

ALASKA LEGISLATURE COMMITTEE FILES

1987-1988 8672

5434 SLAB HB 299 - HB 384

1006

involving theft or dishonesty or any gambling offense. Prohibits an operator from employing anyone with a criminal record as described above.

(8) raises the limit on the number of bingo sessions that can be conducted during a month from 9 to 14

(11) prohibits ADF&G employees from participating in salmon classics.

Section 6. - Amends AS 05.15.070 to permit the Commissioner to investigate and/or examine the books of an operator or a pull-tab distributor or manufacturer.

Section 7 - Repeals and reenacts AS 05.15.080:

(a) Requires report within 45 days when permittee's gross sales exceed \$50,000 for a particular quarter, clearly spells out the kind of information required in the report, and provides that reports for raffles and lotteries can be submitted after the activity is completed.

(B Requires permittees to submit annual report along with any additional fees due the state under AS 05.15.020(b)

Section 8. - Adds new sections to AS 05.15. governing reports from operators to the Department.

(a) Requires operators to file quarterly reports with the Department and delineates the required information. If the activity is a raffle or lottery, the report need not be filed until the even is completed.

(b) Requires operators to file annual reports with the Department and delineate the required information to be submitted under the report.

Sec. 05.15.087. - Adds a new section to AS 05.15 governing reports from the operator to the permittee and the payment of net proceeds

(a) Requires the operator to file monthly reports with the permittee by the 15th day of the next month and requires that all net proceeds due the permittee be paid at that time.

(b) Requires quarterly reports from operator to permittee by the last day of the month following the end of the calendar quarter.

(c) Requires annual reports from operator to permittee by February 28.

(d) Requires operator to provide original billings and/or invoices to their permittee.

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to the Legislature. Requires the  
adds operators to the list of  
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new section to article 1.  
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prohibits a permittee from contracting with more than one operator at a time to conduct the same type of activity  
(d) requires a permittee to submit a copy of the contract or any subsequent amendments to the contract to the Department at least 15 days before conducting activities.

5.14 - Adds new sections to AS 05.15.125 governing operators prohibiting acting as an operator without a license

authorizes the Department to issue an operator license to a person who: (1) applies, (2) pays a fee of \$500.00, (3) discloses the number of employees in supervisory/management positions, (4) posts a \$25,000 bond for proof of liability insurance, (5) posts a \$10,000 bond for the license, up to a maximum of \$10,000.

5.15.060(6) - Authorizes a person with such a record as an operator from employing anyone in a position with a previous criminal record as described in AS 5.15.060(6) or anyone with such a record

5.15.060(6) - Regulation of Operators - Authorizes a person with such a record as an operator from employing anyone in a position with a previous criminal record as described in AS 5.15.060(6) or anyone with such a record

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Section 16 - Amends AS 05.15.140 (c) to prohibit the department from issuing a license for an activity operated by a person with a previous criminal record as described in AS 05.15.060(6).

Section 17 - Amends AS 05.15.160 to clarify what constitutes an "authorized expense" including (1) necessary gaming supplies, (2) personal services including those performed by an operator, (3) so long as the compensation is not related to the receipts from the activity.

Section 18 - Adds a new subsection (b) to AS 05.15.160 to authorize operators and permittees to pay their employees a reasonable wage and defines "reasonable wage" as the amount of compensation approximating the amount ordinarily paid by similar businesses for similar work performed under similar circumstances.

Section 19 - Adds new sections to AS 05.15.165 to establish rules governing operators:

(a) requires an operator to pay the net proceeds due a permittee by check

(b) if the department determines that some expenses by an operator are not authorized, they shall require the operator to reimburse the permittee with interest

(c) requires an operator to post the name of the permitted organization whose permit is in play in a public place

(d) requires proof of liability insurance and prohibits operators from conducting activities when their insurance has been cancelled

(e) requires an annual audit of operators records by a CPA and requires that the audit be submitted to the Department by February 28 of the year following the year for which the audit was done

(f) an operator may not (1) charge bad check losses to a permittee, (2) extend credit to players, (3) use house players, (4) allow employees to play a game being conducted by the operator

Sec. 05.15.167 - Operators Bond

(a) requires that an operator have a bond made payable to the Department. If operator fails to make payments due to the Department, the operator forfeits the bond to the Department

(b) bond is first used to satisfy delinquent fees, interest, and penalties due the Department. Anything left is prorated among permittees.

(c) operator and surety must inform the Department when the bond is cancelled or security is impaired.

Section 20 - Adds bingo and pull-tab games to the list of authorized activities (housekeeping measure).

Section 21 - Adds new subsections to AS 05.15.180

- (d) total value of door prizes offered per permittee limited to \$20,000 a month or \$240,000 a year.
- (e) total value of door prizes offered at a single location or by an operator on behalf of multiple permittees is limited to \$20,000 a month or \$240,000 a year.
- (f) persons under age of 19 may not play bingo
- (g) a permittee may award a maximum of \$1 million dollars in prizes each year unless they contract with an operator to conduct their games in which case they are limited to \$500,000 in prizes per year. (Prize limit does not include prizes awarded in bingo games)

Section 22 - Adds new sections to AS 05.15.181 governing a pull-tab manufacturers license

- (a) prohibits the manufacture of pull-tabs without a license
- (b) authorizes the Department to issue a manufacturers license to a person who pays an annual fee of \$500
- (c) requires each series of pull-tabs manufactured in the state to be sealed and have a serial number
- (d) licensed manufacturers can only sell pull-tabs to licensed distributors
- (e) manufacturer must make monthly report to the Department on serial numbers of tabs sold and who they sold them to

Sec. 05.15.183 - Pull-tab Distributor's License.

- (a) cannot distribute pull-tabs without a license
- (b) Department may issue a pull-tab distributor license for a fee of \$1,000
- (c) pull-tabs may be distributed from a location only within the state
- (d) pull-tab distributor shall make a monthly report to the Department listing the series distributed and to whom they were distributed
- (e) pull-tab distributor shall pay the Department a tax of three percent of an amount equal to the gross receipts less prizes awarded on each series of pull-tabs distributed. The tax shall be paid monthly at the time the report under (d) is due.

Sec. 05.15.185 - Distribution of Pull-Tab Games. Requires that each series of pull-tabs distributed in the state shall be sealed and have a serial number and may be distributed only to permittees or operators on behalf of a permittee.

Sec. 05.15.187 - Operation of pull-tab games

(a) a permittee or municipality may operate pull-tabs. Tabs must be purchased from a licensed distributor.

(b) unless a pull-tab series also confers an opportunity to participate in a lottery for additional prizes, a pull-tab series may not be sold at more than one location during the same day.

(c) pull-tabs from different series may not be mixed or combined except if the last 10% of a series remains unsold in which case it may be combined with another series of identical price and prize structure.

(d) a series may not be withdrawn from sale until all tabs are sold unless there is a manufacturers defect in which case it may be withdrawn and the Department must be notified.

(e) pull-tabs may not be sold to or purchased by a person under the age of 19.

(f) requires any permittee whose pull-tab sales grossed in excess of \$100,000 during the preceding year to maintain records for two years of each prize of \$50,00 or more, the first day and last day that each series was distributed, the serial number of each series, and the distributor from whom each series was purchased.

(g) a surety bond of \$250,000, conditioned upon payment of all prizes and awards when due, is required to operate a pull-tab game that confers and additional right to participate in a lottery for additional prizes. The bond must be submitted to the Department by the operator or authorizing permittee and approved by the attorney general.

Section 23, 24, 25, 26, 27, 28, 29, 30 - Lists various qualified organizations under statute and deletes the requirement that they must have been in existence for five years in order to qualify for a permit.

Section 31 - Adds "fishing derby" to the list of authorized activities and changes the five year period to three years that an organization has to be in existence in order to qualify for a gaming permit

Section 32 - Clarifies the definition of raffle and lottery

Section 33 and 34 - changes five year requirement to three years from religious and veterans organizations.

Section 35 - Amends AS 05.15.210 to define:

(27) "adjusted gross income" as gross income less prizes awarded and taxes

(28) "authorizing permittee" as a permittee who authorizes an operator to act in their behalf

(29) "Commissioner"

(30) "department" as the Department of Revenue

(31) "distribute" as selling, furnishing or supplying

(32) "operator" as a natural person, a municipality, or a qualified organization who is licensed by the Department and contracts to run a permitted activity

(33) "Pull-tab"

(34) "series" as a unit of pull-tabs with the same serial number

Section 36 - Adds a new section AS 05.15.995 giving HB 299 the short title of "Alaska Gaming Reform Act".

THE PRECEDING DOCUMENT(S) MAY NOT FILM  
LEGIBLY BECAUSE OF POOR QUALITY OF THE  
ORIGINAL.

TELECOPY COVER SHEET

TO: Senator Tim Kelly - 586-9548  
RE: H.B. 299  
DATE: April 22, 1988  
FROM: Sonosky, Chambers, Sachse & Miller

ATTENTION: John Ringstad

LAW OFFICES  
SONOSKY, CHAMBERS, SACHSE & MILLER

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ANNE D. NOTO  
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OF COUNSEL  
LEOPOLD E. BECKER, JR.  
ROBERT W. GUBROCK

WASHINGTON, D.C. OFFICE  
250 EYE STREET, N.W.  
WASHINGTON, D.C. 20005  
(202) 662-0240

April 22, 1986

\*ALASKA AND DISTRICT OF COLUMBIA BARS  
\*\*WISCONSIN BAR  
ALL OTHERS DISTRICT OF COLUMBIA BAR

VIA TELECOPIER

Honorable Tim Kelly  
Senate Labor and Commerce Committee  
P. O. Box V (Mail Stop 3100)  
Juneau, Alaska 99811

Re: House Bill 299, the Alaska  
Gaming Reform Act  
(Our File No. 3201.21)

Dear Senator Kelly:

We write on behalf of four gaming permittees, the Alaska Native Health Board, the Aleutian/Pribilof Islands Association, the Aleutian Housing Authority, and the Kodiak Area Native Association, to express our strong support for H.B. 299 as amended, and to urge the Committee to refer the bill without amendment.

ANKB, A/P/IA, AHA, and KANA are regional non-profit organizations which serve most of the health and social service needs of qualifying citizens residing on the Aleutian Chain, the Pribilof Islands, and in the Kodiak Island area. They operate clinics, alcohol and mental health programs, family assistance programs, vocational job training assistance, flight education programs, weatherization programs, and provide a considerable variety of other services. The Alaska Native Health Board carries out a wide range of health programs and research initiatives for the collective benefit of all Alaska Native people across the State. Finally, the Aleutian Housing Authority administers low-income housing projects for communities on the

Senator Kelly  
April 22, 1988  
Page 2

Aleutian Chain and the Pribilof Islands. To further these purposes, in 1986 the four non-profits joined together to establish a bingo hall in Anchorage under the umbrella name of "Lucky Strike Bingo."

For these organizations, gaming revenues are vital to supplement the government-funded programs that each of the non-profits operates. In an era of severe declines in state and federal grants and contracts, dramatically rising costs and increasing human needs, gaming funds provide a vital and essential bridge. Gaming proceeds also are virtually these organizations' only source of non-restricted funds which can be spent to further their objectives in areas not specifically targeted by an existing grant or government contract. Gaming revenues are thus critical in a faltering economy; without them, the non-profits would be compelled to substantially cut back and narrow their services and activities.

By way of example, gaming revenues have been used to purchase food for needy people in the A/P/A region and to aid needy families in paying funeral expenses. They have been used by ANHE to fund travel to Washington, D.C. to work with the Indian Health Service in improving the administration of federal drug and alcohol treatment programs in the State. They have been used by KANA to establish a fund to build a museum celebrating the cultural heritage of the Native people of the Kodiak region. They have been used by ANA in part to contribute to other non-profit organizations including churches located in the Aleutian Chain. All four of the organizations plan to continue using future gaming monies for similar purposes such as social services, health services, cultural programs, and school scholarship programs.

We believe the clear intent of the original 1969 gaming laws (as well as the 1976 amendments) was to allow qualifying charitable organizations to engage in limited gaming activities as a means of fundraising to continue and expand good works in the State. The four non-profits are a perfect example of the organizations and activities the legislation is intended to support. The principle rationale for legalizing limited gaming has not changed. What has changed is the increased popularity of games of chance coupled with radical changes in the State's economic health. Consistent with the original intent, H.B. 299 must continue to encourage charitable gaming in Alaska while simultaneously providing safeguards against potential abuses.

The four non-profits strongly support H.B. 299 as amended, because they believe that the House has worked to carefully craft a bill that both preserves the original purpose and recognizes

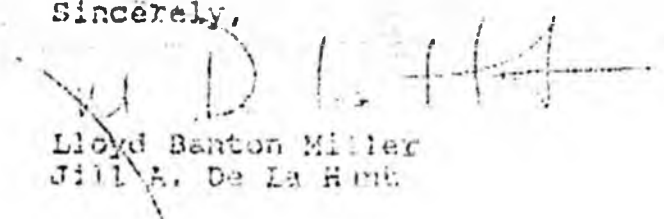
Senator Kelly  
April 22, 1938  
Page 3

the change in the status of gaming in Alaska. The bill has been scrutinized through extensive testimony, and has been amended to meet all legitimate concerns.

Given that the H.B. 299 enjoys wide support, including that of the Department of Revenue, we respectfully urge the Labor and Commerce Committee to refer this crucial legislation to the Finance Committee without amendment. We hope the Labor and Commerce Committee will act on this bill as quickly as possible in these last days of the session, so that the bill continues to move forward.

We would very much appreciate it if you could circulate this correspondence to all members of the Committee.

Sincerely,



Lloyd Banton Miller  
Jill A. De La Hent

JAD:bj  
c:270

DT: 4/27/88

TO: Alaska Legislature  
Senate Labor & Commerce Committee

FR: Robert D. Thomas, Director  
Alaska Lottery Coalition  
PO Box 22204  
Juneau, AK 99802  
(907) 463-3044

RE: CSHB 299(Fin)

The Alaska Lottery Coalition is a non-profit corporation established to support legislation for a state operated lottery in Alaska. Our efforts to date have been to provide the legislature and the public with accurate and up-to-date information about government operated lotteries and support of HB 236, an act to establish a state lottery.

The Coalition has a high degree of concern with the current status of HB 299. Page 17, lines 23 - 25. would allow the operation of regional and state-wide lotteries by charitable gaming permit holders, or operators using charitable gaming permits. This form of lottery is currently prohibited to operate within Alaska by regulation, 15 AAC 105.210.

Experience in the U.S., Canada and most of the rest of the world indicates that government run lotteries are the only form of lottery operation capable of providing the necessary security to adequately protect the public's interests. This assurance is the reason government lotteries have gained public trust in recent years, and is the reason thirty states have authorized lotteries and seventeen more states are considering pending legislation for formation of state operated lotteries. The consensus of those familiar with public gaming, lottery administrative personnel from other states, the service industry for government run lotteries, and government policy makers in jurisdictions currently operating lotteries, views non-government operated lotteries to be in extreme conflict with the public's interest.

The stage being set by CSHB 299(Fin) is very similar to that of the early 1800's when government permitted, but not government operated, lotteries flourished in North America and were the subject of manipulation by their operators. It was during this era that lotteries were banned throughout the U.S. and Canada. Lotteries were not revived again until the advent of government controlled computer systems which provide the key to secure accounting and absolute assurance that the games are fair to all who choose to play.

page 2.

Unfortunately a state-wide lottery has been permitted to operate in Alaska for approximately the last year in conflict with Dept. of Revenue regulations. This lottery, operated by an individual from Fairbanks is using a charitable gaming permit from the Glenallen American Legion Post. This lottery offers absolutely no security to insure that the players are protected from outright fraud or accidental omissions eliminating players from the drawings they are promised to be a part of. Should CSHB 299(Fin) become law, this type of lottery operation would become legal and is very likely to flourish throughout Alaska. We predict that it would only be a matter of time before this absence of security will result in someone "walking away with the money" from some lottery. When this happens, the charities loose credibility and money, the public will be cheated, and the resulting image of legitimate lotteries will be tarnished.

I urge consideration of an amendment to CSHB 299(Fin) to include "sunset" language which would allow the current operator to continue his operation until July 1, 1989. This will discourage additional similar lotteries from being implemented until the legislature has had an opportunity to consider this issue next year, and will minimize the hardship imposed on the operator to a reasonable degree. This "sunset" amendment should delete language on page 17, lines 23 - 25, "Unless a pull-tab series . . . for additional prizes."; and paragraph (g) on page 18, lines 17 - 23, after July 1, 1989.

HB

340



# Alaska State Legislature

Representative Mike Davis

District 19

P.O. Box V  
Juneau, Alaska 99811  
(907) 456-4930/4941

Interim Office  
P.O. Box 81435  
Fairbanks, Alaska 99708  
(907) 456-8181

*John  
ASAP  
4*

*John*  
TO: Senator Tim Kelly  
Chairman, Senate Labor and Commerce Committee  
FROM: Rep. Mike Davis *Mike*  
DATE: March 20, 1988  
RE: HB 340

HB 340 passed the House unanimously last Thursday, and has been referred to the Senate Labor and Commerce Committee. This bill amends the Good Samaritan Act to protect volunteers in first aid and rescue organizations from liability.

HB 340 has been supported by the Anchorage Mountain Rescue Group, the Alaska Ski Patrol, and Civil Air Patrol, Southeast's SEADOGS, and numerous emergency volunteers. The Senate companion bill, SB 346, passed out of Senate Judiciary last week. I would appreciate HB 340 being scheduled for consideration by the Senate Labor and Commerce Committee at your earliest convenience.



# Alaska State Legislature

Representative Mike Davis

District 19

PO. Box V  
Juneau, Alaska 99811  
(907) 456-8930/8941

Interim Office  
PO. Box 81635  
Fairbanks, Alaska 99708  
(907) 456-8161

**TO: Senate Labor and Commerce Committee**  
**FROM: Rep. Mike Davis**  
**DATE: March 121, 1988**  
**RE: CSHB 340, granting immunity from civil liability for providing volunteer emergency services.**

CSHB 340 amends the Good Samaritan Act to protect volunteer members of first aid and rescue organizations from civil liability.

Ordinary citizens who try to help in emergency situations are protected from liability by the Good Samaritan Act, AS 09.65.090. Paramedics and EMTs who are certified by the state are covered in liability questions by AS 18.08.086. However, members of volunteer rescue organizations such as the National Ski Patrol, Civil Air Patrol, and mountain rescue groups may not have any statutory protection.

First aid and rescue volunteers are vulnerable to litigation because they may have an obligation to help people while serving in their organizations. The Alaska Supreme Court has ruled that the Good Samaritan Act does not protect those who have a "pre-existing obligation to assist individuals in danger".

CSHB 340 would protect emergency services volunteers from liability for their good faith attempts to aid those in danger. However, they would still be liable for damages as a result of "gross negligence, recklessness, or intentional misconduct" as stated in subsection (b) of the existing Good Samaritan Act.

STATE OF ALASKA  
THE LEGISLATURE

POUCH V - STATE CAPITAL  
JUNEAU, ALASKA 99811  
907 463-2800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 11, 1988

SUBJECT: Immunity from civil liability for volunteer  
emergency services (Work Order No. 5-1495)

TO: Representative Mike Davis

FROM: Edward H. Hein *EHA*  
Legislative Counsel

You have asked whether volunteer ski patrol members are in fact open to liability for negligence during rescue operations and whether, therefore, your legislation (Work Order No. 5-1495A) is needed.

Your bill amends AS 09.60.090, Alaska's "Good Samaritan" law. This law provides immunity from civil liability for negligent acts or omissions by persons rendering emergency aid to people in immediate danger of serious harm or death. The purpose of the law is to encourage people to voluntarily come to the aid of persons in need of rescue without having to fear potential civil liability for negligence. Lee v. State, 490 P.2d 1206, 1209 (Alaska 1971).

The Alaska Supreme Court in Lee ruled that the immunity under this statute does not extend to persons, such as state troopers, who are under a "pre-existing duty to rescue." It is an open question whether ski patrollers have a pre-existing duty to rescue. The Alaska courts have not decided that question. It can be argued that ski patrollers are under a pre-existing duty to rescue and are, therefore, not immune from civil liability under Alaska's Good Samaritan Act. In order that ski patrollers and other similar rescue group volunteers are assured of immunity, it would be prudent to have the provisions of your bill or similar language in the statutes.

BILL NO: HB 340

DATE: 1/20/88

TITLE: An Ac. Granting Immunity  
From Civil Liability For  
Providing Volunteer  
Emergency Services.

CONTACT: Capt. McConnaughey

DEPARTMENT OF  
PUBLIC SAFETY

Search and rescue in Alaska is the responsibility of the Alaska State Troopers, U.S. Air Force, and U.S. Coast Guard. All three agencies use volunteers to aid in the search activities. Probably 70% of all Trooper searches are conducted by volunteers acting under the direction of the Troopers. The organized volunteers are trained, equipped, and ready on a moment's notice. All search and rescue agencies depend on the volunteers. Without volunteers our job would be more difficult and time consuming. This bill provides the volunteers with a degree of civil protection if someone is inadvertently injured during the rescue.

*Arthur English, Jr.*

Arthur English, Commissioner

POSITION NUMBER

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST  
Revision Date: \_\_\_\_\_  
Title: "An Act Granting immunity ... for providing ... emergency services."  
Sponsor: Rep. Davis, etc.  
Requestor: \_\_\_\_\_

Bill Version: HB340  
Publish Date: \_\_\_\_\_  
Agency Affected: Public Safety  
BRU: Alaska State Troopers  
Components: Detachments

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No increase or decrease in the level of expenditures is anticipated as a result of the passage of this legislation.

Prepared by: Francis C. Allan  
Division:  Alaska State Troopers  
Approved by Commissioner: Arthur E. English  
Agency: Public Safety  
Distribution: (by preparer):

Phone: 269-5691  
Date: 1/20/88  
Date: 1/20/88

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

Position Paper

CSHB 340 (L&C)

For an Act entitled: "An Act granting immunity from civil liability for providing volunteer emergency services."

This Act amends AS 09.65.090 (civil liability for emergency aid) to expand the coverage to a person who provides emergency services (e.g., first aid and search and rescue), while acting as a volunteer for an organization that exists for the purpose of providing the service rendered, regardless of whether the organization or members are under a preexisting duty to render assistance. Currently, AS 09.65.090 only provides immunity from liability to persons who do not have a preexisting duty to act. Many individuals and organizations providing emergency services, such as volunteer ski patrollers and search and rescue teams, do not currently have protections from liability afforded by statute.

The department assumes that the term "other emergency services," on line 13, does not include advanced life support services such as defibrillation, drug therapy, intravenous therapy, and advanced airway treatment, as these emergency services should be provided only by trained and licensed professionals.

Position

The department supports the intent of this legislation because it increases immunity from liability for volunteer emergency service workers, many of whom are under a preexisting duty to act and, consequently, are not covered by AS 09.65.090. It is likely that passage of this legislation would increase the number of individuals willing to provide emergency services and would decrease the rate of attrition among emergency service volunteers.

However, the department recommends that the term "other emergency services" be defined to exclude advanced life support procedures as defined in AS 18.08.090.

**POSITION PAPER/Department of Health & Social Services**

Position Paper, CSHB 340 (L&C), pg. 2

Recommended by: Elizabeth Ward  
Elizabeth Ward, M.N.  
Director  
Division of Public Health

Date: February 7, 1988

Approved by: Myra M. Munson  
Myra M. Munson  
Commissioner  
Department of Health and  
Social Services

Date: February 9, 1988

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act granting immunity  
from civil liability for...  
Sponsor: Davis et al.  
Requestor: \_\_\_\_\_

Agency Affected: Health & Social Services  
BRU: State Health Services  
Components: EMS Certification and  
Licensing

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

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
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REVENUE						
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**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

The enactment of HB 340 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, Director *Elizabeth Ward* Phone: 465-3090  
Division: Public Health Date: 1-20-88

Approved by Commissioner: *Maria M. Mearns* Date: 1-20-88  
Agency: Department of Health & Social Services

**Distribution (by preparer):**

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



**NATIONAL SKI PATROL SYSTEM, INC.**  
**ALASKA DIVISION**

\_\_\_\_\_  
DIVISION

\_\_\_\_\_  
TITLE

101 College Road  
Fairbanks, Alaska  
January 18, 1988

Representative Mike Davis  
Fairbanks Legislative Delegation  
Fairbanks, Alaska

Dear Representative Davis:

Re: House Bill # 340

Thank you for your interest in amending the "Good Samaritan" act in the State of Alaska.

The Ski Patrol is a volunteer organization dedicated to public service by promoting safe skiing and providing rescue services. All members are trained in emergency first aid care to the level of American Red Cross Advanced First Aid, or beyond. This bill will directly and immediately affect our position as volunteers.

As the Director of the Ski Patrol in Alaska, representing three hundred and fifty members, I strongly urge your support of Senate Bill #346 ,and request immediate action on said bill.

Thank you.

Sincerely,

Harley Jamson  
DIVISION DIRECTOR  
ALASKA DIVISION  
NATIONAL SKI PATROL SYSTEM

# SEADOGS

SOUTHEAST ALASKA DOGS  
ORGANIZED FOR GROUND SEARCH

PO BOX 244

JUNEAU, ALASKA 99802

1/15/88

REPRESENTATIVE MIKE DAVIS  
ALASKA STATE LEGISLATURE  
PO BOX V  
JUNEAU, AK. 99811

REPRESENTATIVE DAVIS:

I AM WRITING YOU IN SUPPORT OF HOUSE BILL 340, "AN ACT GRANTING IMMUNITY FOR VOLUNTEER EMERGENCY SERVICES". "SEADOGS" IS A STATEWIDE SEARCH AND RESCUE DOG ORGANIZATION WHICH PROVIDES TRAINED SEARCH DOGS AND HANDLERS TO THE STATE TROOPERS, COAST GUARD, AND AIRFORCE RESCUE CENTERS, AS WELL AS LOCAL LAW ENFORCEMENT AGENCIES ON A VOLUNTEER BASIS. OUR HANDLERS DEVOTE MANY HOURS OF THEIR PERSONAL TIME EVERY WEEK TRAINING FOR SEARCHES, AND THE TIME THEY SPEND IN THE FIELD SEARCHING FOR SOMEONE'S CHILD, A LOST HIKER OR HUNTER, OR SOMEONE TRAPPED IN AN AVALANCHE OR EARTHQUAKE RUBBLE IS PAID FOR OUT OF OUR OWN POCKETS. THIS BILL WOULD ALLOW TEAM MEMBERS TO OPERATE CONFIDENT IN THE KNOWLEDGE THAT ANY FIRST AID ADMINISTERED BY THEM, OR ANY ATTEMPTS TO ASSIST A LOST OR INJURED INDIVIDUAL WITHIN THE SCOPE OF OUR TRAINING, WOULD NOT BE MET BY CIVIL LIABILITY.

WE WHOLEHEARTEDLY SUPPORT THE BILL, AND REQUEST THAT YOU GIVE IT YOUR BEST EFFORTS.

SINCERELY,



L. BRUCE BOWLER  
PRESIDENT  
SEADOGS



# NATIONAL SKI PATROL SYSTEM, INC.

Affiliations  
UNITED STATES SKI ASSOCIATION  
NATIONAL SAFETY COUNCIL  
ADVISORY COMMITTEE (U.S.  
ARMY) ON MOUNTAIN AND  
ARCTIC WARFARE

ALASKAN DIVISION •

January 14, 1988

The Honorable Mike Davis  
Alaska House of Representatives  
542 4th Ave., Suite c  
Fairbanks, Alaska 99701

Dear Representative Davis,

We the undersigned, are members of Denali Ski Patrol registered with the National Ski Patrol System. We are writing in support of your efforts to amend the Good Samaritan Act (AS 09.65.090) to include trained first aid volunteers.

Denali Ski Patrol provides countless hours of community service each year. Our training is extensive and in addition we are required to complete 35-40 hours of refresher work yearly. We are obligated to provide first aid care at our ski area although we do this strictly on a volunteer basis.

We have recently become aware that we are probably, in fact, not covered by either the Good Samaritan Act or AS 18.08.086 which protects state certified first aid personnel.

We would greatly appreciate any assistance you can give us in remedying this unfortunate situation so that we have the protection that we are due.

Sincerely,

*Patricia K. Evans*  
Patricia K. Evans, Director  
Denali Ski Patrol  
10023 Preuss Lane  
Eagle River, Alaska 99577  
And  
Denali Ski Patrol Members

<i>David A. Kaulinckson</i>	<i>Fodd E. Nyback</i>	<i>Michael A. Ruedergist</i>
<i>Michael J. ...</i>	<i>Haren Nelson</i>	<i>Mike Albee</i>
<i>ARTS T. ANDERSON</i>	<i>James A. Jones</i>	<i>Thomas E. Maudslayi</i>
<i>CRAIG WALLING</i>	<i>Jo 2</i>	<i>Sandy Long</i>
<i>Mountain M. York</i>	<i>Delva A. Krieger</i>	<i>Annabeth Jones</i>
<i>Roy Hansen</i>	<i>Walter R. ...</i>	<i>Edward C. ...</i>



A NON-PROFIT CORPORATION  
AFFILIATED WITH  
MOUNTAIN RESCUE ASSOCIATION

8101 White Drive  
Anchorage, Alaska 99516

EMPLOYER I.D. #92-0084973

February 22, 1988

Representative Mike Davis  
P.O. Box V  
Juneau, Alaska 99811

Re: House Bill No. 340

Dear Representative Davis:

I am writing on behalf of the Alaska Mountain Rescue Group to urge passage of House Bill 340, an amendment to Alaska's Good Samaritan Statute.

The Alaska Mountain Rescue Group is a volunteer organization which performs search and rescue work in the mountains and other difficult terrain. The Group is funded entirely by private contributions. All of its members are volunteers, and all of its members supply their own equipment. The Group was founded more than 20 years ago and has performed hundreds of rescues, often under very dangerous conditions. Many lives have been saved.

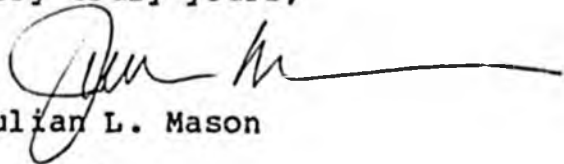
Under present law, Rescue Group members may be exposed to substantial personal liability when they in good faith and to the best of their ability attempt to help victims of unfortunate accidents. This liability exposure is unfair and a deterrent to the spirit of volunteerism which is so important in Alaska. Although the Group was formed to help mountaineers, most of its work has been on behalf of hunters, hikers, lost children, and the victims of plane crashes. Your neighbor, or a member of your family, could well be the next person helped by the Alaska Mountain Rescue Group.

I do not know the names of other sponsors of the Bill in the House or in the Senate. I would appreciate your making this letter available to the other sponsors. The Group

Representative Mike Davis  
February 22, 1988  
Page Two

thanks you for your help in sponsoring this important  
legislation.

Very truly yours,



Julian L. Mason

JLM/mcm

Valdez, Sup. Ct. Op. No. 2243 (File No. 4451), 620 P.2d 683 (1980).

When there was no evidence before the superior court suggesting that a city's warning of safety hazards was issued with a knowing or reckless disregard for the truth of the statements if contained that communication was protected by a privilege extended to administrative officers making defamatory communications required or permitted in the performance of official duties even though there was no immunity under this section. *Urethane Specialties, Inc. v. City of Valdez*, Sup. Ct. Op. No. 2243 (File No. 4451), 620 P.2d 683 (1980).

**City's failure to follow own rules governing relations with employees.** — This section does not immunize city from liability for damages resulting from its failure to follow its own rules governing its relations with its employees. *Stanfill v. City of Fairbanks*, Sup. Ct. Op. No. 2624 (File No. 6321), P.2d 1983.

**Negligence in operation of ambulance.** — The object to be accomplished by ambulance service operated and main-

tained by a city, that of service to the infirm, was so closely related to hospitalization benefits that it could be said to come within the scope of the opinion in *Tuengel v. City of Sitka*, 118 F. Supp. 399 (D. Alas. 1954), aff'd, 245 F.2d 61 (9th Cir. 1957), and the city could be held liable for any negligence in the operation of the ambulance. *Lucas v. City of Juneau*, 168 F. Supp. 195 (D. Alas. 1958).

**Negligence of fire department.** For case decided prior to second 1975 amendment holding that a city which maintained a fire department could be held liable for injuries resulting from negligence connected with the department's firefighting activities, see *City of Fairbanks v. Shaible*, Sup. Ct. Op. No. 97 (File Nos. 112, 113), 375 P.2d 201 (1962). See contra: *City of Fairbanks v. Gilbertson*, 16 Alaska 590 (1957), aff'd, 262 F.2d 734 (9th Cir. 1959), where § 56-2-2 ACLA 1949 (predecessor to this section) was ignored by both the district court and the court of appeals.

Quoted in *Atkinson v. Haldane*, Sup. Ct. Op. No. 1495 (File No. 2981), 569 P.2d 151 (1977).

**Collateral references.** — Fire departments as pertaining to the governmental or to the proprietary branch of municipality, 9 ALR 143; 33 ALR 688; 84 ALR 514.

**Necessity of consent to suit against state,** 42 ALR 1464; 50 ALR 1408.

**Municipal immunity from liability for torts,** 120 ALR 1376; 60 ALR2d 1198.

**Sec. 09.65.080. Suits by incorporated units of local government.** An action may be maintained by an incorporated borough, city, or other public corporation of like character in its corporate name, and upon a cause of action accruing to it in its corporate character

- (1) upon a contract made with the public corporation;
- (2) upon a liability prescribed by law in favor of the public corporation;
- to recover a penalty or forfeiture given to the public corporation;
- (4) to recover damages for an injury to the corporate rights or property of the public corporation. (§ 2 ch 23 SLA 1964)

**Sec. 09.65.090. Civil liability for emergency aid.** (a) A person at a hospital or any other location who renders emergency care or emergency counseling to an injured, ill, or emotionally distraught person who reasonably appears to the person rendering the aid to be in immediate need of emergency aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering emergency aid

(b) This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct. (§ 1 ch 32 SLA 1967; am § 1 ch 119 SLA 1971; am § 38 ch 102 SLA 1976)

#### NOTES TO DECISIONS

**Common law.** — At common law there is no duty to rescue. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

The law has persistently refused to recognize the moral obligation of common decency and common humanity, to come to the aid of another human being who is in danger. Only in certain limited situations, as for example where the actor was responsible for placing the imperiled person in his endangered position, has a duty been recognized. However, once rescue operations have begun, the rescuer is held to a duty of due care. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

The purpose of this section is to induce voluntary rescue by removing the fear of potential liability which acts as an impediment to such rescue. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

This section is directed at persons who are not under some preexisting

duty to rescue. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

**A rescuer under a preexisting duty to rescue would not need the added inducement of immunity from civil liability for his ordinary negligence.** *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

**Such as a police officer.** — A holding that police officers have no duty to rescue would not comport with public conceptions of their role. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

This section, the Alaska Good Samaritan statute, does not shield a police officer from liability for ordinary negligence. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

**Sec. 09.65.092. Civil liability for voluntary aircraft safety inspection.** An aircraft or power plant technician or mechanic certified by the Federal Aviation Administration who participates without compensation in a voluntary aircraft safety inspection program is not liable for civil damage resulting from an act or omission arising out of an aircraft safety inspection in that program unless the act or omission constitutes gross negligence or reckless or intentional misconduct. (§ 1 ch 3 SLA 1982)

**Sec. 09.65.095. Liability for administration of blood test.** (a) No civil or criminal action arising out of battery may be brought against a health care provider for the act of taking a blood sample if the sample

MAR 18 1988



# CITY OF MCGRATH

P.O. BOX 57 MCGRATH, ALASKA 99627  
PHONE (907) 524-3825

March 15, 1988

Representative Kay Wallis  
Alaska State Legislature  
P.O. Box V  
Juneau, Ak. 99811

Subject: Civil Liability Immunity for Emergency Services

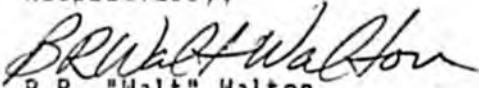
Dear Representative Wallis:

At the regular City Council meeting on February 16th, 1988 the City Council discussed HB #340 and Senate Bill #346. It was decided by consensus that the City of McGrath go on record as supporting passage of these Legislative Bills.

The Kuskokwim Valley Rescue Squad is a very strong and viable organization of certified volunteers that responds to emergencies in the area. This legislation is necessary to protect the organization and to help facilitate the emergency services needed by the general population.

Thank you.

Respectfully,

  
B.R. "Walt" Walton  
Mayor

HB

349

Alaska State Legislature



House of Representatives

REPRESENTATIVE  
BETTE CATO  
DISTRICT 8  
BOX 775  
VALDEZ, ALASKA 99686  
0071835 4500  
WHELAN, ALASKA  
P.O. BOX 14  
ALASKA 99681  
0071465 4050  
0071806 2640

COMMITTEES  
CHAIRMAN  
HOUSE TRANSPORTATION  
MEMBER  
COMMUNITY AND  
REGIONAL AFFAIRS  
LEGISLATIVE COUNCIL  
TRANSPORTATION  
BUDGET SUBCOMMITTEE

March 29, 1988

TO: Senator Tim Kelly  
FROM: Representative Bette Cato *BC*  
SUBJECT: HB 349

I would like to ask your consideration for scheduling of HB 349 - "An act relating to the membership of the Alaska Railroad Corporation and providing for an effective date."

I appreciate your assistance.

Thank you.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: \_\_\_\_\_  
 Title: An Act increasing the membership on BRU: \_\_\_\_\_  
the board of directors of the ARRC \_\_\_\_\_  
 Sponsor: Cato Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	\$0	\$0	\$0	\$0	\$0	\$0

CAPITAL	\$0	\$0	\$0	\$0	\$0	\$0
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REVENUE	\$0	\$0	\$0	\$0	\$0	\$0
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0

POSITIONS: None

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Compensation, per diem, and other expenditures payable to members of the board of directors of the Alaska Railroad Corporation are the responsibility of the Alaska Railroad Corporation and are not an expenditure of the state of Alaska general fund.

Prepared by: Rep. Rette Cato, Chairman Phone: 465-4858  
 Division: House Transportation Committee Date: January 20, 1988

Approved by Commission: Rep. Rette Cato, Chairman Date: January 20, 1988  
 Agency: House Transportation Committee

Distribution (by preparer):

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

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: HB 349  
PUBLISH DATE: HOUSE 1/22/88

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: \_\_\_\_\_  
 Title: An Act increasing the membership on BRU: \_\_\_\_\_  
the board of directors of the ARRC \_\_\_\_\_  
 Sponsor: Cato Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	\$0	\$0	\$0	\$0	\$0	\$0

CAPITAL	\$0	\$0	\$0	\$0	\$0	\$0
---------	-----	-----	-----	-----	-----	-----

REVENUE	\$0	\$0	\$0	\$0	\$0	\$0
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0

POSITIONS: None

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Compensation, per diem, and other expenditures payable to members of the board of directors of the Alaska Railroad Corporation are the responsibility of the Alaska Railroad Corporation and are not an expenditure of the state of Alaska general fund.

Prepared by: Rep. Bette Cato, Chairman Phone: 465-4858  
 Division: House Transportation Committee Date: January 20, 1988

Approved by Commissioner: Rep. Bette Cato, Chairman *pc* Date: January 20, 1988  
 Agency: House Transportation Committee

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

# Alaska State Legislature



## House of Representatives

REPRESENTATIVE  
BETTE CATO  
DISTRICT 6  
BOX 775  
VALDEZ ALASKA 99686  
@071835 4588  
WHILE IN JUNEAU  
P O BOX V  
JUNEAU ALASKA 99801  
@071465 4858  
@071586 2660

COMMITTEES  
—  
CHAIRMAN  
HOUSE TRANSPORTATION  
—  
MEMBER  
COMMUNITY AND  
REGIONAL AFFAIRS  
LEGISLATIVE COUNCIL  
TRANSPORTATION  
BUDGET SUBCOMMITTEE

March 21, 1988

TO: Senator Mitch Abood  
FROM: Representative Bette Cato *BC*  
SUBJECT: CSHB 349

I have spoken with Senator Coghill's office and Representative Menard's office regarding CSHB 349.

I feel the following changes will address all the concerns and requests discussed during the recent Senate State Affairs Committee meeting.

Page 2 - Line 7 is amended to read  
(7) one member shall be a resident of Fairbanks.  
[North Star Borough]

Page 2 - Line 9 add:  
(8) one member shall be a resident of the  
communities between Summit Station and Dunbar  
Station on the Alaska Railroad.

Essentially, we are adding two new members to the current five members appointed by the governor. Of these seven members, five would have community designated seats.

I would be happy to provide you with additional information should you so desire. Thank you for considering CSHB 349.

5-1445X  
Cook  
3/22/88

Original sponsor: Cato

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 349 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the membership on the board of  
7 directors of the Alaska Railroad Corporation; and  
8 providing for an effective date."

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

10 \* Section 1. AS 42.40.020(a) is amended to read:

11 (a) The powers of the corporation are vested in the board of  
12 directors. The board consists of the commissioner of commerce and  
13 economic development, the commissioner of transportation and public  
14 facilities, and seven [FIVE] members appointed by the governor. The  
15 seven [FIVE] appointed members must be registered voters in the state  
16 except as provided in (1) and (2) of this subsection. Except for the  
17 commissioners and the member appointed under (5) of this subsection  
18 [SECTION], a member may not be a state officer or employee. Appointed  
19 members shall have the following qualifications:

20 (1) one member of the board shall be a person who has at  
21 least 10 years of experience in railroad management; a person who is  
22 not a resident of the state may be appointed under this paragraph;

23 (2) one member of the board shall be or have been an execu-  
24 tive official of a United States railroad and shall be selected in  
25 accordance with any requirements imposed under 49 U.S.C. (Interstate  
26 Commerce Act); a person who is not a resident of the state may be  
27 appointed under this paragraph;

28 (3) at least one member shall be from each judicial dis-  
29 trict directly served by the Alaska Railroad;

1 (4) one member shall have at least five years of experience  
2 as an owner or manager of a business in the state;

3 (5) one member shall be an employee who is a member of a  
4 bargaining unit representing employees of the corporation;

5 (6) one member shall be a resident of the Matanuska-Susitna  
6 Borough;

7 (7) one member shall be a resident of Fairbanks;

8 (8) one member shall be a resident of a community between  
9 Summit Station and Dunbar Station on the railroad;

10 (9) one member shall be a resident of Seward;

11 (10) one member shall be a resident of Anchorage.

12 \* Sec. 2. Within 30 days after the effective date of this Act the  
13 governor shall appoint two members to the board of directors of the Alaska  
14 Railroad Corporation under AS 42.40.020(a) amended by sec. 1 of this Act.  
15 Notwithstanding the additional requirements for members of the board added  
16 under AS 42.40.020(a)(6) - (10) by sec. 1 of this Act, members of the board  
17 on the effective date of this Act continue in office until their terms  
18 expire.

19 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).  
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28  
29

March 15, 1988

DISCUSSION NOTES - HB 349

The purpose of this testimony is to impress upon all who hear that the Railroad holds a disproportionately important role in the economic well being of Seward citizens, and that a Seward Railroad board member is both vital to Seward and good for the Railroad and state in total.

Seward's role as the southern terminus of the Alaska Railroad has always been, and will continue to be, essential to the economic life of the community. The Railroad both controls key lands and operates the city's most advanced and important docks. The Railroad provides employment to a large and important segment of our population, namely our active and retired Seward longshoremen.

The city has a relatively small useable land area surrounded by steep fjord-like mountain walls. There are only four square miles of developable land within the city boundaries. We must make every inch count.

The Railroad controls over 190 acres of property in downtown Seward, and is by far the largest owner of industrial land in the central core area of our city. Of this, 35 acres are devoted to supporting the coal loading terminal, with the remaining lands generally vacant. The vacant lands are available for supporting railroad related industrial facilities. Additionally, the Railroad operates the city's most important docks. The first is the general cargo facility which is a

CITY OF SEWARD, ALASKA  
HB 349 DISCUSSION NOTES  
Page 2

200' x 735' concrete and steel "H" pile general cargo dock suitable for ocean going vessels up to 300' in length and 33' in draft. The dock provides over 1,200' of berthing space and offers crane, fuel and other port services. The dock handled almost 400,000 tons of general cargo in 1978. Currently the dock is handling closer to 70,000 tons per year. The second major Railroad dock in Seward is a relatively new dry bulk loading dock suitable for handling coal and other dry bulk commodities. The dock offers over 1000' of berthing space dredged to -45' MLLW. The product loading system is operated on the dock by Sunel Alaska Corporation who recently shipped its two millionth ton of Alaska coal to Korea.

The Alaska Railroad controls a key jobs and economic activity producing asset - the docks, as well as the central developable acreage in downtown Seward.

Seward has a long and illustrious Alaska Railroad history dating back to the early 1900's. Seward was founded with the development of the Alaska Railroad as its primary goal. It has operated the state's only deep-water, ice-free port with rail and road transportation connections to the railbelt and interior. The Railroad dock has used as many as 400 longshoremen in its dock operations heyday and, at the time of the earthquake, was employing around 250 longshoremen. Currently the active longshore contingent stays around the 25 to 30 mark.

CITY OF SEWARD, ALASKA  
HB 349 DISCUSSION NOTES  
Page 3

Commensurate with our history and the vital importance of railroad assets in Seward, Sewardites desire to see increasing use of Railroad docks and land within the community. Sometimes our desire for increased use of the Railroad dock does not fit with long-term profit maximization policies established by the Railroad Board of Directors, i.e., freight for road shipment to interior points. These conflicts, seemingly decided with minimal Seward involvement or interest, have created communications and relationship problems between the Alaska Railroad and the citizens of Seward.

Seward has an active Railroad/marine support constituency that can help bring ships and cargo to Seward and the Alaska Railroad. As evidence of the importance Seward places on maximizing its marine assets, the community has hired a full-time port marketing and development manager to help make the most of Seward's port assets.

Seward's interest in promoting HB 349 might be made to appear entirely self-serving, and, true, there is a community advancement issue at stake, but we would not have fought as hard as we have for this bill to become law if we did not truly believe that a Seward board member would be beneficial to the Railroad and the state as a whole.

CITY OF SEWARD, ALASKA  
HB 349 DISCUSSION NOTES  
Page 4

We suggest that Seward can be an asset to Alaska and the Alaska Railroad by:

1. providing a small (rail-dependent) community perspective on Railroad policies that can't be achieved through the newly formed community action council;
- by 2. providing better communications to and from the community which has the greatest rail generated port tonnage and the greatest port potential for rail tonnage increases;
- by 3. reducing the "taxation without representation" feelings felt by small communities about Railroad use of key community lands and assets;
- by 4. allowing the Railroad to take advantage of the state's most experienced longshore and general cargo rail ports;
- by 5. allowing Seward to interact with a local rail policy maker to minimize perception of:
  - inadequate port marketing
  - Crane and dock safety issues
  - non-rail cargo discouragement
  - one-sided decision making

CITY OF SEWARD, ALASKA  
HB 349 DISCUSSION NOTES  
Page 5

Seward has taken the lead in calling for small community/port communication improvements with the Railroad. We believe our April 20, 1987, meeting with the Railroad administration started the Railroad's improved focus towards both Seward's concerns, as well as other small community concerns.

A Seward board member can offer an immeasurable increase to the depth of state representation to the existing Alaska Railroad Board of Directors. For the first time a small, disproportionately dependent rail community will have a representative on the board to counter the unintentional, but inevitable, feelings of big city domination brought on by the heavy urban weighting of the existing board makeup (four out of the present six non-administration board members work or live in Anchorage). A small port/community representative will best present Railroad policies to railroad impacted communities. We believe that other communities will perceive the board to better represent all of Alaska by including a Seward member than if the present board makeup persists.

A Seward board member will be good for the Railroad, the state, the railbelt region and all small rail dependent communities that now suffer from lack of representation. Please approve and recommend for passage HB 349.

*Harry E. Susich*  
"Mayor"

ALASKA RAILROAD CORPORATION



P. O. Box 119500 • Anchorage, Alaska 99510-9500

Memorandum from  
**F. G. Turpin**

2-22-88

Dear Mitch,

Following our conversation Friday, I thought it would save time to just send you a copy of our comments on HB 349 that we sent to the House Transportation Committee.

*Frank*

285

# ALASKA RAILROAD CORPORATION



P.O. Box 7-2111 • Anchorage, Alaska 99510-7069

January 19, 1988

FEB 25 1988

Honorable Bette Cato, Chairman  
Transportation Committee  
House of Representatives  
P.O. Box V  
Juneau, Alaska 99811

Re: House Bill No. 349, An Act Increasing the Membership  
on the Board of Directors of the Alaska Railroad  
Corporation

Dear Representative <sup>Bette</sup>Cato,

Thank you for this opportunity to express our comments on HB 47 which proposes to add two additional directors to the Alaska Railroad Corporation ("ARRC") board.

We've carefully reviewed the bill and enclose our position paper and fiscal note.

Although we do not oppose this legislation, we respectfully request that consideration be given to adding one, not two, additional board members. As our paper explains, we fear that at nine members our board will become too large and unwieldy. By also changing the number of affirmative votes needed for board action from four to five, the problem with tie votes as you and I discussed some time ago will be avoided. This reduction of proposed appointees will also reduce our projected costs by half.

We've asked our legislative representative, Rick Urion, to attend tomorrow's hearing. Should questions or comments arise concerning our proposal which Rick cannot field, we will stand by here to supplement his responses.

Thank you very much.

Sincerely,

F. G. Turpin  
President & CEO

cc: House Transportation Committee  
James O. Campbell, Chairman, ARRC Board of Directors  
Rick Urion

5820L

January 19, 1988

HOUSE BILL NO. 349

An Act Increasing the Membership on the Board of Directors of the Alaska Railroad Corporation

I. Introduction

HB 349 proposes to add two members to the Alaska Railroad Corporation ("ARRC") Board of Directors, one from Seward and one from Fairbanks. The legislation is intended to provide additional representation for railbelt communities on the ARRC board. Although ARRC does not oppose HB 349, we respectfully request that consideration be given to adding one, not two, additional directors to the ARRC board.

II. Discussion

The powers of the Alaska Railroad Corporation are vested in its board of directors. To insure local control of the railroad's important transportation and governmental functions, ARRC's enabling legislation directs that the seven member panel primarily consist of Alaskan residents. The legislation envisions that the board collectively contain a wide range of skills and experience, including railroad management, business, and labor expertise. In addition, each judicial district directly served by the Alaska Railroad must be represented on the board. This provision ensures that railbelt representation will be broad based.

Nonetheless, concern has been raised that the current board does not include a Seward resident. ARRC and Seward community interests have been commercially, geographically, and financially intertwined for many years. Despite the participation of its representative on ARRC's Community Briefing Council which meets to consider railroad/railbelt concerns and common interests, Seward leaders have requested a permanent Seward seat on the ARRC board.

ARRC does not oppose a modification of the Alaska Railroad Corporation Act ("ARCA") which would provide smaller port communities in the railbelt a common representative on its Board of Directors. However, we request that HB 349 be amended as follows:

(7) one member shall be a resident of Seward, [.] Whittier, or Nenana.

This modification would allow other port communities located in the railbelt such as Whittier an opportunity to suggest residents for appointment.

# CITY OF SEWARD

P.O. BOX 167  
SEWARD, ALASKA 99664



JAN 22 1988

- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- Telecopier (907) 224-3248

January 19, 1988

THE HONORABLE BETTE CATO  
CHAIRMAN, COMMITTEE ON TRANSPORTATION  
HOUSE OF REPRESENTATIVES  
P. O. Box V  
Juneau, AK 99811

Dear Madam Chairman:

The city of Seward welcomes the opportunity to offer testimony on House Bill 349, which would expand the Alaska Railroad Corporation Board from five (5) to seven (7) members, with one member being a resident of Fairbanks and one member a resident of Seward.

As you are aware, since the state has owned the Alaska Railroad, Seward has expressed the wish to have a representative from Seward on the board of directors. It is the city's position that the board should be comprised of individuals who represent the major railbelt communities. As termini of the railroad, and communities that depend in a significant economic way on the activities of the railroad, it is important that Seward and Fairbanks be represented on the board.

Your committee is aware of the wide degree of issues concerning the city of Seward relating to the Alaska Railroad Corporation. The recently published House Transportation Committee FY88 Interim Report on the Alaska Railroad Corporation summarizes the significant issues involving Seward and the Alaska Railroad. Paramount among these is Seward's lack of representation on the board of directors. The interim report well summarizes what we feel would be the benefits to Seward with direct board representation. Simply put, we would have a voice

CITY OF SEWARD, ALASKA  
THE HONORABLE BETTE CATO  
Page 2

and a vote, which we do not now have, on matters of extreme importance to Seward. We strongly recommend the committee's favorable recommendation on this Bill.

Sincerely,

CITY OF SEWARD, ALASKA



DARRYL SCHAEFERMEYER  
INTERIM CITY MANAGER

DS:alm

Enclosures: Overview and Seward  
sections of HTC FY88 Interim Report

cy: Council

## OVERVIEW OF ALASKA RAILROAD CORPORATION

The Alaska Railroad has been operating in Alaska for 62 years. On January 5, 1985, it was transferred from federal to state ownership for \$22.3 million. This purchase price did not include any receivables or cash and, therefore, an additional \$10.0 million (\$4.9 million for operating and \$6 million for capital) was appropriated by the legislature to the corporation. Additional costs associated with the transfer totalled \$1.2 million.

Effective January 6, 1985, the Alaska Railroad Corporation became responsible for operating the Alaska Railroad. The powers of the corporation are vested in a seven member Board of Directors. Five of these members are appointed by the Governor and confirmed by the legislature. These members serve for staggered five year terms, each at the pleasure of the Governor. The Commissioner of the Department of Transportation and Public Facilities and the Commissioner of the Department of Commerce and Economic Development make up the remaining two board members.

ARRC is a "quasi-public" corporation. It operates along the lines of a private for profit corporation and, therefore, many of the decisions made by the corporation directors are made from a business/profit approach. According to the statutes enacted for guidelines under which the corporation operates (SEC:42.40.010), the corporation is also a public corporation and an instrumentality of the state within the Department of Commerce and Economic Development. The Corporation has a legal existence independent of and separate from the state.

In 1986, House Transportation staff completed an oversight report on the ARRC. This report (attached) addressed many of the concerns expressed by residents of the state regarding the operations of the corporation. Today, many questions and concerns still linger concerning the ARRC. As a result, the following report was prepared. It addresses the present concerns of community leaders along the railbelt. Perhaps the most confusing point surrounding the ARRC is its status. The Alaska Railroad Corporation Act established the corporation as a state agency while allowing it to run as a private corporation. Many residents feel very frustrated the ARRC does not comply with many of the requirements placed on other state agencies such as the budgeting process, and others are concerned the ARRC is exempt from many of the requirements placed on private industry such as property tax.

These exceptions and benefits were afforded the ARRC to enable the corporation to run smoothly and efficiently thus greatly reducing the amount of general funds dollars required each year to run the corporation. To date, the corporation has not requested any appropriation from the legislature and it does not foresee this happening in the near future.

While the corporation is sensitive to many of the community needs expressed in this report, it is also attempting to meet the mandates laid down in the Alaska Statutes. Corporation management feels it is very difficult to adequately address both of these concerns.

In an attempt to listen to community needs and concerns and be responsive to these concerns, the ARRC established a community advisory council. This is made up of representatives from each of the rail community. This advisory council met several times during the summer, corporation management feel the initial meetings have been very successful and hope this advisory council will provide a mechanism for the ARRC and the rail communities to communicate more effectively and work toward resolving many of the community concerns.

After spending many hours listening to all sides involved, it does appear many of the frustrations expressed by both parties may be related to interpretation of the statutes and the questions surrounding the "private versus state" status of the corporation.

## THE CITY OF SEWARD

Since the state has owned the Alaska Railroad Corporation, the city of Seward has corresponded with the Alaska Railroad Corporation on a regular basis. In fact, before the state actually took ownership of the ARRC, the city of Seward wrote a lengthy letter to the newly appointed railroad board members to outline the areas they hoped could be addressed and agreed upon by the city and the ARRC.

The attached letter written November 1, 1984 shows the City's concerns, suggestions and requests. Many of the points made in this letter are still the priorities expressed by the City of Seward today (3 years later)

1. Self determination
2. Seward Dock facility
3. Marketing - Seward Terminal Manager
4. Seward Board member
5. Philosophical approach of ARRC
6. Access to railroad information

All of the six points listed above are very closely intertwined. The city of Seward is a very aggressive and progressive community. Much of the development and growth in recent years is directly related to the aggressive attitude of local city government. Seward is one of the few Alaskan deepwater ports. The City has the additional benefit of having much of the infrastructure such as roads, easy access etc. already in place. Seward's major immediate and long range goals include encouraging economic activity, jobs and investment in Seward. Like many other smaller Alaska coastal communities, this is a MUST if the community is to continue to grow and thrive. The Alaska Railroad plays an important part in the overall achievement of these goals and the future economic growth of Seward. WHY?

The \$40 million Seward Coal dock facility is owned by the Alaska Railroad Corporation. Almost all the freight coming into Seward moves over this dock. With a superb deepwater port, lack of effort by the railroad to aggressively market or fully utilize this port greatly frustrates Sewardites who rely on ocean going trade for their livelihood. It is obvious there have been numerous lengthy meetings between the Corporation and the city over these concerns. The corporation realizes Seward's wish to obtain the Coal dock, however, corporation management feel this transfer must be in the best interests of both parties. While Seward ownership of the dock would allow Seward to aggressively compete for business, much of the competition would be at the railroad's expense.

### City of Seward (cont'd)

The city of Seward hired Mr. Chris Gates to assist Seward in the marketing and economic development of the City and the port. Mr. Gates has been working to encourage the Railroad to take advantage of its port assets in Seward. In discussions with Mr. Gates and city officials, there is a great deal of frustration expressed at the lack of cooperation by the railroad corporation.

Mr. Gates noted as an example that in January of this year Seward longshoremen ~~themselves~~ went to Seattle to attempt to spur interest in and business over the Alaska Railroad dock. Seward longshoremen president, Mr. Stanley Lemas was able to interest a general cargo carrier to call at the Port of Seward on a bimonthly basis. The success of this venture was assured when the Alaska Railroad representatives pledged assistance to the carrier in the form of reduced service charges and land lease rates. This inducement by the railroad put the solicitation "over the top" and the carrier committed to call at Seward.

Alaska Cargo Transport has called at Seward since January, however, the railroad has not followed through with its pledge for reduced service charges or reduced base rates. This has obviously created hardship on the carrier who has repeatedly asked the Railroad to follow through with its original promises.

Seward feels this "type" of lack of co-operation by the ARR placed Seward in an unfair economic disadvantage.

### Railroad Response

Much of the frustration experienced by the residents of Seward is shared by the ARRC. Both parties feel the city of Seward and the corporation must work together in order to resolve issues whenever possible. To this end, ARRC management has agreed to provide passenger service to Seward in spite of the fact that it loses revenue. Freight services to and from Seward are continued even though they provide no profit and barely break even. Now the ARRC is being asked to provide carriers with reduced service charges and land lease rates. The question again arises, should ARRC management decisions be made by the corporation in their role as a private entity based primarily on economics and business criteria or, should decisions be made as a public entity giving first consideration to state and local issues and concerns?

## 1. Self-determination

Seward overwhelmingly supports self-determination. City officials and residents feel strongly that SEWARD should have control over their own future economic growth and activity, and not the Alaska Railroad.

Seward feels this one point is vital because they question whether the ARRC can promote Seward, or can avoid discouraging Seward tonnage that might produce greater incremental return if delivered through another port. For example, the question has been raised about the willingness of the Alaska Railroad to promote general cargo use of the Seward dock to a carrier who, if successful, might rob or "deplete" tonnage currently carried by major ARRC interline carriers (i.e. hydrotrain). Seward feels the railroad appears to be less interested in dock promotion if the cargoes carried by the vessels are not discharged to rail but use a competing mode of transportation from the dock.

### Railroad Response

ARRC management is currently negotiating with the city of Seward to transfer management of the Seward coal dock facility to the city. The corporation agrees that self-determination for Seward would be in the best interests of both parties. Transferring the coal dock to Seward would allow the city to aggressively market the coal dock which would directly affect the future economic growth of the city. It would allow Seward to offer incentives to industry that would encourage new trade and business to locate there. However, the corporation does not support a transfer made at ARRC expense. The corporation is concerned about retaining existing business and does not want to be put in a position of directly competing for business with the city. At this time, ARRC management does not feel its concerns have been adequately addressed. The corporation would like some assurance that the transfer of the coal dock to the city of Seward would not negatively impact current ARRC operations while at the same time greatly benefiting Seward. Until those concerns are addressed, ARRC management questions the wisdom of supporting the transfer.

## 2. Seward Dock Facility

The city of Seward would like the coal dock facility and a small parcel of land located along the seaward edge of the city's small boat harbor transferred to the city of Seward. Since the dock terminal was financed by legislative monies (over \$1 million) appropriated to the city and by industrial development bonds issued by the city, Seward believes the coal dock has been improperly offered to the ARRC by the state of Alaska.

Seward feel a compromise regarding the ownership of the coal dock facilities might be reached if the ARRC would agree to a long term lease of these facilities to the city of Seward.

### Railroad Response

ARRC management is currently negotiating with the city of Seward to transfer management of the Seward coal dock facility to the city. This issue of transfer of the coal dock facility is inseparably linked to the issue of self-determination for the city of Seward. Transferring the coal dock to Seward would allow the city to aggressively market the coal dock which would directly affect the future economic growth of the city. It would allow Seward to offer incentives to industry that would encourage new trade and business to locate there. However, the corporation does not support a transfer made at ARRC expense. The corporation is concerned about retaining existing business and does not want to be put in a position of directly competing for business with the city. At this time, ARRC management does not feel its concerns have been adequately addressed. The corporation would like some assurance that the transfer of the coal dock to the city of Seward would not negatively impact current ARRC operations while at the same time greatly benefiting Seward. Until those concerns are addressed, ARRC management questions the wisdom of supporting the transfer.

### 3. Marketing -Seward Terminal Manager

Along with the above concern, Seward is very frustrated with another "policy" type issue that directly affects the communities ability to attract new business and promote the Seward dock. The ARRC has pulled all management and supervisory people from Seward, telling the city to be satisfied instead with a zenith number for all communications to the ARRC. Seward states the ARRC has no "Seward specific" marketing plan, promotion or advertising.

When prospective new clients express an interest in Seward as a possible site for their venture, Seward officials cannot supply them with any information on shipping alternatives or freight rates, etc. Seward feel it is poor business and very negative for marketing to ask these clients to call a zenith number.

Another concern to Seward is the ARRC's recently released five year capital improvements plan. This plan contains no capital improvements for the city of Seward. With ports like Anchorage continually growing and expanding, Seward feels this shows the ARRC's intent for limited future growth of the Seward port.

The ARRC has not committed to maintaining safety and operation levels of the dock-mounted gantry cranes. Pilings, cranes and overall facility upgrading is necessary.

### Railroad Response

Since the overwhelming percentage of freight moving through Seward currently passes over the coal dock, the ARRC believes that whoever controls the coal dock should address the issue of terminal manager. Should the coal dock transfer to the city of Seward, the ARRC believes it would be consistant with the city's long range goal of self-determination for the city to employ a terminal manager. If the coal dock were to remain under the auspices of the corporation, then ARRC would be willing to employ a terminal manager. ARRC management believes that until the question of transfer of the dock is resolved, the issue of establishing a terminal manager in Seward cannot be addressed.

#### 4. ARR Board of Directors

Since the state has owned the Alaska Railroad Corporation, Seward has expressed a strong desire to have a local representative from Seward on the Board of Directors. With the lack of progress in many of the areas of concern, Seward residents feel that in order to have a listening ear they need either "representation on the Board" OR a change in what they determine as conflict of interest and board makeup.

Firstly, Seward feels one of the members of the Board has a definite conflict of interest with his appointment. Mr. Dickerson is the chairman of the Anchorage Port Commission. He is also a former member of the Anchorage Assembly and past president of the Anchorage Chamber of Commerce. Both Anchorage and Seward are competitive ports, attracting business means jobs in Anchorage or, jobs in Seward. While Seward is very quick to commend Mr. Dickerson for this past work, it does feel that asking any board member to serve two competing masters at the same time is unhealthy to the long term interests of both master and the individual. To have the chairman of the Anchorage Port Commission maintaining his office and responsibility to maximize the interest of the ARRC's chief competing port (Anchorage) while upholding his responsibility to the citizens of the state of Alaska to increase and maximize the profitability of the Alaska Railroad corporation is a definite conflict of interest.

The remaining board makeup is of concern to Seward. A majority of the members are from Anchorage, or, have previous strong ties to Anchorage. There is no representation by Whittier or Seward, and it is very difficult for Seward or Whittier to feel they have any access or input into the decisions made by the Corporation.

#### SOLUTION

As the board members serve for staggered five year terms, consideration could be given to filling one of the terms with a resident from Seward. ARRC management support this request.

A change in board makeup or the possible addition of two board members to the current seven member Board of Directors, has been offered as a solution by Seward.

Solution to this concern would go a long way in mending some of the damaged "bridges" of the past. Seward and Whittier would feel like they had some say in running the Corporation, and the question of lack of interest in Seward, its concerns, its resources and its residents would be alleviated. Local community members would have an avenue to pursue.

## 5. Philosophical Approach

The ARRC philosophical approach is an area of great concern to the city of Seward. Seward questions the ARRC "caretaker approach" to many vital issues affecting the city. Residents and city officials are extremely concerned because they feel very strongly that the future growth and development of the city of Seward is very closely tied to the growth and development of the ARRC. As has been stated repeatedly by Seward, the immediate short term and long range plan for the city is to increase economic development, diversify the local economy and work to promote tourism. Seward feel if the ARRC will not aggressively compete for all new business (truck, plane, ship or train), the city of Seward cannot diversify or grow. THIS IS TREMENDOUSLY FRUSTRATING TO SEWARD.

Seward officials feel the Board of Directors for the Corporation have a "caretaker approach" to running the corporation, particularly when it comes to marketing any area that does not directly benefit the corporation itself. When one considers the corporation does control the Seward coal dock facility then it becomes very clear that the corporation also largely controls the future economic development of Seward. Most new business, freight and industry to Seward will probably use the dock facility and, unless the corporation is willing to market this facility aggressively, the future of Seward is very limited.

Seward would like to see a consistent and well defined philosophical approach by the ARRC Board of Directors. City officials feel corporation management wears two hats, one as a "quasi" legal private corporation mandated by the legislature to make a profit and, the other as a state agency. While Seward understands the reasons for the legislature establishing the corporation Seward residents feel the ARRC management continually "change hats" to benefit the corporation instead of having a consistent management philosophy. Seward site as an example the fact that as a state agency the ARRC is exempt from payment of property taxes on land owned by the corporation in the city of Seward yet, as a private for profit corporation the ARRC states the corporation is mandated to make a profit and therefore must negotiate any leases with the city at fair market value. Seward feel the corporation has the best of both worlds, a private for profit corporation that is afforded all the exemptions of a state agency.

In summary Seward would like to see a clear, well defined philosophical approach adopted by the corporation. This approach should state what the corporation intends to do in the future. This would go a long way to answering Seward's concern that ARRC management and the state of Alaska's main objective is to have the financial records and books of the corporation look very positive to attract a buyer for the ARRC within the next five years. Seward feels that if continues to be the approach of the ARRC the future economic development of Seward looks very bleak.

Railroad response

Alaska Railroad Corporation management state the corporation is being run closely following the Alaska Statutes. 42.40 On several occasions ARRC management has asked questions regarding the legislatures intent for the ARRC. Management has also expressed its concern of not knowing what the future plans for the Corporation are. AS 42.40.260 (b) states every 5 years the annual report by the ARRC shall include an analysis and documentation of at least three offers to sell the corporation. Management state it is difficult to define long range plans when the future of the ARRC itself is unknown.

## 6. Accessibility to Railroad records

Seward officials feel that since the state has acquired the ARRC the records and information available from the corporation have been much less accessible.

On numerous occasions Seward has requested information from the railroad which has not been available. While the Alaska Railroad Corporation has by statute been given the authority to designate information as "confidential", the city of Seward feel the corporation has taken this authority to extremes. Under federal ownership information such as the amount of freight hauled on a monthly basis to and from Seward and other areas was available, under state ownership this is no longer available. Seward feel information such as this would be very beneficial in helping them assess the amount of freight movement to and from Seward and would greatly benefit prospective clients in estimating their freight costs.

In summary, Seward officials do not object to the corporations right to withhold information that is of a proprietary or privileged nature however, Seward does feel that as the corporation is an instrumentality within the state the records of the corporation, its budgets, finances and overall fiscal records should be much more accessible to individuals requesting this information.

### Railroad response

AS 42.40.220 (b) states: Records of the corporation are, in general, public. However, the corporation may designate by rule and withhold public disclosure of matters of a privileged or proprietary nature. These matters include personnel, records, communications with and work product of legal counsel, and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information associated with specific shippers, divisions and contract rate agreements.

This is an area that has received a great deal of comment. Many complaints have arisen regarding competitive rates set by the Alaska Railroad Corporation.

While the state auditors must be allowed access to all ARRC financial records for the purpose of the audit, information designated by the corporation under the Public Disclosure section may not be released by the state auditors. The auditors report may include a summary and facts and findings however, no specific reference to any information designated to be withheld from public disclosure may be released.

Railroad Corporation

MEMBER	APPT	REAPPT	TERM
James O. Campbell 826 Overlook Place Anchorage, Ak. 99501 <i>5 yrs. under mem. of 11/10/87</i>	84/10/03		89/10/03
(H) 274-4207 Public/Restricted - Clerk			
Frank X. Chapados 3060 Riverview Drive Fairbanks 99701 (W) 452-7913 (H) 474-0125 Public/Restricted	84/10/03		89/10/03
Myron M. Christy 36 Via Cheparro San Rafael, CA 94904 (W) (415) (H) 461-2828 Mgmt/Executive <i>(4) 8/10/87</i>	84/11/26	86/10/31	91/10/03
Lewis E. Dickinson 4017 North Point Drive Anchorage 99502 (W) 562-2000 (H) 243-1079 Public/Restricted	84/10/03		88/10/03
Mark S. Hickey DOT/PF Juneau 99811 (W) 465-3900 (H) NONE Comm./Mandated	86/12/01		00/00/00
Tony Smith Commissioner, DCED Juneau 99811 (W) 465-2500 (H) NONE Comm./Mandated	87/01/06		00/00/00
Gerald D. Valinake 6910 Chad Street Anchorage 99518 (W) 265-2636 (H) 349-7005 Bargaining Unit <i>(5) 10/2/87</i>	84/10/03	87/11/02	92/10/03

When one is - 10 yrs. LIP, in RR mtd.  
 - 1/100 of total of U.S. RR.  
 - AT LEAST ONE MEMBER FROM EACH JUDICIAL DISTRICT DIRECTLY SERVED BY ARR

### J. JUSTIN RIPLEY

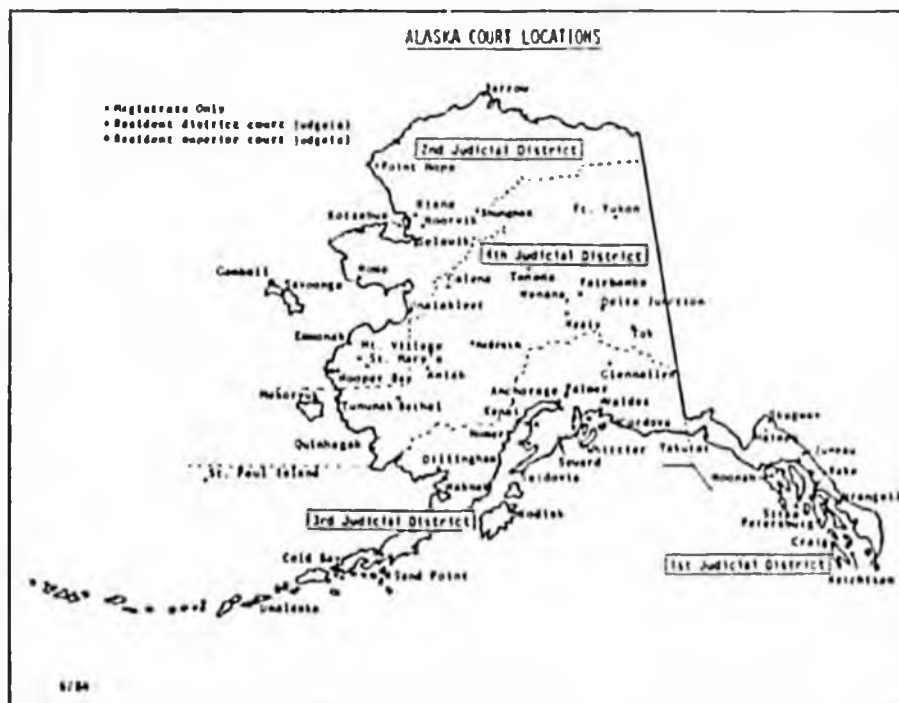
Born Oct. 21, 1934, Kotzebue, Alaska. B.A., Gonzaga University, 1956; J.D. Gonzaga University, 1964. U.S. Army 1957-60; trust administrator, Seattle First National Bank, 1961-62; law clerk, Alaska Supreme Court 1964-65; staff of Attorney General, Juneau, 1965-68; staff of district attorney, Third Judicial District 1968-75. Appointed present position June, 1975. American Judicature Society.

### BRIAN SHORTELL

Born in 1940, is a graduate of the University of California, Hastings College of Law. Engaged in private practice in Fairbanks in 1971, Anchorage in 1972, and San Rafael, California in 1973. Returned to Alaska in 1973 to serve as Public Defender in Anchorage. Is a member of several bar associations and served on the Alaska Criminal Rules Committee, the Sentencing Guidelines Committee, the Alaska Criminal Code Revision Commission as well as the Governor's Commission on the Administration of Justice. Appointed to present post in December 1980.

### MILTON SOUTER

Born July 17, 1942, in Norwich, Conn; holds a BA from Washington State University, 1964; J.D., University of Washington Law School, 1967; was engaged in private practice of law in Anchorage and Kodiak, 1967-78. Appointed to Superior Court in June, 1978.



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STATE OF ALASKA  
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JUNEAU, ALASKA 99811  
907-465-3800

May, 1988

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

Mary Van Nimwegen

House Trans. 1-20-88 1:30 PM

# HOUSE COMMITTEE REPORT

(7)

Date referred: 1/11/88

FURTHER REFERRALS: Finance

DATE: January 20, 1988

The Transportation Committee has considered HB 349

"An Act increasing the membership on the board of directors of the Alaska Railroad Corporation; and providing for an effective date."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

*Bill Hurd*  
 \_\_\_\_\_  
*Robert Egan*  
 \_\_\_\_\_  
*Pat B. Brasher*  
 \_\_\_\_\_  
*M.W. Miller*  
 \_\_\_\_\_  
*Heinrich Springer*  
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*Bette Cota*  
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**SIGNING OTHER RECOMMENDATIONS:**

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

*Bette Cota*  
 \_\_\_\_\_  
 Chairman's signature



Official Business

**COMMITTEE:**

House Transportation Committee

**DATE:** January 20, 1988

# SIGN-IN

## Subject of meeting:

\*HR 340: "An Act increasing the membership on the board of directors of the Alaska Railroad Corporation; and providing for an effective date."

**NAME** Please include **ADDRESS** Please use full address. **PHONE** **REPRESENTING** **DO YOU WANT TO TESTIFY?**  
 Title Please include zip.

NAME Please include Title	ADDRESS Please use full address. Please include zip.	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Kent Dawson	326 4th St. #203 (General) 99501	586-7667	City of Seward	YOS

\*indicates first public hearing



# Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-9689

RECEIVED  
BOROUGH MANAGER  
FEB 25 1988

HB 349

February 19, 1988

Mitchell Abood, Senator  
State of Alaska  
P.O. Box V, MS 3100  
Juneau, Alaska, 99811

Dear <sup>Mitch</sup> ~~Senator Abood~~:

On behalf of the Mayor, Assembly, and myself, I would like to ask for your support of HB349 as amended.

*expand Alaska Railroad*

With community representation on the Alaska Railroad Board of Directors, a great deal of the recently discussed communication concerns with the rail communities will be overcome.

Sincerely,

John Hale  
Borough Manager

JH:nt

cc: Matanuska-Susitna Borough Mayor  
Matanuska-Susitna Borough Assembly

*How is it going Mitch?  
John*

B

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# Alaska State Legislature

## Committees:

Chairman Affairs  
V. Chief Judiciary  
Infrastructure  
Special Ethics  
Legislative Council  
Finance Subcommittee  
for the University of Alaska  
Joint Committee  
on Education Reform



1973 House V  
Alaska State Legislature  
4007 4953-4545

**REPRESENTATIVE FRAN ULMER**

## MEMORANDUM

March 23, 1988

**TO:** Senator Tim Kelly, Chair  
Senate Labor and Commerce Committee

**FROM:** Representative Fran Ulmer

**SUBJECT:** House Bill 353

I am requesting that you hold a hearing on House Bill 353, "An Act relating to repurchase of retirement coverage after certain levies". Your committee has recently received HB 353, which has been heard and passed by Senate State Affairs with favorable recommendations.

House Bill 353 affects former members of the "teachers' Retirement System (TRS), the Judicial Retirement System (JRS), the Public Employees' Retirement System (PERS), and Elected Public Officers Retirement System (EPORS). The basic purpose of the bill is to preserve an individual's right to his retirement benefits. HB 353 would allow those former members to make repayments with interest to the retirement fund without having to be re-employed or in active service under the applicable retirement system. This would only be permitted if the entire retirement account balance was levied by a court or agency to pay a claim. Such claims include child support obligations and federal tax levies.

Presently, if a former member's retirement account is levied in total, the account is closed and the former member may not repay the amount refunded unless he/she becomes an active member again. House Bill 353 would allow a former member to repay his/her retirement funds without being re-employed under the system.

In these difficult economic times, there could be many Alaskans who may lose their future retirement benefits and House Bill 353 would provide the opportunity to repurchase those benefits at some time in the future.

Thank you very much for your prompt consideration of this bill.

FRAN ULMER - 4953-4545

POSITION PAPER  
HB 353 (State Affairs)

This bill would allow members participating in Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), Judicial Retirement System (JRS), or the Elected Public Officers' Retirement System (EPORS) to reinstate their retirement account without becoming reemployed under that system in the event they are forced to refund from that system to pay a tax levy, child support, or to comply with a qualified domestic relations order (QDRO). Currently, when a member refunds from the system, they forfeit their right to future benefits from that system. The current law allows members to reinstate refunded service only after they reemploy with an employer covered under the respective system.

The Administration supports this legislation. Passage would provide relief for those members who are forced from the system contrary to their desires and would provide the member with the ability to reinstate their right to a future benefit.

  
Robert F. Stelmaker, Acting Director  
Division of Retirement & Benefits

1/20/88  
Date

  
Commissioner John H. Andrews  
Department of Administration

1/21/88  
Date

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

PLEASE REPLY TO:

P.O. BOX CR  
JUNEAU, ALASKA 99811-0203  
PHONE: (907) 485-4400

2600 DENALI ST, SUITE 401  
ANCHORAGE, ALASKA 99503-2740  
PHONE: (907) 277-7304

Public Employees Retirement System  
Teachers Retirement System  
Judicial Retirement System  
Elected Public Officers Retirement System  
National Guard Retirement System  
Territorial Retirement System  
Retirees Voluntary Dental Vision Audio Plan  
Supplemental Benefits System  
Group Health Life Insurance Benefits  
Deferred Compensation Plan  
Public Employers Social Security Contributions

STEVE COWPER, GOVERNOR

January 20, 1988

Honorable Fran Ulmer  
Chair, House State Affairs Committee  
Alaska State Legislature  
P. O. Box V  
Juneau, AK 99811

Dear Representative Ulmer:

Re: House Bill 353

In accordance with AS 24.08.036, I am providing the analysis below on House Bill 353. The analysis includes the long-term and short-term impact to the state if the bill is adopted and the impact the bill will have on the actuarial soundness of the Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), Judicial Retirement System (JRS), and the Elected Public Officers' Retirement System (EPORS) funds.

This legislation would allow a member to repay the amount refunded and reinstate their retirement standing without becoming reemployed in a position covered by that retirement system if they have been forced to refund from their retirement system to satisfy payment(s) for child support, comply with the provisions of a qualified domestic relations order (QDRO) or to comply with a federal tax levy. There will be no fiscal impact of this legislation on the state government or any impact on the retirement funds involved. This legislation will not increase the employer contributions rates.

Sincerely,

*Robert L. Stalnaker*  
R. F. Stalnaker  
Acting Director

MFS/DS/bb/9

STATE OF ALASKA  
THE LEGISLATURE

HOUSE STATE CAPITOL  
ALASKA 99501  
337 403 2000

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 22, 1988

SUBJECT: Sectional analysis of HB 353  
(Repurchase of retirement coverage)

TO: Representative Fran Ulmer

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Secs. 1 and 2 permit a former member of the Teachers' Retirement System (TRS) who received a total refund of the contributions the member made to TRS because of a federal tax levy or a levy under AS 09.38.065 to pay back the amount levied against to TRS. The repayment has the effect of reinstating the former member's rights to retirement benefits. Under AS 09.38, contributions to the Teachers' Retirement System and the Public Employees' Retirement System are exempt from a creditor's efforts to levy against them. Under AS 09.38.065, that general exemption from creditors does not apply to certain kinds of debt, including child support, a limited amount of wages, and state or local taxes.

Sec. 3 permits a judge or justice whose contributions to the Judicial Retirement System (JRS) have been involuntarily refunded because of a levy of any kind to repay the amount levied together with interest to JRS to reinstate membership

Representative Fran Ulmer  
Page 2  
January 22, 1988

in the system. Contributions to JRS are not protected from levy under AS 09.38.

Sec. 4 permits a former member of the Public Employees' Retirement System (PERS) who received a total refund of contributions because of a levy under AS 09.38.065 or of a federal tax levy to repay the amount of the refund to the system and reinstate membership. Contributions to PERS are protected from levy for other kinds of debt.

Sec. 5 permits members of the Elected Public Officers Retirement System who have received an involuntary refund of the individual account because of a levy of any kind to repay the amount refunded and regain all rights terminated because of the refund.

If I may be of further assistance, please advise.

TBC:gc  
WKG1:044

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Administration  
 Title: An Act relating to repurchase of retirement coverage after certain levies. BRU: Retirement and Benefits  
 Sponsor: Ulmer Components: Retirement and benefits  
 Requestor: House State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Attached Position Paper

Prepared By: Robert F. Stalnaker, Acting Director Phone: 465-6670  
 Division: Retirement and benefits Date: 1-20-88  
 Approved by Commissioner: John H. Andrews Date: 1/21/88  
 Agency: Department of Administration

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

HB

384

SCS HB 384 (L & C)

SCS HB 384 (L & C) makes several miscellaneous amendments, some of which are merely housekeeping amendments, to Alaska's unemployment insurance law. Under its more significant provisions, the bill:

- Sec. 1 - enhances the Department of Labor's ability to collect delinquent unemployment insurance contributions from fish processors and fish buyers by permitting the Department to attach their surety bonds for the delinquent contributions.
- Sec. 10-11 - provides stiffer penalties for individuals who fraudently obtain unemployment insurance benefits. Under current law, such individuals are only held liable for repaying the benefits fraudulently received and disqualified from receiving benefits for a specified period of time. As a further disincentive, this bill imposes a penalty of 50% of the benefits fraudulently received, and permits the Department to lien property for the collection of fraudently received benefits.
- Sec. 13 - corrects an inequity in the current law, which bases an individual's eligibility for unemployment insurance on wages paid by the employer. In cases where an employer has gone bankrupt and wages were earned by an employee but not paid, the employee may be determined ineligible for benefits totally or receive a reduced benefit as a result of having less qualifying wages, i.e. paid wages. The bill corrects this inequity by expanding the definition of wages to include wages earned but not paid because the employer has filed for bankruptcy.
- Sec. 14 - permits the Department of Labor to take part in a self-employment demonstration project if Alaska is selected as one of the three states to participate in the pilot project which is being initiated by the U.S. Department of Labor. The project will use the unemployment insurance system to promote self-employment, and is based upon programs undertaken in other countries, particularly Great Britain and France. The idea involves making unemployment insurance benefits available in the form of a self-employment allowance to targeted claimants who start their own businesses. While enrolled in the project, a participant's unemployment insurance benefits would continue to be paid; and, because participants in the project would be those claimants who would be most likely to receive all of their potential benefits anyway, the impact on the unemployment insurance trust fund would be negligible, if any. The project will be limited to a maximum of 200 participants per year during the three year life of the project. Based upon the experience of the three states which will participate in the project, at the end of the three year period, the U.S. Department of Labor will determine the feasibility of an expanded and ongoing program.

(This section of the bill was added in the Senate Labor & Commerce Committee)

SECTION-BY-SECTION ANALYSIS

Section 1:

The proposed amendment of AS 16.10.290(a) enhances the department's ability to collect delinquent unemployment insurance contributions from fish processors and fish buyers. The department's figures indicate that, as of January 1, 1987, 25 percent of all fish processors and buyers were delinquent in their contributions. Those delinquencies resulted in a loss to the unemployment trust fund of about \$720,000 as of that date. Under the proposed amendment, the department may assert claims for contributions against the fish processors' and buyers' surety bonds, such claims having next priority after claims for wages and for payment for raw fish.

Section 2:

The amendment of AS 23.20.195(a) in this section is a housekeeping measure providing for the 10 percent penalty on delinquent employer reports and taxes to be discretionary instead of mandatory. It also increases the minimum penalty to \$10 from \$1. This provision is not presently enforced in cases for which it is not cost effective to do so. A discretionary penalty would conform the statute to current practice, and remove the requirement on the department to assess and collect penalties regardless of whether the state actually loses money in doing so.

Sections 3 and 4:

The amendments to AS 23.20.205(c) and AS 23.20.220(a) in these sections clarify the procedures for the appeal by an employer of the department's assessment against the employer for unemployment contributions. The department may extend the 30-day appeal filing deadline for circumstances beyond the control of an employer. Also, the amendments clarify that if the employer files security with the appeal, the collection of the assessment will be stayed pending determination of the appeal.

In addition, extraneous language in AS 23.20.220 is being deleted.

Section 5:

Under current law, an officer or employee of a corporation, or partner or employee of a partnership may be liable for delinquent unemployment taxes in a civil action if they have been determined to have the duty to pay the taxes. These individuals have no prior appeal rights regarding the determination of their duty to pay the taxes. This section provides a new section, AS 23.20.242, that allows these individuals to appeal, at an administrative level, the determination of "duty to pay", prior to civil action.

### Section 6, 7 and 8:

Under current law, nonprofit organizations pay 50 percent of extended benefits (the state share) with the federal share being 50 percent. Under the Gramm-Rudman-Hollings Act (the federal Balanced Budget and Emergency Deficit Control Act of 1985), the federal share of extended benefit payments may decrease because it is subject to sequestration. This action will increase the state share of extended benefits payments. To offset the anticipated loss of some portion of the federal money, nonprofit organizations that choose to reimburse the department for benefits paid to their former employees, instead of paying contributions under AS 23.20.165, will, under the amendments to AS 23.20.277(b), (e), and (l) (secs. 5, 6, and 7 of the bill), be required to reimburse the department the full amount of the state's share of the benefits paid to their former employees. The amount charged government entities will not change because they currently reimburse 100 percent of extended benefits paid.

### Section 9:

This amendment of AS 23.20.290(d) provides for rounding the employee contribution to the nearest one-hundredth of one percent. Current law requires rounding to the nearest one-tenth of one percent. Under current AS 23.20.290(c), however, the employer contribution is to be rounded to the nearest one-hundredth, so employers currently pay or collect one tax rounded to one-hundredth and another rounded to one-tenth on the same wages. The amendment provides more consistency for employers.

### Section 10:

Under proposed AS 23.20.390(f), individuals who fraudulently obtain benefits incur an additional monetary penalty of 50 percent of the amount improperly received, unless the department waives the penalty, with any penalties collected to go to the general fund. Currently, under AS 23.20.387, a person who fraudulently receives benefits is disqualified from receiving benefits for a specified period of time, and, under AS 23.20.390(a), must repay the benefits fraudulently received (a situation similar to an interest-free loan). As a further disincentive for fraud, the 50 percent penalty is proposed.

### Sections 11 and 12:

These sections propose new AS 23.20.391, 23.20.393, and 23.20.394, which establish provisions for liens and attachment of property to facilitate the collection of overpayments that are caused by fraudulent receipt of benefits. The three proposed statutes are based on existing AS 23.20.200, 23.20.205, and 23.20.215, respectively, regarding liens on the property of an employer for failure to make the required contributions. Proposed AS 23.20.391(b), which tracks existing AS 23.20.200(b), refers to the lien being "constructive notice to creditors" and is intended to establish the priority of the state over unsecured and unrecorded creditors, whether prior or subsequent, as well as subsequent secured creditors.

### Section 13:

Under current law, an individual's eligibility for unemployment insurance benefits is based upon wages paid to the individual. Thus, if an individual works for an employer who files for bankruptcy and does not pay its employees, the individual does not qualify for unemployment benefits. The proposed amendment to AS 23.20.530(a) in this section rectifies this situation. This section expands the definition of "wages" to include earnings for work that an employee performs but is not paid for because the employer files for bankruptcy.

### Section 14:

The US Department of Labor (USDOL) is selecting three states to participate in a Self Employment Demonstration Project. The states selected for the demonstration project will be allowed to pay unemployment insurance benefits to participants while they start their own businesses. The federal legislation authorizing this project provides for the states to waive certain provisions for availability for work, work search, unemployed status and reduction of weekly benefits by earnings during the week. Section 14 allows Alaska to participate in this demonstration project if selected by the USDOL and also allows the department to waive certain eligibility provisions for participants in the program.

### Section 15:

This section repeals two outdated subsections of AS 23.20.175.

### Section 16:

This section sunsets Section 14 (the Self Employment Demonstration Project) at the termination date of the project.

### Sections 17 and 18:

These sections provide for effective dates, with the amendment regarding the rounding of employee contributions taking effect January 1, 1989, and the other changes taking effect immediately.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 20, 1988

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to unemployment insurance. The bill makes miscellaneous amendments, including some that are merely housekeeping amendments, to current law. A section-by-section analysis of the bill follows.

SECTION-BY-SECTION ANALYSIS

Section 1:

The proposed amendment of AS 16.10.290(a) enhances the department's ability to collect delinquent unemployment insurance contributions from fish processors and fish buyers. The department's figures indicate that, as of January 1, 1987, 25 percent of all fish processors and buyers were delinquent in their contributions. Those delinquencies resulted in a loss to the unemployment trust fund of about \$720,000 as of that date. Under the proposed amendment, the department may assert claims for contributions against the fish processors' and buyers' surety bonds, such claims having next priority after claims for wages and for payment for raw fish.

Section 2:

The amendment of AS 23.20.195(a) in this section is a housekeeping measure providing for the 10 percent penalty on delinquent employer reports and taxes to be discretionary instead of mandatory. It also increases the minimum penalty to \$10 from \$1. This provision is not presently enforced in cases for which it is not cost effective to do so. A discretionary penalty would conform the statute to current practice, and remove the requirement on the department to assess and collect penalties regardless of whether the state actually loses money in doing so.

Sections 3 and 4:

The amendments to AS 23.20.205(c) and AS 23.20.220(a) in these sections clarify the procedures for the appeal by an employer of the department's assessment against the employer for unemployment contributions. The department may extend the 30-day appeal filing deadline for circumstances beyond the control of an employer. Also, the amendments clarify that if the employer files security with the appeal, the collection of the assessment will be stayed pending determination of the appeal.

In addition, extraneous language in AS 23.20.220 is being deleted.

Sections 5, 6, and 7:

Under current law, nonprofit organizations and governmental entities may elect to reimburse the Alaska Department of Labor after it has paid either regular or extended unemployment insurance benefits to an unemployed worker, instead of paying contributions ahead of time under AS 23.20.165. Under AS 23.20.406, extended benefits are payable to an unemployed worker only after that person (1) has exhausted his or her regular benefits and (2) is otherwise qualified under AS 23.20. In addition, extended benefits are only available during certain high unemployment periods. See AS 23.20.408. If a nonprofit organization does not pay contributions in advance under AS 23.20.165, then, currently, it must reimburse 100 percent of the regular benefits and 50 percent of the extended benefits paid by the Alaska Department of Labor. The federal government reimburses the other 50 percent of the extended benefits paid by the Alaska Department of Labor.

Under the Cramm-Rudman-Hollings Act (the federal Balanced Budget and Emergency Deficit Control Act of 1985), the federal share (currently 50 percent) of extended benefits payments might decrease because it is subject to sequestration. If that happens, under existing AS 23.20.277(b) the state would have to absorb the loss of federal money because the nonprofit organization share is fixed at 50 percent. To offset that loss, nonprofit organizations that choose to reimburse the department for benefits paid to their former employees will, under the amendments to AS 23.20.277(b), (c), and (1) (secs. 5, 6, and 7 of the bill), be required to reimburse the difference between the 100 percent of the extended benefits already paid by the department and the amount subsequently reimbursed by the federal government. The amount charged government entities will not change

because they already reimburse 100 percent of the extended benefits paid by the department.

Section 8:

This amendment of AS 23.20.290(d) provides for rounding the employee contribution to the nearest one-hundredth of one percent. Current law requires rounding to the nearest one-tenth of one percent. Under current AS 23.20.290(c), however, the employer contribution is to be rounded to the nearest one-hundredth, so employers currently pay or collect one tax rounded to one-hundredth and another rounded to one-tenth on the same wages. The amendment provides more consistency for employers.

Section 9:

Under proposed AS 23.20.390(f), individuals who fraudulently obtain benefits incur an additional monetary penalty of 50 percent of the amount improperly received, unless the department waives the penalty, with any penalties collected to go to the general fund. Currently, under AS 23.20.387, a person who fraudulently receives benefits is disqualified from receiving benefits for a specified period of time, and, under AS 23.20.390(a), must repay the benefits fraudulently received (a situation similar to an interest-free loan). As a further disincentive for fraud, the 50 percent penalty is proposed.

Section 10:

This section proposes new AS 23.20.391, 23.20.393, and 23.20.394, which establish provisions for liens and attachment of property to facilitate the collection of overpayments that are caused by fraudulent receipt of benefits. The three proposed statutes are based on existing AS 23.20.200, 23.20.205, and 23.20.215, respectively, regarding liens on the property of an employer for failure to make the required contributions. Proposed AS 23.20.391(b), which tracks existing AS 23.20.200(b), refers to the lien being "constructive notice to creditors" and is intended to establish the priority of the state over unsecured and unrecorded creditors, whether prior or subsequent, as well as subsequent secured creditors.

Section 11:

Under current law, an individual's eligibility for unemployment insurance benefits is based upon wages paid to the