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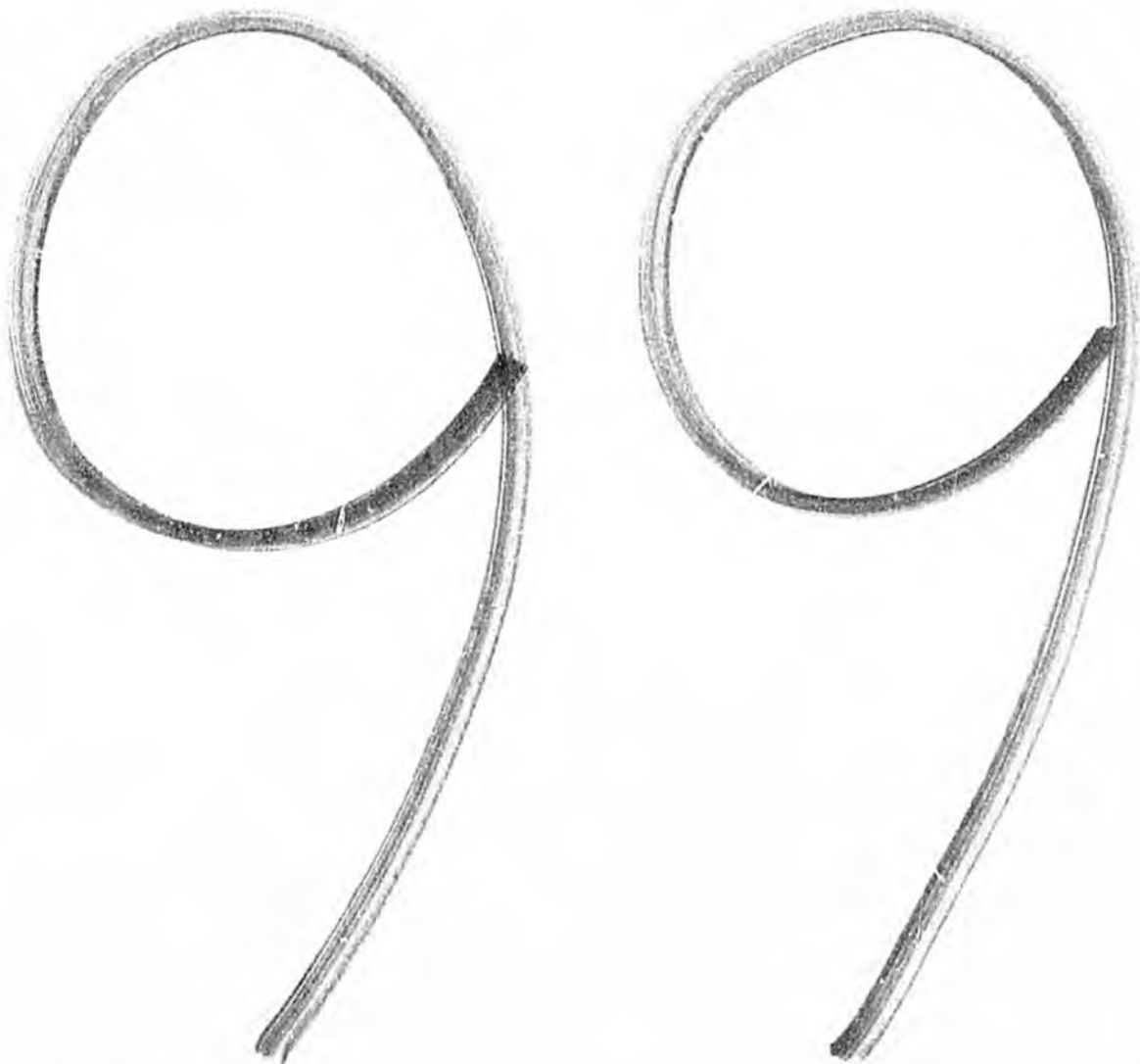


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James O. Smith
Signature of Camera Operator

7/25/89
Date

HB



STATE OF ALASKA THE LEGISLATURE

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

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	4/14/86	1:30 pm
" "	4/16/86	1:30 pm
" "	4/17/86	1:30 pm

**HOUSE
COMMITTEE REPORT**

(7)

Date referred: 3/26/86

FURTHER REFERRALS: FINANCE

DATE: _____

The JUDICIARY Committee has considered HB 99

"An Act relating to public assistance employment programs."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CSHB 99 (JUD) same title
- new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Chairman

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 99 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public assistance employment
7 programs."

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

9 * Section 1. AS 47.05 is amended by adding a new section to read:

10 Sec. 47.05.070. AUTHORITY TO ESTABLISH EMPLOYMENT PROGRAMS. (a)

11 The department may establish programs that provide applicants for
12 public assistance and public assistance recipients with social ser-
13 vices, including child care and transportation, needed to participate in
14 the program and with incentives and training needed to obtain employ-
15 ment, or with actual work experience.

16 (b) The department may require participation in a program as a
17 condition of eligibility for public assistance. However, the depart-
18 ment may not require an applicant or recipient to perform uncompen-
19 sated work as a condition of eligibility for public assistance.

20 (c) The department shall provide an applicant or recipient with
21 money or other resources it finds necessary to enable the applicant or
22 recipient to participate in a program. The total value of money or
23 other resources and aid payments may exceed maximum payment levels
24 established under this title.

25 (d) The department may not require an applicant or recipient to
26 participate in a program under this section as a condition of eligi-
27 bility for public assistance if participation will cause a hardship
28 for the applicant or recipient, for other good cause, or if the appli-
29 cant or recipient is

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(1) under 16 years of age or 65 years of age or older;

(2) a full-time student under 18 years of age;

(3) ill or incapacitated, if medical evidence or other sound basis confirms that the illness or incapacity prevents entry into employment or training;

(4) residing in a remote area that requires more than two hours traveling time to complete a round trip between home and program area or work or training site by reasonably available transport;

(5) with only brief and infrequent absence, the primary caretaker of a child or children under six years of age residing in the same household or of a household member who has a verified physical or mental impairment that requires the presence of the primary caretaker in the home on a substantially continuous basis;

(6) the primary caretaker of a child in the household if another adult in the same household is registered and participating in the program;

(7) employed and working at least 30 hours a week at a job expected to last at least 30 days.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Page 1 of 2

Revision Date: ~~1/21/86~~

REQUEST

Bill/Resolution No. : HB No. 99
 Title: Public Assistance
Employment Programs
 Sponsor: Rules by request
 Requestor: _____
 Date of Request: 1/24/85

FISCAL DETAIL

Agency Affected: Health & Social Services
 BRU: Public Assistance/Admin BRU
 Components: Work Incentive Component

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		81.2	81.2	81.2	81.2	81.2
TRAVEL						
CONTRACTUAL	-0-	119.0	119.0	119.0	119.0	119.0
SUPPLIES		3.0	3.0	3.0	3.0	3.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS		42.4	42.4	42.4	42.4	42.4
MISCELLANEOUS						
TOTAL OPERATING	-0-	245.6	245.6	245.6	245.6	245.6

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	245.6	245.6	245.6	245.6	245.6
OTHER						
TOTAL	-0-	245.6	245.6	245.6	245.6	245.6

POSITIONS :

FULL-TIME		1.0	1.0	1.0	1.0	1.0
PART-TIME		2.0	2.0	2.0	2.0	2.0
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

SEE ATTACHMENT

Prepared by: John R. Taber, Director Phone: 465-3347
 Division: Public Assistance Date: 3-25-86

Approved by Commissioner: John R. O. Date: 3/26/86
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

FISCAL NOTE:

HB No. 99
Page 2 of 2

Job Search is intended to increase self sufficiency of welfare applicants and recipients. A majority of Food Stamp and AFDC applicants and/or recipients have had a reasonable amount of prior experiences in some type of paid employment or at least have sufficient education to make them "job ready." This fiscal note provides services necessary to increase the current effort for welfare applicants/recipients to utilize the open job market for self-obtained employment as an alternative to welfare.

Personal Services

<u>Job Class Title</u>	<u>Status</u>	<u>Location</u>	<u>R&S</u>	<u>Monthly</u>	<u>Mo.</u>	<u>FY87 Cost</u>
Social Worker II	PPT	Fairbanks	14/B	2804	6	22,359
Social Worker II	PFT	Anchorage	14/B	2433	12	39,202
Social Worker II	PPT	Wasilla	14/B	2433	6	<u>19,601</u>
Personal Services Sub Total						81,162

Contractual

Contractual support cost: Telephone, postage office space for state staff	9,000
Professional services for employment and training services to welfare clients	110,000

Commodities

Office supplies	3,000
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Grants

Benefits to Individuals Day Care service for children of clients	<u>42,400</u>
TOTAL	245,562

POSITION PAPER
HOUSE BILL NO. 99

"An Act relating to public assistance employment programs."

BACKGROUND

Legislation is needed to facilitate the expansion of involvement in employment programs by the Division of Public Assistance. In 1968 state law enacted a Work Incentive Program (WIN) which is presently operated by the Division of Public Assistance, Department of Health and Social Services and the Employment Security Division of the Department of Labor. Since 1961 federal regulation changes have been made authorizing a variety of work programs as a regular part of public assistance agency activity. By utilizing these program options, Alaska could design a system of work programs to suit our particular demographic, economic, and sociological characteristics. These programs include:

1. Employment Search, which has been a state optional program since 1982, enables states to require those applicants and recipients of Aid to Families with Dependent Children (AFDC) who are already mandatory for the WIN program to participate in a structured search for work for up to eight weeks beginning at the date of their application for assistance and for up to eight weeks per year thereafter. In Alaska this program would be operated as a part of the regular WIN program.

Employment Search would be used to provide a speedy and efficient transition to full employment for the most employable applicants and recipients. Services would be provided such as child care, transportation assistance, instruction in interviewing techniques, methods of identifying jobs and filling out applications, as well as help and encouragement during the job-hunting process. For those who find work quickly there is a reduced risk of the development of a long term dependence on public assistance.

This type of program has proven effective even in areas of high unemployment, with up to a 70% placement rate in some states. By using this program as an entry program in a work program system, the more costly programs would be reserved for those who need them most.

Employment Search would be limited to the urban areas of the state which could provide a reasonable employer market. Only those adult applicants and recipients of AFDC who live in urban areas selected for the program, who have no children under 6 years of age, and who have no prohibitive health or family problems would be required to participate in Employment Search. The program would be available on a voluntary basis to other AFDC recipients, as resources permitted.

2. The Community Work Experience Program (CWEP) would be utilized in place of the very successful Work Experience component of the WIN program and would be operated, as it always has been in WIN, as a way of providing clients with useful experience and training in

jobs that they wish to pursue. Supportive services, such as child care and transportation assistance would be provided and participation in any one CWEP placement would be limited to 13 weeks. However, clients could choose to complete several CWEP placements if they wanted to try different jobs before making a choice of employment goal.

Since CWEP participants continue to receive their assistance payments during their work experience placements, this program provides a risk-free way of developing work skills and self-confidence while also establishing a recent work history and reference. Recent studies show that work experience program participants not only have increased employment rates, but also are more likely to remain independent of public assistance. A very important aspect of this program is the opportunity it offers participants to develop the confidence to make it on their own.

3. The Work Supplementation Program (WSP) is the newest of the optional programs. This is a voluntary-only program where participants choose to receive a regular paycheck instead of their AFDC grant. WSP operates much like the On-the-Job Training component of WIN except that a client's public assistance grant (and not separate public funds) is used to subsidize wages. An employer who agrees to make a good faith effort to continue employing the WSP participant can receive a partial subsidy of the participant's wages for a limited period. WSP placements are normally for six to nine months.

Work Supplementation has not been a large portion of the work program activities of any state, and we would not expect it to be utilized for large numbers of participants in Alaska. The program is staff intensive and technically complicated to administer. However, it is a useful tool in obtaining higher paying jobs for some clients. The average AFDC grant in Alaska would provide a 62% subsidy on a wage of \$6 per hour or a 37% subsidy on a \$10 per hour wage.

The Alaska WIN program, which is one of the most successful in the nation, has been forced to cut back services and program activities traditionally provided to WIN participants (due to recent federal budget cuts). By accessing the federal funds available for the optional work programs described in this paper, full services and program activities for clients can be resumed. As described in the fiscal note that accompanies this position paper, this can be accomplished with no additional state general funds.

It is the intention of the Department to create a system of work programs that is responsive to the individual abilities and needs of welfare clients. That system will channel each participant into the program that is suited to his or her current education, training, and experience. Support services will be provided, as needed, to the greatest extent possible with available resources, including referral to

generally available community services and the programs of other state and local agencies. Our goal will always be to place each participant in a meaningful career position offering income potential that provides a real alternative to continued poverty.

RECOMMENDATION

The Department still supports HB 99, but recommends certain changes to bring the legislation into line with current planning. HB 99, only covers "applicants" for public assistance. We now urge the substitution throughout of "applicant/recipient" for the term "applicant" which will bring the Bill into conformance with our current intent and with the federal statutes and regulations governing the state option employment programs.

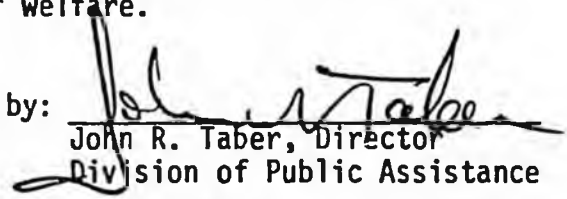
Section 1 allows for the provision of "services needed to obtain employment." We recommend that the Bill guarantee that participants in the program are furnished those support services (such as child care and transportation) necessary for participation. The appropriate language should be inserted at Section 47.05.012(a).

We also recommend the addition of a section providing minimum exemption criteria for clients who should not reasonably be required to participate in an employment program. A new subsection 47.05.012.(d) could include a listing of exempt individuals.

An amended version of HB 99, which incorporates the recommended changes, is attached.

HB 99 should be enacted as quickly as possible. It will provide a legislative mandate to use available resources and federal program authorities to pursue a system of humane welfare work programs in Alaska. Many of Alaska's welfare recipients will thereby receive the assistance they need, and do not now receive, to find meaningful employment. Alaska's needy will benefit through receipt of income that provides a better quality of life than is possible through welfare. The State of Alaska will benefit from a more economically healthy and contributing population and lower costs of welfare.

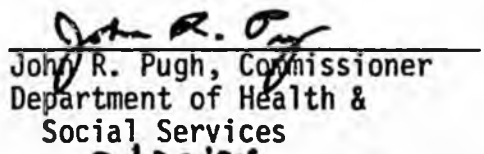
Recommended by:


John R. Taber, Director
Division of Public Assistance

Date:

2-20-86

Approved by:


John R. Pugh, Commissioner
Department of Health &
Social Services

Date:

2/20/86

**WORK INCENTIVE (WIN) PROGRAM
(FY'85)**

The Work Incentive (WIN) Program was established by the Social Security Amendments of 1967 and is the principal employment and training program aimed at transitioning Aid to Families with Dependent Children (AFDC) recipients from the public assistance rolls to fulltime unsubsidized employment. Applicants for AFDC are also assisted in obtaining employment thereby precluding the need to become public assistance recipients. Any able bodied member of a family receiving AFDC cash payments who is sixteen years of age, not in school, not otherwise exempt for health or family reasons, and resides within a WIN project area, must participate in the program as a condition of receiving their AFDC grant.

The WIN program is jointly operated by the Department of Labor, Employment Security Division and the Department of Health and Social Services, Division of Public Assistance. The Employment Security Division provides applicable employment and training services to include: testing, employment counseling, intensive employability planning, job development, work experience, OJT employment, institutional training and referral/placement services. The Division of Public Assistance provides supportive services necessary for WIN participants to obtain and retain employment such as: child care, counseling, homemaker services, medical services, family planning and transportation.

Federal/State funded WIN projects are currently operated in Anchorage, Fairbanks, Juneau, Kenai and Wasilla. Under existing federal and state laws, the federal financial participation is 90% of Federal WIN Program expenditures with a 10% State match required. During Federal Fiscal Year 1985, the Alaska WIN program registered 2596 welfare recipients and applicants and assisted 868 registrants obtain unsubsidized employment with 779 of these jobs lasting over 30 days at an average starting salary of \$6.81 per hour. This resulted in an annualized savings of \$3,774,667 in welfare costs which are funded by 50% federal revenues and a 50% State match.

The Alaska WIN program expended \$1,643,837 of Federal/State revenues in FY'85 which resulted in \$2.30 saved for every \$1.00 spent in program operation. In addition, a considerable savings was generated in Food Stamp and Medicaid payments when these welfare recipients were placed in unsubsidized employment - not counting the taxes paid from their earnings.

Program Statistics

	<u>FY'85</u>	<u>FY'84</u>	<u>FY'83</u>
Total Registrants	2596	2312	2182
On hand (9/30)	1010	869	890
Entered Employments	868	807	809
Over 30 Days	779	730	707
Retention Rate	93.7%	90.1%	91.4%
Starting Salary	\$6.81	\$6.52	\$6.48
Welfare Grant Reduction	\$3,774,667	\$2,607,671	\$2,520,156

Analysis

The Alaska WIN program as a whole performed at a higher level than as FY'84 when we were second in the nation in employing AFDC recipients and removing them from AFDC. A vast disparity in performance by project was noted during FY'85 with the small projects substantially exceeding their established goals, while the two large programs (Anchorage and Fairbanks) fell far short of goals. Considerable emphasis will be made in FY'86 to improve our job search activities in an effort to increase production in the two large projects. Following is a breakout of performance versus goals for entered employments.

	<u>FY'84</u>	<u>FY'85</u>
Statewide	80.1%	88.3%
Anchorage	77.7%	77.9%
Fairbanks	55.8%	54.2%
Juneau	100.1%	264.7%
Kenai	175.8%	164.7%
Mat-Su	136.4%	194.1%

Component Usage

	<u>FY'85</u>	<u>FY'84</u>	<u>FY'83</u>
Employment Search	695	744	989
Institutional Training	49	80	63
OJT	9	19	1
Work Experience	67	51	31
Suspense to Employment	27	21	26
Suspense to Training	289	380	302
Other WIN Non-Component	1238	1080	633
Unassigned Recipient	597	159	370

WIN Recipient Characteristic Profiles

	<u>FY'85</u>	%	<u>FY'84</u>	%	<u>FY'83</u>	%
Number of Registrants	2596		2312		2182	
<u>Age of Registrants</u>						
15 and under	1		1		4	.2%
16 - 19	101	3.9%	86	3.7%	140	6.4%
20 - 21	106	4.1%	115	5.0%	115	5.3%
22 - 44	2178	83.9%	1939	83.9%	1765	80.9%
45 - 54	166	6.4%	136	5.9%	130	6.0%
55 and over	43	1.7%	35	1.5%	27	1.2%
<u>Sex of Registrants</u>						
Male	246	9.5%	209	9.0%	198	9.1%
Female	2350	90.5%	2103	91.0%	1983	90.9%
<u>Highest Grade of Schooling</u>						
0 - 8	149	5.7%	145	6.3%	149	6.8%
9 - 11	573	22.1%	499	21.6%	411	18.9%
12	1331	51.3%	1199	51.8%	1182	54.2%
Over 12	542	20.9%	469	20.3%	439	20.1%
<u>Race of Registrants</u>						
White (not Hispanic)	1662	64.0%	1462	63.2%	1348	61.8%
Black (not Hispanic)	285	11.0%	272	11.8%	256	11.8%
Hispanic	75	2.9%	72	3.1%	85	3.9%
American Indian (Alaska Native)	508	19.6%	462	20.0%	441	20.2%
Asian/Pacific Islander	49	1.9%	33	1.4%	44	2.0%
Identity Not Available	16	.6%	11	.2%	7	.3%

MEMORANDUM

State of Alaska

TO: Honorable John R. Pugh
Commissioner
Department of Health
and Social Services

DATE: February 4, 1986

FILE NO: 366-297-86

TELEPHONE NO: 465-3603

FROM: Harold M. Brown
Attorney General

SUBJECT: Use of allocated
work incentive
program funds in
proposed Title
IV-A programs

By: George W. Edwards *GWE*
Assistant Attorney General
Human Services-Juneau

This memorandum is in response to your request for an opinion concerning your proposal to modify the work incentive program currently administered by the Department of Health and Social Services (DHSS) to provide for a higher level of federal matching funds under Title IV-A of the Social Security Act (42 U.S.C. §§ 601-615) than is presently available under Title IV-C of the Act (42 U.S.C. §§ 630-645).

Specifically, you have asked: (1) whether existing federal and Alaska statutes provide sufficient authority for the implementation and administration of the proposed job programs, and (2) whether legislative intent regarding general fund allocations allows you the flexibility to use a portion of allocated funds for state match to obtain federal funding for Title IV-A job programs rather than for the existing Title IV-C job program.

The programs you have proposed all provide a work incentive for welfare recipients and will enable the state to benefit from increased federal program funding. In seeking to maximize federal funds available for work incentive programs by directing funds from the Title IV-C work incentive (WIN) program to the Title IV-A generic work incentive programs, you are clearly furthering legislative intent in maximizing state benefits from federal matching funds while operating within state and federal statutory authority.

A work incentive program was enacted by the Alaska Legislature in 1968 and codified as AS 23.15.650. The intent of the legislature may appropriately be determined through the transmittal letters of then Governor Hickel which accompanied the program bill (HB 649) and the program appropriations bill (HB 648). United Faculty of Florida v. Board of Regents, 365 So.2d 1073 (Fla. App. 1979). That intent was to provide a program which would create work incentives among grant recipients under the Aid to Families with Dependent Children (AFDC) program and which

would be entitled to federal matching funds under the WIN program.

In 1968 the federal government's WIN share under Title IV-C was 90 percent of the state's program cost. That percentage has since been reduced to about 50 percent and is expected to drop precipitously this year. While the federal WIN program is not scheduled to go out of existence, its value to the state as a funding source is no longer what the legislature was relying upon in 1968. Presently, programs authorized under Title IV-A offer a higher percentage of federal matching funds.

The duty to administer work incentive programs and to seek matching funds from the federal government lies with DHSS pursuant to AS 47.05.010 which states that the department shall:

(1) administer adult public assistance, aid to families with dependent children, and all other assistance programs, and receive and spend funds made available to it;

. . . .

(8) cooperate with the federal government in adopting state plans to make the state eligible for federal matching in appropriate categories of assistance . . . ;

The duty to carry out work incentive programs in the most fiscally responsible manner is mandated by AS 37.07.080(a) which states:

(a) Except as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law, the several state agencies have full authority for administering their program service assignments and are responsible for their proper management.

The proposed programs clearly constitute work incentive programs as envisioned by the legislature since each has a parallel program within the existing WIN structure. 42 U.S.C. § 632(b) describes component WIN programs as including job search services, work experience training, public service employment, and on-the-job training.

The proposed programs are a job search program under 42 U.S.C. § 602(a)(35), a work experience program under 42 U.S.C.

§ 609, and a work supplementation program under 42 U.S.C. § 614. The latter two proposed programs are statutorily recognized as alternatives to the WIN program. See 42 U.S.C. §§ 609(a)(3) and 614(b)(2).

One matter of potential concern is found in 42 U.S.C. § 644. The section appears to limit the power to administer the Title IV-C program to state agencies not also administering Title IV-A programs. Since programs from both titles have apparently overlapped in the past, we presume this section is not expected to be a problem.

Since the proposed programs simply duplicate three components of the existing WIN program, and since that program will continue to exist in Alaska pursuant to AS 23.15.650, on a more limited scale, initiation of the proposed programs is lawful. The decision to initiate the proposed programs is properly one for the commissioner of DHSS unless the governor's approval is required as suggested below.

After 1968, the legislature didn't again appropriate funds specifically for the program created under AS 23.15.650. Allocations have since been made both to DHSS and the Department of Labor for work incentive programs. During fiscal 1985 just over \$600,000 was allocated to DHSS for what is described in the Governor's Component Budget Summary as a work incentive subprogram.

The fact that funds are no longer appropriated for a specific work incentive program but are allocated for a generic program places the discretion for application of the funds with the executive branch. If the proposed program changes require the transfer of an allocation within DHSS from one budgeted program to another, approval of the Governor's Office of Management and Budget (OMB) is necessary pursuant to AS 37.07.080 which states in part:

(e) Transfers or changes between objects of expenditures or between allocations may be made by the head of a state agency upon approval of the office. No transfers may be made between appropriations except as provided in an act making the transfers between appropriations.

If DHSS in fact proposes to transfer funds from one program into another such that the actual operation of the existing work incentive program within DHSS will be altered, we believe the approval of OMB must first be obtained.

Honorable John R. Pugh, Commissioner
Department of Health and Social Services

February 4, 1986
Page 4

If the proposed transfer will instead effect only the source of federal funding and not the actual operation of the existing work incentive program within DHSS, the approval of OMB will not be necessary.

The duty to maximize the federal contribution in this instance lies with DHSS. The discretion to use allocated funds within an existing program also lies with DHSS. The authority to transfer allocated funds between programs must come from the governor through OMB.

GWE:nb

(907)
465-3030

DOCUMENT #85-197

November 22, 1985

The Honorable Max F. Gruenberg
Representative
Alaska State Legislature
914 Clay Court
Anchorage, AK 99503

Dear Representative Gruenberg:

This is in reply to your request for information on providing alternatives for traditional welfare programs. I appreciate your expression of interest in the Massachusetts program and the opportunity to comment on it in regards to Alaska.

First, I have some information on the Work Incentive (WIN) Program in Alaska, followed by information on the State's Job Search Pilot Program, and then some additional possibilities for work programs which are being considered for Alaska.

Alaska's WIN Program is one of the most successful in the nation. This program is believed to be so successful because of its philosophy of meeting the client's needs first and the employer's second. The WIN program in Alaska expends, on average, about \$2,000 per placement compared with a \$3,000 average for the Massachusetts Employment and training (ET) program. The average annual AFDC grant in Massachusetts is \$4,300, in Alaska it is \$7,131. The average annual wage of an ET participant is \$9,900, for an Alaska WIN participant, \$13,729. After 30 days, 85 percent of ET participants remain employed compared with 94 percent for Alaska's WIN participants. Alaska WIN returns \$2.30 for every \$1 of program expense, the ET program returns \$1.37 for every \$1 expended.

WIN staff believe that Alaska would be even more successful if such ET program features as incentive awards for program staff, special funding for job training, and a major ongoing publicity campaign were added. If Alaska WIN participants had greater resources available, more of them would become employed, but resources (funds for training programs, subsidies for employment, money for day care, remedial medical treatment, etc.) are scarce and must be reserved for those whose needs are dire, at best.

All of Alaska's Aid to Families with Dependent Children (AFDC) clients are required to register for WIN participation unless they meet specific requirements that exempt them from registration.

The Division of Public Assistance (DPA) is currently operating a Job Search Pilot Program through WIN staff and the Department of Labor. This project is, at this time, being run in Anchorage only. In the six months since its inception, 548 new Food Stamp applicants have been referred to Job Search by the Gambell Street Public Assistance office, 392 of these applicants complied and showed up for registration with Job Search (the 156 who did not show up were, because of non-compliance, denied Food Stamps), 358 of the Job Search registrants were found to be job ready and actively entered into a job search. The Job Search Program has placed 121 of the job ready registrants in employment in its first six months of operation.

This program appears to have had a substantial effect on the number of new Food Stamp recipients in Anchorage (see enclosed graph), not only because of job placements, but also because the number of potential new recipients has been reduced due to the refusal of many applicants to register to seek employment. This pilot program covers only new applicants for Food Stamps and does not affect current recipients. This project is 100 percent federally funded. Originally, the Job Search Pilot Program was only funded from May 1, through September 30, 1985, however, the federal government has assured DPA that funds will be available to see the program through the end of calendar year 1985.

Public Assistance has requested funding from the federal government to establish a statewide Food Stamps Job Search program for federal fiscal year 1986. The \$260,000 requested has not yet been approved.

Currently, Alaska's General Relief and Food Stamp programs have work registration requirements, which demand that applicants report to Job Service and fill out an application. This contrasts to work search programs which require the client to conduct an active search for employment, with assistance from the State administrative staff and regular monitoring of results.

The Division of Public Assistance introduced HB 99, "An Act relating to public assistance or food stamps employment programs," to the legislature last year. The legislation, unfortunately, was not seen outside of the Health, Education, and Social Services Subcommittee. HB 99 would have established statutory authority for a Job Search program statewide for Food Stamp applicants and recipients. For more detailed information on HB 99, I have enclosed a copy of the Position Paper from last year's submission to the legislature.

In order to expand Alaska's work program resources and to maximize the efficiency of these programs, the Division of Public Assistance is researching the possibility of implementing two of the welfare-related programs offered through the federal government.

Employment Search is a Title IV-A (Social Security Act) program which offers 50 percent federal financial participation. Through this program, the most employable welfare recipients are quickly moved to self support with minimal program expenditures. Program resources similar to those offered by WIN are reserved for clients who have the most need of them. Employment Search is available to both new applicants for, and current recipients of, AFDC. The program operates very much like Alaska's current pilot Food Stamp Job Search program.

Job searching resources could be further expanded through another Title IV-A program, the Community Work Experience Program (CWEP). CWEP operates much like a WIN Work Experience, which is designed specifically to meet the individual needs of a client. CWEP, however, offers additional federal funding. Through a well designed CWEP, clients are provided on-the-job experience in public service or non-profit agencies. This gives them an opportunity to try out jobs, gain work experience, and develop work references, while providing worthwhile service to their community. The CWEP program is directed at AFDC recipients and may be either voluntary or mandatory, at State option. Pilot programs in areas offering maximum work experience potential are permissible.

Included in legislation currently before Congress to reauthorize the Food Stamp Program are requirements for states to implement employment and training programs for Food Stamp recipients. The House and Senate versions differ, so specific requirements are yet to be determined by the Conference Committee. I am enclosing the American Public Welfare Association's summary of this legislation for your information. Passage of the Food Stamp legislation is expected within the next 30 days, however, work search program implementation deadlines are as yet unknown.

Alaska has two successful work programs available to those in need of welfare services. Hopefully these programs will soon be expanded to provide further job finding assistance to current recipients of welfare in Alaska, as well as to assist those who are newly applying to receive assistance.

Rep. Max F. Gruenberg, Jr.

-4-

November 22, 1985

If you have any comments on Alaska's current programs, or suggestions to further enhance prospective programs, please feel free to contact me, or John Taber, Director of the Division of Public Assistance at 465-3347. If you are interested in further details on any of the programs mentioned in this letter, Mr. Taber can direct you to the appropriate member of his staff.

Sincerely,

John R. Pugh
Commissioner

Enclosures

cc: John R. Taber

bcc: Helen Blinderman

COMMITTEE REPORT

HOUSE

(7)

FURTHER: FINANCE

1/23/85

Date: March 24, 1986

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 99

"An Act relating to public assistance employment programs."

under consideration and recommends:

do pass do not pass

do pass with attached amendments(s)

replace with CS for HB 99 (HESS) same title new title

and recommends do pass

AND attaches a "Letter of Intent" New Fiscal Note 2.0102

reports it back without recommendation Zero Fiscal Note Attached

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Max G. Guenther
Chris Taylor
John Korman
Allyson

MEMBERS HAVING
OTHER RECOMMENDATIONS:

David W. Thompson - NO REC
Wayne Bentley - No Rec

Max G. Guenther CHAIRMAN
John Korman co-chair



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 23, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to public assistance employment programs. The bill authorizes the creation of programs that encourage public assistance applicants to work as an alternative to receiving aid.

The bill has three components: it authorizes the Department of Health and Social Services to establish employment and training programs; it allows the department to require participation in a program as a condition of eligibility or as recompense for aid payments; and it allows the department to give an applicant money or provide services that enable the applicant to participate in a program.

Under the first component, the department may establish programs that encourage persons to prepare for, seek, and retain employment so that they will not need public assistance. The Work Incentive Program administered by the Department of Labor under AS 23.15.250 has been successful and the Department of Health and Social Services needs the authority granted in this bill to enable it to adopt and administer similar programs.

The second component allows the department to mandate participation in a program it establishes as a condition of eligibility, or as recompense, for assistance. Participation in a program would give an applicant placement information, vocational skills, on-the-job training, or other assistance the applicant needs to become self-supporting.

The final component allows the department to provide an applicant with money or services the applicant needs in order to participate in employment programs (e.g. bus fare, day care), without having to reduce the applicant's assistance by the amount of money or the value of the services pro-

vided. Applicants' assistance payments need not be reduced as a consequence of receiving the money or services because the bill permits total benefits to exceed maximum payment levels.

The experience of other states indicates that training and employment programs have been successful in putting welfare applicants on their way to self-support. I urge you to adopt this bill.

Sincerely,

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

Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
 Bill/Resolution No.: HB 99
 Title: Job Search Programs

FISCAL DETAIL
 Agency Affected: Health & Social Services
 Program Category Affected: Social Services

Sponsor: _____
 Requestor: _____
 Date of Request: _____

BRU, Program or Subprogram(s) Affected:
Public Assistance/Administration BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		*514.0				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 CRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		125.0				
FEDERAL FUNDS		389.0				
OTHER						
TOTAL		*514.0				

*This 514.0 is included in the FY86 Gov budget. PA Admin BRU,

POSITIONS: Eligibility Determination Component.

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Professional contract services to implement and operate an Alaska Job Search program to assist Division of Public Assistance clients seek and obtain employment. The goal of Job Search programs is to move welfare clients from dependency to self sufficiency. Successful operation of Job Search programs help clients achieve self-support and results in public assistance formula program savings.

Prepared By: John R. Taber *JRT* Phone: 465-3347
 Division: Public Assistance Date: 12/17/84

Approved by Commissioner: *John R. By* Date: 12/21/84
 Agency: PHSU

Distribution (by Agency preparing fiscal note):

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

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER
FROM: BEVERLY FROST
PO BOX 60
SUTTON AK 99674
745-4171

BILL NO: HB 99

SUBJECT: PUBLIC ASSISTANCE EMPLOYMENT PROGRAMS

MESSAGE:

THIS BILL MIGHT BE TOO BENEVOLENT. YOU MUST SET A LIMIT ON HOW MUCH CAN BE PROVIDED TO EACH APPLICANT. YOU MUST SET A LIMIT ON THE TIME PERIOD REQUIRED FOR TRAINING. CONSIDER EVERYTHING WITHIN REASON AND MODERATION.

DATE: 04/14/86 TIME: 16:37:57 SENT BY: MATSU LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

7/25/89
Date

H B

I O 4

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	2/21/85	1:30 pm
" "	2/22/85	1:30 pm
" "	2/25/85	1:30 pm
" "	2/26/85	1:00 pm
" "	2/27/85	1:30 pm
" "	2/28/85	1:30 pm
" "	3/1/85	1:30 pm
" "	3/20/85	3:30 pm

Alaska State Legislature



House of Representatives House Judiciary Committee

Hon. Pat Rodey, Chairman
Senate Judiciary Committee
Anchorage Legislative Information Office #308
1024 W. Sixth
Anchorage, Ak. 99501

Sept. 15, 1985

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

ATTN: Ann Plunkett

RE. HB 104

Dear Sen. Rodey:

You requested backup from the House Judiciary Committee regarding HB 104, having to do with statutory good time.

Enclosed you will find the contents of the House Judiciary Committee file on HB 104.

In addition, I am sending you a copy of a letter recently sent to us by Rep. Max Gruenberg as an informational copy, regarding an unpublished appellate court opinion in the case of Suiter v. Benson.

For further information on that correspondence, you may want to contact Rep. Gruenberg.

Sincerely,

A handwritten signature in cursive script that reads "Bob Speed".

Bob Speed, A.A.
for Rep. Mike Miller, Chairman
House Judiciary Committee

cc: Rep. Max Gruenberg

State of Alaska

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
(Co-Chairman)
HOUSE JUDICIARY
HOUSE COMMUNITY AND
REGIONAL AFFAIRS



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4968

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

30 July 1985

David Lampen
Clerk of the Appellate Courts
303 K Street
Anchorage, Alaska 99501

Re: Suiter v. Benson, MD&J #734 (Alaska, App. 1984)
(Unpublished opinion)

Dear Mr. Lampen,

I would like to request that the above opinion be published. The portion at pages 3 and 4 stating that the trial court has no authority to restrict the prisoner's ability to receive credit for good time because the awarding of good time is automatic under AS 33.20.010 is of considerable importance statewide. This portion of the opinion appears to be a decision on an issue of first impression in this state as no previous opinion is cited and my brief research through the Michie statutes annotation reveals none.

HB 104, revising the good time statutes, has passed the state House and now reposes in the state Senate.

I am presently considering whether to amend HB 104 to include a provision allowing trial courts the discretion to reduce or eliminate a prisoner's eligibility for good time. It will thus be important to the legislature to have a published opinion on the issue definitively setting forth that under present law the trial courts possess no such authority.

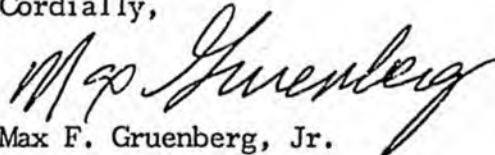
I would be most grateful if you would transmit this communication to the judges of the Court of Appeals as an official request to publish the opinion.

If you have any additional questions or if you or the judges have any comments on this or any other aspect of HB 104, please let me know.

For the record, this law office, through my partner, Jo Ann Clover, represented appellee Cynthia Benson in the underlying divorce. As far as I know, we had no involvement in the appeal, however. I have not spoken with my partner directly on this as she is presently out of the state. I came across the opinion when reviewing this Benson's file on an unrelated matter

and this letter was written strictly from my point of view as a legislator, not in any matter as Ms. Benson's counsel. It is not intended to be utilized in any matter in the underlying litigation between the parties nor is my request intended to have any effect on the actual case of Suiter v. Benson.

Cordially,


Max F. Gruenberg, Jr.

cc: The Honorable Mike M. Miller, Chairman
House Judiciary Committee

The Honorable Victor Carlson
Superior Court Justice

Mary Ann Foley
Carla Huntington

Alaska State Legislature



House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

Contents - HB 104
March 20, 1985

CSHB 104 (HESS)

HB 104

1/23/85 letter from Governor, with 0 fiscal note for
Corrections

AS 12.55.125 Sentences of imprisonment for felonies

4/12/84 AG opinion re forfeiture of good time during
consecutive sentences

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 23, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the computation, forfeiture, and restoration of statutory good time for state prisoners.

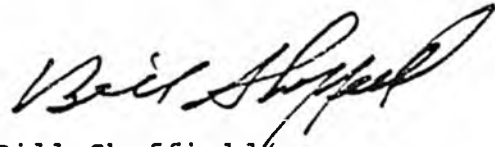
Good time accounting for state prisoners is currently being computed under three different systems dependent upon when a prisoner committed a criminal offense. Because of the complexities, an inordinate amount of staff time and frequent computational errors.

This bill will greatly simplify basic time accounting, and bring all Alaskan prisons under one time accounting system. For those prisoners already incarcerated on the date this bill becomes law, this bill will have the effect of changing the time accounting method from one of accruing good time at a set rate per month to one of a grant of good time in a block, the amount of which is dependent on the time remaining to be served on their sentences.

Additionally, although the primary purpose of the bill is to simplify the good time computation process, it will result in a minor reduction in the time prisoners will serve (one-twelfth of the sentence), if they observe all the rules of the institution while incarcerated.

Finally, the bill will assist in the statewide uniform application of restoration of forfeited good time for prisoners who demonstrate good conduct during their incarceration.

Sincerely,

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

Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Page 1 of 2

Revision Date: _____

REQUEST:
 Bill/Resolution No.: HB 104
 Title: "An Act relating to computation, forfeiture and restoration of statutory good time."
 Sponsor: Governor
 Requestor: Governor
 Date of Request: 12-11-84

FISCAL DETAIL:
 Agency Affected: DEPARTMENT OF CORRECTIONS
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Offender Confinement, Reformation and Supervision

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary.

See Attachment.

Prepared By: Cynthia Nelson
 Special Assistant: Cynthia Nelson

Phone: 465-3376
 Date: 1-3-85

Approved by Commissioner: William W. Lewis for Roger V. Emsell
 Agency: DEPARTMENT OF CORRECTIONS

Date: 1-3-85

Distribution (by Agency preparing fiscal note):

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

7/1/84

Attachment

This change in the award of statutory good time from one-fourth to one-third would affect only those prisoners sentenced since 1980. Prisoners sentenced prior to 1980 are currently eligible to receive one-third of their sentence awarded as good time.

Projections indicate that this legislation would create a gain of 22 beds per month over the next five years. This has been calculated by applying the revised amount of good time towards the portion of the current population having five years or less remaining to serve.

Projecting from the 640 prisoners meeting this criteria, a gain of 56,000 man days of good time over a five year period were identified. Calculated below this would average a gain of 31.1 beds per month if all inmates were to earn the maximum amount of statutory good time. Approximately 72% of prisoners serve their sentences without any loss of statutory good time, which results in a total projected gain of 22 beds per month.

56,000 man days over five years
 $56,000 \div 5 = 11,200$ man days per year
 $11,200 \div 12 = 933$ man days per month
 $933 \div 30 = 31.1$ beds per month
 $72\% \times 31.1 = 22$ beds per month

Assuming that 22 additional beds per month become available over the next five years, the inmate population which is consistently raising at the rate of 25 per month would begin to stabilize.

MEMORANDUM

State of Alaska

TO: Roger Endell
Commissioner
Department of Corrections

DATE: April 12, 1984

FILE NO: 366-496-84

TELEPHONE NO: 465-3428

FROM: NORMAN C. GORSUCH
ATTORNEY GENERAL

SUBJECT: Forfeiture of good time
during consecutive -
sentences

By: Michael J. Stark *MJS*
Assistant Attorney General

You have asked our opinion^{1/} whether it is legally permissible for a disciplinary committee to forfeit a prisoner's statutory good time for a disciplinary infraction when at least part of the good time was earned during the first of two consecutive sentences and the infraction was committed during the second sentence.

As long as the amount of forfeited statutory good time does not exceed that set out in 7 AAC 60.470(a)(5), it is legally permissible to forfeit statutory good time earned during the first of two consecutive sentences for a disciplinary infraction committed during the second sentence.

Legal Analysis

The purpose of statutory good time is to provide an incentive for good behavior by prisoners and to concomitantly aid in the rehabilitative process. See, e.g. DeSimone v. Norton, 404 F. Supp. 964, 967 (D. Conn. 1975). This is accomplished by mitigating the severity of punishment by rewarding a prisoner for good conduct.

This principle is embodied in Alaska in AS 33.20.010, which provides:

Computation of good time. Notwithstanding AS 12.55.125(f)(3) and (g)(3), each prisoner convicted of an offense against the state and sentenced to imprisonment, whose record of conduct shows that the prisoner has faithfully observed the rules of the institution in which

1/ The request for advice came from a superintendent; however, the question and our response has application systemwide.

the prisoner is confined, is entitled to a deduction from the term of imprisonment of one day for every three days of good conduct served.

Before this statute was adopted in its present form in 1978, former AS 33.20.010 provided for an award of statutory good time based on the length of the term of imprisonment.^{2/}

Because the amount of good time awarded was dependent on the length of sentence, former AS 33.20.010(b) provided that consecutive sentences should be aggregated for purposes of computing the amount of good time a prisoner was entitled to receive. When AS 33.20.010 was amended, this subsection was dropped as it would have been superfluous given the fact that "good time" is earned at a rate of one day for every three days served, irrespective of sentence length.

Former AS 33.20.010 was substantially similar to 18 U.S.C. § 4161, the federal statute relating to the award of good time for federal prisoners. Cases interpreting that statute have consistently held that the expiration of the first of two consecutive sentences does not prevent the subsequent forfeiture of good time earned during that sentence. See e.g. Williams v. Daggett, 377 F. Supp. 1110, 1112 (D. Kansas 1974); Hoover v. Taylor, 334 F.2d 281 (10th Cir. 1964). The basis for these rulings has been that no authority exists for the proposition that consecutive sentences "expire" independently of one another. Rather, consecutive sentences are treated as a single term, the expiration of which, less the time deducted for good conduct, results in the prisoner's release.^{3/} E.g., McCray v. United States Board of Parole, 542 F.2d 558, 560 (10th Cir. 1976) and cases cited therein.

It is our understanding that the Department of Corrections has continued as a policy the mandate of former

2/ The amount of statutory good time a prisoner was entitled to receive ranged from five days per month for a sentence of six months to one year to 10 days per month for a sentence of 10 years or longer.

3/ In Alaska, a prisoner earning more than 180 days of good time is mandatorily released as if on parole and remains in the custody of the parole board. AS 33.20.040; AS 33.15.190.

AS 33.20.010 to aggregate consecutive sentences for purposes of time accounting and calculation of earned statutory good time.

The question thus becomes whether the 1978 amendments to AS 33.20.010 have the effect of precluding the department from forfeiting statutory good time earned during the first of two consecutive sentences when the disciplinary infraction triggering this sanction occurred during the second sentence.

As indicated earlier in this memorandum, the answer to this question is no. Both AS 33.20.050, which authorizes the forfeiture of a prisoner's earned statutory good time "during the term of imprisonment" and AS 33.20.030, which provides that "[A] prisoner shall be released at the expiration of the term of sentence less the time deducted for good conduct," are nearly identical to their federal counterparts (18 U.S.C. §§ 4165, 4163) and have not been amended since their original adoption in 1960. In addition, there has been no indication given by the legislature, either in its amendments to AS 33.20.010 or elsewhere, that the well-settled rule that consecutive sentences are to be treated as a single term for purposes of awarding and forfeiting statutory good time, should be abandoned.^{4/}

4/ See Lambert v. U.S. Penitentiary, 591 F.2d 4, 8 (5th Cir. 1979), where the court, in an analogous situation dealing with a parole violator's loss of good time and credit for time spent on conditional release, stated:

Under the pre-1976 law, it is clear that a parole violator could lose both good time credit and credit for time spent on conditional release. 18 U.S.C. §§ 4205, 4207 (1970) [citations omitted]. Under the Parole Commission and Reorganization Act, sections 4205 and 4207 were substantially changed and include no similar forfeiture provisions. Nonetheless, absent some legislative indication to the contrary, we will not upset the well-settled rule that once the appellant's release was revoked because of his violation of its conditions, the U.S.P.C. had the authority to forfeit the appellant's good-time credit as well as credit for time spent on conditional release. [Citations omitted.]

Roger Endell, Commissioner
Department of Corrections
366-496-84

April 12, 1984
Page 4

If you have any questions regarding this memorandum of advice, please contact us at your convenience.

MJS/so-03

cc: Kevin Bruce
Deputy Commissioner for Operations

Art Schmidt
Superintendent, Palmer Correctional Center

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

March 21, 1985

BILL SHEFFIELD, GOVERNOR

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 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

The Honorable Don Clocksin
Majority Leader of the House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: CS for HB 104 (Jud)
Good Time for Prisoners

Dear Representative Clocksin:

This letter is a response to some concerns raised at the hearing before the House Judiciary Committee on March 20, 1985, to the effect that section 1 of CS for HB 104 (Jud) would result in the wholesale amnesty and general release of a large number of prisoners upon its effective date.

These concerns are groundless as the bill will not be applied retrospectively. AS 01.10.090 precludes the retrospective application of a statute unless expressly declared therein. What will occur to the sentences of prisoners incarcerated on the effective date of this bill (assuming it is enacted into law) is that the portion of the sentences remaining to be served will be reduced by one third rather than reducing them by one day for each three served on an accrual basis. No prisoners will be released on the effective date of this bill who would not otherwise have been released for other reasons.

If you have any questions regarding the information provided above, please contact me at your convenience.

Very truly yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Michael J. Stark
Michael J. Stark
Assistant Attorney General

MJS/gb-52

cc: Mike Miller, Chairman ✓
House Judiciary Committee

Roger Endeli, Commissioner
Department of Corrections

3691), 578 P.2d 971 (1978); Putnam v. State, Sup. Ct. Op. No. 2251 (File No. 3475), 629 P.2d 35 (1980); State v. Brinkley, Ct. App. Op. No. 361 (File No. A-164), P.2d (1984); Cleary v. State, Sup. Ct. Op. No. 1257 (File No. 2623), 548 P.2d 952 (1976); Salazar v. State, Sup. Ct. Op. No. 1404 (File No. 2567), 562 P.2d 694 (1977); Cleary v. State, Sup. Ct. Op. No. 1431 (File No. 3059), 564 P.2d 374 (1977); Amidon v. State, Sup. Ct. Op. No. 1434 (File Nos. 2511, 2512), 565 P.2d 1248 (1977); Black v. State, Sup. Ct. Op. No. 1506 (File No. 3327), 569 P.2d 804 (1977); Sumabat v. State, Sup. Ct. Op. No. 1648 (File No. 3739), 580 P.2d 323 (1978); Hansen v. State, Sup. Ct. Op. No. 1689 (File No. 3412), 582 P.2d 1041 (1978); Kanipe v. State, Sup. Ct. Op. No. 2242 (File No. 4993), 620 P.2d 678 (1980); Hintz v. State, Sup. Ct. Op. No. 2334 (File No. 3541), 627 P.2d 207 (1981).

Inclusion of improper reference to unverified police contacts did not require remand for resentencing before different judge. — See Parks v. State, Sup. Ct. Op. No. 1529 (File No. 3209), 571 P.2d 1003 (1977).

Reference to unverified police contacts in a presentence report does not require a remand for resentencing where the record

indicates that the sentencing judge was not unduly or improperly influenced by reference to the unverified police contacts. Pascoe v. State, Sup. Ct. Op. No. 2249 (File No. 4290), 628 P.2d 547 (1980).

Case remanded for resentencing. — See Neal v. State, Sup. Ct. Op. No. 2341 (File No. 4787), 628 P.2d 19 (1981).

Case remanded for sentence review. — Although a sentence of 15 years' imprisonment with eligibility for parole at the discretion of the parole board upon conviction of manslaughter was not excessive, since the trial court had sentenced defendant as if his conviction had been obtained within one year of the crime and therefore substantially ignored his subsequent history of steady employment, his meritorious service in the army, and his lack of involvement in any criminal activity other than a few traffic offenses in the 12 years since the commission of the crime, the case was remanded for the purpose of permitting the trial court to review the sentence it imposed, in light of all available information concerning defendant without excluding the time period commencing one year from the time of the killing until the present. Padie v. State, Sup. Ct. Op. No. 1843 (File No. 3564), 594 P.2d 50 (1979).

Sec. 12.55.125. Sentences of imprisonment for felonies. (a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years.

(b) A defendant convicted of murder in the second degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years.

(c) A defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;

(2) if the offense is a first felony conviction, other than for manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven years;

(3) if the offense is a second felony conviction, 10 years;

(4) if the offense is a third felony conviction, 15 years.

(d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, four years;

(2) if the offense is a third felony conviction, six years;

(3) if the offense is a first felony conviction, and the defendant knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, two years.

(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, two years;

(2) if the offense is a third felony conviction, three years;

(3) if the offense is a first felony conviction, and the defendant knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, one year.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed minimum term may not be otherwise reduced.

(g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), or (i) of this section, except to the extent permitted under AS 12.55.155 — 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided.

(i) A defendant convicted of sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

- (1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, eight years;
- (2) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;
- (3) if the offense is a second felony conviction, 15 years;
- (4) if the offense is a third felony conviction, 25 years. (§ 12 ch 166 SLA 1978; am § 18 ch 45 SLA 1982; am §§ 28-30 ch 143 SLA 1982; am § 8 ch 78 SLA 1983; am §§ 1-3 ch 92 SLA 1983)

Cross references. — For classification of felonies and misdemeanors, see AS 11 31.250; for authorized fines, see AS 12 55.035; for reduction of sentence for good behavior, see AS 33.20.010.

Effect of amendments. — The first 1982 amendment in subsection (b), deleted "or" preceding "kidnapping" and inserted "or misconduct involving a controlled substance in the first degree."

The second 1982 amendment in subsection (c), redesignated former paragraphs (1)-(3) as present paragraphs (2)-(4), added present paragraph (1), and substituted "possessed a firearm, used a dangerous instrument" for "possessed or used a firearm" and "seven years" for "six years" in present paragraph (2). The amendment also substituted "under (c), (d)(1), (d)(2), (e)(1), (e)(2), or (i) of this section" for

"under (c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e)(1), or (e)(2) of this section" in the introductory language of subsection (g), corrected the section number set out in paragraphs (1) and (2) of subsection (g), and added subsection (i).

The first 1983 amendment inserted "or sexual abuse of a minor in the first degree" in the introductory language of subsection (i).

The second 1983 amendment in (c)(2) added "or knowingly directed . . . at the time of the offense," added paragraph (3) of subsection (d), added paragraph (3) of subsection (e), and made other minor punctuation changes.

Editor's notes. — For declaration of legislative purpose, see § 1, ch. 45, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

NOTES TO DECISIONS

- I. General Consideration.
- II. Presumptive Sentencing.

I. GENERAL CONSIDERATION.

Limited use of both suspended jail time and probation is permitted under AS 12.55.155. *Lacquement v. State*, Ct. App. Op. No. 85 (File No. 5741), 644 P.2d 856 (1982). See also *Friedberg v. State*, Ct. App. Op. No. 258 (File No. 7015), 663 P.2d 558 (1983).

Probationary sentences. — Although a probationary sentence may properly be used when a first offender is convicted of a class C felony involving sexual abuse of a child, such a sentence will be appropriate only if mitigating circumstances exist and the offender is a promising candidate for rehabilitation through probationary supervision. *State v. Coats*, Ct. App. Op. No. 291 (File No. 7102), 669 P.2d 1329 (1983).

Under former law where statutory

mitigating factors warrant a sentence of 90 days to three years, extraordinary circumstances might justify a sentence of straight probation. *State v. Brinkley*, Ct. App. Op. No. 361 (File No. A-164), P.2d (1984).

Placement of offenders. — It is within the sentencing judge's authority to make a recommendation to the commissioner regarding the appropriate placement of the offender. Under AS 33.30.100, the commissioner has the power to effectuate such a recommendation by placing the offender in the appropriate facility and although the commissioner is not bound by the sentencing court's recommendation, a demonstrated failure to provide an appropriate rehabilitation program or to further the purposes of the sentence may justify judicial intervention. *Nell v. State*, Ct. App. Op. No. 77 (File No. 5565), 642 P.2d 1361 (1982).



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

7/25/89
Date

HB

10

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	4-24-85	1:30 pm
" "	1-23-86	1:30 pm
" "	1-28-86	1:30 pm
" "	1-30-86	1:30 pm
House State Affairs	3-13-85	3:00 pm

COMMITTEE REPORT

HOUSE

7/15
JUDICIARY

(7)

FURTHER: FINANCE

1/25/85

Date: March 13 1985

The Committee on STATE AFFAIRS has had HB 110

"An Act amending the election laws of the state, and providing for an effective date."

under consideration and recommends:

- 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 Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

CHAIRMAN

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
JUNEAU, ALASKA 99811-3974

PHCNE (907) 465-4611

MEMORANDUM

January 10, 1985

The Honorable Mike Miller
Chairman
House Judiciary Committee
P. O. Box V
Juneau, AK 99811

Subject: House Bills 110 and 284

Dear Representative Miller:

We appreciate your interest in seeing that House Bills 110 and 284 are calendared in your committee early this session. It is our understanding that consideration has been given to merging these two bills into one in the interest of efficiency and we wholeheartedly support this endeavor. We are confident that doing so will in no way hinder the efforts of the committee in considering their merits.

As you will recall, both bills were scheduled for hearing last session, but only House Bill 284 was actually heard. At that time there were a couple of questions raised, and the bill was tabled. We responded to those questions and sent additional supporting information to you and each member of the committee.

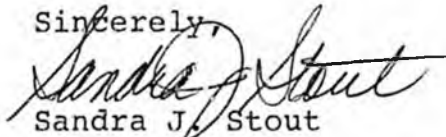
House Bill 110, on the other hand, was not heard. This bill is also very important because it includes provisions for amending the definition of political party, and signature requirements for nominating petitions for limited and no party candidates. The current statutes were ruled unconstitutional by the Alaska Supreme Court.

We have also been asked to bring to your staff's attention any additional changes which should be made. Enclosed are two such changes which deal with relatively simple issues.

The Honorable Mike Miller
January 10, 1986
Page 2

With the 1986 elections coming up faster than we realize, we appreciate your generous consideration of these bills. They are extremely important to us, and will greatly enhance the election process in our State.

Sincerely,

A handwritten signature in cursive script that reads "Sandra J. Stout". The signature is written in dark ink and is positioned above the typed name and title.

Sandra J. Stout
Director

cc: The Honorable Stephen McAlpine
Lieutenant Governor

SUGGESTED AMENDMENTS

1. AS 15.07.070(b) should be amended by deleting the words:

"..and, in addition, shall provide the certification required by AS 09.65.012".

Note: This section allows a person registering to vote by mail to have the registration form witnessed by an official authorized to administer an oath, or by two persons over the age of 18. The certification current statutes require is a statement that no official was available. This represents an additional certification being attested to by the voter above and beyond that which is required by all voters when registering. We feel that it puts an extra burden on the voter, especially those in rural areas, and provides little benefit to the registration process.

2. AS 15.15.070(c) should be amended by deleting the words:

"...the boundary of the precinct"

Note: This section relates to the information which is to be put on three posters in each precinct giving notice of an election. There are 442 precincts in Alaska resulting in the preparation of 1326 posters. Having legal descriptions preprinted on this many posters is impossible because we would be printing only three of each kind. Therefore, staff must clip and paste each legal description on each poster by hand. Legal descriptions are not easy to understand. In addition, each voter is sent a polling place card before the major elections which tells his/her precinct and where the polling place is. The complete list of polling places for all precincts are also included in the Official Election Pamphlet sent to each voter, and in newspapers across the state prior to the elections.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 22, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the conduct of state elections.

Sections 1 -- 9 propose modifications that correct problems identified by the division of elections in conducting the 1984 state elections. Many of these housekeeping measures remedy procedural difficulties that arise under current law. Sections 1 through 3 of the bill, for example, provide a more workable procedure to assure that persons convicted of a felony involving moral turpitude may not vote before their unconditional discharge. Current law purports to suspend their voting privileges, but in practice the current statutory scheme is exceedingly difficult, if not impossible, to properly implement.

Another procedural revision is set out in sec. 4. It allows the director to appoint more than one four-person team to assist in the state ballot counting review. While preserving the bipartisan quality of the state review, this provision will enable the division of elections to announce final election results in a more timely fashion.

Of a more substantive nature, sec. 6 eliminates the requirement that, in order for a questioned ballot to be counted, the voter's certificate must be attested by an election official. This requirement needlessly prevents an otherwise valid ballot from being counted where the voter has complied with all procedures but a harried election worker fails to countersign the voter's certificate.

Sections 9 -- 19 contain amendments required as a consequence of the Alaska Supreme Court decisions in Vogler v. Miller, 651 P.2d 1 (Alaska 1982), and Vogler v. Miller, 660 P.2d 1191 (Alaska 1983).

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 110
 Title: Amending State Election
 Laws
 Sponsor: Rules Committee
 Requestor: Governor
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Office of the Governor
 Program Category Affected: _____
 Division of Elections
 BRU, Program or Subprogram(s) Affected: _____
 Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	9.6	-0-	19.2	-0-	19.2	-0-
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	*9.6	-0-	19.2	-0-	19.2	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	9.6	-0-	19.2	-0-	19.2	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	*9.6	-0-	19.2	-0-	19.2	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

*Indicates the amount included in the FY85 budget for the State Canvas Board.

This fiscal note does not identify the need for additional funds until FY87 when the next major statewide elections will be held. In FY87, \$19.2 has been identified to enlarge the existing Board from 4 to 8 members in order to speed up the certification process.

Prepared By: Sherry Valentine, Deputy Director Phone: 465-4611

Division: Division of Elections Date: 1/18/85

Approved by Commissioner: [Signature] Date: 1-18-85
 Agency: Lt. Gov.

Distribution (by Agency preparing fiscal note):

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

7/1/84

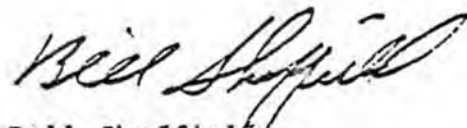
In particular, the court held that AS 15.25.160 and AS 15.60.010(20) are unconstitutional as being unduly restrictive of ballot access and as to other consequences of "political party" status. AS 15.25.160 requires that a petition for the nomination of candidates for the office of governor, lieutenant governor, United States senator, and United States representative be signed by qualified voters equal in number to at least three percent of the number of votes cast in the preceding general election. AS 15.60.010(20) defines "political party" as a group of organized voters that represents a political program and that nominates a candidate for governor who received at least 10 percent of the vote cast at the preceding general election for governor.

The bill amends those two sections to reduce the required percentages to one percent and three percent, respectively. The bill also amends other sections to similarly reduce the required percentages in light of the Vogler decisions. Of less significance, and more in the nature of a housekeeping amendment, the bill amends the sections to refer to percentages of the number of ballots cast in the preceding general election, instead of the number of "votes" cast.

In the Vogler litigation, the superior court declared AS 15.25.180(10) unconstitutional, and that ruling was not part of the supreme court argument or decision. That section deals with the requirements for petitions for the nomination of candidates for the general election. Paragraph (10) requires that subscribers to petitions state that they "intend to vote for the candidate at the general election." Section 20 of the bill repeals AS 15.25.180(10).

I believe that this bill will provide greater clarity and more workable requirements, and, as a consequence, will improve the administration of state elections.

Sincerely,



Bill Sheffield
Governor

COMMENTS IN SUPPORT OF HB 110

Submitted By:

Division of Elections
February 18, 1985

The recommended changes to Title 15 of the Alaska Statutes, which are proposed in House Bill 110 reflect modifications to correct problems identified by the division of elections in conducting the 1984 elections. Many of the recommendations are housekeeping measures and offer remedies to procedural difficulties which arise under current statutes. Others are more substantive in nature.

Sections 1 - 3

These sections of the proposed bill relate to the provisions of the Title which are in place to assure that persons convicted of felonies involving moral turpitude are prevented from voting prior to their unconditional discharge. Under current law upon release of the convicted person from the authority of the court, their voting rights are to be restored automatically by the division, with no action required by the individual. Not only does this create an almost impossible recordkeeping and tracking chore for the division and the Department of Corrections, it affords the individual purged for felonious conviction a convenience not offered the ordinary purged voter. A purged voter whose only omission is no voting activity in two consecutive years must reapply to be reinstated as a registered voter. It is our purpose to also require convicted felons to initiate their own re-registrations.

Section 4

In this section we are suggesting an amendment which allows the director to appoint more than one four-person team to assist in the certification process. As the state has grown and registration rolls and voter turnout have dramatically increased, the certification process has become more and more difficult to complete in a reasonable amount of time. It is estimated that certification requires the review of nearly 65,000 mathematical calculations over 440 precincts statewide. This amendment would allow the director to appoint additional teams as needed to assure that the process can continue to be completed in a reasonable amount of time. The criteria for selecting and appointing these teams would not change.

Section 5

mainframe computer in Anchorage during the 1984 Primary Election, when the decision to go to the back up system had to be made quickly. This addition will clarify the role of the director in making such decisions while coordinating the work of the Data Processing Review Boards otherwise responsible for testing and implementing the actual computer counting of ballots. Timely and responsive decisions by a single authority is required to see that the counting process continues to proceed smoothly and efficiently.

Section 9

The amendment seeks to make the filing fees paid by candidates non-refundable. In addition it deletes the provision that these fees be paid to the central committee of the political party of that candidate.

Sections 10-19

The proposed amendments to these sections are in response to an Alaska Supreme Court decision in Vogler v. Miller, 651, P.2d 1 (Alaska 1982), and Vogler v. Miller, 660 P.2d 1191 (Alaska 1983).

In particular, the court held that AS 15.25.160 and AS 15.60.010(20) are unconstitutional as being unduly restrictive of ballot access and as to other consequences of "political party" status. AS 15.25.160 requires that a petition for the nomination of candidates for the office of governor, lieutenant governor, United States senator and representative be signed by qualified voters equal in number to at least three percent of the number of votes cast in the preceding general election. AS 15.60.010 (20) defines "political party" as a group of organized voters that represents a political program and that nominates a candidate for governor who received at least 10 percent of the vote cast at the preceding general elections for governor.

The bill amends those two sections to reduce the required percentages to one percent and three percent, respectively. The bill also amends other sections to similarly reduce the required percentages in light of the Vogler decision.

Of less significance, and more in the nature of a housekeeping amendment, the bill also amends the sections to refer to percentages of the number of "ballots" rather than the number of "votes" cast. While in a specific district the number of ballots cast will remain constant, the number of votes may vary from race to race or issue to issue. This amendment merely simplifies the computing of the number of signatures required.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

COMMENTS IN SUPPORT OF HB 110

Submitted By:

Division of Elections
February 18, 1985

The recommended changes to Title 15 of the Alaska Statutes, which are proposed in House Bill 110 reflect modifications to correct problems identified by the division of elections in conducting the 1984 elections. Many of the recommendations are housekeeping measures and offer remedies to procedural difficulties which arise under current statutes. Others are more substantive in nature.

Sections 1 - 3

These sections of the proposed bill relate to the provisions of the Title which are in place to assure that persons convicted of felonies involving moral turpitude are prevented from voting prior to their unconditional discharge. Under current law upon release of the convicted person from the authority of the court, their voting rights are to be restored automatically by the division, with no action required by the individual. Not only does this create an almost impossible recordkeeping and tracking chore for the division and the Department of Corrections, it affords the individual purged for felonious conviction a convenience not offered the ordinary purged voter. A purged voter whose only omission is no voting activity in two consecutive years must reapply to be reinstated as a registered voter. It is our purpose to also require convicted felons to initiate their own re-registrations.

Section 4

In this section we are suggesting an amendment which allows the director to appoint more than one four-person team to assist in the certification process. As the state has grown and registration rolls and voter turnout have dramatically increased, the certification process has become more and more difficult to complete in a reasonable amount of time. It is estimated that certification requires the review of nearly 65,000 mathematical calculations over 440 precincts state-wide. This amendment would allow the director to appoint additional teams as needed to assure that the process can continue to be completed in a reasonable amount of time. The criteria for selecting and appointing these teams would not change.

Section 5

The amendment suggested under this section adds a registration official to the list of individuals eligible to serve as sole witnesses to the affidavits of voters voting by mail. Often voters assume that a registrar, as an election official, is authorized to be a witness. In many cases in Alaska's smaller communities registrars know the voter personally. In addition, at absentee-in-person voting stations the election worker is the witness. The purpose of adding registrars to the list for by mail voters is to offer greater convenience to the voter.

Section 6

This section relates to questioned ballots, and proposes to delete the omission of an authorized witness's execution of the voter's certificate as a justification for not counting the ballot. Because questioned ballots are voted in person, there are safeguards in place to assure that the ballot is cast legitimately. The witness attesting the certification filled out and signed by the voter is an election worker. Under the current statute, the requirement needlessly prevents an otherwise valid ballot from being counted where the voter has complied with all procedures, but a harried election worker fails to countersign the ballot. In the 1984 General Election, while this circumstance was not the rule, 16 voters were disenfranchised through no fault of their own. While it is not the intent of the division that the requirement be eliminated altogether, it is recommended that this omission, in and of itself, should not be grounds for challenging a vote.

Section 7

Under current statutes, a candidate requesting a recount may select representatives to observe and participate in the recount process. Often candidates choose to represent themselves. These observers and candidates are currently paid for this participation at the same rate as the counting team members. In essence, the candidate pays the nominal fee of \$250, as appropriate, and is then repaid for participating.

Section 8

The addition of this section formalizes the authority of the director to supervise punch-card voting and counting procedures as necessary. This formal placement of final authority is critical, especially under emergency circumstances which often occur during the counting of ballots on election night. An example of such a circumstance was the failure of the

mainframe computer in Anchorage during the 1984 Primary Election, when the decision to go to the back up system had to be made quickly. This addition will clarify the role of the director in making such decisions while coordinating the work of the Data Processing Review Boards otherwise responsible for testing and implementing the actual computer counting of ballots. Timely and responsive decisions by a single authority is required to see that the counting process continues to proceed smoothly and efficiently.

Section 9

The amendment seeks to make the filing fees paid by candidates non-refundable. In addition it deletes the provision that these fees be paid to the central committee of the political party of that candidate.

Sections 10-19

The proposed amendments to these sections are in response to an Alaska Supreme Court decision in Vogler v. Miller, 651, P.2d 1 (Alaska 1982), and Vogler v. Miller, 660 P.2d 1191 (Alaska 1983).

In particular, the court held that AS 15.25.160 and AS 15.60.010(20) are unconstitutional as being unduly restrictive of ballot access and as to other consequences of "political party" status. AS 15.25.160 requires that a petition for the nomination of candidates for the office of governor, lieutenant governor, United States senator and representative be signed by qualified voters equal in number to at least three percent of the number of votes cast in the preceding general election. AS 15.60.010 (20) defines "political party" as a group of organized voters that represents a political program and that nominates a candidate for governor who received at least 10 percent of the vote cast at the preceding general elections for governor.

The bill amends those two sections to reduce the required percentages to one percent and three percent, respectively. The bill also amends other sections to similarly reduce the required percentages in light of the Vogler decision.

Of less significance, and more in the nature of a housekeeping amendment, the bill also amends the sections to refer to percentages of the number of "ballots" rather than the number of "votes" cast. While in a specific district the number of ballots cast will remain constant, the number of votes may vary from race to race or issue to issue. This amendment merely simplifies the computing of the number of signatures required.

In the Vodler litigation, the superior court declared AS 15.25.180(10) unconstitutional, and that ruling was not part of the supreme court argument or decision. That section deals with the requirements for petitions for the nomination of candidates for the general election. Paragraph (10) requires that subscribers to petitions state their intent to vote for the candidate at the general election. The bill repeals this section.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

PHONE: (907) 586-6181

February 20, 1985

The Honorable Katie Hurley
Chairperson
State Affairs Committee
Alaska State House of Representatives
Pouch AF
Juneau, AK 99801

Subject: Comments in support of House Bill 110, "An Act amending the elections laws of the state; and providing for an effective date."

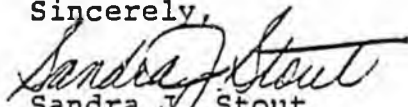
Dear Representative Hurley:

Enclosed for the information and review of your committee are comments in support of HB 110 which is scheduled to be heard on Thursday, February 21, 1985. They include a brief description of the specific amendments being proposed, as well as some discussion of the rationale behind these changes. Many of the changes are housekeeping measures but there are a few which are more substantive in nature.

As you also requested, in addition to the comments we are submitting regarding HB 110 as it currently exists, I am offering some input on your proposed addition which would require a postmark on all absentee ballots cast by mail. We recognize the importance of the concerns you have raised in this vital area. At this point, our research indicates that the solutions may not be simple ones, and are looking forward to working with you and the committee on developing workable solutions.

We appreciate your personal interest in this bill. Please feel free to contact me if you or your committee would like additional information. Thank you for placing our bill on your agenda.

Sincerely,


Sandra J. Stout
Director

Enclosure

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

PHONE: (907) 586-6181

REQUIRED POSTMARKS: ABSENTEE BALLOTS BY MAIL

Prepared For

The Honorable Katie Hurley
Alaska State House of Representatives

February 20, 1985

Current Absentee By Mail Procedures

Under current election policies and procedures in Alaska, voters wishing to vote by mail are required to have their ballots marked and attested on or before the date of the election. Further, it is provided in AS 15.20.081(e), that the voter who returns the ballot by mail will use the most expeditious mail service, and mail the ballot not later than the date of the election. Finally, this statute mandates that "if the ballot is postmarked, it must be postmarked on or before election day."

Concern has been expressed that in the last part of the provision, the statute as written creates a potential for fraudulent or unethical use of the system. Specifically, since this part of the law only requires the election date stamped, if the ballot is postmarked, but does not require the postmark on all mailed absentee ballots, candidates could respond to election night returns by soliciting absentee voters who have not mailed in their ballots to do so in the few days right after the election. Because no postmark is required for counting, and because absentee ballots may be received in the mail for 15 days after the election, these late voters could still cast their ballots after the legal deadline. The concern has been raised that the division would have no way of knowing that the ballots were cast after election day. In the instances of close races these late ballots might have an impact on the outcome.

The division's first response to this concern is that both the voter and the attesting witnesses are required to stipulate the date of their signing the absentee affidavit. When no postmark appears on the envelope, it is this date that is

used to verify that the ballot was cast on or before election day. Assuming that in all other ways the ballot appears to be legitimately cast, and that it is received within the 15 day period, the ballot is counted.

U.S. Postal Service Policy

According to Mabel O'Connell, Assistant General Counsel, General Administrative Law, for the Postmaster General in Washington, D.C., current regulations require that on all first class mail, a postmark be affixed which by law will include full name of the post office handling the piece, state abbreviation, zip code, date of mailing, and a.m. or p.m. There are exceptions with regard to the first class mail requirement. Mail that is prepaid with a postal permit, even though it is for first class postage, will not be postmarked. Rather the post office processing the prepaid piece merely cancels the letter. This cancellation serves as a registration of postal usage for which the entity owning the permit will be charged for postage. Under this system the permit owner is charged only for the mail actually returned. Current estimates indicate that 27% of the ballots requested by mail in Alaska are not returned at all.

It has been the policy in Alaska to prepay return postage under a first class permit. Therefore, for the most part we would not expect a postmark on the majority of ballots submitted by mail.

Required Postmarks

In order to assure that to the greatest degree possible, all mailed absentee ballots are postmarked, the State would have to change its procedures to include requiring affixing a postage stamp to the return envelopes, rather than pre-printing the postal permit stamp as is currently being done. Two options are available.

State Pays Postage: If the State is to continue paying for postage on ballot returns, manual stamping will incur some additional costs. The process of preparing mailing packets for the voter (even before addressing, inserting ballots, coding, sealing and mailing occurs) consists of collating instructions, secrecy envelopes and manually folded return envelopes, which are then inserted in the outer mailer. These packets are also sorted by regional office to which the voter will eventually mail his or her ballots.

In keeping with its conversion to an automated data entry system which will take place by fall of 1985, the division is in the process of researching and designing

a computerized pull apart self-mailer which would eliminate most of the steps associated with the manual system used in the past. As a computerized mailing packet, there would be no need for any of the manual preparation steps described. The computer would automatically print the mailing address, and district and precinct of the voter, as well as the return of the appropriate regional supervisor based on the voting district, on the self-mailer in which all required materials are already enclosed. All that would be necessary at that point is to slip the ballots inside, and seal.

Requiring the manual placement of a postage stamp on the return envelope in order to assure that the ballot is postmarked would eliminate the possibility of using this streamlined and computerized mailer. Below are some of the costs incurred in the postage and manual preparation of the mailing packet based on an estimated 25,000 absentee by mail applicants anticipated for the 1986 General Election.

Printing of Materials	\$ 3,318
Postage @ .25 each	6,250*
Labor - manual preparation based on 50 packets per hour per employee @ Range 8 = 500 man hours	4,683
	<hr/>
	\$ 14,251

* With an estimated 27% of the ballots never returned, there is a waste of \$1,687 in postage not actually used for voting.

On the other hand, the computerized self-mailer would incur the following estimated costs.

Printing of Mailer Form	\$ 7,000
Postage based on a 73% return rate actually billed by Post Office	4,562
	<hr/>
	\$ 11,562

This represents a savings in just the preparation phase of \$2,599 over the manual system.

In addition, because the computer system would be linked directly to the mainframe registration program, the potential error factor would be reduced especially in the area of districting and precincting.

Voter Pays Postage: While this policy has not been utilized by the State of Alaska in the past, it should be explored for adoption in the future. Research indicates that in most states this is the norm. According to the Federal Election Commission in Washington, D.C. the vast majority of states require the voter to pay the postage. Of the western states contacted directly only California prepays postage.

Adopting this policy would obviously save the state from \$4,683 to \$6,250 based on 25,000 absentee applicants.

It should be noted however that many states require only civilian and in-country voters to pay their own postage, while military and overseas voters are allotted prepay returns. States making these allowances often do so under the provisions of the Overseas Citizens Voting Rights Act of 1975, which appears generally as 42 USCS ss 1973dd et seq, which provides that voting and other election materials may be mailed from any Armed Forces post office in an overseas area, unless otherwise prohibited by a treaty or other agreement, free of postage. It stipulates that such ballots may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

At the present moment Alaska does not record the numbers of military voters voting by mail, as this information is not required on registration documents and no other system has been implemented for tracking this data. Even if the state were to continue to prepay ballot postage, use of this Federal provision would result in savings to the State.

Potential Impact of Voter Paid Postage on Ballot Return Rate

Consideration should be given to determining if there would be any negative impact resulting from voter paid postage requirements. As of the 1984 General Election, a sampling of a cross section of diversified districts throughout the State indicates that Alaska is averaging a 73% return rate of the absentee by mail ballots requested. It is difficult to say how this figure would decline if the voter was required to pay the postage, however, discussions with other states

indicate that this has not been detrimental.

While the Federal Election Commission reports that there are no solid figures recorded on the nationwide level, direct contact with western states does give us some information. Washington and Oregon for example, required voter paid postage. Each of them reports to us, however, an 85% to 90% return rate on absentee by mail ballots. California, on the other hand, prepays the postage. However in Los Angeles County, which they feel is representative of the state, they experienced a 35% return rate. It should be noted that about one month before the election, California sends each registered voter an application for an absentee ballot. Because of this mass mailing, their numbers of applicants are exaggerated to well beyond what would be considered average. Most of the states we contacted experienced an applicant rate of approximately 10%. In California it is believed that because they receive an application in the mail, more voters return them than actually intend or need to vote by mail. That could account for the low return rate of ballots.

Irregularities in Post Office Procedure

One of the elements which would have to be considered if the state were to require a postmark on all absentee by mail ballots as prerequisite for counting, is the lack of uniformity in the postmarking procedures actually implemented by individual post offices across the nation. There is no doubt that even on mail hand stamped with a postage stamp, there is a very good chance that no readable postmark will appear. In some cases it will merely be an omission on the part of the postal clerk, on others a voter will pay full postage but stamp it though a postage machine, while on still others a particular postal station just doesn't postmark at all. Based on discussions with the Federal Election Commission there is even a general understanding that the use of a date bearing postmark may be on the way out altogether.

No matter what the circumstances, attention would have to be given to the countability of ballots on which no readable postmark appears. We would have to ask ourselves if the postmark was a criteria for counting the ballot, how many legitimate voters would be disenfranchised through no fault of their own. One option would be to revert back to the verification of the date signed and attested by the voter and the witnesses, as we are currently doing.

Impact of Legislation Currently Being Considered in Congress

It should be noted that on January 24, 1985, House Resolution 639, and House Resolution 640 were introduced in Congress

which would amend the Federal election laws to provide that all absentee ballots be mailed free of postage. It calls for "any envelope or other cover containing such a ballot shall bear the words "Free Postage--Absentee Ballot" (or words to that effect specified by the Postal Service) in the upper right-hand corner". While this wording is duplicated in both, other issues are addressed in each of the separate resolutions.

If either of these resolutions were to pass, the free postage imprint on the envelope would most likely circumvent the necessity of any postmark as defined by current post office policy, therefore voiding our use of such a mark as a verification of timely mailing and a criteria for counting.

Alternative Safeguards to Assure Timely Voting

As an option to the required postmark as verification of timely voting which may only prove marginally feasible, we might want to give some thoughtful consideration to a more substantive change in our current election laws. That change would be in the deadline by which an absentee ballot would have to be received by the division, in order to be eligible for counting.

Specifically, the most sure way of avoiding the potential for fraudulent or unethical submission of late ballots which initiated our research into this area, is to require that all absentee ballots be received in the elections office by the close of the polls on election day. There is input from other states which supports this action as a reasonable and acceptable requirement.

With the exception of Washington, all other western states contacted directly reported that the election day deadline was a requirement in their statutes. Confirmation was also received from the Federal Election Commission, that this is the case in the vast preponderance of all states, and that extended deadlines such as that afforded voters in Alaska is the rare exception.

One consideration which seems relevant in determining the feasibility of this more restrictive deadline in Alaska is the possible impact of mail turnaround time, based on our very late primary election and the availability of general election ballots for distribution. It appears that most states regardless of their primary date, mail out their ballots in relatively the same time period as we do in Alaska, specifically, 3 to 4 weeks before the election.

In Oregon, for example, even with the tight deadline, they enjoy a 90% return rate.

It would be difficult to say how our own 73% return rate would be impacted by such a change in our laws, however, a cursory estimate from our regional supervisors indicates that even with our extended deadlines, approximately 80-85% of our absentee ballots are received by election day. In Anchorage it appeared that the percentage may be slightly lower. Of those ballots received after election day, there is no way to anticipate with accuracy how many are sent later specifically because of the extended deadline, or how many of them would be mailed earlier if the election day deadline for receipt were mandated.

Extended Deadline for Military and Overseas Voters Only

It is important to note an exception which appears to be becoming the trend across the nation. Because of test cases through the court brought by the Department of Defense, it is becoming clear that exceptions to the election day deadline will be built into the statutes of states requiring such a restriction. For example, Colorado whose statutes are very clear about the election day deadline is currently under a restraining order to extend the deadline for military and overseas voters by ten days. While Colorado has been reluctant to make such an exception many other states are embracing it willingly. Because of the slow turnaround mail time we experience for overseas and APO/FPO voters, Alaska would probably want to incorporate this exception into its laws if we were to adopt an election day deadline.

Advantages to an Election Day Deadline

The major advantages to such a deadline change are two. First, the possibility of untimely ballots being included in the count would be eliminated. Secondly, the new deadline would certainly enhance the faster announcement of election results. The two week delay while we await the receipt of absentee ballots would no longer exist. Candidates, particularly in close races, would know the outcome much more quickly. In addition, the certification process could also be completed many days sooner.

Absentee Deadlines Involved in Recounts

If changes were considered in the deadlines for receipt of absentee ballots, another area which should be reviewed is that of absentee ballots which under current law may be included in recount totals if received even later than the 15 day extended deadline, but before a recount. In very close races where one, two or three votes may separate the candidates, the inclusion of these very late ballots add all

new data to the recounted totals. In such races, the winner may be decided based on the sole impact of these previously uncounted ballots received too late to be included in certified results. If the purpose of a recount is to verify the accuracy of the vote count just completed, some thought might be given to the appropriateness of changing those results by introducing new data.

League of Women Voters of Alaska

February 19, 1985

Representative Katie Hurley
Chair
House State Affairs Committee
Juneau, Alaska

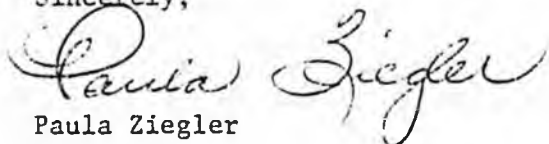
Dear Representative Hurley:

The League of Women Voters of Alaska supports the provisions in HB 110, making miscellaneous changes to the state's election laws.

It is our understanding that additional consideration may be given by your committee to absentee voting provisions. As a matter of principle, the League is strongly committed to making voting as easy as possible; however, we realize the potential for fraud can also exist, and we support efforts to tighten up the absentee voting procedures, as long as they do not appear to put an undue burden on a potential voter.

A letter written to the League this summer regarding a special class of absentee voters is enclosed. We had indicated to Ms. Shears that the League would do what we could to bring the problem she discusses to the attention of the appropriate policymakers. If HB 110 is going to be a vehicle for changes in the absentee voting mechanisms, we would appreciate your considering a solution to the problem she describes.

Sincerely,



Paula Ziegler
President
127 N. Franklin Street #909
Juneau, Alaska 99801

enc.



1066 Thomas Jefferson St., N.W., Washington, DC 20007 (202) 337-0712

Martha Hartman, Executive Director

July 20, 1984

Ms Paula Ziegler, President
LWV of Alaska
307 Bawden Street
Ketchikan, AK 99901

Dear Ms Ziegler,

It will be several more months before we know whether more overseas citizens cast ballots in 1984 than in 1980. But we already know that not all those who wish to vote will be able to do so. That is why we are writing to you now to ask for the Alaska League's support for electoral reform designed to help the overseas voter.

Alaska absentee ballots are mailed only 30 days before an election. But it generally takes 40-45 days for the ballots to reach voters overseas and to be returned by them for counting. As a result many Alaska voters living abroad are disenfranchised.

It may be that, like many other states, Alaska would have to overhaul its entire election calendar in order to be able to prepare and mail ballots earlier. This could be difficult. We would therefore like to draw your attention to a special write-in ballot as an alternative solution which is being adopted by a growing number of states. Connecticut, for example, has just this year revised this procedure and will in future mail blank ballots, together with a list of candidates for all the offices on the ballot, to all overseas voters whose ballot requests are received more than 45 days before an election or before regular ballots become available.

Last winter Henry Valentino, Director of the Federal Voting Assistance Program in the Department of Defense, wrote to Alaska officials recommending introduction of a 90-day write-in ballot for voters in extremely remote areas. To the best of our knowledge there has been no response to Mr. Valentino's suggestion. We would warmly welcome your support for enactment of the measure he recommended.

Sincerely,

Ursula H. Shears
Voting Coordinator
6525 32nd St., NW
Washington, DC 20015

Andrew P. Sundberg, Chairman 157 Route du Grand-Lancy 1213 ONEX Geneva, Switzerland