted in** *Maynard v. State*, Ct. App. Op. No. 136 (File No. 5501), 652 P.2d 489 (1982).

**Cited in** *Folger v. State*, Ct. App. Op. No. 105 (File No. 5555), 648 P.2d 111 (1982); *Kelly v. State*, Ct. App. Op. No. 143 (File No. 6521), 652 P.2d 112 (1982); *Moxie v. State*, Ct. App. Op. No. 246 (File No. 7192), 662 P.2d 990 (1983).

**Collateral references.** — Standard for judging conduct of minor motorist charged with gross negligence, recklessness, wilful

or wanton misconduct, or the like, under guest statute or similar common-law rule, 97 ALR2d 861.

**Sec. 11.41.250. Reckless endangerment.** (a) A person commits the crime of reckless endangerment if the person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

(b) Reckless endangerment is a class A misdemeanor. (§ 3 ch 166 SLA 1978)

Article 3. Kidnapping and Custodial Interference.

**Section**  
300. Kidnapping  
320. Custodial interference in the first degree

**Section**  
330. Custodial interference in the second degree  
370. Definitions

ANNOTATION

VALIDITY AND CONSTRUCTION OF "TERRORISTIC  
THREAT" STATUTES

by

*Jeffrey F. Ghent, J.D.*

Section 211.3 of the American Law Institute's Model Penal Code, Proposed Official Draft (1962), makes it a felony of the third degree to threaten to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause

serious public inconvenience, or to make such threats in reckless disregard of the risk of causing such terror or inconvenience.<sup>1</sup>

This annotation collects the cases in which the courts have construed or passed upon the validity of such statutes<sup>2</sup> expressly making "terroristic

1. The section entitled "Terroristic Threats" is distinguished in an official note from a related provision punishing "Criminal Coercion" (§ 212.5), the Institute explaining that the object of § 211.3 is to prevent serious alarm for personal safety, such as may arise from letters or anonymous telephone calls threatening death, kidnaping, or bombing, and that

in the case of terroristic threats, there is no occasion to exempt from criminal liability on the ground of the actor's possibly benign ultimate purpose, as is appropriate in connection with the offense of coercion.

2. Since the statutes are included only to the extent that they are reflected in the

**TOTAL CLIENT-SERVICE LIBRARY\* REFERENCES:**

- 16 AM JUR 2d, Constitutional Law § 319; 31 AM JUR 2d, Extortion, Blackmail, and Threats §§ 14-17
- 13 AM JUR TRIALS 463, Defending Minor Felony Cases
- ALR DIGESTS, Constitutional Law § 792
- US L ED DIGEST, Constitutional Law § 935.5
- ALR QUICK INDEX, Explosions and Explosives; Freedom of Speech and Press; Threats
- FEDERAL QUICK INDEX, Bombs; Explosions and Explosives; Freedom of Speech and Press; Threats
- L ED INDEX TO ANNOT., Freedom of Speech, Press, Religion, and Assembly; Threats

Consult POCKET PART in this volume for later cases

threats" a separate and distinct criminal offense. Thus, the present annotation does not include cases involving the offenses of extortion, blackmail, or threats generally.<sup>1</sup> Among other offenses involving, or often involving, threats but not designated in terms of "terroristic threats," and therefore beyond the scope of this annotation, are assault,<sup>2</sup> robbery,<sup>3</sup> sedition,<sup>4</sup> "night riding" and "whitecapping,"<sup>5</sup> "bomb hoax,"<sup>6</sup> and the specific federal offenses of racketeering,<sup>7</sup> extortionate credit transactions,<sup>8</sup> riots,<sup>9</sup> intimidating witnesses, jurors, or federal officers,<sup>10</sup> threatening the President,<sup>11</sup> extortion by federal officers or employees,<sup>12</sup> using violations of federal law to blackmail,<sup>13</sup> inducing kickbacks from public works employees,<sup>14</sup> and mailing, or transmitting in interstate commerce, threatening communications.<sup>15</sup>

In the following cases, the validity of "terroristic threat" statutes, as construed by the courts, was upheld.

reported cases within the scope of this annotation, the reader is advised to consult the latest comments in his jurisdiction.

1. See 51 Am Jur 2d, Extortion, Blackmail, and Threats.

2. See generally, 6 Am Jur 2d, Assault and Battery §§ 28-31. As to assault with intent to murder or kill, see 40 Am Jur 2d, Homicide §§ 568-532. As to assault with intent to rob, see 67 Am Jur 2d, Robbery §§ 79-85.

3. See 57 Am Jur 2d, Robbery §§ 22-26.

4. See, generally, 70 Am Jur 2d, Sedition, Subversive Activities, and Treason.

5. See 31 Am Jur 2d, Extortion, Blackmail, and Threats § 16.

6. See the annotation, "Criminal offense of bomb hoax or making false report as to planting of explosive," at 93 ALR2d 304.

534

A Georgia statute punishing terroristic threats and acts, and providing that a person commits a terroristic threat when he threatens to commit any crime of violence, or to burn or damage property, with the purpose of terrorizing another, or of causing the evacuation of a building, place of assembly, or facility of public transportation, or otherwise causing serious public inconvenience, or when he makes such threats in reckless disregard of the risk of causing such terror or inconvenience, was held neither violative of the First Amendment right to free speech nor unconstitutionally vague, at least in pertinent part, in *Mason v Slaton* (1970, 10 Ga) 320 F Supp 659, the court granting a defense motion for judgment on the pleadings in an action for injunctive and declaratory relief against enforcement of the statute. As to the contention that the statute proscribed constitutionally protected conduct by

9. See the annotations at 1 ALR Fed 838 and 4 ALR Fed 881. See also 31 Am Jur 2d, Extortion, Blackmail, and Threats §§ 18-20.

10. See the annotation, "Validity, construction, and application of Consumer Protection Act provisions (18 USC §§ 891-896) prohibiting extortionate credit transactions," at 7 ALR Fed 950.

11. See the Federal Anti-Riot Act of 1963 (18 USCS §§ 2101, 2102).

12. See 18 USCS § 1703.

13. See the annotation, "Validity and construction of federal statute (18 USC § 871) punishing threats against the President," at 22 L Ed 2d 988.

14. See 18 USCS § 872.

15. See 18 USCS § 873.

16. See 18 USCS § 874.

17. See 18 USCS §§ 875, 876.

making illegal bare statements without an overt act or attempt to carry out the threat, the court replied that statements alone can be without First Amendment protection; that although the right to free speech entitles an individual to advocate certain ideas regardless of their popularity, it does not extend to the threatening of terror, inciting of riots, or placing another's life or property in danger; and that the indictment against the plaintiff made just such an accusation—that he had threatened in the presence of a third party to burn and damage 11 automobiles owned by another for the purpose of terrorizing the owner. It was further contended that the statute was unconstitutionally vague because it required a man of ordinary intelligence to guess at its meaning, and because some portions of the statute were so ambiguous as to fail to give fair and adequate warning of the conduct proscribed. However, the court pointed out that it was only necessary to consider that portion of the statute under which the plaintiff had been indicted, namely, the provision that a person commits a terroristic threat when he threatens to burn or damage property with the purpose of terrorizing another. Concluding that there was nothing vague or indefinite in this provision, the court stated that no meaningful contention could be made that the provision failed to adequately inform the plaintiff of the conduct prohibited.

A Kansas statute making a terroristic threat a felony, and defining a terroristic threat as any threat to com-

mit violence communicated with intent to terrorize another, or to cause the evacuation of any building, place of assembly, or facility of transportation, or imparted in wanton disregard of the risk of causing such terror or evacuation, was held valid against a contention that it was unconstitutionally vague under both the Kansas Constitution and the Fourteenth Amendment to the United States Constitution, in *State v. Gunzelman* (1972) 210 Kan 481, 502 P2d 705, 38 ALR3d 522, the court reversing on other grounds a conviction for making a terroristic threat to a highway patrol officer. The patrolman had issued a traffic ticket to one of the defendant's truckdrivers, and the alleged terroristic threat, made at the patrolman's home, was apparently intended to prevent further tickets to the drivers.<sup>18</sup> Observing generally that the idea for the new statute, designed to fill a gap in the law, had been drawn from the American Law Institute's Model Penal Code § 211.3, *supra*, the court recognized that a statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties. However, characterizing the "main thrust" of the defendant's constitutional argument as based upon a failure by the legislature to define the words "threat" and "terroristic," the court pointed out that a general definition section of the Kansas Criminal Code defined a threat as "a communicated intent to inflict physical or other harm on any person or on property." The court also

18. Although not ruling on the sufficiency of the evidence to support the conviction, the court did state the language of the alleged threat as follows: "I am warning you for the last time that you are not pulling my drivers over for no

reason and arresting them. . . . You have a wife and family. You had better give some thought to that. You are gone a lot of nights. Where is your bedroom? I will be back."

noted that in a similar case,<sup>19</sup> the word "terrorize" had been defined as "to reduce to terror by violence or threats," and the word "terror" as "an extreme fear or fear that agitates body and mind." Given limiting definitions for the words "threat" and "terrorize," as those terms are understood by men of common intelligence, the court said, the statute proscribing terroristic threats survives any constitutional challenge for vagueness and uncertainty. Finally, the court observed that although the statute might have been directed at campus unrest, fire and bomb threats to public buildings, and acts of mob violence, the main elements of the offense were threats communicated with a specific intent to terrorize another, and that the wording of the statute appeared sufficient to proscribe such threats whether directed generally against one or more persons, and regardless of the purpose which the terrorist had in mind to accomplish.

The following annotations may be of related interest:

Peaceful picketing of private residence. 42 ALR3d 1353.

Possession of bomb, Molotov cocktail, or similar device as criminal offense. 42 ALR3d 1230.

Validity of blasphemy statutes or ordinances. 41 ALR3d 519.

Attacks on judiciary as a whole as indirect contempt. 40 ALR3d 1204.

Participation of student in demonstration on or near campus as warranting imposition of criminal liability for breach of peace, disorderly con-

duct, in mass, unlawful assembly, or similar offense. 32 ALR3d 551.

Criminal offense of bomb hoax or making false report as to planting of explosive. 33 ALR2d 304.

Assaulting, threatening, or intimidating witness by ex parte of court. 52 ALR2d 1297.

Homicide causing one, by means of fright, to leap or fall to his death. 25 ALR2d 1183.

Civil liability for insulting or abusive language not amounting to defamation. 15 ALR2d 108.

Validity of legislation directed against political, social, or industrial propaganda deemed to be of a dangerous tendency. 75 ALR 1494, supplementing 1 ALR 356 and 20 ALR 1535.

Opprobrious words addressed to policeman as breach of peace. 27 ALR 566.

Validity, construction, and application of Civil Obedience Act of 1965 (18 USC §§ 231-233) punishing certain acts in connection with civil disorders. 16 ALR Fed 906.

Validity, construction, and application of Consumer Credit Protection Act provisions (18 USC §§ 891-895) prohibiting extortionate credit transactions. 7 ALR Fed 959.

Elements of offense proscribed by the Hobbs Act (18 USC § 1351) against racketeering in interstate or foreign commerce. 4 ALR Fed 881.

Validity, construction, and effect of 18 USC § 1952, making it a federal offense to use interstate or foreign travel or transportation in aid of racketeering enterprises. 1 ALR Fed 533.

Validity and construction of federal statute proscribing threats done for the purpose of terrorizing or, alternatively, for the purpose of causing, through threats, any citizen to do any unlawful thing.

19. *Armstrong v Ellington* (1970, DC Tenn) 312 F Supp 1119, involved a Tennessee statute which did not, strictly speaking, prohibit "terroristic threats," but rather enjoined various acts when

58 ALR3d CONSTRUCTION OF "FERROAISTIC TROLMAT" STATUTE  
58 ALR2d 533

statute 48 USC § 871) punishing or free speech and press. 21 L. Ed 2d  
threats against the President. 22 L. Ed 2d 976, supplementing 93 L. Ed 1151, 2  
2d 588. L. Ed 2d 1706, 11 L. Ed 2d 1116, 10 L.  
The Supreme Court and the right Ed 2d 1053.

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Consult POCKET PART in this volume for later cases

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**COMMITTEE REPORT**  
**SENATE**

FURTHER:

January 31, 1984

Date: 24 1 1984

Mr. President:

The Committee on JUDICIARY has had SB 397

extending the termination date of the Alcoholic Beverage Control Board; add

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

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

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_  
*Joe Josephson*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
CHAIRMAN



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

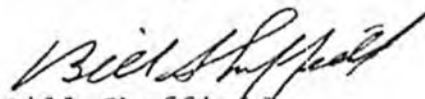
January 31, 1984

The Honorable Jalmar Kerttula  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to extend the life of the Alcoholic Beverage Control Board for four years. The board has gone through four "sunset" reviews in the last five years, and its sunset date was extended from June 30, 1983 to June 30, 1984 during last year's legislative session. I believe that it is time to give the board a four-year extension so that it can continue to fulfill its responsibility for administering our alcoholic beverage control laws.

Sincerely,

  
Bill Sheffield  
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: 397  
 Title: Extending termination date of ABC Board.  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Revenue  
 Program Category Affected: Public Protection  
 BRU, Program or Subprogram(s) Affected: Alcoholic Beverage Control Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The fiscal impact of this bill is reflected in the Governor's FY 85 Executive Budget showing continued funding for the Alcoholic Beverage Control Board. Please see attached.

ANALYSIS: Attach a separate page for analysis

Prepared By: Patrick J. Skarvosh Phone: 277-8638  
 Division: Alcoholic Beverage Control Board Date: 11/20/84

Approved by Commissioner: [Signature] Date: 11/20/84  
 Agency: Revenue

Distribution (by Agency preparing fiscal note):

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

12/1/83

10-04-70-01-00 (00-00-0-00-00-00)

STATE OF ALASKA -- COMPONENT\_BUDGET\_SUMMARY

10:37

12/29/83

AGENCY: DEPARTMENT OF REVENUE  
CATEGORY: GENERAL GOVERNMENT

PROGRAM: DATA AND WORD PROCESSING  
SUD-PROGRAM: A.B.C. BOARD

EXPENDITURES  
& FUNDING

83 AUTH 83 FINAL 83 ACT 84 AUTH ADJ BASE 85 SL 1 85 SL 2 85 SL 3 85 SL 4 GOVERNOR

01 PERS. SERV.

02 TRAVEL

03 CONTRACTUAL

7.8 7.8

7.8

04 SUPPLIES

05 EQUIPMENT

06 LANDS/BLDGS

07 GRANTS, CLMS

08 MISC.

\*\* TOTAL EXPEND

7.8 7.8

7.8

09 I-A TRANSFER

FED. RECEIPT

\*\*GF + MATCH

7.8 7.8

7.8

G. F. MATCH

GENERAL FUND

PGM RECEIPTS

I/A RECEIPTS

OTHER FUNDS

7.8 7.8

7.8

15 FULL-TIME

16 PART-TIME

17 TEMPORARY

000445

AGENCY: DEPARTMENT OF REVENUE  
 CATEGORY: PUBLIC PROTECTION

PROGRAM: ALCOHOL BEVERAGE CONTROL BOARD  
 SUB-PROGRAM: ALCOHOL BEVERAGE CONTROL BOARD

EXPENDITURES & FUNDING	83 AUTH	83 FINAL	83 ACT	84 AUTH	ADJ	BASE	85 SL 1	85 SL 2	85 SL 3	85 SL 4	GOVERNOR
1 PERS. SERV.	461.5	471.5	473.6	487.8		516.8	534.5	534.5	569.0		534.5
2 TRAVEL	50.1	5 .1	43.1	40.1		40.1	47.2	37.6	57.8		47.2
3 CONTRACTUAL	117.7	105.4	92.1	111.2		103.4	78.2	54.4	109.3		78.2
4 SUPPLIES	3.2	4.7	4.2	7.2		7.2	7.6	7.6	8.5		7.6
5 EQUIPMENT		2.8	.4						1.4		
6 LANDS/BLDGS			.4								
7 GRANTS, CLMS											
8 MISC.											
* TOTAL EXPEND	632.5	632.5	613.8	646.3		667.5	667.5	634.1	746.0		667.5
9 I-A TRANSFER	12.4										
FED. RECEIPT											
**GF + MATCH	632.5	632.5	613.8	646.3		667.5	667.5	634.1	746.0		667.5
G. F. MATCH GENERAL FUND PGM RECEIPTS I/A RECEIPTS OTHER FUNDS	632.5	632.5	613.8	646.3		667.5	667.5	634.1	746.0		667.5
5 FULL-TIME	12.0	12.0	12.0	12.0		12.0	12.0	12.0	13.0		12.0
5 PART-TIME											
7 TEMPORARY											

050005

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# Alaska State Legislature

OFFICIAL BUSINESS

CHAIRMAN  
RJLES COMMITTEE



JAN FAIKS  
POUCH V  
CAPITOL BUILDING  
JUNEAU, ALASKA 99801

## Senate

### MEMORANDUM

TO: Senator Bill Ray  
Chairman, Senate Judiciary Committee

FROM: Senator Jan Faiks

DATE: May 21, 1984

RE: Senate Bill 399

Responding to a constituent inquiry over the interim, I introduced Senate Bill 399 earlier this session in an attempt to deal with people posting "no trespassing" signs on public lands.

Apparently, campers and backpackers often find "no trespassing" signs posted only to find out later that the land is in fact state owned. The Resources Committee substitute does not require land owners to post their land, but if they do choose to post "no trespassing" signs, they would be required to contain the name and address of the property owner who would be authorized to grant permission to enter the property.

In view of the late date in the session, and opposition from some of the native corporations, I would prefer to work on the bill during the interim and introduce new legislation next year.

I do appreciate the committee's willingness to hear the bill at your meeting this afternoon, but my preference would be to hold the bill in your committee.

Thanks for your attention to this matter.

S

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# COMMITTEE REPORT

## SENATE

FURTHER:

Date \_\_\_\_\_

Mr. President

The Committee on \_\_\_\_\_ considered \_\_\_\_\_

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title \_\_\_\_\_
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman recommendation

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date 2/09/84

REQUEST

Bill/Resolution No: SB 404  
Title: An act relating to permits for games of chance and contests of skill  
Sponsor: Josephson and Rodey  
Requestor: Senate Judiciary Committee  
Date of Request: 2/06/84

FISCAL DETAIL

Agency Affected: Revenue  
Program Category Affected: Revenue Collection & Management  
BRU, Program or Subprogram(s) Affected: Public Services Division BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	-	14.1	14.6	15.1	15.6	16.1
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	4.7	.8	.9	1.0	1.1
500 EQUIPMENT	-	1.0	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	19.8	15.4	16.0	16.6	17.2
CAPITAL	-	-	-	-	-	-
REVENUE	-	38.5	40.5	42.5	44.6	46.9

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	19.8	15.4	16.0	16.6	17.2
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	19.8	15.4	16.0	16.6	17.2

POSITIONS:

FULL-TIME	-	.5	.5	.5	.5	.5
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attached.

Prepared By: Martin J. Richard  
Division: Public Services

Phone: 465-2-92  
Date: \_\_\_\_\_

Approved by Commissioner: [Signature]  
Agency: DOR

Date: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

SB 404 ANALYSIS  
PUBLIC SERVICES DIVISION BRU

EXPENDITURES

1. Passage of SB 404 will require a seasonal, (6 months) Tax Examiner to handle a minimum of 227 new applications. Each application and attendant Financial Statement requires 1.5 to 2.0 hours of processing and in addition, clerical time of approximately one hour per application is required.
2. The personal service costs include the total for insurance and various other benefits. Annual increases for personal services are based on 3.5% rate, reflecting average contractual salary and merit increases.
3. The supplies and commodities include new forms, mail outs and miscellaneous clerical supplies. All instructions and forms will require immediate revision and reprint for FY85. Figures for FY86-89 reflect additional forms costs for increased number of permittees.

Equipment money required in FY85 is for furniture and office equipment for the seasonal Tax Examiner.

REVENUE

Figures in this area are based on 227 new applications remitting an annual permit fee of \$20.00 each. Additionally the required 1% of gross receipts be remitted with annual financial statement. An average of the 1% fee is \$150.00 per permittee.

TESTIMONY ON SENATE BILL 404

by

COOK INLET REGION, INC.

and

COOK INLET TRIBAL COUNCIL, INC.

MR. CHAIRMAN, MY NAME IS ROBERT RUDE. I AM SENIOR VICE PRESIDENT OF COOK INLET REGION, INC., AND PRESIDENT OF COOK INLET TRIBAL COUNCIL, THE NON-PROFIT ARM FOR THE REGIONAL CORPORATION; PRESIDENT OF THE CIRI FOUNDATION AND PRESIDENT OF THE SOUTHCENTRAL FOUNDATION. THESE FOUNDATIONS WERE ESTABLISHED BY COOK INLET REGION TO PROVIDE SCHOLARSHIPS AND SOCIAL PROGRAMS TO THE REGION'S 6,400 SHAREHOLDERS.

THE ALASKA STATUTES HAVE, FOR MANY YEARS, PROVIDED AN OPPORTUNITY FOR CHARITABLE, SOCIAL SERVICE ORGANIZATIONS TO RAISE MONEY BY HOLDING "GAMES OF CHANCE AND SKILL." THE ALASKA LEGISLATURE AND THE DEPARTMENT OF REVENUE REGULATE THESE ACTIVITIES TO ENSURE THAT THE PRIVATE FUNDS RAISED ARE USED TO SERVE THE SOCIAL SERVICE PURPOSES FOR WHICH THEY WERE INTENDED. MANY NATIVE NON-PROFIT ORGANIZATIONS SUCH AS COOK INLET TRIBAL COUNCIL, ALEUTIAN PRIBILOF ISLAND ASSOCIATION AND ALEUTIAN HOUSING AUTHORITY HAVE ESTABLISHED BINGO GAME OPERATIONS TO CREATE REVENUES. SOME OF THE PRIMARY WAYS THESE REVENUES ARE USED FOLLOWS:

1. MATCHING MONIES FOR STATE, FEDERAL AND FOUNDATION GRANTS THAT REQUIRE MATCHING FUNDS. WITH THE REDUCTIONS IN FEDERAL FUNDING FOR SOCIAL, HEALTH, EDUCATIONAL AND EMPLOYMENT PROGRAMS OVER THE YEARS, WE ANTICIPATE THAT NON-PROFIT SOCIAL SERVICE ORGANIZATIONS WILL INCREASINGLY FIND IT NECESSARY TO DEVELOP ENTERPRISES, SUCH AS BINGO OPERATIONS, TO GENERATE AN IMPORTANT SECONDARY SOURCE OF REVENUE TO SUSTAIN MANY OF THEIR HUMAN SERVICES PROGRAMS.

2. SCHOLARSHIPS FOR VOCATIONAL TRAINING AND HIGHER EDUCATION INCLUDING GRADUATE SCHOOL. MANY STUDENTS COULD NEVER ATTEND IF THESE SCHOLARSHIPS WERE NOT AVAILABLE.
3. CULTURAL ACTIVITIES SUCH AS POTLATCHES, NATIVE DANCES, ETC.
4. FOOD BASKETS FOR NEEDY PEOPLE AT SUCH TIMES AS EASTER, THANKSGIVING AND CHRISTMAS.
5. SUPPORT FOR SPORTS EVENTS PARTICIPATED IN BY NATIVE STUDENTS WHO WOULD NOT OTHERWISE BE ABLE TO PARTICIPATE WITHOUT THIS SUPPORT.
6. CHRISTMAS PARTY AND PRESENTS FOR CHILDREN OF LOW INCOME FAMILIES. MANY TIMES THIS IS THE ONLY CHRISTMAS THESE CHILDREN HAVE.
7. SUPPORT FOR ATTENDANCE AT MEETINGS OF THE NATIONAL CONGRESS OF AMERICAN INDIANS, NATIONAL URBAN INDIAN COUNCIL, AFN, AND OTHER STATE MEETINGS THAT AFFECT NATIVE ISSUES AND THEIR LIFESTYLES.
8. CONTRIBUTIONS TO PERSONS WHO HAVE LITTLE OR NO INCOME AND WHO HAVE EMERGENCY NEEDS SUCH AS FUNERAL EXPENSES, FOOD, CLOTHING, SHELTER, TRANSPORTATION, ETC.

IN REVIEWING THE ALASKA STATUTES ON BINGO, WE FOUND THAT THE CURRENT LAW PROHIBITS ANY OF OUR NON-PROFIT CORPORATIONS FROM APPLYING FOR A BINGO LICENSE. THE ALASKA STATUTES (A.S. 05.15.210) AND THE ALASKA ADMINISTRATIVE CODE (15 AAC 105.010) ESTABLISH THE REQUIREMENTS FOR OBTAINING A PERMIT TO CONDUCT GAMES OF CHANCE AND CONTESTS OF SKILL. IN ORDER TO BE ELIGIBLE, ORGANIZATIONS MUST BE NOT-FOR-PROFIT AND MUST HAVE BEEN IN EXISTENCE CONTINUALLY FOR FIVE YEARS BEFORE SUBMITTING AN APPLICATION.

COOK INLET REGION, INC. ESTABLISHED TWO NON-PROFIT FOUNDATIONS AND ONE NON-PROFIT ORGANIZATION (COOK INLET TRIBAL COUNCIL) AND NONE WILL BECOME ELIGIBLE TO APPLY FOR A BINGO LICENSE UNTIL 1987. THIS APPEARS TO BE DISCRIMINATORY TO OUR NON-PROFIT ORGANIZATIONS AND ALASKA NATIVES, ESPECIALLY IN LIGHT OF RECENT COURT DECISIONS ON STATE RESIDENCY BEING REDUCED TO ONE YEAR.

SENATE BILL 404, RELATING TO GAMES OF CHANCE, INTRODUCED BY SENATOR JOSEPHSON, CALLS FOR A WAIVER OF THE FIVE YEAR RESIDENCY REQUIREMENT.

HOWEVER, THE PROPOSED AMENDMENT STILL DOES NOT ENABLE COOK INLET TRIBAL COUNCIL, THE CIRI FOUNDATION OR THE SOUTHCENTRAL FOUNDATION TO MEET THE PROPOSED REQUIREMENTS OF AS. 05.15.210(19) FOR A PERMIT SINCE THESE ORGANIZATIONS ARE ALL DISTINCT AND SEPARATE ENTITIES INCORPORATED UNDER THE LAWS OF ALASKA AND HAVE NOT BEEN IN EXISTENCE FOR FIVE YEARS OR MORE. NONE OF THESE ORGANIZATIONS, WHICH OPERATE IN THE GEOGRAPHICAL AREA OF COOK INLET REGION, HAVE AN ASSOCIATION WITH A QUALIFIED NON-PROFIT. WE DO HAVE A BUSINESS RELATIONSHIP WITH COOK INLET REGION, INC., BUT AS CIRI IS A PROFIT CORPORATION, IT DOES NOT MEET THE NON-PROFIT REQUIREMENT.

WE UNDERSTAND THE MERITS BEING INTRODUCED IN THE PROPOSED AMENDMENT WHICH ARE INTENDED TO GIVE SOME CREDIBILITY TO A NON-PROFIT ORGANIZATION IN EXISTENCE FOR LESS THAN FIVE YEARS; HOWEVER, WE STILL COULD NOT MEET THESE REQUIREMENTS.

INSTEAD, WE OFFER TWO ALTERNATIVES:

THE FIRST ONE WOULD BE TO CREATE SPECIAL LEGISLATION TO ALLOW ALASKA NATIVE NON-PROFIT ORGANIZATIONS TO APPLY FOR BINGO PERMITS AFTER HAVING BEEN IN EXISTENCE ONE YEAR. THE PRECEDENCE FOR SPECIAL LAWS FOR ALASKA NATIVE TRIBAL ORGANIZATIONS HAS ALREADY BEEN SET TO COVER ACTIVITIES SUCH AS PROXY SOLICITATIONS AND OTHER BUSINESS OPERATIONS.

THE SECOND ALTERNATIVE WE PROPOSE IS THAT A NON-PROFIT ORGANIZATION HAVING BEEN IN EXISTENCE CONTINUOUSLY FOR ONE YEAR AND WHO IS SEEKING TO APPLY FOR A BINGO LICENSE, BE SPONSORED BY A PROFIT OR NON-PROFIT ORGANIZATION THAT MEETS THE FIVE-YEAR REQUIREMENT. THIS WOULD MEAN THAT THE SPONSORING ORGANIZATION WOULD BE REQUIRED TO MAKE A STATEMENT CONCERNING ITS KNOWLEDGE OF THE APPLYING ORGANIZATIONS PURPOSES, GOVERNING BODY (BOARD OF DIRECTORS), MEMBERSHIP AND PROGRAMS, IF APPLICABLE. THIS WOULD SERVE TO ESTABLISH CREDIBILITY OF THE ONE-YEAR NON-PROFIT WITHOUT REQUIRING ANY KIND OF LEGAL RELATIONSHIP EXIST WITH THE FIVE-YEAR ORGANIZATIONS.

OF THE TWO PROPOSALS, WE PREFER THE FIRST ONE WHICH WOULD MEET OUR NEEDS AND IT WOULD NOT IMPOSE AN ADDITIONAL MONITORING BURDEN ON THE STATE SINCE THERE ARE NOT THAT MANY ALASKA NATIVE NON-PROFITS WHO WOULD BE APPLYING FOR AND OPERATING BINGO LICENSES.

WE, THEREFORE, SEEK YOUR SUPPORT TO CHANGE THE STATE REGULATIONS ON BINGO LICENSE AFTER BEING INCORPORATED FOR ONE YEAR AND WE URGE STRONGER ENFORCEMENT AND MONITORING OF BINGO OPERATIONS IN ALASKA.

THANK YOU, MR. CHAIRMAN.

Alaska State Legislature

SENATOR  
ROBERT H. ZIEGLER, SR.  
307 BAWDEN STREET  
KETCHIKAN, ALASKA 99901

While in Juneau  
POUCH V  
JUNEAU, ALASKA 99811



Senate

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

February 7, 1984

Senator Bill Ray, Chairman  
Senate Judiciary Committee  
Alaska State Legislature  
Juneau, Alaska 99811

Re: SB 40, An Act relating to permits for  
games of chance and contests of skill.

Dear Bill:

Obviously this legislation should be classified as "special interest", but I see nothing wrong with it.

In essence, the five year "existence" requirement may be waived by the Commissioner if he finds that the organization requesting the waiver is associated with an organization that does meet the five year requirement. Furthermore, the Commissioner has to find that the requesting organization will comply with the requirements pertaining to games of chance and contests of skill.

For example, let's assume the DAV hasn't existed in this state for five years as a veterans' organization. Further assume they want to conduct a game or contest under the auspices of the American Legion. The Commissioner would no doubt issue the appropriate waiver.

Very truly yours,

Robert H. Ziegler, Sr.

RHZ:1k

# STATE OF ALASKA THE LEGISLATURE

POUCHY STATE CAPITAL  
BUREAU ALASKA SENATE  
1974-1987

## LEGISLATIVE AFFAIRS AGENCY

M E M O R A   D U M

March 1, 1984

SUBJECT:           Exemption of Native organizations  
                    from statutory requirements  
                    (CSSB 404 (Judiciary))

TO:                 Senator Bill Ray  
                    Chairman, Senate Judiciary Committee

FROM:             Keith B. Levy *KBL*  
                    Legislative Counsel

Enclosed is a Judiciary Committee Substitute for HB 404, relating to permits for games of chance and contests of skill. At your request, I have included a provision exempting "Alaskan Native non-profit organizations" from the requirement that an organization be in existence for five years before it may apply for a permit to conduct certain gambling activities. This draft presents two significant problems, one statutory and one constitutional.

The first problem is that the term "Alaskan Native non-profit organization" is probably too vague for a court to determine which groups are subject to the exemption. It is not clear whether the term means that all of the organization's members must be Natives, or only some, or whether the leadership of the organization must be Native. For example, if a Native person and a non-Native person form a non-profit partnership, would the partnership be covered by the exemption? The vagueness of the term will make it difficult to enforce.

The second and perhaps more significant problem presented by this draft is that it singles out Native organizations for special treatment under the law. Such special treatment on the basis of race raises serious questions under the equal protection clauses of the state and federal constitutions as well as Article I, sec. 3 of the state constitution which provides

Senator Bill Ray  
Page 2  
March 1, 1984

No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. The legislature shall implement this section.

The burden of proof the state must satisfy when it treats people differently on the basis of race is a "compelling state interest." Even under the less restrictive "rational basis" test, however, the state would probably not be able to justify the exemption the bill creates for Alaskan Native organizations. There appears to be no rational connection between the Native exemption and the reasons for the five year requirement under the gambling laws.

Federal legislation that treats Natives favorably has been upheld against constitutional challenges, but this is because of the unique trust obligations which the Federal government owes to Natives. Morton v. Varconi, 417 U.S. 535 (1974). State governments do not have a special trust relationship with Natives which would justify special treatment along racial lines. Oklahoma Tax Commission v. United States, 519 U.S. 590 (1943); White v. Califano, 437 F.Supp 543 (1977). Therefore, the special exemption created for Alaskan Natives in this bill draft is probably unconstitutional.

KBL:cjb  
J4/030

Enclosure

RECEIVED

Robert W. Rude  
Senior Vice President

COOK INLET REGION, INC.

January 16, 1984

Senator Joe Josephson  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Josephson:

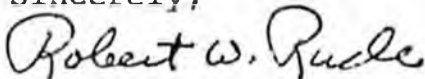
Reductions in federal funding for social needs of Alaska Natives has motivated Cook Inlet Region, Inc. (CIRI) to seek other sources of funding the social needs of our 6400 shareholders.

Revenue derived from bingo operations was identified as a secondary source of funding social needs of our shareholders. In reviewing the Alaska statutes on bingo, we found that the current law prohibits any of our non-profit corporations from applying for a bingo license. The Alaska Statutes (A.S. 05.15.210) and the Alaska Administrative Code (15 AAC 105.010) establish the requirements for obtaining a permit to conduct games of chance and contests of skill. In order to be eligible, organizations must be not-for-profit and must have been in existence continually for five years before submitting an application.

The three non-profit foundations established by CIRI do not become eligible to apply for bingo licenses until 1987. We believe this is discriminatory to our non-profit organizations and Native people, especially in light of recent court decisions on State residency being reduced to one year.

We, therefore, seek your support to change the State regulations on bingo license after being incorporated for one year and we urge stronger enforcement and monitoring of bingo operations in Alaska. I am attaching a copy of testimony submitted by the Cook Inlet Native Association that would achieve that goal.

Sincerely,



Robert W. Rude  
Senior Vice President, CIRI  
President, Cook Inlet Tribal Council, Inc.

CIRI

---

COOK INLET REGION, INC.

February 14, 1984

The Honorable Joe P. Josephson  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

*Mr. Rude  
272-7529*

Dear Senator Josephson:

Thank you for your prompt response and draft of a proposed amendment to waive the five-year existence requirement for non-profit organizations eligibility for a bingo permit.

However, the proposed amendment still does not enable Cook Inlet Tribal Council, The CIRI Foundation or the Southcentral Foundation to meet the proposed requirements of AS 05.15.210(19) for a permit since these organizations are all distinct and separate entities incorporated under the laws of Alaska and have not been in existence for five years or more. None of these organizations, which operate in the geographical area of Cook Inlet Region, have an association with a qualified non-profit. We do have a business relationship with Cook Inlet Region, Inc., but as CIRI is a profit corporation, it does not meet the non-profit requirement.

We understand the merits being introduced in the proposed amendment which are intended to give some credibility to a non-profit organization in existence for less than five years; however, we still could not meet these requirements.

Instead, we offer two alternatives. The first one would be to create special legislation to allow Alaska Native non-profit organizations to apply for bingo permits after having been in existence one year. The precedence for special laws for Alaska Native tribal organizations has already been set to cover activities such as proxy campaigns and other business operations.

The second alternative we propose is that a non-profit organization having been in existence continuously for one year and who is seeking to apply for a bingo license, be sponsored by a profit or non-profit organization that meets the five-year requirement. This would mean that the sponsoring organization would be required to make a statement concerning its knowledge of the applying organization's purposes, governing body (board of directors), membership and programs, if applicable. This would serve to establish credibility of the one-year non-profit without requiring any kind of legal relationship exist with the five-year organization.

The Honorable Joe P. Josephson

-2-

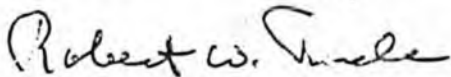
February 14, 1984

Of the two proposals we prefer the first one which would meet our needs and it would not impose an additional monitoring burden on the State since there are not that many Alaska Native non-profits who would be applying for and operating bingo licenses.

Again, we appreciate your prompt attention to this matter. We will be available to work with you or your staff to develop appropriate wording for the proposed statute.

Sincerely,

COOK INLET REGION, INC.



Robert W. Rude  
Senior Vice President

RWR:lw

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**COMMITTEE REPORT**  
**SENATE**

FURTHER:

2/27/83

Date \_\_\_\_\_

Mr. President

The Committee on DISCRETIONARY considered \_\_\_\_\_

Discriminatory haircare.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for 50-100-300
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman recommendation

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

March 2, 1984

REPLY TO:

OFFICE OF THE CHIEF PROSECUTOR  
POUCH KC  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 302  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

The Honorable Joe P. Josephson  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

RE: SB 406 - Discriminatory Harassment

Dear Senator Josephson:

At your request we have drafted the attached proposed committee substitute for SB 406, an act relating to discriminatory harassment. The draft bill contains all of the concepts which you indicated to us were needed:

- (1) a civil right of action for certain discriminatory conduct, with a \$10,000 maximum on punitive damages;
- (2) a new crime, at a class A felony level, for discriminatory assaults resulting in serious physical injury;
- (3) directions to a sentencing court to treat discriminatory conduct as an aggravated crime, even in cases not involving presumptive sentences; and
- (4) directions to the administrative director of the court system to prepare an annual report on cases involving discriminatory conduct.

In addition, you said that you and your staff would draft appropriate language for legislative intent, which we believe should probably be placed in new AS 12.55.160(a).

Although we have assisted your office in drafting this proposed bill, we still believe as a policy matter that if the problem of discriminatory conduct in Alaska is not adequately addressed in current law and warrants legislative action, then discriminatorily-motivated crimes deserve some mandatory period of imprisonment.

Very truly,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

DANIEL W. HICKEY  
CHIEF PROSECUTOR

By: Dean J. Guaneli  
Dean J. Guaneli  
Assistant Attorney General

Municipality  
of  
Anchorage



POUCH 6-650  
ANCHORAGE, ALASKA 99502-0650  
(907) 264-4342  
(TTY) 279-4725

TONY KNOWLES,  
MAYOR

EQUAL RIGHTS COMMISSION  
620 East 10th Avenue

February 22, 1984

Senate Judiciary Committee  
Attention: Senator Bill Ray, Chair  
Pouch V  
Juneau, Alaska 99811

Re: Senate Bill #406: "An Act Relating To Discriminatory  
Harassment"

Dear Senator Ray:

On January 19, 1984, Mr. Mitchel Schapira, Chairman, Anchorage Anti Defamation League Council met with the Anchorage Equal Rights Commission (AERC) to solicit support to advance legislation to ban and penalize racial and religious harassment in the State of Alaska. Following Mr. Schapira's presentation and a discussion with other persons in attendance, the following motion was introduced and passed unanimously:

Motion 01/84-1: "That the commission resolve to support efforts to advance legislation to ban and penalize racial and religious harassment in the State of Alaska"

(see attachment: page 3, Minutes of January 19, 1984).

As is clear from the discussion and the subsequent motion, it was the intent of the commission to support the concept of proposed legislation which would have the effect of banning racial and religious harassment. Senate Bill #406 would address the concerns of the commission, and is supported by motion 01/84-1.

If I can be of any assistance, please feel free to contact me.

Sincerely,

Paul L. Connerty  
Executive Director

Attachment

The Chair recognized the following persons in attendance:

- A. Mitchel Schapira, Chairman, Anchorage Anti-Defamation League Council.
- B. John Alexander,, Manager, MOA Labor Relations.
- C. Caprice Borg and Ava Brenneman, seniors at West High School, observing as part of class project.
- D. Bob Hughes, Department of Justice, Community Relations Services, Seattle, WA.
- E. Janet Bradley, Ex. Director, ASCHR

V. APPEARANCE REQUESTS:

Mitchel Schapira, Chairman, Anchorage ADL Council spoke regarding proposed State legislation banning racial and religious harassment. Mr. Schapira explained that the Anti-Defamation League is over fifty (50) years of age and committed to the cause of Civil Rights and equality of the races. Particularly, better relations between the races. One of the goals of the Pacific NW Region of ADL is to seek the passage of legislation in all states in their region addressing the problem of ethnic harassment. There was considerable conversation regarding the threat of outside influences invading Alaska regarding the organization of various groups with definite intent toward malicious harassment regarding race and religion.

Schapira spoke briefly about the September ('83) Forum and the need for effective legislative action concerning a malicious harassment statute in Alaska. He further stated that a bill is being prepared in Juneau to be introduced by Senator Josephson.

Janet Bradley, at Mr. Schapira's request, spoke regarding the last meeting of the Alaska State Commission for Human Rights which was addressed by Mr. Schapira via teleconferene. The ASCHR Commissioners unanimously endorsed the concept of the proposed legislation and she strongly urged the AERC to do the same.

A question and answer period followed.

Some of the concerns addressed related to Alaskan Native harassment taking place in the rural communities in Alaska. Also discussed was a portion of the Anti-Defamation League Model Statute that holds parents responsible for vandalism and conduct of their children.

Chair Kelly requested comments from Bob Hughes, Dept. of Justice. Mr. Hughes addressed the subject of development of organized "Hate Group" activity in the NW and the likelihood of Alaska being visited in the near future by delegates of these groups.

Chair Kelly requested that the Commission go on record supporting the concept of the proposed legislation banning racial and religious harassment. Commissioner Willard stated that the Commission should make a motion to that effect.

MOTION: That the Commission resolve to support efforts  
01/84-1 to advance legislation to ban and penalize racial and religious harassment in the State of Alaska.

Maker of  
Motion: Commissioner Marks  
Second: Commissioner Willard

ADOPTED: Unanimously

The next appearance request was John Alexander, Manager, MOA Labor Relations, to discuss the impact on employers of the Federal holiday honoring Martin Luther King, Jr.

Mr. Alexander explained, that as to the federal holiday, observance will depend on the employer. If the employer has a labor agreement of some type, it can probably be negotiated as one of the holidays. If it is declared a state holiday some businesses would observe the holiday while other businesses would operate as usual, perhaps with a skeleton crew. With municipal employees, the immediate impact would be upon the non-represented group. It would simply be written in the personnel rules and, if approved by the Assembly, declared a municipal holiday. It would also go into the labor contracts for negotiation.

There was considerable discussion as to what procedures needed to be followed to submit this proposition to the Assembly.

Chair Kelly asked Mr. Alexander what action the Commission could take to support a proposal. Mr. Alexander stated he might, at some time in the future want to call on the Commission for assistance and support.

Chair Kelly called for a five (5) minutes recess.

The meeting was called back to order at 8:32 P.M.

DISCRIMINATORY HARASSMENT

(a) An individual commits the crime of discriminatory harassment if, with the intent to harass a person or group because of the race, color, religion, ancestry, or national origin of that person or group, the individual

- (1) burns or desecrates a cross or other symbol representative of a particular race, color, religion, ancestry, or national origin, knowing it to be such a representative symbol, on private property without the permission of the property owner;
- (2) places or displays a sign, mark, symbol, emblem, or other physical impression, including but not limited to a Nazi swastika on the private property of another without the permission of the property owner.

(b) Discriminatory harassment is a Class C Felony.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: SB 406  
 Title: "An act relating to discriminating harassment."  
 Sponsor: Senator Josephson  
 Requestor: Sen. Judiciary  
 Date of Request: 3-12-84

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan *F.C.A.* *mck* Phone: 269-5691  
 Divisor: Alaska State Troopers Date: 03/05/84  
 Approved by Commissioner: *J. Sundberg* Date: 3/13/84  
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

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

12/1/83

# STATE OF ALASKA

## HUMAN RIGHTS COMMISSION

BILL SHEFFIELD, GOVERNOR

- AGENCY HEADQUARTERS  
431 W. 7th AVENUE, SUITE 105  
ANCHORAGE, ALASKA 99501  
(907) 276-7474
- NORTHERN REGION  
675 SEVENTH AVENUE, STA H  
FAIRBANKS, ALASKA 99701  
(907) 452-1561
- SOUTHCENTRAL REGION  
431 W. 7th AVENUE, SUITE 101  
ANCHORAGE, ALASKA 99501  
(907) 274-4692
- SOUTHEASTERN REGION  
POUCH AH  
314 GOLDSTEIN BUILDING  
JUNEAU, ALASKA 99811  
(907) 465-3560

February 22, 1984

The Honorable Joe P. Josephson, Senator  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Josephson:

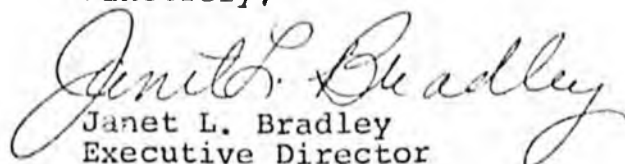
The Alaska State Commission for Human Rights is pleased to inform you of its unanimous endorsement of the concept of state legislation prohibiting acts of harassment and intimidation based on racial, religious, or ethnic motivation.

The Human Rights Commissioners unanimously passed a motion at their quarterly meeting of November 3 - 4, 1983 in Juneau reaffirming their earlier commitment of August 1981 to endorse such legislation. The Commission's Annual Report for 1983 recommends, pursuant to A.S. 18.80.150, that legislation of this sort is needed in Alaska and accordingly should be enacted.

The Commission staff's efforts in support of such legislation intensified during the last eight months during which time it organized and facilitated numerous meetings of an informal and diverse task force of Anchorage-based community organizations, including the Alaska Black Caucus, Anchorage Native Caucus, National Association for the Advancement of Colored People (NAACP), League of United Latin American Citizens (LULAC), Alaska-Korean Human Rights Committee, Anti-Defamation League of B'nai B'rith, Congregation Beth Shalom, Cook Inlet Native Association, and other interested groups. Representatives from the Anchorage Equal Rights Commission, Anchorage Police Department, the Alaska State Troopers, and the Community Relations Service of the U.S. Department of Justice also attended task force meetings on a regular basis.

The Commission staff will be pleased to provide any further information in its possession that may be desired in order to facilitate passage of legislation concerning this critically important matter. Thank you for your attention and concern.

Sincerely,

  
Janet L. Bradley  
Executive Director



NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

P.O. BOX 100405 • ANCHORAGE, ALASKA 99510

DECEMBER 1983 NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF  
COLORED PEOPLE/ANCHORAGE BRANCH EXECUTIVE BOARD SESSION

RESOLUTION

**RATIONAL:** The National Association for the advancement of Colored People, our country's largest and oldest civil rights organization founded on the principles of equality and justice for all people, the NAACP has sustained its commitment to end racial discrimination and harassment in every aspect of American life.

**TITLE:** RACIAL/ETHNIC/RELIGIOUS HARASSMENT AND INTIMIDATION

**WHEREAS,** Alaska civic and religious leaders have mounted a campaign for legislation banning and penalizing racial, ethnic, and religious harassment in our state, the efforts deserve support of our enforcement agencies and elected officials, and

**WHEREAS,** a "Model Statute" drafted by the Anti-Defamation League aims to impose the community's sanction against unacceptable behavior, vandalism, intimidation, and the like, directed against ethnic or religious groups, individuals or property, it offers civic remedies to victims of such crimes and makes parents liable for the act of minors,

**NOW THEREFORE BE IT RESOLVED:**

The Anchorage Branch of the N.A.A.C.P. gives it's full support to this campaign and efforts and emplores our Governor, our legislature and enforcement agencies to endorse/support legislation that ban and peanalize racial, ethnic, and religious harassment and intimidation.

Signed:

Anconia Harrison

President

Anchorage Branch/NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED  
PEOPLE

# STATE OF ALASKA

## HUMAN RIGHTS COMMISSION

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February 22, 1984

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Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

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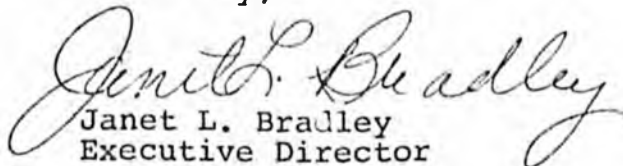
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DECEMBER 1983 NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF  
COLORED PEOPLE/ANCHORAGE BRANCH EXECUTIVE BOARD SESSION

RESOLUTION

RATIONAL: The National Association for the Advancement of Colored People, our country's largest and oldest civil rights organization founded on the principles of equality and justice for all people, the NAACP has sustained its commitment to end racial discrimination and harassment in every aspect of American life.

TITLE: RACIAL/ETHNIC/RELIGIOUS HARASSMENT AND INTIMIDATION

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The Anchorage Branch of the N.A.A.C.P. gives it's full support to this campaign and efforts and emplores our Governor, our legislature and enforcement agencies to endorse/support legislation that ban and penalize racial, ethnic, and religious harassment and intimidation.

Signed:

Anconia Harrison

President

Anchorage Branch/NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED  
PEOPLE

Chair Kelly requested comments from Bob Hughes, Dept. of Justice. Mr. Hughes addressed the subject of development of organized "Hate Group" activity in the NW and the liklihood of Alaska being visited in the near future by delegates of these groups.

Chair Kelly requested that the Commission go on record supporting the concept of the proposed legislation banning racial and religious harassment. Commissioner Willard stated that the Commission should make a motion to that effect.

MOTION: That the Commission resolve to support efforts  
01/84-1 to advance legislation to ban and penalize racial and religious harassment in the State of Alaska.

Maker of  
Motion: Commissioner Marks  
Second: Commissioner Willard

ADOPTED: Unanimously

The next appearance request was John Alexander, Manager, MOA Labor Relations, to discuss the impact on employers of the Federal holiday honoring Martin Luther King, Jr.

Mr. Alexander explained, that as to the federal holiday, observance will depend on the employer. If the employer has a labor agreement of some type, it can probably be negotiated as one of the holidays. If it is declared a state holiday some businesses would observe the holiday while other businesses would operate as usual, perhaps with a skeleton crew. With municipal employees, the immediate impact would be upon the non-represented group. It would simply be written in the personnel rules and, if approved by the Assembly, declared a municipal holiday. It would also go into the labor contracts for negotiation.

There was considerable discussion as to what procedures needed to be followed to submit this proposition to the Assembly.

Chair Kelly asked Mr. Alexander what action the Commission could take to support a proposal. Mr. Alexander stated he might, at some time in the future want to call on the Commission for assistance and support.

Chair Kelly called for a five (5) minutes recess.

The meeting was called back to order at 8:32 P.M.

Original sponsor: Josephson

*intentional infliction of emotional harm*

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 406 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to discriminatory harassment."

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

8 \* Section 1. AS 09.55 is amended by adding a new section to read:

9 ARTICLE 8. DISCRIMINATORY HARASSMENT.

10 Sec. 09.55.650. DISCRIMINATORY HARASSMENT ACTION. (a) A person  
11 may maintain an action for discriminatory harassment against another  
12 person, or against the parent or legal guardian of a minor, who com-  
13 mits an act that constitutes a crime under AS 11.41.260 or 11.41.270.

14 (b) The court may award punitive damages in an amount not more  
15 than \$10,000 to a prevailing plaintiff in an action brought under this  
16 section. *Any award of punitive damages against the parent or*

17 *legal guardian of a minor shall be predicated on the conduct of*  
18 \* Sec. 2 AS 11.41 is amended by adding new sections to read: *(class 11 day)*

19 Sec. 11.41.260. DISCRIMINATORY HARASSMENT IN THE FIRST DEGREE.

20 (a) A person commits the crime of discriminatory harassment in the  
21 first degree if, with the intent to intimidate or harass another  
22 person because of the other person's race, color, religion, ancestry,  
23 or national origin, the person *mental or physical handicap*

- 24 (1) causes serious physical injury to any person;
- 25 (2) by words or other conduct places any person in fear of
- 26 imminent serious physical injury;
- 27 (3) intentionally or recklessly damages property of another
- 28 person in an amount of \$50 or more; or
- 29 (4) enters or remains unlawfully
  - (A) on land with intent to commit a crime on the land;

*Serious Degree*

1 or

2 (B) in a dwelling. )

3 (b) Discriminatory harassment in the ~~first~~ <sup>second</sup> degree is a class C  
4 felony.

5 Sec. 11.41.270. DISCRIMINATORY HARASSMENT IN THE ~~SECOND~~ <sup>Third</sup> DEGREE.

6 (a) A person commits the crime of discriminatory harassment in the  
7 second degree if, with the intent to intimidate or harass another  
8 person because of the other person's race, color, religion, ancestry,  
9 or national origin, the person

10 (1) causes physical injury to any person;

11 (2) by words or other conduct places any person in fear of  
12 imminent physical injury;

13 (3) intentionally or recklessly damages property of another  
14 person in an amount less than \$50;

15 (4) enters or remains unlawfully

16 (A) in or upon premises; or

17 (B) in a propelled vehicle;

18 (5) insults, taunts, or challenges another person in a  
19 manner likely to provoke an immediate violent response;

20 (6) telephones another and fails to terminate the connec-  
21 tion with intent to impair the ability of that person to place or  
22 receive telephone calls;

23 (7) makes repeated telephone calls at extremely inconve-  
24 nient hours;

25 (8) makes an anonymous or obscene telephone call or a  
26 telephone call that threatens physical injury; or

27 (9) subjects another person to offensive physical contact.

28 (b) Discriminatory harassment in the ~~second~~ <sup>third</sup> degree is a class A  
29 misdemeanor.

1 \* Sec. 3. AS 34.50.020 is amended by adding a new subsection to read:

2 (c) This section does not apply to an action brought under  
3 AS 09.55.650.  
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Original sponsor: Josephson

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 406 (Judiciary) *Hein*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to discriminatory conduct."

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

8 \* Section 1. AS 09.55 is amended by adding a new section to read:

9 ARTICLE 8. DISCRIMINATORY HARASSMENT.

10 Sec. 09.55.650. DISCRIMINATORY HARASSMENT ACTION. (a) A civil  
11 action for discriminatory harassment may be maintained against a  
12 person, or against the parent or legal guardian of a minor, who,  
13 without the right to do so or a reasonable ground to believe a right  
14 to do so exists, commits an act intended to intimidate, harass or  
15 injure another person because of the race, color, religion, ancestry,  
16 or national origin of that person.

17 (b) The court may award actual and punitive damages to a pre-  
18 vailing plaintiff in an action brought under this section. C

19 \* Sec. 2. AS 11.41 is amended by adding a new section to read:

20 Sec. 11.41.260. DISCRIMINATORY HARASSMENT. (a) An individual  
21 commits the crime of discriminatory harassment if, with the intent to  
22 intimidate <sup>to</sup> or harass a person or group because of the race, color,  
23 religion, ancestry, or national origin of that person or group, the  
24 individual

25 (1) burns a cross on private property without the permis-  
26 sion of the property owner; or

27 (2) places or displays a Nazi swastika on private property  
28 without the permission of the property owner.

29 (b) Discriminatory harassment is a class C felony.

1 \* Sec. 3. AS 12.55.155(c) is amended to read:

2 (c) The following factors shall be considered by the sentencing  
3 court and may aggravate the presumptive terms set out in AS 12.55.125:

4 (1) a person, other than an accomplice, sustained physical  
5 injury as a direct result of the defendant's conduct;

6 (2) the defendant's conduct during the commission of the  
7 offense manifested deliberate cruelty to another person;

8 (3) the defendant was the leader of a group of three or  
9 more persons who participated in the offense;

10 (4) the defendant employed a dangerous instrument in fur-  
11 therance of the offense;

12 (5) the defendant knew or reasonably should have known that  
13 the victim of the offense was particularly vulnerable or incapable of  
14 resistance due to advanced age, disability, ill health, or extreme  
15 youth or was for any other reason substantially incapable of exercis-  
16 ing normal physical or mental powers of resistance;

17 (6) the defendant's conduct created a risk of imminent  
18 physical injury to three or more persons, other than accomplices;

19 (7) a prior felony conviction considered for the purpose of  
20 invoking the presumptive terms of this chapter was of a more serious  
21 class of offense than the present offense;

22 (8) the defendant's prior criminal history includes conduct  
23 involving aggravated or repeated instances of assaultive behavior;

24 (9) the defendant knew that the offense involved more than  
25 one victim;

26 (10) the conduct constituting the offense was among the most  
27 serious conduct included in the definition of the offense;

28 (11) the defendant committed the offense under [PURSUANT TO]  
29 an agreement that the defendant [HE] either pay or be paid for the

1 commission of the offense, and the pecuniary incentive was beyond that  
2 inherent in the offense itself;

3 (12) the defendant was on release under AS 12.30.020 or  
4 12.30.040 for another felony charge or conviction or for a misdemeanor  
5 charge or conviction having assault as a necessary element;

6 (13) the defendant knowingly directed the conduct constitut-  
7 ing the offense at an active officer of the court or at an active or  
8 former judicial officer, prosecuting attorney, law enforcement offi-  
9 cer, correctional employee, fire fighter, emergency medical tech-  
10 nician, paramedic, ambulance attendant, or other emergency responder  
11 during or because of the exercise of official duties;

12 (14) the defendant was a member of an organized group of  
13 five or more persons, and the offense was committed to further the  
14 criminal objectives of the group;

15 (15) the defendant has three or more prior felony convic-  
16 tions;

17 (16) the defendant's criminal conduct was designed to obtain  
18 substantial pecuniary gain and the risk of prosecution and punishment  
19 for the conduct is slight;

20 (17) the offense was one of a continuing series of criminal  
21 offenses committed in furtherance of illegal business activities from  
22 which the defendant derives a major portion of [HIS] income;

23 (18) the offense was a crime specified in AS 11.41 and was  
24 committed against a spouse, a former spouse, or a member of the social  
25 unit comprised of those living together in the same dwelling as the  
26 defendant;

27 (19) the defendant's prior criminal history includes an  
28 adjudication as a delinquent for conduct that would have been a felony  
29 if committed by an adult;

1 (20) the defendant was on furlough under AS 33.30 or on  
2 parole or probation for another felony charge or conviction;

3 (21) the defendant has a criminal history of repeated in-  
4 stances of conduct violative of criminal laws, whether punishable as  
5 felonies or misdemeanors, similar in nature to the offense for which  
6 the defendant is being sentenced under this section;

7 (22) the defendant knowingly directed the conduct constitut-  
8 ing the offense at a victim because of that person's race, sex, color,  
9 religion [CREED], ancestry, or national origin;

10 (23) the defendant is convicted of an offense specified in  
11 AS 11.71 and the offense involved the delivery of a controlled sub-  
12 stance under circumstances manifesting an intent to distribute the  
13 substance as part of a commercial enterprise;

14 (24) the defendant is convicted of an offense specified in  
15 AS 11.71 and the offense involved the transportation of controlled  
16 substances into the state;

17 (25) the defendant is convicted of an offense specified in  
18 AS 11.71 and the offense involved large quantities of a controlled  
19 substance;

20 (26) the defendant is convicted of an offense specified in  
21 AS 11.71 and the offense involved the distribution of a controlled  
22 substance that had been adulterated with a toxic substance.

23 \* Sec. 4. AS 12.55 is amended by adding a new section to read:

24 Sec. 12.55.160. DISCRIMINATORY CONDUCT. (a) If a defendant is  
25 not subject to presumptive sentencing under AS 12.55.125(c), (d)(1),  
26 (d)(2), (d)(3), (e)(1), (e)(2), (e)(3), or (i), but the court finds by  
27 clear and convincing evidence that the defendant knowingly directed the  
28 conduct constituting the offense at a victim because of the victim's  
29 race, sex, color, religion, ancestry, or national origin, the court

1 shall impose a sentence that reflects extreme community condemnation  
2 of the conduct, reaffirms nondiscriminatory societal norms, and  
3 clearly indicates the aggravated nature of the offense.

4 ~~(b) If a defendant is sentenced under (a) of this section,~~  
5 ~~imposition of sentence may not be suspended under AS 12.55.085.~~

6 (c) As part of a sentence imposed under (a) of this section, and  
7 in addition to a condition of probation imposed under AS 12.55.100,  
8 the court <sup>may</sup> ~~shall~~ order the defendant to participate in a work program  
9 or counseling designed to <sup>change</sup> ~~redirect~~ the defendant's attitudes and  
10 <sup>understanding</sup> ~~beliefs~~ <sup>about</sup> persons of a different race, sex, color, religion,  
11 ancestry, or national origin.

12 (d) The administrative director of the Alaska Court System shall  
13 prepare an annual report to the Alaska Human Rights Commission con-  
14 cerning cases involving convictions under AS 11.41.260, cases in-  
15 volving sentences imposed under (a) of this section, and cases in  
16 which a court has found the existence of the aggravating factor under  
17 AS 12.55.155(c)(22). The report shall include the number of cases,  
18 the types of crimes involved, the sentences imposed, and the  
19 geographical distribution of the cases.

20 \* Sec. 5. AS 34.50.020 is amended by adding a new subsection to read:

21 (c) This section does not apply to an action brought under  
22 AS 09.55.650.

23  
24 "enhance the defendant's understanding  
25 of "

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COMMITTEE REPORT  
SENATE

FURTHER:

Date \_\_\_\_\_

Mr. President

The Committee on SUBJECTARY considered \_\_\_\_\_

*Subjectary - physical appropriation to the Court system*

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
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Chairman

\_\_\_\_\_  
Chairman recommendation

Introduced: 2/6/84  
Referred: Judiciary and Finance

Funding Information

General Fund	\$314,205
Other funds	-0-
	<hr/>
	\$314,205

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 408

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making supplemental appropriations to the  
7 Alaska Court System; and providing for an effective  
8 date."

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

10 \* Section 1. The sum of \$285,000 is appropriated from the general fund  
11 to the Alaska Court System to offset the deficit created by the un-  
12 der-funding of the FY 8<sup>4</sup> cost-of-living pay increase. *-governor's office*

13 \* Sec. 2. The sum of \$29,205 is appropriated from the general fund to  
14 the Alaska Court System to pay for the FY 83 outstanding obligations owed  
15 to the Commerce Clearing House for library materials.

16 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
17 10.070(c).



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 6, 1984

The Honorable Jalmar Kerttula  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill appropriating a total of \$314,205 to the Alaska Court System.

The first section of the bill appropriates \$285,000 from the general fund to offset the deficit created by underfunding the FY 83 cost-of-living pay increase. When funds were appropriated for that increase, the level of funding was set at approximately 75 percent of the estimated cost of the increase for existing employees. In addition, pay increase funds were not provided for the eight new positions received by the trial courts in FY 84. The court system has attempted to reduce the deficit by extending vacancies, eliminating overlaps, and reducing overtime to the extent possible. Through these efforts, the trial courts will have realized a savings of \$400,000 by the end of this fiscal year.

The second section of the bill appropriates \$29,205 from the general fund to pay FY 83 outstanding obligations for library materials. Inadvertently, invoices were not processed in a timely manner, and the court system has actually lapsed sufficient funds to cover these claims.

Additional backup material will be furnished to the finance committee.

Sincerely,

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

Bill Sheffield  
Governor



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street  
Anchorage, Alaska 99501

ROBERT G. FISHER  
Manager of Fiscal Operations

January 23, 1984

Carolyn Martin  
Senior Budget Analyst  
Office of Managment & Budget  
Pouch AM  
Juneau, AK 99811

Dear Carolyn:

The Court System is requesting a supplemental appropriation for \$30,000 for several unpaid prior year bills for library materials from Commerce Clearing House. The bills originated in fiscal years 1982 and 1983. The unpaid amounts are \$803.85 and \$29,205.00, respectively. The Court System lapsed sufficient funds in each fiscal year to cover the unpaid claims.

Due to changes in personnel, I have not been able to ascertain the reason the bills were not paid in a timely manner. Nevertheless, the charges are valid and must be paid. A statement is enclosed, which provides information on the unpaid bills. The statement has been amended to reflect the correct amount due.

It is requested that these obligations be included in the FY 84 Miscellaneous Claims Supplemental Appropriation.

Sincerely,

Robert G. Fisher  
Fiscal Officer

RGF/11



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street  
Anchorage, Alaska 99501

ROBERT G. FISHER  
Manager of Fiscal Operations

January 23, 1984

Carolyn Martin  
Senior Budget Analyst  
Office of Management & Budget  
Pouch AM  
Juneau, AK 99811

Dear Carolyn:

Accompanying this letter is the Court System's request for a supplemental appropriation in the amount of \$285,000 for the trial court budget request unit for fiscal year 1984. The additional funds are requested to offset the deficit in the current year budget, which was created by the underfunding of the FY 83 general cost-of-living pay increase.

When funds were appropriated for the pay increase, the level of funding was set at approximately 80% of the estimate cost of the increase for existing employees. Additionally, pay increase funds were not provided for the new positions received by the trial courts in FY 84. The requested funds will cover the projected underfunding deficit in the current year. The Court System has requested funds in the FY 85 operating budget to cover the on-going cost of the pay increase in the next fiscal year.

The Court System has made every effort to reduce the deficit through other means. However, no other funds are available and full staffing is needed in the trial courts to keep pace with the high rate of growth in caseload.

Sincerely,

*Robert G. Fisher*  
Robert G. Fisher  
Fiscal Officer

RGF/11

enc

FY 84 SUPPLEMENTAL REQUEST ANALYSIS

	1	2	3	4	5	6	7	8	9	10
	FY 82 ACTUAL	FY 83 FINAL AUTH	FY 83 ACTUAL	FY 84 GOV. AMEND. BUDGET	FY 84 INITIAL AUTH.	FY 84 CURRENT AUTH.	FY 84 EXPENDITURES + ENCUMBRANCES 7/1 to	FY 84 OTHER OBLIGATIONS 7/1/ to 12/31	FY 84 PROJECTED EXPENDI- TURES + 1/1 to 6/30	FY 84 (DEFICIT) OR EXCESS
PERSONAL SERVICES	17,213.7	19,941.3	19,940.3	20,271.3	21,635.2	21,635.2	9,633.8	128.4	12,158.0	285.0
TRAVEL										
CONTRACTUAL SERVICES										
COMMODITIES										
EQUIPMENT										
LANDS, BLDG.										
GRANTS, CLAIMS										
MISCELLANEOUS										
TOTAL										
FEDERAL RECEIPTS										
REQUIRED GF MATCHING										
OTHER GENERAL FUND										
INTER-AGENCY RECEIPTS										

AGENCY: Alaska Court System

BRU: Trial Courts

COMPONENT: Trial Courts

Revised \_\_\_\_\_

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10



FILE WITH SB410

TO: Senator Ray  
FROM: Paula d. Scavera  
DATE: February 6, 1984  
RE: SB 410

This bill repeals the reserve for energy facilities development account, the reserve for capital outlay account and the renewable resources development and investment funds. These accounts have been held by the Attorney General to be unconstitutional dedications and have no balances in them.

The bill also repeals a dedication of revenue to the Alaska Native Fund. This dedication is no longer operative because the state has paid all amounts owed to this fund. A repeal of a dedication of a portion of federal mineral leasing revenues is also contained in the bill since federal law no requires dedication.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

20410

February 6, 1984

The Honorable Jalmar Kerttula  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Kerttula:

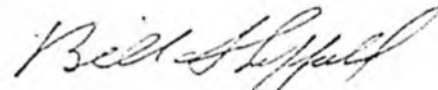
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that repeals certain accounts, funds, and dedications of state revenue.

Section 1 of the bill repeals statutes which appear to create dedicated funds in a manner that is not consistent with the limitations imposed by the Alaska Constitution. Repealed in sec. 1 are: (1) the reserve for capital outlay account (AS 37.05.157); (2) the reserve for energy facilities development account (AS 37.05.158); (3) a reference to AS 37.05.157 (reserve for capital outlay) in AS 37.07.062 dealing with the capital budget; and (4) the Alaska renewable resources development fund and Alaska renewable resources investment fund. (AS 37.11.010 -- 37.11.090). The accounts and the funds are inactive because it has been determined that they violate the dedicated fund prohibition contained in art. IX, sec. 7 of the Alaska Constitution. On the advice of the attorney general, no deposits were ever made to the accounts, and none has an outstanding balance. The renewable resources funds did, but no longer, have outstanding balances.

In sec. 2 of the bill, the dedication of revenue to the Alaska Native fund (AS 37.20.040) is repealed because the fund is no longer needed to implement the Alaska Native Claims Settlement Act. AS 43.05.210 is repealed because the dedication, for specific uses, of a part of the revenue received under 36 U.S.C. sec. 191 (the Federal Mineral Leasing Act) is no longer required by the federal law.

Under some circumstances, the dedication of state revenue might be appropriate. However, I believe that a dedication, if made at all, should be effected by amending the Alaska Constitution.

Sincerely,

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

Bill Sheffield  
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date \_\_\_\_\_

REQUEST

Bill/Resolution No: SB 0110  
 Title: Repealing certain runs and dedications  
 Sponsor: Rules by Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: None  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis.

Prepared By: Hilt Barker MB  
 Division: Treasury

Phone: 465-2350

Date: 01-07-84

Approved by Commissioner: [Signature]  
 Agency: Revenue

Date: 1/6/84

Distribution (by Agency preparing fiscal note):

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

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8

**COMMITTEE REPORT**  
**SENATE**

FURTHER:

Date \_\_\_\_\_

Mr. President

The Committee on \_\_\_\_\_ considered \_\_\_\_\_

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 418 (Ind)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman recommendation

TO: Senator Bill Ray

FROM: Paula d. Scavera

DATE: March 8, 1984

RE: SB 418

This bill changes the date when the legislature shall convene and makes that date consistent every year. Under this the bill session would have not started until January 23 of this year.

SECTION 1

Deletes the second Monday and adds the fourth Monday in January as the date the legislature shall convene. Also deletes that the legislature shall meet on the third Monday after a gubernatorial election. This section also deletes all time zone references to when the legislature shall convene.

Table 15  
LEGISLATIVE SESSIONS: LEGAL PROVISIONS

State or other jurisdiction	Regular sessions				Special sessions		
	Legislature convenes*			Limitation on length of session	Legislature may call†	Legislature may determine subject	Limitation on length of session
	Year	Month	Day				
Alabama	Annual	Apr. Feb. Jan.	3rd Tues. (a,b) 1st Tues. 2nd Tues. (c)	30 L in 105 C	No	2/3 vote, each house	12 L in 30 C
Alaska	Annual	Jan. Jan.	3rd Mon. (a) 2nd Mon.	None	Vote 2/3 members	Yes(d)	30 C
Arizona	Annual	Jan.	2nd Mon.	None(e)	Petition 2/3 members, each house	Yes(d)	None
Arkansas	Odd(f)	Jan.	2nd Mon.	60 C(f)	No	(g)	None(g)
California	Even(h)	Dec.	1st Mon.	None	No	No	None
Colorado	Annual(i)	Jan.	Weds. after 1st Tues.	None	Vote 2/3 members, each house	Yes(d)	None
Connecticut	Annual(i)	Odd: Jan. Even: Feb.	Wed. after 1st Mon. Wed. after 1st Mon.	(j) (j)	No	No	None
Delaware	Annual(k)	Jan.	2nd Tues.	June 30	Joint call, presiding officers, both houses	Yes	None
Florida	Annual	Apr.	Tues. after 1st Mon. (b)	60 C(f)	Joint call, presiding officers, both houses.	Yes	20 C(f)
Georgia	Annual(k)	Jan.	2nd Mon.	40 L	Petition 3/5 members, each house	Yes(d)	(l)
Hawaii	Annual(k)	Jan.	3rd Wed.	60 L(f)	Petition 2/3 members, each house	Yes	30 L(f)
Idaho	Annual	Jan.	Mon. on or nearest 9th day	None	No	No	20 C
Illinois	Annual(k)	Jan.	2nd Wed.	None	Joint call, presiding officers, both houses	Yes	None
Indiana	Annual	Jan.	2nd Mon. (b)	Odd: 61 L or Apr. 30 Even: 30 L or March 15	No	Yes	30 L in 40 C
Iowa	Annual(k)	Jan.	2nd Mon.	None(m)	Petition 2/3 members, each house	Yes	None
Kansas	Annual(k)	Jan.	2nd Mon.	Odd: None; Even: 90 C(f)	Petition to governor of 2/3 members, each house	Yes	None
Kentucky	Even	Jan.	Tues. after 1st Mon.	60 L	No	No	None
Louisiana	Annual	Apr.	3rd Mon.	60 L in 85 C	Petition majority, each house	Yes(d)	30 C
Maine	Even(h) Event(i)	Dec. Jan.	1st Wed. 1st Wed. after 1st Tues.	100 L 50 L	Vote of majority of each party, each house	Yes(d)	None
Maryland	Annual	Jan.	2nd Wed.	90 C(f,n)	Petition majority, each house	Yes	30 C
Massachusetts	Annual	Jan.	1st Wed	None	Yes	Yes	None
Michigan	Annual(k)	Jan.	1st Wed.	None	No	No	None
Minnesota	Odd(o)	Jan.	Tues. after 1st Mon.	120 L or 1st Mon. after 3rd Sat. in May	No	Yes	None
Mississippi	Annual	Jan.	Tues. after 1st Mon.	(f,p)	No	No	None
Missouri	Annual	Jan.	Wed. after 1st Mon.	Odd: June 30. Even: May 15.	No	No	60 C
Montana	Odd	Jan.	1st Mon. (q)	90 L	Petition majority, each house	Yes	None
Nebraska	Annual(k)	Jan.	1st Wed. after 1st Mon.	Odd: 90 L (f). Even: 60 L (f)	Petition 2/3 members	Yes	None
Nevada	Odd	Jan.	3rd Mon.	60 C(m)	No	No	20 C(m)
New Hampshire	Odd	Jan.	1st Wed. after 1st Tues. (b)	(m)	Yes	Yes	None(m)
New Jersey	Annual	Jan.	2nd Tues.	None	Petition majority, each house	Yes	None
New Mexico	Annual(i)	Jan.	3rd Tues.	Odd: 60 C; Even: 30 C	Petition 3/5 members, each house	Yes(d)	30 C
New York	Annual(k)	Jan.	Wed. after 1st Mon.	None	Petition 2/3 members, each house	Yes(d)	None
North Carolina	Odd(o)	Jan.	Wed. after 2nd Mon.	None	Petition 3/5 members, each house	Yes	None
North Dakota	Odd	Jan.	1st Tues. after 3rd day (b,q)	80 L	No	Yes	None
Ohio	Annual	Jan.	1st Mon. (q)	None	Joint call, presiding officers, both houses	Yes	None

Oklahoma	Annual(k)	Jan.	Tues. after 1st Mon.	90 L	Vote 2/3 members, each house	Yes	None
Oregon	Odd	Jan.	2nd Mon.	None	Petition majority, each house	Yes	None
Pennsylvania	Annual(k)	Jan.	1st Tues.	None	Petition majority, each house	No	None
Rhode Island	Annual(k)	Jan.	1st Tues.	60 L.(m)	No	No	None
South Carolina	Annual(k)	Jan.	2nd Tues.(b)	1st Thurs. in June(f)	No	Yes	None
South Dakota	Annual	Jan.	Odd: Tues. after 1st Mon. Even: Tues. after 1st Mon.	40 L 35 L	No	No	None
Tennessee	Odd(o)	Jan.	1st Tues.(b)	90 L.(m)	Petition 2/3 members, each house	Yes	30(m)
Texas	Odd	Jan.	2nd Tues.	140 C	No	No	30 C
Utah	Annual(i)	Jan.	2nd Mon.	Odd: 60 C; Even: 20 C	No	No	30 C
Vermont	Odd(o)	Jan.	Wed. after 1st Mon.	None(m)	No	Yes	None
Virginia	Annual(k)	Jan.	2nd Wed.	Even: 60 C(f) Odd: 30 C(f)	Petition 2/3 members, each house	Yes	None
Washington	Annual	Jan.	2nd Mon.	Odd: 105 C; Even: 60 C	Petition, 2/3 members each house	Yes	30 C
West Virginia	Annual	Jan.	2nd Wed.(r)	60 C(f,n)	Petition 3/5 members, each house	Yes(s)	None
Wisconsin	Annual	Jan.	1st Tues. after Jan. 8(t)	None	No	No	None
Wyoming	Annual(i)	Jan. Feb.	Odd: 2nd Tues. Even: 2nd Tues.	40 L 20 L	No	Yes	None
American Samoa	Annual	Jan. July	2nd Mon. 2nd Mon.	45 L. 45 L.	No	No	None
Guam	Annual(k)	Jan.	1st Mon.(u)	None	No	No	None
Puerto Rico	Annual(k)	Jan.	2nd Mon.	Apr. 30(f)	No	No	20 C
Virgin Islands	Annual(k)	Jan.	2nd Mon.	75 L	No	No	15 C

\*All states elect new legislatures in November of even-numbered years except Kentucky, Louisiana, Mississippi, New Jersey and Virginia. Alabama, Louisiana, Maryland and Mississippi elect all legislators at the same time to four-year terms.

†The following states provide for a special session only to consider bills vetoed after adjournment sine die: Connecticut, Hawaii, Louisiana, Missouri (even years only), Utah, Virginia and Washington.

Key: L—Legislative day  
C—Calendar day  
N—Natural day

(a) In the year immediately following the quadrennial general election.

(b) Legislature meets in organizational session. Alabama: second Tuesday in January after quadrennial election. Florida: fourteenth day following each general election. Indiana: third Tuesday after first Monday in November for one day only. New Hampshire: first Wednesday of December, even-numbered years. North Dakota: first Tuesday after first Monday in December in even years. South Carolina: first Tuesday after certification of the election of its members for no more than three days. Tennessee: first Tuesday in January for no more than 15 C days to organize and introduce bills; reconvenes on first Tuesday next following the conclusion of the organizational session, unless the General Assembly by joint resolution sets another date.

(c) During the election year.

(d) Only if legislature convenes itself. Special sessions called by the legislature are unlimited in scope in Arizona, Georgia, Maine and New Mexico.

(e) House and Senate rules require that regular sessions be adjourned sine die no later than the third Friday in April of each year.

(f) Session may be extended for an indefinite period of time by vote of members in both houses. Arkansas: 2/3 vote. Florida: 3/5 vote. Hawaii: petition of 2/3 membership for not more than 15 days. Kansas: 2/3 vote elected members. Maryland: 3/5 vote for 30 additional days. Mississippi: 2/3 vote of those present may extend for 30 C days, no limit on extensions. Nebraska: 4/5 vote. South Carolina: concurrent resolution, 2/3 vote, both houses. Virginia: 2/3 members, each house, for up to 30 days. West Virginia: 2/3 vote. Puerto Rico: joint resolution.

(g) After the legislature has disposed of the subject(s) in the governor's call, it may by a 2/3 vote of members of both houses take up subject(s) of its own choosing in a session of up to 15 days.

(h) Regular sessions commence in December of each even-numbered year following the general election. California: the legislature continues in session until November 30 of the next even-numbered year. It may recess from time to time and may be recalled into regular session.

(i) Second session of legislature is basically limited to budget and fiscal matters. Exceptions: Colorado—items on governor's call; Maine—legislation; in the governor's call, study committee legislation and initiated measures; New Mexico—legislature may consider bills vetoed by the governor at the preceding session; Utah—legislature may consider non-budget matters after 2/3 vote of each house.

(j) Odd years: not later than first Wednesday after first Monday in June; even years: not later than first Wednesday after first Monday in May.

(k) The legislature meets in two annual sessions, each adjourning sine die. Bills carry over from first to second session. Delaware, Illinois, Virgin Islands: legislature adjourns sine die at end of second year only; Puerto Rico: four annual sessions.

(l) Limited to 70 days if called by governor and 30 days if called at petition of legislature, except for impeachment proceedings.

(m) Indirect restrictions only since legislator's pay, per diem, or daily allowance stops, but session may continue. Iowa: limit on per diem expenses, 120 days first session, 100 days second session. Nevada: limit on pay only. New Hampshire: constitutional limit on expenses of 90 days or July 1, whichever occurs first, 15 days salary and expenses for special sessions. Tennessee: constitutional limit on per diem and travel allowance only, excluding organizational session.

(n) Governor must extend until the general appropriation is passed.

(o) The legislature may divide and in practice has divided the session to meet in even years also.

(p) The first session of a new legislature. Every other even year of the gubernatorial term is limited to 125 C days; odd years 90 C days.

(q) If the first day falls on a legal holiday: Montana—following Wednesday; North Dakota—or falls on January 2, a date to be selected by the Legislative Council between Jan. 2 and Jan. 11; Ohio—the day after.

(r) Following each gubernatorial election, the legislature convenes on the second Wednesday of January to organize but recesses until the second Wednesday in February for the start of the 60-day session.

(s) According to a 1955 attorney general's opinion, when the legislature has petitioned to the governor to be called into session, it may then act on any matter.

(t) The legislature by joint resolution establishes the session schedule of activity for the remainder of the biennium at the beginning of the odd-numbered year. These dates may be subject to change.

(u) The legislature meets on the first Monday of each month following its initial session in January.

Introduced: 2/8/84  
Referred: Judiciary

1 IN THE SENATE

BY PETTYJOHN AND FERGUSON

2

SENATE BILL NO. 418

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to legislative sessions."  
*time of covering of*

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

8 \* Section 1. AS 24.05.090 is amended to read:

9           Sec. 24.05.090. REGULAR SESSIONS. The legislature shall convene  
10 at the capital each year on the fourth [SECOND] Monday in January at  
11 10:00 a.m. [PACIFIC STANDARD TIME; HOWEVER, FOLLOWING A GUBERNATORIAL  
12 ELECTION YEAR THE LEGISLATURE SHALL CONVENE ON THE THIRD MONDAY IN  
13 JANUARY AT 10:00 A.M. PACIFIC STANDARD TIME.] Except as provided in  
14 this section, each legislature shall have a duration of two years and  
15 shall consist of a "First Regular Session" which shall meet in the  
16 odd-numbered years and a "Second Regular Session" which shall meet in  
17 the even-numbered years and any special session or sessions which the  
18 governor or legislature may find necessary to call.

*Title change →*