

ALASKA LEGISLATURE COMMITTEE FILES 1905-1900

3608 HRLS HB 436 - HB 587

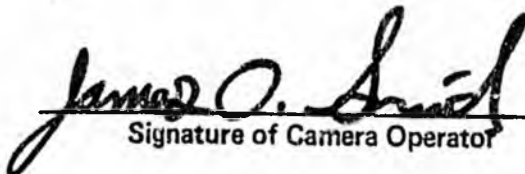
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HB

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STATE OF ALASKA  
THE LEGISLATURE

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JUNEAU, ALASKA 99811  
907.465.3800

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May, 1988

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

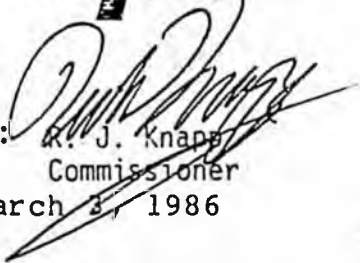
Mary Van Nimwegen

*House Rules 4-1-86 8:01am*



# Position Paper

BILL NO: HB 436 and SB 313

APPROVED:   
R. J. Knapp  
Commissioner

TITLE: An Act requiring a properly equipped and staffed caboose on certain trains. DATE: March 3, 1986

Although not an issue of direct concern to the Department of Transportation and Public Facilities (DOT&PF), it is appropriate to provide certain comments given the DOT&PF Commissioner's role on the Board of Directors of the Alaska Railroad Corporation (ARRC). However, it is important that these comments not be construed as the official position of the ARRC regarding HB 436. ARRC management should be contacted separately to solicit their formal views on this matter.

The central question underlying this legislation is whether to mandate by statute the use of cabooses for certain types of trains, with little regard for technological improvements and variety in train consists that may have a direct bearing on the need for cabooses. Evidence from the rail industry and at the Alaska Railroad suggests this sort of non-discretionary arrangement is unwarranted and may add unnecessary costs to train operations. More detailed information regarding these issues can be found in the ARRC's Position Paper on HB 436, dated February 14, 1986.

Another concern is DOT&PF's perception that this type of legislation may be inconsistent with the spirit and intent of the state Alaska Railroad Corporation Act (ARCA), which established the ARRC as an independent, public corporation to own and operate the Alaska Railroad under state ownership. ARCA sets out explicit direction regarding goals and objectives for operation and management of the Alaska Railroad, and provides broad powers for the ARRC Board of Directors to oversee and manage these responsibilities. Included are the requirements to provide "safe, efficient, and economical transportation," to "be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad," and to "carry out its responsibilities on a self-sustaining basis." HB 436 appears to run counter to this approach by attempting to limit management's ability to meet these different goals. This is unfortunate coming so soon following passage of ARCA, and the apparent absence of evidence that ARRC management has failed to meet its statutory responsibilities.

In summary, DOT&PF is unaware of any real evidence that suggests this legislation is warranted, and respectfully submits that HB 436 contradicts the spirit and intent of ARCA by unnecessarily attempting to legislate decisions reserved for management.

For further information call Susan Fleischhauer at 465-3900.

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No. : HR 436  
 Title : An Act requiring a properly  
 equipped and staffed caboose  
 on certain trains.  
 Sponsor : Cato  
 Requestor : \_\_\_\_\_  
 Date of Request : 2/14/86

FISCAL DETAIL

Agency Affected : \_\_\_\_\_  
 BRU : \_\_\_\_\_  
 \_\_\_\_\_  
 Components : \_\_\_\_\_  
 \_\_\_\_\_

EXPENDITURES/REVENUES : (Thousands of Dollars)

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

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

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

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Representative Katie Hurley Phone : 465-4961  
 Division : House State Affairs Committee Date : 2/14/86  
 Approved by <sup>Chair</sup> ~~Commissioner~~ : Katie Hurley Date : 2/14/86  
 Agency : House State Affairs Committee

Distribution (by Agency preparing fiscal note) :

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OF COUNSEL  
ERIC OLSON  
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January 30, 1986

HAND-DELIVERED

Clinton Gray  
Legislative Representative  
UNITED TRANSPORTATION UNION

Re: Alaska Caboose Legislation

Dear Mr. Gray:

The State Legislature is currently considering Senate Bill 313 and House Bill 436, which provide for a properly equipped and staffed caboose on freight trains over 1,000 feet in length. The bill is a public safety measure. Four other states have passed legislation requiring cabooses on freight trains, they are Virginia, Oregon, Montana, and Nebraska. I understand also that many states are adopting regulations or considering legislation on this same issue. While this legislation is not a "jobs" bill, it may effect the minimum number of crew members required to be employed for the operation of a train. Accordingly, you have asked whether this state enactment would be prohibited under the Alaska Railroad Transfer Act. For the reasons set out below, it is my opinion that the Alaska caboose legislation now proposed does not violate, and is not prohibited by, the Alaska Railroad Transfer Act (ARTA).

ARTA at 45 U.S.C. §120-7(a)(4) provides that:

(a)(4) The operation of trains by the State-owned railroad shall not be subject to the requirement of any state or local law which has specified the minimum number of crew members which must be employed in connection with the operation of such trains.

The question of whether this federal law prohibits Alaska from regulating its own railroad can be approached in a number of ways. I will begin with a review of the legislative history.

When construing the statute, the court will examine the language of the statute first. However, after reviewing the language of the statute itself, the court will then refer to the legislative history to gain insight that may be helpful in determining the statute's meaning. City and Borough of Sitka v. IBEW, 653 P.2d 332 (Alaska 1982). The wording of 45 U.S.C. §1207(a)(4) can be construed as prohibiting the State from enacting any legislation which impacts the number of crew members employed in connection with the operation of trains. However, the legislative history indicates that the legislative intent, was to exempt the Alaska Railroad only from "existing" laws.

At the time of the Alaska Railroad Transfer Act, Alaska law strictly regulated the minimum crews necessary for passenger trains, freight trains, light engines, etc. AS 23.10.420. ARTA clearly exempted the state-owned railroad from that law. But, did ARTA also exempt the Alaska Railroad from any future enactments? The legislative history provides clear guidance. A report of the Committee of Commerce, Signs and Transportation states as follows:

Section 8 of the bill governs the application of various federal and state laws to the state-owned railroad after its transfer to the state. . . . In general the Committee believes that in the future this state-owned railroad should be treated like all other railroads subject to federal and state laws. . . . Third, the Committee believes it would be inappropriate for the federal government to dictate to the state how it should set up and operate the railroad beyond what generally applies to all rail carriers under existing laws. Report of Committee on Commerce, Signs and Transportation, S.Rep. No. 97-479, 97th Cong. 2d Ses. Calendar No. 862EG10-12, 20 (1982).

Emphasis added. The legislative history speaks specifically to "existing laws." The history notes that "in the future" the Alaska Railroad should be like other railroads. This is a clear indication that Congress, when enacting ARTA, intended to deal only with the laws that were on the books at the time, and did not intend to prohibit the State from future regulation of its wholly owned railroad.

Another rule of statutory construction is that statutes relating to the same subject matter should be read together as a

whole so that the total regulatory scheme is preserved. Nash v. State Commercial Fisheries, 679 P.2d 477 (Alaska 1984). In addition, federal statutes must be construed consistently with one another. Get Oil Out v. Exxon Corp., 586 F.2d 726 (9th Cir. 1978). These statutory guidelines mean that §1207(a)(4) of ARTA must be viewed in the context of other federal regulations concerning railroads. Federal law generally allows states to enact caboos legislation. Federal law in Alaska should be no different.

ARTA makes the state-owned railroad subject to the Interstate Commerce Commission and the federal Railroad Safety Act. 45 U.S.C. §421, et seq. The federal Railroad Safety Act states at 45 U.S.C. §434:

A state may adopt or continue in force any law, rule, regulation, order, or standard relating to railroad safety until such time the secretary has adopted a rule, regulation, order, or standard covering the subject matter of such state requirements. A state may adopt or continue in force an additional or more stringent law, rule, regulation, order, or standard relating to railroad safety when necessary to eliminate or reduce an essentially local safety hazard and when not incompatible with any federal law, rule, regulation, order, or standard and when not creating an undue burden on commerce. (Emphasis added.)

In Burlington Northern Railroad Co. v. State of Nebraska, C.B. 83-L423 (F.D.N.D., May 10, 1985), the court stated that because the Interstate Commerce Commission has not provided any guidance or any statutes regarding cabooses and the manning of cabooses, states are free to legislate in that area until the time that the Commission does regulate that area. Thus, in order for ARTA to be consistent with federal law, Alaska must be considered as having the right to pass safety measures concerning cabooses.

Even if Congress intended to exempt the state-owned railroad from future laws on crew size, it could not have intended that the state-owned railroad be exempt from state safety laws. In determining this kind of legislative intent the pre-enactment history is relevant, including the statutes in effect at the time that ARTA was passed. 2A Singer, N.J. Sutherland's Statutory Construction §48.03 (1984). In Section 1207(a)(4) and in the

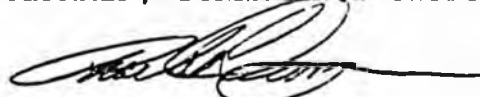
legislative history, there is no indication that the purpose was specifically to prevent featherbedding. However, looking at the law in effect at the time ARTA was passed, and discussing the matter with persons knowledgeable in the industry, it is clear that the law required more employees than was necessary. Clearly, Section 1207(a)(4) was enacted to prevent featherbedding. Since the Alaska caboose legislation is a bona fide safety measure and not a featherbedding measure, then it will not be in conflict with Section 1207(a)(4), regardless of the fact that it has some impact on railroad manning. In this regard, it is instructive to note that the court in the North Dakota case found that the caboose legislation was reasonably related to the protection of the health and safety of the citizens of the state. Burlington Northern, supra at 7.

In researching this question, we have examined a number of other issues. I will not discuss in depth the work that we have done. However, we do not believe that Section 1207(a)(4) is a violation by Congress of Alaska's Tenth Amendment rights. See, Garcia v. San Antonio Metro Transit Authority, 105 S. Ct. 1005 (1985). In addition, it does not appear that Congress is prohibited from addressing Alaska's law on minimum sizes of crewmen in a bill that does not address that problem with regard to the other states in the Union. See generally, State of South Carolina v. Katzenbach, 383 U.S. 301 (1966), where the Supreme Court upheld the Voting Rights Act of 1965 that was imposed on three particular states.

If you have any questions or if I can be of any further assistance, don't hesitate to contact me at your convenience.

Sincerely,

JERMAIN, DUNNAGAN & OWENS



Charles A. Dunnagan

CAD/bh

SENATE BILL 313

HOUSE BILL 436

LEGISLATION FACT SHEET

ON CABOOSES

This bill will provide for a properly equipped and staffed caboose on freight trains (over 1,000 feet in length including locomotives), while moving over tracks outside a yard or terminal. This bill also provides for exceptions, such as no caboose is required on a train composed only of locomotives and passenger coaches; or if an emergency occurs en route that prevents compliance, and will provide for a penalty of \$500 to \$1,000 for each violation.

This bill is a public safety issue, not a jobs issue. The effect of this bill will not require any additional personnel on the train, now or in the future.

Railroads, through mediation and a Presidential Emergency Board, obtained permission in 1982 to eliminate cabooses in an agreement with the United Transportation Union, which was signed under duress. (The only other option was ultimately to strike! Remember PATCO-Air Traffic Controllers.)

Public safety is not mentioned one time in Caboose Portion, Article 10 of October 15, 1982 United Transportation Agreement.

Some Lower 48 states railroads (Union Pacific specifically), were granted permission (by arbitrator) to operate trains transporting hazardous materials without a caboose, because this agreement also failed to mention the numerous hazardous and toxic materials moved by rail.

Four other states currently have passed legislation requiring cabooses on freight trains (Virginia, Oregon, Montana and Nebraska). New Mexico has adopted regulations, and Texas is now in the process to require cabooses. Many other states are now introducing legislation. (Louisiana in 1983 and the state of California in 1985 both passed bills, but their Governors vetoed them.)

With increased transportation of hazardous and toxic materials on The Alaska Railroad, safety of the public demands the greatest possible application of safety principles on our trains.

Cabooses have extended cupola windows for the observation of the train ahead, and the track behind. From the caboose, the crew is also able to observe the condition of the train and initiate measures to stop the train if unfavorable conditions arise. The caboose has an emergency brake valve for immediate use to stop a train. Normal position of employees on a train is a trainman and engineer in the lead locomotive cab, and a conductor in the caboose. At times, depending on the length of the train, there may be a trainman also on the caboose.

The engineer and head trainman observe the track ahead for signals, obstructions or anything that would affect train operations. The conductor, and at times a rear trainman, are seated on each side of the cupola facing forward to observe both sides of the train and also observe the track behind them. They will be watching for signals from wayside ground personnel, shifted loads, children playing on equipment, right-of-way fires, vehicles striking the side of the train, and numerous other hazards.

Alaska Railroad personnel (trainmen, carmen, sectionmen, station agents) have been drastically reduced in the past 5 to 10 years; therefore, train inspection from other sources is less often than in the past.

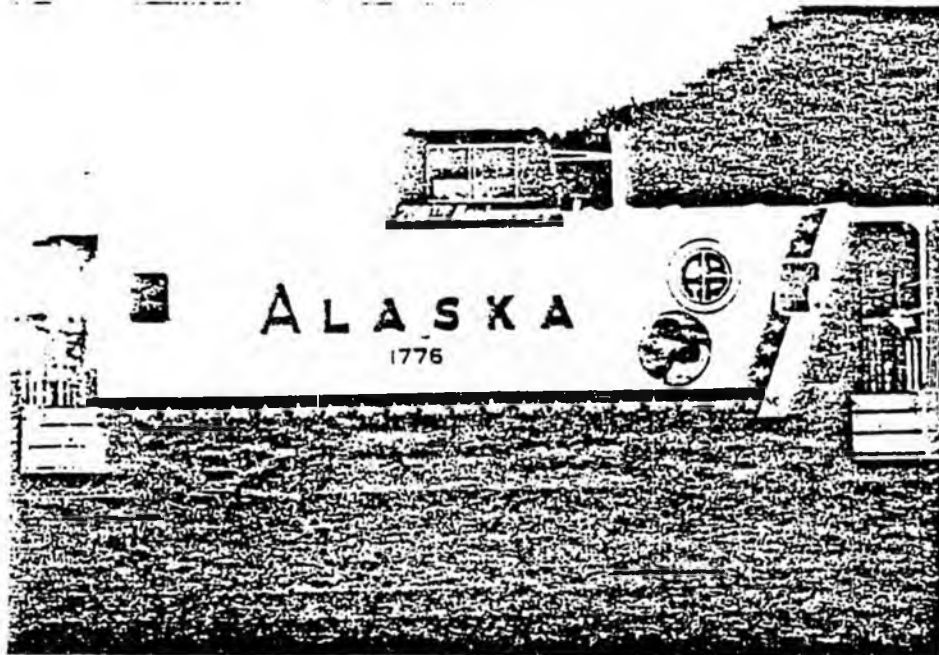
Many major accidents are being prevented with our present operation of cabooses on the rear of freight trains. Occupants of a caboose can spot minor defects that could lead to major derailments.

Although The Alaska Railroad has installed 3 dragging equipment monitoring devices, which malfunction frequently, they are too few and far between (two of them are in Anchorage, and one at Hurricane). The Alaska Railroad has no other type of monitoring devices. The devices that are in operation do not detect shifted loads, sticking brakes, broken wheels, hot wheels, bad bearings, hot boxes and many other possible hazards.

Shifted lading, or derailments of minor nature involving hazardous and toxic materials can be detected by the rear occupant of a train, thus protecting nearby rail structures and occupants of entire communities. The rear occupant of a train would be the first to render aid in the event of a road grade crossing accident, and the first to contact emergency vehicle assistance.

Fires can be caused in several ways. Carbon builds up in diesel locomotives under light load, and is scattered everywhere when the throttle is opened. Hot boxes and sticking brakes are also major causes of fires. Right-of-way fires can be detected and proper authorities can be contacted to protect forests, bridges, and communities from such fires.

In recent years on the nation's railroads, the most significant area of loss and damage to property resulted from track-caused train accidents on mainline track, rather than on branchline or yard tracks. This is also most prevalent on The Alaska Railroad.



## MOVEMENT OF HAZARDOUS MATERIAL

American railroads move more than one million tank car shipments each year. The number of unintentional releases are about 200 spills for every one million. Yet, one incident involving the unintentional release of toxic or hazardous material could cost millions of dollars for The Alaska Railroad to remedy.

Before 1960, some of the most common hazardous materials moving over the railroad were gasoline, naphtha and diesel fuel. However, with the growth of our petrochemical industry, this railroad began handling more "exotic" chemicals.

A serious accident grabs everyone's attention and raises questions concerning safety in our communities. The safe transportation of hazardous material by rail depends upon a number of factors, but must begin with good tracks. Safety also depends on good equipment. But there is one other important element to safety - people. Railroads are the best and safest carriers of hazardous cargoes. Their controlled environment is much less dangerous to the public than streets, highways or water.

Long, heavy trains are crossing our State, both in highly populated areas and rural communities, and there are potential disasters with every turn of a wheel. A multitude of hazardous materials are shipped on The Alaska Railroad daily. The Alaska Railroad ships more hazardous material than any other shipper in Alaska, containing everything from poisonous gas, propane, dynamite, and gasoline to sulphuric acid. Do you want these types of materials constantly observed?

The United Transportation Union is greatly concerned with the safety of the men and women it represents, not only on job safety but also regarding the safety of their homes, families and their natural surroundings.

Let's say you are traveling on the engine of a mile-long freight train at approximately 30 miles per hour. You are hauling a tank car containing liquid propane gas, and a box car that contains paint thinner and other spirits of alcohol. As is not uncommon, these two cars begin to leak or drip these commodities onto the ground or into the atmosphere. Since you are riding the engine or head end of the train and moving (at any speed), it is impossible to detect the smell or see the residue drippings of either of these leaking liquids. However, if you were riding the caboose on the rear end of the train, you could probably smell the odor or see the trail of drippings of the chemical on the ties or dirt and take corrective action, thereby averting a possible catastrophic accident. This, we might add, is not an isolated or one-in-a million situation; it does happen, and all too frequently, but what if there was not occupied cabooses - what then?

Transportation of hazardous materials is clearly dangerous. Alaska Railroad freight trains laden with propane and caustic chemicals trundle through the heart of Alaska every day. These trains present the threat of a catastrophe that could endanger thousands of lives.

- In April, 1973, 18 box cars filled with nearly two million pounds of explosives, bound for Port Chicago and eventually Vietnam, sat quietly overnight in Sparks, Nevada in a railroad yard. Hours later, in a Roseville switching yard, the explosives went off. Firemen were held at bay as the munitions exploded for about a 5-hour period while mushroom-shaped fireballs shot into the sky. At one point, the railroad didn't know if one tank car located in the vicinity was loaded with catsup or propane. Later it was determined that it contained catsup. People within a 3-mile radius were evacuated, and the effects were devastating.

- About 12 years ago, a tank car loaded with propane exploded in Kingman, Arizona, creating a 35 foot deep crater. The blast sent fireballs across a freeway and flipped the tank car hundreds of feet into the air. The accident left 3 dead and more than 70 injured.

- In 1980, near Muldraugh, Kentucky, 10 tank cars jumped the tracks in a residential area, setting off fires and explosions and forcing the evacuation of at least 7,500 people. Two other cars containing vinyl chloride and other chemicals caused a cloud of toxic gas to float over the town. Emergency personnel from State Police, State Fire Marshal's Office, Disaster and Emergency Service, Department of Natural Resources and Environmental Protection and two other County rescue squads were aiding in the operation.

- In April, 1980, a Western Pacific Railroad freight train derailed in an industrial area at Hayward, California. There were two fatalities and 7 injuries. Damages were estimated at \$1,382,000. The National Transportation Safety Board conducted a public hearing in Oakland, California, and two of the Board's "findings" regarding emergency response were as follows: the Hayward police and fire personnel responded immediately and effectively to the emergency, despite an early inability to determine the exact nature of the accident.

Sufficient information about the lading carried on the train was not promptly available to the Fire Department personnel involved with handling the emergency.

Furthermore, it was the testimony of Hayward Fire Department Battalion Chief, Mr. Donald McVicker, "Number one is my own frustration as to not knowing or not being able to find out quickly what was burning and whether it was explosive or toxic."

He further stated, "Had we had a dangerous chemical or something like that, and the right wind, we would have had a lot of fatalities because I couldn't find out what was on it at the time. Unless we have this information, we would not know what kind of chemical we are dealing with until notified by the railroad."

- One railroad chemical spill in Northern California cost over 3 million dollars to clean up. It took 4 days just to contain formaldehyde-contaminated water.

- Four railraod trains running continuously hauling contaminated water.

- More than 50 railroad tank cars.

- Sixty-eight tank trucks.

- Thousands of feet of pipeline.

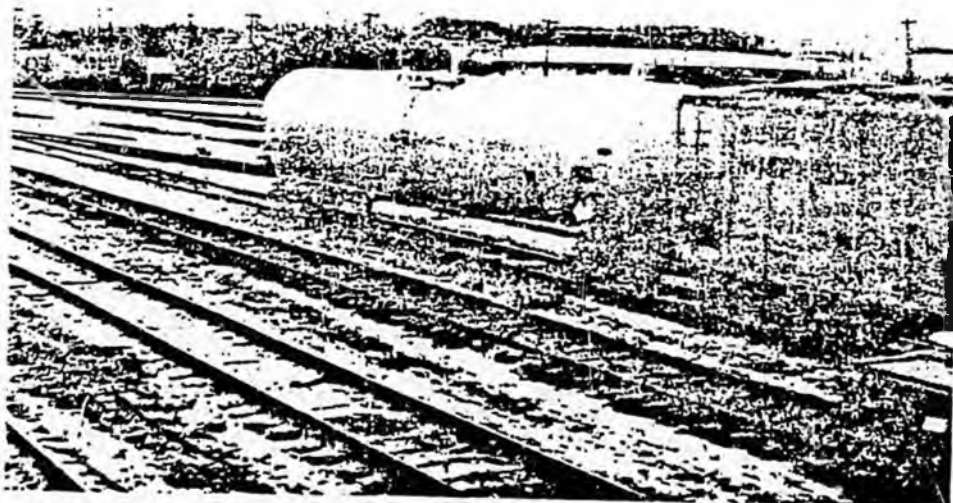
- A variety of heavy equipment - backhoes, graders and forklifts.

- A work force of over 200.

- Special arrangements for feeding and boarding the emergency workers.

We, the operating employees of The Alaska Railroad, are not contending that the caboose could have prevented the above incidents. What we do maintain is, derailments have been minimized by proper observation from personnel on the caboose. For every accident we have, there are literally thousands that are prevented or minimized, and this will no longer be possible if the entire crew is located on the locomotive.

It is our opinion that these accidents illustrate the reason for concern regarding public property and life.



NO NEED FOR CABOOSES?

LET'S LOOK AT THE FACTS

RAILROAD CLAIMS:

"Modern Technology has made cabooses obsolete."

FACT:

(1) While some uses for cabooses may be outdated, the safety function of providing an observation car for a train crewman at the rear is still critical, even where automated devices have been installed to supplement human observation.

(2) At the forefront of the railroad industry's "high-tech" devices is the so-called "hot box" detector, or scanner.

This "new" scientific advance was actually developed during World War II - over 40 years ago - to assist trainmen in detecting overheating wheel bearings which could lead to bearing failure, fires and train derailments.

Q: How well does the "hot box" detector work when left to do the job alone?

A: Trainmen have found that you can actually have a burning box car pass over a "hot box" detector without activating it.

The National Transportation Safety Board (NTSB) has recommended that railroads operating with cabooses have "hot box" detectors located at 30 mile intervals, and "in addition to the 30 mile spacing, approaches to bridges and tunnels should be protected by hot box detectors."

(3) The devices are not only expensive and unreliable, but there are as yet none which can tell the crew when the train's own weight has caused damage to the tracks and roadbed - the single greatest cause of accidents.

The crewman in the caboose is required by Railroad Operating Rules to continually observe the tracks to the rear of the train to detect such defects.

(4) It must also be pointed out that The Alaska Railroad has not one hot box detector on its entire system.

RAILROAD CLAIMS:

"Studies show that cabooses can be safely eliminated."

FACT:

(1) Contrary to railroad claims that the Interstate Commerce Commission has conducted such studies, in reality, the ICC has neither undertaken to study the matter, nor concluded that cabooseless operations are safe.

(2) Experience has shown that short trains hauling no hazardous materials can operate without cabooses, however, and caboose legislation pending in Alaska would allow them to do so.

RAILROAD CLAIMS:

"Railroads have been operating safely without cabooses for years."

FACT:

(1) Only one railroad in the United States has operated without cabooses for more than a few months. That line is over flat terrain with no curves, and is only a few hundred miles in length.

(2) By comparison, The Alaska Railroad operates over 470 miles of track throughout Alaska; we have only three dragging equipment indicators, two of which are in Anchorage city limits, no traffic control signals, no automatic block system, no shifted load detectors, and no hot box detectors anywhere on this railroad. We operate through steep river canyons and other rugged terrain, as well as over treacherous mountain routes, where cabooses are essential for safe operations.

(3) European trains can operate without cabooses because of their short length and the short distances between stations, as well as the frequency with which passing trains observe each other and report any defects.

(4) In Alaska, trains many times over a mile long will operate between stations hundreds of miles apart, frequently without ever passing another train en route.

RAILROAD CLAIMS:

"Operating with cabooses will have an adverse economic effect upon the Railroad."

FACT:

(1) Caboose construction and maintenance are far less expensive than the installation and maintenance cost for the devices intended to replace them, plus The Alaska Railroad has no plans to install any of these devices in the near future.

(2) Neither will the Railroad save on employee cost since the crewman of the caboose is to be moved to the engine, not eliminated.

RAILROAD CLAIMS:

"There is a need for interstate uniformity in Rail Safety Regulations."

FACT:

Four states have already adopted laws requiring freight trains to operate with cabooses; two other states have adopted regulations requiring freight train operations with a caboose, and many more states have pending legislation. Their power to do so has been upheld in Federal Court.

RAILROAD CLAIMS:

"The use of cabooses is a subject for Collective Bargaining, not legislation."

FACT:

(1) The use of cabooses is a Public Safety issue which should not be bargained away through contract negotiations. The Federal Railway Safety Act confers upon the states the ability to regulate rail safety for the protection of their citizens, despite the Railroad's claim to the contrary.

CABOOSES ON TRAINS: Who supports them?

- \* Cities and communities whose residents are exposed to trains and their hazardous cargo;
- \* Police, and fire departments whose crews must respond to rail emergencies;
- \* Environmental groups who know the devastating effects on fish and wildlife from undetected toxic spill; and
- \* The employees responsible for train operations and safety.

## FEDERAL JUDGE UPHOLDS NEBRASKA LAW ON MANNED CABCOSES

Nebraska law, which requires manned, radio-equipped cabooses on all freight trains of 1,000 feet or longer, is justifiable to protect the public interest, Chief United States District Judge Warren Urbom has ruled.

A 55-page decision issued May 10, 1983 is Judge Urbom's response to a lawsuit filed in 1984 by Burlington Northern Railroad. The railroad contended that the Nebraska statute, LB179, which became effective in August 1983, is pre-empted by Federal regulations, exceeds the police power of the state, discriminates against interstate commerce, and interferes with the railroad's right to contract with its employees.

In answering each of Burlington Northern's charges, Judge Urbom cited numerous Federal Court decisions and safety acts that support the Legislature's authority to regulate intrastate transportation for the public safety.

A 1970 law cited: Under a provision of the Railroad Safety Act of 1970, any state "may adopt or continue in force any law, rule, regulation, order or standard relating to railroad safety until such time as the Secretary of Transportation has adopted a rule, regulation, order or standard covering the subject matter of such State requirement."

Judge Urbom wrote: The purpose of the Nebraska caboose law is "to remedy hazards associated with train derailments, right-of-way fires, and highway-rail crossing accidents. There is ample evidence in the record to find that each of these three threats to public safety occurs with some degree of regularity."

Burlington Northern Railroad contended that electronic monitoring devices could detect failed equipment, fires and other safety threats without a manned caboose.

Judge Urbom acknowledged that "There is less need now for a manned caboose," because monitoring devices have been developed, but he concluded there is ample evidence that a crew member at the end of a train may see a safety threat that the electronic detectors cannot see. The State has shown that detectors are fallible, that in the past they have failed to detect problems that the caboose crew was able to discover before they could lead to derailments, and that the retention of manned cabooses plays a real role in the detection of equipment defects before they can cause derailments.

Attorney Craig Wittstruck, who represented the State, has said of Judge Utton's decision: "The system worked." The core of the decision is that "the Legislature did not have to play Russian roulette with whether new technology could provide a safe rail system.

"The safety of citizens may best be served as a by-product of negotiations between the railroad and its employees, but that is not guaranteed."

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

**FILED**  
DISTRICT OF NEBRASKA  
MAY 10 1985  
William L. Olson, Clerk  
By \_\_\_\_\_

BURLINGTON NORTHERN  
RAILROAD COMPANY,  
  
Plaintiff,

vs.

JUDGMENT

STATE OF NEBRASKA; THE  
NEBRASKA PUBLIC SERVICE  
COMMISSION,

Defendants.

CV83-L-173

In accordance with the accompanying memorandum of decision,

IT IS ORDERED AND ADJUDGED that judgment is entered for the defendants.

Dated May 10, 1985.

BY THE COURT

*[Signature]*  
Chief Judge

ENTERED  
ON THE DOCKET

MAY 10 1985  
WILLIAM L. OLSON, Clerk  
BY *[Signature]*  
Dep. Clerk

Number of Crew Members  
Operating Alaska Railroad Trains  
1981 - 1985

1981

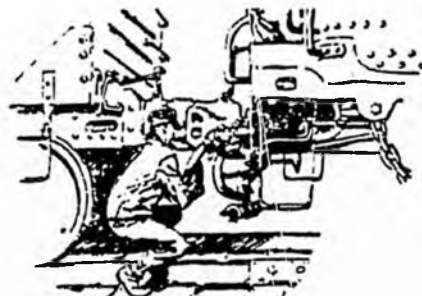
Passenger	1 - Conductor	1 - Engineer
	2 - Brakemen	1 - Fireman
	1 - Baggage man	
Freight	1 - Conductor	1 - Engineer
	2 - Brakemen	1 - Fireman
	1 - Swingman (Only on Local)	
Yard	1 - Conductor	1 - Engineer
	2 - Brakemen	

1982

Passenger	1 - Conductor	1 - Engineer
	1 - Brakeman	1 - Fireman
Freight	1 - Conductor	1 - Engineer
	1 - Brakeman	
Yard	1 - Conductor	1 - Engineer
	1 - Brakeman	

1985

Passenger (RDC)	1 - Conductor	1 - Engineer
Freight & Yard	1 - Conductor	1 - Engineer
	1 - Brakeman	
Freight (Fox)	1 - Conductor	1 - Engineer



REVENUE TON-MILES PER EMPLOYEE AND EMPLOYEE HOUR

Freight revenue ton-miles per employee and employee hour paid for increased to 2.9 million and 1,169, respectively, representing gains of more than 90 percent in both categories.

<u>Year</u>	<u>Freight Revenue Ton Miles Per: Employee (Millions)</u>	<u>Employee Hour</u>
1969	1.5	611
1970	1.5	605
1971	1.5	604
1972	1.5	637
1973	1.7	696
1974	1.7	696
1975	1.6	677
1976	1.7	712
1977	1.8	738
1978	1.9	775
1979	2.0	792
1980	2.1	862
1981	2.2	906
1982	2.2	927
1983	2.6	1,073
1984	2.9	1,169

NOTE: Data compiled from the Economics and Finance Department of the Association of American Railroads (AAR).



# SUSITNA

BUSINESS AND PROFESSIONAL WOMEN'S CLUB  
P.O. BOX 104832 ANCHORAGE, ALASKA 99510

## RESOLUTION NO. 1

WHEREAS, there is presently before the Alaska Legislature, House Bill 436 and Senate Bill 313, both pertaining directly to the retention of the caboose car and its crew member/members at the end of trains that travel the Alaska Railroad rail lines; and

WHEREAS, it is the intention of the Alaska Railroad Corporation, in order to cut its operating costs, to replace the caboose car and its crew with an "End Of Train Unit, hereafter referred to as ETU, which will be attached to the end car of each train; and

WHEREAS, this matter is neither a labor nor a political issue, but a safety issue; and

WHEREAS, it appears that the single function of an ETU is to monitor brake pressure of the cars in a train; and

WHEREAS, an ETU cannot perform the many other safety checks presently performed by the crew of a caboose car, among which are: continual and visual observation of the rear portion of a train for markings on ties indicating dragging equipment, seized brakes, fires from "hot boxes" and broken wheels; observation of passing trains for defects; detection of smoke from sticking brakes and overheated bearings; observation of fixed signals along the track to see that they have not been damaged by vandalism or cars with wide loads; stopping the train if danger threatens, or if an accident occurs; and

WHEREAS, the United Transportation Union, recognizing the need for the Alaska Railroad to be competitive in the field of transportation, has worked out an agreement whereby 90% of trains operating in Alaska are run by a three-man crew -- two in the engine and a single crewman in the caboose car; that the other 10% of trains are operated by four- and two-man crews; that this minimum of manpower operating the long trains of cars that run on the Alaska railroad lines is a testimonial to the safety record of Alaska railroading; and

WHEREAS, there have been several serious and near-disastrous train wrecks in the United States and Canada within the past seven years, and it would be a complete disregard for human life and property to substitute a single electronic box for proven safety controls until those safety controls can be replaced by something better than an ETU; NOW, THEREFORE, BE IT

RESOLVED, that the members of Susitna Business and Professional Women hereby urge the Alaska State Legislature to enact legislation that would ensure the safety of individuals and property, both private and that of the Alaska Railroad, by requiring that a properly equipped and properly staffed caboose car be attached to the end of trains operating on Alaska Railroad lines.

SUBMITTED BY:  
Susitna Business And Professional  
Women

By JoAnn Seibert  
JoAnn Seibert, President

By Susan Pemberton  
Susan Pemberton, Secretary

Sharon Bartlett  
Chairman, Legislative  
Committee

February 17, 1986

PUBLIC



ALERT

# Will safety go off the Rails in ALASKA.?

RAILWAY COST-CUTTING ENDANGERS LIVES

## YOU DECIDE ?

As a child, did you ever watch a powerful and mysterious railway train disappear along the tracks...and wonder just what the "little red caboose" at the end was for?

The correct answer is "SAFETY". For generations, the caboose and the "rear crew" stationed in it have performed a number of vital jobs, but the most important functions concern safety - the safety of the train, its cargo, the people aboard, and of course, the safety of the people who live in the Alaska communities we run our trains through.

Today, however, safety on our railroad is threatened as never before. If the Alaska Railroad Corporation has its way, cabooses, and the safeguards they provide, could soon be eliminated from the rails, and this threat has those who know trains best - the people who work on them every day - very worried.

They are worried about accidents. Many of today's trains are over a mile long. They move vast amounts of deadly chemicals. They run through small communities whose citizens have no knowledge of what they carry.

Accidents can and do occur.

### THE SAFETY RECORD

These are but a few examples:

- In 1978 five people were killed instantly when a railroad tank car filled with propane exploded in Waverly, Tennessee. Seven others died later from severe burns.
- There was the infamous Mississauga, Ontario train disaster of 1979. Twenty-five railroad tank cars were derailed. They contained highly explosive propane and some 90 tons of liquid chlorine - enough to annihilate the population of a large city like Anchorage. A quarter of a million people were forced to leave their homes.
- And on September 16, 1985, twenty one tank cars of toxic sulfuric acid derailed on a railroad trestle, collapsing it into the Medina River just outside of San Antonio, Texas. As much as 200,000 gallons of sulfuric acid spilled into the Medina River. It will be over a year before life can survive in this river again. Estimated cleanup costs will be over five million dollars.



The Mississauga rail disaster

It is clear from the above facts, and there are many more that could be presented, that safety on our railroad is nothing to be complacent about. If anything, more safeguards should be added. Certainly, to eliminate any longstanding and proven safety measure without an adequate and proven replacement would be highly dangerous and very irresponsible. However, that is exactly what the Alaska Railroad Corporation is seeking to do.

### "NEW TECHNOLOGY" INADEQUATE

Invoking the sacred words, "New Technology" the Alaska Railroad Corporation is seeking to cut their operating costs by replacing the caboose and the rear crew members with a device called an "End of Train Unit" (ETU).

This is an attempt to perform a "sleight of the hand" trick with long-established and proven safety requirements and safety measures. The fact is that this unit is by no means an adequate replacement for the caboose and the many duties of its crewman. The ETU performs only one of the many essential safety tasks required on a modern train: that of monitoring brake pressure. The Alaska Railroad has no effective replacement for the rear crewman and the safeguards it provides.

In response to the introduction of the ETU in the Lower 48 states, some states have already made it law that the railroads maintain the caboose, and many more are working on such legislation.

### WHAT AN ETU CANNOT DO

To give an idea of the safeguards that a caboose and rear crewman provide, here is a short rundown of regular duties an ETU cannot perform:

- It does not smell smoke created from sticking brakes or overheated bearings.
- It cannot conduct a constant visual scan of the rear portion of the train, checking for broken wheels, marks on the ties behind the caboose that indicate dragging equipment, seized brakes or the fires from a resulting "hot box". Nor can it perform the regular task of observing passing trains for defects.
- It cannot bring a train to a stop in an emergency such as a brake failure; nor can it make vital decisions and act quickly to avert disasters or provide medical help when accidents do happen.

# Will safety go off the Rails

## Continued!

- An ETU cannot ensure the alertness of the engine crew or act as backup when necessary. Sometimes when trains derail, the front crew is missing or obstructed from reaching the rear of the train. Help is often vitally needed at both ends of a train.
- It cannot flag adjacent tracks and protect them in emergencies, or call for emergency help.
- It cannot carry tools for repairs, first aid kits, stretchers or fire extinguishers, and it certainly cannot use them.

This is only a partial list of vital tasks fulfilled by the caboose and the rear crew member. There are many more routine tasks performed daily.

### TRAIN CREW SIZE

The Alaska Railroad will tell you that the only reason railroad operating employees are taking on this caboose issue is to protect jobs, so let us look at crew size on The Alaska Railroad. Up until 1981, all train crews consisted of six, five and four man crews per train assignment. For the past five years, the United Transportation Union - conductors, brakemen, engineers and firemen - have had the foresight to recognize that change was needed if The Alaska Railroad was to stay competitive. Today through the Collective Bargaining process, we now have on The Alaska Railroad crews of four, three and even two man crews, with better than 90 percent of all trains run with just a three-man crew. Most railroads in the Lower 48 states have yet to reach the crew size that we have in Alaska.

Consider a train with five 3,000 horsepower locomotives, 85 railroad cars (6,000 tons), many loaded with sulfuric acid, propane, liquid chlorine, fuel and explosives, and over a mile long, running from Anchorage to Fairbanks (356 miles). This train will run the entire distance with only one conductor, one engineer, and one brakeman. Trains similar to this are running from Seward, Whittier, Anchorage and Fairbanks almost every day of the week. Yes, these trains have a caboose (so far).

The issue of cabooses is only a safety issue, not crew size. Our concern for safety is not only for railroad employees, but for the Alaska public we serve. Remember that railroaders have children and families in the same communities that you live in.

### KEEP THE BARGAIN

Until The Alaska Railroad can come up with an honest substitute for the vital human presence at the rear of our trains, they must be held to their safety bargain with the Alaska people. Since safety is the first rule they teach their employees, it would be a demonstration of insincerity if a cost-cutting decision handed down by upper management resulted in any danger to human life.

## RAILWAY COST-CUTTING ENDANGERS LIVES

# IN ALASKA!

### YOUR LEGISLATURE WILL DECIDE

The 1985-86 Alaska Legislature now has introduced in both the Senate and the House of Representatives a bill that would require a properly equipped and staffed caboose on certain trains, in answer to The Alaska Railroad's drive to eliminate the caboose and rear crew from Alaska's trains.

The United Transportation Union welcomes technological advancements in rail safety. However, until a completely adequate substitute for the caboose and its crew can be proposed by the Alaska Railroad Corporation, their drive to save money by putting Alaska people at risk must be HALTED.

Therefore, we are alerting Alaska citizens in our communities throughout Alaska to the pending legislation in Juneau. In the Alaska Senate, it is Senate Bill No. 313, and in the House of Representatives it is House Bill No. 436. There is time for concerned people and groups to add their voices to the upcoming debate and influence the decision-making process that will determine the future of safety on the rails and in your community.

### GAMBLING WITH LIVES

Until the Alaska Railroad Corporation has an adequate way of assuring that all the above duties are adequately performed without the caboose and crewman, they should give safety first priority. Not to do so would simply be gambling with human lives in many of the communities across Alaska. The ETU should be welcomed as an additional safety item to prevent accidents. It is obvious, however, that it is no replacement for the rear crew and its duties - particularly the job of conducting frequent visual scans of the train and the tracks, and the ability to make instant decisions and act on them in emergency situations.

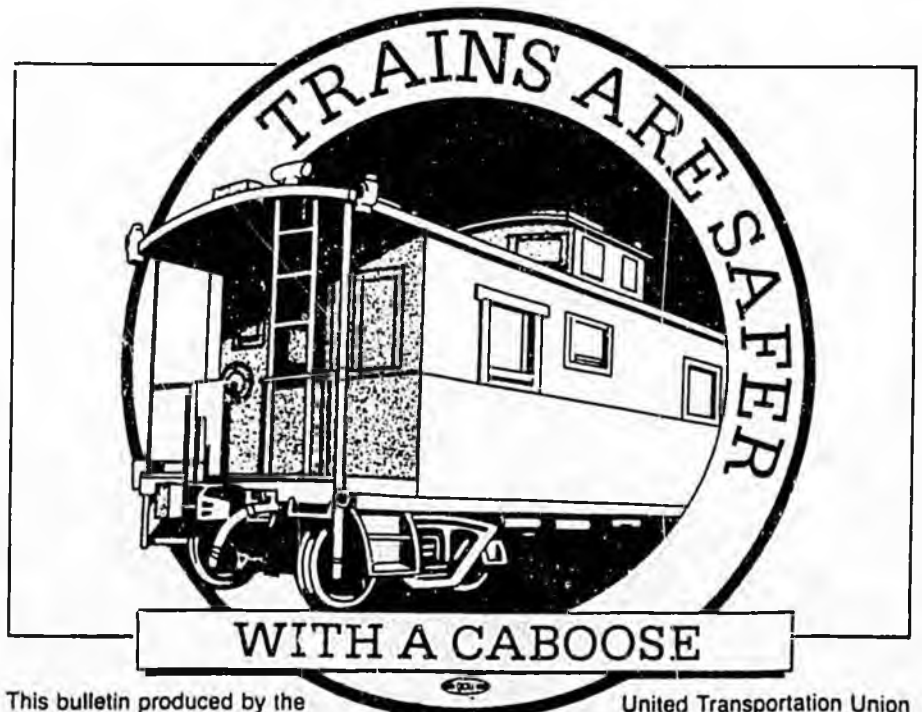
Records of railroad accidents show that it is often individual initiative, bravery and intelligence that prevent or minimize disasters. The Mississauga incident provided one good example of this.

### WHAT YOU CAN DO

The United Transportation Union and the Women's Auxiliary will be at the disposal of any individual or group that wishes to know more or to influence the decision-making process. We also invite concerned Alaskans to write or call:

SAVE THE CABOOSE  
807 W. 57th Ave.  
Anchorage, Alaska 99518

(907) 562-0857



February 23, 1966

Representative Gato:

I would like to commend you and your colleagues for your stand in support of Caboose legislation in our State. I've been attempting to put down my thoughts for months and have finally been motivated by the Anchorage Times editorial of 2-10, on The Wrong Track.

Yes, I am a railroader--once proud to work for the Alaska Railroad. Since the transfer and appointment of an "independent and professional" management team, I have seen unparalleled arrogance and abuse of power affecting worker and general public alike. Mr. Turpin has a responsibility to the people of this State and the people who perform the duty of providing it with a first-class railroad. He seems more concerned with his public image and insulating his management techniques from public scrutiny. Profitability aside, there are more fundamental issues involved in the running of the Alaska Railroad.

The corporate spokeswoman will boast "technological innovations", but in the field where they are gambling with human lives and property, they have failed to demonstrate their effectiveness. No near-end train device has pulled an unconscious victim from a crushed automobile after sliding into the train on an unlit and icy crossing; no blinking light has kept children from playing near the tracks or people from climbing through and crossing between cars of a waiting freight; no device smells a burning wheel journal; detects a shifted load; or detects brake rigging. I have done all these things in my career. Should the inevitable occur--a gasoline tanker carrying three Vesillo derricks or two trains collide head-on, who would initiate emergency measures? A black box? As long as the caboose remains, so will the necessary margin for safety. To have it any other way is to endanger both citizen and employee alike. The issue is not jobs, Representative Gato, it is lives.

Injury and accident rose quick in - increasing. Labor-saving devices may increase Mr. Turpin's profit-margin, but it is no comfort to those working the job. To argue otherwise is to do a disservice to our profession. Our safety record is outstanding due to the vigilance of my co-workers. Relying on lip-service is a poor substitute for safety-first.

The Corporation will tout its "authoritative and professional" opinions on all matters pertaining to "management rights", but I urge you all to look beyond the shine and get to the substance. Beneath all this railroad success story, there is an undercurrent of oppression. Men are never been loved and people fear for their jobs or dislike them. I speak to you because I still have my dignity even tho I lack the ability to change current practices. A railroad accountable only to considerations of profit-ability is unsettling when it's Alaska's own. Alaska deserves more than one man's opinion.

Respectfully,

*John M. McDONELL*

John M. McDonell  
505 West 2nd Ave.  
Anchorage, Alaska 99501

FEB 20 1986

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 \* DELIVER TO: JPCM 61 \*  
 \* \*  
 \* \*  
 \* ORIGINAL \*  
 \* SENT: 02/20/86 TIME: 09:20 \*  
 \* FROM: BARBARA NORRELL \*  
 \* SUBJECT: POM \*  
 \* PRINT DATE: 02/20/86 TIME: 09:20 \*  
 \* \*  
 \*\*\*\*\*

TO: ALL LEGISLATORS

FROM: GLEN F. THOMPSON, 7216 LAKE OTIS PARKWAY, ANCHORAGE, AK  
 99507, 344-2015

SUBJECT: SB 140, RIGHTS OF THE TERMINALLY ILL.

I URGE YOUR SUPPORT OF AN AMENDED VERSION OF SB 140. DELETE THE PROVISIONS FOR A JUDGES SIGNATURE AND THE FORCED FEEDING CLAUSE. THESE TWO PROVISIONS NULLIFY THE EFFECTIVENESS OF AND THE ORIGINAL INTEND OF THE BILL AND THEREFORE SHOULD BE OMITTED.

\*\*\*\*\*

TO: ALL LEGISLATORS

FROM: PATRICIA ARMSTRONG  
 16506 DAVIS STREET, SR BOX 92  
 EAGLE RIVER, AK 99577 PHONE: 694-5101 *me*

SUBJECT: CABOOSE BILL - HB 438 AND SB 313

LET'S KEEP SAFETY ON THE RAILS. PLEASE SAVE THE CABOOSE.

\* SUBJECT: FOR  
\* PRINT DATE: 02/19/86 TIME: 16:07

FEB 20 1986

TO: ALL LEGISLATORS

FROM: MARION HISLOP, 4206 NEEDLE CIRCLE, ANCHORAGE, AK 99508,  
562-5607

SUBJECT: HB 436 AND SB 313, REQUIRING CABOOSES ON CERTAIN TRAINS

I WANT YOU TO SUPPORT HB 436 AND SB 313. IT IS VERY IMPORTANT TO KEEP CABOOSES AS A MATTER OF SAFETY.

TO: ALL LEGISLATORS

FROM: CHARLES WELLONG, 1344 WEST 25TH, ANCHORAGE, AK 99503,  
277-5268

SUBJECT: HB 436 AND SB 313, REQUIRING CABOOSES ON CERTAIN TRAINS

I WORK FOR THE MUNICIPALITY OF ANCHORAGE, CODE ENFORCEMENT, IN CONJUNCTION WITH THE ENVIRONMENTAL PROTECTION AGENCY ON HAZARDOUS MATERIALS. THE RAILWAYS CARRY THIS MATERIAL AND I AM VERY MUCH IN FAVOR OF THE CABOOSE AND THE CONDUCTORS ON THE REAR OF THE TRAINS TO WATCH FOR BROKEN WHEELS AND HOT BOXES TO NOTIFY THE ENGINEER.

TO: ALL LEGISLATORS

FROM: FATHER EUGENE BURNS, 7528 STANLEY DRIVE, ANCHORAGE 99518,  
349-2947

SUBJECT: SB 140, RIGHTS OF THE TERMINALLY ILL

I AM AMAZED AT THE FACT THAT THIS BILL HAS NOT HAD A PUBLIC HEARING. I WANT A PUBLIC HEARING ON THIS MATTER.

TO: ALL LEGISLATORS

FROM: FRANCIS NEVENHEIM, 1535 G. ANCHORAGE, 99501, HM, 272-0046

RE: SB 140, TERMINALLY ILL

I AM EXTREMELY OPPOSED TO SB 140, AND I WOULD REQUEST A STATEWIDE PUBLIC HEARING ON THE BILL.

\* SENT: 02/19/86 TIME: 12:56  
\* FROM: JEAN MILLER  
\* SUBJECT: FOM  
\* PRINT DATE: 02/19/86 TIME: 12:56  
\*  
\*\*\*\*\*

TO: ALL LEGISLATORS

FROM: PAT BERKLEY  
1861 EAST TUDOR ROAD UNIT D-201  
ANCHORAGE, AK 99507 PHONE: 563-5897

FEB 19 1986

SUBJECT: JB 475 AND SB 329 - SOUTH AFRICA

SOUTH AFRICA IS NOT GETTING ANY BETTER AND WON'T. LET US, AS ALASKANS, GET ON WITH THE JOB OF DISINVESTMENT. PLEASE SUPPORT HB 465 AND SB 328. THE PEOPLE CAN'T HURT ANY MORE THAN THEY DO NOW AND YOU ARE AWARE OF THE FACT AS I AM.

TO: ALL LEGISLATORS

FROM: POLLY ROBERTS  
420 EAST 14TH, NO. 6  
ANCHORAGE, AK 99501 PHONE: 272-4708

SUBJECT: HB 436 AND SB 313 - CABOOSES ON TRAINS

I STRONGLY URGE ALL OUR SENATORS AND REPRESENTATIVES TO SUPPORT THE PASSING OF HB 436 AND SB 313 FOR REASON OF SAFETY AND ENVIRONMENTAL PROTECTION.

TO: ALL LEGISLATORS

FROM: TERRI BURRELL, 3716 WESLEYAN DRIVE, ANCHORAGE 99508  
PHONE: 333-2774

RE: LEGISLATIVE RETIREMENT

AMEND THE LEGISLATIVE PENSION SYSTEM TO BACK OFF THE 3 YEAR PAY RAISE SO THAT THE RETIREMENT WILL NOT INCLUDE THE 83, 84, 85 PAY RAISE WHICH DOUBLES RETIREMENT BENEFITS FOR SOME. CONSIDER THESE PAYMENTS AS A BONUS AND NOT AS A BASE FOR RETIREMENT.

TO: ALL LEGISLATORS

FROM: PETER AND MARTHA ELSON  
8840 RENDON DRIVE  
ANCHORAGE, AK 99507-3973 PHONE: 344-0498

SUBJECT: SENATE BILL 140 - RIGHTS OF TERMINALLY ILL

I REQUEST STATE-WIDE PUBLIC HEARINGS ON SB 140, THE EUTHANASIA BILL. I WOULD LIKE TO DEMAND A NO VOTE ON REQUIRING DESTRUCTION OF PREGNANT WOMEN OR THE STARVATION OF PATIENTS OR DENIAL OF OXYGEN BY MEDICAL PERSONNEL. THANK YOU FOR YOUR ATTENTION. I REQUEST A REPLY.

MAR 3 1986

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 \*  
 \* DELIVER TO: JPOM  
 \*  
 \*  
 \* ORIGINAL  
 \* SENT: 03/03/86 TIME: 09:37  
 \* FROM: LIOFBX  
 \* SUBJECT: POM/FBX/MW  
 \* PRINT DATE: 03/03/86 TIME: 09:42  
 \*  
 \*\*\*\*\*

16

TO: HOUSE STATE AFFAIRS COMMITTEE

REPS: HURLEY, NAVARRE, CATO, BOUCHER, M.M. MILLER, COLLINS,  
 JENKINS

ALSO: REPS FRANK, M.W. MILLER, KOPONEN, RINGSTAD, DAVIS  
 SENS FAHRENKAMP, COGHILL, BENNETT

FROM: MERIDITH LESLEY  
 5121 FOUTS  
 FAIRBANKS 99709

PH: 479-8456

RE: HB 436 TRAIN CABOOSES

MSG: AS A CONDUCTOR ON THE ALASKA RAILROAD THE CABOOSE IS  
 CRUCIAL TO PUBLIC SAFETY FOR ALL THE REASONS THAT HAVE BEEN  
 PRESENTED TO BOTH COMMITTEES.



TO: ALL LEGISLATORS

FROM: MARGERY SHORTHILL  
P.O. BOX 670250  
CHUGIAK, AK 99567

PHONE: 688-3435

SUBJECT: TELECONFERENCE ON TORT REFORM, FEBRUARY 17

AFTER COMMUTING OVER 50 MILES TO THE TELECONFERENCE I WAS NOT GIVEN THE OPPORTUNITY TO SPEAK. I WOULD URGE YOU TO MAKE IMMEDIATE ACCESS TO THE CONCERNED CITIZENS OF CHUGIAK/EAGLE RIVER AREA. WE NEED TO HAVE A VOICE IN THESE IMPORTANT ISSUES.

\*\*\*\*\*

TO: ALL LEGISLATORS

FROM: HENRY W. PECK, 12305 WILDERNESS, ANCHORAGE, AK 99516,  
345-3207

SUBJECT: SB 416, USED VEHICLE WARRANTIES

OPPOSE IT. WOULD SERIOUSLY LOWER VEHICLE TRADE-IN APPRAISALS. DEALERS WOULD NEED TO DEDUCT COST OF ANY FORCED WARRANTIES FROM THE VALUE OF TRADED VEHICLE. CONSUMERS WOULD BE THE LOSERS. CONSUMERS NEED PROTECTION FROM LEGISLATORS, NOT FROM THE PRIVATE SECTOR.

@@\*\*POM\*\*

TO ALL SENATORS AND REPRESENTATIVES

FROM VONI LYNCHARD  
BOX 3979  
KENAI, AK 99611  
283-3417

RE: STATE TROOPERS

MESSAGE: I FEEL A GOOD LOOK SHOULD BE TAKEN AT HOW MANY WORKING TROOPERS ARE ON THE ROAD EACH DAY. THIS ORGANIZATION IS TOP HEAVY WITH ADMINISTRATORS WHILE THE GENERAL PUBLIC SUFFERS. IT IS MY OPINION THIS IS WRONGLY DONE ON PURPOSE FOR THE GENERAL PUBLIC TO FEEL THE BUDGET CRUNCH. EOM

FEB 19 1986

TO: ALL LEGISLATORS

FROM: JENNIFER AUSTIN, P.O. BOX 1303, SEWARD, 99664, HM,  
224-3749, WK, 224-3138

RE: HB 436 AND SB 313, CABOOSES

I AM IN FAVOR OF THESE BILLS AND WOULD VERY MUCH LIKE TO SEE THEM PASSED.

MAR 3 1986

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 \*  
 \* DELIVER TO: JFOM \*  
 \* \*  
 \* \*  
 \* ORIGINAL \*  
 \* SENT: 03/03/86 TIME: 09:29 \*  
 \* FROM: MAXINE WALTON \*  
 \* SUBJECT: POM/FBX/MW \*  
 \* PRINT DATE: 03/03/86 TIME: 09:29 \*  
 \* \*  
 \*\*\*\*\*

16

TO: HOUSE STATE AFFAIRS COMMITTEE

REPS: HURLEY, NAVARRE, CATO, BOUCHER, M.M. MILLER, COLLINS,  
 JENKINS

ALSO: REPS FRANK, M.W. MILLER, KOPONEN, RINGSTAD, DAVIS  
 SENS FAHRENKAMP, COGHILL, BENNETT

FROM: ELIZABETH HOLL  
 5121 FOUTS  
 FAIRBANKS 99709

PH: 479-8456

RE: HB 436 CABOOSES ON TRAINS

MSG: I SUPPORT HB 436 FOR OBVIOUS REASONS OF PUBLIC SAFETY AND I  
 HOPE FOR YOUR SUPPORT AND PASSAGE.

HOUSE  
COMMITTEE REPORT

(7)  
Date referred: 3/7

FURTHER REFERRALS:

DATE: 4-2-86

The RULES Committee has considered HB 436

"An Act requiring a properly equipped and staffed caboose on certain trains."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 436 (Rules)  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:

M.W. Miller

Gar Julek

Ben S. ...

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Terry Martin - no rec.

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M.W. Miller  
Chairman



Official Business

# Alaska State Legislature

## House of Representatives

### Committee on Rules

Pouch V  
Juneau, Alaska 99811

Phone:  
(907) 465-3764  
465-3765

#### HOUSE RULES STANDING COMMITTEE MEETING

WEDNESDAY, APRIL 2, 1986

8:00 A.M. - CAPITOL, ROOM 208

#### AGENDA:

- HB 436 - "An Act requiring a properly equipped and staffed caboose on certain trains."  
(By Representative Cato)

#### I N D E X

- I. PROPOSED VERSION - CSHB 436 (RULES)
- II. ORIGINAL VERSION HB 436
- III. LETTER DATED MARCH 14, 1986 WHICH EXPLAINS CHANGES MADE IN CSHB 436 (RULES)
- IV. BACK-UP ON HB 436

I.

# Proposed Rules CS

Original sponsors: Cato, Hurley,  
Koponen, et al.

1 IN THE HOUSE

. BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 436 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring a properly equipped and staffed  
7 caboose on certain trains."

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

9 \* Section 1. AS 42.30 is amended by adding new sections to read:

10 ARTICLE 6. CABOOSE REQUIRED.

11 Sec. 42.30.250. CABOOSE REQUIRED. (a) A train that exceeds  
12 1,000 feet in length including locomotives shall have a properly  
13 added:  
maintained and equipped caboose, that is staffed by a qualified train  
14 conductor or brakeman, attached as the rear car while the train is  
15 moving over tracks outside a yard or terminal.

16 (b) This section applies to a railroad that transports goods or  
17 passengers for a fee.

18 Sec. 42.30.260. EXCEPTIONS. (a) AS 42.30.250 does not apply

19 (1) to a train composed only of locomotives and passenger  
20 coaches;

21 added New Section:  
22 (2) to a train not exceeding 1,825 feet in length, includ-  
23 ing locomotives, composed only of trailer on flat car equipment or  
24 container on flat car equipment provided that any hazardous or toxic  
25 materials on the train are located in the first 1,000 feet of the  
26 train as measured from the lead locomotive; or

27 changed from (2) to (3)  
(3) if an emergency occurs in route that prevents compli-  
28 ance with that section.

29 (b) Notwithstanding AS 42.30.250, a defective car that cannot be  
entrained except behind the caboose may be attached as the rear car on

1 a train and moved to the nearest terminal where it can be repaired.

2 Sec. 42.30.270. PENALTY. Violation of AS 42.30.250 is an of-  
3 fense punishable by a fine of not less than \$500 and not more than  
4 \$1,000. Each violation is a separate offense.  
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II.  
original version

Introduced: 5/9/85  
Referred: State Affairs  
and Transportation

1 IN THE HOUSE

BY CATO

2

HOUSE BILL NO. 436

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act requiring a properly equipped and staffed  
caboose on certain trains."

7

8

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

9

\* Section 1. AS 42.30 is amended by adding new sections to read:

10

ARTICLE 6. CABOOSE REQUIRED.

11

Sec. 42.30.250. CABOOSE REQUIRED. (a) A train that exceeds

12

1,000 feet in length including locomotives shall have a properly  
*add: maintained and*

13

*A* equipped caboose, that is staffed by a qualified train conductor or  
brakeman, attached as the rear car while the train is moving over  
tracks outside a yard or terminal.

16

(b) This section applies to a railroad that transports goods or

17

passengers for a fee.

18

Sec. 42.30.260. EXCEPTIONS. (a) AS 42.30.250 does not apply

19

(1) to a train composed only of locomotives and passenger

20

coaches; or *\* see new section (2) below*

21

*\* Changed from (2) to (3)*  
(2) if an emergency occurs in route that prevents compli-  
ance with that section.

23

(b) Notwithstanding AS 42.30.250, a defective car that cannot be

24

entrained except behind the caboose may be attached as the rear car on  
a train and moved to the nearest terminal where it can be repaired.

26

Sec. 42.30.270. PENALTY. Violation of AS 42.30.250 is an

27

offense punishable by a fine of not less than \$500 and not more than  
\$1,000. Each violation is a separate offense.

28

*new Section (2)*

*\* added:*

*(2) to a train not exceeding 1,825 feet in length, includ-  
ing locomotives, composed only of trailer on flat car equipment or  
container on flat car equipment provided that any hazardous or toxic  
materials on the train are located in the first 1,000 feet of the  
train as measured from the lead locomotive, or*

HB 436

III

Wagstaff, Pope & Rogers  
Lawyers

Robert K. Wagstaff & Associates  
912 West Sixth Avenue  
Anchorage, Alaska 99501  
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Affiliated with:  
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(202) 733-5100

Douglas Pope  
David S. Rogers  
124 West 5th Street  
Juneau, Alaska 99801  
(907) 586-1161

March 14, 1986

The Honorable Representative Cato  
House of Representatives  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Cato:

I am writing of behalf of the United Transportation Union, Local 1826 regarding proposed amendments to HB436, An Act requiring a properly equipped and staffed caboose on certain trains. My clients have asked me to advise you that they intend to propose, through Representative Pignalberi and the House Rules Committee, the following amendments:

1) Line 12, after "property", add the words maintained and. This section would then read:

"(1) A train that exceeds 1,000 feet in length including locomotives shall have a properly maintained and equipped caboose...."

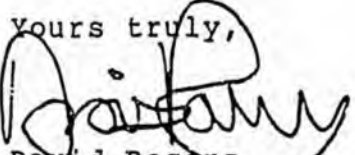
This amendment should help assure that cabooses are used for their full useful lives and are not taken out of service prematurely due to lack of normal preventive maintenance.

2) An additional exception in 42.30.260 offered in the spirit of compromise which effectively would exempt the "FOX" from the requirements of 42.30.250 to read as follows:

"3) to a train composed exclusively of TOFC (Trailer on Flat Car)/COFC (Container on Flat Car) equipment not exceeding 1825 feet in length including locomotives, provided that hazardous or toxic materials are located in the first 1,000 feet of the train as measured from the lead locomotive."

If you have any questions or comments, please give me a call.

Thanks.

Yours truly,  
  
David Rogers



# 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

9/5/89  
Date

H B

4 6 3

4/15/86

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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JUNEAU, ALASKA 99011  
907-465-3800

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 Rules Committee, 4/15/86, 8:05 am

A M E N D M E N T

OFFERED IN THE HOUSE:

By: REP. GRUENBERG

To: CS HOUSE BILL No. 463 (RULES)

SENATE BILL No. \_\_\_\_\_

PAGE: \_\_\_\_\_

LINE: \_\_\_\_\_

Page 1, line 20 strike present language and insert

"(A) the spouse of the defendant, unless the court finds that a divorce is pending between the individuals, that a restraining order against further assaultive behavior has been issued, and that there will be no danger to the spouse if the crime is compromised;

"(B) the former spouse of the defendant;"

Renumber succeeding subsections.



Official Business

# Alaska State Legislature

## House of Representatives

### Committee on Rules

Pouch V  
Juneau, Alaska 99811

Phone:  
(907) 465-3764  
465-3765

#### HOUSE RULES STANDING COMMITTEE MEETING

TUESDAY, APRIL 15, 1986

8:30 A.M. - CAPITOL, ROOM 208

#### A G E N D A

HB 463 - "An Act relating to criminal trials and restitution."  
(By Representative Thompson)

#### I N D E X

- I. PROPOSED VERSION CSHB 463 (RULES)
- II. LETTER DATED APRIL 14, 1986 FROM REPRESENTATIVE THOMPSON
- III. ORIGINAL VERSION HB 463
- IV. CSHB 463 (JUD)
- V. BILL HISTORY HB 463
- VI. Fiscal notes with analysis



Official Business

**COMMITTEE:**

4/15/86

**DATE:**

# SIGN-IN

**Subject of meeting:**

HB 463

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?



Original sponsors: Thompson, Jenkins,  
Uehling, et al

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 463 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 *New Title* A BILL

6 For an Act entitled: "An Act relating to the authority to compromise  
7 certain misdemeanors and to the payment of restitu-  
8 tion."

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

10 \* Section 1. AS 12.45.120 is amended to read:

11 Sec. 12.45.120. AUTHORITY TO COMPROMISE MISDEMEANORS FOR WHICH  
12 VICTIM HAS CIVIL ACTION. When a defendant is held to answer on a  
13 charge of misdemeanor for which the person injured by the act consti-  
14 tuting the crime has a remedy by a civil action, the crime may be  
15 compromised except when it was committed

16 (1) by or upon a peace officer, judge, or magistrate while  
17 in the execution of the duties of that office;

18 (2) riotously;

19 (3) with an intent to commit a felony;

20 (4) larcenously;

21 (5) by assault against

22 (A) a spouse or a former spouse of the defendant;

23 (B) a parent, grandparent, child, or grandchild of the  
24 defendant;

25 (C) a member of the social unit comprised of those  
26 living together in the same dwelling as the defendant; or

27 (D) a person who is not a spouse or former spouse of  
28 the defendant but who previously lived in a spousal relationship  
29 with the defendant.

1 \* Sec. 2. AS 12.55.045(a) is amended to read:

2 (a) The court may order a defendant convicted of an offense to  
3 make restitution as provided in this section, including restitution to  
4 a public or private nonprofit organization that has provided counsel-  
5 ing, medical, or shelter services to the victim, or as otherwise au-  
6 thorized by law. <sup>added:</sup> ~~Before an order of restitution is entered~~ <sup>upon request,</sup> ~~the defen-~~  
7 ~~dant may have an opportunity to establish, by a preponderance of the~~  
8 ~~evidence, the inability to pay restitution during the term of the~~  
9 ~~sentence~~ [IN DETERMINING THE AMOUNT AND METHOD OF PAYMENT OF RESTITU-  
10 TION, THE COURT SHALL TAKE INTO ACCOUNT THE FINANCIAL RESOURCES OF THE  
11 DEFENDANT AND THE NATURE OF THE BURDEN ITS PAYMENT WILL IMPOSE].

12 \* Sec. 3. AS 12.55.051(a) is amended to read:

13 (a) If the defendant defaults in the payment of a fine or any  
14 installment or of restitution or any installment, the court may order  
15 the defendant to show cause why the defendant should not be sentenced  
16 to imprisonment for nonpayment. If the defendant fails to establish  
17 [COURT FINDS] by a preponderance of the evidence that the defendant  
18 did not intentionally refuse or fail [DEFAULT WAS ATTRIBUTABLE TO AN  
19 INTENTIONAL REFUSAL OR FAILURE] to make a good faith effort to pay the  
20 fine or restitution, the court may order the defendant imprisoned  
21 until the order of the court is satisfied. A term of imprisonment  
22 imposed under this section may not exceed one day for each \$50 of the  
23 unpaid portion of the fine or restitution or one year, whichever is  
24 shorter. Credit shall be given toward satisfaction of the order of  
25 the court for every day a person is incarcerated for nonpayment of a  
26 fine or restitution.

I

Original sponsors: Thompson, Jenkins,  
Uehling, et al

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 463 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

*New Title*

6 For an Act entitled: "An Act relating to the authority to compromise  
7 certain misdemeanors and to the payment of restitu-  
8 tion."

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

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12 VICTIM HAS CIVIL ACTION. When a defendant is held to answer on a  
13 charge of misdemeanor for which the person injured by the act consti-  
14 tuting the crime has a remedy by a civil action, the crime may be  
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16 (1) by or upon a peace officer, judge, or magistrate while  
17 in the execution of the duties of that office;

18 (2) riotously;

19 (3) with an intent to commit a felony;

20 (4) larcenously;

21 (5) by assault against

22 (A) a spouse or a former spouse of the defendant;

23 (B) a parent, grandparent, child, or grandchild of the  
24 defendant;

25 (C) a member of the social unit comprised of those  
26 living together in the same dwelling as the defendant; or

27 (D) a person who is not a spouse or former spouse of  
28 the defendant but who previously lived in a spousal relationship  
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3 make restitution as provided in this section, including restitution to  
4 a public or private nonprofit organization that has provided counsel-  
5 ing, medical, or shelter services to the victim, or as otherwise au-  
6 thorized by law. Before an order of restitution is entered the defen-  
7 dant may have an opportunity to establish, by a preponderance of the  
8 evidence, the inability to pay restitution during the term of the  
9 sentence [IN DETERMINING THE AMOUNT AND METHOD OF PAYMENT OF RESTITU-  
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19 INTENTIONAL REFUSAL OR FAILURE] to make a good faith effort to pay the  
20 fine or restitution, the court may order the defendant imprisoned  
21 until the order of the court is satisfied. A term of imprisonment  
22 imposed under this section may not exceed one day for each \$50 of the  
23 unpaid portion of the fine or restitution or one year, whichever is  
24 shorter. Credit shall be given toward satisfaction of the order of  
25 the court for every day a person is incarcerated for nonpayment of a  
26 fine or restitution.

Representative M. W. Miller  
Chairman, House Rules Committee

April 14, 1986

465-3678

Representative David Thompson *DWT*

Compromise language  
for HB 463

The new language contained in Section 2 of the proposed Rules Committee Substitute for HB 463 is a compromise structured to take care of concerns expressed by Representative Clocksin while retaining my intent in the original version.

As originally drafted, Section 2 was intended to eliminate the requirements that a court first determine an offender's earning capacity and then find the offender has the ability to pay before ordering restitution. Representative Clocksin raised a legitimate concern for indigent offenders who would be unable to pay restitution. This language permits an offender to raise the issue at sentencing and to show the inability to pay, while retaining my intent of creating a presumption in favor of the ability to pay restitution.

I wholeheartedly support this version of my bill and urge favorable action by your committee on it.

BILL HB0463  
PAGE 01781  
DATE 01/13/86  
CHAMBER HOUSE  
TEXT HOUSE BILL NO. 463 by Thompson, entitled:  
"An Act relating to criminal trials and  
restitution."  
was read the first time and referred to the Judiciary and  
Finance Committees.

BILL HB0463  
PAGE 01791  
DATE 01/14/86  
CHAMBER HOUSE  
TEXT Representative Jenkins added his name as co-sponsor to HOUSE  
BILL NO. 463 (relating to criminal trials and restitution).

BILL HB0463  
PAGE 01801  
DATE 01/15/86  
CHAMBER HOUSE  
TEXT Representatives Taylor and Uehling added their names as  
co-sponsors to HOUSE BILL NO. 463 (relating to criminal  
trials and restitution).

BILL HB0463  
PAGE 01809  
DATE 01/16/86  
CHAMBER HOUSE  
TEXT Representative Goll added his name as co-sponsor to HOUSE  
BILL NO. 463 (relating to criminal trials and restitution).

BILL HB0463  
PAGE 01834  
DATE 01/20/86  
CHAMBER HOUSE  
TEXT Representative Wallis added her name as co-sponsor to HOUSE  
BILL NO. 463 (relating to criminal trials and restitution).

BILL HB0463  
PAGE 01908  
DATE 01/27/86  
CHAMBER HOUSE  
TEXT Representative Davis added his name as co-sponsor to HOUSE  
BILL NO. 463 (relating to criminal trials and restitution).

BILL HB0463  
 PAGE 02438  
 DATE 03/21/86  
 CHAMBER HOUSE  
 TEXT The Judiciary Committee has considered HOUSE BILL NO. 463 (relating to criminal trials and restitution), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 463 (Judiciary):

"An Act relating to the authority to compromise certain misdemeanors and to the payment of restitution."

and reports it back as follows: M.M. Miller (Chairman) and Clocksin recommend do pass; Taylor recommends do not pass; Sund, Gruenberg, Pettyjohn and Phillips have no recommendation. A zero fiscal note was attached.

A zero fiscal note with analysis appears in House Journal Supplement No. 100.

HB 463 was referred to the Finance Committee.

BILL HB0463  
 PAGE 02568  
 DATE 04/04/86  
 CHAMBER HOUSE  
 TEXT The Finance Committee has considered HOUSE BILL NO. 463 (relating to criminal trials and restitution) and reports it back as follows: Adams (Chairman), Ringstad, Szymanski, Duncan, Larson, Uehling, Rieger, Frank, Binkley and Cotten recommend do pass; Pourchot has no recommendation. HB 463 was referred to the Rules Committee for placement on the calendar.

Misdemeanor Crimes (assault) HOUSE BILL NO. 463, by Rep. Thompson. Amends AS 12.45.120 (Authority to compromise misdemeanors for which victim has civil action) to provide that when a defendant is held to answer on a misdemeanor charge for which the person injured by the act constituting the crime has a remedy by a civil action, the crime may be compromised except when it was committed by assault against the spouse or former spouse; a parent, grandparent, child or grandchild; or a member of the social unit comprised of those living in the same dwelling as the defendant.

Also provides that a defendant accused of a crime may be ordered by a court to make restitution to a public or private non-profit organization that has provided services to the defendant.

Introduced Jan. 13, and referred to the Judiciary and Finance Committees.

Misdemeanor Crimes HOUSE BILL NO. 463, (see page 27). On January 20 Rep. Wallis added her name as co-sponsor.

Misdemeanor Crimes  
(assault)      HOUSE BILL 463, see pages 27,76. 1986 Report. On /27/86  
Rep. Davis added his name as co-sponsor.

Misdemeanor Crimes  
(assault)      HOUSE BILL NO. 463, (see pages 27, 76 and 128). Reported  
back to the House by Judiciary March 21 with a committee  
substitute and individual recommendations. M.M. Miller  
(chair) and Clocksin recommended do pass; Sund, Gruenberg, Phillips  
and Pettyjohn had no recommendation. Taylor recommended do not  
pass. To Finance.

The substitute bill rewrites the title and adds new language saying  
that a criminal misdemeanor may not be compromised when it was  
committed by assault against the spouse of the defendant unless the  
court finds that a divorce is pending between the individuals and a  
restraining order has been issued against further assaultive  
behavior. It would also restore language in existing law saying  
that the court shall take into account the financial resources of  
the defendant and the nature of the burden its payment will impose  
in determining the amount and method of payment and restitution.

Misdemeanor Crimes  
(assault)      HOUSE BILL NO. 463, (see pages 27;76;128;368). Reported  
back to the House April 4, 1986 with by Finance with a do  
pass recommendation. Concurring were Adams (chair), Ringstad,  
Szymanski, Duncan, Larson, Uehling, Rieger, Frank, Binkley and  
Cotten. Not concurring was Pourchot who had no recommendation. To  
Rules.

HB 463 (page 1 of 2)

HB 463 (page 2 of 2)

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

**REQUEST**

Bill Resolution No.: HB 463  
 Title: "An Act relating to criminal trials and restitution."  
 Sponsor: Repr. Thompson  
 Requestor: Repr. Thompson  
 Date of Request: February 7, 1986

**FISCAL DETAIL**

Agency Affected: Department of Law  
 BRU: Prosecution  
 Components: \_\_\_\_\_

For Bill/Resolution No. HB 463

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

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

CAPITAL						
REVENUE						

**FUNDING : (Thousands of Dollars)**

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

**POSITIONS :**

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

**ANALYSIS :** Attach a separate page if necessary

- Please see attached analysis. -

Prepared by: Richard I. Pevius Phone: 465-3672  
 Division: Administrative Services Division Date: 2/12/86  
 Approved by Commissioner: Richard J. Brown Date: 2/12/86  
 Agency: Department of Law

This bill expands the exceptions to the authority to compromise misdemeanors for which a victim has a civil action, under AS 12.45.120, to except certain family members and certain others having a past or present living relationship with a defendant. The bill also provides that a court may order restitution to a public or nonprofit organization that has provided counseling, medical or shelter services to the victim. Neither of these new provisions will have a fiscal impact on the Department of Law.

HB 463 (page 1 of 2)

HB 463 (page 2 of 2)

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

**REQUEST**  
 Bill/Resolution No.: HB 463  
 Title: "An Act relating to criminal trials and restitution."  
 Sponsor: Repr. Thompson  
 Requirer: Repr. Thompson  
 Date of Request: February 7, 1986

**FISCAL DETAIL**  
 Agency Affected: Department of Law  
 BRU: Prosecution  
 Components: \_\_\_\_\_

For Bill/Resolution No. HB 463

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-

CAPITAL						
REVENUE						

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

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

**ANALYSIS :** Attach a separate page if necessary

-Please see attached analysis.-

Prepared by: Richard J. Perula Phone: 465-3672  
 Division: Administrative Services Division Date: 2/12/86  
 Approved by Commissioner: Richard J. Brown Date: 2/12/86  
 Agency: Department of Law  
 Approved by: Harold B. Brown, Attorney General

This bill expands the exceptions to the authority to compromise misdemeanors for which a victim has a civil action, under AS 12.45.120, to except certain family members and certain others having a past or present living relationship with a defendant. The bill also provides that a court may order restitution to a public or nonprofit organization that has provided counseling, medical or shelter services to the victim. Neither of these new provisions will have a fiscal impact on the Department of Law.

VI

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : HB463

Title : "An Act Relating to Criminal Trials and Restitution"

Sponsor : Rep. David Thompson

Requestor : HOUSE JUDICIARY

Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Public Safety

BRU : Council on Domestic Violence and Sexual Assault

Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by : Barbara Miklos, Exec. Dir.

Phone : 465-4356

Division : Council on DV and SA

Date : 1/31/86

Approved by Commissioner : [Signature]

Date : 2/3/86

Agency : Dept. of Public Safety

Distribution (by Agency preparing fiscal note) :

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

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST HB 463  
 Bill/Resolution No.: HR 463  
 Title: "An Act relating to criminal trials and restitution."  
 Sponsor: Repr. Thompson  
 Requestor: Repr. Thompson  
 Date of Request: February 7, 1986

Revision Date: \_\_\_\_\_  
 FISCAL DETAIL  
 Agency Affected: Department of Law  
 BRU: Prosecution  
 Components: \_\_\_\_\_

EXPENDITURES/REVENUES : (Thousands of Dollars)

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

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

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

FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

-Please see attached analysis.-

Prepared by: Richard I. Pegues Phone: 465-3672  
 Division: Administrative Services Division Date: 2/12/85  
 Approved by Commissioner: Richard I. Pegues (for) Date: 2/12/86  
 Agency: Harold M. Brown, Attorney General  
Department of Law

Distribution (by Agency preparing fiscal note):

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 463 #2

Page 2 of 2

This bill expands the exceptions to the authority to compromise misdemeanors for which a victim has a civil action, under AS 12.45.120, to except certain family members and certain others having a past or present living relationship with a defendant. The bill also provides that a court may order restitution to a public or nonprofit organization that has provided counseling, medical or shelter services to the victim. Neither of these new provisions will have a fiscal impact on the Department of Law.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 463

January 31, 1986

Support

HB 463 - "An Act relating to criminal trials and restitution."

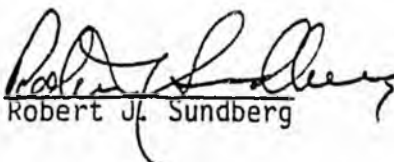
The Council on Domestic Violence and Sexual Assault supports HB 463. Following are comments about the bill.

Section I. Adds domestic violence to the list of exceptions to remedy by a civil compromise.

Many battered women do not have the money to obtain legal counsel to protect their rights under Alaska statute. They may be unknowingly led to believe that a civil compromise is the answer to "the problem" by a perpetrator's attorney. The victim believes that this is the appropriate course of action because a lawyer says so. Civil compromise gives the batterer the message that it is acceptable to use violence to solve problems with anger and frustration, because there are no long term consequences. Domestic violence cases should not be compromised in this manner.

Section II. Allows providing restitution to an organization that has provided counseling, medical or shelter services to a victim of an offense.

Since many agencies that provide services to victims have inadequate funding, additional financial support is needed. It is difficult to determine if this provision will engender much money for domestic violence programs because its use may not be appropriate in most cases. Domestic violence programs cannot reveal clients' identities without the express permission of the victim and guarantee for the victim's safety. However, there may be instances where this could be accomplished and the batterer should be held accountable to the victim and pay for harm done to her as well as services received.

  
Robert J. Sundberg

HOUSE  
COMMITTEE REPORT

(7)

Date referred: 4/14/86

(Returned from Cal. 4/14)

FURTHER REFERRALS:

DATE: 4-15-86

The RULES Committee has considered HB 463

"An Act relating to criminal trials and restitution."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with \_\_\_\_\_  same title
- replace with \_\_\_\_\_  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:

M.W. Miller  
 Kay Welton  
 Ben S. ...  
 Larry Martin

John Fuller ...

M.W. Miller  
 Chairman

Original sponsors: Thompson, Jenkins,  
Uehling, et al

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 463 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 *New Title* A BILL  
6 For an Act entitled: "An Act relating to the authority to compromise  
7 certain misdemeanors and to the payment of restitu-  
8 tion."

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

10 \* Section 1. AS 12.45.120 is amended to read:

11 Sec. 12.45.120. AUTHORITY TO COMPROMISE MISDEMEANORS FOR WHICH  
12 VICTIM HAS CIVIL ACTION. When a defendant is held to answer on a  
13 charge of misdemeanor for which the person injured by the act consti-  
14 tuting the crime has a remedy by a civil action, the crime may be  
15 compromised except when it was committed

16 (1) by or upon a peace officer, judge, or magistrate while  
17 in the execution of the duties of that office;

18 (2) riotously;

19 (3) with an intent to commit a felony;

20 (4) larcenously;

21 (5) by assault against

22 (A) a spouse or a former spouse of the defendant;

23 (B) a parent, grandparent, child, or grandchild of the  
24 defendant;

25 (C) a member of the social unit comprised of those  
26 living together in the same dwelling as the defendant; or

27 (D) a person who is not a spouse or former spouse of  
28 the defendant but who previously lived in a spousal relationship  
29 with the defendant.

1 \* Sec. 2. AS 12.55.045(a) is amended to read: .

2 (a) The court may order a defendant convicted of an offense to  
3 make restitution as provided in this section, including restitution to  
4 a public or private nonprofit organization that has provided counsel-  
5 ing, medical, or shelter services to the victim, or as otherwise au-  
6 thorized by law. Before an order of restitution is entered<sup>upon request,</sup> the defen-  
7 dant may have an opportunity to establish, by a preponderance of the  
8 evidence, the inability to pay restitution during the term of the  
9 sentence [IN DETERMINING THE AMOUNT AND METHOD OF PAYMENT OF RESTITU-  
10 TION, THE COURT SHALL TAKE INTO ACCOUNT THE FINANCIAL RESOURCES OF THE  
11 DEFENDANT AND THE NATURE OF THE BURDEN ITS PAYMENT WILL IMPOSE].

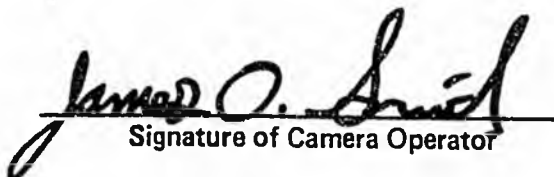
12 \* Sec. 3. AS 12.55.051(a) is amended to read:

13 (a) If the defendant defaults in the payment of a fine or any  
14 installment or of restitution or any installment, the court may order  
15 the defendant to show cause why the defendant should not be sentenced  
16 to imprisonment for nonpayment. If the defendant fails to establish  
17 [COURT FINDS] by a preponderance of the evidence that the defendant  
18 did not intentionally refuse or fail [DEFAULT WAS ATTRIBUTABLE TO AN  
19 INTENTIONAL REFUSAL OR FAILURE] to make a good faith effort to pay the  
20 fine or restitution, the court may order the defendant imprisoned  
21 until the order of the court is satisfied. A term of imprisonment  
22 imposed under this section may not exceed one day for each \$50 of the  
23 unpaid portion of the fine or restitution or one year, whichever is  
24 shorter. Credit shall be given toward satisfaction of the order of  
25 the court for every day a person is incarcerated for nonpayment of a  
26 fine or restitution.



# 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.

  
Signature of Camera Operator

  
Date

HB

587

PROPOSED CSHB 587 (RULES), GENERAL GRANT LAND ENTITLEMENTS

CHANGES TO CSHB 587 (FINANCE)

1. CLEARS A CONFLICT BETWEEN SEC. 29.65.040 (a) and (b) PRESENTED BY THE FINANCE COMMITTEE SUBSTITUTE. RETURNS LANGUAGE IN (a) TO ITS ORIGINAL VERSION. (SEC. 3, pg. 2)
2. REENACTS AS 29.65.060 (a) and (b) AND ADDS THE WORD LAND AFTER THE WORDS SCHOOL AND UNIVERSITY IN EACH INSTANCE WHERE THEY OCCUR. THE EFFECT OF THIS ADDITION IS ONLY TO MAKE SCHOOL LANDS, UNIVERSITY LANDS, AND MENTAL HEALTH LANDS DISTINCT. (SEC. 4 and 5, pg. 2-3)
3. CREATES A NEW SUBSECTION AFFIRMING A MUNICIPALITY'S LEGAL RIGHT TO HAVE SELECTED SCHOOL LANDS OR MENTAL HEALTH LANDS ON OR BEFORE JUNE 1, 1986 AND RESTRICTS A MUNICIPALITY'S ABILITY TO SELECT FROM THESE LANDS TO FULFILL THEIR ENTITLEMENT AFTER JUNE 1, 1986. (SEC. 6(g), pg. 3)
4. CREATES A "JUST COMPENSATION" PROVISION FOR THOSE FUTURE SITUATIONS IN WHICH MUNICIPAL SELECTIONS PENDING OR UNDER APPEAL CANNOT BE CONVEYED BECAUSE OF JUDICIAL OR LEGISLATIVE ACTION. STIPULATES THAT ANY "COMPENSATION" MAY BE IN LAND OR OTHER PAYMENT AND THAT IT BE CREDITED AGAINST THE MUNICIPALITY'S REMAINING ENTITLEMENT. (SEC. 6(h), pg. 3)
5. MAKES MINOR ADJUSTMENTS TO SECTION PROVIDING FOR A NEGOTIATED AGREEMENT BETWEEN THE COMMISSIONER OF NATURAL RESOURCES AND MUNICIPALITIES SEEKING FULFILLMENT OF THEIR ENTITLEMENTS. THE CHANGES ALLOW FOR THE CONVEYANCE OF LANDS OUTSIDE OF A MUNICIPALITY'S BOUNDARIES; RESTRICT THE COMMISSIONER'S ABILITY TO CONVEY LAND OWNED BY ANOTHER STATE AGENCY WITHOUT THAT AGENCY'S CONSENT; AND PROVIDE THAT RESTRICTIONS OR CONDITIONS, NOT IMPOSED BY LAW, BE MUTUALLY AGREED UPON BY ALL PARTIES TO THE AGREEMENT. (SEC. 15, pg. 7)

4

# Alaska State Legislature

## House of Representatives

WHILE IN SESSION  
Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3706

OUT OF SESSION  
P.O. Box 333  
Kotzebue, Alaska 99752  
(907) 442-3320

1024 W. 6th  
Anchorage, Alaska 99501  
(907) 274-0615



Official Business

Al Adams  
Chairman  
Committee on Finance

April 18, 1986

### MEMORANDUM

TO: Members of the House Rules Committee  
FROM: Representative Al Adams *APA*  
SUBJ: HB 587

This bill will increase the land base of many communities by increasing their entitlement to state general grant land.

It has six major parts:

1. It allows communities to either receive a land entitlement or increase an existing entitlement if additional state land is now available. In addition to the proposed Northwest Arctic Borough and the existing North Slope Borough in my district, the Matsu, Fairbanks North Star, Haines, and Bristol Bay Boroughs may benefit. Additionally, the cities of Anderson, Yakutat, Seward, and others who have not yet identified all the state land within their boundaries, are also expected to benefit.
2. The new entitlement formula is pegged at 10% of vacant, unappropriated and unreserved land within the community. Some boroughs will be eligible for the new entitlement or their old entitlement under existing law (AS 29.65.010). Such a borough would only be allowed to receive the larger of the old entitlement allowed under .010 or the new entitlement provided for under the 10% formula in this bill (proposed AS 29.65.015). In no event, however, can any community select more than 400,000 acres.
3. A community can continue to receive land until two years after the state's land selection rights expire (1996). Existing law allowed for entitlement selection only until 1978.
4. The types of land that can be selected are reclassified to reflect the types of land that are currently available.

5. Community input to the selection and classification process is assured.

6. Authority is provided for the commissioner of DNR and the Municipality of Anchorage to finalize negotiations for settlement of Anchorage's land entitlement.

I request that you consider adoption of the attached proposed Rules Committee Substitute for HB 587. The proposed C.S. makes changes to the language in the bill regarding item #6 above. Rep. Pourchot will be testifying on this language but I am fully supportive of it.

Thank you for your prompt consideration of this legislation. Pertinent backup materials are attached.

Attachments

cc: Representative Pourchot

ESTIMATED MINERAL ENTITLEMENT ADVANCE UNDER SSSB 414

Based on March, 1986 Land Status

	KETCHIKAN GATEWAY	SITKA	JUNEAU	VALDES	BRISTOL BAY	KODIAK ISLAND	KENAI PENINSULA	ANCHORAGE	MATANUSKA SUSITNA	FAIRBANKS NORTH STAR	NORTH SLOPE	W/ ARCTIC (PROPOSED)
Total 6(a) and 6(b) Statehold Land Conveyed to State	26,900	15,600	25,000	165,000	51,500	402,000	2,019,000	521,000	9,331,000	3,231,000	7,513,000	2,300,000
Less: Legislatively Designated Units	0	0	800	27,500	0	11,200	580,000	403,000	2,603,600	614,600	7	0
Less: Non-Selectable Classifications	0	0	0	27	0	0	267,000	0	956,000	110,700	7,031	0
Less: Previous Conveyances												
- Borough	11,402	10,500	19,504	2,800	2,519	58,787	99,393	20,676	355,703	90,572	0	0
- City	0	0	0	0	0	1	806	0	406	15	0	0
- Disposals	750	200	300	2,000	0	415	17,000	200	262,800	175,000	0	0
- Land Ex/Agmt.	0	0	0	0	0	0	292,965	0	105,500	0	0	0
Total Land Unavailable	12,200	10,700	20,700	32,000	2,500	70,000	1,257,000	501,000	4,364,000	999,000	7,000	0
Available Selectable Land	14,700	4,900	4,300	133,000	49,000	412,000	762,000	17,000	4,970,000	2,232,000	7,506,000	2,300,000
SSSB/SSSB 414 Entitlement (10% of WU)	1,470	490	430	13,300	4,900	41,200	76,200	1,700	400,000*	223,200	400,000*	230,000
1970 Entitlement	11,593	10,500	19,584	2,800	2,890	58,787	155,780	44,893	355,210	112,000	89,857**	n.a.

\* Entitlement not to exceed 400,000 acres under SSSB 414.

\*\* Received zero entitlement pursuant to election of benefits in AS 29.65.110.

Oil Division of Land and Water Management  
Land Management Section  
March 19, 1986

111

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 4/10/86

**REQUEST**

Bill/Resolution No. : CSHB 587 (Fin)  
 Title : Municipal land entitlements

Sponsor : Adams  
 Requestor : House Finance Committee  
 Date of Request : 4/10/86

**FISCAL DETAIL**

Agency Affected : DNR  
 BRU : Land & Water Management

Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		34.6	---	---	---	---
TRAVEL		5.0	---	---	---	---
CONTRACTUAL		10.0	---	---	---	---
SUPPLIES		0	---	---	---	---
EQUIPMENT		0	---	---	---	---
LAND & STRUCTURES		0	---	---	---	---
GRANTS, CLAIMS		0	---	---	---	---
MISCELLANEOUS		0	---	---	---	---
TOTAL OPERATING		49.6	---	---	---	---

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

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

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		49.6	---	---	---	---
FEDERAL FUNDS			---	---	---	---
OTHER			---	---	---	---
TOTAL		49.6	---	---	---	---

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

See Attached Analysis

Prepared by : Al Adams, Chair APA Phone : 465-3706  
 Division : House Finance Committee Date : 4/10/86

Approved by Commissioner : \_\_\_\_\_ Date : \_\_\_\_\_  
 Agency : \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

ANALYSIS OF CS HB 537 (FIN) FISCAL NOTE

FY 87:

Personal Services

Natural Resources Technician I -- 12 months \$ 34.6  
(To coordinate duties associated with  
selecting and determining entitlements)

Travel

To meet with communities to facilitate \$ 5.0  
determination and conveyance of entitlements

Contractual

To cover cost of notification process, maps, \$ 10.0  
plats, etc. required to adjudicate land  
selections and determine entitlements

TOTAL \$ 49.6

In addition to the \$50.6 provided here, adjustments may be made to the FY 87 DNR budget. Positions that currently do land conveyance only, may also participate in the entitlement process provided for in this bill.

FUTURE FISCAL YEARS:

There will be diminishing costs in future years. The actual amount needed each year will depend on the pace of selection, determination, conveyance, etc. These costs will be determined in the annual budget process.



Official Business

# Alaska State Legislature

## House of Representatives

### Committee on Rules

Pouch V  
Juneau, Alaska 99811

Phone:  
(907) 465-3764  
465-3765

#### HOUSE RULES STANDING COMMITTEE MEETING

MONDAY, APRIL 21, 1986

8:30 A.M. - CAPITOL, ROOM 208

#### I N D E X

- I. PROPOSED VERSION CSHB 587 (RULES)
- II. MEMO FROM REPRESENTATIVE ADAMS RE: HB 587
- III. FISCAL NOTE
- IV. CSHB 587 (FINANCE)
- V. HB 587 (C&RA)
- VI. HB 587

Cook  
4/19/86

Original sponsor: Adams

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 587 (Rules)

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 general grant land entitlements;  
7 and providing for an effective date."

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

9 \* Section 1. AS 29.65 is amended by adding a new section to read:

10 Sec. 29.65.015. DETERMINATION OF ENTITLEMENTS FOR MUNICIPAL-  
11 ITIES. The general grant land entitlement of a municipality is 10  
12 percent of the maximum total acreage of vacant, unappropriated, unre-  
13 served land within its boundaries at any time between the date of its  
14 incorporation and two years after the expiration of the state's right  
15 to make selections under sec. 6(a) or (b) of the Alaska Statehood Act.  
16 By December 31 of each year the director shall determine or update the  
17 unfulfilled entitlement for each municipality under this section and  
18 certify that entitlement to that municipality.

19 \* Sec. 2. AS 29.65 is amended by adding a new section to read:

20 Sec. 29.65.025. LIMITATIONS ON ENTITLEMENTS. (a) A municipal-  
21 ity is eligible for only one general grant land entitlement. A munic-  
22 ipality that qualifies for an entitlement under AS 29.65.010 and  
23 29.65.015 shall receive the larger of the two entitlements.24 (b) A municipality may not receive a general grant land en-  
25 titlement under AS 29.65.010 or 29.65.015 that exceeds 400,000 acres.26 (c) The following shall be credited toward fulfillment of the  
27 general grant land entitlement of a municipality:28 (1) conveyances of legal title to land by the state to the  
29 municipality before January 1, 1987, under a former law;

1 (2) payments for land before January 1, 1987, under former  
2 AS 29.18.208;

3 (3) conveyances of legal title to land before January 1,  
4 1987, and thereafter under AS 29.65.010;

5 (4) payments for land before January 1, 1987, and there-  
6 after under AS 29.65.080;

7 (5) disposals of land to the municipality before January 1,  
8 1987, and thereafter under AS 38.05.810 for which the state receives  
9 no consideration.

10 (d) Land classified under AS 38.05.300 for wildlife habitat only  
11 may not be selected or conveyed in fulfillment of a general grant land  
12 entitlement.

13 (e) In each conveyance of land in fulfillment of a general grant  
14 land entitlement, the state shall reserve the right to explore, enter,  
15 develop, and occupy the surface as reasonably necessary for access to  
16 the mineral estate in accordance with AS 38.05.125.

17 \* Sec. 3. AS 29.65.040 is repealed and reenacted to read:

18 Sec. 29.65.040. STATUS OF ENTITLEMENTS. (a) After January 1,  
19 1987, a general grant land entitlement under AS 29.65.010 is a vested  
20 property right that must be fulfilled in accordance with AS 29.65.025,  
21 29.65.060, and 29.65.080.

22 (b) A general grant land entitlement under AS 29.65.015 is a  
23 property right that vests on the date of incorporation of the munici-  
24 pality. The entitlement must be fulfilled in accordance with AS 29.-  
25 65.025.

26 \* Sec. 4. AS 29.65.060(a) is amended to read:

27 (a) If an entitlement determined under AS 29.65.010 or 29.65.015  
28 [29.65.020] results in a per capita entitlement for the municipality  
29 of less than one and one-half acres, the entitlement shall

1 school land or mental health land in the municipality in partial  
2 fulfillment of its land entitlement under this chapter. School land  
3 or mental health land may be selected notwithstanding the fact that  
4 this land is not unappropriated and unreserved within the meaning of  
5 this chapter and under former AS 29.18.190 and 29.18.200, but each  
6 selection of school land or mental health land by a municipality must  
7 be vacant, unappropriated, or unreserved land as defined in this  
8 chapter, except that it need not be general grant land.

9 \* Sec. 5. AS 29.65.060(b) is amended to read:

10 (b) ~~The~~ acreage of school land, university land or mental health  
11 land, if any, in a municipality may not be included in the determina-  
12 tion of entitlement under AS 29.65.010 or 29.65.015 [29.65.020].

13 \* Sec. 6. AS 29.65.060 is amended by adding new subsections to read:

14 (g) Notwithstanding (a) of this section, a municipality may not  
15 select school land or mental health land after June 1, 1986. Nothing  
16 in this subsection affects the legal rights of any person with regard  
17 to selections of school land or mental health land made by a munic-  
18 ipality on or before June 1, 1986.

19 (h) A municipality is entitled to just compensation in the form  
20 of land or other payment for a selection made by it under this section  
21 or former AS 29.18.206 that is pending or on timely appeal on April 1,  
22 1986, and that cannot be conveyed to the municipality as a result of  
23 final judicial action or law, except that no compensation is required  
24 for a selection of land by a municipality within a special use area  
25 under AS 16 or AS 41 or for a selection of land not qualified to be  
26 selected under this section or former AS 29.18.206. Compensation  
27 under this subsection shall be credited against the municipality's  
28 remaining land entitlement under this chapter.

29 \* Sec. 7. AS 29.65.080(b) is amended to read:

1 (b) A municipality shall receive payment for its land deficiency  
2 from the municipal land account. A municipality is eligible to re-  
3 ceive payment for land deficiency if, after July 1, 1980, the amount  
4 of land selected by a municipality that is physically suitable for  
5 residential, commercial, or industrial purposes amounts to less than  
6 one-third acre per capita. Any entitlement under AS 29.65.010 that is  
7 less than one-third acre per capita will, for the purposes of this  
8 subsection, be considered a land deficiency. An unselected remaining  
9 entitlement will, for the purpose of deficiency payment under this  
10 subsection, be considered as land physically suitable for residential,  
11 commercial, or industrial purposes. A municipality eligible under  
12 this subsection is entitled to receive a payment for land deficiency  
13 equal to \$1,000 per acre for a number of acres equal to the difference  
14 between one-third of the population of the municipality less the  
15 number of acres physically suitable for residential, commercial or  
16 industrial purposes that has been selected by the municipality. For  
17 the purpose of this subsection, the population of the municipality  
18 shall be the population determined by the commissioner under former  
19 AS 43.18.010 for the program year beginning July 1, 1978, for a munic-  
20 ipality whose entitlement was determined under former AS 29.18.201 [IN  
21 ACCORDANCE WITH AS 29.65.060(f)]. No payment may be made to a munic-  
22 ipality under this subsection in excess of \$9,000,000.

23 \* Sec. 8. AS 29.65.080(g) is amended to read:

24 (g) Payments authorized by this section may only [NOT] be made  
25 to a municipality [ELIGIBLE] for an entitlement under AS 29.65.010  
26 [AS 29.65.020 OR 29.65.030].

27 \* Sec. 9. AS 29.65.080 is amended by adding a new subsection to read:

28 (i) Payment under this section shall be made into a municipal  
29 land bank or trust account created by ordinance with the purpose of

1 applying the payments toward the acquisition of land necessary for  
2 public purposes that may be otherwise unavailable to the municipality.

3 \* Sec. 10. AS 29.65.130(3) is amended to read:

4 (3) "general grant land"

5 (A) means land patented or tentatively approved to the  
6 state from the United States under sec. 6(a) or (b) of the Alaska  
7 Statehood Act;

8 (B) does not include mental health land, school land,  
9 or university land;

10 \* Sec. 11. AS 29.65.130(10) is amended to read:

11 (10) "vacant, unappropriated, unreserved land" means  
12 general grant land as defined in (3) of this section, excluding miner-  
13 als as required by sec. 6(i) of the Alaska Statehood Act, that

14 (A) has not been set aside by statute for one or more  
15 particular uses or purposes;

16 (B) has not been approved for patent to a municipal-  
17 ity under this chapter or former AS 29.18.190 and 29.18.200; or

18 (C) is unclassified or, if classified under AS 38.-  
19 05.300, is classified for agricultural, grazing, material, public  
20 recreation, resource management, settlement, transportation  
21 corridor, forestry, or wildlife habitat [COMMERCIAL, INDUSTRIAL,  
22 PRIVATE RECREATIONAL, RESIDENTIAL, UTILITY, OR OPEN-TO-ENTRY  
23 PURPOSES,] or is classified in accordance with an agreement  
24 between a municipality and the state providing for state manage-  
25 ment of land of the municipality.

26 \* Sec. 12. AS 38.05.321(b) is amended to read:

27 (b) State land classified as agricultural land that has been  
28 selected by a municipality under former AS 29.18.190 - 29.18.200 or  
29 former AS 29.18.205(e) may be approved by the director for patent

1 under AS 29.65 [AS 29.65.050(c)]; however, only rights in the land for  
2 agricultural purposes may be transferred and all other interests in  
3 the land will remain with the state. Agricultural land approved for  
4 patent to a municipality shall be credited, acre for acre, toward  
5 fulfillment of that municipality's entitlement under AS 29.65 [AS-29.-  
6 65.010 - 29.65.030] or former AS 29.18.201 - 29.18.203. If the direc-  
7 tor later determines it to be in the best interests of the state to  
8 transfer some or all of the additional rights in that approved or  
9 patented agricultural land, those rights shall pass without considera-  
10 tion to the municipality in which the land is located. The notice and  
11 review provisions of AS 38.05.945 are applicable to conveyance of  
12 rights under this section.

13 \* Sec. 13. AS 38.05.321(c) is amended to read:

14 (c) The provisions of this section do not apply to

15 (1) state land classified as agricultural land that has  
16 been selected by a municipality under the provisions of former AS 29.-  
17 18.190 - 29.18.200 if the selection is an approved selection before  
18 April 1, 1978 and is otherwise valid under former AS 29.65.050(b) or  
19 former AS 29.18.205(b); or

20 (2) a quitclaim of the interest of the state to the federal  
21 government under AS 38.05.035(b)(9).

22 \* Sec. 14. Before January 1, 1987, the Department of Natural Resources  
23 shall consult with each municipality affected by this Act regarding classi-  
24 fications of state land within its boundaries and may assist the munic-  
25 ipality in identifying land suitable for selection in fulfillment of its  
26 general grant land entitlement.

27 \* Sec. 15. The commissioner of natural resources may negotiate with and  
28 enter into an agreement to convey state land to a borough or unified munic-  
29 ipality whose entitlement under AS 29.65.010 in the commissioner's

1 determination cannot be fulfilled by January 1, 1987, if the borough or  
2 unified municipality elects in writing before January 1, 1987, to pursue a  
3 settlement of that existing entitlement. The commissioner has authority  
4 under this section to convey state land without regard as to whether the  
5 land is vacant, unappropriated, unreserved land as defined under AS 29.65.-  
6 130(10) if the commissioner determines, after public notice, that the land  
7 lies outside the smallest practicable tract of land actually used in con-  
8 nection with the administration of a state function on July 1, 1987, except  
9 the commissioner may not convey land owned by another state agency without  
10 its consent. Land conveyed to a borough or a unified municipality under an  
11 agreement entered into under this section may constitute complete fulfill-  
12 ment of the municipality's general grant land entitlement as specified in  
13 the agreement and agreed to by both parties. Conveyances under an agree-  
14 ment entered into under this section may contain no restrictions or con-  
15 ditions that are not required to be imposed by law, except those restric-  
16 tions or conditions mutually agreed upon by the parties.

17 \* Sec. 16. AS 29.65.010(b), 29.65.020, 29.65.030, 29.65.050, 29.65.090  
18 and 29.65.110 are repealed.

19 \* Sec. 17. Sections 6, 14, and 15 of this Act take effect immediately  
20 in accordance with AS 01.10.070(c).

21 \* Sec. 18. Sections 1 - 5, 7 - 13, and 16 of this Act take effect  
22 January 1, 1987.