

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
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imprisoned ten years for a crime when another person confesses to it. What does society do then? It frees the person with apologies, and may even try to make some payment of money to the person to make up for the horrible mistake. We all recognize how inadequate such an effort is, but *at least the person is still alive.*

In capital punishment, however, we take an absolutely irrevocable step. The imperfect methods of human justice through which we seek to ascertain guilt or innocence are far too fragile to dare to support the imposition of death, the irrevocable penalty.

DEATH PENALTY IS EXTERMINATION

Capital punishment means taking living, breathing men and women, stuffing them into a chair, strapping them down, pulling a lever, and exterminating them.

Anthony G. Amsterdam, Professor of Law, Stanford University.

CAPITAL PUNISHMENT DOES NOTHING CONSTRUCTIVE FOR THE FAMILIES OF VICTIMS OF CRIME

The charge is often made by those who favor capital punishment that those who oppose it "care more about criminals than they do about victims and their families." That is absolutely not true. I care deeply about the suffering of the victims of crime, but killing the perpetrator of the crime does nothing to bring back the victim.

What should bring the greatest solace to the families of murder victims? Since the victim cannot be brought back, it has to be the assurance that the society is taking steps toward a future in which violent crime will be diminished, so that others will not have to suffer the agonies of loss that they have known. That is not going to happen if the state itself continues to be lethally violent.

I have not included here the argument that the death penalty discriminates against blacks and the poor. It does, but this goes more to the need for reform of our social and penal systems than it does to the validity of the death penalty. To put it another way, the fact that an undue preponderance of persons actually executed are black and/or poor does not so much invalidate the death penalty as it does the system which allows that to happen.

POOR CONDEMNED NOW AS IN PAST

Now, as during Roman times, capital punishment is nearly always reserved for the outsider, the feared and hated in our society. The poor and powerless are condemned because of who they are as much as for what they may do contrary to the law.

L. Michael Jendrzeczyk, *The Christian Century*, March 30, 1977.

The mood of this country has been changing. An illustration of this: In 1963 the people of Oregon voted in a referendum to abolish the death penalty. In 1978 they voted 2-1 to restore it. What had happened? A whole series of events occurred that have people running scared about crime and its possible effects upon them. Not only are people scared, but they are frustrated because they do not know what to do to improve the situation. In their fear and frustration "getting tough" seems the only alternative. Thus, the death penalty comes into favor.

The times call for a renewed and imaginative effort for creative and redemptive ways to deal with the admittedly serious problems of crime. It is a time for all Christians to reaffirm their opposition to the death penalty as a barbaric and un-Christian relic of the past.

"The return of capital punishment for murder would enhance the respect for innocent human life."

The Death Penalty Means Respect for Life

John D. Lofton, Jr.

John D. Lofton, Jr. is a columnist for United Feature Syndicate. His editorials appear regularly in newspapers throughout the U.S. In the following viewpoint, he offers a defense for capital punishment which is rarely encountered. He writes: "What really fosters respect for human life is the ultimate penalty for the taking of this life — the death penalty."

Consider the following questions while reading:

1. Describe the Campbell murder.
2. How does the Campbell murder relate to the author's belief that the return of capital punishment would increase "the respect for innocent human life?"
3. Do you agree with the author? Why or why not?

John D. Lofton, Jr., "Return of Death Penalty Means Respect for Life", appeared in the *Manchester Union Leader*, March 25, 1980. ©1980 United Feature Syndicate, Inc.

"We cannot foster respect for human life while giving the state the license to destroy it." This is what New York Gov. Hugh Carey said earlier this year when, for the fourth time in four years, he vetoed a bill to reinstate capital punishment. But I seriously question the correctness of Gov. Carey's rationale for opposing the death penalty.

MASS MURDERER

In Chicago, a jury of seven men and five women have convicted John Wayne Gacy, the worst mass murderer in the history of the United States. Gacy was judged to have been guilty of killing and sexually assaulting 33 boys and young men. Twenty-eight bodies were found in the crawl space under Gacy's house, another body was found beneath his garage, and four more of his victims were discovered in the Des Plaines River. Eleven of these individuals have never been identified.

Terry Sullivan, an assistant state's attorney who prosecuted him, described Gacy as an "evil, vile and diabolical man, a sadistic animal" who had "snuffed out 33 lives like they were candles." Gacy grinned as Sullivan called him "the worst of all murderers," a man who is "truly a predator."

PENALTY MAINTAINS HONORABLE LIFE

The death penalty does not cheapen life — it increases the value of life and elevates the importance which we attach to it. Imposition of the death penalty underscores society's interest in maintaining honorable life, rather than dishonorable life.

Marlene W. Lehtinen, *USA Today*, January, 1973.

Following Gacy's conviction, the brother of one of his 15-year-old victims, Kenneth Priest, declared:

"For the first time in 15 months, I am happy, but it's not over. None of us will be satisfied until he is put to death. He destroyed my life, my family's life, my girlfriend's life, my

brother's life. This involved literally thousands of people whose lives have been shattered, not just my brother's alone... To leave Mr. Gacy with a prison sentence is not enough."

Eugenia Godzik, whose son was another Gacy victim, said that she never thought for a moment that Gacy was sane. "He couldn't be, to have done that to so many boys. If he got the chair right away it would be fine," she said.

MURDERER SHOULD FORFEIT LIFE

When murder no longer forfeits the murderer's life (though it will interfere with his freedom), respect for life itself is diminished, as the price for taking it is.

SENSELESS KILLING

In Oroville, Calif., two young white men, Marvin Dean Noor and James T. McCarter, have been found guilty of stalking and killing a deaf black man, Jimmy Lee Campbell, when they couldn't find any animals to shoot. Noor and McCarter, who had been drinking heavily and smoking marijuana, murdered Campbell with a .30-.30 Winchester rifle. The two killers were sentenced to 25 years to life in prison, with no parole.

A witness to the Campbell murder, Dani Lee Shope, described the actions of Noor and McCarter after they had unsuccessfully looked for even a deer or a cow to shoot:

"Dean and Jim started talking about getting dark meat. They were talking about getting blacks, otherwise niggers, critters, animals, dark meat." After spotting "a colored man," Shope said Noor told McCarter to shoot him and he did. The three then returned to Oroville, where Noor shot at, but missed, a black woman. Shope testified:

"Jim said something about it being a girl, and Dean said, 'What's the difference? Critters is critters!'"

Now, to return to Gov. Carey. Can it logically be

argued that if John Wayne Gacy and Marvin Dean Noor and James McCarter were put to death, this would somehow not foster respect for the human lives these individuals snuffed out? Is Kenneth Priest wrong when he says Gacy should die? Is Mrs. Godzik wrong when she agrees with Priest? I think not.

No, it seems to me that what is true is the exact opposite of what Carey argues: What really fosters respect for human life is the ultimate penalty for the taking of this life — the death penalty. As Ernest van den Haag observes in his excellent book, "Punishing Criminals: Concerning a Very Old and Painful Question" (Basic Books, 1975):

A LOSS OF NERVE

"No matter what can be said for the abolition of the death penalty, it will be perceived symbolically as a loss of nerve: social authority no longer is willing to pass an irrevocable judgment on anyone. Murder is no longer thought grave enough to take the murderer's life, no longer horrendous enough to deserve so fearfully irrevocable a punishment. When murder no longer forfeits the murderer's life (though it will interfere with his freedom), respect for life itself is diminished, as the price for taking it is. Life becomes cheaper as we become kinder to those who wantonly take it. The responsibility we avoid is indeed hard to bear. Can we sit in judgment and find that anyone is so irredeemably wicked that he does not deserve to live? Many of us no longer believe in evil, only an error or accident. How can one execute a murderer if one believes that he became one only by error or accident and is not to blame? Yet if life is to be valued and secured, it must be known that anyone who takes the life forfeits his own."

The return of capital punishment for murder would enhance the respect for innocent human life. What would foster disrespect for this life would be the abolition of the death penalty, which would tell all future potential murderers: "Don't worry — regardless of how many people you murder, you'll never have to fear losing your own life." This is the real anti-life position.

"If execution is such a deterrent, we ought to televise executions on all the networks so everyone could be taught a lesson."

The Death Penalty is Judicial Murder

Lee A. Belford

Lee A. Belford, an Episcopal clergyman, is head of the Religion Department, New York University. President of the Churchman Associates, Dr. Belford has been a staunch opponent of capital punishment. In the following viewpoint, he offers several arguments in opposition to the death penalty, concluding with his strongest indictment: "Capital punishment is nothing less than judicial murder."

Consider the following questions while reading:

1. List the countries which do not have capital punishment.
2. List and explain three of the author's arguments in opposition to capital punishment.

Lee A. Belford, "Judicial Murder", *The Churchman*, October, 1976. Reprinted with permission of the publisher.

The Supreme Court has declared that capital punishment is permissible provided there are certain judicial safeguards. After due consideration we can decide quite deliberately that some people have no right to live. The thought is shocking. Austria, Belgium, Greenland, the Netherlands, Switzerland, Sweden, Portugal, Great Britain, Italy, Norway, Finland, Denmark and even some of the Latin American countries that we patronize have declared that capital punishment is null and void — they have dropped it. But this country, my country that I love, has ruled that we may legitimately take the life of fully conscious human beings...

IRREVERSIBLE PUNISHMENT

My first argument in opposition to capital punishment is that occasionally an innocent person is killed for a crime he did not commit. Some criminologists have suggested that 5% of those convicted of murder are innocent. Perhaps not more than 3 in every 100 are innocent, or perhaps not more than 1 in 100 or even 1 in 300, or 1 in 1,000 are innocent. Of course, there are those who say that for the sake of justice and the welfare of all, it is inevitable that occasionally an innocent person should become a victim. Innocent people are the victims of accidents, innocent people die in wars, innocent people are the victims of murder. However, I believe that to kill someone through judicial process when he is actually innocent is a case quite apart.

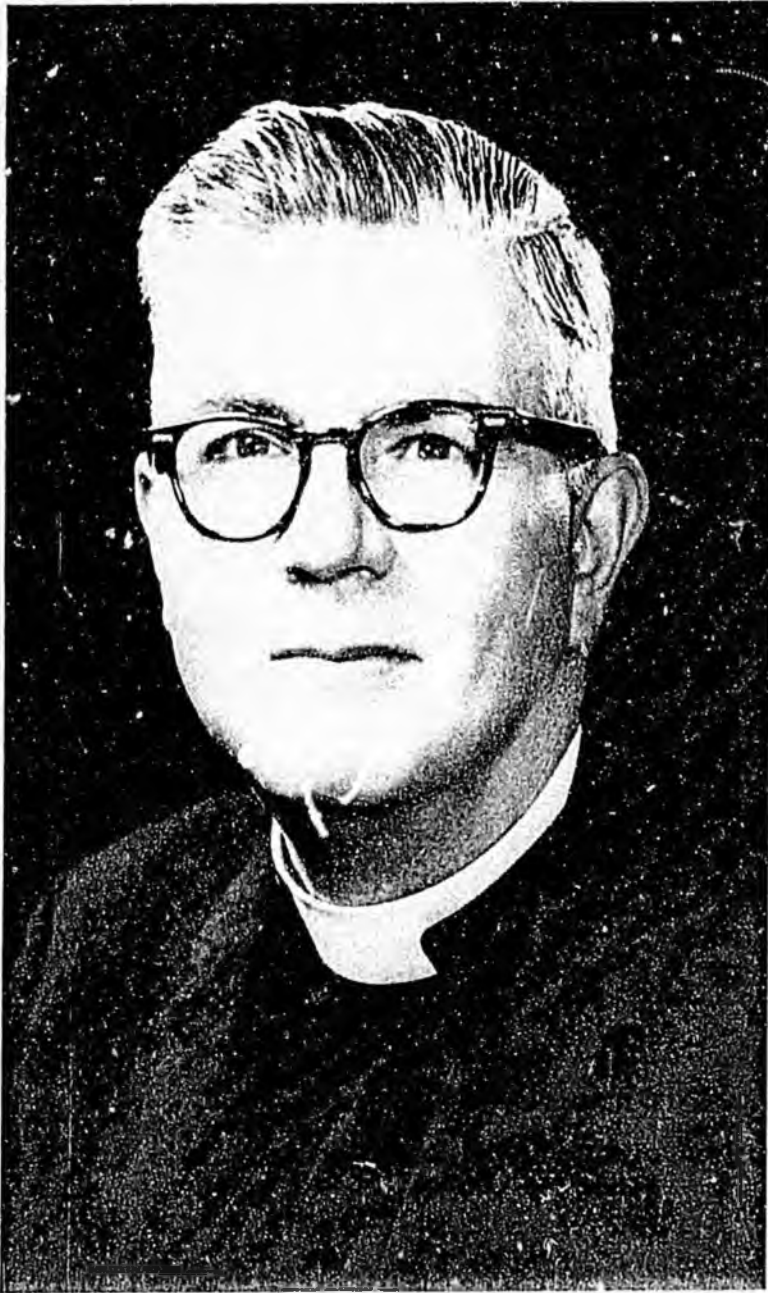
CAPITAL PUNISHMENT IS REVENGE

"All we really want from capital punishment is revenge. But still, we want to dispose of the evidence of our outrage as soon as the furor has been unleashed."

Kate Stanley, *Minneapolis Star*, January 29, 1981.

THE POOR SUFFER MOST

My second argument in opposition to capital punishment is that it is administered unfairly. We electrocuted the Rosenbergs. I think that they thought what they were doing was for



Lee A. Belford

the social good. Lt. Calley intentionally and deliberately killed innocent men, women, and children at My Lai. But he was exonerated with a slap on the wrist. Harry K. Thaw carefully planned the murder of Stanford White because of a woman's affections and Thaw was sentenced to jail. Loeb and Leopold plotted to kill the little Frank boy because they thought it would be fun. Were they executed for this crime? Of course not! Loeb and Leopold had money, just as Harry Thaw had money. Any one with enough money to hire good lawyers can always beat the rap — a few years' imprisonment is enough. Justice is supposed to be blind. Justice has also learned to blink an eye.

Until executions were temporarily terminated in 1967, 4,000 people had died by capital punishment in the preceding 30 years. How many had graduated from high school? How many were from middle class families? How many had enough money to hire a good lawyer? These are rhetorical questions. Lewis E. Lawes, one-time warden of Sing-Sing prison, said that those who are executed are invariably the poor, those most in need, those to whom society has been least generous. It seems to me that it is grossly unfair that those whom society has most victimized are quite consistently made the final victims.

THE DETERRENCE MYTH

The most commonly given justification for capital punishment is that it deters others from committing brutal murders. There are those who claim that although the selection of victims is never completely fair, we still need victims to deter others from committing murder. But are murders committed by people who sit down and consider rationally the consequences of their contemplated action? Thieves were hanged at one time as both punishment and as a deterrent. A little nine-year-old boy not much more than a century ago was executed as an example to other little boys. Pickpockets in England until the 19th century were hanged. A public hanging was a great day for pickpockets. People pushed and shoved to get a better view of that man on the gallows. What a superb opportunity for the pickpocket plying his trade.

If execution is such a deterrent, we ought to televise executions on all the networks so everyone could be taught a lesson. And the televising should come in prime time so that all the little children of our land could learn that murder does not pay. But, deep in our hearts we know that executions degrade the meaning of life. No good lesson is ever learned that way. The Supreme Court in its recent decision declared that the evi-

**CHURCH LEADERS PROTEST
DEATH PENALTY
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dence — statistically and otherwise — is insufficient to establish deterrence...

EXECUTIONS ARE STUPID

Our children will cease to execute murderers because executions are a self-deluding, self-defeating, self-degrading, futile and entirely stupid means of dealing with the crime of murder, and because our children will prefer to be something better than murderers themselves. Should we not—can we not—make the same choice now?

Author, G. Amsterdam, Professor of Law, Stanford University.

JUDICIAL MURDER

To kill a man is murder. We justify it as the lesser of two evils when we have got ourselves into a situation where there seems to be no alternative to war. But that is a far cry from intentionally and deliberately deciding to take the life of a man who is already behind bars and no longer a threat to anyone. Capital punishment is nothing less than judicial murder.

BIBLIOGRAPHY OF PERIODICAL ARTICLES

The editors have compiled the following list of periodical articles which deal with the subject matter of this chapter. The majority of periodicals listed are available in most school and public libraries.

- Anthony G. Amsterdam *Capital Punishment: Do We Really Need to Kill People to Teach People That Killing People is Wrong?*, *Vital Speeches of the Day*, September 1, 1977, p. 677.
- W. Berns *For Capital Punishment*, *Harpers*, April 1979, p. 15.
- J. Castelli *Humane Execution*, *Progressive*, April 1978, p. 12.
- L. Harold DeWolf *The Death Penalty: Not a Remedy But a Symptom*, *The Christian Century*, January 30, 1980, p. 92.
- M. Stanton Evans *Death Penalty Needed to Protect the Victims*, *Human Events*, February 23, 1980, p. 174.
- M. Stanton Evans *The Case for Capital Punishment*, *Human Events*, February 12, 1977, p. 124.
- E. Van Den Haag and L.B. Schwartz *Bring Back the Death Penalty? Pro and Con Views*, *U.S. News & World Report*, April 19, 1976, p. 37.
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- L. Michael Jendrzyczky *Dismantling the Cross: A Case Against Capital Punishment*, *The Christian Century*, March 30, 1977, p. 296.
- Jenkin Lloyd Jones *Capital Punishment is Righteous Anger*, *Human Events*, June 23, 1979, p. 518.
- Doug Magee *Life on Death Row. 'Slow Coming Death'.* *Christianity and Crisis*, June 23, 1980, p. 188.
- Colin Turnbull *Death by Decree*, *Natural History*, May 1978, p. 51.

APPENDIX OF ORGANIZATIONS

The editors have compiled the following list of organizations concerned with the criminal justice system in an effort to provide students access to a broad range of resource materials. We have listed legal police, prisoner, and citizen organizations spanning a broad spectrum of views on criminal justice. The majority of organizations listed have available publications or pamphlets expressing their views on a variety of subjects in the area of criminal justice.

Alliance to End Repression
1000 Old Colony Building
407 S. Dearborn Street
Chicago, Illinois 60605
(312) 427-4064

The organization was founded in 1970 to safeguard the Bill of Rights and constitutional freedom and to ensure just application of state and local laws.

American Academy for Professional Law Enforcement
c/o T. Kenneth Moran, Executive Director
444 W. 56th Street Suite 2312
New York, N.Y. 10019
(212) 765-1364

An organization of professionals and academics founded in 1974 to promote professional standards and ethical practices in police service.

American Civil Liberties Union
22 East 40th Street
New York, N.Y. 10016
(212) 725-1222

One of America's oldest civil liberties organizations (founded in 1920), the ACLU champions the rights set forth in the Declaration of Independence and the Constitution. The Foundation of the ACLU provides legal defense, research, and education.

American Federation of Police
1100 N.E. 125th Street
North Miami, Florida 33161
(305) 891-1700

Founded in 1966, the purpose of this federation of government and private law enforcement officers is prevention of crime and apprehension of criminals.

American Law Enforcement Officers Association
2000 P Street N.W.
Washington, D.C. 20036
(202) 293-9088

A fraternal organization founded in 1976, the ALEOA acts as a legislative liaison, maintains a research library and research programs and offers regional workshops and training information for law enforcement agencies.

CRIMINAL JUSTICE

opposing viewpoints

David L. Bender & Bruno Leone

OPPOSING VIEWPOINTS SERIES



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#4 CAPITAL PUNISHMENT

BACKGROUND BRIEFING The May 25th execution of John Spenkelink for the 1973 murder of a traveling companion has served to renew the controversy surrounding capital punishment. Spenkelink was the second person to suffer the death penalty since 1967, the first since 1977.

(In 1967, the US Supreme Court announced it would take the matter of capital punishment under advisement. Lower courts then put the death penalty "in limbo", awaiting the highest court's decision. In 1972, the Supreme Court held that the death penalty laws of 41 states were unconstitutional on the grounds that they were applied arbitrarily and in a discriminatory manner. Subsequently, three states enacted revised death penalty statutes and these were upheld by the Supreme Court; 32 states then followed suit and enacted similar laws. There are now 520 persons being held under the sentence of death for capital crimes. Opponents of capital punishment vow an all-out campaign to prevent further executions.)

Proponents of capital punishment assert that the death penalty is necessary to protect the public in that it serves as a deterrent to murder. Opponents disagree. Statistics would seem to support the deterrent argument: during the 10 years the death penalty was in limbo or outlawed, the number of murders in the US almost doubled -- from 10,000 in 1967 to 19,000+ by 1978. Further, as executions declined, murders increased: in 1955, 76 executions, 7,000 murders; in 1960, 56 executions, 8,000 murders. In 1972, no executions, 18,000 murders and, in 1978, no executions and 19,555 murders.

After studying crime and punishment, Gordon Tullock of Virginia Polytechnic Institute concluded: "Eighty percent of the people who seriously think about crime think of punishment as a deterrent -- except for the sociologists, and they wrote all the books." Prof. Isaac Ehrlich, Univ. of Chicago, himself an opponent of capital punishment, nevertheless stated that his studies indicated that if the death penalty were really enforced eight murders would be prevented for every one execution. Other researchers contended Ehrlich's data were off by a factor of at least five -- that for each execution at least 50 murderers were deterred.

Opponents of capital punishment claim it is "cruel and unusual" and thus prohibited by the Constitution. The courts have held otherwise. No court has ever deviated from the position taken by the US Supreme Court in 1890: "Punishments are cruel when they involve torture or lingering death; but the punishment of death is not cruel within the meaning of that word as used in the Constitution. It implies something inhuman and barbarous...."

Another argument raised by the opponents is that capital punishment is "racist" in that it is applied most often against members of the minorities. A study of capital punishment made in 1974 indicated that between 50% and 60% of those sentenced to death were black. At the same time, the Uniform Crime Report (FBI) disclosed that 57% of those arrested for willful homicide were black. Further, statistics demonstrate that 50% of all murder victims are black. Thus, it can be argued, failure to apply the death penalty in cases of homicide is in fact "racist" since it deprives the black community of a demonstrable deterrent to murder.

In 1966 (10,920 murders), polls indicated that 42% of the American public favored capital punishment while 47% opposed it. In 1977, as the number of murders in the US approached the 20,000 mark, the polls found that 67% of the American people favored the death penalty and only 25% were opposed.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

March 10, 1987

MEMORANDUM

TO:

ATTN:

FROM: Penelope Weyhrauch
Legislative Analyst

RE: Capital Punishment: Contracting for Execution
Research Request 87.169

You asked for information on contracting with other states for the execution of Alaska's death row prisoners.

Capital Punishment in Alaska

Alaska has not had a capital punishment statute since prior to statehood. According to Susan Knighton, Research Analyst with the Department of Corrections, execution was by hanging. There are presently no execution facilities in Alaska.

Contracting for Execution Services

I contacted Georgia, Florida and Virginia, which together executed one-third of all executed death row prisoners in the nation, and Oregon and Washington, because they are of relatively close proximity to Alaska. None of the correction administrators with whom I spoke in these states were interested in contracting to execute Alaska prisoners, nor were they aware of other states who contracted for this service or who would be willing to do so. Two states stated that contracting with Alaska would require legislative action. The various reasons listed by correction administrators for refusing to contract for the execution of Alaska prisoners include:

Political Repercussions. Correction administrators in Georgia and Florida stated that because capital punishment is such a controversial issue, neither the state executive branch nor the public would approve the execution of another state's prisoners in their state. William Kelley Jr., Director of the Governor's Criminal

CORRECTION

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CONSIDER THE
BIBLICAL
PRINCIPLE

For those who would obey The Lord God, capital punishment is not a matter of choice or opinion poll, or even court decree: it is a requirement, a Biblical principle. God established the death penalty for willful murder in the days of Noah (Gen 9:4-6) -- and not just for the time of Noah and Noah's seed but "for perpetual generations" (Gen 9:12).

Capital punishment and the manner in which it is to be applied is detailed and reaffirmed many times in the Scriptures (Ex 21:12-15; Lev 24:17-21; Num 35:9-34; Deut 21:1-9, etc.). Paul recognizes the propriety of capital punishment for capital crimes in Acts 25:10-12.

Importantly, The Bible carefully and clearly delineates between the crime of willful homicide (murder) and accidental death (manslaughter); The Bible also declares that causing the death of an unborn child is murder (Ex 21:23).

Capital punishment is not to be used for personal revenge; it is strictly a matter of divine retribution. God instructs us that (1) the person who willfully takes another person's life must pay for that act by forfeiting his own life, (2) the death penalty is not to be exercised by individuals but by civil govt., and (3) this must be done to uphold the sacredness (the sanctity) of human life (in the image of God created He them).

When God established capital punishment, He also ordained the institution that is to enforce it -- civil govt. (Gen 9:6). The Apostle Paul refers to this power to protect the innocent and to punish the wrong-doer when he wrote in Rom 13:4:"(the ruler) beareth not the sword in vain; for he is the minister of God, a revenger to execute wrath upon him who doeth evil."

The foundation of civil govt. is power (implied or applied); when that power is abused or not used, govt. is weakened and eventually destroyed. When that occurs, the individual, the family, the home, and most if not all aspects of society are imperiled. Capital punishment is essential to the protection of the innocent and the maintenance of a safe and peaceful society. It is one of God's measures for protecting His creation, man.

The Bible tells us that murder pollutes the land and that the only way to cleanse the land is capital punishment (Num 35:33-34). The Bible also instructs us that those nations that fail to enforce capital punishment will be judged harshly (Jer 2:34-37; Hos 1:4; 4:1-5). By obeying God and enforcing the death penalty, the nation cleanses itself of the guilt of innocent blood; conversely, the nation that refuses to obey God and avenge the taking of innocent human life must share the guilt of the murderer (Deut 21:7-8).

The Bible sets forth definite rules so that this ultimate civil power, capital punishment, will not be abused. The death penalty is to be enforced judiciously, impartially, and only after full and proper (and swift) legal proceedings. Testimony in such cases must be corroborated by at least two witnesses and should a witness give false testimony, thus to jeopardize the accused improperly, that witness shall be subject to the penalty attached to the crime under consideration. Finally, capital punishment is not to be enforced in a spirit of maliciousness (which is forbidden - Matt 5:38-44) but used only as God has directed and so that we may keep His commands and statutes so that "It may go well with thee." (Deut 19:13 and also Num 35:31-34).

(Recommended reference books: "NEITHER CRUEL NOR UNUSUAL," Frank G. Carrington, Arlington House; "TOWARD A BIBLICAL VIEW OF CIVIL GOVERNMENT," Robert Duncan Culver, Moody Press.)



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Political Repercussions. Correction administrators in Georgia and Florida stated that because capital punishment is such a controversial issue, neither the state executive branch nor the public would approve the execution of another state's prisoners in their state. William Kelley Jr., Director of the Governor's Criminal

Justice Council in Georgia, believes that the Georgia public would view the contracting out of execution services as "morally unseemly."

- **Legal Issues.** Duncan Brogan, Executive Assistant to the Director of Corrections in Virginia, said that because of all the various legal issues involved, the Virginia legislature would probably never approve the contracting out of execution services. Death sentences are usually appealed and involve a long legal process before culminating in execution.

- **Lack of Equipment.** Although Oregon has a death penalty mechanism in place, it does not have the equipment required to carry out executions. Tom Toombs, Administrator of the Oregon Division of Corrections, said that Oregon wanted to borrow or rent Idaho's execution facility--a mobile trailer, but that Idaho was not willing to accommodate them.

- **Overcrowding of Death Row Prisoners.** Richard Dugger, Administrator with the Florida Department of Corrections, said that Florida presently has about 230 prisoners on death row awaiting reprieve or execution. He does not believe that the state would be willing to take on additional prisoners from another state with so many death row prisoners already requiring attention.

March 10, 1987
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state and what savings would be enjoyed by the State of Alaska by contracting is not available. However, analysis of the cost of constructing and operating facilities for housing death row prisoners has been done by the Alaska Department of Corrections (Attachment B). They anticipate that the cost of constructing a facility would be \$2.7 million, and the cost of operating the facility would range from \$501,000 in FY 89 to \$1.2 million in FY 92. These costs do not include the construction of an execution facility, its operation or maintenance.

* * *

I hope this information is useful to you. I have attached a recent U.S. Department of Justice, Bureau of Justice Statistics Bulletin on Capital Punishment, which may be of interest to you. If you have any questions or would like additional information, please contact our agency.

Attachment

Length of Time in Incarceration and the Cost of Executiois

Table 1 shows the time of incarceration between the imposition of the death sentence and execution. For those executed since 1977, the average time between sentence imposition and execution was six years.

TABLE 1

Table 10. Elapsed time between imposition of death sentence and execution, by race, 1977-85						
Year of execution	Number executed			Average elapsed time from sentence to execution for:		
	All races	Whites	Blacks	All races	Whites	Blacks
Total	50	33	17	72 months	68 months	75 months
1977-83	11	9	2	58	59	58
1984	21	13	8	79	76	84
1985	18	11	7	71	65	80

Note: Three cases were resentenced to death after appeal. For these executions, average time was calculated from the original sentencing dates. The range for elapsed time for the 50 executions was 3 months to 133 months.

Source: "Capital Punishment," Bureau of Justice Statistics, U.S. Department of Justice, 1985.

In regard to the cost of executions, Mr. Dugger (of Florida) said that the costs for death row prisoners can be primarily attributed to the cost of legal proceedings.¹ According to Mr. Brogan, each electrocution costs the state of Virginia about \$85,000, which does not include the extensive legal proceedings that are required.

Jim Spaulding, Deputy Director for the Washington Department of Corrections, believes that it would be cheaper for Alaska to utilize its own execution facility rather than contracting with another state. He said that transporting a death row prisoner and the security surrounding the prisoner contribute substantially to the total costs of execution. He also mentioned that hanging and lethal injection were probably cheaper methods of execution than electrocution.

Because it is doubtful that any state would be willing to contract with Alaska for the execution of Alaska's death row prisoners, the information you requested on the average cost per year for contracting with another

¹ Attachment A is a fiscal note prepared by the Department of Law for CSSB 7 (HESS), which would authorize capital punishment. The fiscal note analysis states "Because a human life is at stake, the defense of these [capital punishment] cases is extremely vigorous and no expense is spared." The fiscal note analysis continues by stating that at least two full-time attorneys and support staff, will be required to handle the additional work made necessary by capital cases.

ATTACHMENT A

State of Alaska 1987 Legislative Session
Fiscal Note for CSSB 7 (HESS)

ATTACHMENT B

State of Alaska 1987 Legislative Session
Fiscal Note (CSSB 7 and Senate Bill 31)

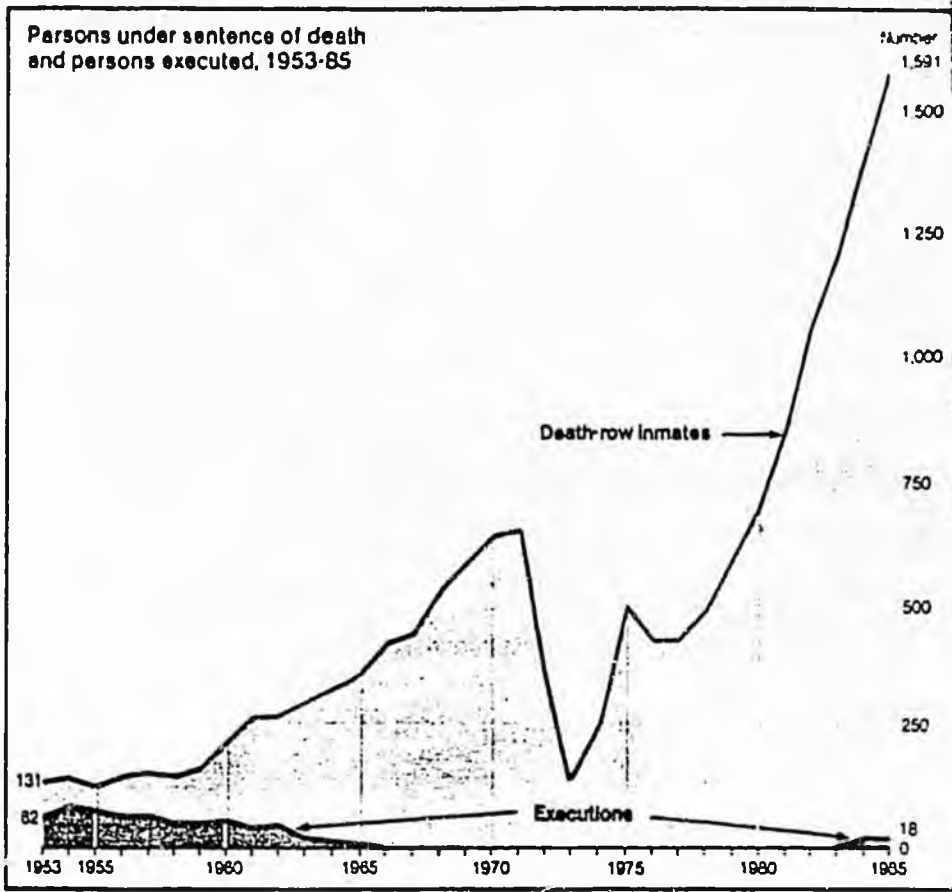
sons were removed from the condemned population as a result of dispositions other than execution (such as resentencing, retrial, or commutation) or died while awaiting execution).

Capital punishment in the courts

On January 21, 1985, the Supreme Court in *Wainwright v. Witt* handed down an important decision bearing on the longstanding issue of the constitutionality of excluding persons opposed to the death penalty from juries in capital cases. The U.S. Court of Appeals had overturned a death sentence imposed by a Florida court on grounds that the trial judge had improperly excused a juror who had expressed qualms about imposing a death sentence. The High Court held that, as a matter of principle, any juror can be excused if his views on capital punishment are deemed by the trial judge to "prevent or substantially impair the performance of his duties."

In *Ake v. Oklahoma* (decided February 26, 1985) the Court rendered a decision related to one aspect of the sanity defense. The court reversed and remanded a State case in which an indigent defendant was not provided the assistance of a psychiatrist to determine his mental state at the time of the crime or to rebut the testimony of prosecution psychiatrists as to his future dangerousness (an aggravating factor for capital sentencing in Oklahoma). The Court of Criminal Appeals in Oklahoma had concluded previously that the defendant had waived his right to a court-provided psychiatrist by not raising this claim in his motion for a new trial—a conclusion rejected by the High Court. The Court found that the defendant's request for an appointed psychiatrist at a pretrial conference constituted a preliminary showing that his sanity would be an issue in the trial. The Court held that psychiatric assistance should have been provided.

In *Caldwell v. Mississippi* (decided June 11, 1985) the High Court reversed a death sentence imposed by the trial court jury. The court concluded that the prosecution had influenced the jury in an unconstitutional manner by emphasizing, in the closing argument at the sentencing stage, that a death sentence would ultimately be reviewed for correctness by the State Supreme Court. Such a prosecution argument was viewed as improperly diminishing the "awesome responsibility" placed upon jurors to choose between life or death and was inconsistent with the need for a reliable determination "that death is an appropriate punishment in a



specific case," guaranteed by the Eighth Amendment.

Fifth Amendment protection against "double jeopardy" in a capital sentence was the subject of *Heath v. Alabama* (decided December 3, 1985). In this case the Supreme Court upheld a death sentence imposed by an Alabama trial court on a resident of that State for a murder that occurred in Georgia, after he had already been sentenced to life imprisonment for the same murder by a Georgia trial court. At issue was a contract kidnap/murder that began with the kidnaping in Alabama and concluded when the victim's body was found in Georgia. The Georgia conviction was for "malice murder" based upon a plea entered in exchange for a life sentence. The Alabama trial court rejected the claim of double jeopardy and subsequently imposed a sentence of death for murder during a kidnaping. The Supreme Court also rejected the appellant's claim of double jeopardy concluding that the "dual sovereignty" doctrine did not bar successive prosecutions by two States for the same conduct.

Other cases of interest during the year were:

- *Francis v. Franklin* (decided April 29, 1985). The Court concluded

that improper instructions had been given to the jury on criminal intent and that the prosecution had failed to fulfill the requirement to prove the existence of such intent beyond "reasonable doubt."

- *Heckler v. Chaney* (decided March 20, 1985). This case was brought by inmates sentenced to death by lethal injection of drugs after the Food and Drug Administration had denied their petition to prohibit the use of these drugs for this purpose. The Court held that under the Administrative Procedures Act the Food and Drug Administration's failure to take enforcement action against drugs used for execution by lethal injection was not subject to judicial review.

- *Baldwin v. Alabama* (decided June 17, 1985). The Court held that Alabama's mandatory death sentence in cases where the jury finds the defendant guilty of aggravated murder is constitutional because the statute provided that the trial judge can set aside the jury sentence after an independent weighing of aggravating and mitigating circumstances.

Capital punishment laws

At yearend 1985, the death penalty was authorized by the statutes of 37

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Bureau of Justice Statistics Bulletin

Capital Punishment, 1985

Eight States executed a total of 18 prisoners during 1985, bringing the total number of executions to 50 since 1976, the year that the United States Supreme Court upheld the death penalty in three separate cases. Those executed during 1985 had spent an average of 5 years and 11 months awaiting execution, about the same as the average for the 12 previous executions.

During 1985, 273 prisoners were received under sentence of death, 80 had their death sentences vacated or commuted, and 4 died while under sentence of death. At yearend 32 States reported a total of 1,591 prisoners under sentence of death, all for murder. The median time since sentence was imposed was 36 months.

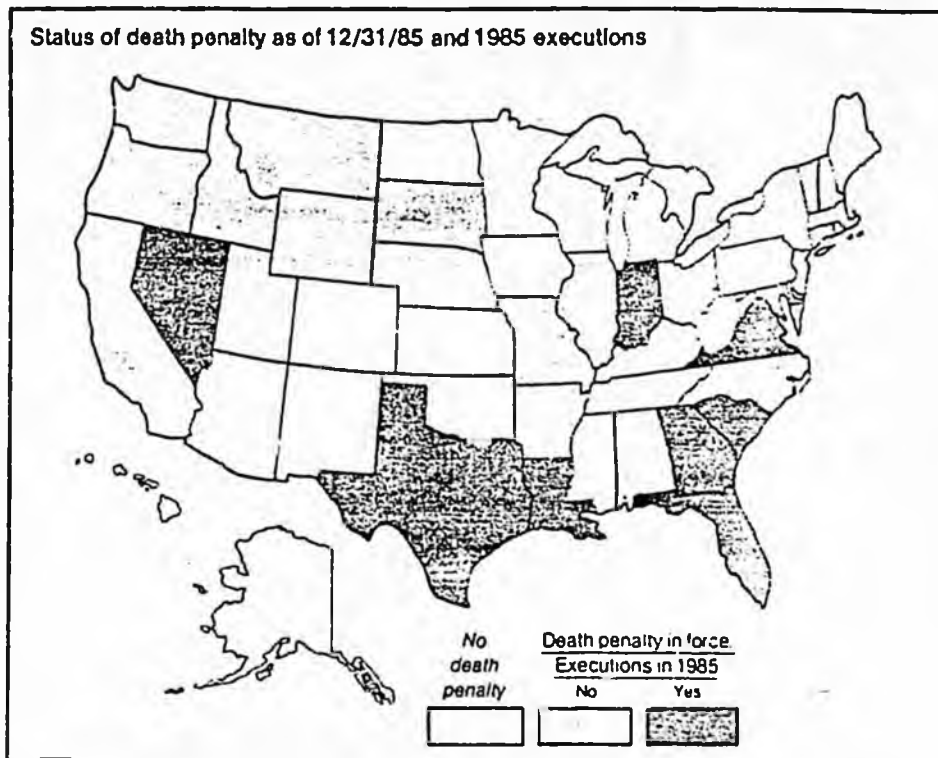
About 2 in 3 offenders under sentence of death for whom such information was available had a prior felony conviction; about 1 in 11 had a prior homicide conviction. About 2 in 5 condemned prisoners for whom such information was available were in some criminal justice status at the time of the capital offense; half of these were on parole. The rest were either in prison, on escape from prison, or on probation or had charges pending against them.

The majority of those under sentence of death (903) were white; 672 were black; 11, American Indian; and 5, Asian. The median age was nearly 32 years old.

About 63% of those under sentence of death were held by States in the South. Western States held an additional 19%; Midwestern States, 14%; and the Northeast, nearly 5%. Florida had the largest number of condemned inmates (226), followed by Texas (206), California (170), and Georgia (107).

Inmates received under sentence of

Status of death penalty as of 12/31/85 and 1985 executions



death during 1985 were also concentrated in the South (61%). Twenty percent were in the Midwest; 12%, in the West; and 7%, in the Northeast. A total of 26 State prison systems received prisoners under sentence of death in 1985.

The 18 executions in 1985 were carried out by eight States: 6 in Texas, 3 in Georgia, 3 in Florida, 2 in Virginia, and 1 each in Indiana, Louisiana, Nevada, and South Carolina. Eleven of those executed were white males and seven were black males.

From the beginning of 1977 to the end of 1985, a total of 12 States carried out executions. Over the same period, 2,110 persons were admitted to prisons under sentence of death and 889 per-

October 1986

This bulletin marks the 55th consecutive year that capital punishment statistics have been published by the Federal government. The cooperation of officials in each of the States has been essential to the continuity of this series. The Bureau of Justice Statistics gratefully acknowledges the contributions of both the State departments of correction and offices of the attorney general to the information presented in this report.

Steven R. Schlesinger
Director

Methods of execution

At yearend 1985, lethal injection (16 States) and electrocution (15 States) were the most common methods of execution. Eight States authorized lethal gas; four States, hanging; and two States, a firing squad (table 2). Eight States provided for more than one method of execution—lethal injection and an alternative method—generally at the election of the condemned prisoner. (In Mississippi lethal injection was introduced in 1985 for persons convicted after July 1, 1984.) Some States have stipulated an alternative to lethal injection in anticipation that it may be found unconstitutional. Each of the other four methods, previously challenged on Eighth Amendment grounds as cruel and unusual punishment, has been found to be constitutional. The method of execution for Federal offenders is that of the State in which the execution takes place.

Automatic review

Of the 37 States with capital punishment statutes at yearend 1985, 32 provided for an automatic review of all death sentences. Arkansas, Florida, New Jersey, Ohio, and Vermont had no specific provisions for automatic review (although New Jersey has had such review since January 17, 1986). In most States automatic review is conducted regardless of the defendant's wishes. While most of the 32 States authorize automatic review of both conviction and sentence, Idaho, Maryland and New Mexico require review of the sentence only. Typically, the review is undertaken directly by the State Supreme Court. If either the conviction or sentence is vacated, the case may be remanded to the trial court for additional proceedings or for retrial. It is possible that as a result of retrial or resentencing the death sentence may be reimposed. Some statutes also permit the State Supreme Court to commute a death sentence to life imprisonment.

Minimum age

A total of 23 States specify a minimum age at which the death penalty may be imposed (table 3). In some States the minimum age is specified in the capital punishment statute; in others it is, in effect, set forth in the statutory provisions that determine the age at which a juvenile may be transferred to criminal court for trial as an adult. The most frequently specified age is 18 years old (nine States). Fourteen States and the Federal system report no minimum age.

Table 2. Method of execution, by State, 1985

Lethal injection	Electrocution	Lethal gas	Hanging	Firing squad
Arkansas ^a	Alabama	Arizona	Delaware	Idaho ^b
Idaho ^b	Arkansas ^a	California	Montana ^a	Utah ^a
Illinois	Connecticut	Colorado	New Hampshire	
Mississippi ^{a,b}	Florida	Maryland	Washington ^a	
Montana ^a	Georgia	Mississippi ^{a,b}		
Nevada	Indiana	Missouri		
New Jersey	Kentucky	North Carolina ^a		
New Mexico	Louisiana	Wyoming ^a		
North Carolina ^a	Nebraska			
Oklahoma ^c	Ohio			
Oregon	Pennsylvania			
South Dakota	South Carolina			
Texas	Tennessee			
Utah ^a	Vermont			
Washington ^a	Virginia			
Wyoming ^a				

^a Authorizes two methods of execution.
^b Mississippi authorizes lethal injection for those convicted after 7/1/84; executions of those convicted prior to that date are to be carried out with lethal gas.
^c Should lethal injection be found to be unconstitutional, Oklahoma authorizes use of electrocution or firing squad.

Table 3. Minimum age authorized for capital punishment, yearend 1985

10 years	Indiana Vermont
13 years	Georgia Mississippi
14 years	Missouri North Carolina
15 years	Arkansas Louisiana Virginia
16 years	Connecticut Montana Nevada
17 years	New Hampshire Texas
18 years	California Colorado Illinois Nebraska New Jersey ^a New Mexico Ohio Oregon ^d Washington
No minimum age specified	Federal Alabama Arizona Delaware Florida Idaho Kentucky Maryland Oklahoma Pennsylvania South Carolina South Dakota ^b Tennessee Utah Wyoming

^a During 1985 New Jersey enacted legislation changing the minimum age for receiving the death penalty from 14 to 18 years old, effective January 17, 1986.
^b Adult status at trial required.

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ates and by Federal statute (table 1). In contrast to 1984--when the death penalty was struck down in New York and Massachusetts, and Oregon enacted a new capital punishment law--there were no successful challenges to the constitutionality of State death penalty laws or enactment of any new legislation authorizing capital punishment during 1985. In a series of 1985 rulings, however, the California Supreme Court reversed death sentences for defendants convicted of "murder with special circumstances" (e.g., felony murders, multiple murders) concluding that juries must be properly instructed to determine that the defendant had an actual "intent to kill" before they can impose the death sentence.

Statutory changes

Eleven States altered their existing death penalty statutes during 1985. Arizona, Arkansas, Montana, Texas, and Virginia added new aggravating factors for capital offense categories to their capital punishment laws. Arizona included adult status of the offender when the victim was less than 15 years old as a circumstance that could aggravate homicide to first degree murder. Arkansas incorporated murder for pecuniary gain and murder committed in a heinous or cruel manner into its statutes as aggravating factors. Texas included multiple murders as an aggravating factor. Virginia added murder during an abduction of a child under the age of 12 as a capital crime.

Montana added a series of aggravating circumstances for murder committed by prison inmates who had a prior record of deliberate homicide or if repeated felonies at least one of which was a violent offense. The aggravating circumstances are attempted deliberate homicide, aggravated assault, or aggravated kidnaping.

Three States--Colorado, Connecticut, and South Carolina--amended their death penalty statutes to ensure severe restrictions on parole for persons who had their death sentences commuted to life imprisonment. Colorado stipulated that for offenses committed after mid-year 1985 prisoners whose death sentences were commuted to life terms could not be paroled for 40 years. Connecticut provided that defendants sentenced to life imprisonment, instead of death, because of mitigating circumstances in capital murder cases must

Table 1. Profile of capital punishment statutes and legal changes during 1985

Jurisdictions authorizing capital punishment at some time during 1985	Revised or replaced by legislature	Automatic appeals required	Capital offenses
Federal			Aircraft piracy
Alabama		Yes	Murder
Arizona	Yes	Yes	First degree murder
Arkansas	Yes		Aggravated murder; treason
California		Yes	First degree murder with special circumstances
Colorado	Yes	Yes	First degree murder (includes felony murder); first degree kidnaping
Connecticut	Yes	Yes	Murder
Delaware		Yes	First degree murder with statutory aggravating circumstances
Florida			First degree murder
Georgia		Yes	Murder; treason; aircraft hijacking; kidnaping with bodily injury; armed robbery or rape in which victim dies
Idaho		Yes ^a	First degree murder, aggravated kidnaping (except where victim released unharmed)
Illinois		Yes	Murder
Indiana		Yes	Murder
Kentucky		Yes	Aggravated murder; kidnaping when victim is killed
Louisiana		Yes	First degree murder
Maryland		Yes ^a	First degree murder
Mississippi	Yes	Yes	Capital murder, capital rape
Missouri		Yes	First degree murder
Montana	Yes	Yes	Deliberate homicide, aggravated kidnaping (resulting in death)
Nebraska		Yes	First degree murder
Nevada	Yes	Yes	First degree murder
New Hampshire		Yes	Contract murder or murder of a law enforcement officer or kidnaping victim
New Jersey	Yes	Yes ^b	Kidnaping or purposeful murder or contract murder with aggravating circumstances
New Mexico		Yes ^a	First degree murder
North Carolina		Yes	First degree murder
Ohio			Aggravated murder
Oklahoma		Yes	Murder
Oregon		Yes	Aggravated murder
Pennsylvania		Yes	First degree murder
South Carolina	Yes	Yes	Murder with statutory aggravating circumstances
South Dakota		Yes	Murder, kidnaping (with gross permanent physical injury inflicted on victim)
Tennessee		Yes	First degree murder
Texas	Yes	Yes	Murder of public safety officer, fireman, or correctional employee; murder during specified felonies or escapes; contract murder; multiple murders
Utah		Yes	First degree murder; aggravated assault by prisoner sentenced for first degree felony where serious injury is caused
Vermont			Murder of police or corrections officer, kidnaping for ransom
Virginia	Yes	Yes	Capital murder
Washington		Yes	Aggravated, premeditated first degree murder
Wyoming		Yes	First degree murder

Note: See Appendix for State-by-State detail on statutory revisions. Jurisdictions without capital punishment statutes are: Alaska, District of Columbia, Hawaii, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, New York, North Dakota, Rhode Island, West Virginia, and Wisconsin.
^aSentence review only.
^bAutomatic review after January 17, 1986.

serve a life term without possibility of parole. South Carolina specifically excluded from parole eligibility those persons commuted to life sentences for murder.

Only one State--New Jersey--modified its death penalty law to restrict the scope, by providing that no death sentence be imposed unless the aggravating factors outweighed the mitigating circumstances "beyond any reasonable doubt."

Lastly, Nevada limited the time for automatic State Supreme Court review of death sentences to 150 days and also struck the requirement for a proportionality review as a part of the evaluation by the State Supreme Court.

The only Federal crime for which capital punishment is now authorized is aircraft piracy (including crimes prosecuted under military authority).

Entries and removals of persons under sentence of death

During 1985, 26 State prison systems reported receiving prisoners under sentence of death. Texas reported the largest number (36), followed by Florida (27), Ohio (21), and North Carolina (20).

Of the 273 received under sentence of death:

- all were convicted of murder;
- 157 were white males, 111 were black males, 2 were male American Indians;
- 3 were white females;
- 17 were Hispanic.

Twenty-six States reported a total of 80 persons whose sentence of death was vacated or commuted during 1985. Florida and California reported the largest number, 13 each, followed by Georgia with 10.

Of the 80 persons whose death sentence was vacated or commuted during 1985:

- 46 had their sentences vacated but convictions upheld;
 - 30 had both their sentences and convictions vacated;
 - 4 had their sentences commuted.
- At yearend, 45 of the 80 were serving life sentences, 17 were awaiting new trials, 11 were awaiting resentencing, no further prosecution was sought for 6, and 1 was in an undetermined status.

In addition, four persons died while under sentence of death in 1985. Two of these were murdered by other inmates; 1 died as a result of natural causes; and 1 committed suicide.

From 1977, the year after the Supreme Court reinstated the death penalty, through 1985, a total of 2,110 persons entered prison under a sentence of death; 889 had their capital sentence vacated or commuted or died while under sentence; and 50 were executed. Of those admitted, 58% were white, 41% were black, and 1% were classified as other races. Of those who had their sentences vacated or commuted or who died while under sentence, 57% were white, 42% were black, and less than 1% were of other races. Of the 50 executed, 66% were white and 34% were black.

Table 5. Demographic profile of prisoners under sentence of death, 1985

	Yearend 1985	1985 admissions	1985 removals
Total number under sentence of death	1,591	273	102
Sex			
Male	98.9%	98.9%	97.1%
Female	1.1	1.1	2.9
Race			
White	56.8%	58.6%	61.8%
Black	42.3	40.7	36.3
Other ^a	1.0	.7	2.0
Ethnicity			
Hispanic	6.2%	6.2%	5.9%
Not Hispanic	93.8	93.8	94.1
Age^b			
Less than 20 years	.8%	4.4%	0%
20-24	13.3	26.4	9.8
25-29	26.9	25.3	30.4
30-34	23.8	19.8	23.5
35-39	16.3	9.9	13.7
40-54	17.0	12.1	20.6
55+	2.0	2.2	2.0
Median	31.9 years	28.0 years	32.1 years
Education			
7th grade or less	10.8%	10.8%	9.9%
8th	11.7	11.1	13.6
9th-11th	35.6	39.4	34.6
12th	21.2	30.3	33.3
Any college	9.4	8.4	8.6
Median	10.5 years	10.4 years	10.5 years
Marital status			
Married	32.6%	28.0%	37.1%
Divorced/separated	21.2	22.2	14.4
Widowed	2.3	3.5	4.1
Never married	43.9	46.3	44.3

Note: Percentage and median calculations are based on those cases for which data were reported. Education data were not reported for 235 prisoners at yearend 1985, 22 prisoners admitted in 1985, and 21 prisoners removed in 1985. Data on marital status were not reported for 98 prisoners at yearend 1985, 16 prisoners admitted in 1985, and 5 prisoners removed in 1985.
^aConsists of 11 American Indians and 5 Asians.
^bThe youngest person under sentence of death was a black inmate in Arkansas born in October 1969. The oldest was a white inmate in Kentucky born in October 1911.

Table 6. Number of women on death row by State, yearend 1972-85

State	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
United States	4	3	3	8	7	6	5	7	9	11	14	13	17	17
California	3			1	2									
Georgia	1	2	1	1	1	1	1	2	3	4	5	3	2	2
North Carolina		1	2	3			2	1	1	1	1	1		
Ohio				2	3	4						2	2	2
Oklahoma				1				1	1	1	2	2	1	1
Florida					1	1	1	1	1	1			1	2
Alabama							1	1	1	1	1	2	2	2
Texas								1	2	2	2		1	3
Kentucky									1	1				
Maryland										1				
Mississippi											1	1	1	1
Nevada											1	1	2	2
New Jersey													1	1
Arkansas														
Idaho														1
Indiana														

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Prisoners under sentence of death at yearend 1985

A total of 32 States reported 1,591 persons under sentence of death on December 31, 1985, an increase of 171 or 12.2% over the count at the end of 1984 (table 4). States with the largest number of prisoners under sentence of death were Florida (226), Texas (206), California (170), and Georgia (107).

Although 37 States had statutes authorizing the death penalty (covering 7% of the nation's adult population), 5 of these reported no prisoners under sentence of death at yearend (Connecticut, New Hampshire, Oregon, South Dakota, and Vermont).

Of the 1,591 persons under sentence of death, more than three-fifths (63%) were in the South, 19% were in Western States, 14% in the Midwest, and nearly 5% in the Northeast. Nearly all were male (98.9%) and most were white (56.8%) (table 5). Blacks constituted 32.2% of those under sentence of death and another 1% were American Indians or Asian Americans. The States reported a total of 99 Hispanics under sentence of death, 6.2% of the total. The largest number of Hispanics were held in States with relatively large Hispanic populations: Texas (33), California (22), Florida (10), Illinois (9), and Arizona (7).

The median age of those under sentence of death was nearly 32 years. Less than 1% were under the age of 20 and 2% were 55 or older. The youngest offender under sentence of death was 16 years old and the oldest was 74 years old. About 1 in 9 of the inmates for whom information on education was available had not gone beyond seventh grade, but about 1 in 11 had some college education. The median level of education was 10.5 years. Approximately a third of the condemned inmates for whom marital status was available were married, one-fifth were divorced or separated, and two-fifths had never been married.

The 17 women under sentence of death at yearend 1985 were held in 11 States, with no State holding more than 3 (table 6). Since 1972, a total of 17 States have held women under sentence of death. Since 1977, one woman has been executed.

Table 4. Prisoners under sentence of death, by region and State at yearend 1984 and 1985

Region and State	Prisoners under sentence 1984	Changes during 1985		Prisoners under sentence 1985
		Received under sentence	Removed from death row (excluding executions) Executed	
United States	1,420	273	84 ^a 18	1,591
Federal^b	0	0	0	0
State	1,420	273	84 18	1,591
Northeast	59	20	6 0	73
Connecticut	0	0	0	0
New Hampshire	0	0	0	0
New Jersey	10	7	0	17
Pennsylvania	49	13	6	58
Vermont	0	0	0	0
Midwest	174	54	6 1	221
Illinois	70	15	2 0	83
Indiana	26	10	1 1	34
Missouri	29	8	1 0	36
Nebraska	13	0	1 0	12
Ohio	36	21	1 0	56
South Dakota	0	0	0	0
South	900	167	50 16	1,001
Alabama	68	13	2 0	79
Arkansas	23	6	1 0	28
Delaware	6	0	2 0	4
Florida	215	27	13 3	226
Georgia	112	8	10 3	107
Kentucky	20	6	1 0	25
Louisiana	31	10	1 1	39
Maryland	19	0	2 0	17
Mississippi	39	5	3 0	41
North Carolina	37	20	1 0	56
Oklahoma	50	14	6 0	58
South Carolina	35	9	1 1	42
Tennessee	37	11	2 0	46
Texas	180	36	4 6	206
Virginia	28	2	1 2	27
West	287	32	22 1	296
Arizona	56	4	4 0	56
California	167	16	13 0	170
Colorado	1	0	0 0	1
Idaho	14	1	1 0	14
Montana	4	1	0 0	5
Nevada	28	7	3 1	31
New Mexico	5	0	0 0	5
Oregon	0	0	0 0	0
Utah	5	2	1 0	6
Washington	4	1	0 0	5
Wyoming	3	0	0 0	3

Note: States not listed and the District of Columbia did not have the death penalty as of 12/31/85. Some of the figures shown for yearend 1984 are revised from those shown in *Capital Punishment, 1984, NCJ-96353*. The revised figures include 24 inmates who were either reported late to the NPS program or who were not in the custody of State correctional authorities by 12/31/84 (2 in Pennsylvania, 1 in Ohio, 1 in Georgia, 1 in Florida, 10 in Alabama, 5 in Louisiana, 2

in Oklahoma, and 2 in Texas) and exclude 9 inmates relieved of the death sentence before 12/31/84 (1 in Illinois, 1 in Florida, 1 in Louisiana, 1 in Oklahoma, and 5 in California). ^aIncludes 1 inmate in Ohio who committed suicide, 1 each in Missouri and Tennessee who were murdered by another inmate, and 1 in Louisiana who died of natural causes. ^bExcludes one male held under Armed Forces jurisdiction with a military death sentence for murder.

There were 50 executions and 889 removals for other reasons, including death while awaiting execution. Most of the removals occurred because the individual's particular sentence or conviction was overturned. A slightly higher percentage of whites than blacks were executed during this period; removal rates for the two races were virtually identical.

For those executed since 1977, the average time between sentence imposition and execution was 6 years (table 10). For the 11 prisoners executed during 1977 an average of nearly 5 years elapsed between the time their sentence was imposed and their execution. Those executed in 1984 had spent more than 6½ years under sentence of death. Prisoners executed in 1985 had averaged just under 6 years awaiting execution, a year more than the average for 1977-83, but a half-year less than the average for 1984.

Black prisoners executed in 1985 had spent an average of 6 years and 8 months awaiting execution; whites, 5 years and 5 months.

Methodological note

The statistics reported in this bulletin may differ from data collected by other organizations for any of the following reasons: (1) Inmates are originally added to the National Prisoner Statistics death-row counts not at the time the court hands down the sentence, but at the time they are admitted to a State or Federal correctional facility. (2) Subsequently, admissions to death row or releases as a result of a court order are attributed to the year in which the sentence or court order occurred. Prior year counts are, therefore, adjusted to reflect the actual dates of court decisions (see Note, table 4). (3) NPS death-row counts are always for the last day of the calendar year and thus will differ from counts for more recent periods.

U.S. Supreme Court decisions cited

- Wainwright v. Witt, 469 U. S. 412 (1985); 105 S. Ct. 844 (1985)
 Ake v. Oklahoma, 470 U. S. 68 (1985); 105 S. Ct. 1087 (1985)
 Caldwell v. Mississippi, 105 S. Ct. 2633 (1985)
 Heath v. Alabama, 106 S. Ct. 433 (1985)
 Francis v. Franklin, 105 S. Ct. 1965 (1985)
 Heckler v. Chaney 105 S. Ct. 1649 (1985)
 Baldwin v. Alabama 105 S. Ct. 2048 (1985)

Table 10. Elapsed time between imposition of death sentence and execution, by race, 1977-85

Year of execution	Number executed			Average elapsed time from sentence to execution for:		
	All races	Whites	Blacks	All races	Whites	Blacks
Total	50	33	17	72 months	68 months	79 months
1977-83	11	9	2	58	59	58
1984	21	13	8	79	76	84
1985	18	11	7	71	65	80

Note: Three cases were resentenced to death after appeal. For these executions, average time was calculated from the original sentencing dates. The range for elapsed time for the 50 executions was 3 months to 133 months.

State notes

Arizona—Amendments to Ariz. Rev. Statutes, Section 13-703-(F9), include as aggravating factors cases when the defendant was an adult at the time the offense was committed or was tried as an adult and the victim was under 15 years of age. Effective 5/16/85.

Arkansas—Revisions to Ark. Rev. Statutes, Article V, Chapter 15, Section 41-1501,8, include murder for pecuniary gain and murder committed in a heinous and cruel manner as aggravating factors. Effective 4/4/85.

Colorado—Revisions to Sections 16-11-103, 18-1-105, Colo. Rev. Statutes, 1985 Suppl. Vol. provide for juries to be instructed that for offenses committed before midyear 1985, life imprisonment means no parole for 20 years, and for offenses on or after that date, no parole for 40 years. Effective 7/1/85.

Connecticut—Amendments to Conn. General Statutes 53a-54b by Public Acts 85-366 stipulate trial court criteria for determining any mitigating circumstances before sentencing in capital murder cases and also provide that if mitigating factors exist, the defendant must be sentenced to life imprisonment without parole. Effective 10/1/85.

Mississippi—Capital murder includes murder of a peace officer, murder by a life-sentence inmate, murder perpetrated by bomb or explosive, contract murder, murder committed during another felony, and murder of an elected official. Capital rape is forcible rape of a child under 14 years by a person 18 years or older. Revision to Miss. Penal Code 99-19-51 Suppl. 1985 substitutes lethal injection for lethal gas as the method of execution for those convicted after July 1, 1984, retaining lethal gas as the method for those convicted before that date.

Montana—Amendments to Section 46-18-303, Mont. Code Ann., 1985, include as aggravating circumstances attempted deliberate homicide, aggravated assault, or aggravated kidnaping committed by State prison inmates with prior records of deliberate homicide or

of persistent felonies including violent offenses. Effective 10/1/85.

Nevada—Amendments to Chapter 177, Nev. Rev. Statutes, limit the time for appellate review of death sentences to 150 days. Section 177.055 eliminates the requirement that the State Supreme Court's automatic review of a death sentence include an evaluation of its proportionality to other similar cases, though a review for excessiveness of the penalty is retained. Effective 7/1/85.

New Jersey—Amendments to New Jersey Statutes 2C:11-3 include provisions that a mandatory death penalty may not be imposed unless the aggravating factors outweigh the mitigating factors beyond any reasonable doubt. Effective 7/10/85.

South Carolina—Amendment to S.C. Statutes at Large, Sec. 16-3-20, specifically provides that persons whose sentences for murder were commuted to life sentences may not be eligible for parole. Effective 5/21/85.

Texas—Amendment to Texas Penal Code Section 19.03(a) adds multiple murders to the overall category of capital murder. Effective 9/1/85.

Virginia—Amendments to Virginia Code, Section 18.2-31(h) add murder of a child under the age of 12 years old in the commission of an abduction to the categories of capital murder. Effective 7/1/85.

Bureau of Justice Statistics Bulletins are prepared principally by the staff of BJS. This bulletin was written by Lawrence A. Greenfeld, corrections unit chief. Carol B. Kalish, chief of data analysis, edits the bulletins. Marilyn Marbrook, publications unit chief, administered production, assisted by Millie Baldea and Betty Sherman. Data were tabulated by Arlene Rasmussen and other staff of the U.S. Bureau of the Census.

November 1986, NCJ-102742

Table 7. Criminal history profile of prisoners under sentence of death, by race, 1985

	Number under sentence of death			Percent of those under sentence of death ^a		
	All races ^b	White	Black	All races ^b	White	Black
Prior felony conviction history						
Yes	970	528	432	66.2%	62.2%	71.9%
No	498	321	169	33.8	37.8	28.1
Not reported	125	54	71			
Prior homicide conviction history						
Yes	116	48	67	9.0%	6.5%	12.6%
No	1,170	693	464	91.0	93.5	87.4
Not reported	305	162	131			
Legal status at time of capital offense						
Charges pending	85	55	28	6.6%	7.4%	5.2%
Probation	70	48	21	5.4	6.5	3.8
Parole	260	123	137	20.1	16.5	25.6
Prison escapee	36	22	14	2.8	3.0	2.6
Prison inmate	44	24	20	3.4	3.2	3.7
Other status ^c	21	11	9	1.6	1.5	1.7
None	776	461	307	60.1	62.0	57.3
Not reported	299	159	136			
Median time elapsed since imposition of death sentence	36 mos.	35 mos.	38 mos.			

^aPercents are based on those offenders for whom data were reported.
^bIncludes whites, blacks, and persons classified as members of other races.

^cIncludes six persons on mandatory release, two on bail, three on furlough from prison, one for whom charges were pending from the U.S. Army, one in a local jail, and eight on work release/work furlough from prison.

Table 8. Number of persons executed, by jurisdiction in rank order, 1930-85

State	Number executed	
	Since 1930	Since 1977
U.S. total	3,909	50
Georgia	372	8
New York	329	
Texas	307	10
California	292	
North Carolina	265	2
Florida	183	13
Ohio	172	
South Carolina	163	1
Mississippi	155	1
Pennsylvania	152	
Louisiana	140	7
Alabama	136	1
Arkansas	118	
Kentucky	103	
Virginia	96	4
Tennessee	93	
Illinois	90	
New Jersey	74	
Maryland	68	
Missouri	62	
Oklahoma	60	
Washington	47	
Colorado	47	
Indiana	43	2
West Virginia	40	
District of Columbia	40	
Arizona	38	
Federal system	33	
Nevada	31	2
Massachusetts	27	
Connecticut	21	
Oregon	19	
Iowa	18	
Kansas	15	
Utah	14	1
Delaware	12	
New Mexico	8	
Wyoming	7	
Montana	6	
Vermont	4	
Nebraska	4	
Idaho	3	
South Dakota	1	
New Hampshire	1	
Wisconsin	0	
Rhode Island	0	
North Dakota	0	
Minnesota	0	
Michigan	0	
Maine	0	
Hawaii	0	
Alaska	0	

Since 1977, a total of 1,530 offenders have been under a death sentence for varying periods of time (table 9).

Criminal history of inmates under sentence of death in 1985

Among those under sentence of death at yearend 1985 for whom criminal history information was available, 66% had a history of felony convictions (table 7). Among those for whom information on homicide was available, 9% had a previous conviction for that crime.

Among those for whom legal status at the time of the capital offense was reported, about 40% had been in an active status. Half of these were on parole, while the rest had charges pending (7%), were on probation (5%), were prison inmates (3%) or escapees (1%). Excluding those with pending charges, a total of one in three were under sentence for another crime when the murder for which they were condemned occurred; in a number of cases, such status is considered an aggravating factor in sentencing for the crime.

The criminal history patterns were similar for whites and blacks, although somewhat higher percentages of blacks than whites had prior felony convictions or prior homicide convictions or were on parole at the time of the capital offense.

Commutations
 Since 1930, when data on executions were collected by the Federal

government, 3,909 executions have been conducted under civil authority (table 8).² Since the death penalty was reinstated by the Supreme Court in 1976, the States have executed 50 persons:

1977:	1	1983:	5
1979:	2	1984:	21
1981:	1	1985:	18
1982:	2		

A total of 12 States have carried out executions since 1977. During the period, 32 white males, 17 black males, and 1 white female have been executed with the largest number of executions occurring in Florida (13), Texas (10), and Louisiana (7). During 1985, 11 white males and 7 black males were executed by eight States.

²An additional 160 executions have been carried out under military authority since 1930.

Table 9. Percentage of those under sentence of death who were executed or received other dispositions, by race, 1977-85

Race	Total under sentence of death 1977-85 ^a	Prisoners executed		Prisoners who received other dispositions ^b	
		Number	Percent of total	Number	Percent of total
All races ^c	2,530	50	2.0%	989	35.1%
White	1,441	33	2.3	505	35.0
Black	1,066	17	1.6	377	35.4

^aThose under sentence of death at the beginning of 1977 (420) plus all new admissions under sentence of death between 1977 and 1985 (2,110).

^bOther dispositions include persons removed from a sentence of death due to statutes struck down on appeal, sentences convictions

vacated, commutations, or death other than by execution (of the 889 removals, 32 resulted from death during confinement—11 from natural causes, 14 by suicide, 2 during escape attempts, and 5 murdered by other inmates).
^cIncludes whites, blacks, and persons classified as members of other races.

Original sponsors: Abood, Kelly
and Faiks

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

IN THE SENATE

CS FOR SENATE BILL NO. 7 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing capital punishment, classifying murder in the first degree as a capital felony, and establishing sentencing procedures for capital felonies; providing for an advisory vote; and providing for an effective date."

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

* Section 1. AS 11.31.100(d) is amended to read:

(d) An attempt is a

(1) class A felony if the crime attempted is an unclassified or capital felony;

(2) class B felony if the crime attempted is a class A felony;

(3) class C felony if the crime attempted is a class B felony;

(4) class A misdemeanor if the crime attempted is a class C felony;

(5) class B misdemeanor if the crime attempted is a class A or class B misdemeanor.

* Sec. 2. AS 11.31.110(c) is amended to read:

(c) Solicitation is a

(1) class A felony if the crime solicited is an unclassified or capital felony;

(2) class B felony if the crime solicited is a class A felony;

1 (3) class C felony if the crime solicited is a class B
2 felony;

3 (4) class A misdemeanor if the crime solicited is a class C
4 felony;

5 (5) class B misdemeanor if the crime solicited is a class A
6 or class B misdemeanor.

7 * Sec. 3. AS 11.41.100(b) is amended to read:

8 (b) Murder in the first degree is a capital [AN UNCLASSIFIED]
9 felony and is punishable as provided in AS 12.55.125(a) [AS 12.55].

10 * Sec. 4. AS 12.30.040(b) is amended to read:

11 (b) Notwithstanding the provisions of (a) of this section, if a
12 person has been convicted of an offense that [WHICH] is a capital
13 felony, an unclassified felony or a class A felony, the person may not
14 be released on bail either before sentencing or pending appeal.

15 * Sec. 5. AS 12.55 is amended by adding a new section to read:

16 Sec. 12.55.117. REVIEW OF JUDGMENT AND SENTENCE OF DEATH. (a)
17 A judgment of conviction of a capital felony for which a sentence of
18 death is imposed is subject to automatic review by the supreme court
19 within 60 days after imposition of the sentence. This time limit may
20 be extended by the supreme court. A review under this section has
21 priority over all other cases and the case shall be heard in accor-
22 dance with rules adopted by the supreme court. On review, the court
23 shall determine whether

24 (1) the sentence was imposed under the influence of pas-
25 sion, prejudice, or other arbitrary factor;

26 (2) the evidence supports the finding of an aggravating
27 factor under AS 12.55.180; and

28 (3) the sentence is excessive or disproportionate to the
29 penalty imposed in similar cases, considering both the crime and the

1 defendant.

2 (b) If the supreme court upholds a judgment of conviction and
3 sentence of death, the court shall issue a death warrant that
4 specifies a date of execution. The date of execution shall be not
5 less than 30 days nor more than 60 days after the date of the warrant.
6 The death warrant shall be delivered to the commissioner of
7 corrections. The commissioner shall specify the time, place, and
8 manner of execution after providing a person sentenced to death an
9 opportunity to choose to be executed by lethal injection or by firing
10 squad.

11 (c) An execution by firing squad shall be carried out at a state
12 prison designated by the commissioner of corrections. The commis-
13 sioner shall select a firing squad of six peace officers. They shall
14 be compensated in an amount determined by the commissioner.

15 (d) After consulting a licensed physician, the commissioner of
16 corrections shall select a method of injection and a drug or com-
17 bination of drugs to be used for an execution by lethal injection.

18 (e) The commissioner of corrections and a licensed physician
19 chosen by the commissioner shall be present at an execution under this
20 chapter. The commissioner may invite not more than nine citizens 19
21 years of age or older to be present at an execution, including the
22 prosecuting attorney, the defense attorney, relatives, friends or
23 religious representatives designated by the defendant. None of those
24 invited may attend an execution as a matter of right.

25 (f) After the execution the commissioner of corrections shall
26 make a return upon the death warrant, showing the time, place and
27 manner in which the defendant was executed.

28 (g) The commissioner of corrections shall permit at an execution
29 the attendance of not more than six members of the print and broadcast

1 news media selected by the commissioner in accordance with regulations
2 adopted by the Department of Corrections. The selected news media
3 members shall serve as a pool for other members of the news media as a
4 condition of attendance.

5 (h) The use of photographic or recording equipment may not be
6 permitted at the execution site until the execution is completed, the
7 body is removed and the site has been restored to an orderly condi-
8 tion. The physical arrangements for the execution may not be dis-
9 turbed. A person who violates this subsection is guilty of a class B
10 misdemeanor.

11 (i) Persons attending an execution shall be subject to a reason-
12 able search as a condition of attendance.

13 (j) Persons other than the necessary staff designated by the
14 commissioner of corrections and others permitted under (e) and (g) of
15 this section, may not be permitted to attend an execution, nor may any
16 person under the age of 19 attend.

17 (k) The Department of Corrections shall adopt regulations gov-
18 erning the attendance of persons at an execution.

19 * Sec. 6. AS 12.55.125(a) is amended to read:

20 (a) A defendant convicted of a capital felony [MURDER IN THE
21 'FIRST DEGREE] shall be sentenced to a definite term of imprisonment of
22 at least 20 years but not more than 99 years, or shall be sentenced to
23 death.

24 * Sec. 7. AS 12.55 is amended by adding new sections to read: .

25 Sec. 12.55.177. SENTENCING PROCEDURE FOR A CAPITAL FELONY. (a)
26 If, after trial by jury, the defendant is convicted of a capital
27 felony, the court shall conduct a separate sentencing proceeding
28 before the trial jury as soon as practicable. If a jury trial has
29 been waived or if the defendant pleads guilty, the sentencing

1 proceeding shall be held before a jury impaneled for the purpose.

2 (b) In the sentencing proceeding evidence may be presented as to
3 any matter relevant to the nature of the crime, the character of the
4 defendant, or any aggravating or mitigating factor that the court
5 considers to have probative value, regardless of the admissibility of
6 the evidence under the exclusionary rules of evidence, provided the
7 defendant has an opportunity to rebut hearsay statements. The state
8 and the defendant or the defendant's counsel shall be permitted to
9 present oral argument. This subsection does not authorize the intro-
10 duction of evidence secured in violation of the Constitution of the
11 State of Alaska or the Constitution of the United States.

12 (c) After hearing the evidence, the jury shall deliberate and
13 recommend a sentence to the court. The recommended sentence must
14 include written findings of whether

15 (1) aggravating factors exist to justify the death sen-
16 tence;

17 (2) mitigating factors exist that outweigh the aggravating
18 factors; and

19 (3) the defendant should be sentenced to a term of impris-
20 onment or to death.

21 Sec. 12.55.179. SENTENCE IMPOSITION FOR CAPITAL FELONY. (a)
22 The court, after considering the evidence and the recommended sen-
23 tence, shall enter a sentence of death or a term of imprisonment in
24 accordance with AS 12.55.125(a). The death sentence may not be im-
25 posed unless the jury finds at least one aggravating factor that is
26 not outweighed by the mitigating factors, and the jury recommends that
27 the defendant be sentenced to death. If the jury findings include an
28 aggravating factor that is not outweighed by the mitigating factors,
29 and the jury recommends that the defendant be sentenced to death, the

1 court shall sentence the defendant to death. . If a sentence of death
2 is not recommended by the jury, the court shall sentence the defendant
3 to a term of imprisonment.

4 (b) If the court enters a sentence of death, it shall make
5 written findings of

6 (1) aggravating factors that exist to justify the sentence;
7 and,

8 (2) mitigating factors considered by the court.

9 (c) A judgment of conviction for which a sentence of death is
10 imposed is subject to automatic review under AS 12.55.117.

11 Sec. 12.55.180. AGGRAVATING FACTORS. In determining whether to
12 impose a sentence of death, the following aggravating factors may be
13 considered:

14 (1) the defendant's conduct during the commission of the
15 offense manifested deliberate cruelty to another person in that it
16 involved sexual assault in the first degree, kidnapping, assault in
17 the first degree, torture, or an aggravated battery;

18 (2) the defendant's conduct caused the death of two or more
19 persons, other than accomplices;

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

22 (4) the defendant has a prior conviction for a felony that
23 involved the use of violence to a person or for murder under AS 11.-
24 41.100 - 11.41.110, former AS 11.15.010 or 11.15.030, or a law from
25 another jurisdiction with substantially similar elements;

26 (5) the defendant knowingly directed the conduct constitut-
27 ing the offense at the President of the United States or the governor
28 of this state;

29 (6) the defendant knowingly directed the conduct

1 constituting the offense at an active or former law enforcement
2 officer, prosecuting attorney, fireman, judicial officer, or
3 correctional officer during or because of the exercise of official
4 duties;

5 (7) the defendant committed the offense under an agreement
6 that the defendant either pay or be paid for the commission of the
7 offense, or for other pecuniary gain;

8 (8) the defendant was on release for another felony charge
9 or conviction having assault as a necessary element.

10 Sec. 12.55.181. MITIGATING FACTORS. In determining whether to
11 impose the death sentence, all mitigating factors shall be considered,
12 including, but not limited to, the following:

13 (1) the defendant committed the offense under a degree of
14 duress, coercion, threat, or compulsion insufficient to constitute a
15 defense, but that significantly affected the defendant's conduct;

16 (2) the conduct of a youthful defendant was substantially
17 influenced by a person more mature than the defendant;

18 (3) the defendant acted with serious provocation from the
19 victim;

20 (4) the defendant assisted authorities to detect or appre-
21 hend other persons who committed the offense with the defendant.

22 Sec. 12.55.182. INCOMPETENCY OR PREGNANCY OF PERSON SENTENCED TO
23 DEATH. (a) If, after imposing a sentence of death, there is reason
24 to believe the defendant has become incompetent to proceed with the
25 execution, or is pregnant, the commissioner of corrections shall
26 immediately give written notice to the court in which the sentence of
27 death was imposed, the prosecuting attorney, and counsel for the
28 defendant. The execution of sentence shall be stayed pending further
29 order of the court.

1 (b) On receipt of the notice that the defendant is believed to
2 be incompetent, the mental condition of the defendant shall be ex-
3 amined in the same manner as provided for examining persons for compe-
4 tency to stand trial under AS 12.47.070. If it is found that the
5 defendant is incompetent, the sentencing court shall immediately
6 certify that finding to the supreme court and the commissioner of
7 corrections, and shall enter an order for commitment in the same
8 manner as provided for commitment under AS 12.47.110. If it is found
9 that the defendant is competent, the sentencing court shall immedi-
10 ately certify the finding to the supreme court and the commissioner of
11 corrections. The supreme court shall issue and deliver another war-
12 rant to the commissioner of corrections under AS 12.55.117, together
13 with a copy of the certified finding. The warrant shall specify a
14 date of execution not less than 30 days nor more than 60 days after
15 the date of the warrant.

16 (c) If the defendant is pregnant, the sentencing court shall
17 immediately certify that finding to the supreme court and the commis-
18 sioner of corrections. The supreme court shall issue an order staying
19 the execution of the sentence of death during the pregnancy. When the
20 defendant is no longer pregnant, the sentencing court shall immedi-
21 ately certify the finding to the supreme court and the commissioner of
22 corrections. The supreme court shall issue and deliver another war-
23 rant under AS 12.55.117, together with a copy of the certified find-
24 ing. The warrant shall specify a date of execution not less than 30
25 days nor more than 60 days after the date of the warrant.

26 * Sec. 8. AS 22.07.020(a) is amended to read:

27 (a) The court of appeals has appellate jurisdiction in actions
28 and proceedings commenced in the superior court involving:

29 (1) criminal prosecution, except prosecution for a capital

1 felony for which a death sentence is imposed;

2 (2) post-conviction relief;

3 (3) children's court matters under AS 47.10.010(a)(1)
4 including waiver of children's court jurisdiction over a minor under
5 AS 47.10;

6 (4) extradition;

7 (5) habeas corpus;

8 (6) probation and parole; and

9 (7) bail.

10 * Sec. 9. AS 22.07.020(b) is amended to read:

11 (b) Except for appeals of a death sentence, the [THE] court of
12 appeals has jurisdiction to hear appeals of sentences of imprisonment
13 imposed by the superior court on the grounds that the sentence is
14 excessive or too lenient and, in the exercise of this jurisdiction,
15 may modify the sentence as provided by law and the state constitut

16 * Sec. 10. The lieutenant governor shall place before the qual
17 voters of the state at the next statewide election the question advisory to
18 the legislature of whether capital punishment for murder in the first
19 degree as now authorized by law should go into effect on August 15, 1989.
20 The question shall appear on the ballot in substantially the following
21 form:

22 Q U E S T I O N

23 Shall capital punishment for murder in the first degree
24 as now authorized by law go into effect on August 15, 1989?

25 Yes []

No []

26 * Sec. 11. Sections 1 - 9 of this Act take effect August 15, 1989.

27 * Sec. 12. Section 10 of this Act takes effect immediately under
28 AS 01.10.070(c).

SB

12

Alaska State Legislature

PRESIDENT
907-465-3755

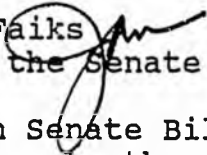
JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

February 2, 1987

MEMORANDUM

TO: Senator Paul Fischer, Chairman
Senate Health, Education, and Social Services
Committee

FROM: Senator Jan Faiks 
President of the Senate

SUBJECT: Background on Senate Bill 12
An Act relating to the university fund; and
providing for an effective date.

Senate Bill 12 has been referred to your committee for consideration. This bill represents an effort to provide a stable source of funding for the university system. SJR 1 is the accompanying legislation which amends the Constitution and places a ballot question before the voters in the 1988 general election to create a University Fund.

This fund would be capitalized by 5% of the mineral royalty income received by the state after January 1, 1989. That amount is estimated as follows for the next four years:

<u>Year</u>	<u>Total amount (Millions of Dollars)</u>
FY 89	16.3
FY 90	34.1
FY 91	33.2
FY 92	33.5

These estimates were derived from the Department of Revenue's estimated mineral revenues for January 1987 Revenue Sources. They reflect the loss of mineral revenues and the subsequent decrease in General Fund investment earnings.

All income received from the University Fund would be transferred to the Board of Regents to be used for the University. Legislative appropriation would not be required to spend the money.

The University Fund would be handled by the Permanent Fund Corporation, and current investment procedures of the Permanent Fund would be followed, with allowances for additional legislative appropriations.

Alaska State Legislature

PRESIDENT
907-465-3755

JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

March 20, 1987

MEMORANDUM

TO: Senator Paul Fischer, Chairman
Senate Health, Education, and Social Services
Committee

FROM: Senator Jan Faiks *Jan*
President of the Senate

SUBJECT: Proposed amendments to Senate Bill 12
An Act relating to the university fund

SB 12 is currently before your committee. Since its introduction, fiscal notes have been prepared by the Permanent Fund Corporation and the Department of Revenue. Based on that information, I ask that the committee consider the following changes to the bill.

As presently drafted, SB 12 provides that the university fund shall be managed by the Alaska Permanent Fund Corporation. The Permanent Fund Corporation has issued a fiscal note for management of the university fund with figures in the hundreds of thousands of dollars.

The Department of Revenue, on the other hand, has expressed interest in this legislation, and has offered to manage the university fund at a much lower operating expense.

Amend
Therefore, I recommend that the committee adopt changes to this legislation in a CS which will place the management of the university fund in the Department of Revenue.

The committee's consideration of these changes will be appreciated. Should you need any further information, please let me know.

OUT OF SESSION

6060 YUKON DRIVE ANCHORAGE, ALASKA 99516 907-274-6611

In other packets

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 42/HJR 2

Publish Date: _____

REQUEST _____

Revision Date: _____

Title: University Fund

Agency Affected: Permanent Fund Corp.

BRU: _____

Sponsor: Rep. Boucher

Requestor: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES		241.2	255.7	271.0	287.3	304.5
TRAVEL		31.0	32.9	34.8	36.9	39.1
CONTRACTUAL		192.8	204.4	216.6	229.6	243.4
SUPPLIES		3.2	3.4	3.6	3.8	4.0
EQUIPMENT	-	17.2	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	485.4	496.4	526.0	557.6	591.0
			THOUSANDS			
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

* According to constitutional provision Article 9, Section 15 funds cannot be comingled with Permanent Fund Assets.

Prepared By: Royce Weller *FOR P.F.C.*
Division: Revenue/Commissioner's Office

Phone: 465-2300
Date: 2/18/87

Approved by Commissioner: Hugh Malone *Hm*
Agency: Department of Revenue

Date: 2/18/87

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

NOTE: THIS FISCAL NOTE IS BASED ON INFORMATION SUPPLIED BY THE PERMANENT FUND CORPORATION. *Hm*

page 1 of 1

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CS SB 12 (HESS)
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: University Fund

Agency Affected: Department of Revenue
BRU: Treasury

Sponsor: Senate HESS
Requestor: Senate HESS

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	32.8	71.1	129.1	208.1
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	32.8	71.1	129.1	208.1
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	32.8	71.1	129.1	208.1
TOTAL	-	-	32.8	71.1	129.1	208.1

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker *MB*
Division: Treasury

Phone: 465-2350
Date: March 26, 1987

Approved by Commissioner: *[Signature]*
Agency: Department of Revenue

Date: 3/29/87

Distribution (by preparer):

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

University Fund
(\$ 000)

	(1)	(2)	(3)	(4)	(5)	(6)
<u>Fiscal Year</u>	<u>Principal Balance</u>	<u>Securities Safekeeping Fees</u>	<u>Common Stock Management Fees</u>	<u>Performance Measurement Fees</u>	<u>Audit Fees</u>	<u>Total Fees</u>
1989	15,800.0	.8	10.0	12.0	10.0	32.8
1990	48,900.0	2.6	46.5	12.0	10.0	71.1
1991	81,100.0	4.3	102.8	12.0	10.0	129.1
1992	113,600.0	6.0	180.1	12.0	10.0	208.1

Notes:

1. From 2-13-87 HB 42/HJR 2 Fiscal Note prepared by Robert Elliott, Department of Revenue
2. Column 1 x 5.25¢/\$1,000, per contract
3. Column 1 x .317%, per contract, x 20%, 30%, 40%, and 50% allocation to stocks for FY 89-92, respectively
4. Per contract
5. Department of Revenue estimate
6. Columns 2 + 3 + 4 + 5

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CS HJR 2 (HESS)

Publish Date: _____

REQUEST: _____

Revision Date: _____

Title: University Fund

Agency Affected: Department of Revenue

BRU: Treasury

Sponsor: House HESS

Requestor: House HESS

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	22.8	61.1	119.1	198.1
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	22.8	61.1	119.1	198.1
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	22.8	61.1	119.1	198.1
TOTAL	-	-	22.8	61.1	119.1	198.1

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350
Date: February 23, 1987

Approved by Commissioner: _____
Agency: Department of Revenue

Date: _____

Distribution (by preparer):

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

University Fund
(\$ 000)

<u>Fiscal Year</u>	<u>Principal Balance</u>	<u>Securities Safekeeping Fees</u>	<u>Common Stock Management Fees</u>	<u>Performance Measurement Fees</u>	<u>Total Fees</u>
1989	15,800.0	.8	10 0	12.0	22.8
1990	48,900.0	2.6	46.5	12.0	61.1
1991	81,100.0	4.3	102.8	12.0	119.1
1992	113,600.0	6.0	180.1	12.0	198.1

Notes:

1. From 2-13-87 HB 42/HJR 2 Fiscal Note prepared by Robert Elliott, Department of Revenue
2. Column 1 x 5.25¢/\$1,000, per contract
3. Column 1 x .317%, per contract, x 20%, 30%, 40%, and 50% allocation to stocks for FY 89-92, respectively
4. Per contract
5. Columns 2 + 3 + 4

Alaska State Legislature

PRESIDENT

907-465-3755

JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

February 2, 1987

MEMORANDUM

TO: Senator Paul Fischer, Chairman
Senate Health, Education, and Social Services
Committee

FROM: Senator Jan Faiks *[Signature]*
President of the Senate

SUBJECT: Background on Senate Bill 12
An Act relating to the university fund; and
providing for an effective date.

Senate Bill 12 has been referred to your committee for consideration. This bill represents an effort to provide a stable source of funding for the university system. SJR 1 is the accompanying legislation which amends the Constitution and places a ballot question before the voters in the 1988 general election to create a University Fund.

This fund would be capitalized by 5% of the mineral royalty income received by the state after January 1, 1989. That amount is estimated as follows for the next four years:

<u>Year</u>	<u>Total amount (Millions of Dollars)</u>
FY 89	16.3
FY 90	34.1
FY 91	33.2
FY 92	33.5

Supplant existing
Comm College

OUT OF SESSION

6060 YUKON DRIVE ANCHORAGE, ALASKA 99511

— BACKGROUND

These estimates were derived from the Department of Revenue's estimated mineral revenues for January 1987 Revenue Sources. They reflect the loss of mineral revenues and the subsequent decrease in General Fund investment earnings.

All income received from the University Fund would be transferred to the Board of Regents to be used for the University. Legislative appropriation would not be required to spend the money.

The University Fund would be handled by the Permanent Fund Corporation, and current investment procedures of the Permanent Fund would be followed, with allowances for additional legislative appropriations.



**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: SB12

Publish Date: _____

Revision Date: SB 12
Title: Relating to the University Fund

Agency Affected: University of Alaska
BRU: - all

Sponsor: Senator Faiks
Requestor: Senate HESS

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	Undetermined	Undet	Undet

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

REVENUE				Positive	Positive	Positive
---------	--	--	--	----------	----------	----------

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Brian Rogers, Director of Budget Development Phone: 474-6490
Division: University of Alaska Date: February 6, 1987

Approved by Vice President Sherman Carter Date: February 6, 1987
Agency: University of Alaska

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. Senate Bill 12

Analysis

Assumptions

The university fund will be managed by the board of trustees of the Alaska Permanent Fund. No university personnel will be involved in fund management. Income from the fund will be available to the university annually from the prior year's net revenues.

Program Summary

No new positions or expenditures will be necessary to manage the fund. Income from the fund will be used for university operations; decisions on use of the fund's income will be made by the board of regents of the University of Alaska.

Comments

The University of Alaska is in favor of the proposed legislation. Over time, it will build an endowment for the university system similar to that of other leading resource states. The fund's income will allow the university system to increase its delivery of programs and services to the people of Alaska, and will provide greater stability in the budget and expenditure process. It is impossible at this time to determine which programs and services the board of regents will provide utilizing the fund's income.

A projection of the amount of income from the fund which would become available to the university for programs and services depends on the assumptions chosen for oil prices and investment rates of return. Such a projection must be made by the Alaska Department of Revenue and/or the Alaska Permanent Fund Corporation, rather than the University of Alaska.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version : SB 12/SJR 1

Publish Date : _____

REQUEST: _____

Revision Date: _____

Title : Creating the University Fund/
Amending the Constitution

Sponsor : Faiks

Requestor: _____

Agency Affected : Revenue

BRU: _____

Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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

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

Millions

FUNDING: (Thousands of Dollars)

Univ. Fund Prin. Balance			(16.3)	(34.1)	(33.2)	(33.5)
Univ. Fund Income			15.8	48.9	81.1	113.6
TOTAL			.5	1.9	3.9	5.8

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Robert Elliott Phone: 2173

Division: Research Section Date: _____

Approved by Commissioner: [Signature] Date: 12/3/87

Agency: REVENUE (CORRECTIONAL)

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requester
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

Page _____ of _____

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 12/SJR 1

Analysis:

Figures are based on estimated mineral revenues for January 1987 Revenue Sources, and assume a six percent nominal interest rate and voter approval of the Constitutional Amendment (SJR 1). University Fund Income represents amount transferred to the Board of Regents at the end of each fiscal year. The above decrease in General Fund revenues includes not only the loss of mineral revenues but the subsequent decrease in General Fund investment earnings. Estimated revenues from proposed bonus sales were not included since bids are impossible to anticipate prior to sales.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SB12

Publish Date : _____

Revision Date: SB 12

Agency Affected: University of Alaska

Title: Relating to the University Fund

BRU: all

Sponsor: Senator Faiks

Components : _____

Requestor: Senate HFSS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	Undetermined	Undet	Undet

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

REVENUE				Positive	Positive	Positive
---------	--	--	--	----------	----------	----------

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Brian Rogers, Director of Budget Development Phone: 474-6490

Division: University of Alaska Date: February 6, 1987

Approved by Vice President Sherman Carter Date: February 6, 1987

Agency: University of Alaska

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. Senate Bill 12

Analysis

Assumptions

The university fund will be managed by the board of trustees of the Alaska Permanent Fund. No university personnel will be involved in fund management. Income from the fund will be available to the university annually from the prior year's net revenues.

Program Summary

No new positions or expenditures will be necessary to manage the fund. Income from the fund will be used for university operations; decisions on use of the fund's income will be made by the board of regents of the University of Alaska.

Comments

The University of Alaska is in favor of the proposed legislation. Over time, it will build an endowment for the university system similar to that of other leading resource states. The fund's income will allow the university system to increase its delivery of programs and services to the people of Alaska, and will provide greater stability in the budget and expenditure process. It is impossible at this time to determine which programs and services the board of regents will provide utilizing the fund's income.

A projection of the amount of income from the fund which would become available to the university for programs and services depends on the assumptions chosen for oil prices and investment rates of return. Such a projection must be made by the Alaska Department of Revenue and/or the Alaska Permanent Fund Corporation, rather than the University of Alaska.

5-0095L
Levy
3/23/87

Original sponsors: Faiks, Uehling,
Kelly and Kerttula

1 IN THE SENATE BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 12 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the university fund; and provid-
7 ing for an effective date."

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

9 * Section 1. AS 37.14 is amended by adding new sections to read:

10 Sec. 37.14.300. UNIVERSITY FUND. (a) There is established as a
11 separate endowment trust fund the university fund consisting of

12 (1) five percent of all mineral lease rentals, royalties,
13 royalty sale proceeds, net profit shares under AS 38.05.180(f) and
14 (g), and federal mineral revenue sharing payments received by the
15 state after January 1, 1989, from mineral leases issued on or before
16 December 1, 1979, and six percent of all bonuses received by the state
17 after January 1, 1989, from mineral leases issued on or before Febru-
18 ary 15, 1980;

19 (2) any other money appropriated to the university fund.

20 (b) Payments due the university fund under (a) of this section
21 shall be made to the fund once each month.

22 (c) The net income of the university fund shall be determined by
23 the commissioner of revenue in accordance with investment accounting
24 principles and in a manner that preserves the distinction between
25 principal and income.

26 Sec. 37.14.310. FUND USE. (a) The principal of the university
27 fund and the capital gains or losses realized on the principal shall
28 be perpetually retained in the fund for investment purposes.

29 (b) At the end of each fiscal year the net income from the

1 university fund as determined under AS 37.14.300(c) shall be trans-
2 ferred to the Board of Regents of the University of Alaska. Income of
3 the university fund transferred to the Board of Regents of the Univer-
4 sity of Alaska under this section shall be used for the University of
5 Alaska under AS 14.40 and other applicable provisions of law.

6 (c) Realized net income that has not been transferred to the
7 Board of Regents of the University of Alaska under (b) of this section
8 shall be invested until transferred.

9 Sec. 37.14.320. DUTIES OF THE COMMISSIONER OF REVENUE. The
10 commissioner of revenue is the treasurer of the university fund and
11 shall

12 (1) act as official custodian of the cash and investments
13 belonging to the fund by securing adequate and safe custodial facil-
14 ities;

15 (2) receive all items of cash and investments belonging to
16 the fund;

17 (3) collect the principal and income from investments owned
18 or acquired by the state treasury and deposit the amounts in separate
19 principal and income accounts for the fund;

20 (4) invest and reinvest the assets of the fund under
21 AS 37.14.330;

22 (5) generally exercise the powers of an owner with respect
23 to the assets of the fund;

24 (6) do all acts, whether or not expressly authorized, that
25 the commissioner of revenue considers necessary or proper in adminis-
26 tering the assets of the fund;

27 (7) maintain accounting records of the fund under invest-
28 ment accounting principles and with distinction between the principal
29 and income accounts of the fund;

1 (8) contract with an independent firm of certified public
2 accountants to annually audit the financial condition of the fund's
3 investments and investment transactions;

4 (9) enter into and enforce all contracts or agreements
5 considered necessary, convenient, or desirable for the investment
6 purposes of the fund; and

7 (10) report to the Board of Regents of the University of
8 Alaska the condition and investment performance of the fund.

9 Sec. 37.14.330. INVESTMENTS. (a) The commissioner of revenue
10 is the fiduciary of the university fund and shall invest the fund to
11 provide increasing net income over long-term periods. In investing
12 the assets of the fund the commissioner of revenue shall exercise the
13 judgment and care under the circumstances then prevailing that an
14 institutional investor of ordinary professional prudence, discretion,
15 and intelligence exercises in managing large trust investments with
16 consideration for the purpose of the funds, the investment objectives,
17 the continuing disposition of the fund's investments, and the probable
18 safety of the capital as well as the probable investment returns.

19 (b) In managing the university fund, the commissioner of revenue
20 shall

21 (1) consider the status and income of the fund's capital on
22 both a current and a probable future basis;

23 (2) determine the appropriate investment objectives;

24 (3) establish investment policies aimed at achieving the
25 objectives; and

26 (4) act only in regard to the long-term financial interests
27 of the fund's beneficiaries.

28 (c) The discretionary acquisition or disposition of investments
29 in the fund shall be at competitive national or international market

1 rates or prices or the equivalent in the judgment of the commissioner
2 of revenue.

3 (d) In exercising the duties and powers set out in this section
4 and AS 37.14.320, the commissioner of revenue may

5 (1) delegate investment, custodial, or depository authority
6 on a discretionary or nondiscretionary basis to officers or employees
7 of the state or to independent firms, banks, or trust companies, by
8 designation through appointments, contracts, or letters of authority;

9 (2) invest the university fund on the basis of probable
10 total rate of return as a means of promoting the long-term generation
11 of income;

12 (3) acquire or dispose of investments, either directly,
13 indirectly, or through investment pools or trusts, by competitive or
14 negotiated agreements, contracts, or auctions, in public or private
15 markets;

16 (4) concentrate or diversify the investments of the univer-
17 sity fund as appropriate in order to increase the probable total rate
18 of return on the fund or to decrease the fund's overall exposure to
19 potentially adverse market value risks;

20 (5) protect the market value or the rate of return of the
21 university fund's investments by entering into forward agreements to
22 buy or sell assets at a future date as a hedge against existing held
23 assets or as a pre commitment of future cash flows;

24 (6) lend under an agreement and for a fee assets of the
25 university fund against deposited collateral of equivalent market
26 value;

27 (7) hold investments in bearer form or in registered form
28 in the name of the university fund or authorized nominees;

29 (8) use consultants, advisers, custodians, investment

1 services, and legal counsel for assistance in investment matters on
2 either a continuing or a limited term basis and with or without com-
3 pensation; and

4 (9) withhold information that discloses the particulars of
5 the business or the affairs of a private enterprise, investor, bor-
6 rower, adviser, consultant, counsel, or manager as confidential and
7 nonpublic records subject to disclosure only as required in a court
8 proceeding or for purposes of an official law enforcement proceeding.

9 * Sec. 2. This Act takes effect on the effective date of a constitu-
10 tional amendment establishing a university fund.

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5-0095L
Levy
3/23/87

Original sponsors: Faiks, Uehling,
Kelly and Kerttula

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 12 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the university fund; and provid-
7 ing for an effective date."

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

9 * Section 1. AS 37.14 is amended by adding new sections to read:

10 Sec. 37.14.300. UNIVERSITY FUND. (a) There is established as a
11 separate endowment trust fund the university fund consisting of

12 (1) five percent of all mineral lease rentals, royalties,
13 royalty sale proceeds, net profit shares under AS 38.05.180(f) and
14 (g), and federal mineral revenue sharing payments received by the
15 state after January 1, 1989, from mineral leases issued on or before
16 December 1, 1979, and six percent of all bonuses received by the state
17 after January 1, 1989, from mineral leases issued on or before Febru-
18 ary 15, 1980;

19 (2) any other money appropriated to the university fund.

20 (b) Payments due the university fund under (a) of this section
21 shall be made to the fund once each month.

22 (c) The net income of the university fund shall be determined by
23 the commissioner of revenue in accordance with investment accounting
24 principles and in a manner that preserves the distinction between
25 principal and income.

26 Sec. 37.14.310. FUND USE. (a) The principal of the university
27 fund and the capital gains or losses realized on the principal shall
28 be perpetually retained in the fund for investment purposes.

29 (b) At the end of each fiscal year the net income from the

1 university fund as determined under AS 37.14.300(c) shall be trans-
2 ferred to the Board of Regents of the University of Alaska. Income of
3 the university fund transferred to the Board of Regents of the Univer-
4 sity of Alaska under this section shall be used for the University of
5 Alaska under AS 14.40 and other applicable provisions of law.

6 (c) Realized net income that has not been transferred to the
7 Board of Regents of the University of Alaska under (b) of this section
8 shall be invested until transferred.

9 Sec. 37.14.320. DUTIES OF THE COMMISSIONER OF REVENUE. The
10 commissioner of revenue is the treasurer of the university fund and
11 shall

12 (1) act as official custodian of the cash and investments
13 belonging to the fund by securing adequate and safe custodial facil-
14 ities;

15 (2) receive all items of cash and investments belonging to
16 the fund;

17 (3) collect the principal and income from investments owned
18 or acquired by the state treasury and deposit the amounts in separate
19 principal and income accounts for the fund;

20 (4) invest and reinvest the assets of the fund under
21 AS 37.14.330;

22 (5) generally exercise the powers of an owner with respect
23 to the assets of the fund;

24 (6) do all acts, whether or not expressly authorized, that
25 the commissioner of revenue considers necessary or proper in adminis-
26 tering the assets of the fund;

27 (7) maintain accounting records of the fund under invest-
28 ment accounting principles and with distinction between the principal
29 and income accounts of the fund;

1 (8) contract with an independent firm of certified public
2 accountants to annually audit the financial condition of the fund's
3 investments and investment transactions;

4 (9) enter into and enforce all contracts or agreements
5 considered necessary, convenient, or desirable for the investment
6 purposes of the fund; and

7 (10) report to the Board of Regents of the University of
8 Alaska the condition and investment performance of the fund.

9 Sec. 37.14.330. INVESTMENTS. (a) The commissioner of revenue
10 is the fiduciary of the university fund and shall invest the fund to
11 provide increasing net income over long-term periods. In investing
12 the assets of the fund the commissioner of revenue shall exercise the
13 judgment and care under the circumstances then prevailing that an
14 institutional investor of ordinary professional prudence, discretion,
15 and intelligence exercises in managing large trust investments with
16 consideration for the purpose of the funds, the investment objectives,
17 the continuing disposition of the fund's investments, and the probable
18 safety of the capital as well as the probable investment returns.

19 (b) In managing the university fund, the commissioner of revenue
20 shall

21 (1) consider the status and income of the fund's capital on
22 both a current and a probable future basis;

23 (2) determine the appropriate investment objectives;

24 (3) establish investment policies aimed at achieving the
25 objectives; and

26 (4) act only in regard to the long-term financial interests
27 of the fund's beneficiaries.

28 (c) The discretionary acquisition or disposition of investments
29 in the fund shall be at competitive national or international market

1 rates or prices or the equivalent in the judgment of the commissioner
2 of revenue.

3 (d) In exercising the duties and powers set out in this section
4 and AS 37.14.320, the commissioner of revenue may

5 (1) delegate investment, custodial, or depository authority
6 on a discretionary or nondiscretionary basis to officers or employees
7 of the state or to independent firms, banks, or trust companies, by
8 designation through appointments, contracts, or letters of authority;

9 (2) invest the university fund on the basis of probable
10 total rate of return as a means of promoting the long-term generation
11 of income;

12 (3) acquire or dispose of investments, either directly,
13 indirectly, or through investment pools or trusts, by competitive or
14 negotiated agreements, contracts, or auctions, in public or private
15 markets;

16 (4) concentrate or diversify the investments of the univer-
17 sity fund as appropriate in order to increase the probable total rate
18 of return on the fund or to decrease the fund's overall exposure to
19 potentially adverse market value risks;

20 (5) protect the market value or the rate of return of the
21 university fund's investments by entering into forward agreements to
22 buy or sell assets at a future date as a hedge against existing held
23 assets or as a precommitment of future cash flows;

24 (6) lend under an agreement and for a fee assets of the
25 university fund against deposited collateral of equivalent market
26 value;

27 (7) hold investments in bearer form or in registered form
28 in the name of the university fund or authorized nominees;

29 (8) use consultants, advisers, custodians, investment

1 services, and legal counsel for assistance in investment matters on
2 either a continuing or a limited term basis and with or without com-
3 pensation; and

4 (9) withhold information that discloses the particulars of
5 the business or the affairs of a private enterprise, investor, bor-
6 rower, adviser, consultant, counsel, or manager as confidential and
7 nonpublic records subject to disclosure only as required in a court
8 proceeding or for purposes of an official law enforcement proceeding.

9 * Sec. 2. This Act takes effect on the effective date of a constitu-
10 tional amendment establishing a university fund.

SB

19

Department of Revenue
Administrative Services Division
Fiscal Note Analysis
SS SB 19
3/23/87

Assumptions:

1. The bill will take effect for the 1988 permanent fund dividend year and application. The 1987 dividend application has already been printed.
2. There are nine other bills which if signed into law, would result in some form of "check-off" on the 1988 dividend application. The Department of Revenue has no insight as to which, and how many, of these bills will become law. This fiscal note, and all related fiscal notes, is prepared on the assumption that the subject bill is the only bill of this nature which will become law. The passage of multiple bills with varying formulas (\$5, half of dividend, all or part of dividend, etc.) will inevitably have a compounding effect. Whereas there may be savings in some areas, there will be increased costs in others.
- 3) P. 3, line 21-24 intends that the income of the fund may be used to "reimburse the Department of Revenue for the costs of establishing and managing the fund and making changes to the permanent fund dividend application. . ." The income from the fund will not be available until FY89 and an appropriation will be required in FY88.
- 4) The incremental cost of computer resources will result in a chargeback by the Department of Administration.
- 5) Whereas the cost of programming changes will be a one-time cost, the cost of document review, data capture, data processing chargeback, and the extra page in the dividend application will be continuing.
- 6) Contributions will only be honored to the extent of available funds. Garnishments and assignments will take precedence in the order established by statute. Contributions will then be honored in the order listed on the form schedule, which will be in the order they become law.
- 7) Sec. 5, p. 3, line 12-15 provides for contribution choices including all or part of the dividend amount (see suggested amendment.)

Program Summary:

The provision of a new contribution decision on the dividend application will cause additional administrative cost in several areas:

- a) An additional page added to each application, a schedule of contribution decisions.
- b) The computer system will need to be changed to account for the change in the program, to establish new accounting controls for the almost infinite warrant values, and to provide for the transfer of funds to the trust fund (see Attachment A).

- c) Each of approximately 540,000 PFD applications will need to be visually reviewed and coded as to decision on the contribution decision. Each application will be data captured with additional attention and keystrokes expended on each positive decision.
- d) Due to the complexity of balancing and certifying warrant runs with varying warrant amounts, additional temporary staff will be required to balance the weekly warrant runs from October through December of each year.

1. Positions

1 PPT Analyst/Programmer V, R21
 @ \$5,638.47/Mo including salary
 and benefits for 2 months = \$11.2

PCN 04-1125 would be funded for an additional two months, in accordance with Attachment A. Ongoing maintenance of new programs would be accomplished by existing staff.

1 PPT Document Processor I, R7
 @ \$2,117.76/Mo, including salary and
 benefits for 3 months = \$6.3

This position would assist in the manual review and coding of 540,000 applications for the new contribution decision. This position represents the equivalent of the additional time and effort.

1 PPT Data Processing Clerk I, R8,
 @ \$2,221.64/Mo, including salary and
 benefits for 2 months = \$4.4

This position would assist in the data capture of the additional contribution decisions and in the verification of this field. The position represents the equivalent value of the additional time and effort.

1 PPT Document Processor I, R7,
 @ \$2,117.76/Mo, including salary
 and benefits, for 3 months = \$6.3

This position will assist in the balancing and verification of the weekly warrant runs from October 1 through December 31 each year.

TOTAL Personal Services

\$28.2

2. Other Expenditures:

a) Travel: None.

b) Contractual:

Add additional page to permanent fund dividend booklet \$6.0

Data Processing Chargeback \$5.0

TOTAL Contractual \$11.0

c) Supplies: \$0.2

d) Equipment: Use existing equipment 0.0

TOTAL COST \$39.4

3. Funding: General Fund.

4. Section Cost Analysis: N/A.

Computations: N/A.

Economic Impact: N/A.

Impact on Local Government: N/A.

Suggested Amendments:

It is suggested that P. 3, line 12-16 be amended to read:

"Sec. 37.14.210 CONTRIBUTION TO THE ALASKA CHILDREN'S TRUST FUND. The Department of Revenue shall prepare the permanent fund dividend application to allow an applicant to contribute [ALL OR A PART OF A DIVIDEND] \$5.00 to the Alaska children's trust fund. The department shall pay contributions directly to the fund."

The dollar amount of the contribution is unimportant to the administration of the PFD program, as long as it is fixed in amount and is less than the expected dividend. Allowing applicants to write in a unique dollar amount, or a unique percentage will render the timely balancing of warrant runs almost impossible and will result in errors due to legibility and resultant data capture errors. Due to this likelihood of error and the significant impact of such an error, each application with such a contribution indication will be verified (keyed twice). Offering this type of open choice will have a definite negative effect on the processing of all 540,000 PFD checks.

Attachments: Attachment A: "Summary of DP Needs"

Department of Revenue
Administrative Services Division
Fiscal Note Analysis
SS SB 19
Summary of Data Processing Requirements
3/23/87

Wang data entry processing	75.0 hours
Includes: Data entry	
Batch lists	
Corrections	
Wang to IBM transfer	
IBM Update jobs	30.0 hours
Includes: Edits	
Batch listings	
Log sheets	
DMS Online programs for lookup and changes	37.5 hours
Nightly Update of Changes	22.5 hours
Warrant Jobs	90.0 hours
Includes: Printing warrants with different amounts. Include check stub messages. Modify warrant registers as needed for balancing. Create new program(s) for transferring accumulated contributions to the Alaska Children's Trust Fund, and to account for the reserve necessary due to returned and cancelled PFD warrants.	
Miscellaneous	45.0 hours
Includes: Setting up test files on IBM Systems testing Administrative functions, i.e. paper work required by Admin. DP to add files and programs to tables.	
TOTAL HOURS	300.0 hours

CHILDREN'S TRUST FUND

Thomas L. Birch

Introduction

The Children's Trust Fund has become recognized as a winning approach to support programs for preventing child abuse.

Since 1980, advocates for abused and neglected children have worked toward the passage of legislation in fourteen states that creates new sources of funds for preventive services. Coalitions of advocates and legislators in at least as many states are looking at the possibility of passing the Children's Trust Fund in their own assemblies. The idea clearly has impetus behind it.

The Children's Trust Fund was first conceived by Dr. Ray E. Helfer, a pediatrician nationally recognized in the field of child abuse and at that time a vice president of the National Committee for Prevention of Child Abuse.

Prevention is the focus of Helfer's idea.

In an era of diminishing governmental budgets and scrutiny of public responsibilities, the Children's Trust Fund has emerged with a unique funding solution to boost programs for preventing child abuse.

Understandably, the Children's Trust Fund bill has been especially attractive to state legislators. This new legislative approach presents legislators an opportunity to fund programs they have historically neglected -- for the prevention of child abuse and neglect -- at a time when depressed state economies and deficits of revenue inhibit the creation of new ventures,

in a way that is apart from questions of appropriations and safe from cuts in state budgets.

There are two aspects to the Children's Trust Fund. One, an advisory group to establish priorities for distributing the fund is created from individuals with a demonstrated interest in preventing child abuse. Second, money to build the fund is generated by surcharges on marriage licenses, birth certificates or divorce actions, or by funds specially designated on income tax returns.

Components of the Legislation

Here is how the Children's Trust Fund has taken shape in the states that have enacted legislation -- Alabama, Arizona, California, Illinois, Iowa, Kansas, Louisiana, Michigan, Missouri, North Carolina, Rhode Island, Virginia, Washington and Wisconsin -- fourteen states that differ significantly in geographic size, population numbers, demographics, economies and political ideologies. Yet each has taken the Children's Trust Fund ideal of establishing a separate source of income to support community-based programs for preventing child abuse and passed a form of legislation to achieve that goal.

Kansas became the first state, on April 16, 1980, to create this select funding mechanism for programs to prevent child abuse. One piece of legislation increased the fee for a marriage license with a surcharge of seven dollars. The extra money goes into a new Family and Children's Trust Fund. Each year approximately \$170,000 are generated to support community-based programs for preventing child and family abuse.

Another bill passed the Kansas legislature at the same time establishing a 14-member Children and Youth Advisory Committee. It consists of nine state agency members and five individuals appointed by the governor from interested citizens representing children and youth. This advisory body acts as the advocate for children in the governor's office. Its members advise state agencies serving children and recommend statutory policy to the governor and the legislature. The Division of Services to Children and Youth administers the Kansas Family and Children's Trust Fund under the guidance of this advisory committee.

By examining the separate provisions of states' Children's Trust Fund bills, we are able to see how the law's adaptability applies to diverse political and practical demands.

The following discussion traces the components of Children's Trust Fund legislation with examples from state laws to illustrate the variety of responses. The field is rich with models that might suit any state's situation. Modifications are simply smart reactions to political reality.

Funding the Fund: First, Children's Trust Fund legislation establishes a mode of income.

Seven states -- Arizona, Iowa, Kansas, North Carolina, Rhode Island, Virginia and Washington -- have increased the fees for marriage licenses, adding five to ten dollars to the cost of a license that then goes to build the Children's Trust Fund. The money in most states is deposited directly in the state treasury for this specially designated fund.

(In Arizona, which like Kansas, Virginia and Rhode Island shares its

fund with domestic violence programs, 20 percent of the ten additional dollars from the marriage license fee goes to the Child Abuse Prevention and Treatment Fund while 80 percent is for the domestic violence shelter fund. Arizona also increased by six dollars the cost of filing for divorce, with one-third going to child abuse prevention and two-thirds to domestic violence.)

Laws in two states have put a surcharge on copies of birth certificates: Wisconsin increased the cost by two dollars; California has added four dollars and funds are returned to the counties from which the certificates were ordered. A portion will go to a California state Children's Trust Fund collected from counties that choose not to participate and from birth certificates ordered through the state. (An exemption from the surcharge is made for an applicant to a public agency that requires a certified copy of a birth certificate.)

The state of Michigan took a different tack, one followed later by six other states -- Alabama, Arizona, California, Illinois, Louisiana and Missouri. Advocates working with the Michigan legislature on a Children's Trust Fund bill were told that in a state with such a high rate of unemployment and extreme budget deficits, no cost, not even that of a marriage license, could be increased. The legislation that evolved now enables taxpayers to designate up to two dollars, or four dollars for a couple filing a joint return, of their state income tax refund to the Children's Trust Fund.

(In Louisiana, a taxpayer may designate all or any portion of the refund as a donation to the fund, and Missouri makes additional provision

for a donation through the income tax return if no refund is available.)

The money, collected from the income tax checkoff goes into a separate fund in the Michigan department of treasury. Half of each year's receipts go to fund programs. The rest is invested and earnings are credited to the trust fund. The refund checkoff in Michigan will be halted when the fund's endowment reaches \$20 million. After that, programs will be financed from the interest on the money in the account.

Two states have actually enacted more than one funding scheme. California and Arizona in 1983 passed legislation providing checkoffs on the state income tax forms to go to Children's Trust Funds, having already increased the cost of birth certificates (California) and marriage licenses and divorce filings (Arizona) to build funds.

Most states do not restrict contributions to the Children's Trust Fund to specific sources of income, be they extra fees from marriage licenses or designated dollars from income tax returns. The typical enabling legislation also allows the Children's Trust Fund to receive "contributions, grants, or gifts in cash or otherwise from persons, associations, corporations, or the federal government", as Washington's law says. This feature empowers the state to embark on other fundraising schemes that could dramatically increase the size of the fund.

The necessary requirement in developing support for the Children's Trust Fund is that it come from a reliable source of money apart from the regular appropriations. Connecticut passed a bill in 1983 that appeared to create a

Children's Trust Fund but in fact it only appropriated money to the general fund for child abuse prevention activities. The Wisconsin bill originally would have only provided a general revenue appropriation to create so-called Children's Trust Fund. Before the legislation was enacted in Wisconsin the statutory language was improved to provide an extra fee on birth certificates to build the trust fund. The objective of a Children's Trust Fund is diluted by having a regular appropriation on budget derived from no specific source generating those funds, with no potential for building income were the appropriated funds to be invested.

Typically the money is located in a separate fund in the state treasury. In some states, though, policy prohibits establishing a specially designated fund of state money. In those cases, like Virginia and Iowa, the extra fees from marriage licenses go into general revenues and are then automatically passed along to the Children's Trust Fund advisory boards for grants to support preventive programs in child abuse.

Advisory Board: The composition of the advisory committee varies, too, from state to state. The Michigan statute mandates a board of fifteen; in Iowa five members comprise the advisory council. Some states must include on their boards specified heads of governmental agencies -- education, social services, health and justice are typical; others draw all their members from among the public. The governors make appointments in most cases; elsewhere legislative leaders also have appointees. In Arizona, the director of the department of economic security appoints the board members.

The legislation typically establishes the composition of the board with a stated number of individuals representing particular interests in the prevention of child abuse.

In Michigan the Child Abuse and Neglect Prevention Board's fifteen members are: director of social services; director of mental health; director of public health; superintendent of public instruction; director of the department of state police; and ten public members appointed by the governor, with senate approval, for terms of three years, including the chair.

The Michigan public members must have a knowledge of child abuse and neglect; represent the state's population; and be representative of labor, business, religion, the legal community, and professionals and volunteers in child abuse preventive services.

Washington's 11-member Council on Child Abuse and Neglect includes the chair and four members appointed by the governor from the public who are selected for their interest and expertise in the prevention of child abuse. The secretary of social and health services and the superintendent of public instruction serve with the governor's appointees as voting members. Four additional appointees are legislators named by the House and Senate majority and minority leaders serving as non-voting members.

In Virginia, the Advisory Committee is established not by legislation but through the implementation plan developed by the department of welfare for the Virginia Family Violence Prevention Program. Its nine to eleven

members are selected by the commissioner of welfare from volunteers and advocates for abused children, providers of services, and corporate and business people. The Virginia Chapter of the National Committee for Prevention of Child Abuse and Virginians Against Domestic Violence may each recommend up to twelve appointees to the Advisory Council. Staff of the department of welfare may also make recommendations.

The Kansas Children and Youth Advisory Committee is composed of fourteen members who elect their own chair and officers. Five public members appointed by the governor for three-year terms comprise interested citizens representing children and youth. The other committee members include : secretary of health and environment; secretary of social and rehabilitation services; secretary of human resources; commissioner of education; chief justice of the Kansas supreme court; two senators appointed by the president of the senate; and two representatives appointed by the speaker of the house.

Iowa's legislation provides for a five-citizen advisory council.

In California the Children's Trust Fund is administered at the county level. Policy is directed by county multidisciplinary councils which advise the county boards of supervisors.

The North Carolina Children's Trust Fund utilizes a pre-existing board, the Interagency Advisory Council on Community Schools, as its Council on Prevention of Child Abuse to guide the administration of the new fund.

The responsibilities of boards vary from state to state also, but they

generally include both advisory and administrative duties. In administering the Children's Trust Fund, a board may:

- hire staff to run the program;
- develop a state plan for the Children's Trust Fund;
- establish priorities for projects to be funded;
- develop eligibility criteria for grantees;
- review proposals;
- approve the awarding of grants;
- monitor expenditures of the trust fund;
- evaluate the effectiveness of the Children's Trust Fund; and
- submit an annual report to the legislature and the governor.

As appointees of the governor and the leadership of the executive and legislative branches of state government, board members are in a unique position to act as advocates for the prevention of child abuse. Accordingly, board members are statutorily empowered to recommend to the governor and the legislature policy and legislative changes for the improvement of child abuse prevention activities, to encourage public awareness about the prevention of child abuse, and, as the Kansas statute says, "provide advocacy for children in the governor's office and other public and private, state and local agencies affecting children."

Location of the Board/Administration: In most states the advisory board is attached to the department of social services, but again, as the following examples show, the administrative arrangements vary from state

to state. The placement of the board within the state's governmental structure can have an important impact on the board's visibility and political strength.

In Kansas, the Children's Trust Fund board is statutorily guaranteed "office space and assistance" by the department of social and rehabilitation services, with the administrative support coming through the division of services to children and youth.

The Alabama Child Abuse and Neglect Prevention Board, administering a fund supported by a state income tax checkoff, was created as an independent agency which will pay its own expenses out of money collected. In addition, up to three percent of the funds collected may be paid to the state department of revenue for its expenses in handling the collection.

The Arizona trust fund is administered by the department of economic security which is limited by statute to no more than five percent for its costs.

California's trust fund is financed by a surcharge on copies of birth certificates. (New legislation creates a second funding source through an income tax checkoff.) The funds are administered by a local voluntary board appointed by each county board of supervisors. Where no county board is designated, that county's money goes into a state Children's Trust Fund, along with receipts from copies of birth certificates ordered from the state, and is administered by the state department of social services, which may use up to five percent of the money for administrative expenses. In either case, the registrar -- county or state -- is entitled to keep

no more than ten percent of the funds to defray the cost of the collection.

The Child Abuse Advisory Council in Iowa works through the department of social services but the fund is administered, by statutory requirement, through contract with a private agency "with maximum use of voluntary administrative services."

The Children's Trust Fund in Louisiana, another state with an income tax checkoff, is administered by the department of health and human resources.

In Michigan, the first state to enact a tax checkoff, the Children's Trust Fund is established as an autonomous agency within the department of management and budget, which lends administrative support to the advisory board paid for from the trust fund.

North Carolina's Children's Trust Fund, which receives surcharges from marriage licenses, is provided support services and staff by the department of public instruction which administers the program under the guidance of the Advisory Council on Prevention of Child Abuse, for this purpose a designation of the existing Interagency Advisory Council on Community Schools.

The Washington council is an independent entity within the governor's office. It receives some administrative services through an interagency agreement with the department of social and health services.

Eligible Grantees: Eligibility requirements of the Children's Trust Fund are designed to promote the establishment of local programs for

the prevention of child abuse.

Virginia solicits grant applications from public and private nonprofit organizations which can match funds with local resources and demonstrate an ability to continue the project after the grant has been terminated.

Rural areas must receive an equitable share of the funds.

Michigan recognizes three classes of grantees.

Private nonprofit or public organizations must receive the approval of local councils, provide a match of 50 percent in money or in kind, and be able to provide consultation on program development.

Eligibility is extended to local councils which do not provide direct services but whose purpose is the development of community prevention programs. They too must match their grant funds and demonstrate an ability to help in the development of preventive programs.

The Michigan Child Abuse and Neglect Prevention Board is also eligible for support to defray its expenses in administering the trust fund.

In California grants are designated for private nonprofit organizations giving direct services in prevention and intervention.

The Illinois legislation provides funding for abused children shelters, child abuse prevention and treatment programs, and five demonstration projects involving multi-disciplinary investigation teams through 1985 (after which there are plans to amend the statute to strengthen the child abuse prevention aspects). Priority will go to new and existing programs that offer the broadest range of services to the community.